

WENATCHEE WORLD

Appeals court upholds teacher's firing

Jury rejects her claim that she was dismissed for filing grievances

By [Rachel Schleif](#)

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SPOKANE — The state Court of Appeals rejected an appeal by a former elementary school teacher who claimed she didn't receive a fair trial in her retaliation lawsuit against the Eastmont School District in 2008.

After a nearly three-week trial, a 12-person jury sided with the school district as it defended its decision to fire Lynn McCoy in 2004.

McCoy taught at Cascade Elementary from 1991 until March 2004. She sued in 2005, claiming she was forced out for filing grievances with the union.

The school district said McCoy was fired for probable cause that she mistreated children.

McCoy filed an appeal in October 2008, nearly two months after the trial. McCoy said the trial was unfair for several reasons:

- The judge refused to recuse himself after she objected to a conflict of interest.
- Instructions given to the jury were flawed.
- The judge unfairly refused some evidence, while admitting other evidence.

A decision released Dec. 29 by a three-judge panel rejected all of McCoy's challenges.

"We conclude there is no abuse of discretion here," wrote Appeals Court Judge Dennis Sweeney. "And we further conclude that the teacher received a fair trial, if not a perfect trial."

Douglas County Superior Court Judge John Hotchkiss asked both parties to immediately express any concerns about his wife's employment history, according to the appeals court decision. His wife was a classroom aide in the Eastmont district at the time of the lawsuit. More than a year later, McCoy asked Hotchkiss to recuse himself. The appeals court agreed Hotchkiss' ruling that the request came too late.

McCoy also challenged the judge's decision to allow the school district to use evidence that she withdrew from arbitration.

The appeals judges agreed with McCoy that she had a right to file suit without exhausting the grievance process first. But, the judges also said that Hotchkiss was right to allow the district to use that evidence because it supported the argument that she considered her claim too weak to prevail in arbitration.

McCoy also disputed other evidence-based rulings, including Hotchkiss' decision to allow the district to cite parent testimony against her. Meanwhile, Hotchkiss did not allow

testimony from McCoy's witnesses who say they overheard conversations about forcing her out.

The appeals judges said the district's evidence meant to prove that administrators considered parent testimony before firing her, while McCoy's witness testimonies were based on hearsay.

Lastly, McCoy said Hotchkiss unfairly rejected her proposed jury instruction, which defined "substantial factor" as a factor that "tips the scales one way or another." Instead, the jury used this definition: "a significant motivating factor in bringing about the employer's decision."

McCoy's attorney, Steve Lacy, said he was "disappointed" by the appeals court analysis. McCoy has 30 days to decide if she wants to take the case to the state Supreme Court.

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