

Stetson College of Law
33rd Annual National Conference on Law Higher Education



SUMMONED!
2012 LITIGATION UPDATE

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Consumer Fraud Claims Against Law Schools

- Former students sue New York Law School and Thomas M. Cooley Law School for inflation of employment statistics and graduates' salaries.
- Article from *The Chronicle of Higher Education*: August 10, 2011:
 - <http://chronicle.com/article/In-Lawsuits-Graduates-Accuse/128596/>

Sewanee: The University of the South Sued by Student Dismissed for Sexual Assault

Doe v. University of the South

- 2011 WL 1258104
- Student, Doe, dismissed in 2008 for violating sexual assault policy.
- Doe was given one of two options:
 1. One semester suspension with sexual assault on his record.
 2. Withdrawal for two semesters.
- Student withdrew, claiming the accusation was false and damaged his reputation and future career.
- Sewanee was found negligent in disciplinary hearing.
- September 2011: student awarded \$26,500:
 - <http://chronicle.com/article/Jury-Verdict-in-Sex-Assault/128884/>

Washington University: Fined \$82,500 for Clery Act Violation

- Letter from Department of Education to Washington University's president: August 19, 2011
 - <http://chronicle.com/items/biz/pdf/wsu-letter.pdf>

Gaskell v. University of Kentucky Settlement Regarding Religious Discrimination Claim

- C. Martin Gaskell was leading candidate to become director of new observatory.
- Allegedly not hired due to concerns regarding his view that the Bible and evolution can be reconciled.
- The university said Gaskell's views played a role in the decision, but did not admit wrongdoing.
- Settled January 2011: Gaskell received \$125,000:
 - <http://chronicle.com/article/article-content/125991/>

Civil Litigation Against Universities Relating to Criminal Misconduct

1. ***Felber v. University of California Berkley, No. C 11-1012 RS (N.D.Cal.)***
 - a. Religious and national origin discrimination.
 - b. Suit arises out of a student-on-student physical assault stemming from religious activities on campus. Plaintiff is a Jewish activist and was allegedly assaulted by a Palestinian activist during a demonstration. Plaintiff claims violations of Constitutional rights (free speech, free exercise, freedom of assembly), violation of §1983 (deprivation of right to free exercise of religion), negligence, premises liability, Cal. Civ. Code §51, violation of Title VI, and breach of fiduciary duty.
 - c. Motion to dismiss granted without prejudice on December 22, 2011.
 - d. Complaint:
http://www.investigativeproject.org/documents/case_docs/1709.pdf
 - e. Motion to dismiss:
<http://www.cand.uscourts.gov/casesofinterest>

Civil Litigation Against Universities Relating to Criminal Misconduct

2. *Robert Davis and Michael Lang v. Jim Boeheim and Syracuse University* (Supreme Court of the State of New York)

- a. Defamation lawsuit resulting from molestation allegations.
- b. Michael Lang and Robert Davis filed suit against Jim Boeheim and Syracuse University as a result of statements basketball coach Jim Boeheim made to national news organizations. Davis and Lang accused Boeheim of molesting them while they were ball boys with the university's basketball team. Coach Boeheim denied the allegations, and said they were lies and that the accusers were motivated by money. The university is an included defendant because the complaint alleges that Boeheim was acting in the scope of his employment when he made the statements, thus the university should be vicariously liable.
- c. Complaint:
<http://www.scribd.com/doc/75600126/Davis-Lang-Lawsuit-Against-Syracuse-University-Jim-Boeheim>
- d. News story:
http://www.syracuse.com/news/index.ssf/2011/12/live_bernier_fine_accusers_bobb.html

Civil Litigation Against Universities Relating to Criminal Misconduct

3. ***Joseph Jean-Charles v. Douglas Perlitz, Fr. Paul E. Carrier SJ, Hope E. Carter, Haiti Fund, Fairfield University, and the Society of Jesus of New England, Complaint, U.S. District Court of Connecticut, Case 3:11-cv-00614-JCH (April 18, 2011)***
- a. Child molestation.
 - b. Suit alleges that Fairfield University and affiliated religious and charitable organizations failed to stop Douglas Perlitz from sexually abusing at least 21 Haitian boys who lived at the Project Pierre Toussaint home for homeless children. Lawsuits also allege that university administrators attempted to thwart any meaningful investigations, and that they even flew a member of the administration to Haiti to retrieve a laptop so that it would not be investigated by U.S. federal authorities. The laptop was found in Colorado and deemed to have child pornography on it. In 2009, Perlitz was sentenced to 20 years in prison. 20 lawsuits were filed on behalf of 21 students who lived and studied at Project Pierre.
 - c. Depository of legal, case-related documents:
<http://bishopaccountability.org/complaints/Haiti/>
 - d. News story:
<http://abcnews.go.com/US/wireStory/lawsuits-filed-sex-abuse-haitian-boys-15297075#.TxCZVYHVbfl>

