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EXCLUSIVE

Clemson lawsuit allowed to proceed

University says counterclaim over missing computer files likely

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COLUMBIA — U.S. Senior District Judge Matthew Perry on Tuesday turned down Clemson University's request to dismiss a lawsuit's claims of monetary damages brought by a former executive secretary to the school's board, arguing that because lawmakers had long ago designated

the school as a municipality, it could be sued.

Lawyers for Clemson told Perry they want to appeal his ruling, contending the decision could have significant ramifications for the school. And they announced that they are investigating the disappearance of 18,000 files from a computer laptop that once was assigned to former board secretary Eugene Troutman and expect to file a counterclaim against Troutman under a federal computer fraud and abuse law.

Joel Collins, Troutman's

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lead attorney in the case, said his client has copied all the files that were on the computer onto a disk and will provide it to Clemson. He said Troutman wiped the information off the laptop before returning it last year as a precaution against having someone access personal information that might have been on the computer.

The drama unfolded during a nearly four-hour hearing in U.S. District Court as Perry sorted through five motions by Clemson's lawyers.

Troutman has claimed he was fired from his job last year in retaliation for his accusations of fiscal mismanagement.

The lawsuit by Troutman, who also was assistant to Clemson's president, 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 he failed to establish and maintain effective working relationships with members of the board, faculty representatives and administration.

Perry in March denied motions by Clemson to move the trial and to dismiss the case. Clemson's lawyers tried again Tuesday, arguing that the school is an arm of the state and therefore cannot be sued for monetary damages under the federal statute at issue in the case.

However, Perry noted that the Legislature, after creating the university, designated it as a municipality so it could be provided police and fire protection. Municipalities, under the federal statute, can be sued under a U.S. Supreme Court decision, Perry said.

Thomas Bright, a lawyer representing Clemson, argued 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. He also said 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, described the requirements that he said make the school autonomous from the state. He said the school's trustees "are

proud of their autonomy."

When Bright said they wanted to appeal his ruling to the 4th U.S. Circuit Court of Appeals, Collins accused Clemson of trying to delay the trial. Perry asked both sides to submit briefs and said he would rule later whether Clemson could appeal his ruling.

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