



Michael P. Stafford

COUNSEL

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Mike specializes in representing public and private schools in a variety of student and employment matters, including special education disputes, student rights and discipline, McKinney-Vento, school policies and procedures, and staff termination issues. In particular, Mike has represented school districts in special education disputes in both administrative due process hearings and federal and state courts.

Similarly, Mike has handled numerous student rights' issues, including complex disputes over students' free speech rights as well as discipline issues such as search and seizure and expulsion hearings and appeals. He also works with school administrators to develop or revise policies and procedures and provides school staff development and training on a wide variety of topics.

Mike also has extensive experience representing police departments in trial board hearings under the Law Enforcement Officers' Bill of Rights, as well as counseling departments on disciplinary policies and procedures.

Practices

- Education Law
- Labor and Employment

Education

- Duke University School of Law (J.D.)
- Washington College (B.A., *magna cum laude*)

Bar Admissions

- Delaware

Court Admissions

- U.S. Bankruptcy Court for the District of Delaware
- U.S. Court of Appeals for the Third Circuit

Distinctions

- Recipient of the 2011 Theodore Roosevelt Leadership Award (Environmental Protection)

Memberships and Affiliations

- Delaware State Bar Association, Labor and Employment Section, Member
- American Bar Association, Labor and Employment Section, Member
- American Immigration Lawyers Association
- Education Law Association

Experience

Angstadt v. Red Clay School District

Plaintiff, Frances V. Angstadt was a non-tenured teacher at the Red Clay School District. Under Delaware law, a teacher is automatically tenured if s/he is employed as a teacher in the State of Delaware for three years, two of which were in the employment of the currently employing Board of Education. A failure to give a timely and proper notice of termination a teacher before s/he has the required years of service results in an award of tenure. The teacher is then subject to dismissal or non-renewal only for specific reasons set forth in the teacher tenure law.

Ms. Angstadt argued that because the district had failed to place e-mails and other documentation of performance related issues in her central personnel at the district office, documentation of her performance problems was not “properly placed” in the file as required by statute. Plaintiff argued, among other things, that a provision in the collective bargaining agreement requiring documentation to be kept in the central office file meant that the documentation was not “properly placed” in the teacher’s file.

We argued on behalf of the school district that the definition of the “personnel file” under the teacher tenure law is a functional one and does not require that documents to be kept in any specific location so long as the employee received notice of the district’s concerns. Superior Court issued an opinion on September 11, 2009 concluding that the documentation was “properly placed” in the personnel file. As a result, the termination of the teacher was upheld.

The *Angstadt* decision is important because building level administrators frequently fail to send performance appraisals and disciplinary documentation to the central district office. Such documentation can nevertheless be considered for purposes of determining whether a non-tenured teacher should be renewed.

The case is currently on appeal to the Delaware Supreme Court. A decision is expected mid-2010.

Student v. Christina Sch. Dist.

Mongelli v. Red Clay Consolidated School District

In *Mongelli v. Red Clay Consol. Sch. Dist.*, the Plaintiff, a former high school special education teacher, claimed that she had been the victim of “sexual harassment” by a student and that she there after suffered retaliation for her alleged “complaints.” Mongelli claimed that she suffered sexual harassment by a special education student during a twelve-day period and that the student’s behavior created a hostile work environment. In addition to acting and making sexually suggestive remarks, Mongelli alleged that on one occasion he physically touched her

in a sexually oriented manner.

In an opinion dated, June 4, 2007, the U.S. District Court for Delaware granted the school's Motion for Summary Judgment. Relying on EEOC guidelines suggesting that an employer may be liable for harassment by non-employees if reasonably subject to the employer's control, the Court recognized the legal theory that the school district could be liable for student harassment of a teacher. The Court ruled, however, that the student's behaviors were not sufficiently severe or pervasive to create a hostile work environment. Importantly, in reaching this conclusion, the Court relied on United States Supreme Court precedent focusing on the need for "careful consideration of the social context in which particular behavior occurs and is experienced by its target." Here, the identity of the harasser—a special education student, and the classroom setting, established that a reasonable person would not have been detrimentally affected.

The Court also rejected Mongelli's retaliation claim because the standard student disciplinary referral forms that she submitted did not constitute protected activity under Title VII of the Civil Rights Act. Instead, as a teacher, she was supposed to submit such forms "as a matter of course when students misbehaved." Notably, Mongelli did not file a complaint under her employer's anti-harassment policy or the Student Code of Conduct.

Student v. Cape Henlopen Sch. Dist.

Curay-Cramer v. The Ursuline Academy of Wilmington, Delaware, Inc., et al.

On November 16, 2004, the Employment Law Department received word that a federal court dismissed all of the Plaintiffs claims in *Curay-Cramer v. The Ursuline Academy and the Catholic Diocese of Wilmington, et al.*

Chair of the Employment Department, Barry M. Willoughby, Partner, Tim Houseal, and Associate, Mike Stafford successfully defended Ursuline against claims that the school discriminated against a teacher in violation of Title VII of the Civil Rights Act when it terminated her for signing a "Pro-Choice" advertisement.

The case raised fundamental issues concerning the constitutional rights of religious institutions to be free from government interference in the teaching of religious principles. Willoughby said that, "The opinion is an important victory for religious freedom because it preserves the rights of religious schools and religious institutions to instill students with their religious values."

Among other things, the opinion states: "The Plaintiff's proposed construction of Title VII as preventing a Catholic school from disciplining a religion teacher who publicly repudiates a central tenet of the Catholic faith raises constitutional concerns in the starkest terms. With only slight disguise, it calls for court-imposed value judgments about religious doctrine and court supervision of church discipline. Short of a declaration that the Pope should pass draft encyclicals through the courts for approval, it is hard to conceive of a more obvious violation of the free exercise rights of the Catholic Church or a clearer case of inappropriate entanglement of church and state."

