

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

IN THE LAKE SUPERIOR/CIRCUIT COURT
_____, INDIANA

MAURICE EISENSTEIN)
)
Plaintiff,)

Cause No.: **45D 101205 PL 00049**

v.)

BOARD OF TRUSTEES OF)
PURDUE UNIVERSITY, D/B/A)
PURDUE UNIVERSITY and)
PURDUE CALUMET; THOMAS)
KEON, individually and in his)
official capacity as Chancellor of)
Purdue University Calumet; SAUL)
LERNER, individually and in his)
official capacity as Professor at)
Purdue University Calumet)
MIRIAM JOYCE, individually and)
in her official capacity as Professor)
at Purdue University Calumet)
KATHLEEN TOBIN, individually)
and in her official capacity as)
Professor at Purdue University)
Calumet; COLIN FEWER,)
individually and in his official)
capacity as Professor at Purdue)
University Calumet; and FAHIMA)
ALI JACKSON, individually and in)
her official capacity as Professor at)
Purdue University Calumet)
)
Defendants)

Filed in Clerk's Office

MAY 07 2012

Michael Robinson
CLERK LAKE CIRCUIT COURT

VERIFIED COMPLAINT FOR JUDICIAL REVIEW AND DAMAGES

COMES NOW the Plaintiff, Dr. Maurice Eisenstein, by counsel, Edward W. Hearn of JOHNSON & BELL, LTD. and for his Complaint for Damages against the Defendants states the following:

GENERAL ALLEGATIONS

1. At all times mentioned herein, Dr. Maurice Eisenstein, was employed by Purdue University Calumet Campus (“Purdue”) in the History and Political Science Department, located at 2200 169th Street in Hammond, Lake County, Indiana, and was at all times mentioned herein a tenured professor.
2. At all times relevant herein, Purdue University (“Purdue”) was a state agency and duly organized institution of higher learning operating at a so-called extension campus with an address of 2200 169th Street in Hammond, Lake County, Indiana.
3. At all times mentioned herein, Thomas Keon, was a state actor employed by Purdue University Calumet Campus (“Purdue”) as its chancellor, located at 2200 169th Street in Hammond, Lake County, Indiana.
4. At all times mentioned herein, Saul Lerner, was a state actor employed by Purdue Purdue, located at 2200 169th Street in Hammond, Lake County, Indiana.
5. At all times mentioned herein, Miriam Joyce, was state actor employed by Purdue, located at 2200 169th Street in Hammond, Lake County, Indiana.
6. At all times mentioned herein, Kathleen Tobin, was state actor employed by Purdue, located at 2200 169th Street in Hammond, Lake County, Indiana.
7. At all times mentioned herein, Colin Fewer, was state actor employed by Purdue, located at 2200 169th Street in Hammond, Lake County, Indiana.
8. At all times mentioned herein, Fahima (aka “Nicky”) Jackson, was state actor employed by Purdue, located at 2200 169th Street in Hammond, Lake County, Indiana.

9. At all times relevant herein, Defendants Keon, Lerner, Joyce, Tobin, Fewer and Jackson acted both in their individual capacities and in their official capacities as Chancellor and/or Professor and/or administrator of Purdue University Calumet, as the case may be.

COUNT I

(Administrative Violations)

COMES NOW the Plaintiff, Dr. Maurice Eisenstein, by counsel, Edward W. Hearn of JOHNSON & BELL, LTD. and for Count I of his Complaint for Damages alleges against Defendants, Board of Trustees of Purdue University and states the following:

10. That Plaintiff herein reaffirms and realleges paragraphs 1 through 9 of this Complaint.

11. On November 21, 2011, Saul Lerner, Professor of History at Purdue University Calumet filed a complaint against Dr. Maurice Eisenstein for a violation of Purdue's anti-harassment policy. *Inter alia*, Lerner complained that Eisenstein violated Purdue's harassment policy by engaging in speech that is clearly protected as free speech under the state and federal constitutions.

