Bruce v. Ohio State University -- Breach of Contract Complaint.

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

EARLE D. BRUCE 7634 Southview Drive Worthington, Ohio 43085 Plaintiff, -vs- THE OHIO STATE UNIVERSITY c/o Larry Thompson, Esq. 205 Bricker Building 190 North Oval Columbus, Ohio 43112 and EDWARD H. JENNINGS, PRESIDENT The Ohio State University 3525 Pickerington Road, N.W. Carroll, Ohio 43112 and EDWARD H. JENNINGS, INDIVIDUALLY 285 Croswell Road Columbus, Ohio 43214 Defendants	87CV-11-7430 Case No. 87CV-11- Judge _____ COMPLAINT WITH JURY DEMAND ENDORSED THEREON

COMPLAINT

1. Plaintiff, Earle D. Bruce, was at all times relevant to this complaint, the head football coach at the Ohio State University; an employee of the State of Ohio; a resident of the City of Columbus; and a taxpayer in the State of Ohio.

2. Defendant President Edward H. Jennings is and was at all times referred to in this complaint, the president of the Ohio State University.

3. Defendant Edward H. Jennings, as an individual, is a resident of the City of Columbus or of the City of Pickerington, Ohio.

4. The Ohio State University is a state chartered and state funded institution of higher learning at Columbus, Ohio. Defendant The Ohio State University operates by virtue of authority granted by the State of Ohio.

5. Defendant President Edward H. Jennings, acting in the color and scope of his employment, had authority to execute an agreement providing for the employment of the plaintiff as head football coach at The Ohio State University for a period of three years. Defendant Edward H. Jennings executed such an agreement on June 10, 1986 (Exhibit A).

6. Defendant Edward H. Jennings, as president of The Ohio State University, under color of state law, by his actions deprived plaintiff, Earle D. Bruce, of certain constitutional and property rights, including, but not limited to the conditions of his employment, by intentionally and maliciously breaching the aforementioned agreement in bad faith and in wanton and reckless manner. More specifically, Edward H. Jennings used his public official position in

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maliciously ordering the firing and discharging without just cause of the plaintiff, Earle D. Bruce, as the head football coach of The Ohio State University on Monday, November 16, 1987, unlawfully and in a discriminatory practice:

a. Defendant President Edward H. Jennings had a duty to behave towards plaintiff, Earle D. Bruce, in a manner appropriate to the standard decorum extended to all other employees under contract with The Ohio State University.

b. Defendant President Edward H. Jennings had a duty to behave in a dignified, honest manner appropriate to the decorum and circumstances attendant to his position as the president of The Ohio State University.

c. Defendant Edward H. Jennings and defendant The Ohio State University intentionally and maliciously breached said contract by preventing the plaintiff from performing his duties.

d. At all times, plaintiff was ready, willing and able to perform his duties.

7. Defendant Edward H. Jennings as part of a scheme, with premeditation and malice, and in bad faith, made false and untrue statements about the plaintiff, Earle D. Bruce, as head football coach of The Ohio State University; made slanderous and libelous untrue statements to others regarding the good reputation of the plaintiff, Earle D. Bruce; and further permitted the dissemination of said statements, knowing they were untrue when he made them.

a. Through this premeditated scheme begun over a year ago, consisting in part of dissemination of untrue statements, defendant Edward H. Jennings not only brought disgrace and shame to the office of president of The Ohio State University, but he with malice intentionally attempted to lower the morale of The Ohio State University football team by his malicious acts.

b. Defendant Edward H. Jennings, knowing that Earle D. Bruce has an excellent reputation as a football coach of great competency and as a man of integrity and high honor in the community at large, with premeditation, calculated a scheme to destroy the high reputation of the plaintiff, Earle D. Bruce, knowing that plaintiff, Earle D. Bruce, would be injured in esteem, respect, goodwill, confidence, good name and in reputation as a superior collegiate football coach.

c. The untrue statements and implications made about the plaintiff, Earle D. Bruce, by the defendant President Edward H. Jennings, were repeated to third parties and some were printed in *The Columbus Dispatch, The Lantern, USA Today, Cleveland Plain Dealer, Detroit Free Press, Los Angeles Examiner, Cincinnati Enquirer, New York Times, Miami Herald, Des Moines Register,* WTVN-TV, WBNS-TV, and by many other public media presentations on a national basis too numerous to mention.

d. Further, defendant President Edward H. Jennings, as president of The Ohio State University, has not retracted nor denied these untrue statements, in a continuing effort to publicly humiliate plaintiff, Earle D. Bruce, his family and associates; said conduct calculated to interfere and obstruct the due process rights of the plaintiff, and to damage his financial relationships and to humiliate him and his family.

