

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS
CIVIL COURT DEPARTMENT

FILED
OCT 11 1994
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CLERK OF DISTRICT COURT
DOUGLAS COUNTY, KANSAS

Dimitrios Dendrinios)
an individual,)
)
Plaintiff,)
vs.)
)
The Kansas State Board of Regents and)
The University of Kansas)
227 Strong Hall)
Lawrence, KS 66045)
)
Serve:)
Office of General Counsel)
227 Strong Hall)
Lawrence, KS 66045)
)
and)
)
Mr. James Mayo)
109 Tumbleweed Drive)
Lawrence, KS 66049, individually)
and in his official capacity)
)
Defendants.)

Case No. 98C373
Chapter 60
D-1

PETITION

COMES NOW plaintiff, Dr. Dimitrios Dendrinios, and for his cause of action against the defendants, states and alleges as follows:

PARTIES, VENUE & JURISDICTION

1. Dr. Dimitrios Dendrinios ("Plaintiff") is an individual who has been a professor at the University of Kansas since August 1975.
2. The Kansas State Board of Regents, an entity created to control the state educational institutions, and the University of Kansas, collectively the defendant ("University") are being sued pursuant to K.S.A. §76-713.

certified mail by attorney

3. Defendant Mr. James Mayo ("Defendant Mayo") is an individual residing in Douglas County, Kansas, and is being sued individually and in his official capacity until such time as the University admits that at all relevant times, defendant Mayo was acting within the scope of his authority and employment.
4. Jurisdiction and venue are appropriate in the Court as the actions that give rise to this matter occurred in Douglas County, Kansas, and all parties reside in Douglas County, Kansas.
5. Plaintiff has exhausted all alleged administrative requirements.

COUNT I - ASSAULT AND BATTERY

6. Plaintiff has been employed by the University as a professor in the School of Architecture and Urban Design since August 1975.
7. During his employment with the University, defendant Mayo engaged in a pattern and practice of battery and assault against plaintiff, including incidents in 1987, 1996, 1997, and 1998, in which he intentionally threatened and attempted to assault plaintiff, which at a minimum resulted in plaintiff's immediate apprehension of bodily harm.
8. Defendant Mayo engaged in a pattern and practice of battery and assault, including incidents in 1987, 1996, 1997, and 1998, in which he engaged in unprivileged touching and striking of plaintiff, which was done with intent of bringing about either a contact or an apprehension of contact, that is harmful, or offensive.

WHEREFORE Plaintiff respectfully requests judgement against defendants, jointly and severally, in excess of \$75,000.00, for his costs, and such other relief as the Court deems just and equitable.

COUNT II - NEGLIGENT RETENTION/SUPERVISION

9. For this Count of his petition, plaintiff incorporates by reference all preceding allegations, paragraphs 1 through 8.
10. Defendant University has been on notice of defendant Mayo's pattern and practice of assault and battery, and has ratified said conduct at various levels of authority.
11. Defendant University owed plaintiff a common law duty to provide a safe working environment, warn of dangerous conditions, hire and retain fit personnel, and provide adequate security.
12. Defendant breached said duty by retaining defendant Mayo in its employment when it knew, or should of known, of Mayo's propensities for violence and assault and batteries on plaintiff.
13. Defendant's breach is the cause in fact and proximate cause of plaintiff's damages.
14. Plaintiff has been damaged by defendant's negligence.

WHEREFORE, plaintiff respectfully prays for judgment against Defendant University on this count of his petition in excess of \$75,000.00, for his costs, and for such other relief as the Court deems just and proper.

COUNT III - STATUTORY VIOLATION - OSHA/KS

15. For this count, pursuant to 29 U.S.C. §§651-678 (Occupational Safety and Health Act, OSHA), and K.S.A. §44-636 (regulation of workplace safety), plaintiff incorporates by reference all preceding allegations in paragraphs 1 through 15.
16. Pursuant to federal and state statute, the defendant University is imposed with a duty to provide a safe and healthful working environment.

7. The University breached said duty by retaining defendant Mayo in its employment when it knew, or should of known, of Mayo's propensities for violence.
8. The University's breach is the cause in fact and proximate cause of plaintiff's damages.
9. Plaintiff has been damaged by defendant's negligence.

WHEREFORE, plaintiff respectfully prays for judgment against said Defendant University on this count of his petition in excess of \$75,000.00, for the statutory damages and penalties, for his costs, and for such other relief as the Court deems just and proper.

