

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

Dr. Dexter Anesha _____

(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 Central Arkansas _____

(state agency involved)

4. Incident Date

1/8/2020 _____

5. Claim Type

Salary Due

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

Hello. My name is Anesha Dexter DMA, and I am writing to file a claim against the University of Central Arkansas Community School of Music, where I worked on the staff as a Faculty Music Instructor of flute. My complaint is that my employer is continuing to deny me payment for two hours of work during the second pay period of October 2019, one hour on Tuesday October 22, and one hour on Thursday October 24th. This was brought to my attention by an HR associate at UCA when I went to their office regarding the following situation:

On January 6, 2020, I received an email from the CSM Director, in addition to those that were CC'd in, and included the following: the Pay-Roll/Fiscal and Outreach Coordinator of CSM, the Vice Associate of Payroll at HR, and the Interim Chair of Music.

The email was in regard to what was claimed to have been a discrepancy in the hours that I worked, and ultimately the payment for that work As a result, I was asked to submit proof of the hours that were in question. So, on January 7th, as requested, I went over all of my hours with my calendar and found that there had not been any discrepancies on my part. To be certain, I went to HR the next morning on January 8th and brought along with me the proof of documentation/texts messages that I

was asked to submit to the director of CSM.. As it turned out, HR found that CSM owed me for two hours that I had already taught on the days mentioned above regarding the second pay period of October 2019. In order to provide further clarity and confirmation the HR Associate Director came into the HR associate's office to speak to me. At the conclusion of our conversation it occurred to me to ask if it mattered if those hours were taught outside of CSM enrollment terms, and they immediately replied, " If you taught, we have to pay you, but we can not pay you until the hours are approved by CSM." It was only after all had been resolved and confirmed by the HR Vice Associate that I would submit the same documentation of proof via email to CSM. They replied back with a thank you and told me that they would take care of it from there. That was on January 8, 2020, and unfortunately, I never heard back from them regarding payment until after I filed a claim with the labor board.

In May 2019 I reached out to the Labor Board in order to resolve the matter, but that was to no avail as CSM is still challenging my honesty about the matter and is accusing me of having falsified the hours for the work that I submitted in the second pay period of October 2019.

After the complaint was filed CSM did not meet the response deadline, therefore I proceeded with the process and provided all of the supporting proof regarding my claim in order to initiate the investigation. I followed up with the documentation about a week after the notification right around the time the labor board finally heard back from the director of CSM, whose response included a copy of my pay stub explaining that I had already been paid for the month of October 2019. This led to going back and forth communications with CSM as they are continuing to dispute my claim. As a result, I was asked by the investigator to provide further proof, so I then provided further proof which only solidified what I had already submitted, including a request for the contact information of my former student in order to serve as a witness regarding the hours of attendance and pay that are being challenged. Additionally, CSM also brought further accusations against me, one being that they might have overpaid me in December 2019 and that I broke a contract agreement regarding the hours that I taught. As a final update of the investigation process before their final decision, the investigator informed me about the issuance of an ultimatum that was given to CSM to provide their office with the contract stating their claim and that it needed to have my signature. Also during our conversation, the investigator also informed me that in the meanwhile they were planning to contact my student, and would follow up with me to conclude the investigation.

Needless to say, CSM was not able to produce the contract that was supposed to prove that I had gone over the alleged "said" amount of hours that I was allowed to teach. This is exactly what I expected and it is also what I had forewarned the investigator as I knew that there was no such contract in existence. So,after having first contacted the Labor Board beginning in May 2019 and having gone through all of the stages related to filing a complaint, it was on June 3, 2019, and to my dismay, that I learned via email as well as voicemail that it was the investigators supervisor that brought to their attention that UCA is a state agency and that the case would have to be dismissed as a result. Nevertheless, the investigator apologized and also informed me that the matter would have to be taken up in a small claims court or with the Arkansas Claims Commission. So, this is my claim.

