



Index #: 2017-0602 CI2017-21801
10/13/2017 10:53:03 AM
AMENDED COMPLAINT
Maureen Reynolds, Tompkins County Clerk

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF TOMPKINS**

DR. MICHAEL STUPRICH

Plaintiff,

-against-

**AMENDED
COMPLAINT**

Index No. 2017-0602

**THOMAS R. ROCHON in his capacity as
President of Defendant Ithaca College and individually,
SHIRLEY M. COLLADO, in her capacity as
President of Defendant Ithaca College,
and ITHACA COLLEGE**

Defendants.

Plaintiff by and through his attorneys The Lama Law Firm, LLP, alleges the following in support of his complaint against defendants Thomas Rochon, Shirley M. Collado and Ithaca College.

PARTIES

1. At all times relevant hereto, Plaintiff was a resident of the Town of Dryden, County of Tompkins, State of New York.
2. Upon information and belief, the defendant Shirley M. Collado, is the president of Defendant Ithaca College, with offices at 953 Danby Road, Town of Ithaca, County of Tompkins, State of New York.
3. Upon information and belief, defendant Thomas R. Rochon was the president of Defendant Ithaca College at times relevant hereto.
4. Upon information and belief, defendant Ithaca College is a private educational institution, doing business in the County of Tompkins, State of New York, and other locations.
5. Plaintiff sues Defendants Rochon and Collado in their individual and official capacities, and sues all Defendants jointly and severally.

INTRODUCTORY FACTS

6. Dr. Michael Stuprich has been employed by Defendant Ithaca College for thirty years as a full-time associate professor, with tenure, in the English Department.
7. For the duration of his teaching at Ithaca College, Plaintiff has maintained the highest degree of competence, honesty, the highest standards of teaching and ethics, and has—without fail—fulfilled his institutional duties as professor of English.
8. Plaintiff has educated thousands of students throughout his tenure, receiving primarily excellent student reviews.
9. Plaintiff, at all times, has maintained an ethical, proper, respectable personal life, and has been an asset to the community in general.
10. Plaintiff was contacted by Warren Schlessinger, a college advisor, who demanded that Plaintiff arbitrarily raise a “D-” grade to a higher grade for one of Schlessinger’s advisee students.
11. Plaintiff rightfully considered this contact to be unethical, and improper, and responded accordingly.
12. Rather than follow established procedures, Schlessinger sent said student to the department head, Breen.
13. Upon information and belief, said student did indeed meet with Breen.
14. No change in grade was made.
15. Plaintiff advised Schlessinger that they should have a discussion about this off campus due to its controversial nature.

16. Schlessinger then accused Plaintiff of “mistreating” the failing student.
17. On July 14, 2017, Plaintiff received an email from James Swafford, a work colleague of 30 years at Ithaca College.
18. Said email (para. 17 supra) stated that Swafford needed to speak with Plaintiff “immediately.”
19. Swafford called Plaintiff, and Swafford advised Plaintiff that he had attempted to call Plaintiff the prior day to alert him to an 11:00 a.m. meeting with the Vice President of Human Resources on July 14, 2017 to review his benefits upon dismissal.
20. Swafford further advised Plaintiff that Plaintiff had been dismissed effective immediately according to a letter dated June 20, 2017 from Thomas Rochon.
21. Plaintiff was never advised that he had any time limit to “appeal” the dismissal, nor was Plaintiff ever advised that a hearing could be conducted, nor was Plaintiff ever advised that he had the right to be represented by his own attorney in any such proceedings.
22. Swafford further advised Plaintiff that his office had been “packed up” and his possessions were “locked up” at Public Safety, and that for additional information, Plaintiff should contact Brian Dickens, Vice President of Human Resources and Nancy Pringle, General Counsel.
23. Plaintiff’s spouse then received a phone call from Dickens who advised Plaintiff’s spouse that Plaintiff had been dismissed due to “e-mail threats to a student and to a faculty colleague.”
24. Plaintiff never threatened any student or colleague by e-mail, or in any other manner.

FIRST CAUSE OF ACTION:
BREACH OF CONTRACT

25. Plaintiff hereby incorporates the preceding paragraphs as if stated fully stated herein, and further states:
26. Plaintiff and Defendants entered into an employment agreement whereby Plaintiff became a tenured Professor for Ithaca College.
27. Plaintiff is a current employee of the Ithaca College.
28. In connection with this employment, Defendants dismissed Plaintiff from his tenured position at Ithaca College
29. Defendants have policies and procedures that are in place and have been in place during the time of the Plaintiff's employment.
30. The policies and procedures set forth the method for conducting a dismissal for cause case, such as Plaintiff's
31. Defendants, through words and conduct, demonstrated a willingness to be bound by their policies and procedures.
32. Plaintiff has been aware of the Defendant College's policies and procedures throughout his employment.
33. Plaintiff performed as required under the parties' agreement.
34. Notwithstanding Plaintiff's performance, Defendants breached the terms of the agreement by failing to comply with the terms of the agreement.
35. Specifically, Defendants failed to perform or follow their internal procedures, rules and policies governing its dismissal for cause process.
36. Defendants terminated Plaintiff's tenured position without cause.

