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ARKANSAS CLAIMS COMMISSION

APR 11 2013

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RECEIVED

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

Mr.
 Mrs.
 Ms.
 Miss
The Estate of
Dr. Charles Hopson, Deceased, Claimant

vs.
State of Arkansas, Respondent
Dept. of Education

Do Not Write in These Spaces		
Claim No.	13-0715-CC	
Date Filed	April 11, 2013	
	(Month)	(Day) (Year)
Amount of Claim \$	500,000.00	
Fund	DOE	

COMPLAINT

Breach of Contract

The Estate of Charles Hopson, Deceased, the above named Claimant, of _____
(Name) (Street or R.F.D. & No.) (City)
_____ County of _____ represented by Rickey H. Hicks
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)
of 415 Main St. Little Rock AR 72201 501-374-2574 372-3164, says:
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)
State agency involved: Arkansas Dept. of Education Amount sought: \$500,000.00

Month, day, year and place of incident or service:
Explanation: See attached. Complaint with attachments; copy of judge-signed file-marked Order Admitting Will to Probate and Appointing Administrator.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?
No when? _____; to whom? _____
(Yes or No) (Month) (Day) (Year) (Department)
: and that the following action was taken thereon: _____

and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? Yes; if so, state name and address
Pulaski Co. Special School District
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)
and that the nature thereof is as follows: _____
: and was acquired on _____, in the following manner: _____

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint and he or she verily believes that they are true.

Rickey Hicks Dr. Charles Hopson
(Print Claimant/Representative Name) (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock, Arkansas
(City) (State)

(SEAL) on this 5th day of October, 2012
(Date) (Month) (Year)
Donna Johnson
(Notary Public)
My Commission Expires: July 14 2015
(Month) (Day) (Year)



SF1- R7/99

BEFORE THE ARKANSAS CLAIMS COMMISSION

ESTATE OF DR. CHARLES HOPSON, PH.D, DECEASED

PLAINTIFF

VS.

MIKE BEEBE, GOVERNOR OF THE STATE
OF ARKANSAS; DR. TOM KIMBRELL, IN HIS INDIVIDUAL
AND OFFICIAL CAPACITY AS COMMISSIONER
OF THE ARKANSAS DEPT. OF EDUCATION;
PULASKI COUNTY SPECIAL SCHOOL DISTRICT;
AND JOHN AND JANE DOES 1 - 10

DEFENDANTS

COMPLAINT

Comes now the Plaintiff, Estate of Dr. Charles Hopson, deceased, by and through his attorneys, Rickey H. Hicks and David O. Bowden and for his Complaint, states the following:

INTRODUCTION

1. This is a lawsuit based upon the prohibition against any state from impairing the obligations of contracts. (See the Constitution of the United States, Article 1, §10(a). See also, the Constitution of the State of Arkansas, Article 2, §17.) The challenge is the constitutionality of Arkansas Code §16-20-1901 - 1911 insofar as it grants or has been misconstrued to grant the Arkansas Department of Education authority to disavow the obligations occurred in contracts with school superintendents and/or teachers. All of the actions undertaken by Defendants were state actions.

2. Additionally and equally, this case involves a taking of Plaintiff's property without a fair hearing or due process of law and without just compensation in violation of the Constitution of the United States, Amendments 5 and 14, as well as the Arkansas Constitution, Article 2, §§2, 21 and 23.

3. The Plaintiff pleads detrimental reliance and estoppel for promises made that he acted upon and promises broken which has worked to the Plaintiff's detriment.

PARTIES

4. The Plaintiff, Dr. Charles Hopson, is the former superintendent of the Pulaski County Special School District, who was terminated from the position without just cause, adequate notice or any of the fundamentals of due process of law while still having a period of more than two (2) years remaining on his employment contract. Dr. Hopson's contract also contained a buy-out provision that the State of Arkansas made null and void.

5. Defendant, Dr. Tom Kimbrell is the Director of the Arkansas Department of Education and the Arkansas Department of Education is a department of the Arkansas State Government in charge with administering and assuring a reasonable quality education for the students in the State of Arkansas.

6. Defendant, Pulaski County Special School District is a school district in Arkansas that is responsible with the public education of students within the confines of Pulaski County, which are not attending the Little Rock School District or the North Little Rock School District. The Pulaski County Special School District is the District that Plaintiff Hopson was Superintendent of.

