

# Missouri Lawyers

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## WEEKLY

■ \$747,582 VERDICT

## Former Hickman Mills administrator wins lawsuit over age discrimination

### EMPLOYMENT DISCRIMINATION (AGE)

■ **Breakdown of value:** \$297,582 in compensatory damages, \$450,000 in punitive damages

■ **Venue:** Jackson County Circuit Court

■ **Case Number/Date:** 1516-CV01366/Nov. 8, 2016

■ **Caption:** William M. Scully III v. Hickman Mills C-1 School District

■ **Plaintiff's Attorneys:** Eric W. Smith, Rik N. Siro, Athena M. Dickson and Raymond A. Dake; Siro Smith Dickson, Kansas City

■ **Defendant's Attorneys:** Brandon Mizner and Remington Smith; Enszt & Jester, Kansas City

■ **Judge:** Circuit Judge W. Brent Powell

■ **Injuries Alleged:** emotional, psychological, business, commercial, economic

■ **Insurance:** Missouri Public Entity Risk Management Fund (MOPERM), Jefferson City (for Hickman Mills)

■ **Last Pretrial Offer:** \$75,000

■ **Last Pretrial Demand:** \$475,000

■ **Defendant's Expert:** Terry Cordray, Kansas City (vocational)

BY ALAN SCHER ZAGIER

*Special to Missouri Lawyers Media*

When a new superintendent took over the Hickman Mills school district in 2013, veteran educator Bill Scully figured the chances of keeping his job as an assistant principal were pretty strong.

Instead, Scully's attorney claims, the new superintendent purged 10 principals and assistant principals from the Kansas City school system – seven of whom were at least 53 – prompting Scully and at least five other employees to sue the Hickman Mills C-1 School District for age discrimination. In early November, a Jackson County jury sided with the almost-70-year-old plaintiff, awarding him nearly \$300,000 in compensatory damages and an additional \$450,000 in punitive damages. An attorney representing the school system said an appeal is likely.

The newly hired superintendent, Dennis Carpenter, “was given a blank slate (by the school board) to hire a new team of administrators and secondary principals as he preferred,” said Scully's attorney, Eric Smith of Siro Smith Dickson in Kansas City. “And the results showed that a dramatically younger group of people were hired, passing over more qualified older candidates.”

Scully, a Lee's Summit resident, had worked for the district since 2006, first as principal of Hickman Mills High and then as an assistant principal at Hickman Mills Junior High and Smith-Hale Middle School after the high school closed.

Once Carpenter took over as superintendent, Scully and other administrators had their contracts terminated but were allowed to reapply for their jobs, or comparable positions.

According to the suit, the school system “engaged in a systematic pattern of selecting less qualified, substantially younger, female and/or non-white employees” for those jobs. Scully is white; Carpenter, who once led a suburban Atlanta school district, is black. Prior to trial, though, all but the age discrimination claim were voluntarily dismissed.

Scully failed to get hired for any of seven assistant principal positions. Scully's allegations include that another principal said he was told by a human resources official that district leaders instead decided to “throw Scully a crumb” by offering him a position teaching communication arts. That position paid \$50,973 annually – a nearly 50 percent pay cut from his \$96,910 salary. He declined the offer.

Also, despite the submission of four glowing letters of recommendation from other top administrators in the Hickman Mills district, a newly hired principal leading interviews for her new assistant principals recorded notes from telephone interviews with Scully's references that included negative comments. Smith called these notes “fabricated evidence

suggesting that he had poor references.”

Scully had also alleged that notes from two members of a four-person administrative committee went missing, with the stipulated categories of desired traits both arbitrary and inconsistent. Those two officials testified that their interview evaluation forms were not part of the school's submitted records, with one of those officials adding that the principal who oversaw the interviews told the committee members to penalize Scully because he's an “older gentleman” who was “just not fit for this environment.”

Brandon Mizner, one of two defense attorneys for the school district, rejected the contention that Carpenter or other Hickman Mills administrators purposely created personnel records that harmed Scully's chances, or conversely hid or destroyed records that would help his position.

“There's no evidence (the missing forms) were destroyed,” Mizner said, noting that the interviews occurred while the holdover HR director was on leave and unable to offer the newly hired principal much guidance. “We just can't find it.”

Mizner called the punitive damages excessive, especially in light of Scully's refusal to accept the teaching job he was offered.

Mizner also cited Jackson County Circuit Judge W. Brent Powell's decision to allow hearsay testimony into evidence, noting that the human resources official who allegedly told Scully's colleague that he was “thrown a crumb” denied making the remark.

The suit was filed in January 2015 after the Missouri Commission on Human Rights issued a notice of right to sue in October 2014. Smith, whose firm is representing two other former school administrators after the “mass non-renewal” as well as an ex-security clerk in lawsuits alleging age discrimination, said the jury deliberated for less than two hours before finding in Scully's favor. The jury took an additional hour to determine punitive damages. **MO**