

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
LEXINGTON DIVISION**

**C. MARTIN GASKELL,**

Plaintiff,

v.

**UNIVERSITY OF KENTUCKY,**

Defendant.

CASE NO. \_\_\_\_\_

**COMPLAINT AND  
TRIAL BY JURY DEMAND**

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**INTRODUCTION**

1. Plaintiff, C. Martin Gaskell, brings this action against defendant, the University of Kentucky, alleging that he was unlawfully denied the position of Director of the MacAdam Student Observatory at the University of Kentucky because of his religious beliefs and his expression of these beliefs.

**JURISDICTION AND VENUE**

- 2. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, codified at 42 U.S.C. § 2000e *et seq.*, and the Civil Rights Act of 1991, for employment discrimination based on religion.
- 3. Jurisdiction is conferred on this court pursuant to 42 U.S.C. § 2000e-5.
- 4. All conditions precedent to jurisdiction under 42 U.S.C. § 2000e-5(f)(3) have been met. Plaintiff was issued a Notice of Right to Sue by the Equal Employment Opportunity Commission on April 27, 2009. This complaint has been filed within ninety days of the plaintiff's receipt of the Notice of Right to Sue.

5. Under 28 U.S.C. § 1391(b), venue is proper in the United States District Court for the Eastern District of Kentucky because a substantial part of the events or omissions giving rise to the claims occurred within the Lexington Division of the Eastern District of Kentucky.

## **IDENTIFICATION OF PARTIES**

### Plaintiff

6. Plaintiff, C. Martin Gaskell (hereinafter “Gaskell”), is a citizen of the United States and the State of Texas. Gaskell, who obtained his Ph.D. in Astronomy and Astrophysics at the University of California, Santa Cruz in 1981, is currently a research fellow at McDonald Observatory of the University of Texas, Austin.
7. Prior to his most recent appointment at the University of Texas, positions held by Gaskell include a postdoctoral research fellowship at the Institute of Astronomy, Cambridge University (England), and teaching positions at the University of Texas, the Ohio State University, the State University of New York (Stony Brook), the University of Michigan, the University of Oklahoma, and the University of Nebraska. He is also a Fellow of the Royal Astronomical Society, a member of the Space and High Energy Astrophysics Commission (Commission 44) of the International Astronomical Union, a member of the American Astronomical Society, a member of the High Energy Astrophysics Division, and a member of the Historical Astronomy Division.
8. Gaskell was the founder and project director for the construction of the undergraduate research observatory at the University of Nebraska and coordinator of the University Nebraska Lincoln Student Observatory. During this time Gaskell performed all the duties which the director of the MacAdam Student Observatory would be expected to

perform. During his time as coordinator of the University of Nebraska Student Observatory Gaskell also gave advice to the University of Kentucky Department of Physics and Astronomy on the construction of the similar MacAdam Student Observatory.

9. Gaskell has been recognized multiple times for his teaching and contributions to students. This included being five-time finalist for the Association of Students of the University of Nebraska's annual "Outstanding Educator" award.
10. Gaskell has been the principal investigator on several hundred thousand dollars of federal grants for astronomical research, education, and public outreach.
11. Dr. Gaskell has been invited to speak at meetings around the world and has given seminars and colloquia on astronomical topics in Belgium, China, France, Germany, Great Britain, Greece, Italy, Kazakhstan, Mexico, Russia, Serbia, Spain, Ukraine, and Uzbekistan.
12. Gaskell is the author or coauthor of well over 100 articles on topics ranging from astronomical education to research on supermassive black holes. These include over 70 articles in refereed journals. He is also the lead editor of two astronomy books and has served as consultant for a middle-school astronomical history book.

Defendant

13. Defendant, University of Kentucky ("University"), a governmental entity established by state law, operates the MacAdam Student Observatory and is responsible for employment decisions regarding the University and the Observatory.
14. The University is a "person" within the meaning of 42 U.S.C. § 2000e(a).

15. The University is engaged in an “industry affecting commerce” within the meaning of 42 U.S.C. § 2000e(h).
16. At all times relevant to this complaint, the University employed more than fifteen people and was an “employer” within the meaning of 42 U.S.C. § 2000e(b).
17. At all times relevant to this complaint, the University acted or failed to act by and through its duly authorized agents, servants, and employees who conducted themselves within the scope and course of their employment.

