

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

CLIFF MISSEN,

Plaintiff,

v.

**STATE OF IOWA, BOARD OF
REGENTS, STATE OF IOWA,
THE UNIVERSITY OF IOWA,
AND HERITAGE PROPERTY
MANAGEMENT,**

Defendants.

CASE NO. LACV074511

**DEFENDANTS STATE OF IOWA,
BOARD OF REGENTS, STATE OF
IOWA, AND THE UNIVERSITY
OF IOWA’S MOTION TO DISMISS**

COME NOW the Defendants, State of Iowa, Board of Regents, State of Iowa, the University of Iowa (State Defendants), and move to dismiss Plaintiff’s Petition in the above-captioned matter, and in support thereof, state as follows:

1. Plaintiff has pled two claims against the Defendants, negligence and egregious conduct. Petition ¶¶ 21 – 24.
2. The facts on which Plaintiff bases the “egregious conduct” claim is Defendants’ alleged “heavy-handed response” to Plaintiff’s complaints. Petition ¶ 24.
3. With respect to his “egregious conduct” claim, Plaintiff has failed to state a claim upon which relief has been granted. I.R.C.P. 1.421(1)(f).
4. Dismissal is proper “if the petition shows no right of recovery under any state of facts.” Southard v. Visa U.S.A. Inc., 734 N.W.2d 192, 194 (Iowa 2007)
5. A court should grant a motion to dismiss if the petition fails to state a claim upon which any relief may be granted. In considering a motion to dismiss, the court considers all well-pleaded facts to be true. A court should grant a motion to dismiss only if the petition on its face

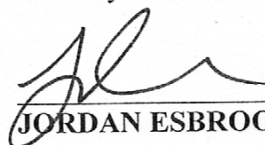
shows no right of recovery under any state of facts. Hawkeye Food Serv., No. 08-2056, 2012 WL 592430 (Iowa Feb. 24, 2012).

6. Even if it were true that Defendants' conduct was "heavy handed" or "egregious," this complaint does not state a claim under the laws of Iowa.

7. Defendants do not move to dismiss Plaintiff's negligence claim, but hereby request an additional 15 days to answer it after the Court rules on this motion to dismiss.

WHEREFORE, the State Defendants hereby request that the Court dismiss Plaintiff's claim of egregious conduct.

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