COUNT IV - NATIONAL ORIGIN DISCRIMINATION

20. For this count, pursuant to Title VII, 42 U.S.C. §2000e et seq., 42 U.S.C. §1981 and and K.S.A. § 44-1009, plaintiff incorporates by reference all preceding allegations, paragraphs 1 through 19.
21. Plaintiff's national origin is Greek, and is accordingly a member of a protected group.
22. During the term of plaintiff's 23 year employment with defendants, plaintiff has been subjected to a pattern and practice of national origin discrimination, by various agents and employees of defendant University, including but not limited to, (1) ethnic slander, (2) derogatory remarks, and (3) assault and battery in 1987, 1993, 1996, 1997, and 1998, and intimidation in 1988, which resulted in lost promotions, low performance evaluations, low salary increases, unreasonable modification of teaching assignments, and general deterioration of the terms, conditions, and privileges of plaintiff's employment.
23. Plaintiff was qualified and did perform the requirements of his job at the time of the adverse employment actions.
24. Defendants have sought replacements with similar qualifications.

The terms, conditions and privileges of plaintiff's employment have been adversely affected by defendants' unlawful conduct.

As a direct and proximate result of defendants' unlawful acts, plaintiff has suffered damage, and is entitled to monetary and affirmative relief as may be appropriate, including but not limited to, permanent injunction, declaration of rights, promotion, damages, past and future wages and benefits, and his reasonable attorney's fees incurred herein, pursuant to the provisions of the law.

WHEREFORE, plaintiff prays for judgment against the Defendant University on this amount in excess of \$75,000.00, and that this Court find the defendants have engaged in unlawful employment practices under the laws governing equal employment opportunities, and because of said unlawful practices, grant and award plaintiff a promotion, back pay and front pay, a judgment for all of plaintiff's damages allowed by law, including compensatory and punitive damages for defendants' willful and wanton misconduct, plaintiff's costs and expenses of this litigation, including reasonable attorney's fees, and such other relief as the Court deems just and equitable.

COUNT V - RETALIATION

For this count, pursuant to 42 U.S.C. §2000e et seq. (protection from retaliation under federal law for reporting discrimination claim), 29 U.S.C. §§651-678 (protection from retaliation under OSHA for reporting health and safety concerns), K.S.A. § 44-1009 (protection from retaliation state law for reporting discrimination claim), and K.S.A. §44-636 (protection from retaliation state law for making known health and safety concerns), plaintiff incorporates by reference all preceding allegations, paragraphs 1 through 26.

28. After plaintiff complained to the defendants about the discrimination, unlawful treatment, and unsafe work conditions, plaintiff was retaliated against in the terms, conditions, and privileges of his employment including but not limited to lost promotions, lost pay raises, poor performance reviews, derogatory remarks, assault and battery, and defamation.

WHEREFORE, plaintiff prays for judgment against the Defendant University in excess of \$75,000.00, that this Court find the defendants have engaged in unlawful employment practices, and because of said unlawful practices, grant and award plaintiff a promotion, back pay and front pay, a judgment for all of plaintiff's damages allowed by law, including compensatory and punitive damages for defendants' willful and wanton misconduct, plaintiff's costs and expenses of this action, including reasonable attorney's fees, and such other relief as the Court deems just and equitable.

COUNT VI - LOSS OF PROPERTY INTEREST UNDER 42 U.S.C. §1983

29. Plaintiff incorporates by reference as though fully set forth herein each and every previous allegation in this petition, paragraphs 1 through 28.

30. The actions described above deprive plaintiff of his property interest under his employment agreement, and his legitimate expectation of continued employment and his legitimate expectation that he would receive other contractual expectations, including but not limited to, timely and accurate reviews and assistance, guidance and support, participation in University committees, which constitute malicious prosecution, all in violation of plaintiff's right to equal protection and due process under the Fourth and Fourteenth Amendments of the United States Constitution, and 42 U.S.C. §1983.

31. Because of the deprivation of his civil rights, plaintiff has sustained significant economic

and compensatory damages, and is entitled to recover lost wages and benefits, including future lost wages and benefits, and compensatory losses.

32. Pursuant to 42 U.S.C. §1988 (b), plaintiff is entitled to recover his reasonable attorneys' fees.

33. Defendants were acting under the color of state law at the time of the aforementioned actions.

WHEREFORE, plaintiff respectfully prays for judgment against the defendants jointly and severally for legal relief in excess of \$75,000.00, costs and attorneys' fees, and such other relief as the Court deems just and proper.

COUNT VII - LOSS OF LIBERTY INTEREST UNDER 42 U.S.C. §1983

34. Plaintiff incorporates by reference as though fully set forth herein each and every previous allegation in this petition, paragraphs 1 through 33.