Civil Litigation Against Universities Relating to Criminal Misconduct

4. ***Yvette Felarca v. Robert J. Birgeneau*, C11-05719 (N.D.Cal)**
 - a. Arises out of alleged police brutality in response to student protests surrounding Occupy Wall Street.
 - b. Filed complaint lists 24 plaintiffs and 15 defendants named individually. Defendants include various administrators at the University of California Berkeley. Suit arises out of police/protester clashes at the university on November 9, 2011. Suit alleges plaintiffs sought to assemble peacefully to protest various aspects of the university. Plaintiffs allege that the defendants, Chancellor Birgeneau and other university administrators, “conducted a planned, coordinated, and violent attack.” See Complaint ¶ 2.
 - c. Complaint:
https://docs.google.com/viewer?a=v&pid=explorer&chrome=true&srcid=0B9X00xOVIw45YWY4ZTY2OGItZTI5Zi00ZWVjLThjYjctMTdiZTZjMmWI3MWEw&hl=en_US&pli=1
 - d. News story:
<http://www.bamn.com/2011/11/29/bamn-sues-uc-berkeley-police-brutality-occupy-cal-protest/>

Civil Litigation Against Universities Relating to Criminal Misconduct

5. ***Five Howard Women v. Howard University and George Bright-Abu***
 - a. Sexual assault/harassment and potential Title IX claims.
 - b. Filed: December 1, 2011.
 - c. Five women have sued Howard University for failing to respond appropriately to reports of sexual assault and sexual harassment. Plaintiffs allege that library work-study supervisor, George Bright-Abu, sexually assaulted and harassed them and that the university failed to conduct any meaningful investigation.
 - d. Complaint could not be located for this lawsuit.
 - e. News Story:
<http://www.wjla.com/articles/2011/12/5-students-sue-howard-univ-for-failure-to-protect-them-against-sexual-assault-by-employee-69809.html>

Civil Litigation Against Universities Relating to Criminal Misconduct

6. *Gloria Romaniello, Administrator of the Estate of Annie Le v. Yale University, Yale School of Medicine*

- a. Wrongful death resulting from rape/murder.
- b. Suit alleges various counts of negligence arising out of the employment, supervision, and retention of Raymond Clark III, the perpetrator of the attacks on Annie Le.
- c. Complaint:
http://www.scribd.com/doc/64107817/Le-Summons-and-Complaint_Signed-9-6-11
- d. News story:
<http://www.nhregister.com/articles/2011/09/06/news/doc4e660cc064615006654927.txt>
<http://www.yaledailynews.com/news/2011/sep/07/le-suit-alleges-yale-fault/>

Civil Litigation Against Universities Relating to Criminal Misconduct

7. *Clifford v. Regents of University of California*

- a. Hazing/religious discrimination/sexual assault/Title IX.
- b. Suit arises out of alleged hazing and sexual assault.
Ryan Clifford claims that as a gentile joining AEPi (predominantly Jewish fraternity) he was subjected to particularly harsh forms of hazing. He alleges that he reported the hazing to university officials, but the university “failed to meaningfully respond, adequately investigate, or take action against the fraternity.”
See Complaint ¶ 48.
- c. Complaint:
<http://www.courthousenews.com/2011/11/08/HazingUC.pdf>
- d. News story:
<http://www.davisenterprise.com/local-news/crime-fire-courts/grad-sues-ucd-for-failing-to-respond-to-hazing/>

Civil Litigation Against Universities Relating to Criminal Misconduct

8. ***Marie Andre v. Sigma Alpha Epsilon* (Occurred at Cornell, but university is not a defendant.)**
 - a. Wrongful death suit arising from hazing.
 - b. Suit arises from death of George Desdunes, which was caused by acute alcohol poisoning. Desdunes was blindfolded, bound at the wrists and ankles, and forced to drink inordinate amounts of alcohol. Once he passed out, pledges carried him, still bound, to a couch at SAE where he subsequently died.
 - c. Complaint:
<http://www.stargazette.com/assets/pdf/CB176205628.PDF>
 - d. News story:
<http://abcnews.go.com/US/cornell-hazing-victims-family-files-25-million-lawsuit/story?id=13948311>

