

### 1. Case against Osaka Gaigo Senmon Gakko

The defendant (Osaka Gaigo Senmon Gakko) failed to perform its legal obligation to enroll the plaintiff (Roy Sharon) in Shakai Hoken. So, the amount of pension for the plaintiff was decreased.

The plaintiff sued the defendant seeking compensation for this damage.

Read more on the case.

<http://bit.ly/SuingOsakaGaigo>

### 2. Member's Argument

Plaintiff's argument	Defendant's response
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#### (i) Whether or not the defendant had the legal obligation to enroll the plaintiff in Shakai hoken when hiring

The defendant had the legal obligation to enroll employees in Shakai hoken.	
The obligation is to both Shigaku Kyosai and individual workers.	The obligation is only to Shigaku Kyosai. The violation does not make the defendant liable for the plaintiff's loss.
The defendant said the plaintiff was not eligible.	The defendant states they explained to the plaintiff that he was eligible.
It does not matter whether an employee wants it.	The plaintiff said he did not want it.

#### (ii) The amount of damage

Lost pension =13.5million yen	
Annual amount = The annual pension the plaintiff should be entitled to subtract the annual amount he is receiving now.	
Multiplied by 15yrs (65yo to 80; Life expectancy)	The life expectancy should be 76 yo because the plaintiff is a white American.
1 million yen for mental damage	No need to pay.
1.2 million for legal fees	No need to pay.

#### (iii) The issue of extinctive prescription of claims and statute of limitation

The damage clock started when the plaintiff began receiving his pension on March, 2016.	Even though the defendant believes there was no legal obligation, under the state of limitations, any claim is void 3 years after the plaintiff was enrolled in Shakai hoken (March, 2000). <i>Union note : The union won enrollment for union members through negotiation.</i>
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### 3. Osaka Gaigo's Argument

Plaintiff's response	Defendant's argument
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#### (i) Propriety of profit-loss offset

The judicial doctrine of profit-loss offset is applied only when both the profit and loss are from the same cause. The plaintiff's portion of pension premium can be deducted, but health insurance premiums should not be.	The plaintiff's portion of premiums (pension + health insurance) should be deducted based on the judicial doctrine of profit-loss offset.
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#### (ii) Propriety of comparative negligence

The defendant had the legal obligation to enroll the plaintiff in Shakai hoken. However, the defendant told the plaintiff that he was not eligible for Shakai hoken and the plaintiff could not be enrolled. There is no fault of the plaintiff and the comparative negligence cannot be applied. In fact, the plaintiff has a statement of evidence of the hiring manager who conducted the original interview. Shakai hoken was not offered nor explained to the plaintiff or any other foreigners.	The plaintiff expressed that he did not want to be enrolled in Shakai hoken after receiving the explanation of Shakai hoken from the defendant. It is the fault of the plaintiff. Therefore, the comparative negligence should be applied and the amount of damage should be deducted.
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