

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

CLIFF MISSEN,)	
)	
Plaintiff,)	CASE NO. LACV074511
)	
v.)	
)	
STATE OF IOWA, BOARD OF REGENTS, STATE OF IOWA, THE UNIVERSITY OF IOWA, AND HERITAGE PROPERTY MANAGEMENT,)	DEFENDANTS STATE OF IOWA, BOARD OF REGENTS, STATE OF IOWA, AND THE UNIVERSITY OF IOWA'S REPLY TO PLAINTIFF'S OPPOSITION AND RENEWED
Defendants.)	MOTION TO DISMISS

COME NOW the State of Iowa, Board of Regents, and University of Iowa (the State Defendants) and in response to Plaintiff's opposition to the State's motion to dismiss, state as follows.

1. Plaintiff appears now to be pleading a misrepresentation or deceit claim, claiming that the University misrepresented the state of the home Plaintiff rented from the University and the actions taken to remediate problems in the home. The State Defendants therefore move to dismiss this claim on the basis of the State's immunity, in addition to the grounds stated in their original motion to dismiss.
2. The State Defendants are immune from claims of deceit or misrepresentation. See Iowa Code § 669.14(5)(The provisions of the Iowa Tort Claims Act shall not apply to any claim "arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights"). It is well established that the University of Iowa and the Board of Regents are considered the "state" and are immune to the same extent as the state. Van Pilsum v. Iowa State Univ. of Science and Tech., 863 F. Supp. 935, 939-40 (S.D. Iowa 1994).

3. Plaintiff cites the recent Supreme Court case Minor v. State to argue he should be able to bring a deceit or misrepresentation claim. Minor v. State, No. 09-1010, 2012 WL 2161486 at *19 (Iowa June 15, 2012)(holding that the conduct underlying intentional infliction of emotional distress and tortious interference with parent-child relationship claims was functional equivalent of barred deceit claim). Minor actually stands for the proposition that the State is immune from all claims functionally equivalent to the claims listed in 669.14(5). Because the Plaintiff is essentially complaining about misrepresentations he believes the University has made, his claim should be barred, even if he persists in calling it “egregious conduct.”

4. Plaintiff states that the defendant in this case is “Joseph Blakely.” The State Defendants are unaware of the identity of this individual.

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

Respectfully submitted,

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