



# Court of Claims of Ohio

The Ohio Judicial Center  
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CHARLES SHAY MLAKAR, et al.

Plaintiffs

v.

MIAMI UNIVERSITY

Defendant

Case No. 2012-01791

Judge Patrick M. McGrath

## JUDGMENT ENTRY

{¶ 1} On July 11, 2013, the magistrate issued a decision recommending judgment for defendant.

{¶ 2} Civ.R. 53(D)(3)(b)(i) states, in part: "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i)." On July 25, 2013, plaintiffs filed their objections. Defendant did not file a response.

{¶ 3} Plaintiffs, undergraduate students at defendant Miami University, brought this action for breach of contract. Plaintiffs were enrolled in a chemistry course taught by Dr. Richard Bretz. Subsequent to the final examination, Dr. Bretz sent an email to Dr. Chris Makaroff, Dean of the Department of Chemistry and Biochemistry, wherein Dr. Bretz stated that he had witnessed suspicious activity between three students, including both plaintiffs. Two days later, Dr. Makaroff conducted academic dishonesty hearings for the three students. Dr. Makaroff ultimately found the students responsible for an act of academic dishonesty. Plaintiffs timely appealed to Dean Karen Schilling, who sustained Dr. Makaroff's original finding.

{¶ 4} The magistrate concluded that plaintiffs had failed to prove their claim by a preponderance of the evidence and that defendant substantially complied with its student handbook.

{¶ 5} In their objections, plaintiffs argue that the magistrate's decision is against the "manifest weight of the evidence, that substantial discrepancies of material facts in the trial testimony are not mentioned or considered in the decision, and defendant's failure to follow its own contractual procedural obligations mandated in its own Student Handbook with plaintiffs are ignored."

{¶ 6} Plaintiffs have not specified what testimony or evidence was not considered by the magistrate or what portions of the student handbook were ignored. Civ.R. 53(D)(3)(b)(ii) states that "[a]n objection to a magistrate's decision shall be specific and state with particularity all grounds for objection." The court finds that plaintiffs' objections fall short of such a requirement.

{¶ 7} Additionally, plaintiffs have failed to support their objections with a transcript of the proceedings. Civ.R. 53(D)(3)(b)(iii) states that "[a]n objection to a factual finding, whether or not specifically designated as a finding of fact under Civ.R. 53(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available." Inasmuch as the factual findings contained in the magistrate's decision support the magistrate's conclusions, plaintiffs' objections to such findings are without merit.

{¶ 8} To the extent plaintiffs challenge the magistrate's conclusions of law, the court's review of the magistrate's decision reveals that the facts found by the magistrate are sufficient to sustain the magistrate's conclusions, and that the magistrate's conclusions are consistent with law and not against the manifest weight of the evidence.

{¶ 9} Upon review of the record, the magistrate's decision and plaintiffs' objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objections are OVERRULED and the

court adopts the magistrate's decision and recommendation as its own, including the findings of fact and conclusions of law contained therein. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiffs. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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PATRICK M. MCGRATH  
Judge

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Filed September 26, 2013  
To S.C. Reporter April 17, 2015