Court of Claims of Ohio

The Ohio Judicial Center
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JAMES J. O'BRIEN

    Plaintiff

    v.

THE OHIO STATE UNIVERSITY

    Defendant

Case No. 2004-10230
Judge Joseph T. Clark

<u>JUDGMENT ENTRY</u>

{¶ 1}   On August 2, 2006, the court issued a decision on the issue of damages. Therein the court stated:

{¶ 2}   "A non-oral hearing was conducted in this case upon the parties' motions for summary judgment. For the reasons set forth in the decision filed concurrently herewith, plaintiff's motion for summary judgment is GRANTED, in part, such that plaintiff shall be entitled to damages in the amount of $2,253,619.45, plus prejudgment interest in an amount to be determined upon the entry of a final judgment in this case. Defendant's motion for summary judgment is GRANTED, in part, such that defendant shall be entitled to a setoff against plaintiff's total damages in an amount to be determined at the trial scheduled for *August 28-31, 2006.*"

{¶ 3}   As a result of a conference held on August 11, 2006, the parties agreed to submit a stipulation as to the amount of the supplemental compensation paid to plaintiff in the years 2000 and 2002, and to file briefs setting forth their respective positions on both the amount of prejudgment interest and the amount of the setoff. The parties also agreed that the remaining issues should be decided by the court upon the stipulation and briefs without the need for trial.

{¶ 4}   Turning first to the issue of prejudgment interest, the court finds that plaintiff is entitled to prejudgment interest as follows:

176 days (07/09/2004 to 12/31/2004) @ 4% of $2,253,619.45 = $43,467.07
365 days (01/01/2005 to 12/31/2005) @ 5% of $2,253,619.45 = $112,680.97
230 days (01/01/2006 to 08/18/2006) @ 6% of $2,253,619.45 = $85,205.34

Total Prejudgment Interest   = $241,353.38

{¶ 5}   Adding prejudgment interest of $241,353.38 to the damage award of $2,253,619.45 yields total damages of $2,494,972.83. See Court of Claims August 2, 2006, Decision, Page 16, Footnotes 1, 2.

{¶ 6}   Turning next to the issue of setoff, the parties have stipulated the amount of supplemental compensation received by plaintiff as follows:

{¶ 7} "1.   On April 30, 2000, the University paid Coach O'Brien a $17,500 bonus as a result of the basketball team's recognition as Big 10 co-champions.

{¶ 8} "2.   On March 31, 2002, the University paid coach O'Brien a $18,109 bonus as a result of the basketball team's recognition as Big 10 champions."

{¶ 9} According to the parties' stipulation, the total supplemental compensation is $35,609. Defendant argues that interest should be added to the overpayments and that plaintiff's damage award should be reduced by $51,227.12, not $35,609. However, given the circumstances under which the overpayment of supplemental compensation was made, and considering the fact that a demand for the return of the overpayment was not made by defendant until late in this litigation, the court finds that defendant is not entitled to interest on the overpayment. Accordingly, reducing plaintiff's damages of $2,494,972.83 by $35,609 results in total damages in the amount of $2,459,363.83.

{¶ 10} Judgment is hereby rendered in favor of plaintiff in the total amount of $2,459,388.83 which includes the $25 filing fee paid by plaintiff. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

_____
JOSEPH T. CLARK
Judge

Entry cc:

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LP/cmd
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