

Jacob Kogan	Plaintiff,	IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY MARYLAND
v.		
Nagaraj K. Neerchal	Defendant.	Case No. CAL 14-02375

**Plaintiff's Response in Opposition to
Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment**

Comes now the Plaintiff Jacob Kogan and respectfully files this Response in Opposition to Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment, and in support thereof, states as follows:

1. The Maryland Public Information Act (the "PIA") provides: "A request expressing a desire to inspect or copy agency records may be sufficient to trigger the PIA's requirements, even if it does not expressly mention the words "Public Information Act" or cite the applicable sections of the State Government Article."
2. "If a written request for access to a record is made to a person who is not the custodian, that person must, within 10 working days of the receipt of the request, notify the applicant of this fact and, if known, the actual custodian of the record and the location or possible location of the record.¹"
3. On July 15, 2013 Plaintiff requested inspection of six (6) documents (Complaint Exhibit 1). As per Defendant's own admission already at the time of request Defendant knew that three (3) out of six (6) requested documents do not exist (Complaint Exhibit 6). In violation of the PIA² Defendant did not notify Plaintiff of this fact until September 11, 2013, more than 40 working days of the receipt of the request. Defendant knowingly and willingly violated the law, and by doing so intentionally and deliberately harmed Plaintiff.
4. On or about August 15, 2013 Ms. Lynn Knazik, the administrative assistant for the Faculty Senate, provided Defendant with documents relevant to the Faculty Senate approval

¹SG §10-614(a)(3).

²SG §10-614 (a)(4)

of the March 1999 Department of Mathematics and Statistics Statement of Performance Expectations document (Exhibit 1). Although on August 20, 2013 Plaintiff reiterated his July 15, 2013 request for document inspection (Complaint Exhibit 3), Defendant failed to produce documents he received one week earlier from the Faculty Senate.

5. On September 9, 2013 Plaintiff filed a formal request under the Maryland Public Information Act (Complaint Exhibit 4). Two days later, on September 11, Defendant produced only the Provost's approval for March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.
6. As of April 9, 2014 more than 190 working days of the receipt of the original July 15, 2013 request
 - Defendant failed to produce the public record³ as provided by SG §10-614 (b)(2).
 - Defendant failed to notify Plaintiff that the record does not exist as provided by SG §10-614 (a)(4).
 - Defendant failed to notify Plaintiff of his determination to deny the application as provided by SG §10-614 (b)(3).
7. Defendant deliberately violated SG §10-614 (b)(1) with intention to harm Plaintiff.

Wherefore, Plaintiff Jacob Kogan respectfully requests that this Honorable Court:

1. Deny Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment.
2. Afford such other and further relief as justice and the nature of Plaintiff's cause may require.

Certificate of Service

I, Jacob Kogan, 10114 Treetop Lane, Lanham, MD 20706, hereby certify that on the date below, I mailed a copy of the foregoing by first class mail, postage prepaid, to:

³the Dean's and the UMBC Faculty Senate's approvals of the March 1999 Department of Mathematics and Statistics Statement of Performance Expectations document.

Erik James Delfosse, Esq., Assistant Attorney General, Office of the Attorney General, 200 St. Paul Place, 17th Floor, Baltimore, MD 21202-2021, 410-576-6412 Counsel for Defendant and that I will apply with the applicable rules of this Court.

Dated: April 9, 2014



Jacob Kogan

Date: Tue, 20 Aug 2013 12:09:20 -0400
From: Lynn Knazik <lykenned@umbc.edu>
To: Jacob Kogan <kogan@umbc.edu>
Subject: Re: Faculty Senate 2013-2014
Parts/Attachments:

EXHIBIT 1
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1 OK 126 lines Text
2 Shown ~139 lines Text

Jacob,

Some (1997-99) of those materials are in the archives. I spent two hours searching for them last week and sent a copy of a memo to Dr. Neerchal indicating that the Math

& Statistics Department submitted its policies to the Faculty Affairs Committee, along with most other departments. Unfortunately, the submission itself was not there. (Some department submissions were there but not Math.) You might check with Dr. Neerchal who should have received the copy by now. Dr. Rostamian was chair at the time of the submission.

I will look for the 2010 Addendum but it will have to wait a couple of days. I am preparing for a Faculty Development Center New Faculty Welcome tomorrow evening and for the first go-round of committee and senate meetings this fall. I was not technically with the senate until June of 2010 and Sue Hahn left in November of 2009

so there was a 7-month gap in administrative support. It may take me some time to locate this information.

Lynn