

FLORIDA RECORD

Gainesville college prevails in lawsuit over student fees charged during pandemic

*By Michael Carroll
March 31, 2022*



Attorney Dwayne Robinson | Kozyak, Tropin & Throckmorton

An Alachua County judge has dismissed a Santa Fe College student's lawsuit alleging that she should be reimbursed for college fees she paid when the college shifted to online instruction during the coronavirus pandemic.

Eighth District Judicial Circuit Judge Peter Sieg issued his order on March 7, concluding that plaintiff Rachel Burke's argument that the college breached a contract when it decided to close its campus and hold fall 2020 classes online during the COVID-19 pandemic. Burke had alleged that services were not provided to her during the online session and that the fees she paid should be reimbursed.

“The factual allegations in, and the attachments to, the written complaint are insufficient to show the existence of an express, written contract necessary to establish a waiver of Santa Fe College’s sovereign immunity as a subdivision of the state of Florida,” Sieg said in his opinion.

Burke’s tuition verification receipt and her registration agreement with the college did not amount to an express written contract, according to the judge’s order. The order allows Burke to file an amended complaint on the breach-of-contract issue but bars her from pursuing her claim that the college was unjustly enriched by its failure to reimburse the fees.

Dwayne Robinson, a Miami attorney who represented the college in the litigation, said Sieg’s ruling could be precedent-setting for other potential class actions against Florida colleges over the fee-reimbursement issue.

“We’ve been monitoring these cases that have been filed against multiple Florida colleges and universities, and by our count this is the first judge to apply the education immunity statute and use it to defeat one of these claims,” Robinson told the Florida Record.

That immunity law, which was passed by the state legislature during the pandemic, specifically gives public colleges and universities immunity for coronavirus-related civil litigation.

“We reacted in a way that we thought was best for the students and faculty who were under the care of the college,” he said.

The lack of a contract outlining exactly how the college reneged on promised services figured heavily in the judge’s decision, according to Robinson.

“When you try to sue a public institution in Florida, you have to have an express written contract,” he said.