

# ARKANSAS GENERAL ASSEMBLY

Senator Jim Luker  
Senate Chairman

Representative Billy Gaskill  
House Chairman



## REPORT OF THE LITIGATION REPORTS OVERSIGHT SUBCOMMITTEE OF THE ARKANSAS LEGISLATIVE COUNCIL

December 17, 2010

Mr. Chairman:

The Litigation Reports Oversight Subcommittee met on Thursday, December 16, 2010, at 1:30 p.m. in Room 149 at the State Capitol. The subcommittee heard a proposed settlement agreement and received a report from the Office of Attorney General, Department of Finance & Administration, Office of Revenue, and the Public Service Commission about recent and pending litigation.

The settlement agreement dealt with the case of Susan Lowrey v. Charles Smith, individually and in his official capacity as an employee of the Department of Human Services, serving the Arkansas State Hospital, Circuit Court of Pulaski County, Arkansas, Case No. CV-2009-5965-2 Settlement Agreement and Release.

Plaintiff Susan Lowrey was the former Assistant Director of Nursing at the Arkansas State Hospital. Arkansas State Hospital Administrator Charles Smith terminated Ms. Lowrey's employment with Department of Human Services (DHS) on May 22, 2009. Ms. Lowrey subsequently filed this employment discrimination lawsuit, ultimately alleging that her termination constituted unlawful discrimination on the basis of her gender and race under 42 U.S. C. 1983 and violated her right to be free from retaliation for reporting a violation of the law under the Arkansas Whistle-Blower Act (Ark. Code Ann 21-601, et seq.).

Under this settlement, DHS agrees to pay the plaintiff \$175,000, to remove the termination from her official personnel file, and to provide her with a neutral letter of reference. However, DHS will maintain the coding in its computer system to indicate that the plaintiff is not eligible for rehire. The parties also agree that the defendant is not admitting liability. In exchange for DHS' concessions, the plaintiff will dismiss her lawsuit and release Charles Smith, the Arkansas State Hospital, DHS, all employees and offices of the institution, and James Braden (a DHS employee) and Dr. Larry Miller (a UAMS employee), who were formerly defendants in this lawsuit. The release will cover the entirety of the plaintiff's employment with DHS, including her termination. Ms. Lowrey also agrees to never again apply for a job with the State of Arkansas. The subcommittee voted to favorably review the settlement.

The subcommittee reviewed 41 cases of new litigation, 87 cases that were closed, and 4 cases that were monitored as presented by the Office of the Attorney General. The subcommittee reviewed 4 cases of new litigation as presented by the Department of Finance and Administration, Office of Revenue Legal Council. The subcommittee reviewed 4 cases of litigation as presented by the Public Service Commission.

Respectfully submitted,

---

Senator Jim Luker, Co-Chair

---

Representative Billy Gaskill, Co-Chair