

[Cite as *Heffern v. Univ. of Cincinnati Hosp.* , 2001-Ohio-1869.]
IN THE COURT OF CLAIMS OF OHIO

ROBERT HEFFERN :
Plaintiff : CASE NO. 98-02988
v. : JUDGMENT ENTRY
UNIVERSITY OF CINCINNATI : Judge J. Warren Bettis
HOSPITAL :
Defendant :

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On March 29, 2001, the Tenth District Court of Appeals issued an opinion and judgment entry in the above captioned-case. See *Robert Heffern, et. al. v. University of Cincinnati* (March 29, 2001), Franklin App. No. 00AP-1060, unreported. The Court reversed the judgment of this court and remanded the case with the following instructions: "We therefore remand this matter for determination of whether UC Hospital breached its duty to refrain from wantonly or willfully causing injury to the plaintiffs and for further proceedings consistent with this decision." *Id.* at 13.

Willful conduct implies intent, purpose, or design on the part of the owner or occupier to injure a licensee. *Gladon v. Regional Transit Auth.* (1996), 75 Ohio St.3d 312, 319. Based upon the facts previously found by this court in its prior decision, the court concludes that there is simply no credible or persuasive evidence that defendant had any intent, purpose or design to harm plaintiff.

Wanton conduct involves the failure by an owner or occupier to exercise any care whatsoever toward those to whom a duty of care is owed, under circumstances in which there is a great

probability of harm. *Gladon, supra*. As was discussed in detail in the prior decision of this court, defendant had a security policy designed to prevent unauthorized entry into restricted portions of the hospital. The fact that some of defendant's employees did not faithfully adhere to the policy does not imply wantonness on the part of defendant. Such conduct constitutes negligence but not wantonness.

In short, the court finds that defendant did not breach its duty to refrain from wantonly or willfully causing injury to plaintiff. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. WARREN BETTIS
Judge

Entry cc:

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