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## Ave Maria College violated law when firing whistleblower, jury finds

*DOUG GUTHRIE**/ The Detroit News*

*Ann Arbor* — A Washtenaw County jury Wednesday awarded almost \$418,000 to a former Ave Maria College administrator who sued the school for firing her in retaliation for cooperating with federal investigators who found financial aid violations.

The jury of four women and two men determined the college violated state law that is designed to protect whistleblower employees who point out wrongdoing in their workplace, and it compensated Kay Ernsting for lost wages plus damages. With interest and attorney fees, the final award is likely to swell well beyond \$500,000.

Ernsting filed her whistleblower lawsuit seven years ago after the conservative Catholic college created by Domino's Pizza founder Tom Monaghan eliminated Ernsting's position as director of financial aid, shortly after the U.S. Department of Education fined and ordered the college to make repayments of almost \$250,000 for improperly issued financial aid. The trial was long-delayed by the college's multiple appeals.

Jurors didn't believe the college's explanation offered at the two-week long trial, that the decision wasn't retribution but was based on long-established plans to phase out the Michigan campus of the college and reopen the school as Ave Maria University on a campus near Naples, Florida.

Another plaintiff fired with Ernsting dropped out of the case, citing the high costs of legal fees.

"This sends the message that when the playing field is level someone like Kate can have justice," said one of her attorneys, Megan Bonanni. "She fought against a giant and she won because she was right and she stuck with the fight when others would have given in."

The jury deliberated for almost eight hours Wednesday after hearing closing arguments. Deliberations began about noon and the group told Washtenaw County Trial Judge Timothy Connors they wanted to continue until they completed their task. The verdict was announced shortly before 8 p.m.

During closing arguments, Ernsting's lead lawyer Joseph Golden told the jury, "My client is an honest, moral individual who has been injured because of her honesty and morality. To say there was animosity would be the understatement of this trial."

The school's lawyer, Karl Fink, declined to comment after the verdict.

At the end of the trial, Fink asked the jury to look beyond the allegations to the good reputation of Monaghan. "I ask you to look at the character of the people being maligned here. No reference has been made during this trial to the incredible charity of Mr. Monaghan. Only that it has been said, 'It's his way or the highway.'"

Ernsting and three others who cooperated with the federal investigation were among five employees fired.

Testimony indicated that Ernsting and the others refused orders to alter records, and continued to communicate with investigators despite being ordered by superiors at the school to stop.

The decision to fire them came after a lunch break at a board of directors meeting where Monaghan failed to gain support for his proposal to fire the college's President Ronald Muller.

Golden said the three were called "academic terrorists." One was eventually rehired by the school.

Fink told jurors there was animosity, and the move to shut down the department Ernsting headed was later proven to have been an incorrect decision. The department continued to operate after Ernsting's departure.

"An employer has a right to make legitimate business decisions," Fink said. "Mistakes were made, but I would suggest everyone was acting in good faith."

Ernsting was seeking \$300,000 in lost wages and an unspecified amount of damages. Ernsting and her husband faced financial difficulties, including the near-foreclosure of their home before she landed an administrative job at the University of Michigan's Comprehensive Cancer Center. Ernsting is still in psychological counseling.

"Tom Monaghan's money doesn't have anything to do with this," Golden told jurors. "Except that these people shared his mission and the thing he couldn't handle was their honesty and integrity."

Ernsting is a devout Catholic who said she was committed to the work of the conservative Catholic school. The controversy surrounding her dismissal affected even her social life, she said.

"I didn't lose my faith, but I pulled away from my parish because Tom Monaghan donated the land for us to build our church and there are a lot of people who work for him and remain loyal to him," Ernsting said Wednesday. "It took seven years to get my day in court and it has been wonderful to finally present my facts."

After the verdict, her husband Gary Ernsting, said, "We are grateful to the jury because this means they saw what she went through and she has received justice."

[dguthrie@detroitnews.com](mailto:dguthrie@detroitnews.com)

(313) 222-2548

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