

LOCAL

# McNeese ordered to pay \$1.3M to lawyers

## Ruling stems from decade-old civil rights case

BY VINCENT LUPO  
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**The judge noted the taxpayers who support the state-funded university would bear the brunt of the sanction, not "those responsible for the seemingly deliberate disregard for the responsibilities of McNeese."**

Judge Mike Canaday ordered McNeese State University to pay more than \$1.3 million in attorneys fees to lawyers who handled a civil rights case filed 10 years ago in an attempt to force the university to comply with the Americans With Disabilities Act.

Attorney Seth Hopkins, who has been involved with the case for its entirety, was given \$1,053,984. The remaining amount was divided among five other attorneys based on an hourly rate of \$240 times the number of hours they worked plus the expenses the attorneys incurred.

The attorneys had originally sought in excess of \$5 million including a sanction against McNeese.

Canaday refused to sanction the university and decreased both the hourly rate and total number of hours billed by the lawyers.

Candace Townsend, McNeese director of public information and communications, said the university "will reserve comment until we have a chance to thoroughly review this matter with our attorney."

The suit was originally brought against McNeese in 2001 by Collette Covington, a student who, according to Canaday's ruling, "required a wheelchair to get around campus due to a seizure disorder and orthopedic problems."

She allegedly sustained injuries while attempting to exit a restroom in the Holbrook Student Union, more commonly known as the Old Ranch.

Canaday's ruling said the doorway leading to the restroom was too narrow for Covington's wheelchair to easily negotiate.

Canaday noted "it was later discovered ... there was not a single restroom in the entire Old Ranch building that was properly accessible to handicapped individuals."

Covington sued McNeese and the University of Louisiana System under the ADA, Canaday said.

"During years of protracted litigation," Canaday wrote, "it was discovered that numerous ADA violations existed across the McNeese campus."

"In fact, no effort had been made to bring the campus into compliance with the ADA since the law was passed in 1990, despite renovations during which federal law mandated compliance," Canaday said.

In 2007, Judge Wilford Carter ruled McNeese did not have immunity from being sued, Covington was disabled as defined by the ADA at the time of the incident and McNeese discriminated against her based on her disability.

Canaday, who took over the case after Carter was recused, ruled the 3rd Circuit Court of Appeal, "in a strongly worded opinion," upheld Carter's ruling.

The 3rd Circuit opinion, authored by Judge John Saunders, stated it was "unfathomable that McNeese felt no need, regardless of whether it was required by law, to upgrade a single women's restroom into ADA compliance in a building that houses ... the two main student cafeterias on campus, offices for student government and activities, and a state-of-the-art computer laboratory."

McNeese settled the suit, reportedly awarding Covington \$400,000 in addition to allowing her to attend McNeese free for six years in order to complete her degree.

Canaday said after a Department of Justice investigation spurred by Covington's lawsuit, McNeese also agreed to bring its campus into ADA compliance "effect(ing) a \$13.8 million renovation ..."

Hopkins then sought attor-

Canaday said, "to the preclusion of more lucrative work he could have been performing."

"Hopkins' time sheets reflect that, over the last decade, he has worked tirelessly in the face of aggressive opposition, and he ultimately has prevailed."

However, Canaday said Hopkins' initial inexperience both with ADA law and as an attorney, taking on this case just two years out of law school, likely contributed to his having worked extra hours.

Therefore, he reduced Hopkins' time by 20 percent. The other five attorneys involved were allowed payment for the original number of hours they billed.

All of the attorneys sought an hourly rate of \$265. McNeese's attorneys claimed the prevailing market rates in Lake Charles range from \$105-\$200 per hour.

Canaday determined that \$240 "is a reasonable hourly rate in this case."

The six attorneys involved requested a total of \$5.1 million, Canaday said, based upon 6,481.8 total hours multiplied by an hourly rate of \$268 and an upward adjustment of 300 percent.

The requested enhancement, Canaday said, was based partly on sanctions

sought against McNeese for its conduct prior to and throughout the litigation.

However, Canaday declined to impose a sanction despite the university's "militant defense taken ... in the face of its obvious error."

The judge noted that the taxpayers who support the

state-funded university would bear the brunt of the sanction, not "those responsible for the seemingly deliberate disregard for the responsibilities of McNeese."

Canaday divided his judgment as follows:

Hopkins — 5,489.5 hours reduced by 20 percent to 4,391.6 times \$240; total fees of \$1,053,984.  
James Hopkins (Seth's father)

— 624.7 hours; \$149,928.

James Doyle — 28.6 hours; \$6,864.

Heath Dorsey — 76.85 hours; \$18,444.

Robert Breen — 114.9 hours; \$27,576.

Lee Archer — 147.25 hours; \$35,340.

Canaday also awarded the attorneys expenses incurred, which totaled \$41,570.47.

*"There is something really sad, but beautiful about these photographs that I captured while waiting for my appointments these last few times. After much observation, and thought, I felt inspired to come home and write this. Some of it is figuratively speaking, most factual, but it's what I imagined for those who themselves cannot put this experience into words. For those of you who are able to relate, I hope you can appreciate this. This world is very real to the people who live it. My heart goes out to them, yet I do not pity them, because they are strong."*

**"waiting"**

Go on, give me a time, Just to hurry to unwind.  
Identified by a number, Then asked to stand in line.  
Everyone different, In culture and in voice,  
We all want not to be here, Yet, do we really have a choice?  
Waiting room outlooks, Some cheery, some blue,  
As the haunting question floats around the room,  
So, what cancer belongs to you?  
Waiting, waiting, Too familiar is this day;  
They tell you to find a corner, Bring a book, learn to crochet.  
Judy will take my vital signs, And she is not to blame;  
But it's hard to accept her compassion, when she sees me every time,  
And she still can't even pronounce my name.  
As for the menu, It's banana, berry or lime.  
Deep breath, take a sip, and ask myself,  
Am I saving my life, or am I just wasting my time?  
This life has many detours, Find inner strength, and  
in the Lord may you confide.  
Bitterness is an attractive hitchhiker,  
Remember what your mother told you, and never give him a ride.  
Lord, I'll patiently endure, All uncertainties obscure.  
If it be only to bring Glory to your name, Father,  
Then consider my heart assure.

- Kerri Hebert

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