

**STATE OF MICHIGAN
WASHTENAW COUNTY CIRCUIT COURT**

MAUREEN JOHNSON,

Plaintiff,

-v-

Hon. Timothy P. Connors
Case No. 99-10505 CZ

THE REGENTS OF THE UNIVERSITY OF
MICHIGAN and PAUL BOYLAN,

Defendants.

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There is not now and has never been another civil action arising out of the facts alleged in this complaint.

**PROPOSED SECOND AMENDED COMPLAINT
AND DEMAND FOR TRIAL BY JURY**

By and through her attorneys, Scheff & Washington, P.C., Maureen Johnson states that the defendants violated her rights under the Elliott-Larsen Civil Rights Act, MCLA 37.2101 *et seq.*, MSA 3.458(101) *et seq.*, (the ELCRA) and the equal protection

provisions of the Michigan State Constitution, Const. of 1963, Art. 1, §2 (the Constitution).

JURISDICTION, VENUE, AND PARTIES

1. This is an action for sexual harassment, retaliation, race discrimination, and the violation of equal protection rights made pursuant to the ELCRA and the Constitution.

2. The violations of law alleged in this complaint took place in Washtenaw County.

3. Ms. Johnson, a black woman classical oboist, was a student at the University of Michigan (the University) starting at the beginning of the 1997-1998 academic year. She was enrolled in the Master's in Performance Program at the University of Michigan School of Music (the School of Music), which is located on the University's Ann Arbor campus.

4. The Regents of the University of Michigan (the Regents) is the governing body of the University.

5. The University is an educational institution as defined in the ELCRA.

6. Paul Boylan is, and was at all times pertinent to this action, the Dean of the School of Music. In that capacity, Dean Boylan has, and had at all times pertinent to this action, supervisory authority over all other employees of the School of Music and over all policies and procedures particular to the School of Music.

**COUNT I:
SEXUAL HARASSMENT**

7. In the fall 1997 semester, Ms. Johnson was repeatedly subjected to unwelcome and highly inappropriate sexual advances and sexual comments by School of Music Professor Pier Calabria, the conductor of the School of Music orchestra of which Ms. Johnson was a member.

8. Professor Calabria's unwelcome sexual advances and conduct had the purpose and/or effect of substantially interfering with Ms. Johnson's education and/or creating an intimidating, hostile, and offensive educational environment.

9. When Ms. Johnson did not respond favorably to these advances and comments, Professor Calabria subjected her to a campaign of public humiliation to punish her for her unresponsiveness and/or to pressure her into responding favorably.

10. Professor Calabria's public humiliation had the purpose and/or effect of substantially interfering with Ms. Johnson's education and/or creating an intimidating, hostile, and offensive educational environment.

11. Professor Calabria implicitly made Ms. Johnson's favorable response to his advances and/or her silence and acquiescence a condition of her standing in the orchestra he conducted.

12. When Ms. Johnson confronted Professor Calabria, he demoted her in the orchestra, removing her from lead and solo parts.

13. Professor Calabria's words and actions violate the ELCRA.

14. Dean Boylan and other agents of the Regents had both actual and constructive notice that Professor Calabria was creating a hostile and offensive educational environment for Ms. Johnson.

15. Despite this notice, Dean Boylan and the Regents failed to take remedial action.

16. Dean Boylan's and the Regents' failure to take reasonable remedial action violates the ELCRA.

17. The sexual harassment and failure to take reasonable remedial action proximately caused Ms. Johnson to leave the School of Music, to suffer physically and emotionally, and to lose esteem, future professional options, future earnings, and creative fulfillment in her chosen career.

**COUNT II:
RETALIATION**

18. Beginning when Ms. Johnson made her complaints about acts of discrimination in violation of the ELCRA and until she withdrew permanently from the University in the summer of 1998, Dean Boylan and other employees of the School of Music retaliated against Ms. Johnson, treating her less favorably than they treated similarly situated students.

19. This retaliation occurred because of Ms. Johnson's complaints about acts of discrimination in violation of the ELCRA.

20. This retaliation violates the ELCRA.

21. The retaliation proximately caused Ms. Johnson to leave the School of Music, to suffer physically and emotionally, and to lose esteem, future professional options, future earnings, and creative fulfillment in her chosen career.

**COUNT III:
RACE DISCRIMINATION**

22. The University's central offices never contacted Ms. Johnson, a black woman, about her formal complaint of sexual harassment against Professor Calabria and otherwise failed to investigate it and to take remedial action.

23. The University's central offices have investigated the sexual harassment complaints of white women and have taken remedial action to address the situations that gave rise to them.

24. The failure by the University's central offices to investigate Ms. Johnson's complaint and to take remedial action constitutes race discrimination in violation of the ELCRA.

25. The race discrimination proximately caused Ms. Johnson to leave the School of Music, to suffer physically and emotionally, and to lose esteem, future professional options, future earnings, and creative fulfillment in her chosen career.

**COUNT IV:
DISCRIMINATION BASED ON THE HARASSER'S STATUS**

26. The University's central offices never contacted Ms. Johnson, a student, about her formal complaint of sexual harassment against Professor Calabria and otherwise failed to investigate it and to take remedial action.

27. The University's central offices have investigated students' sexual harassment complaints against fellow-students and have taken remedial action to address the situations that gave rise to them.

28. The University has a custom or policy of distinguishing between student sexual harassment complainants who are victimized by fellow-students and those who are victimized by faculty members.

29. There is no rational basis for this distinction. At a minimum, the University's central offices may not, consistent with reason and basic fairness, investigate and take remedial action on students' complaints against students while ignoring students' complaints against faculty members.

30. The failure of the University's central offices to investigate Ms. Johnson's complaint and to take remedial action violates the equal protection provisions of the Constitution because it constitutes discrimination against her on the basis of her having been victimized by a faculty member.

31. The equal protection violation proximately caused Ms. Johnson to leave the School of Music, to suffer physically and emotionally, and to lose esteem, future professional options, future earnings, and creative fulfillment in her chosen career.

RELIEF REQUESTED

Ms. Johnson requests a jury trial on her claims of sexual harassment, retaliation, race discrimination, and other unconstitutional discrimination. She will ask the following of the jury and of this Court:

- A. Substantial compensatory and exemplary damages in an amount to be determined by the jury;
- B. Such other relief as is just, equitable, and applicable under statutory and common law, including costs and attorney fees.

By Plaintiff's Attorneys,
Scheff & Washington, P.C.

Miranda K.S. Massie

Dated: November 22, 1999