

Berkeley Prof Can't Avoid Harassment Settlement, Judge Told

By **Dorothy Atkins**

Law360, Oakland, Calif. (October 16, 2018, 8:50 PM EDT) -- A former researcher for a renowned American philosopher at University of California, Berkeley urged a California judge Tuesday to enforce their confidential settlement resolving her sexual harassment suit, arguing that the professor can't get out of the contract just because the University of California Board of Regents might not back the deal.

During a hearing in Oakland, California, attorney Lawrence A. Organ told Alameda Superior Court Judge Michael M. Markman that the language of the settlement agreement between his client, Joanna Ong, and John R. Searle, an emeritus professor at the University of California, Berkeley, is clear and explicitly says that it is effective once both parties sign it. Searle can't now claim there was no "meeting of the minds," Organ argued.

"If the parties had agreed to that language, and that language is unambiguous, there is a meeting of the minds even if they had intended it to have a different meaning," Organ said.

Organ's comments came during a hearing on Ong's motion for summary adjudication seeking to enforce the confidential settlement, which both parties signed in September. Ong initially filed a complaint against Searle in **March 2017**, claiming he repeatedly harassed and groped her and watched pornography in her presence while she was his research assistant.

The suit alleges that when Ong reported the incidents, her adviser said she wasn't going to follow up on the accusations because they needed to "protect" Searle. Ong since amended her complaint, adding on claims against the board, which Judge Markman refused to dismiss from the suit **earlier this year**.

In September, Searle and Ong struck a confidential settlement under which Ong would receive a payment and Searle would make contributions to a women's group, according to comments made by the attorneys Tuesday. Both parties signed the agreement in mid-September, but shortly afterward, on Sept. 18, counsel for Searle told Ong's attorneys that the settlement was conditional on Searle reaching an agreement with the board or waiving the condition. Ong's counsel disagreed and filed the motion for summary adjudication.

During the hearing Tuesday, the professor's counsel, Stuart Bernstein, argued that there "clearly" wasn't a meeting of the minds and there are questions of fact about the contract, which a jury must decide.

At the start of the hearing, Judge Markman said there's "a bunch of extrinsic evidence" that suggests the parties did not have a meeting of the minds. However, the judge repeatedly said the language in the contract is not ambiguous and noted that the way things have unfolded are "very strange." He also repeatedly questioned why the professor signed and delivered the settlement agreement if he and his attorneys thought there was ongoing ambiguity about the meeting of the minds.

At the end of the hearing, Judge Markman took the arguments under submission.

A jury trial is set for March 15.

Ong was represented by Matthew J. Wayne of The Armstrong Law Firm and Lawrence A. Organ.

Searle was represented by Victoria L.H. Booke and Stuart Bernstein.

The case is Joanna Ong v. the Regents of the University of California et al., case number RG-17-854053, in the Superior Court of the State of California, County of Alameda.

--Editing by Haylee Pearl.