UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CIVIL ACTION CASE NO. 5:09-cv-00244-KSF

filed electronically

C. MARTIN GASKELL PLAINTIFF

V. **ANSWER ON BEHALF OF DEFENDANT, UNIVERSITY OF KENTUCKY**

UNIVERSITY OF KENTUCKY DEFENDANT

** ** ** ** ** ** ** **

Comes the Defendant, University of Kentucky, by counsel, and for its Answer to the Plaintiff's Complaint, states as follows:

FIRST DEFENSE

The Plaintiff's Complaint fails to state a cause of action against this Defendant upon which relief may be granted, and therefore the Complaint should be dismissed.

SECOND DEFENSE

1. This Defendant is without sufficient information on which to form a basis of belief as to the truth of the allegations set forth in Paragraph Nos. 1, 6, 7, 8, 9, 10, 11, 12, 18, 19 and 27 of Plaintiff's Complaint, and therefore same are denied.

2. This Defendant admits the allegations set forth in Paragraph Nos. 2, 3, 4, 5, 13, 14, 15, 16, 20 and 26 of Plaintiff's Complaint.

3. This Defendant denies the allegations set forth in Paragraph Nos. 17, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32 and 33 of Plaintiff's Complaint.

4. All allegations of Plaintiff's Complaint not specifically admitted herein are denied.

THIRD DEFENSE

The Defendant is immune from suit under the doctrines of sovereign, governmental and qualified immunity.

FOURTH DEFENSE

At all times relevant herein, Defendant acted in good faith in making personnel decisions that affected the Plaintiff, and such decisions were based on reasonable factors other than religion, were made for good cause and/or for business or academic necessity, and were based on bona fide occupational qualifications of all persons involved, including the Plaintiff.

FIFTH DEFENSE

The Plaintiff's claim for damages are barred in whole or in part due to his failure to mitigate those damages.

WHEREFORE, having answered, this Defendant, the University of Kentucky, hereby demands that the Plaintiff's Complaint against it be dismissed and that the Plaintiff take nothing therein; for its costs herein expended; for TRIAL BY JURY; and for any and all other relief to which it may appear properly entitled.

Respectfully submitted,

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s/BARBARA A. KRIZ
COUNSEL FOR DEFENDANT
UNIVERSITY OF KENTUCKY

CERTIFICATE OF SERVICE

I hereby certify that on **August 28, 2009**, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Francis J. Manion, Geoffrey R. Surtees and Edward L. White, III.

s/Barbara A. Kriz
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