Civil Litigation Against Universities Relating to Criminal Misconduct

9. ***Dr. Jacqueline U. Johnson, as personal representative of the estate of Dr. Adriel D. Johnson, Sr. v. Dr. Vistasp M. Karbhari, Dr. Amy Bishop, and James Anderson, Circuit Court of Madison County, Alabama (January 14, 2011).***
 - a. Rampage shooting.
 - b. Suit arises out of tragic shootings at the University of Alabama Huntsville on February 12, 2010. Suit alleges that university provost, Dr. Karbhari, failed to follow university safety procedures. He was accused of negligence for failure to protect and negligence for failure to execute assumed duties.
 - c. Johnson complaint:
<http://files.waff.com/johnson.pdf>
 - d. News story:
<http://www.nytimes.com/2011/01/19/us/19bishop.html>
http://blog.al.com/breaking/2011/03/provost_wants_university_of_al.html
<http://www.nytimes.com/2011/01/19/us/19bishop.html>

Civil Litigation Against Universities Relating to Criminal Misconduct

10. ***Sammie Lee Davis, as personal representative of the Estate of Dr. Maria Ragland Davis v. Dr. Vistasp M. Karbhari, Dr. Amy Bishop, and James Anderson, Circuit Court of Madison County, Alabama (January 14, 2011).***
 - a. Arises from same incident in Case #9.
 - b. Davis complaint:
<http://files.waff.com/davis.pdf>
 - c. A third case has been filed by two surviving victims. However, that suit does not make claims against university administrators.

Civil Litigation Against Universities Relating to Criminal Misconduct

11. *Laura Dickinson v. East Michigan University* (Settled before filed.)

- a. Rape/murder and Clery Act violations.
- b. Suit arises from rape/murder of East Michigan University student, Laura Dickinson. On December 15, 2006, she was raped and murdered in her dorm. Perpetrator was sentenced to life in jail. A \$2.5 million settlement between the university and Dickinson family arose from alleged attempts to cover up the murder. The school was also subjected to \$357,000 fine for Clery Act violations.
- c. Settlement agreement:
http://www.emich.edu/univcomm/releases_archived/121307dickinson_agreement.html
- d. Clery Act violation story:
http://www.emich.edu/univcomm/releases_archived/121307dickinson_agreement.html
- e. News story:
<http://www.abcnews.go.com/US/story?id=3296170&page=1>

Civil Litigation Against Universities Relating to Criminal Misconduct

12. *Pamela Champion v. Fabulous Coach Lines*

- a. Hazing/negligence and potential sexual orientation discrimination.
- b. Suit arises out of death of Robert Champion, Jr. As part of hazing rituals at Florida's A&M University, percussionists would hit fellow band members with drumsticks and other instruments.
- c. At this time, the family has not sued the university, but this is presumably because of specific procedures required to sue a public entity in Florida. The family has chosen to sue the bus line so that it may begin discovery in preparation for filing suit against the university.
- d. News Story:
<http://www.usatoday.com/news/nation/story/2012-01-10/famudeath-lawsuit/52478394/1>
- e. Complaint could not be located.

Civil Litigation Against Universities Relating to Criminal Misconduct

13. ***Love v. Morehouse College*, 652 S.E.2d 624 (Ga.App. 2007)**
- a. Assault/sexual orientation discrimination.
 - b. Suit arises from death of Gregory Love who was beaten in the dorm showers with a baseball bat. Love's family filed suit against Morehouse for ordinary and gross negligence, premises liability, NIED, and IIED. The case was dismissed on a 12(B)(6) motion, but the appellate court reversed. Since this hearing, there have been no additional hearings. Thus, the case might have settled.
 - c. News story:
<http://www.chronicle.com/article/Should-Colleges-Be-Sued-for/33813>
 - d. Appellate court opinion: 352 S.E.2d 624 (Ga.App. 2007).

Civil Litigation Against Universities Relating to Criminal Misconduct

14. ***Bloomer v. Becker College*, 2010 WL 3221969 (D. Mass 2010)**
- a. Sexual harassment (quid pro quo and hostile environment) Title IX.
 - b. Suit arises from alleged sexual harassment of Beth Bloomer by Becker College Equestrian Team Coach Edmund Paro. Allegedly, Bloomer reported various instances of sexual harassment to different college individuals to no avail. A motion to dismiss has been held. The court granted the motion as to assault and battery, but denied the motion as to two Title IX claims, two Mass. Gen. laws ch. 151C (the equivalent of Title IX under Massachusetts law), false imprisonment, and negligent retention and supervision.
 - c. News story:
http://www.bostonherald.com/news/regional/view.bg?articleid=1190636&src=next_article

