



Supreme Court of the  
Associated Students of the  
University of Utah

## Filing

ASUU Office Use ONLY -Case No.: 20180100

Type of Filing Grievance/Appeal/Impeachment: Compensation

Date: 1/15/2018

Plaintiff(s): Chief Justice Kit Erickson

Defendant(s): Zach Berger, Jake Knight, Nam Luu, Sanga Mohmand

**Statement of Jurisdiction: Article IV, Section 9, Paragraph 4.**

All ASUU student government compensation, as initially determined by the ASUU President and Chief of Staff, may be appealed to the ASUU Supreme Court.

**Statement of Violation:** For the terms of Spring Semester 2017 and Fall Semester 2017, the Executive Branch has willfully withheld compensation from the Chief Justice of the Supreme Court, in violation of Article IV, Section 9, Paragraph 8.1 of the ASUU Constitution.

**Sanctions/Relief Requested:** The Chief Justice should be compensated \$300.00 in compensatory damages, representing \$150 per each term that he was Chief Justice but not compensated per Article IV, Section 9, Paragraph 8.1 of the ASUU Constitution. Further, the executive branch should be ordered to pay an additional \$300 in punitive damages for its willful violation of the ASUU Constitution.

- See Attached Brief
- Temporary Injunction Requested
- Injunction Requested
- Other Action Requested: \_\_\_\_\_

To the best of my knowledge, the above statements are true and correct.

Kit Erickson

1/15/18

U0956106


801 860-2911

Name

Date

Student ID

Phone #

**ASUU Supreme Court**  
  
**The University of Utah**

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**Chief Justice Kit Erickson,**

**Plaintiff**

**vs.**

**Zach Berger, Jake Knight, et al**

**Defendants**

**Case No. 20180100**

**Complaint**

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Plaintiff, Kit Erickson, Chief Justice of the ASUU Supreme Court, brings this Petition and Complaint against Zach Berger, Jake Knight, Nam Luu, and Sanga Mohmand for failure to timely approve and disburse appropriate compensation due to Plaintiff per the terms of the ASUU Constitution. This Court has jurisdiction, pursuant to Article IV, Section 9, Paragraph 4. Plaintiff seeks \$300 compensatory damages and \$300 in punitive damages. As a member of ASUU, Plaintiff has standing to bring this Action.

**BACKGROUND**

Kit Erickson was appointed to the ASUU Supreme Court in September 2016, by then President Jack Bender. In October 2016, Plaintiff was presented to and confirmed by the ASUU Student Senate as Chief Justice of the Supreme Court of ASUU. From that time until the present, no other person has acted in the capacity of the Chief Justice of the Supreme Court. From that time until the present, the ASUU web-site has listed Kit Erickson as the Chief Justice of the

Supreme Court. (<https://asuu.utah.edu/judicial-branch>).

Pursuant to Article V, Section 1, Justices are appointed for an indefinite term of office and may remain in office provided they are members of the ASUU in good standing; and the Chief Justice shall serve a one (1) year term subject to reappointment. Plaintiff's one year term of office expired in October 2017 and he should have been reappointed at that time or earlier, but due to a lapse on the part of the Executive Branch, he was not presented to the Student Senate until November 30, 2017, at which time he was again confirmed as Chief Justice of the ASUU Supreme Court.

Article IV, Section 9, Paragraph 8.1 of the ASUU Constitution states that "The ASUU Supreme Court Chief Justice's compensation will be set at one hundred-fifty dollars (\$150.00) per semester. The approval of the Directors of Finance and ASUU Financial Advisor will be the only authorization required for the Chief Justice's compensation. No compensation was paid to Plaintiff for Spring or Fall Semester during the Year 2017. Upon Plaintiff's requesting remedial action, Jake Knight, director of finance wrote to Plaintiff and indicated that "no compensation was merited, and [was] therefore not paid." Plaintiff responded by directing Mr. Knight to the sections of the ASUU Constitution that are instructive as to judicial compensation and requested reconsideration. Mr. Knight declined the request for reconsideration, stating that Plaintiff had not been appointed to the position of Chief Justice until November 2017, and therefore did not merit any compensation, while simultaneously blaming the prior administration (Sanga Mohmand) for the lack of compensation from the Spring 2017 Semester.

