

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD N. EDIE, M.D.,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 04-2749
	:	
THOMAS JEFFERSON UNIVERSITY,	:	
JEFFERSON MEDICAL COLLEGE OF	:	
THOMAS JEFFERSON UNIVERSITY,	:	
THOMAS JEFFERSON UNIVERSITY	:	
HOSPITAL, JEFFERSON UNIVERSITY	:	
PHYSICIANS, and DONALD DAFOE,	:	
	:	
Defendants.	:	

MEMORANDUM

BUCKWALTER, S.J.

March 27, 2006

Presently before the Court are Plaintiff's Motion for Partial Summary Judgment (Docket No. 29), Defendants'¹ Motion for Summary Judgment (Docket No. 30), and all the responses filed thereto. For the reasons stated below, Plaintiff's Motion for Partial Summary Judgment is denied. Defendants' Motion for Summary Judgment is granted in part and denied in part.²

1. Defendants Thomas Jefferson University, Jefferson Medical College of Thomas Jefferson University, and Jefferson University Physicians will be collectively referred to as "Jefferson Defendants."

2. The Court discusses the facts related to Count VIII only as the Court finds that summary judgment is appropriate on just this count.

I. COUNTS I, II, V, VI

The Court finds that factual disagreements which cannot be resolved by summary judgment exist as to whether Defendants' reasons for terminating Plaintiff's employment were legitimate. Therefore, summary judgment is inappropriate on Count I, violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, and Count II, violation of the Pennsylvania Human Relations Act (PHRA), 43 PA. CONS. STAT. § 951 *et seq.*³

The Court finds the same with regard to Plaintiff's breach of contract claims, Count V and Count VI. Therefore, summary judgment is inappropriate on these claims as well.

II. COUNT VIII

Plaintiff asserts a claim against Jefferson Defendants for negligent retention of an unfit supervisor, Defendant Dafoe. Plaintiff was employed by Jefferson Defendants as Chief of the Division of Cardiothoracic Surgery from 1987 until his termination in June 2003. Defendant Dafoe served as Chief of Surgery beginning in 2000. Plaintiff reported directly to Defendant Dafoe.

The Pennsylvania Worker's Compensation Act ("PWCA") is the exclusive remedy for all work-related injuries. 77 PA. CONS. STAT. § 481(a). However, under the Act's personal animus exception, injuries "caused by an act of a third person intended to injure the employee because of reasons personal to him, and not directed against him as an employe [sic] or

3. The Court also holds that Plaintiff has properly brought a PHRA claim against Defendant Dafoe in his individual capacity and that genuine issues of material fact which cannot be resolved by summary judgment exist as to this claim.

because of his employment” are excluded from coverage.” § 411(1).⁴ The “critical inquiry in determining the applicability of the third-party attack exception is whether the attack was motivated by personal reasons, as opposed to generalized contempt or hatred, and was sufficiently unrelated to the work situation so as not to arise out of the employment relationship.” Fugarino v. Univ. Servs., 123 F. Supp. 2d 838, 844 (E.D. Pa. 2000).

In the present case, Plaintiff argues that his claim for negligent retention is saved by the personal animus exception. An examination of the facts reveals that the alleged animosity between Plaintiff and Defendant Dafoe was rooted in their working relationship. The alleged conflicts include: Defendant Dafoe’s decision to split cardiac and thoracic surgery into two departments; Plaintiff and Defendant Dafoe’s argument regarding the scheduling of surgeries; Plaintiff’s comments to job candidates; Plaintiff’s participation in the Gibbons Symposium; Plaintiff’s conduct at the “palace revolt;” and ultimately, Defendant Dafoe’s termination of Plaintiff’s employment. There is no indication that *personal* reasons motivated Defendant Dafoe’s conduct. Therefore, the Court concludes that Plaintiff’s claim is barred under the PWCA and grants Defendants’ Motion for summary judgment on this count.

III. CONCLUSION

For the reasons stated above, Plaintiff’s Motion for Partial Summary Judgment is denied and Defendants’ Motion for Summary Judgment is denied as to Count I, II, V, and VI, and granted as to Count VIII. An appropriate order follows.

4. Stated differently, the personal animus exception “allows claims for ‘employee injuries caused by the intentional conduct of third parties for reasons personal to the tortfeasor and not directed against him as an employee or because of his employment.’” McInerney v. Moyer Lumber & Hardware, Inc., 244 F. Supp. 2d 393, 400 (E.D. Pa. 2002) (quoting Durham Life Ins. Co. v. Evans, 166 F.3d 139, 160 (3d Cir. 1999)).

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD N. EDIE, M.D.,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	
	:	NO. 04-2749
	:	
THOMAS JEFFERSON UNIVERSITY,	:	
JEFFERSON MEDICAL COLLEGE OF	:	
THOMAS JEFFERSON UNIVERSITY,	:	
THOMAS JEFFERSON UNIVERSITY	:	
HOSPITAL, JEFFERSON UNIVERSITY	:	
PHYSICIANS, and DONALD DAFOE,	:	
Defendants.	:	

ORDER

AND NOW, this 27th day of March, 2006, upon consideration of Plaintiff's Motion for Partial Summary Judgment (Docket No. 29), Defendants' Motion for Summary Judgment (Docket No. 30), and all the responses filed thereto, it is hereby **ORDERED** that Plaintiff's Motion for Partial Summary Judgment is **DENIED** and Defendants' Motion for Summary Judgment is **GRANTED in part and DENIED in part**.

With respect to Counts I, II, V, and VI, Defendants' Motion is **DENIED**.

With respect to Count VIII, Defendants' Motion is **GRANTED**.

TRIAL is scheduled for Monday, August 14, 2006 at 9:30 a.m. in Courtroom

14A.

BY THE COURT:

s/ Ronald L. Buckwalter, S. J.
RONALD L. BUCKWALTER, S.J.