Civil Litigation Against Universities Relating to Criminal Misconduct

15. ***Estate of Levi Butler v. Maharishi University of Management*, 589 F.Supp.2d 1150 (S.D. Iowa 2008).**
- a. Rampage murder – premises liability, fraudulent misrepresentation, negligence.
 - b. Suit arises from death of Levi Butler at Maharishi University of Management (MUM) on March 1, 2004. Perpetrator attacked an individual earlier in the day with a pen, but MUM administrators sent him with a professor to practice transcendental meditation. Perpetrator left during meditation and went to dining hall where he stabbed Butler to death in an unprovoked attack.
 - c. Settlement story:
<http://www.lancasteronline.com/article/local/232346Settlement-expected-in-killing-at-Maharishi-school.html>
 - d. Summary judgment opinion: 589 F.Supp.2d 1150 (S.D. Iowa 2008)
<http://www.guardian.co.uk/world/2004/may/02/usa.theobserver>

Civil Litigation Against Universities Relating to Criminal Misconduct

16. ***Board of Trustees of the University of the District of Columbia v. DiSalvo, 974 A.2d 868 (D.C. 2009)***
- a. Assault.
 - b. Suit arises from stabbing of Graciette DiSalvo by two unknown assailants at university parking garage. At jury trial, plaintiffs won \$400,000. Defendants moved for judgment as a matter of law (JMOL), but were denied. Defendants appealed, and appellate court reversed and remanded for entry of judgment as a matter of law in favor of defendant university.
 - c. News story:
<http://www.higherdmorning.com/student-sues-school-after-brutal-attack>
 - d. Opinion remanding entry of JMOL: 974 A.2d 868 (D.C. 2009)

Civil Litigation Against Universities Relating to Criminal Misconduct

17. ***Cornelius v. Morris Brown College*, 681 S.E.2d 730 (Ga.App.2009)**
- a. Assault, death resulting – wrongful death.
 - b. Suit arises from Hartwill Cornelius’s death in a fight at Morris Brown College. Cornelius was with friends at a campus building when one friend crossed the street for a compact disc. A fight ensued, and Cornelius ran to assist his friend. Cornelius was struck on the head with a beer bottle and died. In consolidated appeal, the appellate court reversed the denial of defendant’s motion for summary judgment.
 - c. News story:
www.higheredmorning.com/parents-sue-after-student-is-killed-in-fight
 - d. Opinion reversing denial of defendant’s motion for summary judgment: 681 S.E.2d 730 (Ga.App.2009)

Civil Litigation Against Universities Relating to Criminal Misconduct

18. *McGrath v. Dominican College of Blauvelt, New York*, 672 F.Supp.2d 477 (S.D.N.Y. 2009)

- a. Rape/suicide – Title IX, §1983, IIED, and fraud.
- b. Suit arises from rape and subsequent suicide of Megan Wright. Suit alleges that Wright was raped, and that she immediately reported the incident, but that Dominican College officials failed to respond appropriately, conduct any meaningful investigation, and attempted to cover up the incident. Defendants filed a motion to dismiss, which the court denied. Since this motion, research reveals no further action in the case. It might have been settled following the denial of the motion to dismiss. The New York Attorney General's office began an investigation against the school, but the claim was ultimately settled for \$20,000.
- c. News story:
www.abcnews.go.com/Nightline/college-campus-assaults-constant-threat/story?id=11410988
- d. Opinion denying motion to dismiss: 672 F.Supp.2d 477

Civil Litigation Against Universities Relating to Criminal Misconduct

19. ***Amanda Andaverde v. University of Idaho, State Bd. Of Education, and Sigma Alpha Epsilon*** (Filed September 22, 2010.)
- a. Alcohol-related injury.
 - b. Suit arises from Amanda Andaverde's fall from a third-story window at the SAE fraternity house. Suit alleges that defendants failed to make the fraternity safe, and that Andaverde was given alcohol at numerous events that evening.
 - c. News stories:
<http://www.krem.com/news/local/129487228.html>
<http://www.klewtv.com/news/local/58594822.html>

Civil Litigation Against Universities Relating to Criminal Misconduct

20. ***Smith v. Wabash College, Delta Tau Delta*** (Filed September 22, 2010.)
- a. Hazing/alcohol poisoning.
 - b. Suit arises from death of Wabash College freshman Johnny Smith. Complaint alleges that the college fosters an environment that encourages hazing, and that the college and the fraternity did nothing to stop such behavior.
 - c. News story:
<http://www.fox59.com/news/xxin-wabash-lawsuit-092210.0.6814436.story>
 - d. Complaint:
<http://media.trb.com/media/acrobat/2010-09/165310240-23063551.pdf>

Civil Litigation Against Universities Relating to Criminal Misconduct

21. *Fiocco v. The College of New Jersey*, New Jersey Superior Court (March 3, 2008)