#### ARGUMENT

The issue presented is more than one of compensation; it is also an issue of separation of

powers. While the Constitution calls for an approval from the Director of Finance for Supreme Court Compensation, it does not allow for a haphazard evaluation by the director. The sum of \$150.00 is listed as a fixed amount, independent of time served, work completed, or the personal opinion of the Director of Finance. If this sort of evaluation had been anticipated by the Constitution, a flexible amount of compensation would have been selected, instead of the actual situation which is a fixed amount of compensation for the Chief Justice. Leaving the question of compensation of the Judicial Branch at the discretion of the Executive Branch puts the Judicial Branch at a disadvantage to the executive and would result in a Court that must necessarily favor the executive or face whatever consequences the executive should decide to impose against it. The Court simply cannot fairly evaluate any case involving the executive if this inherent conflict of interest were allowed to stand. In order to protect its independence, the Court must strike down this overreach and abuse of power by the Executive Branch.

Article V Section 2 outlines the powers and duties of the Judicial Branch. Paragraph 1 of that section outlines the duties of the Chief Justice. The first duty of the Chief Justice is to determine the apportionment of the Assembly seats among the Colleges with the advice and consent of the Student Senate, using the most recent college enrollment reports available. On November 20, 2017, Abby Feenstra, Legislative Advisor to ASUU requested the Elections Apportionment from Kit Erickson, Plaintiff, evidencing that although he had not yet officially been reappointed to his position as Chief Justice, she recognized that he was still acting in that capacity until such time as a new Chief Justice could be selected or reappointment could occur. On November 22, 2017, Plaintiff submitted his determination of the apportionment of the Assembly seats, which was subsequently accepted by the Student Senate. This acceptance by the Senate is evidence that the Student Senate also recognized that Plaintiff was still the Chief Justice,

even though his reappointment had not yet been formalized.

The ASUU Constitution allows only one person to determine apportionment of the Assembly seats. That person is the Chief Justice of the ASUU Supreme Court. The fact that Plaintiff completed the apportionment, which was presented by the Executive Branch to the Legislative Branch is clear evidence that all three branches of ASUU government believed that Plaintiff was, in fact, the Chief Justice of the Supreme Court on November 22, 2017 as well as during the entirety of the Fall 2017 Semester, even if he was not officially presented to the Senate and confirmed until November 30, 2017.

Even if the Court were to find that Plaintiff did not become the Chief Justice of the Supreme Court until November 2017, Plaintiff was the Chief Justice at least up until October 2017, when his one year term expired, and he was reappointed and confirmed to that same position in November 2017, and he is the only person to have served in that capacity during any portion of the Fall 2017 Semester and per the terms of the ASUU Constitution is still entitled to his compensation. The Constitution does not address minimum time served or any requirements that must be met by the Chief Justice in order for him to merit his compensation. While the Plaintiff was available and willing to address each of the powers and duties assigned to him under Article V, Section 2, no cases were presented during the Fall Semester and as such no response from the Chief Justice was required. The Court is reactive in nature, not generally bringing actions, but only responding to the actions presented to it. This is one of the many reasons that the Chief Justice's compensation is calculated as a flat fee and not based on any sort of threshold activity requirement.

The role of approval addressed in Article IV, Section 9, Paragraph 8.1 is meant as an administrative function, to ensure that no more than one person is being compensated as the

Chief Justice. The role is not meant to endow the Director of Finance with managerial or discretionary authority over the Judicial Branch.


### **PUNITIVE DAMAGES**

Because the actions of the Defendants were willful, even after they were given multiple opportunities to correct the situation, punitive damages are appropriate. Article III, Section 2, Paragraph 2.1.5 gives the Judicial Branch authority “to compel compliance by means of sanction of penalty.” Paragraph 6.2.1.3 specifically gives this Court the authority to impose monetary fines. The Plaintiff has had to expend more time preparing this action than would be justified by the \$300.00 that he stands to recover, yet it is important, for the integrity of the Judicial Branch that he do so. The Plaintiff should be compensated for his time and effort in the preparation of this complaint, and the Executive Branch should be sanctioned for its willful failure to comply with the requirements of the ASUU Constitution.

### **Prayer for Relief**

Plaintiff respectfully requests that this Court order the Director of Finance to immediately approve the \$300 in compensation that he has already earned. Plaintiff additionally requests this Court to order \$300 to be paid by the Executive Branch, as a monetary sanction, fine, and punitive damage.

DATED this 16<sup>th</sup> day of January, 2018.

  
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Kit Erickson