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Panel OKs CSU whistleblower award

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A state appeals panel on Wednesday upheld a \$2.48 million jury award given to a former Chicago State University lawyer and administrators after school officials fired him in retaliation for complying with a Freedom of Information Act request and speaking with investigators.

The verdict and appellate court ruling is believed to be the first of its kind under the State Officials and Employees Ethics Act, which was passed into law in 2003 and provides whistleblower protection for state employees who report potential violations or who participate in investigations by public bodies into wrongdoing.

Last February, a Cook County jury awarded [James C. Crowley](#) \$2 million in punitive damages and \$480,000 in back pay after it found CSU fired him in retaliation for fully complying with FOIA requests regarding then-CSU president Wayne Watson.

County Circuit Judge [James P. McCarthy](#) doubled the jury's back pay award, added \$318,173 in attorney fees and tacked on \$60,000 in prejudgment interest against the university pursuant to the provisions of the State Officials and Employees Ethics Act.

But the university appealed the verdict, arguing such punitive damages are not awardable under the statute.

The 1st District Appellate Court held CSU forfeited that argument by failing to properly raise it in the trial court, but it continued in its opinion Wednesday with a stern analysis that the university's "thoroughly reprehensible" conduct should be subject to the jury's reasonable verdict.

"Defendants did whatever they could to protect Watson's reputation, and they did it at Crowley's expense, when he sought only to comply with the public's right to know information about the activities of a state university," Justice [Terrence J. Lavin](#) wrote in the 27-page opinion.

"I think we actually made some law on facts where someone really was retaliated against for trying to be ethical," said [Anthony Pinelli](#), the owner of the Law Offices of Anthony Pinelli who represented Crowley. "If you're going to have a first verdict under the act, this is a good one to show people what you should not do."

The university named Crowley as vice president of auxiliary operations in 2008 and in July 2009 added duties as senior legal counsel that included reviewing contracts and issuing FOIA responses.

CSU hired Watson that same month, and the university began receiving FOIA requests from faculty, media and the State University Retirement System regarding Watson.

SURS requires a 90-day span between jobs to receive a retirement benefit. So Watson — who had retired from his job with Chicago City Colleges on June 30, 2009, and planned to begin working at CSU the very next day — amended his contract to begin that October. But he still moved into CSU's presidential

retaliation against a state employee and the defense of such impropriety than spending those resources to prevent such behavior through a punitive damages award.”

The defendants also argued the punitive damages award was excessive and violated its due process rights. The panel rejected that argument as well, noting they made “virtually no argument” in their appellate briefs that Watson’s actions did not amount to willful and wanton conduct.

“Rather than acknowledge that Watson inappropriately got involved in university business affairs before he had officially started, CSU instigated a campaign designed to both economically harm Crowley and to inflict psychological distress upon him,” Lavin wrote.

The university has an insurance policy that would pay the judgment, Pinelli said.

“The mystery to me is, why do they want this to go on when they didn’t even challenge the jury’s finding on ... whether Crowley did anything wrong or whether he was retaliated against?” Pinelli said.

“I don’t know what’s driving that, but the time to put the sword down and stop the bleeding is now, and they don’t seem to want to do it.”

And although the university’s insurance could cover the verdict, Pinelli said, “it’s really an important verdict to send the message that, ‘You know what, you may be immune from personal liability but you’re not immune from what you do.’”

Partners [Michael L. Resis](#) and [Ellen L. Green](#) of SmithAmundsen LLC represented the defendants.

After sharing the opinion with his client, Resis said, “we are considering all our options, and we will be seeking review in the Illinois Supreme Court.”

Justices [Mary Anne Mason](#) and [James Fitzgerald Smith](#) concurred in the opinion, *James Crowley v. Wayne Watson et al.*, 2016 IL App (1st) 142847.
