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Conservative Professor's Free Speech Suit Gets Nod

By **Christine Caulfield**

Law360, New York (November 03, 2008) -- A former Monroe Community College professor who claims he was fired for espousing his conservative views can take his First Amendment case to a jury, a federal judge in New York has ruled.

Judge David Larimer of the U.S. District Court for the Western District of New York refused a bid by MCC to throw out Dr. Michael Filozof's entire case, ruling last week that the college had failed to prove that the professor's termination was not linked, in part, to his political beliefs.

Filozof — a political science teacher — sued the Rochester, N.Y.-based college, its board of trustees and several of its officers for violations of the First Amendment after he was terminated in December 2003.

The professor had also made several claims of discrimination, but Judge Larimer dismissed those counts from the suit in his Oct 28 ruling.

Filozof had contended that the decision by the college's board to not renew his contract was based on his vocal support outside the classroom for the Republican Party and the U.S.-led Iraq invasion.

The suit cited MCC internal documents explaining Filozof's termination, noting in part that the professor's "opinions were conservative (politically)."

MCC moved to dismiss the claims, arguing that Filozof had failed to cite specific examples of speech that allegedly provoked the termination. The college claimed that it was not Filozof's political views, per se, that prompted the decision to not renew his contract, but his insistence that his views alone were correct.

In denying MCC's motion, Judge Larimer said the school's explanation to the court for its

decision to fire Filozof was "to an appreciable extent contradicted by [MCC's own] documents" and that a jury could find the reasons "at least in part, factually off-base."

"The closeness in time between Filozof's alleged political speech, and MCC's decision not to renew his contract, is also suggestive of a potential causal relationship between the two," the judge said.

"I find that Filozof has met his burden and that MCC has failed to prove that it would have discontinued Filozof's employment even in the absence of such speech," he added.

Welcoming the court's decision, Filozof said in a statement the ruling was a "victory for academic freedom."

"Professors, no matter what their political views, should be judged based on their performance in the classroom and as an academic. No professor should ever be afraid for his job based on his political views," he said.

His attorney, Nelson Thomas of Dolin Thomas & Solomon LLP, said the ruling served as a reminder that "political correctness" should play no role in a university's decision to terminate its teachers.

"This has been a long road for Dr. Filozof. He has faced blacklisting in the academic community, despite his excellent abilities as a professor. He should have been judged based on his skills, not his political beliefs outside of the classroom," Thomas said.

Attorney for MCC, Michael Davis of the Monroe County Department of Law, noted that the court had dismissed Filozof's claims of discrimination and had let only the First Amendment claim stand.

"We intend to vigorously defend the lawsuit. We brought the motion because we believe the suit is without merit, and the court disagreed on one point," Davis said.

The case is Michael Filozof v. Monroe Community College, case number 04-cv-6545, in the U.S. District Court for the Western District of New York.