FACTUAL ALLEGATIONS

7. Plaintiff is an educator who was a resident of the State of Oregon and is now the current Superintendent of a school district in Houston, Texas. Plaintiff was recruited to be Superintendent of the Pulaski County Special School District ("PCSSD") in 2010. At first, he declined, but based upon the representations of Defendants, PCSSD and Defendant Kimbrell, Plaintiff agreed to take the position.

8. While Plaintiff was serving as an Assistant Superintendent of the Portland School District and considering taking the job in Pulaski County, he received an anonymous phone call. The caller identified himself as someone with connections to the Pulaski County Special School District. Plaintiff was told that he might be taking a job in which he could be terminated after only a short time, based upon the likelihood of the State Department of Education taking over the Pulaski County Special School District.

9. Plaintiff then made a call to Defendant Kimbrell, Commissioner of Education and asked about the allegations related to him in the call. Kimbrell relayed to Plaintiff that the Department did not have the ability to successfully take over and fund the Pulaski County Special School District. Defendant Kimbrell reassured the Plaintiff that he would be safe in taking the position even though the "PCSSD" has been identified as a potentially fiscal distressed district.

10. As the result of the statement made by Defendant Kimbrell and reassurances from the "PCSSD", Plaintiff undertook the job and signed the contract.

11. Plaintiff's contract was to run from July 1, 2010 to June 30, 2013. Additionally, the contract made it clear that in the event that the Plaintiff was to be terminated and such termination was to be for good cause only as defined by the Arkansas Teacher Fair Dismissal Act. Plaintiff further agreed to be bound by the Arkansas Teacher Fair Dismissal Act, Ark. Code Ann. §6-17-1501 *et seq.* along with its full procedural protections and due process, as a matter of contract between the parties. **See Exhibit "A", Contract.**

12. Plaintiff was to be paid \$242,431.00 per year, payable in twenty-six (26) equal and bi-weekly installments. Plaintiff was to provide for his own insurance and retirement investments.

13. Plaintiff moved to Arkansas and proceeded to institute reforms and changes to bring the PCSSD from a low academic place to one on par with others across the State and nation. Some of these actions were resented but most were accepted with good grace.

14. Plaintiff has never once been informed of any mistake he may have made or informed that he was not performing to the expectations of his employer.

15. On June 20, 2011, without warning, Plaintiff was confronted by agents of the Arkansas Board of Education, who were sent by Defendant Kimbrell, and he was told to clear out his desk and to leave immediately.

16. During this time, Defendant Kimbrell spoke to the press and declared that the Plaintiff's employment contract was considered null and void. He further stated that before taking this action to discharge the Plaintiff, he had discussed the decision in consultation with Defendant Mike Beebe, Governor of Arkansas, who apparently had a direct hand in terminating the Plaintiff's contract.

17. Plaintiff was terminated without a hearing of any sort and without due process of law to which he was entitled.

18. As Defendant PCSSD was making preparations to pay the Plaintiff, Defendant Kimbrell sent a letter to PCSSD prohibiting them from making any payments to Plaintiff under his contract. **See Kimbrell letter of July 14 as Exhibit "B" and letter from Jay Bequette, dated July 22, 2011.**

19. Plaintiff's contract and buy-out provision were taken from him without any just compensation. Plaintiff asserts that he had a property interest in the "buyout" provision of his contract and that property interest was taken from him without due process of law and without compensation. (See Judge Marshall's opinion p.14).

20. Plaintiff has endured the loss of his property, a violations of his constitutional rights, embarrassment, anxiety and humiliation as a result of this intentional blind-side attack caused to the Plaintiff and his family.

21. Plaintiff ask this honorable tribunal to declare the "Buyout" provision of his contract to be his lawful property and cannot be taken without just compensation not without due process of law.

CONCLUSION AND PRAYER FOR RELIEF

21. Due to the actions of Defendants, Plaintiff has been damaged in the sum of not less than Five Hundred Thousand Dollars (\$500,000.00).

22. Plaintiff has also incurred attorney's fees and costs in order to bring this matter before this Honorable Tribunal.

23. Plaintiff prays that this matter be set for an expedited hearing in that this matter has already been brought before a Federal Judge and the Federal Judge's Order and Opinion are attached herein as Exhibit "C".

Respectfully submitted,

RICKEY H. HICKS #89235
Attorney at Law
415 Main Street
Little Rock, Arkansas 72201
501-374-2574—Office
501-920-7298—Cell
501-372-3164—Facsimile
E-mail: hickslawoffice@yahoo.com

MAY 09 2013

BEFORE THE STATE CLAIMS COMMISSION
Of the State of Arkansas

RECEIVED

ESTATE OF DR. CHARLES HOPSON
Ph.D., DECEASED

CLAIMANT

v.