SECOND CAUSE OF ACTION:
BREACH OF CONTRACT-GOOD FAITH AND FAIR DEALING

37. Plaintiff hereby incorporates the preceding paragraphs as if stated fully herein, and further states:
38. Defendants breached the express covenant of good faith and fair dealing set forth in their agreement.
39. As a direct and proximate result of the breach of contract, Plaintiff has suffered damages and losses.

THIRD CAUSE OF ACTION:
BREACH OF IMPLIED CONTRACT

40. Plaintiff hereby incorporates the preceding paragraphs as if stated fully herein, and further states:
41. Plaintiff was aware of the Defendant College's written policies and procedures throughout his employment.
42. Plaintiff reasonably understood that Defendant Ithaca College was offering the written policies and procedures as part of the terms and conditions of his employment, and with that understanding, he continued his employment with Defendant Ithaca College.
43. Plaintiff performed according to the University policies with the reasonable expectation of continued employment.
44. Defendants failed to perform according to Plaintiff's reasonable expectation of continued employment and to comply with Defendants' policies and procedures by terminating Plaintiff's tenured employment without cause, and directly caused Plaintiff to incur damages as a result.

FOURTH CAUSE OF ACTION:
PROMISSORY ESTOPPEL

45. Plaintiff hereby incorporates the preceding paragraphs as if stated fully herein, and further states:
46. Defendants published, circulated, and distributed its written policies, including its claim that as Plaintiff was a tenured professor, Plaintiff's employment could only be terminated for incompetence, immoral or unethical behavior, or neglect of duty.
47. Defendants were at all times relevant hereto, aware of the Defendant College's publications; however, Plaintiff had no reason to know that Defendants would proceed to terminate his tenure in violation of said policies and procedures.
48. Plaintiff reasonably relied upon the promises made by Defendants to his detriment, and under circumstances that make it unfair and unjust not to enforce the Defendants' promise.
49. Plaintiff has relied on the promises made by Defendants, and it would be manifestly unjust not to enforce the Defendants' promises.

FIFTH CAUSE OF ACTION:
VIOLATION OF ACADEMIC DUE PROCESS

50. Plaintiff hereby incorporates the preceding paragraphs as if stated fully herein, and further states:
51. The concept of "academic due process" entails more than barebone procedural requirements.

52. "Academic due process", an internal institutional procedure is to be distinguished from due process of law.
53. "Academic due process" is a system of procedures designed to produce the best possible judgments in those personnel problems of higher education which may yield a serious adverse decision about a teacher. (Joughin, "Academic Due Process.")
54. The serious consequences of a "just cause" dismissal are the reason why university regulations prescribe a rigorous process when accusations...are made.
55. Tenure is principally a statement of formal assurance that thereafter the individual's professional security and academic freedom will not be placed in question without the observance of full academic due process.
56. A fundamental part of "academic due process" is right to a hearing and the right to be represented by counsel.
57. The policies and procedures employed by Defendants are insufficient, as there are no provisions enunciated therein stating that upon termination, Plaintiff had a right to a hearing, and a *right to be represented by counsel* at said hearing.
58. As such, Defendants violated Plaintiff's right to "academic due process."
59. Defendants' failure as stated above, caused Plaintiff loss and damages.

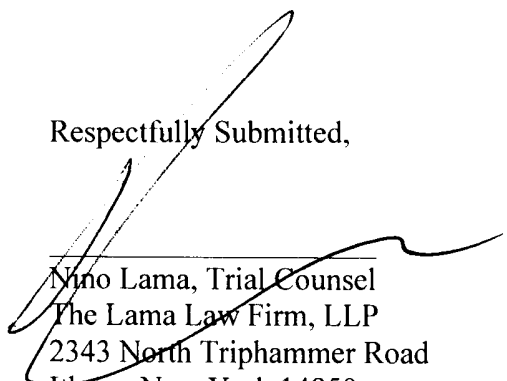
PRAYER

WHEREFORE, Plaintiff demands judgment be entered against the defendants jointly and severally as follows:

1. Damages in the amount of ONE MILLION DOLLARS (\$1,000,000.00)

2. Interest on the judgment amount.
3. The costs of this action.
4. Any other legal or equitable relief to which Plaintiff may be entitled.

Respectfully Submitted,



Nino Lama, Trial Counsel
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Dated October 13, 2017