COLLEGE PAYS $50K IN FALSE ARREST CASE
Mennonite school rejects non-monetary terms and avoids trial

Temecula, CA - (5/21/2023) - The lawyer who sued Bethel College and City of North Newton for his expulsion and false arrest at a 2018 conference on "Mennonites and the Holocaust" has been paid a $50,000 settlement five years later, thus sparing the college a trial in Wichita, according to complainant Bruce Leichty.

The settlement followed summary judgment taken against Leichty by the federal court in Wichita in February 2022 and an appeal by Leichty leading to the decision handed down by the 10th Circuit Court of Appeals in Denver 4/20/23. Three Tenth Circuit judges ruled that under Kansas law by registering for the conference Leichty had obtained an "irrevocable"right to be present, and that the college had not established any right to oust him, thus reversing the lower court on that point.

However, the Court also stated that Leichty had established no basis for a finding that his arrest for criminal trespass was a false arrest, thereby upholding the lower court judgment that his arrest was justified. The judges agreed with City of North Newton that the City could not be liable. Appellate judges Bacharach, Baldock and Carson rejected Leichty's request for oral argument and, prior to the settlement, had remanded the case to federal court in Wichita for further proceedings on Leichty's claim relating to his expulsion.

The 10th Circuit opinion was an outrageous attempt to "split the baby," says Leichty. "Certainly, I was glad to be given the chance to go to trial on the claim that the College had breached its agreement with me, after the Wichita court had blocked me from having any trial at all. But that doesn't excuse the error of the panel regarding my arrest.

"So I set about to petition for a rehearing by this panel, which had not even allowed a hearing to begin with, and if necessary a rehearing by a larger selection of appellate judges called an `en banc' rehearing, but I also offered the college other options."

Leichty says that a few days after the 10th Circuit ruled, the college rejected his initial settlement offer that they either pay him $50,000 or pay a much smaller amount of money, $10,000, and honor four other requests: (1) that the college confirm that Leichty continued to have the rights he had exercised for years before 2018 to conduct historical research at the school's Mennonite library and archives; (2) that the college apologize for expelling Leichty from the conference; (3) that Leichty be allowed to address the Bethel College Board for 15-20 minutes regarding academic freedom; and (4) that the parties issue a mutually approved news release about the settlement.

"It appeared that we were at impasse, and I had started drafting my petition for rehearing," says Leichty. "I had also told our mediator that in any event I would not agree to any gag order preventing me from identifying terms of settlement and what I thought about Bethel's actions."

Leichty says he also communicated via the mediator that he was looking forward to the chance to address a jury and try to interest media in a case which had been largely ignored to that date. "The case raised issues of `cancel culture,' religious intolerance, and whether a church-related college had remained true to its theological heritage by excluding a marginalized voice and then by using police to effectively shield conference attendees from another point of view."

"I asked for $50,000 thinking that this was so large that the College would not pay it after they believed they had `won' on the arrest," says Leichty, "because I had mixed feelings about settling instead of seeking some vindication through a trial." But Leichty says that after five years of a largely solitary struggle against large institutions and law firms he was also stretched.

The College then showed it was "more interested in avoiding what they believed might be any adverse publicity from a trial than an expenditure of fifty thousand dollars," he says. The settlement was paid by insurance company check.

Leichty had alleged in his complaint breach of contract damages including his airfare and lodging and costs in traveling from California to Kansas for the event, but also the damage to his reputation and law practice that he suffered from his arrest when his "mug shot" was posted and available on the worldwide web. He says the College president told him during the case that it was the College who had asked the local criminal prosecutor to not prosecute him for trespass.

It was at the point where his arrest was made public, says Leichty, that he resolved to try to defend himself by going to media, even though he says his attempts were almost completely unsuccessful. "I had never been arrested previously, knew that I had done nothing to warrant my arrest, and knew I had nothing to be ashamed of, even if it was going to be hard to convince hardened skeptics who have made untrue assumptions and statements about me. But church media were not interested in the story and only a handful of revisionist history champions ran it."

