

## LOCAL NEWS

# Judge asked to decide Clemson suit

## University, Troutman both find reasons to be pleased in court ruling

By Tim Smith  
CAPITAL BUREAU  
tcsmith@greenvillenews.com

COLUMBIA — Both sides declared victory Friday after a federal appeals court dismissed part of an appeal by Clemson University and asked a judge to decide the rest of it in a lawsuit brought by a former executive secretary for the trustees.

Clemson's lawyers had argued that former board secretary Eugene Troutman couldn't sue the school under the section of federal law being used in the case because the school isn't a "person" but

an arm of the state and is immune from such lawsuits.

Troutman's lawyers had argued that the Legislature had created Clemson technically as a municipality, and therefore it could be sued.

U.S. Senior District Judge Matthew Perry ruled against Clemson's request in September.

The 4th U.S. Circuit Court of Appeals in Richmond, Va., now has ruled that it lacked jurisdiction to overturn Perry on the "person" issue and that it didn't appear that Perry ruled on the sovereign immunity is-

sue. It asked that issue be heard again and decided by Perry.

Troutman's lawsuit alleges he lost his job, in part, after he spoke out about "excessive" salary increases given to some university administrators. Troutman also alleged in his suit that increases in tuition and fees at Clemson weren't justified by cuts in state appropriations, and that trustees "hoarded" cash from tuition increases to build an unrestricted \$80 million fund.

The trustees and school officials have denied any wrongdoing. They said in court filings that Troutman improperly circumvented the trustees' policy manual by reorganizing the Inter-

nal Auditing Division, and he failed to establish and maintain effective working relationships with members of the board, faculty representatives and the administration.

"We're glad to see them rule to dismiss the appeal," said Joel Collins, Troutman's lead lawyer. "We are going to study the transcript carefully because it was our impression that the judge had ruled on the sovereign immunity defense."

Clemson issued a statement saying it was pleased with the appellate order. "The Court agreed with our basic position that the issue of Clemson's status as an agency of the state of South Carolina needs to be

decided," Clemson said in its statement.

"We are confident that ultimately the courts will determine what the General Assembly and the rest of the citizens of South Carolina already know, which is that Clemson University is in fact an agency of the State of South Carolina."

Collins said it is possible Troutman will ask the appeals court to reconsider its decision if a review of the transcript shows Perry ruled on the issue.

Thomas Bright, one of the lawyers representing Clemson, argued in a September hearing before Perry that while lawmakers labeled the school a municipality, it doesn't levy or collect taxes, elect

a mayor or operate under a municipal form of government.

On the other hand, he argued, Clemson is largely controlled by the state, which dictates when it can raise tuition, how it spends its money and covers its employees with retirement and insurance plans.

Collins, holding a copy of Thomas Green Clemson's will during the hearing, described the requirements that he said make the school autonomous from the state. He said the school's trustees "are proud of their autonomy."

Perry said then he denied Clemson's motion because he said the Legislature had made Clemson a municipality.