

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 16-01640

GUSTAVO GERMAN

vs.

LEE L. RUBIN & another¹


REVISED ORDER ISSUED JULY 7, 2017

1. The defendant Lee Rubin is to stay at least 100 feet away from plaintiff, Gustavo German, and have no contact, direct or indirect, with plaintiff, except as follows:
 - a. Physical meetings between Rubin and German concerning German's research progress are required, provided they are in the presence of a third party, who shall be one of those approved by German previously, all of whom Harvard accepts and Rubin does not oppose.
 - b. Rubin and German are to meet, with the agreed upon third party also present, to discuss German's research at least once every twelve weeks, until German completes his research or Rubin is replaced as German's supervisor, including his role as thesis advisor. Any such replacement shall be subject to German's approval. The first such meeting shall take place on or before September 1, 2017.
 - c. German is to be invited to, and Rubin must physically attend, "periodic general lab meetings," as referenced by Rubin in ¶ 18 of his Fourth Affidavit, as they did prior to March 10, 2016 and with the same frequency.
 - d. Besides the physical contact described above, all other communication between German and Rubin shall be by email or text messages.
 - e. Rubin is precluded from using in any fashion any of German's research, including but not limited to publications, not even in an abstract.
2. Plaintiff is to be returned in all respects to the status quo he enjoyed as of March 10, 2016, and is to be allowed to complete his research and thesis work, to his satisfaction, and submit said work for publication and in satisfaction of his Ph.D. requirements.
3. In order to effectuate the relief provided to plaintiff by paragraph 2 of this Order, the following actions are also ordered:
 - a. Harvard, within seven (7) days of the issuance of this Order, i.e., by July 14, 2014, shall vacate its May 16, 2017 withdrawal of German, and the terms of the academic probation that formed the basis for that withdrawal, and restore German's status as a graduate student enrolled in the Biological and Biomedical Science ("BBS") Ph.D. program performing research at the Bauer and Rubin

¹ President & Fellows of Harvard College ("Harvard").

Labs. Notice by Harvard of its compliance with ¶ 3a-3c shall immediately be provided to this court and to the plaintiff.

- b. On the same day German's status as a graduate student is restored, Harvard shall ensure that Department of Homeland Security (or the person and agency to whom Harvard gave notice of its withdrawal of German) is notified that German status as a Harvard graduate student has been restored and in effect, he was never withdrawn.
 - c. On the same day German's status as a graduate student is restored, Harvard shall ensure its Institutional Animal Care and Use Committee ("IACUC") is notified that German's status as a researcher affiliated with the university has been restored, and request that all prior research protocols concerning German's research be reviewed for approval.
 - d. On the same day German's status as a graduate student is restored, German is to be provided access to all Harvard facilities he had use of as of March 10, 2016. Provided, German's access to the BRI facility for animal testing shall be subject to IACUC approval as soon as possible.
 - e. On the same day German's status as a graduate student is restored, German is to immediately be fully restored to , and remain in, the position he was in at the Rubin Lab, as of March 10, 2016, with all resources he had available to him as of that date.
 - f. Lee Rubin shall continue to serve as German's supervisor, including being his thesis advisor, as he was so serving on March 10, 2016, unless and until a new P.I. and/or thesis advisor is identified who is acceptable to German.
 - g. Harvard is to discontinue any use of security guards at the facilities used by German, to the extent such use exceeds that which was in effect as of March 10, 2016.
 - h. Harvard shall have thirty (30) days from the date of this order to obtain research assistance for German equivalent to one full time research assistant, or two part time (15-20 hours per week) research assistants. German shall have final approval over the research assistant(s) assigned or hired, such approval not to be unreasonably withheld.
4. This order shall supersede all prior orders issued in this matter. Provided, this order shall not serve as a basis to excuse any violations of previous orders, or any appropriate relief sought for such violations, which occurred prior to the date of this Order.



Elizabeth Fahey
Justice of the Superior Court

DATED: July 7, 2017