#### **ALLEGATIONS OF FACT**

18. In July 2007, Dr. Gaskell saw the position of Observatory Director at the University of Kentucky advertised in the Job Register of the American Astronomical Society and applied for the position.
19. In August 2007, Gaskell was asked to submit further supporting materials, and in September, Gaskell was interviewed over the telephone in a conference call with the chairman of the search committee, Dr. Thomas Troland, and the chairman of the Department of Physics and Astronomy, Dr. Michael Cavagnero.
20. In October 2007, Gaskell was invited to the University of Kentucky for a personal interview.
21. At the conclusion of the personal interview, Cavagnero discussed Gaskell’s religious beliefs and the exercise of them. Cavagnero stated that he had personally researched Gaskell’s religious beliefs, and gave the distinct impression that there had also been investigation by others associated with the University.
22. Cavagnero told Gaskell that Gaskell’s religious beliefs and Gaskell’s expression of them would be a matter of concern to Dr. Stephen Hoch, the Dean of the College of Arts and

Sciences. Cavagnero asked Gaskell a number of explicit questions about the exercise and expression of Gaskell's religious beliefs, and discussed a Christian organization which, at that time, Gaskell had never heard of.

23. Gaskell answered the questions but pointed out to Cavagnero that questions about an applicant's personal religious beliefs and the exercise of them were inappropriate during a job interview and that Cavagnero should tell Dean Hoch so.
24. Upon information and belief, Cavagnero's asking questions about Gaskell's religious faith was the result of discussion or discussions Cavagnero had had with Hoch.
25. Upon information and belief, in addition to Cavagnero investigating Gaskell's beliefs, Hoch solicited or authorized the solicitation of information from the chairman of the Biology Department, Dr. Sheldon Steiner, regarding Gaskell's religious beliefs. According to an email sent to Gaskell by a faculty member of the Physics and Astronomy Department, a number of members of the Biology Department were consulted as to Gaskell's qualifications. These individuals, according to the email, expressed great concern about some of Gaskell's religious beliefs.
26. On January 16, 2008, Gaskell received formal notice, by way of communication from Cavagnero, that he had not been selected for the position of Director of the Observatory.
27. In the summer of 2008, Gaskell received an email from a faculty member of the Physics and Astronomy Department informing Gaskell that someone within the department had complained to the University's equal employment office about the manner in which Gaskell was treated. This individual informed Gaskell that a lawyer reviewed the case, interviewed participants, and saved copies of all correspondence.

28. Upon information and belief, the individual chosen to be Director of the Observatory over Gaskell had substantially less qualifications and experience than Gaskell.
29. Upon information and belief, Gaskell was not hired for the position of Observatory Director based, in whole or in part, on Gaskell's religious beliefs and his expression of these beliefs.
30. Upon information and belief, Gaskell's religious beliefs, and his expression of them, were motivating factors in defendants' decision not to hire Gaskell for the position of Observatory Director.
31. As a direct and proximate result of defendant's decision not to hire Gaskell for the position of Observatory Director, plaintiff has sustained a loss of income and benefits and has suffered emotional distress and anguish.

**LEGAL CAUSE OF ACTION  
VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

32. Plaintiff alleges and incorporates by reference the preceding paragraphs of this complaint.
33. Defendant's decision not to hire Gaskell based on his religion and religious beliefs constitutes religious discrimination in violation of Title VII of the Civil Rights Act of 1964.

WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

**PRAYER FOR RELIEF**

Based on the foregoing paragraphs of this complaint, each of which are incorporated herein, plaintiff C. Martin Gaskell respectfully prays the Court to grant judgment as follows:

1. Actual damages, including lost income and emotional distress and anguish, according to proof;

2. Costs of this action;
3. Attorney's fees as allowed under law;
4. Appropriate equitable relief; and
5. Any other relief the Court deems appropriate.

**JURY DEMAND**

Plaintiff, C. Martin Gaskell, hereby demands a trial by jury on all issues so triable.

Respectfully submitted this 10<sup>th</sup> day of July, 2009.

Francis J. Manion /s/  
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