12. On November 21, 2011, Miriam Joyce, Professor of History at Purdue University Calumet filed a complaint against Dr. Maurice Eisenstein for a violation of Purdue's anti-harassment policy. *Inter alia*, Joyce complained that Eisenstein violated Purdue's harassment policy by engaging in speech that is clearly protected as free speech under the state and federal constitutions.

13. On December 15, 2011, Miriam Joyce filed another complaint against Professor Eisenstein for a second claim of violation of Purdue's anti-harassment policy. This time, Professor Joyce claimed that Eisenstein retaliated against Joyce for filing the November 21,

2011, complaint by engaging in speech that is clearly protected as free speech and which is not considered retaliatory under Purdue's policies or applicable law.

14. On December 23, 2011, Saul Lerner also filed another complaint against Professor Eisenstein for a second claim of violation of Purdue's anti-harassment policy. Just like Joyce, Professor Lerner also claimed that Eisenstein retaliated against Lerner for filing the November 21, 2011, complaint by engaging in speech that is clearly protected as free speech and which is not considered retaliatory under Purdue's policies or applicable law.

15. Thereafter and despite the fact that Eisenstein's statements complained about by Professors Lerner and Joyce were clearly protected free speech under the state and federal constitutions, and despite being requested to dismiss such complaints, Chancellor Keon refused to dismiss the complaints and forced Eisenstein to go through a full-blown hearing to defend himself.

16. An investigation of the complaints filed by both Joyce and Lerner against Professor Eisenstein was completed although Purdue but did not comply with the requirements of due process of law nor Purdue's policies in passing upon the Joyce and Lerner complaints.

17. On February 22, 2012, Chancellor Keon determined that the November 21, 2012, complaints filed by both Joyce and Lerner did not support a finding that Dr. Eisenstein violated the University's anti-harassment policy. In fact, Keon concluded that the conduct of Eisenstein's about which Joyce and Lerner complained was protected free speech.

18. However, on February 22, 2012, Chancellor Keon also decided that the December 15, 2011, complaint filed by Joyce and the December 23, 2011, complaint filed by Lerner did support a finding of violations of the University's anti-harassment policy by Dr. Eisenstein. Keon erroneously concluded that certain alleged speech which is protected free speech

constituted retaliation by Eisenstein against Joyce and Lerner. These statements, however, clearly do not constitute harassment or retaliation under Purdue's policy or under applicable law.

19. Eisenstein received written reprimands for his alleged misconduct.

20. On March 11, 2012, according to Purdue's anti-harassment policy, Eisenstein appealed Chancellor Keon's determinations that Eisenstein violated the University's anti-harassment policy with respect to Lerner and Joyce directly to the Vice President of Ethics and Compliance, Alysa Christmas Rollock.

21. That a determination was made by Rollock on April 5, 2012 upholding Chancellor Keon's decisions and the sanctions that he imposed on Eisenstein.

22. A complete and accurate copy of the April 5, 2012 Determination of Alysa Rollock with respect to Dr. Joyce is not attached hereto in order to mitigate the damages to Plaintiff's reputation but is available to Defendant Purdue and in its possession.

23. A complete and accurate copy of the April 5, 2012 Determination of Alysa Rollock with respect to Dr. Lerner is not attached hereto in order to mitigate the damages to Plaintiff's reputation but is available to Defendant Purdue and in its possession.

24. According to Purdue University's anti-harassment policy, the April 5, 2012 written decisions of Alysa Rollock, the Vice President for Ethics and Compliance, on Eisenstein's appeals constitutes the University's final action.

25. Eisenstein has exhausted all administrative remedies by appealing the determinations of Chancellor Thomas Keon to Alysa Rollock.

