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### HEMPSTEAD

# Sides face off in harassment case

■ Jurors hear accusations by two women who sued sanitation supervisor, town, alleging sexual harassment, racial discrimination

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Accusations by two black women that their former boss — a white Hempstead sanitation supervisor — offered them job-related perks and gifts for sexual favors is a case about power, opportunity and misuse of authority, their attorney told federal jurors yesterday.

Janine Smith, 28, now of North Carolina, and Nicole Starks, 24, now of Albany, are suing Frank Pepe, 44, claiming sexual harassment and racial discrimination. The \$36-million civil suit, filed in 2006, also names Hempstead Town and three of its employees, charging they ignored their complaints and the town's own policy by not properly disciplining Pepe.

Attorneys for Pepe and the town say it's a case about money, jealousy and anger. They say Smith, a clerical work-

er, had a consensual affair with Pepe from 2001 until 2003 and never mentioned harassment until Starks, an intern, complained of it in July 2003.

Jurors heard both sides on the opening day of the federal trial before Judge Arthur Spatt in Eastern District Court in Central Islip. Pepe is a Republican committeeman from Levittown.

The women's attorney, Frederick Brewington, of Hempstead, said while the affair may have been consensual, it was unwelcome and Pepe pressured Smith. Brewington said Pepe viewed black interns as "fresh meat."

Brewington said the only discipline Pepe ever received from the town was a 10-day suspension for improper use of a town vehicle. Brewington said Pepe let the unlicensed Smith drive his town-owned car, took her to motels during lunch breaks, and had her perform sexual favors on him in the car.



NEWSDAY PHOTO / DANIEL GOODRICH

Nicole Starks, left, and Janine Smith, outside the federal courthouse in Central Islip yesterday

John Ryan, of Floral Park, the town's attorney, told jurors that Smith was aware of the town's policy on sexual harassment when she used it to accuse a co-worker in 2002. He said the town immediately started an investigation after the women's complaints and conducted 40

interviews. Pepe was suspended without pay, he said.

"These claimants weren't satisfied," he said. "They filed a notice of claim for money, just over two months after ... [Smith] made the first complaint."

Pepe's attorney, Joshua Jemal, of Mineola, said his cli-

ent's affair may have been wrong for a married man, but it wasn't harassment.

"This is about a consensual relationship, a couple who dated, went to bars, exchanged gifts," he said. "When my client starts to show an interest in ... [Starks], all of a sudden, it changes."