

Immunities Applied in University Lawsuit

Troy University (TU) and several of its administrators were recently sued in an Alabama state court. The claims included breach of contract, interference with contract rights, fraudulent inducement to contract, and theft of intellectual property. The case grew out of disputes over a memorandum of agreement between the “Rosa Parks Legacy” and TU relating to TU’s operation of the Rosa Parks Library and Museum on its campus and its use of her name and image. The Plaintiffs, which included the Parks estate and living trust and an Institute that was the successor to the Rosa Parks Legacy, sought damages, compensatory and punitive, and a restraining order barring TU’s use of the Parks name and image.

After the trial court denied the defendants’ motion to dismiss, they petitioned for an order from the Alabama Supreme Court directing the dismissal of the suit. The Supreme Court cited its familiar rule that a public university is considered a part of the State for the purpose of applying the State’s immunity from suit under Section 14, Article I, of the Alabama Constitution. The plaintiffs had advanced the argument that, since the TU Museum is funded with grants, ticket sales, private donations, etc., any judgment against TU could be paid out of non-State funds and would thus not impact the State treasury. The Court rejected the assumption underlying this argument, namely, that the application of the State’s immunity rested upon State funds being at risk in a particular lawsuit, and it held TU was entitled to absolute immunity from any claims.

The Court then turned to consideration of the claims against TU’s vice chancellor, Martindale. The Complaint did not specify whether Martindale was being sued in her official capacity as vice chancellor or in her individual capacity. Since the allegations of the Complaint touched on her role in regard to the memorandum of agreement, the Court assumed the action was brought against her in her official capacity, that is, in regard to actions taken by her as a TU administrator. “Official capacity” suits against State officers are considered suits against their public employers and, the Court reiterated, are similarly barred by sovereign immunity. Finally, the Court indicated that, even if the claims were to be considered as brought against Martindale in her individual capacity, they still could not be maintained. Under the “State-agent immunity” rule of *Ex Parte Cranman*, 792 So.2d 392 (Ala. 2000), a State employee cannot be sued in his/her personal capacity for discretionary actions taken in administering a department or agency, including actions involved in “negotiating contracts.” This was the focus of the Complaint’s charges against her, and she thus could not be sued under an “individual capacity” theory either. *Ex parte Troy University*, No. 1051318 (Ala. Dec. 22, 2006).

Alabama courts continue to recognize that the State’s public universities, such as UAH, may not be sued under any circumstances. Public university employees are protected from “official capacity” claims, and administrators and other employees are also protected, assuming they do not exceed their authority or act in bad faith, against most “personal capacity” claims involving managerial, administrative, or educational judgment or discretion. These immunities offer comfort to University employees, though the preferred course is to utilize wise and preventive decision-making and avoid, to the extent possible, litigation altogether.