

[Cite as *Barkan v. Ohio State Univ.*, 2003-Ohio-3705.]

IN THE COURT OF CLAIMS OF OHIO

IRVING BARKAN, Admr. :  
Plaintiff : CASE NO. 2001-02902  
v. : JUDGMENT ENTRY  
OHIO STATE UNIVERSITY, etc. :  
Defendant :  
: : : : : : : : : : : : : : : :

{¶1} On March 15, 2002, this court determined that Diane Gorgas, M.D. and Sorabh Khandelwal, M.D. were not entitled to civil immunity and that the courts of common pleas have jurisdiction over any civil actions against them based upon the allegations made in plaintiff's complaint. On March 6, 2003, the Tenth District Court of Appeals reversed the judgment of this court and remanded the case for further proceedings, stating in relevant part:

{¶2} \*\*\*\* The Doctors treated Barkan as attending physicians in their supervisory roles over a resident and, therefore, were acting within the scope of their employment with the state. The trial court erred in finding that the doctors were acting outside of the scope of their employment. Appellant's lone assignment of error is sustained.

{¶3} "Having sustained appellant's assignment of error, the judgment of the Ohio Court of Claims is reversed and the case is remanded for further proceedings in accordance with this opinion."

*Irving Barkan v. Ohio state Univ.*, Franklin App. No. 02AP-436,  
2003-Ohio-985.

{¶4} Pursuant to the judgment of the Court of Appeals, this court finds that Drs. Gorgas and Khandelwal are entitled to civil immunity pursuant to R.C. 9.86 and 2743.02(F). Therefore, the courts of common pleas do not have jurisdiction over civil actions against Drs. Gorgas and Khandelwal based upon the allegations made in plaintiff's complaint.

{¶5} This case is ready to be set for trial in the normal course.

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JUDGE

Entry cc:

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