- a. Murder/mysterious death/alcohol involved.
- b. Suit arises from death of John Fiocco in his dorm at The College of New Jersey. Fiocco was last seen sleeping in a friend's dorm room, however his body was found sometime later at a nearby landfill in Pennsylvania. Suit alleges that Fiocco was murdered, and that the college's negligence regarding safety and security procedures enabled his death. Recently, a judge denied the college's motion to dismiss. Tentative trial date is February 2012.
- c. News story:
http://www.nj.com/mercer/index.ssf/2011/11/judge_rules_fiocco_suit_against.html

ABUSE

- The **Washington South Supervisory Union** and the **Roxbury School District in Vermont** reached a **\$1 million** settlement with a 17-year-old high school junior who claimed that officials did not report suspicions of sexual abuse to the state as required by state law.
 - According to the suit, a principal, teacher, and counselor at Roxbury Village School suspected in 2003 that the boy was being sexually abused, but did not report it for more than a year.
 - The boy's uncle continued to sexually assault him at the ages of 10 and 11 years old.
 - The uncle pleaded guilty in 2006 to two charges of aggravated sexual assault and is in prison.
 - The boy now lives with a foster family.
- **Detroit Public Schools** will pay **\$650,000** to a former superintendent who lost her job shortly after she claimed the school board president repeatedly fondled himself in front of her during private meetings.
 - The school board president was sentenced to two years of probation after he pleaded guilty to a felony charge of misconduct in office.

BULLYING

- The **parents of Phoebe Prince**, a 15-year-old girl who committed suicide in January 2010 after months of bullying at South Hadley High School in Massachusetts, settled a lawsuit with their daughter's school district for **\$225,000**.
 - The settlement was reached in November 2010, but details were only disclosed recently.
 - In July 2010, Prince's parents filed a complaint with the Massachusetts Commission Against Discrimination against the **South Hadley Public School District**.
 - They claimed that the school district did not protect their daughter from bullying, after being informed about the incidents.

DEFAMATION

- The **University of Michigan** and a professor reached a **\$550,000** settlement agreement in a civil lawsuit in which the nontenured faculty member in the Department of Pediatrics accused the school of fraud and defamation.
 - He said a mentor plagiarized his research in grant reports to federal funding agencies, and that he was removed from projects.
 - The school denied the professor's accusations but posted a public apology on its website.

DISCRIMINATION

- The **Easton Area School Board** in Pennsylvania approved a **\$650,000** settlement in a former administrator's discrimination lawsuit against the district.
 - The district's solicitor said \$250,000 will be paid from district funds and insurance policies will cover the rest.
 - The former human resources director said she was fired in 2008 for fighting the district's discriminatory practices.
 - She will receive \$325,000 in general damages, \$103,000 in back pay, and \$222,000 in legal fees.
- **Texas Tech** must pay more than **\$500,000** to a former assistant professor, Collier, after a Lubbock County jury found that the school discriminated against him because he is deaf.
 - The school had dismissed the tenure-track American Sign Language teacher in 2006.
 - He filed a lawsuit in 2008.
 - The jury found that Collier's disability was a motivating factor in the university's decision not to reappoint him, and that it would not have made that decision in the absence of his disability.
 - The jury awarded Collier \$47,651 in back pay, \$100,000 in front pay, and \$400,000 in past compensatory damages.
 - A spokesman said the university encourages diversity and does not discriminate. Collier's lawyer said Collier's supervisor had not mentioned problems with his performance and that he was fired abruptly, which violated university policy.

DISCRIMINATION

- **Woodland Hills School District in Pennsylvania** has agreed to pay **\$465,000** to settle a lawsuit brought by the parents of an elementary school student who is autistic and mentally disabled.
 - The parents claim the district made little attempt to develop an adequate education plan for their 6-year-old son and refused to place him in the Pace School, a private nonprofit school for special-needs children.
- **Savannah State University** paid **\$350,000** to settle a federal discrimination lawsuit with a former football coach who claimed that the historically black college fired him because he's white.
 - The settlement included \$110,000 paid to the former coach's attorneys.
 - The former coach became the university's first white football coach in 2007, and he held the position for two years at a \$90,000 annual salary.
 - He resigned in January 2010 after signing a one-year contract extension, citing personal reasons.
 - Four months later, he filed a lawsuit in U.S. District Court that claimed university administrators told him to resign or face being fired.
 - He said administrators told him that alumni wouldn't support him because of his race, and that Savannah residents wouldn't approve of his engagement to a black woman.

DISCRIMINATION

- **Bethel Park School District in Pennsylvania** paid **\$270,000** to settle an elementary school teacher's claim that the district repeatedly refused to hire her because of her age, according to a settlement document.
 - The terms of the settlement included paying \$189,000 to the 58-year-old teacher and \$81,000 to her attorney.
 - The teacher claimed that she started working for the district as a substitute teacher in 1999, but she had been passed over for several permanent teaching positions since 2002.