Bell v. Waste Management

The Employment Law section won a summary judgment in a Title VII and ADA discrimination case, avoiding a need for jury trial in January, 2005.

In *Bell v. Waste Management*, the Plaintiff contended that he had been the victim of discrimination based on his race and/or disability. He also argued that he had been subjected to a hostile work environment. Plaintiff's allegations were based on alleged disparate treatment in connection with disciplinary actions and his allegation that his supervisor directed the "n-word" towards him on one occasion.

In an opinion dated, October 29, 2004, the U.S. District Court granted the employer summary judgment finding that the Plaintiff had not adduced sufficient evidence of discrimination based on race or disability. The Court also found that a single incident of the alleged use of the "n-word" did not establish a hostile environment.

Cuffee v. Procter & Gamble and The Dover Wipes Company

On October 15, 2004, a federal court jury returned a fully favorable decision to the Defendant employer in *Cuffee v. Procter & Gamble and The Dover Wipes Company*, Civil Action No. 03-276-SLR.

Employment Law Section Chair **Barry Willoughby** and Partner **Teresa Cheek** teamed up to successfully defend the company in a week-long jury trial in which Plaintiff's claims included alleged race and gender discrimination in violation of the Equal Pay Act, Title VII of the Civil Rights Act, and Section 1981. The jury found in favor of Defendants on Plaintiff's claims of differential pay based on gender and race. The jury also found for the Defendants on Plaintiff's discriminatory demotion claim.

Young Conaway had previously obtained a partial summary judgment ruling, knocking out the Plaintiff's "constructive discharge" and retaliation claims.

On January 9, 2006, the Third Circuit affirmed the ruling of the U.S. District Court for Delaware, turning back challenges to the October 15, 2004, jury verdict in Defendants' favor.

After rejecting Plaintiff's million dollar demand, the Employment group, led by Chair **Barry Willoughby** and Partner **Teresa Cheek**, successfully obtained a defense verdict on Plaintiff's Equal Pay Act, Title VII, and Section 1981 claims.

The Court of Appeals found that the U.S. District Court properly rejected the Plaintiff's *Boston* challenges to jury selection and argument that Defendants' job classification system was not relevant to his equal pay claims.

Publications

June 27, 2018

U.S. Supreme Court Rules Employees Cannot Be Forced To Pay Fair Share Fees

May 1, 2017

Adventures in Extreme Workplace Team Building

Delaware Employment Law Letter Vol. 22, No.5

August 1, 2016

Denial of Overtime Constitutes Good Cause for Resignation

Delaware Employment Law Letter, Vol. 21, No. 8

March 1, 2012

Delaware's Medical Marijuana Law: Gone to Seed

Delaware Employment Law Letter, Vol. 17, No. 3

September 23, 2011

50 Employment Laws in 50 States: 2011 Edition, Delaware Chapter

M. Lee Smith Publishers, LLC

August 1, 2011

Legislation: Waiting to Exhale: Delaware's Medical Marijuana Law

Delaware Employment Law Letter, Vol. 16, No. 8, August 2011

September 1, 2010

Termination: Delaware Supreme Court Clarifies Requirements for Teacher Terminations

Delaware Employment Law Letter, Vol. 15, No. 9, September 2010

February 1, 2010

Termination, "Ultra vires: For One Employee, Power was Both the Means and the End

Delaware Employment Law Letter, Vol. 15, No. 2, February 2010

June 1, 2009

He is Only Honest Who is Not Discovered

Delaware Employment Law Letter, Vol. 14, No. 6

April 1, 2009

How Much Is Enough to Create a Hostile Work Environment?

Delaware Employment Law Letter, Vol. 14, No. 4

March 1, 2009

Employee's Case is Wrapped Up by Court

Delaware Employment Law Letter, Vol. 14, No. 3

January 1, 2009

Good Decision in Unemployment Case Not a Free Pass for Employer in Future Litigation

Delaware Employment Law Letter, Vol. 14, No. 1

May 25, 2008

Use Contracts to Protect Yourself from Possible Liability for Undocumented Workers Employed by Subcontractors,

Build New York, Spring/Summer 2008

September 1, 2006

Crew Leaders Fly the Coop, Get Second Chance to Prove Overtime Claim

Delaware Employment Law Letter, Vol. 11, No. 9

July 1, 2006

Final Bell Rings on Pro-Choice Catholic Schoolteacher's Lawsuit

Delaware Employment Law Letter, Vol. 11, No. 7,

May 1, 2006

Delaware Court Explores Hostile Environment Based on National Origin

Delaware Employment Law Letter, Vol. 11, No. 5

March 1, 2006

When Complaining Alone Isn't Enough

Delaware Employment Law Letter, Vol. 11, No. 3

December 1, 2005

Beware of H-1B Wage Rule Violations

Delaware Employment Law Letter, Vol. 20, No. 12

Events

April 25, 2019

2019 Annual Employment Law Seminar

April 12, 2018

2018 Annual Labor and Employment Law Seminar

May 11, 2017

2017 Annual Labor and Employment Law Seminar

April 27, 2016

2016 Annual Employment Law Seminar

January 2, 2016

Young Conaway's Labor and Employment Law Team of Bowser, Holt, Stafford and Russell to Speak at 2016 Delaware SHRM State Conference

May 8, 2014



2014 Annual Employment Law Seminar

May 9, 2013

2013 Annual Employment Law Seminar

May 23, 2012

Sex Abuse Policies & Litigation: What Every Superintendent Needs To Know

April 28, 2010

2010 Annual Employment Law Seminar

April 29, 2009

2009 Annual Employment Law Seminar

Chase Center on the Riverfront