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Binghamton University Must Face Sex Harassment Suit

By **Patrick Hoff**

Law360 (March 3, 2023, 7:25 PM EST) -- A New York federal judge refused Friday to toss an art history professor's suit alleging that Binghamton University didn't do enough to prevent her abusive ex-husband from using his position at the school to harass her, finding her Title IX claims aren't time-barred.

In a **14-page decision**, U.S. District Judge Thomas J. McAvoy rejected the public university's motion to dismiss Karen Barzman's suit alleging sex discrimination and retaliation in violation of federal and state civil rights laws.

Judge McAvoy said Barzman has claimed that she made several Binghamton University administrators aware of her ex-husband's history of domestic abuse and his continuing harassment of her in the workplace but the school rejected her requests to transfer to another department.

"This plausibly alleges that Binghamton University's response was 'clearly unreasonable' under the circumstances and amounted to deliberate indifference," Judge McAvoy said. "Accordingly, defendants' motion in this regard is denied."

The school had argued that Barzman was on sabbatical or preparing to retire for much of the three-year statute of limitations, which began in April 2019, but the court found it's possible Barzman was still impacted by the purported conduct. According to the opinion, Barzman alleged she was rejected from participating in a training in the spring of 2019 and her colleagues refused to help her prepare for an expected return to teaching during the pandemic.

"The parties can engage in discovery to pinpoint when the underlying conduct occurred, and whether plaintiff was eligible to participate in the training while on her sabbatical and fellowship," Judge McAvoy said. "On the present record, defendants' motion in this regard is denied."

In its June motion to dismiss, Binghamton also argued that Title IX didn't allow individuals to pursue workplace gender discrimination claims but rescinded that argument in a July letter following the Second Circuit's decision in [Vengalattore v. Cornell University](#). In that case, **a three-judge panel held** that Title IX allows a private right of action for a university's intentional gender-based discrimination against a faculty member.

Barzman sued Binghamton University in April. According to the suit, she was hired as a professor of art history beginning in 1999, a position she held until retiring in August.

Barzman said she was in a physically and emotionally abusive domestic relationship with John Tagg, who is currently a distinguished professor in the art history department and is not named as a defendant, from 1996 until 2005. After Barzman joined Binghamton, the abuse began to permeate the workplace as well and escalated after Barzman ended their relationship, with Tagg using his position to influence how others treated Barzman and isolate her from colleagues in the department, according to the suit.

Barzman said she tried to tell university administrators about Tagg's behavior several times and requested that she be moved to a different department, but the school refused and, at one point, warned her not to connect Tagg's history of domestic abuse to his workplace conduct.

Barzman said in her complaint that she was excluded from several professional development opportunities and that colleagues refused to share information with her related to classroom teaching and instruction. When she was preparing to return from a sabbatical and fellowship in mid-2020, according to the suit, colleagues never responded to her questions about how to teach remotely amid the pandemic.

In July 2021, Barzman went to her union for assistance, but she said the school still refused to transfer her to a different department. Desperate to leave the toxic work environment, Barzman accepted an agreement in August 2021 that gave her an additional year's salary with no departmental responsibilities other than completing her two remaining doctoral students, in exchange for retirement effective in August 2022, according to the suit.

Amy Robinson, who is representing Barzman, told Law360 they are pleased with the court's decision and looking forward to beginning discovery.

Representatives of Binghamton University did not immediately respond to requests for comment.

Barzman is represented by Jason L. Solotaroff and Amy E. Robinson of Giskan Solotaroff & Anderson LLP.

Binghamton University is represented by Michael G. McCartin of the New York State Attorney General's Office.

The case is Barzman v. State University of New York et al., case number 3:22-cv-00367, in the U.S. District Court for the Northern District of New York.

--Additional reporting by Vin Gurrieri. Editing by Nick Petruncio.

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