HARASSMENT

- **A former secretary at El Camino College** near Torrance, Calif., who accused her boss of sexual harassment, will receive **\$2.5 million** in a settlement with the community college.
 - The secretary said the former dean subjected her to more than two years of sexual harassment and allegedly raped her in his locked office, according to court documents.
 - The school will pay about a third of the settlement, \$833,000, and its insurance company will pay most of the rest – although the dean was ordered to pay \$25,000.
 - The 33-year-old woman said from 2007 to 2009, the 74-year-old dean groped her, demanded sex on his birthday and threatened to fire her or downgrade her performance review if she refused to have sex with him.
 - The dean contended that the relationship was consensual.

HARASSMENT

- The **New Haven Unified School District in California** agreed to pay **\$725,000** to 12 African-American students and their families who claimed the district did not protect them from racial harassment and violence.
 - According to the suit, the school district ignored complaints that a mostly Latino gang was attacking black students on campus.
 - In 2007, one 14-year-old was shot and killed on the steps of Barnard-White Middle School.
 - Three of the plaintiffs accompanied the boy who was slain, and the school district had been warned that students would be attacked that day.
 - Another plaintiff was attacked by a gang member near the high school principal's office in 2009.
 - The district agreed to require high school students and visitors to carry identification on campus, start a high school class on “restorative remedial justice” and gang violence, and train teachers on gang-related issues for two hours each semester.

HIRING AND FIRING

- A major provider of school bus drivers has settled a **\$5.9 million** class action lawsuit for Fair Credit Report Act claims.
 - After legal fees and administrative costs are deducted, employees and job applicants for two of the company's subsidiaries will share \$4.3 million.
 - According to the lawsuit, the subsidiaries obtained unauthorized criminal background checks of drivers and other job applicants.
 - In addition, the companies denied jobs to some applicants without providing a copy of their criminal background report.
- A former **University of South Florida** football coach reached a **\$2.75 million** settlement in a lawsuit he filed against the school after being fired in January 2010.
 - He will receive \$2 million for salary and benefits and \$750,000 for his contributions to building the team, attorneys reported.
 - The university accused him of grabbing a player by the throat and slapping him in the face during halftime of a game and then lying about the incident.
 - The coach had just completed the second season of a seven-year, \$12.6 million contract.
 - The NFL's San Francisco 49ers hired him eight days after the settlement.

HIRING AND FIRING

- **Kansas State University (KSU)** has reached a **\$1.65 million** lump-sum settlement in its lawsuit with a former football coach.
 - The former coach also received a **\$1.2 million** contract buyout.
 - The former coach worked at KSU for three seasons before he was fired in 2008.
 - The university had tried to prevent him from receiving deferred payments of \$3.2 million through an arrangement he had made with a former athletic director before KSU fired him.
 - That deal was unauthorized, according to the university. KSU will pay the settlement from conference and NCAA revenue, not individual donations or ticket revenue, the university said.

NEGLIGENCE

- **The Ohio State University (OSU)** will pay **\$1 million** to settle with the parents of a freshman who was crushed to death in a malfunctioning residence hall elevator in 2006.
 - The student became wedged between the elevator's ceiling and a lobby floor when the elevator fell as he was trying to step out.
 - The Ohio Department of Commerce said the elevator's main brake had failed.
 - Under the agreement, the following third-party defendants will pay settlements to OSU: Otis Elevator Co., \$387,500; Abell Elevator Service Co., \$100,000; Kone Inc., \$50,000; Hanbury Evans Wright Vlattas & Co., \$25,000; and C&N Construction Services Inc., \$50,000.
 - Following the accident, the university reviewed its policies on elevator upgrades, repairs, and emergency calls.
 - OSU now posts safety messages inside all elevators and posts extra messages outside dorm elevators. In addition, the university discusses elevator safety with all students moving into a dorm.
- The **Broward School District in Fort Lauderdale, Fla.**, approved a **\$525,000** settlement for the family of a student who was fatally shot at school by an estranged friend.
 - The girl's parents filed the lawsuit, claiming that school officials ignored warnings that a student was planning to bring a weapon to school.
 - The shooter was convicted of second-degree murder and sentenced to 25 years in prison.

