

**IN THE CHANCERY COURT OF
HAMILTON COUNTY TENNESSEE**

DR WILLIAM P. HARMAN,
Plaintiff,

v.

UNIVERSITY OF TENNESSEE
AT CHATTANOOGA,
Defendant.

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Case No.: 08 - 0698

Chancellor: _____

Jury Demand

COMPLAINT

Comes Now the Plaintiff, Dr. William P. Harman, by and through counsel, and sues the Defendant, University of Tennessee at Chattanooga ("University"), and for his cause of action, states:

I. JURISDICTION

1. Jurisdiction in this case is invoked for violations of the *Tennessee Public Protection Act*, T.C.A. § 50-1-304, and for common law termination against public policy.
2. Plaintiff, Dr. William P. Harman, is and was at all times material herein, a citizen and resident of Hamilton County, Tennessee.
3. Defendant, The University of Tennessee at Chattanooga, is a State chartered institution of higher education located in Chattanooga, Tennessee, where Plaintiff was employed. Defendant can be served with process through its General Counsel, Catherine S. Mizell.
4. Plaintiff was at all material times an employee of Defendant within the meaning of *Tennessee Public Protection Act*, T.C.A. § 50-1-304.
5. The Defendant is an "employer" as defined by *Tennessee Public Protection*

Act, T.C.A. § 50-1-304.

6. The acts complained of herein occurred primarily at Defendant's facilities in Hamilton County, Tennessee, where the Plaintiff was assigned as a result of his employment.

II. GENERAL ALLEGATIONS

7. In the Fall of 2000, Plaintiff was employed as Professor and Department Head in the Department of Religious Studies at DePauw University in Greencastle, Indiana. Plaintiff was actively recruited by Defendant in the Fall of 2000, and was hired away from DePauw in May of 2001, to become a Professor and Department Head of the University's Department of Philosophy and Religion. The Department of Philosophy and Religion is a Department within the University's College of Arts and Sciences.

8. During Plaintiff's 6-year performance as Department Head he received six separate year-end evaluations from the office of Dean Herbert Burhenn, Dean of the College of Arts and Sciences. Department Heads are evaluated each year as having a record that is either "Distinguished," "Commendable," or "Unsatisfactory." During two of those six years (2004 and 2007) Plaintiff received a "Distinguished" rating, the highest possible rating which is given only to 10% of all Department Heads. The remaining four years Plaintiff received a "Commendable" rating, meaning that he performed his duties well within the range of expectations. Plaintiff never received an "Unsatisfactory" rating and his file contains no evidence of inferior performance or official reprimands. During Plaintiff's period as Department Head, the number of students majoring in Philosophy and Religion rose by about 24%. The Department prospered under his leadership.

9. As the Department Head of the Department of Philosophy and Religion, Plaintiff's job duties included the review of the academic credentials and professional

performance (including instruction, scholarship, and service) of professors within the Department.

10. From 2001, through July 1, 2007, Talia Welsh was an Assistant Professor in the Department of Philosophy and Religion. Welsh was scheduled to be considered for tenure in the Spring / Summer of 2008.

11. During 2007, as part of his administrative duties as Department Head, Plaintiff concluded that Welsh's professional conduct had become unacceptable. This was, in part, because of her repeated and unannounced absences from the classroom and because she defied his advice when she conducted an extramarital affair with an undergraduate student of the University who was taking courses in the Philosophy and Religion Department.

12. Plaintiff also discovered extensive misrepresentations and false statements in Welsh's several Year-End Reports, in her academic resumes submitted with those reports, and in her original resume submitted with her application for a position at the University. Welsh fraudulently took credit for several alleged publications which were discovered to be non-existent. On the basis of fraudulent claims Welsh also applied for and received a special salary increase and a designation as a holder of a coveted UC Foundation Professorship.

13. Because of the academic fraud, poor judgment and negligent classroom performance, all of which Plaintiff discovered and documented, Plaintiff gave Welsh a poor 2007, year-end evaluation.

14. Upon learning the above information, Dr. Burhenn instructed the Acting Dean to order Plaintiff to remove all negative information (extensive class absences, extramarital affair with student, falsification of credentials) from Welsh's evaluation.

15. Plaintiff informed Dr. Burhenn the he did not intend to remain silent about these matters while the University conducted a final tenure review for Welsh, who was guilty of egregious and unrepentant professional abuse and academic fraud.

16. In a meeting following an e-mail from Plaintiff to Dean Burhenn which stated: "I cannot any longer obey orders to cover up professional malfeasance on the part of any member of this department, and I cannot agree to having such information suppressed.", Dr. Burhenn asked Plaintiff to resign as Department Head.

17. Plaintiff refused to resign or to remain silent regarding Welsh's academic fraud. Plaintiff was then informed that he would be terminated as Department Head at the end of the academic year. This termination was based on Plaintiff's refusal to alter official documents or remain silent as to the academic fraud and professional malfeasance which was perpetrated on the University and the citizens of the State of Tennessee.

III. CAUSE OF ACTION

18. Plaintiff charges and alleges that because of the retaliation to which he was subjected, Defendant is guilty of violations of the *Tennessee Public Protection Act, T.C.A. § 50-1-304*.

19. Plaintiff charges and alleges that because of the retaliation to which he was subjected, Defendant is guilty of common law termination against public policy.

20. Plaintiff charges and alleges that because of the retaliation to which he was subjected, Defendant is guilty of violations of Plaintiff's rights under the First Amendment to the Constitutions of the United States of America and of the State of Tennessee.

IV. DAMAGES

21. As a direct and proximate result of the acts and omissions of Defendant, Plaintiff has suffered lost income, mental pain and suffering, embarrassment, humiliation and general damages.

V. RELIEF SOUGHT AGAINST DEFENDANTS

WHEREFORE, Plaintiff, Dr. William P. Harman, prays that proper process issue and be served upon the Defendant in this action in the manner prescribed by law; and

WHEREFORE, Plaintiff demands judgment against the Defendant for compensatory damages, plus reasonable attorney fees and all costs; and

WHEREFORE, Plaintiff prays for reinstatement to his position of Department Head, injunctive relief preventing these discriminatory practices by Defendant, and demands a jury to try all issues, when joined.

Respectfully submitted,

PATY, RYMER AND ULIN P.C.

By: 

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