

REPORT
of the
LITIGATION REPORTS OVERSIGHT SUBCOMMITTEE
of the
ARKANSAS LEGISLATIVE COUNCIL

October 16, 2009

Mr. Chairman:

The Litigation Reports Oversight Subcommittee met on Tuesday, October 13, 2009 at 1:30 p.m. in Room 149 at the State Capitol. The subcommittee heard two proposed settlement agreements.

The first settlement agreement dealt with Kristoffer K. Lewis and Nolan S. Lewis v. Larry Norris, et al. Christine Cryer, Assistant Attorney General, addressed the committee and explained that on July 17, 2006, Ronald Lewis was being transferred from the Department of Community Correction to the Arkansas Department of Correction Diagnostic Unit for evaluation. The Arkansas Department of Correction accepted the transfer of Ronald Lewis on July 17, 2006. Before the inmate's evaluation was completed, he hung himself on July 18, 2006, approximately 18 hours after arriving at the Arkansas Department of Correction (ADC).

Plaintiffs alleged that the defendants, Larry Norris (ADC Director), et al, were deliberately indifferent to their father's serious medical needs. Plaintiffs' economic expert was expected to testify that Plaintiffs' damages totaled at least \$425,000, not including any amount for loss of enjoyment of life, and not including costs and attorney's fees. The Defendants felt because the victim had not been sentenced to ADC, but had been transferred to ADC only for evaluation, and because there was a delay in the evaluation, there was concern that a jury might sympathize with the victim's family. It is the Defendant's view that the settlement is in the best interests of the agency and the State, because the total exposure in the case in damages and attorney's fees could well have been several times greater than the settlement amount. The total award to the Plaintiffs of \$200,000 fully resolves this lawsuit. The subcommittee voted favorably to review the settlement.

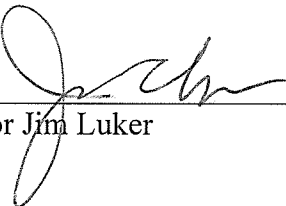
The second proposed settlement agreement dealt with Powell v. North Arkansas College, USDC/WD No.3:08-cv-3042 JLH. Sherri Robinson, Assistant Attorney General addressed the subcommittee and explained that Plaintiff Kelli Powell alleged she was

terminated by the college in retaliation for taking leave under the Family and Medical Leave Act more than one year earlier. Following a trial on the matter, the jury returned a verdict in favor of Plaintiff Powell in the amount of \$94,873. The court then ordered prejudgment interest in the amount of \$2,496.07 and liquidated damages in the amount of \$97,369.07 for a total judgment of \$194,738.14.

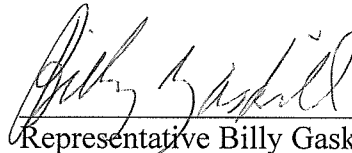
Next, a hearing was scheduled to determine whether to reinstate the Plaintiff to her previous position or to award her an additional amount of money in the form of front pay. The College did not want to reinstate the Plaintiff, and it is unclear for how many years the court would have awarded Ms. Powell additional money. Finally, Plaintiff's attorney filed a petition for attorney's fees and costs in excess of \$45,000. The College filed a Notice of Appeal and proceeded to engage in settlement discussions with Plaintiff's attorney. The parties agreed to settle the case completely for \$275,000 and Ms. Powell will not be reinstated. North Arkansas College and the Attorney General's Office believe that this settlement is an appropriate resolution of the issues in this case and the Board of Trustees of the North Arkansas College approved the agreement in a public meeting. The subcommittee voted to favorably review the settlement.

The Office of the Attorney General reviewed 46 cases of new litigation, 33 cases that were closed and 6 cases that were monitored with the subcommittee. The Department of Finance & Administration, Office of Revenue Legal Counsel reviewed ten new cases filed with the subcommittee.

Respectfully Submitted,



Senator Jim Luker



Representative Billy Gaskill