

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

FAZLUL H. SARKAR, PH.D.

PLAINTIFF

v.

CIVIL ACTION NO. 3:15-CV-83-NBB-SAA

THE UNIVERSITY OF MISSISSIPPI, ET AL.

DEFENDANTS

DEFENDANT LARRY WALKER'S MOTION TO DISMISS

Defendant Larry Walker, pursuant to Fed. R. Civ. Pro. 12(b)(6) and the qualified immunity doctrine, requests that this Court dismiss Plaintiff's claims against him in his individual capacity. In support, he states the following:

1. This matter concerns the rescinding of an offer of employment to Plaintiff Fazlul H. Sarkar when the University learned of serious and material allegations of research fraud. Sarkar seeks relief under various federal law (Section 1983 – due process) and state law (breach of contract and promissory estoppel). As to Walker in his individual capacity, this Court should dismiss Sarkar's Complaint under Rule 12(b)(6) and the doctrine of qualified immunity.

2. Regarding Sarkar's Section 1983 due process claim, this Court should dismiss Walker in his individual capacity because there is no dispute that Walker was not the final decision-maker and lacked the authority to rescind Sarkar's employment offer. In addition, Sarkar failed to allege objectively unreasonable conduct by Walker.

3. Regarding Sarkar's state law claims, this Court should dismiss Walker in his individual capacity because Sarkar failed to allege that Walker was a party to the employment contract or that Walker made any promise to Sarkar upon which Sarkar relied.

This Motion is supported by Walker's contemporaneously-filed Brief, the pleadings and other papers filed of record in this matter, and the following papers attached to this Motion:

Ex. "A" – June 19, 2014 letter from Walker to Sarkar;

Ex. "B" – June 23, 2014 email from Sarkar to Walker;

Ex. "C" – June 27, 2014 letter from Jones to Sarkar.

WHEREFORE, PREMISES CONSIDERED, Defendant Larry Walker requests that this Court dismiss Plaintiff's Complaint as to the claims against him in his individual capacity and tax all costs to Plaintiff. Walker seeks any other relief appropriate under the circumstances.

THIS, the 25th day of August, 2015

Respectfully submitted,

LARRY WALKER

/s/ J. Cal Mayo, Jr.

J. CAL MAYO, JR. (MB No. 8492)

MATTHEW W. BURRIS MB No. 104195)

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CERTIFICATE OF SERVICE

I, J. Cal Mayo, Jr., one of the attorneys for Defendant Larry Walker, do certify that I have electronically filed the foregoing Memorandum with the Clerk of the Court using the ECF system which sent notification of such filing to all attorneys of record.

This, the 25th day of August, 2015.

/s/ J. Cal Mayo, Jr. _____
J. CAL MAYO, JR. (MB No. 8492)