Claim No. 13-0715-CC

ARKANSAS DEPARTMENT OF EDUCATION

RESPONDENT

ANSWER

The Arkansas Department of Education¹ ("ADE") by and through its attorney, Assistant Attorney General Scott P. Richardson states for its *Answer*:

1. ADE denies the allegations in paragraph 1 of the Complaint.
2. ADE denies the allegations in paragraph 2 of the Complaint.
3. ADE denies the allegations in paragraph 3 of the Complaint.
4. ADE admits that Dr. Charles Hopson served as superintendent of the Pulaski

County Special School District ("PCSSD"), that ADE required Dr. Hopson "to relinquish all administrative authority with respect to the school district," Ark. Code Ann. § 6-20-1909(a)(1), before the expiration of his employment contract with PCSSD, and that Dr. Hopson's

¹ Complainant listed the ADE as the only responding agency in its Complaint Form and attached a document styled as a Complaint (hereinafter referred to as "the attachment") to the Complaint Form. The attachment lists a number of parties as defendants in this action. Because the ADE is the only listed "State agency involved" on the Complaint Form, this Answer is filed for ADE only and not any of the parties listed on the attachment. Should this Complaint be construed to also be against the Office of the Governor then that Office would adopt and allege this Answer, deny Claimant's entitlement to any award in this case, and reserve the right to allege all affirmative defenses applicable to this Complaint. ADE notes, also, that the Pulaski County Special School District is not a state agency but is a political subdivision of the State like a city or county. ADE notes also that Dr. Kimbrell is the "Commissioner of Education." Ark. Code Ann. § 6-11-102. There is no "Director of Education."

employment contract contained a buy-out clause. ADE denies the remainder of the allegations in paragraph 4 of the Complaint.

5. ADE admits the allegations in paragraph 5 of the Complaint.

6. ADE admits the allegations in paragraph 6 of the Complaint.

7. ADE admits that for a time Dr. Hopson was an Oregon resident, that he worked for the Houston Independent School District in Houston, Texas, that he was superintendent of PCSSD in 2010, and denies the remainder of the allegations in paragraph 7 of the Complaint.

8. ADE is without sufficient information to admit or deny the allegations in paragraph 8 of the Complaint and, therefore, denies the allegations in paragraph 8.

9. ADE admits that Dr. Hopson spoke on the telephone with Dr. Tom Kimbrell before Dr. Hopson accepted the position as PCSSD Superintendent. ADE denies the remainder of the allegations in paragraph 9 of the Complaint, in particular, ADE affirmatively states that Dr. Kimbrell provided no such assurances to Dr. Hopson.

10. ADE is without sufficient information to admit or deny the allegations in paragraph 10 of the Complaint regarding Dr. Hopson's motives for taking the position and, therefore, denies those allegations in paragraph 10. ADE denies that any assurances were made to Dr. Hopson from Commissioner Kimbrell or any other ADE staff regarding the position as superintendent of PCSSD.

11. Dr. Hopson's employment contract with PCSSD is attached to the Complaint and speaks for itself. ADE denies any allegations in paragraph 11 inconsistent with the express terms of Exhibit A to the Complaint.

12. ADE denies the allegations in paragraph 12 of the Complaint.

13. ADE admits that Dr. Hopson moved to Arkansas after he accepted the position as PCSSD Superintendent, and denies the remainder of the allegations in paragraph 13 of the Complaint.

14. ADE denies the allegations in paragraph 14 of the Complaint.

15. ADE denies the allegations in paragraph 15 of the Complaint.

16. ADE admits that Dr. Kimbrell held a press conference to inform the public of the action taken by ADE, and denies the remainder of the allegations in paragraph 16 of the Complaint.

17. ADE denies the allegations in paragraph 17 of the Complaint.

18. ADE denies the allegations in paragraph 18 of the Complaint.

19. ADE denies the allegations in paragraph 19 of the Complaint.

20. ADE denies the allegations in paragraph 20 of the Complaint.

21. ADE denies the allegations in paragraph 21 of the Complaint.

22. ADE denies the allegations in the second paragraph 21 of the Complaint.

23. ADE denies the allegations in paragraph 22 of the Complaint, in particular, ADE denies that Claimant is entitled to any award of attorney's fees in this matter.

24. ADE denies the allegations in paragraph 23 of the Complaint.

25. ADE denies any and all allegations in the Complaint not specifically admitted in this Answer.

26. Pleading affirmatively, ADE asserts that this matter is and should be held in abeyance until the federal court litigation over this same subject-matter is finally resolved.