26. That Purdue University's Procedure for Resolving Complaints of Discrimination

and Harassment is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; contrary to Eisenstein's constitutional rights, power, privilege, or immunity; without observance of procedure required by law; and unsupported by substantial evidence.

27. That Thomas Keon's findings of harassment/retaliation by Professor Eisenstein is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; contrary to constitutional right, power, privilege, or immunity; without observance of procedure required by law; and unsupported by substantial evidence.

28. That Alysa Rollock's findings of harassment/retaliation by Professor Eisenstein is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; contrary to constitutional right, power, privilege, or immunity; without observance of procedure required by law; and unsupported by substantial evidence.

29. Keon's decisions are conclusory and wholly unsupported by any findings of fact or conclusions reached thereon as required for an administrative decision.

30. Rollock's decisions are conclusory and wholly unsupported by any findings of fact or conclusions reached thereon as required for an administrative decision.

31. That after making the determination that Eisenstein did not violate the University's anti-harassment policy, Purdue and/or Keon failed to comply with Purdue's own procedures, which required Purdue to attempt to restore Eisenstein's reputation. In fact, to the contrary, Keon and others released the determinations of reprimand against Eisenstein public and made no attempt to assure Eisenstein's reputation was restored.

32. As a proximate result of the conduct of the Defendants, Plaintiff suffered and will continue to suffer damages including but not limited to severe emotional distress, humiliation and embarrassment and damage to his professional reputation.

WHEREFORE, Plaintiff, Maurice Eisenstein, respectfully requests

1. That this Court provide judicial review of Purdue University's determination that Eisenstein violated Purdue's Anti-harassment Policy;
2. That this Court enter an appropriate order reversing the decisions of the Defendant, Purdue;
3. That this Court enter an order declaring null and void the decisions of the Defendant and its employees;
4. That this Court determine that the complaints filed by Lerner and Joyce were without basis and the written reprimands issued to Eisenstein unwarranted; and
5. For all other just and proper relief in the premises.

COUNT II

(Violations of Indiana Civil Rights under Indiana Constitution)

COMES NOW the Plaintiff, Dr. Maurice Eisenstein, by counsel, Edward W. Hearn of JOHNSON & BELL, LTD. and for Count II of his Complaint for Damages alleges against Defendants, and each of them, and states the following:

33. That Plaintiff herein reaffirms and realleges paragraphs 1 through 32 of this Complaint.
34. Prior to and following the filing of the complaints by Professors Joyce and Lerner referred to in Count I of Plaintiff's complaint, Professors Lerner, Joyce, Tobin, Fewer and Jackson, conspired and colluded with Chancellor Keon, themselves and others in a plot to deprive Eisenstein of his civil rights. More specifically but not exhaustively, Professors Lerner, Joyce, Tobin, Fewer and Jackson colluded to file various unfounded complaints against Professor Eisenstein. Further, Professors Lerner, Joyce, Tobin, Fewer and Jackson consulted

with Chancellor Keon regarding the filing of such complaints and encouraged and induced others, including Purdue students, to do the same all in an effort to intimidate and harass Professor Eisenstein.

35. Defendants, and each of them, actively participated in a conspiracy to deprive the Plaintiff of his civil rights. Some or all of the Defendants, Lerner, Joyce, Tobin, Fewer and Jackson, continue in this illegal conspiracy to deprive Professor Eisenstein of his civil rights to this day.

36. Defendants conspired to smear the Professor Eisenstein's reputation by making false and unfounded allegations of harassment and inappropriate teaching methodologies.

37. As a proximate result of the conduct of the Defendants, Plaintiff was deprived of and/or restrained in his right to freedom of speech and the free interchange of thought and opinion.

38. As a proximate result of the conduct of the Defendants, Plaintiff was deprived of and/or restrained from his right to freedom of religion and enjoyment of religious opinions.

39. As a proximate result of the conduct of the Defendants, Plaintiff was deprived of his right to political affiliation and expression of political thoughts and beliefs.

