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Lawsuit in court again

BY LILY ABROMEIT | FEBRUARY 11, 2014 5:00 AM

A local case now in its fifth year will move to the next phase Thursday, when it reaches the 8th Circuit Court of Appeals in St. Paul, Minn.

The court will hear the arguments in *Wagner v. Jones*, discussing whether or not Teresa Wagner, a potential candidate for a position in the University of Iowa College of Law, was denied a job by then-Dean Carolyn Jones on the basis of Wagner's political affiliation.

While officials said they couldn't be confident in how the case will culminate, they said it could have possible implications for the academic world.

"Politics is often a point of friction," said Walter Olson, a senior fellow at the Cato Institute. "[If she won,] law schools would be looking over their shoulders a lot ... more when they decide who to hire."

He said it could begin to set an example for future employees.

"It's likely to be watched by people of other law schools ... because it raises some hopes and some fears at the same time," he said. "You want to believe they are doing a better job of teaching lawyers to [be balanced because] you simply will get a better legal education if you get exposed to different legal [opinions]."

Olson said a possible outcome of the trial will most likely be yet another trial, whether Wagner is successful in this one or not.

"It's possible, in theory, for the court to award Wagner," he said. "[But] if she wins, what she wins is another trial."

Northwestern University law Professor Robert Burns said it is impossible to tell what will happen on Thursday.

"Public universities ... are constrained by the First and Fourth Amendments, [so they] may not discriminate against people for political beliefs or affiliations," he said. "[But] it depends on the facts of the case."

Olson said it also raises issues because Wagner's case is not the only one in which people may complain to the university.

“Her argument was that there was a political bias against people of her point of view and was in violation of equal-protection law,” he said.

He highlighted that earlier on in the case, the UI pointed to several different reasons that she was not hired, none relating to her political views.

“Several things are confusing or complicated in the case, but on the wider question, the university put out a big [statement] in which it said there were other reasons in which she was turned down,” he said, adding he believed the reasons were that she was not an impressive candidate and was not successful in the interview portion.

Olson added that he did not think this was an issue specific to political views. Cases such as this can arise from various situations.

“The next one could be someone who was turned down because they thought they were too liberal or left-wing,” he said. “[Opinions of] the law are only a jump or two away from ... politics.”

UI officials declined to comment “because it is pending litigation” and is against policy, according to Joe Brennan, the UI vice President for Strategic Communication.