

VERDICTS & SETTLEMENTS

FRIDAY, FEBRUARY 18, 2011

EMPLOYMENT LAW

RETALIATION Whistleblowing

SETTLEMENT: \$1,800,000.

CASE/NUMBER: L. Richard Runyon v. Board of Trustees of the California State University, Luis Ma Calingo / BC340560.

COURT/DATE: Los Angeles Superior Central / Dec. 13, 2010.

JUDGE: Hon. Elizabeth A. White.

ATTORNEYS: Plaintiff - Philip J. Ganz Jr., Laurie S. Gorsline (Ganz & Gorsline, ALP, Los Angeles).

Defendant - Jeremy B. Rosen, James A. Sonne (Horvitz & Levy, LLP, Encino); Robert W. Conti (Goldman, Magdalin & Krikes, LLP, Woodland Hills); Thomas O. Myers (Smith & Myers, LLP, Los Angeles).

FACTS: Plaintiff L. Richard Runyon has been a tenured professor at California State University Long Beach (CSU) since 1968. He was elevated to the position of Chair of the Finance, Real Estate and Law Department (FREL) of the College of Business Administration in 1991 and continued to hold that position until 2004, when he was removed

as Chair. Runyon filed a grievance against CSU, alleging that he had been removed as departmental chair in retaliation for having made complaints against Luis Ma Calingo (then Dean of the College of Business Administration) of, inter alia, misuse of government resources. CSU found against Runyon.

Runyon filed a lawsuit seeking damages for retaliation in violation of the California Whistleblower Protection Act (WPA), Government Code section 8547.12.

PLAINTIFF'S CONTENTIONS: Runyon contended that CSU's investigation was a sham and that key evidence was ignored by CSU which proved Runyon's claim of retaliation. Runyon also contended that the WPA provided a direct right of action for damages if the employee was not satisfied with CSU's administrative decision and that an employee was not required to file any writ.

DEFENDANTS' CONTENTIONS: Defendants contended that Runyon was not retaliated against, and that he was removed as department chair, because he failed to review and revise his department's curriculum,

which was a specific requirement at the time he was appointed as chair. Defendants also contended that CSU employees could not file a civil action for whistleblower retaliation without first prevailing on a writ of mandate to challenge the adequacy of CSU's investigation.

RESULT: During a mediation with Lynn Frank, the parties reached a settlement totaling \$1.8 million in favor of Runyon.

OTHER INFORMATION: The trial court granted defendants' motion for summary judgment on the grounds that Runyon's damages action was barred by his failure to first obtain a reversal of CSU's administrative decision through a writ of mandate. The Court of Appeal affirmed. The California Supreme Court granted Runyon's Petition for Review. In a 7-0 decision, the Supreme Court reversed the lower court's rulings. The Supreme Court held that Runyon's interpretation of the WPA was correct, and that an employee dissatisfied with CSU's decision was entitled to bring a civil action for damages against those allegedly responsible for unlawful retaliation, without having to first overturn that CSU's findings in a writ proceeding.