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## Clemson loses bid to toss suit

Appeals court asks judge to look at immunity issue in Troutman case

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A federal appeals court has denied Clemson University's request for a new hearing in a lawsuit brought against the school by a former executive secretary for the board.

According to an order filed in the case, the U.S. 4th Circuit Court of Appeals denied Clemson's request for a rehearing on the issue of whether the school is an arm of the state of South Carolina.

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 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 appeals court ruled that it lacked jurisdiction to

overturn Perry on the "person" issue and it didn't appear Perry ruled on the sovereign immunity issue. It asked that the issue be heard again and decided by Perry.

In the appellants' petition for a rehearing, Clemson's attorneys argued it was necessary "to ensure appropriate federal deference to state sovereignty and prevent this court from creating a novel distinction between parallel immunity" claims.

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 Troutman improperly circumvented the trustees' policy manual by reorganizing the Internal Auditing Division and that he failed to establish and maintain effective working relationships with members of the board, faculty representatives and administration.

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