

House settles sexual harassment lawsuit - Ex-secretary says top staffers punished her

Concord Monitor (NH) - January 17, 2005

- Author/Byline: LISA WANGSNESS; Monitor staff
- Section: Front Page
- Page: a01
- Readability: 11-12 grade level (Lexile: 1300)

The New Hampshire House has quietly settled a precedent-setting sexual harassment lawsuit it lost at trial almost a year ago.

Under an agreement reached in mid-November and signed on Dec. 1, the House agreed to pay \$85,000 to a former committee secretary, Dorothy Pike, who claimed that a lawmaker sexually harassed her in 2001 and that top House staff retaliated against her when she complained.

Pike was the first legislative aide in New Hampshire history to publicly accuse either a lawmaker or a legislative body of sexual harassment. After a highly publicized trial in Merrimack County Superior Court last February, the jury sided with Pike on every claim.

Jurors awarded her \$175,000 in damages and almost \$13,000 in back pay, ordering the House to pay 55 percent and the former representative, Ron "Tony" Giordano of Salem, 45 percent of the damages.

Then-House Speaker Gene Chandler vowed to appeal the case. Instead, while post-trial motions were pending, the parties entered into settlement talks.

"We thought the settlement was the best way to conserve the state's resources," said Betsy Miller, the House counsel at the time.

The settlement handed Pike about 78 percent of what the jury ordered the House to pay her. Under the agreement, \$28,334 of the total went to Tom Closson, Pike's attorney, for legal fees. The money will come from the state's litigation fund, where money is set aside to pay legal claims against state agencies.

"The agreement speaks for itself," Closson said. "We're pleased with the result."

The parties reached a verbal agreement in court chambers in mid-November. Nancy Smith, a lawyer with the attorney general's office who handled the case, signed the agreement on Nov. 23. Pike and Closson signed off on Dec. 1, the day after Chandler resigned from the speaker's post amid allegations of ethical improprieties.

The agreement was never discussed publicly, and the new speaker, Doug Scamman, was never told about it.

Chandler, who agreed to the terms of the deal, said last week he never knew that a final written agreement had been signed.

"I was aware that both sides were trying, but I'm not sure how that ended up," he said.

Miller, who is now working as a lobbyist, said she briefed the incoming speaker on pending litigation before she left. She said she not discuss the Pike case with Scamman because it was no longer pending.

Rep. Liz Hager, vice chairwoman of the House Finance Committee and a close ally of Scamman's, criticized Chandler's team for not acknowledging the deal publicly.

"That's not how the House is going to operate in the future," she said. "It's going to be out in the open so people can know about it."

She added that she thought the House should never have gone to trial at all.

"I think they should have apologized and tried to settle in the first place instead of trying to defend themselves," she said.

'A balanced result'

The misbehavior Pike described in her complaint was egregious. She claimed that in the early spring of 2001, when she was working as a part-time, temporary secretary for two House committees, Giordano terrified her. She accused him of forcibly kissing and groping her at work, repeatedly asking her to have sex and making threatening phone calls to her home. Giordano denied the most serious charges, though he admitted to telling off-color jokes and to calling her at home once when he was drunk.

When Pike complained to her boss, Chandler's leadership team met with Giordano, who informally agreed to stay away from Pike. But House officials never investigated the merits of Pike's claims, and they told Giordano that no judgments had been made against him. They assigned a security guard to follow Pike around, which she said embarrassed her. When Pike panicked upon hearing that Giordano

planned to attend a committee meeting one morning, the House chief of staff told her she would "have to cross that bridge sometime."

The case exposed the lack of a sexual harassment policy covering lawmakers - even as it raised questions about the speaker's ability to enforce such a policy. At trial, the House argued that Chandler was powerless to discipline Giordano because Giordano was an elected official - answerable only to the people in his district - not an employee. Only the full House has the power to expel one of its own members, the House contended, and Pike had requested confidentiality, making a public investigation impossible. Pointing out that the informal agreement kept Giordano away from Pike for the duration of her employment, the House argued it had met its obligation to provide a safe working environment.

The jury reached its verdict quickly, but the Supreme Court might have taken a closer look at the complex legal questions arising from the unusual circumstances.

"Those are pretty complicated issues, and it's hard to be on the cutting edge of a case like that," said Eleanor MacLellan, a Concord lawyer with extensive experience handling sexual harassment cases. "If you win, you've established new law, but if you lose, you have diminished any good you hoped you might accomplish."

She called the settlement "a balanced result."

"It takes into account the risks both sides have in going forward, and it also puts an end to the controversy, which both sides want -and they eliminate having to get definitive answers to legal questions," she said.

The agreement does not affect the judgment against Giordano, who did not appeal the case and has not paid Pike any of the money he owes her yet.

"We're trying to explore our options about pursuing the settlement against him," Closson said.

Reached by phone late last week, Giordano said he has been unemployed since the trial ended -the family friend he was working for dismissed him after the verdict, he said - and has no assets to cash in. He said his wife owned the house they live in for 18 years before he married her.

Giordano said that he offered to pay Pike in installments over five or 10 years but that Closson would accept only a lump sum.

"There will be nothing until we can come to some consensus," he said. "If I had it, I would give it to them."

After the trial, Chandler filed legislation establishing a sexual harassment policy covering lawmakers. The policy, which was signed into law a few months later, puts the House Ethics Committee in charge of investigating and disposing of sexual harassment claims against lawmakers.

The Pike case also inspired Chandler's team to hold sexual harassment training sessions for lawmakers in 2002 and again last month, during freshman orientation. Though the speaker wrote a letter encouraging members to attend the sessions, many did not.

Scamman said yesterday that he plans to schedule several training sessions later over the next two months so that all staff and all 400 House members can attend.

"I certainly want all of them to come," he said. "I think it should be mandatory."

(Lisa Wangsness can be reached at 224-5301, ext. 306, or by e-mail at lwangsness@cmonitor.com.)

----- End of article

By LISA WANGSNESS

Monitor staff

- *Index terms:* News art; Miller, Hager, House Finance Committee, Pike, Giordano, Closson, Smith, Scamman, Hager, MacLellan; Government-State; Legislative-State; Social Issues
- *Record:* 0c1739d9
- *Copyright:* Copyright (c) 2005 Concord Monitor