8. One of these intentional malicious false statements made by President Edward H. Jennings indicated, among other things, that plaintiff has a "connection with horse betting interests" and that plaintiff was in some way responsible for gambling by a former football player in the year 1981. Defendant President Edward H. Jennings knew that these statements were untrue when he executed the three-year employment contract for plaintiff on June 10, 1986, but continued repeating the untrue statements as a basis for the malicious firing of Earle D. Bruce.

9. Defendant President Edward H. Jennings was asked by the plaintiff on November 17, 1987, to give the reasons for the firing of the plaintiff and to honor the plaintiffs contract, but the defendant Edward H. Jennings refused to communicate any reason for the firing of the plaintiff, continues to refuse to give any reason, and has not honored the plaintiff's employment agreement.

10. Defendant Edward H. Jennings' real reasons for firing the plaintiff, Earle D. Bruce, are because the plaintiff, Earle D. Bruce, as a taxpayer and as an employee of The Ohio State University, does not approve of President Edward H. Jennings' conduct and because defendant Edward H. Jennings was intent on depriving plaintiff of his *First Amendment*

rights in expressing such disapproval. Defendant Edward H. Jennings wrongfully yielded to two small pressure groups in a effort to protect his own personal interests.

11. The actions taken by defendant Edward H. Jennings and defendant The Ohio State University, acting under color of state law and authority, deprived the plaintiff of his contracted for and non-contracted for process and equal protection, in violation of the law of the state of Ohio and the United States of America, including the *First Amendment*, the *Fifth Amendment* and the *Fourteenth Amendment*.

12. The claims of plaintiff are brought for damages authorized by law, but not limited to, Title *42 United States Code, Section 1983*; *42 United States Code, Section 1985*; *42 United State Code, Section 1988*; the *First Amendment to the United States Constitution*; the *Fourteenth Amendment to the United States Constitution*; and *Ohio Revised Code 4112.02*.

13. Although defendant Edward H. Jennings has a duty to behave in a manner appropriate to the standard of decorum required of his position as an official of The Ohio State University, he has intentionally, maliciously and in bad faith, used his public office unprofessionally. He has accepted public funds from the state of Ohio. He designed his conduct so as to harm the plaintiff by denying him rights, benefits and entitlements as the head football coach at The Ohio State University.

14. Defendant The Ohio State University and defendant Edward H. Jennings did negligently and/or intentionally, maliciously and in bad faith, breach their duties as hereinbefore set forth in an outrageous manner, so as to shock the conscience and sensibilities of the plaintiff and his family, and by their outrageous actions, to cause great mental anguish, pain, suffering and humiliation to the plaintiff and his family.

15. The intentional malicious direct statements and implications also indicated that plaintiff was too old for the position of head football coach and that a younger head football coach would better suit the image of the Ohio State University.

16. As a direct and proximate result of such negligent and/or intentional, malicious, and bad faith actions, the defendant The Ohio State University and the defendant Edward H. Jennings did, in fact, cause the plaintiff and his family to be outraged, subject to humiliation, shame, anxiety, grief and rage, and further caused severe mental and physical distress.

17. The breach by defendants The Ohio State University and Edward H. Jennings damaged the plaintiff in the approximate amount of $148,800.00 in actual damages, and in excess to $300,000.00 from other sources directly related to his contract.

WHEREFORE, plaintiff respectfully seeks the following relief:

1. As the result of the intentional, malicious statements made by defendants The Ohio State University and Edward H. Jennings, individually and in his capacity as president of The Ohio State University for violation of plaintiff's property and due process rights under color of state law, in the amount of $2,000,000.00.

2. As a result of the breach of contract, plaintiff seeks damages from the defendants in the amount of $448,800.00.

3. As to his other claims, plaintiff seeks compensatory and punitive damages for defendant Edward H. Jennings, individually and in his capacity as president, in the amount of $5,000,000.00.

Furthermore, plaintiff demands that he be awarded his reasonable attorneys' fees as is provided for in *42 United States Code, Section 1988*. Plaintiff also demands that he be awarded the costs of his action, along with such further relief as this court deems proper.

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John S. Zonak (ZON01)

EXHIBIT 5

3040 Riverside Dr., Suite 209

Columbus, Ohio 43221

(614) 486-7707

Attorney for Plaintiff

Jury Demand

Plaintiff demands a trial by jury of the foregoing action.

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John S. Zonak

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