

# New York doctor sues Avera over job deal

## Woman claims hospital didn't live up to agreement

By ANNA JAUHOLA  
The Daily Republic

A doctor who moved to Mitchell from New York to work at Avera Queen of Peace is suing the hospital for negligence, fraud and breach of contract.

According to court documents, Sonia Hernandez was recruited in 2011 to move to Mitchell to open an ophthalmology practice — a branch of medicine that deals with the anatomy, physiology and dis-

eases of the eye — as a part of Avera Queen of Peace's system. Her practice was meant to replace a retiring ophthalmologist's practice later that year, court documents say.

Hernandez claims Avera offered her many incentives to move to South Dakota from Brooklyn, N.Y., including receiving her own office, competent staff and equipment. She claims none was provided upon her arrival Aug. 1, 2011.

She didn't begin her practice until Oct. 1, 2011, because the promised items were not available, she claims.

According to court documents, Hernandez complained to Avera

about the untrained staff and poorly working equipment. She said Avera replaced the equipment and made arrangements to train the staff.

She claims she was also promised financial compensation styled as loans to be forgiven over her employment. Hernandez claims because of Avera's breach of contract and negligence, she is not required to repay the loans.

Avera, in a counterclaim, said Hernandez did not maintain a full-time ophthalmology practice for at least two years, thus breaking the employee agreement. Due to this breach, Avera claims Hernandez owes the full amount of the loans

given to her plus interest. There were no available court documents listing the amounts of money being sought by either side.

On Nov. 22, a month after she began practice, Hernandez became ill and was hospitalized, according to court documents. She reportedly informed Avera of the illness immediately and requested paperwork on Dec. 1 to report her extended absence — her religious beliefs prevented her from receiving a needed blood transfusion, court documents say.

On Dec. 2, Avera requested to speak with Hernandez in person on Dec. 5 — the date Avera terminated Hernandez's employment and

suspended her hospital privileges.

Avera negligently misrepresented the contract offered to and accepted by Hernandez, she claims. She also said Avera committed fraud by promising long-term employment when Avera "was aware that such position was merely experimental in nature and was unlikely to be long-term," according to court documents. She also claims Avera suppressed facts about the employment agreement and long-term commitment to employment.

Hernandez also claims all the hospital's actions were a breach of contract, and a breach of an implied covenant of good faith and fair dealing.

## Secret agreement still secret

### Ruling from judge hasn't brought out document sought from Huron district

By CHRIS MUELLER  
The Daily Republic

HURON — The Huron School District still has not released a copy of a secret agreement that directed nearly \$175,000 to an ex-superintendent, despite a judge's ruling Wednesday that the district must provide a copy to The Daily Republic.

According to Jon Arneson, of Sioux Falls, the newspaper's attorney, the district has indicated in the past it would provide The Daily Republic with a copy of an agreement between it and ex-superintendent Ross Opsal once a court of competent jurisdiction ruled the document should be open to public inspection.

On Wednesday, Third Circuit Judge Jon Erickson said in a written decision that the district's agreement with Opsal is a public record and should be open to inspection. As of Thursday evening, though, the district still had not provided a copy of the agreement to the newspaper. The newspaper requested a copy Wednesday after the judge's decision was issued and again Thursday.

"I cannot account for the district's change of heart," Arneson said. "The district is now apparently going to wait until the final order is signed by the court, which essentially is nothing more than a legal formality."

The process will likely take several days, Arneson said.

The Daily Republic, acting on a tip, first asked for a copy of the agreement more than a year ago, hoping to learn why the school continued to pay Opsal after his employment ended and a new superintendent had been hired.

On Thursday, current Huron superintendent Terry Nebelsick said he was still awaiting instructions on the matter from attorney Rodney Freeman and the school board.

Calls made Wednesday and Thursday by The Daily Republic to Freeman were not returned.

The agreement had the district making monthly payments to Opsal after his resignation in March 2011, according to public payment information already obtained by The Daily Republic. The reason for the payments, which is presumably spelled out in the agreement, has never been made public.

Erickson's ruling affirmed an earlier decision in favor of the newspaper issued in March by the state Office of Hearing Examiners. The school district, despite the two rulings against it, could still choose to appeal to the state Supreme Court.



AP file photo

This April 2012 photograph shows the fabrication room of the Northern Beef Packers processing plant in Aberdeen.

## Cattle ranchers hope someone will buy, reopen SD beef plant

By DIRK LAMMERS  
Associated Press

North Dakota feedlot operator Jeff Kvamme finishes loading cattle onto a truck and bemoans the animals' 450-mile one-way commute to Dakota City in Nebraska.

If the long-troubled Northern Beef Packers beef processing plant had achieved its grand plans of processing 1,500 head a day, the trip would be a 150-mile jaunt down to the South Dakota city of Aberdeen. "It'd be nice to see it reopen under someone else so we still have that option of sending cattle there," Kvamme said.

Northern Beef Packers opened its \$109 million state-of-the-art facility on a limited basis in 2012 after years of delays. But its owners filed for bankruptcy protection less than a year later saying they didn't have enough money to buy cattle to slaughter.

Now, as creditors grapple with who will get paid in the case, which could be headed to liquidation, the region's feedlot operators are hoping someone can buy and reopen the plant.

The tight economic times make it even more

important to have a closer facility, said Todd Wilkinson, vice president of the South Dakota Cattlemen's Association and owner of a feedlot west of De Smet. "Our biggest concern, however this whole thing plays out, is to have an operating facility in Aberdeen, South Dakota, that can process our cattle," Wilkinson said. "There's a huge need."

Land for the Aberdeen plant was first secured in 2006, but the company wasn't able to slaughter its first animal until late in 2012. Since then, it has struggled to reach anywhere near its production target of 1,500 head per day from the Dakotas, Nebraska, Iowa and Minnesota.

With \$138.8 million in liabilities and just \$79.3 million in assets, according to court documents, the plant has laid off most of its employees and halted production.

Still, the shutdown shouldn't have a significant influence on an industry already dealing with a cattle shortage and production overcapacity, said Duane Lenz, analyst and general manager with CattleFax, which tracks the industry. "They never did get much slaughter going," he said.

## SD's Meeks lauded for development efforts

By Northern Plains News

Utah's rural development state director has lauded Elsie Meeks, South Dakota's rural development director, for her work with American Indian communities and economic development.

Wilson "David" Conine, Meeks' Utah U.S. Department of Agriculture counterpart, made the comments at the eighth annual Governor's Native American Summit held last week at Utah Valley University in Salt Lake City, Utah. Meeks has 20 years of experience working with American Indian leaders, tribes and individuals in economic development.

Conine said Meeks recognized the importance of community development financial institution efforts.

He said CDFIs are an important part of the infrastructure for delivering consistent funding for housing and small business development activ-

ities that benefit low and moderate income people.

CDFIs combine multiple sources of public and private capital to make loans and investments available to underserved geographies and types of businesses or borrowers.

A successful example from South Dakota is The Lakota Fund, according to Conine.

The South Dakota office established a Native CDFI in 1986 that serves the Oglala Lakota Tribe on the Pine Ridge Reservation. Its products and services include micro-loans, small business loans, business loans, credit builder loans, training and technical assistance.

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