

The Original Report on the Mary Banker Verdict involving UL Athletics from 2010. Embattled neophyte Rutgers AD was not mentioned in our original report. She was apparently one of the school bigwigs. The verdict was later reversed on appeal, a Kentucky appellate court concluding there could be no retaliation as the firing decision had already been made.

4320 - Employment Retaliation - A female assistant track coach alleged her contract was not renewed after she complained of a sexually hostile work environment – the jury rejected the hostile environment count, but the coach prevailed on retaliation

Banker v. U of L Athletic Association, 08-8225

Plaintiff: Bryan M. Cassis, Louisville

Defense: Craig C. Dilger and Jeffrey A. Calabrese, *Stoll Keenon Ogden*, Louisville

Verdict: \$371,875 for plaintiff

Circuit: **Jefferson Circuit Court**, Judge Charles Cunningham,
9-17-10

Mary Banker was an All-American track star at Wisconsin-Oshkosh and later became a college track coach there and at the University of Chicago. She joined the University of Louisville in the fall of 2007 as an assistant track coach under Head Coach Ron Mann. Her focus was on training athletes in heptathlon and decathlon.

The men and the women in track at U of L share the same coaching staff – Banker was the only female track coach. Banker recalled that she was uncomfortable with the language used by male assistants. She recalled female athletes were told to “stop running like a girl” and “stop being a bunch of pussies.” Banker herself was referred to as a feminist man-hater. Banker also disliked being the only coach that was required to bake cookies and prepare party decorations for events.

When Banker complained, things only got worse from her assistant coaches. It culminated at the end of the school year when U of L elected not to renew her contract. It would explain she was let go because of poor performance.

Banker thought the “poor performance” excuse was just a pretext. She noted that through the year, she had never been disciplined, warned or otherwise criticized regarding her performance. She instituted this lawsuit against the U of L Athletic Association and alleged both a sexually hostile environment and retaliation. If prevailing, she sought emotional distress damages and lost wages.

U of L defended that to the extent there was a hostile environment (it denied there was and explained the remarks were just crass), when Banker complained, the offending coaches were told to stop.

Then to the failure to renew, the university again defended (even though the contract was also at-will) that it was all about Banker’s substandard performance. That included failing to sign a single player to a scholarship and that most students under her direction had been reassigned to new coaches. The university suggested that Banker only really complained at all to human resources because she feared her job was in jeopardy.

The verdict was mixed at trial. While U of L prevailed on the hostile environment count, it was for Banker on retaliation. She took \$300,000 for emotional distress plus \$71,875 for lost wages as claimed. The court’s judgment was for just \$300,000, it reserving a calculation of her lost wages. Banker has also sought an award of attorney fees.