

Please note that all sections must be completed, or this form will be returned to you, which will delay the processing of your claim.

1. Claimant's Legal Counsel - (If representing yourself (Pro Se) please check this box and proceed to section 2)

_____ (last name)

_____ (first name)

_____ (email)

_____ (address)

_____ (city)

_____ (state)

_____ (zip)

_____ (primary phone)

Arkansas Bar Number: _____

If not licensed to practice law in Arkansas, please contact the Claims Commission for more information.

2. Claimant

Mr. Dilliplane Caleb

_____ (title/last name/first name or company)

_____ (email)

_____ (address)

_____ (city)

_____ (state)

_____ (zip)

_____ (primary phone)

3. State Agency Involved: (must be an Arkansas state agency. The Arkansas Claims Commission has no jurisdiction over county, city, or other municipalities)

University of Arkansas System

_____ (state agency involved)

4. Incident Date

12/10/2019

5. Claim Type

Negligence

Please provide a brief explanation of your claim. If additional space is required please attach additional statements to this form.

I Caleb Stephen Dilliplane, claim that the following violations and/or allegations did occur during my time of employment with the facilities Management Department at the University of Arkansas in Fayetteville. In which I tried or attempted to follow my chain of command, in which to seek an understanding to some of the problems, issues, and concerns. That I either encountered, endured, or withstood while on the job or in the workplace and reported to my superiors, by means of speaking to, text, or email. That (1) that during my time of employment, I reported on or about certain behaviors that transpired in the workplace. That I claimed to be not appreciated and that impeded or hindered my ability to work in safe working environment and interrupted certain tasks that is/was expected of me while at work. In which would be offensive to reasonable people. In the form of intimidation, ridicule, or mockery, and offensive objects that were manufactured or designed to promote any of the mentioned (2) That while employed, I reported several times to my superiors about the high temperatures, humidity and the possibility of indoor heat stress that could result from lack of intervention, especially during the summer months. I have evidence that shows that instances did occur not only once and in one place but in multiple buildings on the campus and from being told by fellow workers about their own experiences, of excessive indoor stress and humidity. While doing such tasks that require a person to be in or using Personal Protective Equipment, in which would or

could exacerbate any health condition the employee may have. Whom do not have proper training or knowledge on the effects of Indoor-Related Heat Stress. (3) That I was discharged or terminated for insubordination on my last day of work 12-10-2019, unlawfully and without a reasonable cause that would be applicable with either federal or state labor standards. Which will be supported by the recordings of the meeting that took place on February 25th, 2020. \

I Caleb S. Dilliplane, do claim that allegations stated above to be true and with evidence to shed light on the claims that I made above.

5a. Check here if this claim involves damage to a motor vehicle.

5b. Check here if this claim involves damage to property other than a motor vehicle.

All property damage claims require a copy of your insurance declarations covering the property or motor vehicle at the time of damage.

I did not have insurance covering my property/motor vehicle at the time of damage.

All property damage claims require ONE of the following (please attach):

- 1. Invoice(s) documenting repair costs, OR**
- 2. Three (3) estimates for repair of the damaged property, OR**
- 3. An explanation why repair bill(s) or estimate(s) cannot be provided.**

6. Was a state vehicle involved? (If Yes, please complete the following section)

(type of state vehicle involved)

(license number)

(driver)

7. Check here if this claim involves personal injury.

All personal injury claims require a copy of your medical insurance information in place at the time of the incident.

I do not have health insurance

8. Amount Sought: \$9,000,000.00

(Signature)

(Date)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

CALEB S. DILLIPLANE

CLAIMANT

V.

CLAIM NO. 201076

**UNIVERSITY OF ARKANSAS
SYSTEM**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is a motion filed by the University of Arkansas System (the “Respondent”) to dismiss the claim filed by Caleb S. Dilliplane (the “Claimant”). Based upon a review of the motions, the arguments made therein, and the law of Arkansas, the Claims Commission hereby finds as follows:

1. Claimant filed the claim on May 18, 2020, making allegations as to actions of various unnamed co-workers or supervisors while was working for the facilities management department at the University of Arkansas in Fayetteville. Claimant also alleged that he was terminated “without a reasonable cause” in December 10, 2019.

2. Respondent filed a motion to dismiss, arguing that Claimant failed to state a claim as to circumstances prior to Claimant’s termination, as well as to Claimant’s termination. Respondent noted that Claimant was an at-will employee, such that Respondent could terminate Claimant without “reasonable cause,” and that the Claims Commission does not have jurisdiction over unemployment benefit claim.