40. As a proximate result of the conduct of the Defendants, Plaintiff suffered and continues to suffer damages including but not limited to severe emotional distress, humiliation and embarrassment and damage to his professional reputation.

WHEREFORE, Plaintiff, by counsel, Johnson & Bell, Ltd., requests judgment of the Court in favor of the Plaintiff and against the Defendants consisting of all compensatory and punitive damages as well as attorney's fees and costs so allowed and further requests all other just and proper relief in the premises.

COUNT III

(Violations of Right to Privacy)

COMES NOW the Plaintiff, Dr. Maurice Eisenstein, by counsel, Edward W. Hearn of JOHNSON & BELL, LTD. and for Count III of his Complaint for Damages alleges against Defendant, Miriam Joyce and the Board of Trustees of Purdue University and each of them, and states the following:

41. That Plaintiff herein reaffirms and realleges paragraphs 1 through 38 of this Complaint.

42. Following his determinations and findings as alleged herein, Defendant Keon released such determination to some of the Defendants and others. This release violated Purdue's policies, the agreements and understandings between Plaintiff and Purdue as well as Plaintiff's rights of privacy.

43. Additionally, at a March 7, 2012, faculty senate meeting, Defendant, Joyce, read from or referred to Chancellor Keon's February 22, 2012, confidential letter and other confidential documents further violating Purdue's policies, the agreements and understandings between Plaintiff and Purdue as well as Plaintiff's rights of privacy.

44. By publicly disclosing the contents of Keon's February 22, 2012 letter, Keon and Joyce violated the confidentiality provision of the University procedures for resolving claims of harassment.

45. By publicly disclosing the contents of Keon's February 22, 2012 letter, Keon and Joyce violated Plaintiff's right to privacy and confidentiality.

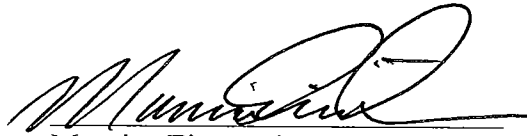
46. Keon and Joyce's conduct was extreme and outrageous.

47. As a direct and proximate result, Plaintiff, suffered and will continue to suffer

damages including but not limited to severe emotional distress, humiliation and embarrassment and damage to his personal and professional reputation.

WHEREFORE, Plaintiff, by counsel, Johnson & Bell, Ltd., requests judgment in favor of the Plaintiff and against the Defendants consisting of all compensatory and punitive damages, attorney's fees and cost so allowed and further requests all other just and proper relief in the premises.

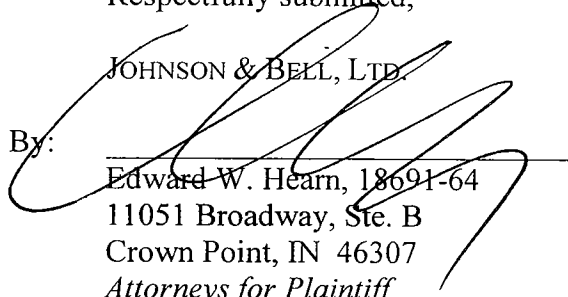
I affirm, under penalties of perjury, that the foregoing representations are true to the best of my information and belief.


Maurice Eisenstein

Respectfully submitted,

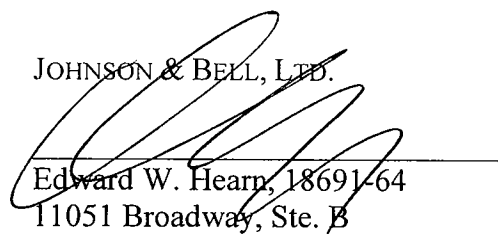
JOHNSON & BELL, LTD.

By:


Edward W. Hearn, 18691-64
11051 Broadway, Ste. B
Crown Point, IN 46307
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff, Maurice Eisenstein, and demands a trial by jury for all issues so triable.

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