

# The Arkansas Jury Verdict Reporter

The Most Current and Complete Summary of Arkansas Jury Verdicts

October 2012

Statewide Jury Verdict Coverage

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## Civil Jury Verdicts

Timely coverage of civil jury verdicts in Arkansas including court, division, presiding judge, parties, case number, attorneys and results. Notable regional results from Tennessee, Louisiana and Mississippi are also noted.

### **Whistleblower Act - A state psychologist in workforce retraining was fired in retaliation for having exposed fraud in his department – the firing came just four days after his boss received a request for information concerning the fraud complaint from a state investigator**

*Means v. Dept. of Workforce Education*, 09-96

Plaintiff: D. Scott Hickam, *Hickam Law Firm*, Hot Springs

Defense: Colin R. Jorgensen, *Assistant Attorney General*, Little Rock

Verdict: \$110,442 for plaintiff

Court: **Garland Circuit Court**

Judge: John Homer Wright

Date: 1-20-12

Bob Means, who is a psychologist, worked for many years for the State of Arkansas in the Workforce Education Department at the Hot Springs Rehabilitation Center. At key points in the case in July of 2008, Means was a contract worker – he provided psychological services in assisting clients in workforce retraining.

Means came to believe the department was engaged in fraud. A client of the department, Means believed, was improperly receiving services including housing and transportation. This client was a so-called PMS – that acronym stood for “politically mandated service”.

Means began to make complaints about the purported fraud including to the U.S. Office of the Inspector General, as well the offices of a state senator and the Governor. In July of that year the Inspector General sought documents from Means’s boss regarding the complaints.

Four days later Means was fired. His boss (who was vacationing at the beach) put in a call to an underboss who was charged with carrying out the termination. The state officials would testify the firing had nothing at all to do

with the complaints by Means. Instead the decision to fire Means was part of a plan to make operational changes in the office. [There were no documents that substantiated this.]

Means for his part believed he had been fired in retaliation for his complaints about the “PMS”. He cited not just the temporal connection (the firing happened within days of the Inspector General’s request for documents) but also the lack of documentation to support the notion the firing was part of a reorganization. If Means prevailed on the whistleblower claim he could be awarded lost wage damages.

The government first defended the case that as a matter of law, Means (who was a contract employee) was not a covered public employee within the meaning of the whistleblower statute. The trial court rejected this argument. To the merits of the claim the government denied the firing was related to Means’s complaints. In fact the bigwigs that made the firing decision denied even knowing that Means had made a complaint.

This case was tried for two days in Hot Springs. Means prevailed on the whistleblower count and took a general award (representing lost wages and salary) of \$110,442. A judgment in that sum followed for Means. The government moved for JNOV relief and repeated its “public employee” argument noted above. The motion was denied and the government has since taken an appeal.

The Arkansas Jury Verdict Reporter  
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