27. Pleading affirmatively, ADE asserts that this claim should be dismissed or held in abeyance until such time as the Claimant can demonstrate that he has exhausted all remedies available to him.

28. Pleading affirmatively, ADE asserts that the Claims Commission is without authority or jurisdiction to issue any type of judgment or directive to pay monetary damages, or any other sort of award against individual State employees.

29. Pleading affirmatively, ADE asserts that Claimant's claims do not survive Dr. Hopson's death, would be dismissed on that basis in a court of law, and therefore cannot be brought in the Claims Commission. See Ark. Code Ann. § 16-62-101; 19-10-204(b)(2)(A).

30. Pleading affirmatively, ADE asserts that Claimant is without standing to bring the claims asserted in the Complaint.

31. Pleading affirmatively, ADE asserts that Claimant has failed to state a claim for which relief may be granted.

32. ADE asserts and reserves the right to file an amended answer or other appropriate pleadings and to allege any affirmative defenses that might be available to them after they have had a reasonable opportunity to investigate the allegations set forth in the Complaint.

Wherefore, ADE requests that the Complaint be denied, and that it be granted all other relief to which it is entitled.

Respectfully submitted,

By: 

SCOTT P. RICHARDSON, Bar No. 01208
Assistant Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201-2610
(501) 682-1019 direct
(501) 682-2591 facsimile

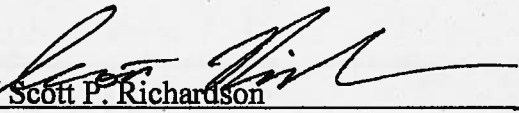
Email: scott.richardson@arkansasag.gov

Attorney for ADE.

CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2013, I filed the foregoing with the Claims Commission, and served a copy by U.S. Mail on the following:

Mr. Rickey H. Hicks
415 Main Place
Little Rock, AR 72201
hickslawoffice@yahoo.com


/s/ Scott P. Richardson
SCOTT P. RICHARDSON

Arkansas
State Claims Commission
FEB 19 2014
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SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, an action is pending in the Arkansas Claims Commission, styled Estate of Dr. Charles Hopson, Ph.D., Deceased v. Arkansas Department of Education, Claim No. 13-0715-CC (hereinafter referred to as the "Action"), and

WHEREAS, the defendants in the Action, Arkansas Department of Education (collectively referred to as "defendants" unless the context requires otherwise) deny that they, or any officer, employee, or agent, have engaged in any wrongful, tortious or unlawful conduct of any kind, and

WHEREAS, Patricia Hopson, individually and as Executrix of the Estate of Charles Hopson, Deceased, (collectively referred to as "plaintiffs" unless the context requires otherwise) and the defendants desire to compromise and settle the Action to avoid the costs and uncertainties of continued litigation;

NOW, THEREFORE, the plaintiffs and the defendants agree to the following terms as full and final satisfaction of any and all claims, including any and all claims for costs and attorneys' fees, which were raised by plaintiffs in the Action or could have been raised by plaintiffs in the Action.

1. **ACTION TO BE TAKEN BY DEFENDANTS.** Following entry of an Order dismissing the Action with prejudice, the defendants will submit this claim for payment of \$25,000 through the Claims Commission payable to Patricia Hopson and her attorneys, Rickey Hicks and David Bowden from which no withholdings shall be made as a 1099 will be issued.

2. **ACTION TO BE TAKEN BY PLAINTIFFS.** The plaintiffs, following final approval as required by paragraph 11, will move to dismiss the Action with prejudice.

3. COMPLETE RELEASE AND WAIVER. The plaintiffs waive, release, relinquish and forever discharge the defendants from all claims, liens, or causes of action, known or unknown, arising out of Hopson's release from his position as Superintendent of the Pulaski County Special School District by defendants and the facts and claims underlying the Action for damages, attorneys' fees, costs or recovery of any type against the defendants including any officers, officials, employees and agents of any defendant, in their official and individual capacities.

4. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties. The plaintiffs and defendants have not relied upon any promise or statement, oral or written, that is not set forth in this Agreement.

5. MODIFICATION. The plaintiffs and defendants agree that this Agreement may not be modified, amended, or altered except by a written agreement executed by all parties.

6. VOLUNTARY AGREEMENT. The plaintiffs and defendants acknowledge that each has read this Agreement; that each has had the opportunity to consult with legal counsel of their choosing concerning the advisability, meaning, and effect of this Agreement; and that each has signed this Agreement voluntarily and without duress.

