

IN THE IOWA DISTRICT COURT IN AND FOR DUBUQUE COUNTY

2006 DEC -4 AM 8:57  
CLERK OF DISTRICT COURT  
DUBUQUE COUNTY IOWA

PAUL F. JEFFRIES, )  
)  
Plaintiff, )  
)  
vs. )  
)  
UNIVERSITY OF DUBUQUE and )  
JEFFREY BULLOCK, )  
)  
Defendants. )

Case No. LACV054295

**MOTIONS IN LIMINE**

COME NOW Defendants, University of Dubuque and Jeffrey Bullock, before commencement of the voir dire examination of the jury panel and prior to the introduction of any evidence, and respectfully moves that counsel for the Plaintiff, and through such counsel any and all of Plaintiff's witnesses, be instructed by appropriate order of this court to refrain from making any mention or interrogation, directly or indirectly, in any manner whatsoever, concerning any of the matters hereinafter set forth, without first approaching the bench and obtaining a ruling from the Court outside the presence and outside the hearing of all prospective jurors and jurors ultimately selected in this cause in regard to any alleged basis of admissibility of the following matters, to wit:

Par. No. 1: Any evidence or reference to the perceived disparity in wealth or power between the parties based on Defendant Bullock's profession or position at the University of Dubuque and the University of Dubuque's wealth or corporate status. All persons are equal before the law, including corporations. It is appropriate for the Court to instruct the jury in a manner similar to that enunciated in the Iowa Civil Jury Instructions. Any references by Plaintiff to any of the Defendants' financial conditions are properly prohibited. These references violate the rules as outlined in the jury instructions, and such statements serve no purpose other than to cause the jurors to rely on the Defendant's perceived "deep pockets" in determining whether a compensatory award should be made. Such statements would severely prejudice Defendants, and are irrelevant.

Par. No. 2: Plaintiff failed to timely designate his expert witness in this case, and recently withdrew his expert as a result. Plaintiff should not be permitted to offer any form of expert opinion, neither in their case in chief, nor on rebuttal, as it would be an attempt to circumvent the Iowa Rules of Civil Procedure with respect to expert witnesses.

Par. No. 3: There is an internet blog site that has been created since the timing of the events which are the subject of this lawsuit. The blog refers to this case, these parties, and often references court filings of the parties. The blog contains comments, hearsay, and opinions of certain persons that have been posted on that site. Many of the contributors and editors of the blog are anonymous, which makes it the highest degree of hearsay and hearsay within hearsay. In fact, many of the entries on the blog actually begin with “rumor has it...” Any mention of this blog is not only hearsay, but is also irrelevant, and would be highly prejudicial to the jury and would only serve to confuse or mislead the jury as to the issues in this case. Plaintiff references a “variety of printouts from blogsite” as a exhibit to be used at trial. This type of hearsay testimony should not be prohibited as an exhibit and should be ruled upon prior to jury selection or outside the presence of the jury.

Par. No. 4: Jason Price is a former student of the University of Dubuque and was subpoenaed during the pendency of this case with respect to his involvement in the blog mentioned in Par. 3. Any mention of Jason Price or his involvement in this case is irrelevant and would only serve to confuse and mislead the jury as to the issues in this case.

Par. No. 5: The Plaintiff has, during the pendency of this cause of action, contacted many current faculty members of the University of Dubuque to discuss this case and other faculty contracts with the University. Any mention of other faculty contracts is irrelevant to this case and should not be referred to. Evidence of the contents or negotiation surrounding other faculty contracts is irrelevant to this case, and would only serve to confuse and mislead the jury. Any statements or evidence obtained from such contact with faculty members should be barred and precluded as the contacts were made by Plaintiff’s counsel in violation of the law and despite defense counsels’ repeated requests and warnings that the contacts with University faculty members cease.

Par. No. 6: The Plaintiff, in addition to this lawsuit, filed an unemployment claim against the University of Dubuque. Any mention of the unemployment claim, evidence submitted or hearing testimony, other than the use of sworn testimony for purposes of impeachment with respect to otherwise admissible testimonial evidence, from those proceedings and the outcome of those proceedings and any pertaining to them would be highly prejudicial and not relevant to this case. Plaintiff proposes to use as a trial exhibit the “Transcript of Evidence, Unemployment Insurance Appeals” which injects the issue of insurance into this case in violation of the Rules. Plaintiff should be prohibited from using this evidence.

Par. No. 7: The Plaintiff refers to a clause in the contract as the “payback clause”. There is no longer a claim in this case for breach of public policy pertaining to this particular clause in the contract. In addition to the fact that this clause in the contract is no longer an issue, the term “payback clause” is Plaintiff’s own characterization of the clause of the contract, and should not be used as it will prejudice the jury and confuse the issues in this case.

Par. No. 8: The parties should be prohibited from mentioning any evidence that the Defendants were or were not insured in any manner. Authority for this request is Iowa Rule of Evidence 5.411. This request specifically includes that there be no mention of any insurance, any insurance carrier, or any insurance agent for Defendants. This includes, but is not limited to, questions regarding unemployment. Plaintiff has identified a proposed trial exhibit that references unemployment insurance, and there should be no mention of insurance of any kind in the trial of this matter.

Par. No. 9: Plaintiff has referred to the "AAUP" American Association of University Professors throughout the pendency of this case. There is no "AAUP" issue involved in this case and because the "AAUP" is irrelevant and the use of the term would prejudice, confuse and mislead the jury Plaintiff should be prohibited from referring to "AAUP" at the trial in this case. Additionally, Plaintiff has referred to "unions" throughout the pendency of this case. There is no "union" issue involved in this case and because "unions" are irrelevant and the use of the term would also prejudice, confuse and mislead the jury Plaintiff should be prohibited from referring to unions at the trial in this case.

Par. No. 10: Plaintiff uses the term "due process" in this case. Due process is a legal term or cause of action which has no relevance to this case and is not an issue before the court. Plaintiff's use of this term when it is not a cause of action will prejudice the jury and confuse the issues in this case. Plaintiff should be prohibited from using the term "due process" as it may mislead the jury into thinking it is a cause of action when it has not been pled as an issue in this case.

Par. No. 11: Plaintiff's proposed trial exhibit 12 is an e-mail dated August 16, 2005 from John Stewart. This exhibit contains handwriting which has not been identified, but Defendants assume it is Plaintiff's handwriting. This is hearsay testimony, is unidentified and is not admissible as an exhibit in this case. Plaintiff should be prohibited from attempting to offer this evidence at the trial of this matter.

WHEREFORE, Defendant respectfully prays the Court enter an Order requiring that Plaintiff and his counsel, and through such counsel any and all of Plaintiff's witnesses, refrain from making any mention or interrogation, directly or indirectly, in any manner whatsoever, concerning any of the matters referred to above, without first approaching the bench and obtaining a ruling from the Court outside the hearing of all prospective jurors and jurors ultimately selected and that Plaintiff's counsel be required to instruct all of Plaintiff's witnesses to follow the mandates of such order.

UNIVERSITY OF DUBUQUE AND  
JEFFREY BULLOCK, DEFENDANTS

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