3. In response, Claimant filed a pleading clarifying that his complaint contains claims for unlawful termination, unlawful harassment, and “violation of my health and safety.” As to unlawful termination, Claimant argued that he was unaware of any complaints that would have been “reasonable grounds for termination.” As to unlawful harassment, Claimant argued that his rights under Ark. Code Ann. § 11-5-115 were “never met” and referenced an EEOC complaint

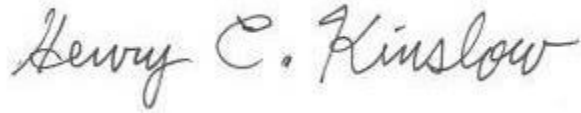
that he filed. As to the violations of Claimant's health and safety, Claimant argued that Respondent failed to ensure a safe workplace under federal and state regulations.

4. In reviewing Respondent's motion to dismiss, the Claims Commission must treat the facts alleged in the complaint as true and view them in a light most favorable to the Claimant. *See Hodges v. Lamora*, 337 Ark. 470, 989 S.W.2d 530 (1999). All reasonable inferences must be resolved in favor of the Claimant, and the complaint must be liberally construed. *See id.* However, the Claimant must allege facts, not mere conclusions. *Dockery v. Morgan*, 2011 Ark. 94 at *6, 380 S.W.3d 377, 382. The facts alleged in the complaint will be treated as true, but not "a plaintiff's theories, speculation, or statutory interpretation." *See id.* (citing *Hodges*, 337 Ark. 470, 989 S.W.2d 530 (1999)).

5. The Claims Commission agrees with Respondent that dismissal of this claim is proper. As to Claimant's unlawful termination claim, Claimant has not stated facts upon which relief can be granted. Claimant was an at-will employee and has not stated any facts to support a claim for unlawful termination. *See Ball v. Ark. Dept. of Community Punishment*, 340 Ark. 424, 10 S.W.3d 873 (2000). As to the circumstances of Claimant's employment, the Claims Commission must look only to the complaint itself to determine whether Claimant stated facts to support a claim for relief. *Biedenharn v. Thicksten*, 361 Ark. 438, 206 S.W.3d 837 (2005). In this analysis, the Claims Commission finds that Claimant did not state facts to support a claim for relief. To the extent that Claimant is attempting to claim that employees of Respondent violated his rights or that Respondent violated federal regulations, those claims are outside the jurisdiction of the Claims Commission. *See Ark. Code Ann. § 19-10-204.*

6. Respondent's motion to dismiss are GRANTED pursuant to Ark. R. Civ. Proc. 12(b)(6), and Claimant's claim is DISMISSED without prejudice.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION

Courtney Baird
Dexter Booth
Henry Kinslow, Co-Chair
Paul Morris, Co-Chair
Sylvester Smith

DATE: October 20, 2020

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

From: [Kathryn Irby](#)
To: [Caleb Dilliplane](#)
Subject: RE: ORDER: Caleb S. Dilliplane v. University of Arkansas Systems, Claim No. 201076

Mr. Dilliplane, this email is to confirm receipt of your notice of appeal. However, please be aware that, pursuant to Ark. Code Ann. 19-10-211(a)(3), your appeal is to the Arkansas General Assembly, not the Arkansas Supreme Court. That statute specifies that “[t]he General Assembly has exclusive jurisdiction to hear appeals” from the Claims Commission.

Thanks,
Kathryn Irby

Kathryn Irby
Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410
Little Rock, Arkansas 72201
[REDACTED]

From: Caleb Dilliplane [REDACTED]
Sent: Monday, November 23, 2020 3:49 PM
To: ASCC Pleadings <ASCCPleadings@arkansas.gov>
Subject: Re: ORDER: Caleb S. Dilliplane v. University of Arkansas Systems, Claim No. 201076

Hi,

I was just wanting to be sure this letter I sent on Friday is towards **Claim No. 201076**. I am kind of new at this and just want to cover all areas, to ensure this appeal is made to the State Supreme Court. If you could either reply to the email or call me at [REDACTED] just in case I need to re-mail this letter that I am attaching. I apologise for my confusion.

Happy Thanksgiving!
Caleb Stephen Dilliplane.

On Mon, Oct 26, 2020 at 2:48 PM ASCC Pleadings <ASCCPleadings@arkansas.gov> wrote:

Mr. Dilliplane and Mr. Cordi:

Please see attached. Contact Kathryn Irby with any questions.

Misty Scott
Arkansas State Claims Commission