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LOCAL NEWS

Clemson argues lawsuit immunity

Lawyers: Evidence disc shredded

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COLUMBIA – Clemson University's lawyers told a federal judge Tuesday that a lawsuit brought by a former board secretary should be dismissed because the school is an arm of the state and thus immune from such litigation.

But Joel Collins, a lawyer representing former board secretary Eugene Troutman, called Clemson's argument an "insult," saying the school is a municipal corporation and has argued in another court case 10 years ago that it was independent of the state.

"For Clemson to come in here and argue they are not a municipality and a mere arm of the state is an insult," Collins said.

U.S. Senior District Judge Mathew Perry made no ruling Tuesday, instead asking each side to

submit further written materials within 20 days, after which he said he will rule.

Tuesday's three-hour hearing also included a motion to sanction Troutman and his lawyers for what was called their failure to return documents Troutman took with him after he was fired.

Troutman's lawyers agreed to turn over all documents they still have by the end of Wednesday.

They also disclosed they had shredded a computer disk sought by Clemson but said a copy of the material had been included on another disk already turned over to the school's lawyers.

Clemson's lawyers told Perry they had not given up on the sanctions idea and would also file a motion about the destruction of the disk.

Perry, who raised his voice at both sides in exasperation during the discus-

sion over documents, said he had "no appetite" for Clemson's sanctions proposal, though he agreed to hear the motion at a later time.

Tuesday's hearing came two months after the 4th U.S. Circuit Court of Appeals refused to side with Clemson in its appeal of Perry's decision last year not to dismiss the suit.

The appeals court returned Clemson's motion on immunity to Perry to decide.

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

Five current trustees, including former U.S. Ambassador David Wilkins of Greenville, attended Tuesday's hearing.

Clemson argued that it is immune from being sued under a federal law that shields states and state agencies from lawsuits by citizens.

Thomas Bright, one of Clemson's lawyers, told Perry that under a four-prong test used to determine if entities are considered an arm of the state, Clemson cannot be considered an independent school.