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Health Law Practice Group Update: Attorneys secure dismissal of a conversion case styled as patent infringement

20 Jul 2021

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Attorneys Crystal Deese and Sarah Godfrey recently secured dismissal a conversion case styled as patent infringement in the Superior Court of the District of Columbia. The plaintiff, a biomedical research tech, sued the head of his former research laboratory for allegedly “stealing” his intellectual property. Plaintiff claimed the theft occurred when the lab director permitted one of plaintiff’s colleagues to use “plaintiff’s data” in a medical abstract and poster presentation at a scientific conference. Although plaintiff was listed as one of nine co-authors on the abstract and poster, he complained about being listed as second author instead of first.

We moved to dismiss the complaint for failure to state a claim for conversion (common law theft). Plaintiff filed multiple oppositions detailing his alleged contributions to the abstract and poster. In a well-reasoned order, Judge Hiram Puig-Lugo granted our motion to dismiss, finding that the complaint contained no allegations that the lab head exercised the requisite ownership, dominion, or control over plaintiff’s data to support a conversion claim. Moreover, the complaint contained no allegations plaintiff had exclusive ownership of the data. In reaching its decision, the court emphasized that the publication had nine co-authors, and plaintiff conceded that others contributed to the data. As it could not be inferred from the complaint that plaintiff’s interest in the data was diminished - or that he was dispossessed of any portion of that interest - the court found that plaintiff failed to state a claim for conversion. The complaint was dismissed, with prejudice, on behalf of our client. Plaintiff did not appeal.

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TAGGED: Patent Infringement, conversion claim