Regarding the amount owed:

I will enter the amount for the two days that I am inquiring about. However, I am aware that I am owed interest on the time that has passed since non-payment. Seeing as I am not certain of the interest rate, I am making a note here.

Also, I am not certain as to the type of claim that I should file under. There for I have chosen, other.

Thank you for your time and attention regarding this matter.

Sincerely.

Anesha Dexter D.M.A.

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: \$7,500.00 _____

(Signature)

(Date)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

ANESHA DEXTER

CLAIMANT

V.

CLAIM NO. 201235

**UNIVERSITY OF CENTRAL
ARKANSAS**

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Anesha Dexter (the “Claimant”) against the University of Central Arkansas (the “Respondent”). At the hearing held on January 15, 2021, Claimant appeared *pro se*. Warren Readnour appeared on behalf of Respondent.

Background and Witness Testimony

1. Claimant filed her claim on July 1, 2020, seeking \$7,500.00 in damages based on Respondent’s failure to pay Claimant for “two hours of work during the second pay period of October 2019, one hour on Tuesday October 22, and one hour on Thursday October 24th.” Claimant alleged that she became aware of these unpaid hours in January 2020.

2. Respondent filed an answer denying liability. Respondent affirmatively stated that Claimant did not report any hours for October 22 or October 24 on her timesheet, that Claimant was improperly paid for an hour in December 2019, and that Claimant’s rate of pay was \$37/hour. In support of its answer, Respondent attached Claimant’s timesheets for October 16–31, 2019, and December 16–31, 2019.

3. Claimant then requested a hearing.

4. Respondent then filed an amended answer, in which it denied liability but recommended payment in the amount of \$74 “in the interest of efficient operation of state

government (including both UCA and the Claims Commission) and to avoid the allocation of state resources to conduct a hearing in this matter.”

5. In response, Claimant again requested a hearing.

6. Respondent then filed a motion for summary judgment, arguing that Claimant “cannot demonstrate that she worked two more hours than the hours for which she was paid . . . [and thus] cannot establish a claim for unpaid wages.” As to Claimant’s October timesheet (which shows that Claimant worked one hour on October 21), Respondent argued that Claimant did not teach a lesson on October 21 but instead rescheduled the lesson for October 22. As to the October 24 lesson, Respondent stated that Claimant failed to report this hour on her timesheet and that, even if she was entitled to payment for this hour, she was improperly paid for an hour from a canceled December 19 lesson. Respondent also stated that Claimant was not entitled to pre-judgment interest or other damages.

7. Claimant did not file a response to the motion. Claimant did, however, send correspondence reiterating her request for a hearing.

8. The Claims Commission set the claim for hearing and advised the parties that it would hear argument as to the motion at the hearing.

9. In response to Claims Commission correspondence prior to the hearing, Claimant confirmed that her rate of pay is \$37/hour and that she is seeking \$74 in damages, plus pre-judgment interest. As to the pre-judgment interest, Claimant provided the following explanation as to the total amount sought:

The total amount requested is \$1235.78 for 1 year, 2 months, 1 day at 19% from November 15, 2019 (original date of pay) to January 15, 2021 (Claims hearing).

I would also like an additional \$ 2.94 as pro-rated for every delayed day following the hearing up to the issuance of payment, please.

10. At the hearing, Claimant explained that she was told by the labor board investigator that she was entitled to nineteen percent interest on the unpaid wages. Claimant confirmed that she could not identify a statute that provided for this interest rate.

11. On cross-examination, Respondent authenticated Respondent's Exhibit Nos. 1-5 through Claimant's testimony. As to the October 2019 timesheet (Respondent's Exhibit No. 1), Claimant stated that she included October 22 and 24 when she submitted her hours and does not know why those hours are not reflected on the timesheet. Claimant noted that the Community School of Music (CSM) has to approve the hours. Claimant confirmed that her student was a no-show on October 21. As to the December 2019 timesheet (Respondent's Exhibit No. 3), Claimant stated that her student canceled the lesson that day, as confirmed by Claimant's text messages with her student (Respondent's Exhibit No. 4).

