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Turnpike Hit With \$3.2M Judgment in Whistleblower Suit

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Case Digest Summary

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The court ordered the commission to pay former financial reporting manager Ralph Bailets \$1.6 million for economic losses suffered as the result of his 2008 firing, as well as \$1.6 million in noneconomic damages tied to the humiliation and mental anguish he experienced after being removed from his position. He sought relief under the state Whistleblower Law.

Jason Pearlman of Sprague & Sprague, who represented Bailets, said the ruling is a victory for all Pennsylvanians. Thomas Sprague and William Trask, of the same firm, also represented Bailets, along with James J. West.

“The court’s decision affirms the protections afforded to public employees who report waste and wrongdoing in the commonwealth of Pennsylvania,” Pearlman said.

Douglas Rosenblum of Pietragallo Gordon Alfano Bosick & Raspanti, who represented the turnpike commission, did not return a call for comment. Daniel McGravey of Clark Hill and Gaetan Alfano of Pietragallo Gordon also represent the commission.

The memorandum opinion in *Bailets v. Pennsylvania Turnpike Commission*, written by Senior Judge Rochelle S. Friedman, followed a verdict entered by the court June 29. Friedman said Bailets met his burden of proving that he was fired for blowing the whistle on the turnpike.

In denying the turnpike’s contention that it had legitimate reasons to fire Bailets, Friedman cited evidence showing that he had been specifically warned not to complain about Ciber, a consulting company that received multiple turnpike contracts, and that his performance evaluations were positive. The judge also cited that new employees were hired and others given raises shortly after Bailets was fired, and he was not considered for job openings with the turnpike after being terminated.

Bailets worked for the turnpike from 1998 to 2008, and his duties included reviewing requests for proposals. After Ciber received a \$3.4 million contract, Bailets told his supervisor that it would be improper to allow the company to bid on a second contract because of its unfair advantage, but it was nonetheless awarded a \$58.3 million contract, Friedman said. Bailets then alerted turnpike supervisors to his concerns about issues with Ciber’s work, including one email saying, “I don’t want to be the one blowing the whistle on this,” but was repeatedly told not to bring up problems with the company.

In 2008, the turnpike awarded a third contract to Ciber, for \$19.7 million, despite Bailets’ warnings that the company had not performed up to standards. Bailets continued to complain to supervisors and was eventually removed from his position in November 2008, for what he was told were budgetary reasons, and was escorted from the building, Friedman said. In January 2015, the turnpike commission [sued Ciber \(http://triblive.com/news/alleggheny/7649366-74/turnpike-ciber-commission\)](http://triblive.com/news/alleggheny/7649366-74/turnpike-ciber-commission) for more than \$45 million, claiming software fraud.

Friedman credited Bailets’ economic expert, who estimated his total economic loss from 2008 through March 2016 at \$1.4 million to \$1.6 million, and accepted a retirement age of 67 in calculating his damages.

On the issue of noneconomic damages, Friedman credited testimony from Bailets and his wife that he suffered humiliation when he was escorted from his office and had to share the news with his family, as well as sleepless nights spent worrying about paying bills. There was “no doubt that the commission’s wrongful termination of Bailets had a profound effect on Bailets and caused a major disruption to his life,” she said in assigning the additional \$1.6 million award.

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