35. The actions described above deprive plaintiff of his liberty interest in his reputation, good name, and ability to pursue the career and employment of his choice, and constitute malicious prosecution, in violation of plaintiff's right to equal protection and due process under the Fourth and Fourteenth Amendments of the United States Constitution, and 42 U.S.C. §1983.

36. Because of the deprivation of his civil rights, plaintiff has sustained significant economic and compensatory damages, and is entitled to recover lost wages and benefits, including future lost wages and benefits, and compensatory losses.

37. Pursuant to 42 U.S.C. §1988 (b), plaintiff is entitled to recover reasonable attorneys' fees

40. Defendants were acting under the color of state law at the time of the aforementioned

actions.

WHEREFORE, plaintiff respectfully prays for judgment against the defendants jointly and severally for legal relief in excess of \$75,000.00, costs and attorneys' fees, and such other relief as the Court deems just and proper.

COUNT VIII - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

41. For this count of his petition, plaintiff incorporates by reference the preceding allegations as if fully set forth herein, paragraphs 1 through 40.
42. The defendants intentionally and/or recklessly inflicted emotional distress on the plaintiff through its agents and employees, including but not limited to, defendant Mayo's action which included among other things, comments about plaintiff's national origin, assault and battery in 1987, 1993, 1996, 1997, and 1998, and conduct affecting the terms, conditions, and privileges of his employment.
43. The defendants' treatment of plaintiff is and was extreme and outrageous causing plaintiff to be hospitalized and under the continued treatment of health care professionals.
44. The defendants' conduct goes beyond all possible bounds of decency, and is atrocious and utterly intolerable in this society.

WHEREFORE plaintiff respectfully requests that this Court enter judgment against the defendants, jointly and severally, in excess of \$75,000.00, for his costs as provided by law, including punitive damages for defendants' willful and wanton misconduct and treatment of plaintiff, and such other relief as the Court deems just and equitable.

COUNT IX - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

45. For this Count of his petition, plaintiff incorporates by reference the preceding allegations

as if fully set forth herein, paragraphs 1 through 44.

46. The defendants owed plaintiff, its employee, a duty to refrain from conduct that would cause plaintiff emotional distress resulting from defendants' work related behavior.
47. The defendants breached that duty by engaging in conduct that inflicted severe emotional distress on plaintiff.
48. The defendants' treatment of plaintiff was the actual and proximate cause of plaintiff injuries, including his resulting hospitalization and continued treatment by health care professionals.
49. Defendants' conduct goes beyond all possible bounds of decency, and is atrocious and utterly intolerable in this society, and as such rises to the level of wanton and reckless misconduct allowing plaintiff to make a claim for punitive damages.

WHEREFORE plaintiff respectfully requests that this Court enter judgment against the defendants, jointly and severally, in excess of \$75,000.00, for his costs, and such other relief as the court deems just and equitable.

COUNT X - DEFAMATION

50. For this Count of his petition, plaintiff incorporates by reference the preceding allegations as if fully set forth herein, paragraphs 1 through 49.
51. At least from 1991 to the present, the University, through its employees and agents, has engaged in a pattern and practice of defaming plaintiff by attacking his profession and qualifications to students and others regarding (1) plaintiff's qualifications generally and in particular his ability to teach his courses; (2) plaintiff's alleged use of students' work for his own personal benefit; (2) plaintiff's ability to advise students properly; and (4)

plaintiff's quality of course work concentrations.

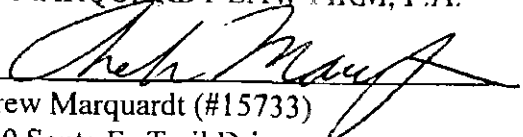
52. Defendant, through its agents and employees, published these statements knowing they were false or were made negligently with a reckless disregard for their truth or accuracy.
53. Defendant's false statements deprived plaintiff of public confidence and social associations, and tended to expose him to ridicule.
54. Plaintiff was damaged by defendant's statements.
55. Defendant's publication of these false statements was not privileged.
56. Defendant's statements were made with malice and intent to injure plaintiff.

WHEREFORE plaintiff respectfully requests that this Court enter judgment against the defendants, jointly and severally, in excess of \$75,000.00, for his costs, and such other relief as the court deems just and equitable.

REQUEST FOR A JURY TRIAL

Plaintiff hereby requests that this case be tried to a jury.

Respectfully submitted,
THE MARQUARDT LAW FIRM, P.A.

By: 
Andrew Marquardt (#15733)
13420 Santa Fe Trail Drive
Lenexa, Kansas 66215
Telephone (913) 888-7100
Telecopier (913) 888-7388

ATTORNEY FOR PLAINTIFF