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Clemson University

Lawsuit by fired employee costs Clemson \$853,000 and counting

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CLEMSON — Clemson University has paid at least \$850,000 to defend itself against a lawsuit filed by a former executive secretary to the Board of Trustees, according to the university.

Gene Troutman, the former executive secretary, said he hasn't been able to find work since he was dismissed by Clemson in August 2007.

"It's just about ruined me," Troutman said in an interview. "I am actively seeking employment but have not been successful in those efforts.

"I believe that is a direct result of misstatements and misrepresentations that Clemson University issued publicly about me," he said.

Troutman began working for the board on May 9, 2005, after a 30-year career with Fluor, including performing work in Afghanistan. Fluor is an international engineering firm based in Irving, Texas, with offices in Greenville.

In his lawsuit, filed in January 2008, Troutman says he was fired after he questioned what he called excessive pay increases to administrators and suggested using its large fund balance to lessen tuition increases. In the lawsuit, he alleged that Clemson kept nearly \$80 million in cash while raising tuition and fees.

In-state annual tuition rose from \$3,590 in 2000 to \$9,900 in 2007, according to the lawsuit.

University officials have said the cash was set aside for specific expenditures and plans and said Troutman was a disgruntled former employee. In court filings, the university officials said Troutman did not maintain an effective working relationship with the board and administration and improperly reorganized the school's Internal Auditing Division.

"He reorganized and added to the Internal Auditing Division without authority or approval from the Board of Trustees, despite being instructed by the

chairman of the board ... not to add an additional layer of management between the director of Internal Auditing and the Board of Trustees," according to a Clemson response to the lawsuit.

Clemson had spent \$853,389 on the case as of Nov. 20, according to the university's response to a Freedom of Information Act request by retired Clemson professor John Bednar and a copy of an e-mail Bednar received from Clemson University counsel Clay Steadman. Efforts to reach Steadman and Clemson spokeswoman Cathy Sams to determine if any other money has been spent on the case were not successful.

Tom Bright, an attorney for the Greenville law firm Ogletree Deakins, which represents Clemson in the case, referred the question about legal costs to Clemson officials.

The case is awaiting a ruling by U.S. District Judge Matthew Perry Jr. in Columbia on whether Clemson can be considered an arm of the state with sov-

ereign immunity. The sovereign immunity question was returned to Perry by the U.S. 4th Circuit Court of Appeals in Richmond, Va., after an appeal by Clemson's attorneys on Perry's decision to allow Troutman's lawsuit to go forward and not dismiss it.

Perry's ruling will likely return to the appeals court for the court to complete its decision, Bright said.

"Nothing's been done for nine months," Bright said. "Nothing can really move forward until Judge Perry issues a decision."

Troutman's attorney, Joel Collins of Columbia, also sent a letter in September to 13th Judicial Circuit Solicitor Bob Ariail and magistrates asking them not to issue arrest warrants that a Clemson official intimidated in an Oct. 24, 2008, letter could be sought because Troutman had not returned boxes of files and computer files, violating a state law. Troutman said he returned the files in April, but said whether Clemson would pursue any criminal complaint is still open.

Troutman said that publicity also hurt his chances for employment because it appeared he had taken university property when actually the materials were his personal files. He said other former employees had removed their personal files when leaving the university. Steadman watched as he removed the files, Troutman said in court filings.

Bright said his understanding was that Ariail had turned the matter over to SLED.

"We don't have anything to do with it," Bright said when asked about pursuing a criminal investigation. "We'd been trying to get the records back for some time."

He said that decision was up to the agency that would prosecute it, the solicitor's office.

Collins said he hasn't heard back from Ariail and "I have not heard a word from SLED."

Troutman said he believes Clemson is using the file issue "to intimidate us." A message left with SLED was not returned.

While the case remains unresolved, Troutman said, he continues to look for work. The lawsuit has been "very expensive."

"This has been devastating," he said, but added that he plans to continue the lawsuit.

"I wish to be reinstated and have my name cleared," Troutman said. "From the

outset they have called me a disgruntled employee. I was a dissenting employee ... and dissent should be encouraged in a community of higher learning."

He said an earlier settlement proposal of \$450,000 was rejected by Clemson.

Named in the lawsuit are several Clemson trustees, President James Barker, Provost Doris Helms and Steadman. Troutman is seeking actual and punitive damages, plus back pay.

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