

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL BRANCH
DIVISION 9th
CASE NO. 16-CI-2241

ENTERED
ATTEST, VINCENT RIGGS, CLERK
APR 02 2019
FAYETTE CIRCUIT CLERK
BY T. A. COOPER DEPUTY

UNIVERSITY OF KENTUCKY

PLAINTIFF/APPELLANT

v.

OPINION & ORDER

LACHIN HATEMI, M.D.

DEFENDANT/APPELLEE

*** **

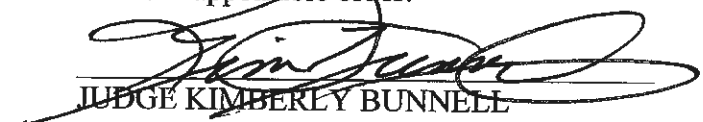
This matter is before the Court for decision on the Open Records appeal filed by the University of Kentucky pursuant to KRS 61.882 from the Kentucky Attorney General's decision in *In re: Hatemi/University of Kentucky Healthcare Compensation Planning Committee*, 16-ORD-101 (2016). In that decision, the Attorney General held the Healthcare Compensation Planning Committee in the University's College of Medicine was a "public agency" under the Open Meetings Act and therefore was required to record meeting minutes pursuant KRS 61.835 that could be produced in response to Dr. Lachin Hatemi's January 19, 2016 Open Records request for "[a]ll meeting minutes for the UK Healthcare Faculty Compensation Planning Committee (currently chaired by Dr. David Moliterno) between January 2010 and December 2015." This matter is also before the Court upon the corresponding counterclaim filed by Dr. Hatemi seeking penalties, costs, and fees for a "willful withholding" of minutes pursuant to KRS 61.882(5). The parties have submitted briefs on the matter and presented oral argument before the Court on March 14, 2019. The Court, having considered the parties arguments, the memoranda, and the applicable law, finds and adjudges as follows:

1. For the reasons explained by the Court at the March 14, 2019 oral argument in this case, Healthcare Compensation Planning Committee is a “public agency” under the Open Meetings Act that was required to record and keep meeting minutes under KRS 61.835. Therefore, the University’s request to overrule the Attorney General’s decision in *In re: Hatemi/University of Kentucky Healthcare Compensation Planning Committee*, 16-ORD-101 (2016) is DENIED.

2. The record in this case establishes the Healthcare Compensation Planning Committee did not record minutes of its meetings. Regardless, for the reasons explained by the Court at the March 14, 2019 oral argument in this case, the failure to produce meeting minutes in response to Dr. Hatemi’s January 19, 2016 Open Records request was not a “willful withholding” of records under KRS 61.882(5). Therefore, Dr. Hatemi’s counterclaim is DISMISSED with prejudice.

SO ORDERED this 25 day of March 2019.

There being no just cause for delay, this is a final and appealable order.


JUDGE KIMBERLY BUNNELL
FAYETTE CIRCUIT COURT, DIV. 9

HAVE SEEN/TO BE ENTERED:


ATTORNEY FOR PLAINTIFF/APPELLANT

Andre F. Record by  w/ permission
ATTORNEY FOR DEFENDANT/APPELLEE

CLERK'S CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served on the following counsel on this ___ day of APR 02 2019, 2019:

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T. Nooner

CLERK, FAYETTE CIRCUIT COURT

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COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL BRANCH
DIVISION 9th
CASE NO. 16-CI-2241

UNIVERSITY OF KENTUCKY

PLAINTIFF/APPELLANT

v.

ORDER

LACHIN HATEMI, M.D.

DEFENDANT/APPELLEE

*** **


This matter is before the Court upon motions respectively filed by each party to alter, amend, or vacate this Court's April 2, 2019 opinion and order. The Court, having considered the parties' memoranda, their arguments, and the applicable law, orders as follows:

1. Plaintiff/Appellant University of Kentucky's April 12, 2019 motion to alter, amend, or vacate is **OVERRULED** for the reasons stated by the Court on the record at hearing on April 26, 2019.

2. Defendant/Appellee Lachin Hatemi, M.D.'s April 12, 2019 motion to alter, amend, or vacate is **OVERRULED** for the reasons stated by the Court on the record at hearing on April 26, 2019.

SO ORDERED this _____ day of _____ 2019.

There being no just cause for delay, this is a final and appealable order.

 *Kimberly M. Bunnell*
HON. KIMBERLY BUNNELL
electronically signed
5/3/2019 10:05:45 AM

JUDGE KIMBERLY BUNNELL
FAYETTE CIRCUIT COURT, DIV. 9

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HAVE SEEN/TO BE ENTERED:

/s/ Joshua M. Salsburey
ATTORNEY FOR PLAINTIFF/APPELLANT

/s/ Andre F. Regard by Joshua M. Salsburey w/ permission
ATTORNEY FOR DEFENDANT/APPELLEE

CLERK'S CERTIFICATE OF SERVICE


This is to certify that a true copy of the foregoing was served on the following counsel on this ___ day of _____, 2019:

MAY 03 2019

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FAYETTE CIRCUIT CLERK
CLERK, FAYETTE CIRCUIT COURT

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