12. Upon a question from a commissioner, Claimant stated that she is a contract employee. Claimant also stated that if a student cancels, she is not obligated to reschedule the lesson.

13. Upon a question from a commissioner, Claimant stated that if a student canceled a lesson and that if Claimant rescheduled the lesson, she would only charge Respondent for one lesson.

14. On further cross-examination, Respondent inquired why Claimant is seeking wages for the rescheduled October 22 lesson if Claimant was already paid for the canceled October 21 lesson. Claimant stated that she charged the lesson because Claimant was a no-show.

15. Claimant then testified that the human resources department actually determined that Claimant was owed for these two hours. Claimant stated that she did not realize it at first. Claimant also stated that she has the choice whether to charge for the no-shows.

16. Respondent's witness, Janette Nance, payroll supervisor for Respondent, testified that a student pays for thirteen hours and that if a canceled lesson was rescheduled, Claimant could only charge for one lesson. Ms. Nance stated that if Claimant taught more than thirteen hours, Claimant would need to sign a new contract.

17. In closing, Claimant stated that she had never heard anything about a new contract.

18. In closing, Respondent stated that there was no proof presented as to the pre-judgment interest alleged by Claimant and that, if the Claims Commission determined that pre-judgment interest was appropriate, the rate would be six percent per annum, not nineteen percent compounded monthly. Respondent stated that the latter would be usurious under Arkansas law.

19. In rebuttal, Claimant reiterated that she was told nineteen percent by the labor board.

Findings of Fact and Conclusions of Law

Based upon a review of the pleadings, testimony, and the law of Arkansas, the Claims Commission hereby finds as follows:

20. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).

21. The Claims Commission finds that Claimant has the burden of proving her entitlement to these unpaid hours. *Bostic v. Stanley*, 2020 Ark. App. 365, 608 S.W.3d 907 (2020).

22. The Claims Commission found the witnesses to be credible.

October 22 lesson

23. As to the October 22 lesson for which Claimant alleges she is owed, the Claims Commission reviewed the October 21 texts between Claimant and her student (set forth in part in Respondent's Exhibit No. 2 and in full in Claimant's exhibit submission):

[Claimant] Hi Katie! I'm waiting for your lesson.

[Student] Hey! I'm sorry! I thought we were gonna have a short lesson tomorrow. Was it supposed to be today?

[Claimant] Yes, from 8–9?

[Student] Oh I thought we were doing 30 minute tomorrow because my interview is early in the morning

[Claimant] No.

[Student] Well I'm so sorry. I can't tonight. This can count for our hour if you'd like.

[Claimant] Ok. Do you still [sic] a lesson before the wedding?

[Student] Could we do tomorrow night at 8? You can still count tonight as a lesson if you want to.

[Claimant] I can. Yes, tomorrow at 8?

[Student] Sounds great.

There is a question about whether the October 22 lesson was a rescheduling or a new lesson. While the student offered to treat it as a new lesson, Claimant did not provide any testimony or evidence to suggest that the student had the authority to make such a decision. However, when the student first advised Claimant that she could not make the October 21 lesson, Claimant (no doubt due to Claimant's commitment to her student) offered to make herself available for another time, which the Claims Commission finds to suggest a rescheduled lesson. The ambiguous nature of Claimant's position as to the October 22 lesson is heightened by a comparison to the following text message sent by Claimant on December 19 when the student tried to reschedule a lesson set for that day:

You can cancel today and meet the week after next if you want to do that?
However, it won't be considered a make-up.

(emphasis added). Given the ambiguities in the October 21 texts, and the fact that the December 19 text suggests that other lessons had been made up or rescheduled, the Claims Commission finds

that the October 22 lesson was a rescheduled lesson and that Claimant is not entitled to payment for this date.