7. NO RESCISSION FOR MISTAKE. The plaintiffs and defendants acknowledge that each has had the opportunity to investigate the facts and law relating to the claims raised in the Action and any additionally waived and released claims to the extent each deems necessary and appropriate. The plaintiffs and defendants assume the risk of any mistake of fact or law and agree that any mistake of fact or law shall not be grounds for rescission or modification of any part of this Agreement.

8. NO ADMISSION OF LIABILITY. The plaintiffs and defendants acknowledge that this Agreement is a compromise and is not an admission of liability or wrongdoing on the part of the

defendants, or any officer, employee or official of any defendant. Plaintiffs agree not to suggest or construe this Agreement as an admission or implication of wrongdoing and that the Agreement is not admissible in any court or administrative body except as necessary to enforce its terms or as otherwise required by law.

9. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Arkansas.

10. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the plaintiffs and defendants and each of their respective heirs, descendants, successors and assigns.

11. EFFECTIVE DATE. This Agreement shall not become effective until approval by the Commissioner of Education, the Director of the Department of Finance & Administration, and review by such Legislative Committees as may be required. Any sums to be paid by the defendant under this agreement shall be tendered within thirty (30) days of the final approval or review.

12. COUNTERPARTS. This Agreement may be executed in counterparts and the counterparts taken together, will have binding effect.

PLAINTIFFS

By: Patricia Hopson
Patricia Hopson

Title: Executrix of the Estate of Charles Hopson

Date: 1-9-14

DEFENDANTS

By: Tom Kimbrell
Tom Kimbrell

Title: Commissioner of Education

Date: 2-18-14

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 500,000.00

Claim No. 13-0715-CC

Estate of Dr. Charles Hopsen, Deceased Claimant
vs.

Attorneys

Rickey H. Hicks, Attorney Claimant

AR Department of Education Respondent
State of Arkansas

Scott P. Richardson, Asst. Atty. General Respondent

Date Filed April 11, 2013

Type of Claim Breach of Contract

FINDING OF FACTS

This claim was filed for breach of contract in the amount of \$500,000.00 against the Arkansas Department of Education.

Present at a hearing for "Oral Comments by Legal Counsels" held on April 10, 2014 was the Claimant's legal counsel Rickey H. Hicks, Attorney, and the Respondent's, legal counsel Scott Richardson, Assistant Attorney General.

The Arkansas State Claims Commission declines to approve the "Negotiated Settlement Agreement" presented to it by the parties. The Claims Commission should have been informed of any other settlements related to this matter by the legal counsels, especially by the Claimant's legal counsel, prior to the presentation of this agreement. The Claims Commission, as an arm of the Arkansas General Assembly, has a responsibility to that body and to the taxpayers of the State of Arkansas to be knowledgeable of the circumstances that surround any claim it hears in order that it can be determined whether the Claimant has sufficiently recovered any loss.

As a result of the lack of being informed of the existence of any recovery the Claimant made from a third party the Claims Commission declines the approval of the submitted "Negotiated Settlement Agreement". The claim will be set for a hearing, with sufficient notice to the claim parties, on its merits.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

Upon consideration of all the facts, as stated above, the Claims Commission unanimously denies the approval of the submitted "Negotiated Settlement Agreement". The claim will be set for hearing.

Date of Hearing April 10, 2014

Date of Disposition April 10, 2014

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

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HICKS LAW OFFICE

415 Main Place, Little Rock, AR 72201
Office Phone: 501.374.2574 Fax: 501.372.3164
hickslawoffice@yahoo.com

April 30, 2014

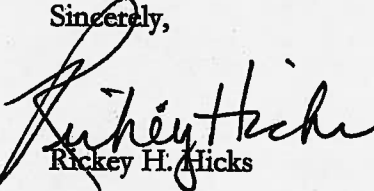
Arkansas State Claims Commission
ATTN: Norman Hodges
101 E. Capitol Ave.
Little Rock, AR 72201

RE: Estate of Dr. Charles Hopson, Deceased vs. Arkansas Dept. Of Education
Claims Commission No. 13-0715-CC

Dear Mr. Hodges:

On April 11th the Claims Commission declined to approve a negotiated settlement from a hearing held on April 10th. Please accept this letter as written notice that Plaintiff wishes to appeal the decision to the Arkansas Legislature.

Sincerely,


Rickey H. Hicks

RHH:dj-lets04.30

Arkansas
State Claims Commission
MAY 02 2014
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