"I drew the wrath of some of the conference organizers just because I offered exposure to another view," says Leichty. "I was not trying to undermine the Conference or deny scholarship or deny the Holocaust or make any anti-semitic statements when I was arrested. Instead I simply tried to announce an event held off campus at which two Jewish colleagues planned to present their revisionist views of the Holocaust. This was an unusual opportunity that I believed some conference attenders would be interested in. But when I started to speak during a participant comment time, I was silenced by Bethel history professor Mark Jantzen and then jeered."

Leichty says he was reminded shortly after his settlement that suppression of speech is hardly limited to speech about "the Holocaust." He noted that in May 2023 dissident Peter Flaherty offered comments at the Berkshire Hathaway shareholders meeting in the neighboring state of Nebraska, about Warren Buffett friend Bill Gates and Gates' association with Jeffrey Epstein. Flaherty, like Leichty, had his microphone cut off after having been told to stay "on point," and (unlike Leichty) was forcibly removed immediately amid similar vocal derision.

"He might not claim me and my `third rail' issue," noted Leichty, "but I hold him up as another truth advocate offering views disfavored by those in power and then paying the price."

"The Tenth Circuit in remanding my expulsion case ruled that a jury could find that I had been justified in thinking that my comments were `on point."

The briefs filed with the 10th Circuit by Leichty recited how he had been told at the end of the first day of the conference by Bethel history professor Mark Jantzen that he was "out of the conference" even though another conference organizer, Hesston College history professor John Sharp, had invited him to lunch offered at the conference the second day.

Leichty had also pointed out that when he appeared on the second day of Conference sessions and was told by Bethel President Jon Gering he was not permitted to remain at the Conference, he was not actually given a lawful trespass warning. Gering made it clear at his deposition during the case that his only intent was to prohibit Conference attendance, not campus presence, notes Leichty. Police responding to the trespass call were misled by Gering when Gering stated that he personally had warned Leichty off the campus the day before, says Leichty, even though the undisputed testimony was that Gering and Leichty had not met the first day.

According to Leichty, "The 10th Circuit said it didn't matter if the College president had given police false information because even Jantzen acting alone had the authority to warn me off the campus, but it based this on the dubious legal premise that one of two professors giving conflicting information could have held me in trespass on a property they were simply using for an event. Moreover, both the lower court and the court of appeals conflated `trespass' with being ordered out of an academic conference, and the 10th Circuit didn't cite the Kansas statute on trespass at all, after I had taken great pains to explain to these jurists the difference between a civil dispute as to conference attendance and a criminal issue as to the right to be present on land, which is the test for trespass."

The 10th Circuit discounted the lunch invitation from Sharp on the grounds that the lunch was not part of the Conference, but the record on appeal contained a complete program of events showing that the lunch was an included benefit of Conference attendance, notes Leichty.

"In short, there were multiple issues of fact requiring reversal of Wichita Judge John Broomes on all claims against Bethel College, had only the 10th Circuit done a more thorough and intellectually rigorous job," says Leichty. But Leichty also acknowledged that the Court of Appeals may simply have ignored issues of fact to reach a predetermined outcome. "In more than 40 years of practicing law, I have seen that happen far too often, particularly in cases where there is a political issue or some other `hot potato.'

"I have no regrets about the experience except for what has happened to my people," says Leichty, who joined the Mennonite church in the mid-1960s and remains a member. "Like most Americans, these assimilated conference attenders have been schooled in echo chambers from which they seem unable or unwilling to escape. Many there are who give lip service to tolerating other viewpoints, a position that religious dissenters like us were taught to cherish through both biblical teaching and educational tenet, but I've learned that now this is more a position of leftist expediency than a principle that is given equal application. I'm always going to resist that drift."