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Kennesaw State Is 1-1 in Two Bias Suits

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Kennesaw State University, which earlier this year won a discrimination case, was on the losing end of a case that went to a jury in August.

This time the university was ordered to pay \$1.06 million to a former associate music professor who alleged she was passed over for a promotion in favor of a less qualified man.

The federal jury awarded former associate professor Hillary Hight Daw \$760,000 in back pay and \$300,000 in damages for emotional distress, according to court records. *Daw v. Kennesaw State*, No. 1:01CV1744 (N.D. Ga. Aug. 24, 2004).

The jury determined that Daw's sex was a "substantial" factor in KSU's decision not to promote her to acting chair of the music department, according to court records.

The Georgia attorney general's office defended KSU. AG spokesman Russell D. Willard said that no decision has been made about whether to ask for a new trial, to seek to reduce or set aside the verdict, or to appeal.

Flora Devine, KSU's assistant to the president for legal affairs, was out of the office and could not be reached for comment. Devine's staff referred questions to the state attorney general.

Daw's attorney, Daniel M. Klein of Atlanta's Buckley & Klein, said that Daw sued KSU for sex discrimination and retaliation because her salary "was consistently below the men in her



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Edward D. Buckley, left, and Daniel M. Klein, right, represented Hillary Hight Daw in her discrimination suit.

Professor Wins Million-Dollar Verdict Over Kennesaw State

department” and had been “for some time.”

When Daw began complaining, her attorney continued, she was on track to become acting chair of KSU’s music department and hoped eventually to win a permanent appointment as the department’s chairwoman.

“Her career, we alleged, was essentially shut down once she raised the question of how she was being treated compared to men,” Klein said.

For years, Daw had performed many of the music department’s administrative duties, Klein said. But when the department’s chairmanship opened, and university officials appointed an acting department chair, they passed over Daw in favor of “a very inexperienced, far junior professor who had only been teaching at the professor level for one year,” Klein said. “He had very, very critical student evaluations as well.”

But in court filings, Joseph D. Meeks, dean of KSU’s College of the Arts, stated that any discrepancies between Daw’s salary and those of three men who made more money than she did in the 1999-2000 academic year were based on reasons other than Daw’s sex.

KSU had paid one of Daw’s colleagues \$10,000 more when he was hired because he had a doctorate and 20 years of teaching experience while Daw had no doctorate and had never taught full time, according to Meeks.

Over a five-year period, Daw received greater annual increases than that associate professor as a result of her job performance, and the wage gap between them closed, Meeks stated in court documents.

A second male associate professor actually was hired at a lower salary than Daw, according to Meeks. That associate professor’s salary exceeded Daw’s only

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—Daniel M. Klein, the plaintiff’s attorney

after he and his wife received job offers elsewhere and KSU made a bid to retain his services, Meeks said.

The dean also stated that the appointment of the music department’s acting chair was not based on sex. The new acting chair, he added, was appointed at the dean’s discretion because he was a “very energetic, skilled person at taking on administrative tasks and seeing them through successfully.”

‘Investigating Themselves’

When Daw complained about the appointment, Klein said, her supervisors instituted an investigation.

“The university claimed to have investigated Hillary’s original concerns about pay discrimination thoroughly and claimed to have found them to be completely without merit,” Klein said. “The problem was the people who did the investigation were the people responsible for the pay decisions. They were investigating themselves.”

After that investigation, Klein claimed that Daw’s supervisors retaliated against her by removing her husband from his position as chairman of the theater department. Daw’s husband has since been hired as dean of an arts school in New York.

Daw also was stripped of her administrative responsibilities, Klein said. And while she was recovering from a heart attack, a “secret supplement” was placed in her personnel file saying that three of her music students had asked to be

reassigned to other instructors, the lawyer said.

After Daw’s husband accepted the New York teaching post, Daw resigned from KSU, according to Klein. “She could not bear to walk into work without her husband there for support,” Klein said. Daw now lives in New York with her husband.

Accusations of Anti-Semitism

Daw’s suit is not the first filed against KSU by an instructor alleging discrimination. Two other professors have sued KSU claiming that they were discriminated against because they are Jewish (Daily Report, Oct. 3, 2001).

In 2001, Paul D. Lapidès, a KSU assistant professor of business and a co-founder of KSU’s Corporate Governance Center, sued the college claiming that a student’s false allegations against him and the resulting investigation were driven by anti-Semitism.

As a result, Lapidès claimed in his suit, he was denied a promotion, reassigned to a nonteaching post, and a sexual harassment complaint was fabricated against him. *Lapidès v. Board of Regents*, No. 1:01CV2554 (N.D. Ga., March 24, 2004).

In March, U.S. District Judge Thomas W. Thrash Jr. handed down a summary judgment in favor of KSU, stating in his order that Lapidès “contends the university has made his life miserable, and it is clear that he has done his best to make life miserable for some of the faculty and administrators at the university.” Lapidès has appealed the ruling.

Lapidès filed his suit after another Jewish KSU professor sued the school, claiming she was removed as a department chair after complaining that her staff was discriminating against her. After a jury trial that reached a verdict favoring the professor, KSU settled the case for \$750,000.