NEGLIGENCE

- The state of **Virginia** will pay **\$250,000** and create a **\$100,000** scholarship fund to settle a \$43 million wrongful death lawsuit brought against Virginia Tech by the family of a student who committed suicide in 2007, according to a court order.
 - The family brought the civil suit in Fairfax County Circuit Court in 2009 to “learn why Tech didn’t follow its protocols” in responding to a warning that the student was suicidal, plaintiff’s attorney wrote.
 - His parents alleged that Tech officials were negligent in responding to an explicit warning that their son had threatened to kill himself.
 - A Blacksburg police officer who conducted a wellness check testified that the student denied being suicidal and that he didn’t appear to be in distress.
 - His case was closed on November 12, 2007, without the recommended visit with counselors.
 - The family’s attorney said the student’s parents were not notified about the complaint or the investigation.

RETALIATION

- A federal jury awarded a former history professor at **Madison Area Technical College (MAT C) in Wisconsin \$1.1 million**, finding that he lost his job for complaining about religious harassment and discrimination.
 - The jury said the dean retaliated against the professor after he complained that two colleagues had made derogatory comments about his religion, Judaism.
 - The award included damages for emotional distress and future career loss. MAT C said the dean, who has since resigned, decided not to renew the professor's contract in 2009 because of his performance and student complaints.
 - A judge was to determine whether the professor, who is unemployed, should be reinstated and recover any lost wages or employment benefits.
- A former principal at **Charles E. Brimm Medical Arts High School in Camden, N.J.**, who accused his superiors of pressuring him to alter test scores, will receive **\$860,000** to settle a lawsuit he filed after his dismissal.
 - School officials said he was fired in 2006 for poor job performance, but he claimed it was retaliation for exposing an order to tamper with proficiency assessment test grades.

RETALIATION

- A **Washtenaw County, Mich.**, jury awarded approximately **\$418,000**, including lost wages and damages, to a former Ave Maria College administrator who sued the school for firing her in retaliation for cooperating with a federal investigation that found financial aid violations.
 - The jury found that the college violated a state law designed to protect employees who reveal wrongdoing in the workplace.
 - The award could grow to more than \$500,000 with interest and attorney fees. The director of financial aid filed her whistleblower lawsuit in 2004 when the college eliminated her position, shortly after the U.S. Department of Education fined the college and ordered it to repay almost \$250,000 for improperly issued aid.
 - The college said letting her go wasn't retribution, but was based on plans to phase out the Ann Arbor Township campus and reopen the school as Ave Maria University near Naples, Fla.

WHISTLEBLOWER

- **Point Park University in Pittsburgh** agreed to pay **\$1.4 million** to settle a lawsuit claiming it systematically excluded commuter and part-time students from receiving federal student aid grants.
 - The university's former senior director of student financial services sued the university in 2010 on behalf of the federal government, claiming the school submitted false claims to the Department of Education to receive federal dollars.
 - The former director also sued the university for firing her after she reported the practices.
 - The settlement in that case is confidential, her attorney said.
- The **Brownsville (Texas) Independent School District** settled a former administrator's whistleblower lawsuit for **\$300,000**.
 - The administrator filed a whistleblower lawsuit in 2010, claiming the district fired him in retaliation for disclosures he made about mismanagement and fraud in the special education department.
 - The district later rehired the administrator at a level similar to his previous position.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **Verizon Communications** to pay **\$20 million** to resolve a nationwide class disability discrimination lawsuit filed by the EEOC.
 - The suit charged that the company unlawfully denied reasonable accommodations to hundreds of employees and disciplined and/or fired them pursuant to Verizon’s “no fault” attendance plans.
 - The consent decree represents the largest disability discrimination settlement in a single lawsuit in EEOC history.
- **Telemarketer International Profit Associates (IPA)** to pay **\$8 million** in a sexual harassment case involving 82 female employees.
 - The average of all payments per victim will be approximately \$100,000, according to the EEOC.
 - The case claimed that IPA had a pattern of sexually harassing female workers through sexual assaults and propositions, inappropriate touching, and crude sexual comments.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **New United Motors & Manufacturing, Inc. (NUMMI)**, California's last auto plant, to pay \$6 million to settle a class settlement resolving complaints that the company violated the Americans with Disabilities Act when it denied severance benefits to employees on medical leave.
 - According to the EEOC, when the Fremont facility closed, employees received a severance package based on their service during the last six months of NUMMI's operation as well as their tenure.
- **Supervalu Inc., American Drug Stores LLC, and Jewel Food Stores Inc.** (collectively referred to as "Jewel-Osco") to pay \$3.2 million in a disability discrimination lawsuit.
 - According to the EEOC, Jewel-Osco had a policy and practice of terminating employees with disabilities at the end of medical leaves of absence.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **Blockbuster Inc.** to pay **\$2 million** consent judgment to settle an employment discrimination lawsuit in which the EEOC charged the Dallas-based global entertainment retailer with subjecting female temporary employees to sexual harassment, retaliating against them for resisting sexual advances and complaining, and subjecting Hispanic temporary employees to national origin and race harassment and other discrimination.
- **U.S. Security Associates Inc.**, a national security guard service based in Atlanta, to pay \$1.95 million to settle a sexual harassment lawsuit.
 - The EEOC claimed that a district manager sexually harassed several female employees by subjecting them to unwelcomed sexual demands, demeaning gestures, inappropriate touching, and other sexually offensive conduct.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **Mid-American Specialties**, distributor of promotional products and office supplies, to pay **\$1.5 million** in a sexual harassment and retaliation verdict.
 - The EEOC charged Mid-American with subjecting three former female employees to sexual harassment, and with retaliating against two of the women for reporting the harassment.
- Nationwide restaurant chain **Denny's Inc.** to pay \$1.3 million to settle a disability discrimination lawsuit in which the EEOC charged that Denny's refused to provide one of its restaurant managers in Baltimore with legally required reasonable accommodations for her disability, a leg amputation.
 - The company prohibited her from working in its restaurants because of her disability, despite her desire to return to work, the EEOC said, and then fired her because of her disability.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- In a sexual harassment lawsuit verdict against **Paul's Big M** grocery store in Oswego, N.Y., the store is to pay \$1.3 million.
 - The EEOC charged that a class of female employees, many of whom were in high school, was subjected to a sexually hostile work environment by the store's general manager for more than 10 years.
- **Cavalier Telephone Company Inc.** to pay **\$1 million** to settle an age discrimination lawsuit in which the EEOC claims that from around May 2003 forward, the company's mid-Atlantic region had a practice of not hiring applicants age 40 or older for sales account executive positions.
 - The EEOC charged that Cavalier indicated verbally and in writing that the company was looking for candidates who were "recent college graduates," and in their "early 20s or 30s."

