

Jury rules for teacher in whistleblower case

Counsel: District retaliated after attack by student was reported to police

By: Michigan Lawyers Weekly Staff in Verdicts & Settlements April 27, 2018

Plaintiff Pennie Davis worked as the art teacher (curriculum chair) at Jackson High School since 1986. She was an excellent performer. Her personnel record was pristine. She was rated Highly Effective/Effective for 29 years by JPS administrators. She was also the appointed chair of the Art Department, a prestigious role that not only came with a stipend but permitted plaintiff to shape the department curriculum.

In fall of 2015, Davis had a student in her class who was exhibiting signs of defiant and aggressive behavior. Davis followed JPS protocol by making entries into this student’s disciplinary log each time he violated the JPS student code of conduct. Plaintiff also followed JPS protocol and made 21 contacts to administrators, parents, counselors and even the football coach. None of her efforts to have the administration address this student’s behavior were successful, according to plaintiff’s counsel.

On Oct. 12, 2015, the student came into the classroom and was agitated. He threatened to “beat the teacher” in a low voice but loud enough for plaintiff to hear. He became angry when plaintiff ordered him to leave the classroom and he swung a closed fist at plaintiff’s hand. The contact caused plaintiff to suffer swelling and a contusion, an injury corroborated by two clinics, plaintiff’s counsel stated. Plaintiff notified several administrators of the assault and her intent to report it to police. Plaintiff reported to the Jackson Police Department. Police suggested that she obtain a PPO, which she did.

JPS engaged in a series of retaliatory acts against the plaintiff as a result of the police report/PPO, according to plaintiff’s counsel. School administrators angrily confronted plaintiff, even accusing her of going home and hitting her hand with a hammer, plaintiff’s counsel stated. JPS administration put plaintiff on an indefinite administrative leave — which lasted two weeks. She returned to work with a PPO in place. However, JPS permitted this student to wander the halls of the high school unattended and he was not assigned to a replacement class, plaintiff’s counsel stated. He loitered outside of plaintiff’s classroom unsupervised and he took this opportunity to pound his fists on plaintiff’s classroom door, according to plaintiff’s counsel. Plaintiff alerted JPS administrators to student’s non-compliance.

Principal worked with plaintiff to address her concerns and they resolved on a mutually agreeable plan. Despite the fact that a specific plan was in place and things were going well, the JPS administration (superintendent and assistant superintendent) transferred plaintiff to the middle school. During the transfer meeting, the assistant superintendent explained the reason for the move, stating “We do not go to the police here,” according to plaintiff’s counsel.

The school initially denied plaintiff any training in the middle school curriculum (International Baccalaureate) which was wholly different than the high school curriculum. Within 32 days at the new location, JPS labeled plaintiff a “failing teacher” and placed her on an Individual Development Plan. The principal of the middle school informed plaintiff that he “knew what happened at the high school” and that “things would not end well,” according to plaintiff’s counsel. At the end of the school year, plaintiff was rated “Ineffective,” the lowest rating she had ever received in her career.

As a result of the filing of the lawsuit, plaintiff was able to secure a transfer back to the high school but the retaliation continued with plaintiff having to file grievances for being assigned to an unsafe classroom and for being denied basic materials needed to teach her art class, such as paper, plaintiff’s counsel stated.

Settlement was hampered by the school district’s demand that plaintiff leave the district as a condition of settlement. Plaintiff refused to leave her students. In addition, the unwarranted low ratings she received after she

engaged in protected activity would surely make finding replacement employment impossible, according to plaintiff's counsel.

Very few economic damages were present in this case. Her emotional distress was supported by a treating psychologist.

Megan Bonanni, counsel for plaintiff, provided case information.

Type of action: Whistleblower

Injuries alleged: Economic/non-economic

Name of case: Davis v. Jackson Public Schools

Court/Case no./Date: Jackson County Circuit Court/16-344-CZ/March 7, 2018

Tried before: Jury

Name of judge: Hon. John G. McBain

Name of mediator: Kathy Bogas

Highest offer: \$35,000 offer of judgment

Verdict amount: \$388,485 (Attorney fees and costs are TBD)

Most helpful expert: Dr. Mitchell Weisbrod (treater)

Attorneys for plaintiff: Megan Bonanni (lead counsel), Channing Robinson-Holmes (second chair)

Attorneys for defendant: Timothy Mullins, John Miller

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HON. JOHN G. MCBAIN

JACKSON COUNTY CIRCUIT COURT

WHISTLEBLOWER

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