October 24 lesson

24. As to the October 24 lesson for which Claimant alleges she is owed, the Claims Commission finds that Claimant taught a lesson that day, for which she did not receive pay. There does not appear to be any dispute about whether Claimant taught a lesson on October 24.

25. However, the Claims Commission finds that insufficient evidence was presented by Claimant to explain the disparity between her submitted hours and timesheet. Presumably, if certain hours were submitted but not approved, Claimant would receive some notification of the rejection. However, no testimony was presented by Claimant or elicited on cross-examination from Respondent's witness as to this issue. That said, even if Claimant just neglected to submit an hour for October 24 until the human resources department alerted her about the issue, there was no testimony or evidence presented by Respondent to suggest that Claimant is time-barred from receiving wages she is owed. As such, the Claims Commission finds that Claimant is entitled to payment for the October 24 lesson.

26. The Claims Commission disagrees with Respondent that Claimant was improperly paid for a canceled lesson on December 20. In those December 19 text messages between Claimant and the student, the student is trying to move the lesson to December 20, but the parties cannot find a mutually agreeable time. As opposed to the ambiguous nature of the October 21 texts, the Claims Commission finds that Claimant is clear in her December 19 text that the next lesson will not be a "make-up" but will be a new lesson.

27. The Claims Commission agrees with Respondent that there was a "pattern of miscommunication" between Claimant and her student regarding the schedule for lessons. While

the Claims Commission understands that text messaging is easy, utilizing this type of communication in an informal way can lend itself to miscommunication.

Pre-judgment interest

28. The Claims Commission finds that there was no statutory or other basis presented for the awarding of the pre-judgment interest sought by Claimant. The Claims Commission finds Claimant's testimony as to what she was told by an unnamed labor board investigator to be insufficient to demonstrate an entitlement to pre-judgment interest. Moreover, nineteen percent interest per month or compounded monthly is contrary to Amendment 89 § 3 of the Arkansas Constitution. Ark. Code Ann. § 4-57-101(d) provides for a six percent per annum interest rate in the absence of a specified interest rate.

Conclusion

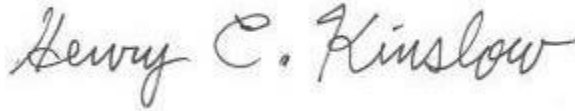
29. The Claims Commission herein unanimously AWARDS Claimant \$37.00 for the unpaid October 24, 2019, lesson plus six percent pre-judgment interest for one year, for a total award of \$39.22, and directs the Claims Commission clerk to issue a voucher in payment thereof. Claimant's claim for any other amount is DENIED.

30. To the extent that the Claims Commission's ruling conflicts with Respondent's motion for summary judgment, Respondent's motion is denied.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Courtney Baird



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: January 19, 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: [Anesha Dexter](#)
To: [Kathryn Irby](#)
Cc: [Warren Readnour](#)
Subject: Re: ORDER: Dexter v. UCA, Claim No. 201235
Date: Tuesday, February 9, 2021 2:37:12 PM

Dear Ms. Irby

I'd like to file an Appeal for the remaining money that I am owed, please.

Thank you

Anesha Dexter, D.M.A.

Freelance Flutist - Teacher - Performer of Modern and Baroque flutes - Coach for musicians
[REDACTED]

On Wed, Jan 27, 2021 at 11:07 AM Anesha Dexter [REDACTED] wrote:

Received, thank you.

Anesha Dexter, D.M.A.

Freelance Flutist - Teacher - Performer of Modern and Baroque flutes - Coach for musicians
[REDACTED]

On Tue, Jan 19, 2021 at 1:18 PM Kathryn Irby <Kathryn.Irby@arkansas.gov> wrote:

Dr. Dexter and Mr. Readnour, please see attached order entered by the Claims Commission today.

Thanks,

Kathryn

Kathryn Irby

Arkansas State Claims Commission

101 East Capitol Avenue, Suite 410

Little Rock, Arkansas 72201

(501) 682-2822