

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL BRANCH
4th DIVISION
CASE NO: 10-CI- 489

MICHAEL MITCHELL,

PLAINTIFF

VS.

COMPLAINT

UNIVERSITY OF KENTUCKY,

Serve: Hon. Barbara Jones
Office of Legal Counsel
University of Kentucky
301j Main Building 0032
Lexington, KY 40506-0032

UNIVERSITY OF KENTUCKY POLICE
DEPARTMENT,

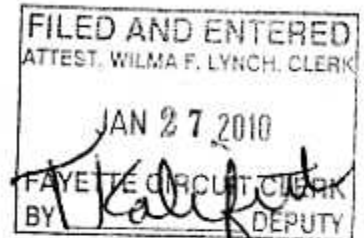
Serve: Hon. Barbara Jones
Office of Legal Counsel
University of Kentucky
301j Main Building 0032
Lexington, KY 40506-0032

UNIVERSITY OF KENTUCKY
CHANDLER MEDICAL CENTER,

Serve: Hon. Barbara Jones
Office of Legal Counsel
University of Kentucky
301j Main Building 0032
Lexington, KY 40506-0032

BARB SCHNAPF,

Serve: Barb Schnapf
University of Kentucky
Albert B. Chandler Hospital
800 Rose Street



Lexington, KY 40536

KIM HENDRICKSON,

Serve: Kim Hendrickson
University of Kentucky
Albert B. Chandler Hospital
800 Rose Street
Lexington, KY 40536

DEFENDANTS

* * * * *

Comes the Plaintiff, MICHAEL MITCHELL, by counsel, and for his Complaint against the Defendants, UNIVERSITY OF KENTUCKY, UNIVERSITY OF KENTUCKY POLICE DEPARTMENT, UNIVERSITY OF KENTUCKY CHANDLER MEDICAL CENTER, BARB SCHNAPF, and KIM HENDRICKSON, states as follows:

1. That the Plaintiff is a student of the University of Kentucky and was recently an employee of the University of Kentucky and the Chandler Medical Center.
2. That the Defendants, either operate or are employees assisting in the operation of, the university and specifically the hospital owned and run by the University of Kentucky.
3. The Plaintiff was employed by the University of Kentucky Chandler Medical Center on October 6, 2008 as an anesthesia technician in the Perioperative Services Department. The Plaintiff was employed full-time in this position and worked in an "on call" capacity that required him on many occasions to work late at night.
4. On or about April 22, 2009, unknown employees made a claim to the Plaintiff's supervisors that he had in his possession a firearm and that he was keeping this firearm in his employer-provided locker, in the hospital. This claim apparently arose after these employees listened in on a portion of a conversation the Plaintiff had with another employee.

5. The Defendants searched the Plaintiff's locker and found no firearm and also questioned the Plaintiff concerning the allegations. During the course of this questioning, the Plaintiff cooperated fully and advised his supervisors that he possessed a concealed-carry permit for a firearm that he kept in his vehicle. This vehicle was parked approximately one mile away in the student parking lot located at Commonwealth Stadium.

6. After questioning the Plaintiff, his supervisors advised him that he was being suspended from work pending an investigation. The Plaintiff was escorted from the hospital by a University of Kentucky police officer and taken to his vehicle at Commonwealth Stadium.

7. Upon arriving at his vehicle, the university's police officer was ordered by his supervisor to confiscate the Plaintiff's firearm, which was done. The Plaintiff cooperated fully with the police officer in locating the firearm.

8. On April 29, 2009, the Plaintiff was informed by the Defendants that his employment was being terminated. Initially, the Plaintiff was told that he was being fired for creating a hostile work environment, but the Defendants later stated that he was fired solely for violating the university's policy prohibiting the possession of a firearm on campus.

9. The Plaintiff applied, and was approved for, unemployment benefits. The University of Kentucky challenged the awarding of benefits. A hearing was held on this challenge on July 6 and July 16, 2009. Shortly thereafter, the hearing officer ruled that the Plaintiff was fired for reasons other than misconduct connected with his employment and the award of benefits was upheld. The University appealed that decision and the hearing officer's ruling was upheld.

10. The Plaintiff had at the time, and still maintains, a concealed-carry permit pursuant to the laws of the Commonwealth of Kentucky. This permit is held, in part, pursuant to K.R.S. § 237.110, 527.020 and 237.115.

11. K.R.S. § 527.020(4) states: "No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction."

12. The Plaintiff was fired in violation of the public policy of this Commonwealth, as outlined in paragraphs 11 and 12, herein. This firing also constitutes a breach of the covenant of good faith and fair dealing, and other tortious acts as recognized by the Courts and General Assembly of this Commonwealth. The Defendants' actions further violated the Plaintiff's rights under the Kentucky and United States Constitutions.

13. The Plaintiff was an at-will employee of the Defendants and was terminated by the Defendants. The public policy outlined above directly applies to the circumstances of the Plaintiff's termination and the Plaintiff was/is protected by the aforementioned public policy. The Plaintiff engaged in conduct and the exercise of rights protected by the Kentucky and United States Constitutions, and the public policy of this Commonwealth, and he was fired by the Defendants for exercising those rights.

WHEREFORE, the undersigned for and on behalf of the Plaintiff would respectfully request this Court as follows:

[a] To enter a Judgment against the Defendants in an amount to be determined, but in excess of the jurisdictional limits of this Court;

[b] For an award of compensatory and punitive damages; and,

[c] Any and all other relief to which he may appear entitled.

RESPECTFULLY SUBMITTED



HON. CHRISTOPHER D. HUNT
LAW OFFICES OF STEVEN A. WIDES
107 CHURCH STREET, SUITE 200
LEXINGTON, KY 40507
(859) 231-9933

VERIFICATION

I hereby verify that the foregoing Complaint is true and accurate to the best of my knowledge and belief.

MICHAEL MITCHELL



STATE OF KENTUCKY)
COUNTY OF FAYETTE)

The foregoing has been SWORN to and ACKNOWLEDGED to by Michael Mitchell, for and on behalf of MICHAEL MITCHELL on this the 26th day of January, 2010.

My Commission Expires: Sept 20 2013



NOTARY PUBLIC, STATE AT LARGE # 403474