

**IN THE IOWA DISTRICT COURT
JOHNSON COUNTY**

CLIFF MISSEN - Plaintiff

v

The State of Iowa

The Iowa Board of Regents

The University of Iowa

Heritage Property Management, Iowa City

* CASE NO. LACV074511

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OPPOSITION TO MOTION TO DISMISS OF
DEFENDANTS STATE OF IOWA BOARD
OF REGENTS, STATE OF IOWA, AND THE
UNIVERSITY OF IOWA

RESPONSE TO MOTION TO DISMISS

Cliff Missen, the Plaintiff, opposes the Motion to Dismiss the Egregious Conduct charge filed by Defendant Joseph Blakeley. In support, the claimant states as follows:

FACTS

COUNT II: Egregious Conduct

1. That the agent of the university misrepresented the status of the home and the Plaintiff's complaints in emails to the plaintiff and superiors. For example, a written claim that the University's Health Protection Office had inspected the house and found a single mold spore and cleaned it when, in fact, there was 20 square feet of mold on the basement wall. (Nor has the HPO confirmed they actually visited the house.)
2. That the arduous process of filing claims and seeking redress has been complicated by a persistent set of untruths used by the defendants that have even been promulgated by the executive director of the Board of Regents who wrote several blatant false statements in a letter, including:
 - a) That the Plaintiff had "requested approval to move in to the property immediately after the University's purchase in October 2007, leaving virtually no time for the University to evaluate or service the facility." (Even if this were to be true, it would be an abdication of responsibility.)
 - b) "The University of Iowa diligently worked with you to address your concerns about the mold in the home including numerous remediation efforts..."

- c) That the University had made “offers of alternative living arrangements which you declined.”
- 2) That the Defendants’ heavy-handed response to the Plaintiff’s injuries, forcing the Plaintiff to incur significant out-of-pocket expenses, undertake a slow physical recovery, spend hundreds of hours pursuing justice, and endure unfounded assertions about the nature of the case, caused the Plaintiff undue mental anguish, emotional pain, suffering, and harm of professional relationships.
- 3) Under the shadow of these falsifications, it was extremely difficult to get the state insurance board to consider the Plaintiff’s claim seriously (they offered a fifth of the modest amount originally claimed.)
- 4) That the Plaintiff’s work productivity and personal life have been impacted by the mold-related illnesses, causing significant hardship.
- 5) That the Plaintiff’s professional relationships with colleagues at the University of Iowa have been adversely affected by the contentious strategy the university administration has chosen in this matter, with many of the Plaintiff’s colleagues keeping him at arm’s length, hampering his ability to do his work.

The Plaintiff assures the Court that the documentary evidence, along with the testimony of key individuals, will corroborate these assertions and bring to light an intentional policy of stonewalling that, in essence, re-victimizes the victim.

ARGUMENT

This case is filed Iowa Tort Claims Act. IC Sect. 669 et seq.

While the ITCA section 669.14(4) contains exceptions to liability which excepts “any libel, slander, misrepresentation, [or] deceit ...” by a state employee, it does not provide an entire institution with a “license to lie.” (See Iowa Supreme Court: *Minor vs. State*, June 15, 2012 and *Dickerson v. Mertz*, 547 N.W. 2d. 208, Iowa 1996). In this case, it is not only a matter of a single state employee and a contractor using deceit to disguise their poor judgment, but several university and regent representatives refusing to investigate the deceits when presented with a formal complaint; instead electing to promulgate the deceits when a reasonable party would find them transparent and baseless.

Given the institutional scale of the deception in this case, it is also covered under the protections of the federal Civil Rights Act, 42 U.S.C. Sect. 1983 and Section 1 of the 14th Amendment to the U.S. Constitution.

CONCLUSION

Accordingly, the Plaintiff requests that the Defendants' Motion to Dismiss be denied.

Respectfully submitted,

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