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **\$900,000** agreement with **M. Slavin & Sons Ltd.**, doing business as **M. Slavin & Sons Fish**, a retail and wholesale fish market, to settle an employment discrimination suit in which the EEOC charged that the company created a hostile work environment for more than 30 black and African male loaders and drivers.
- **AutoZone Inc.** to pay **\$600,000** for failing to provide a reasonable accommodation to a disabled sales manager, according to the EEOC.
 - The presiding judge was to decide an additional claim for \$115,000 in back pay at a later date.
 - The EEOC charged AutoZone with requiring a sales manager to perform certain cleaning tasks, including mopping floors, which violated his medical restrictions.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- **Garfield Medical Center**, an acute-care facility in Monterey Park, Calif., to pay \$530,000 to settle a lawsuit alleging the sexual harassment of its staff. The EEOC claimed that several of the female targets were either retaliated against or compelled to quit after hospital management ignored their complaints.

Beverly Ledbetter



Beverly E. Ledbetter
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Beverly E. Ledbetter is vice president and general counsel for Brown University. Previously, she was legal counsel for the University of Oklahoma, and an adjunct professor at the University of Oklahoma College of Law and at the Center for Higher Education, College of Education. Ledbetter is on the faculty of the Management Development Program at Harvard University, and has been an adjunct professor at Harvard. She received a B.S. from Howard University and a J.D. from the University of Colorado. Ledbetter lectures frequently on higher education issues, including employment, civil rights, sexual and racial harassment, and federal regulatory compliance, and is regarded as an expert in the field of higher education law.

Beverly Ledbetter

A past-president of the National Association of College & University Attorneys, and a former member of the NCAA Infractions Committee, Ledbetter is a member of the International Advisory Board of the Center for Excellence in Higher Education Law and Policy of Stetson University College Law. She is a faculty member of the HERS Programs at Wellesley and Bryn Mawr, the WACUBO Business Management Institute at the University of California, Santa Barbara, and the College of Business Management Institute at the University of Kentucky. Ledbetter is a former member of the Review Group of The Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, of the U.S. Department of Education. She also has served as chairman of the Rhode Island Rhodes Scholarship Selection Committee.

Awards that Ledbetter has received include an honorary degree of Doctor of Laws from Roger Williams University School of Law, the Order of the COIF award from the University of Colorado Law School, the Minority Counsel Award from the American Bar Association, the Distinguished Service Award from the National Association of College and University Attorneys, and the Thomas S. Biggs Jr. Award for professional leadership from Stetson University School of Law.

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Mr. Smith has successfully defended trials in state and federal courts involving claims of employment discrimination, disability discrimination, student affairs, academic freedom, breach of contract issues and tort matters. He has also conducted internal investigations and defended clients during regulatory agency and other investigations.

A frequent presenter, Mr. Smith regularly appears at national and regional education and law conferences, and on national webcasts. He also regularly contributes to articles on issues relating to higher education, risk management and trial strategy.