

FILED

IN THE IOWA DISTRICT COURT
FOR DUBUQUE COUNTY

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CLERK OF DISTRICT COURT
DUBUQUE COUNTY, IOWA

PAUL F. JEFFRIES ,)	
)	
Plaintiff,)	
)	Case No. 01311 LACV054295
v.)	
)	
UNIVERSITY OF DUBUQUE and)	PLAINTIFF'S MOTION IN LIMINE
JEFFREY BULLOCK)	
)	
Defendants.)	
)	

COMES NOW Plaintiff Paul F. Jeffries through his attorneys, O'BRIEN & GREVE, P.L.C. and moves this court for its order that the matters listed below are not admissible and should not be offered by Defendants as evidence or referred to in the presence of the jury.

1. Expert Witness testimony of Robert Dickeson.

On November 21, 2006, about 15 days ahead of trial, Defendants produced Dr. Dickeson's report opining among other things that Dr. Jeffries has a problem with "the truth," was petulant, the primary source of content for the WhatWendWrong blog site, that no contract existed, that Dr. Jeffries had illusions of grandeur and that the University did not violate any of Dr. Jeffries' legal rights. Dr. Dickeson's credentials are set forth on his 45-page resume, however, these credentials do not qualify him for the opinions stated in his opinion letter. Further, Dr. Dickeson's testimony at his video deposition exceeded the contents of his opinion letter.

Dr. Dickeson is a consultant to colleges and universities and a former University president. He is not a lawyer. He is not a psychologist and he has not met or interviewed Dr. Jeffries. He is therefore not qualified to provide the opinions listed in his opinion letter. Dr. Dickeson testified by video deposition on November 30, 2006.

In his testimony, Dr. Dickeson opined the following that are not contained in his opinion letter:

- a. Dr. Jeffries' June 30, 2005 e-mail was a counter offer to his contract.
- b. Dr. Jeffries wanted to be judge, jury and executioner on a matter pertaining to another professor's plagiarism.
- c. Dr. Jeffries was not harmed by the University's actions.
- d. The University of Dubuque followed its own procedures in withdrawing Dr. Jeffries' tenure.

The transcript of his November 30, 2006 testimony will be available by December 4, 2006. Plaintiff will supplement this motion with the transcript.

2. Dr. Thomas Emmet has also been designated as an expert. His report was also provided to Plaintiff on November 21, 2006. Plaintiff's discovery requests seeking the basis for his opinions were served on Defendants in the summer of 2006. Plaintiff sought the materials provided to Dr. Emmet shortly after the report and asked to take his deposition on November 30, 2006. The university sent Dr. Emmet's resume on November 29, 2006 and on the following day also indicated that he had been provided with deposition transcripts and materials exchanged in discovery. Despite the

apparent agreement of defense counsel, as shown by the attached e-mails, the University is refusing to produce Dr. Emmet for deposition. Under these circumstances, the Court should prohibit Dr. Emmet from testifying.

In addition to the fact that Plaintiff has been precluded from deposing Dr. Emmet, his opinion indicates that he has legal opinions about whether Dr. Jeffries had a contract and tenure. Given that Dr. Emmet is also not a lawyer and that the existence of a contract is a question for the jury, he is not qualified to render this opinion and does not meet the requirements of *Iowa Rule of Evidence* 5.702 for giving these opinions.

3. Offer to mediate/Figuli letter. In September 2005 Defense counsel Figuli wrote to the undersigned arguing that case law did not support Dr. Jeffries' claim. Mr. Figuli also offered in that letter to mediate the tenure part of the claim, providing Dr. Jeffries signed a probationary teaching contract. Several witnesses have referred to these matters in their testimony. None of this is relevant and none of it should be mentioned in front of the jury. First, offers to compromise are not admissible. *Iowa Rule of Evidence* 5.408. Second, the law argued in this letter is not a proper subject for the jury to consider. Third, the letter is not probative of any fact in the case. If Mr. Figuli's letter is evidence, then he should not be an advocate at trial. See, *Iowa Rule of Professional Conduct* 32:3.7.

Wherefore, Plaintiff prays this Court for its orders excluding the evidence listed in this Motion.