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Judge, county argue pay

Move to Superior Court, timing key in vacation row

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Superior Court Judge Annette Plese talks with jail inmates and attorneys via a video link at the Spokane County Courthouse on Monday.

Looking back

Last year the county paid \$26,500 to Judge Richard White for vacation time and, because he was over 55, for unused sick time.

A Spokane County Superior Court judge believes she's being treated unfairly by the county when it comes to cashing out unused vacation time, saying many of her colleagues were allowed to collect tens of thousands of dollars in such compensation while she's being denied.

Superior Court Judge Annette Plese sued the county over \$15,800 worth of paid vacation hours she believes she's due from 2009, when she ended her service as a Spokane County District Court judge and was elected to her current position on the Spokane County Superior Court bench.

County Commissioner Todd Mielke notes that Plese "did not leave county employment" in that transfer. She "just moved from one department to another. I think that's the crux of the disagreement," he said.

Plese filed suit in Lincoln County earlier this year, and the suit was moved to federal court this month.

"What we are really saying is all judges vacating the bench in good standing should be treated equally," said Plese's Redmond, Wash.-based attorney, Anthony Alfieri. "If you are paying one, you should pay them all."

Spokane County, through its Seattle-based attorneys Michael Patterson and Michael Kitson, has argued that state law allows county officials to choose whom it pays for unused vacation. The county traditionally has not paid unused vacation to District Court judges who are elected to Superior Court.

Mielke said the situation is further complicated by timing. Most elected officials take their posts on Jan. 1, which is when District Court judges automatically qualify for six weeks of leave that they generally use as vacation time.

In Plese's case, she served just over a week as District Court judge before she assumed her duties as Superior Court judge in January 2009.

"On the eighth day of the year, she moves over to Superior Court and is given another six weeks of time" for vacation, Mielke said. "She is claiming she needs six weeks of paid time off ... after technically only working two or three days."

In her claim, Plese noted that she had more than 450 hours of unused sick time – which under county rules she was not eligible to cash out – that she lost in the transition to Superior Court. She also only took five vacation days in 2008 and three in 2007, she said.

"I understand that I cannot receive any reimbursement of this (unused vacation) time as it was lost as of January 1," she wrote in court records. "Since I was still employed on January 1, 2009, I should have received six weeks of vacation on the books (minus one day)."

In contrast, the county routinely cashes out vacation pay for judges who retire, lose their elections or die.

Just last year, the county paid \$26,500 to Judge Richard White for vacation time and, because he was over 55, for unused sick time. The county also paid Mike Padden \$14,500 for 30 days of unused vacation time even though he only worked seven days before he retired in 2007.

"I think the difference between Judge Plese and Judge White is that he left county employment," Mielke said. "Judge Plese transferred from a department that is wholly funded by the county to one that is half funded by the county."

While state law says county officials "may" compensate judges for unused leave time, Plese said she was compelled to sign the county employee manual, which states that "any employee who is laid off, discharged, retired or separated from the service of the employer for any reason, shall be compensated in cash for the unused vacation accumulated at the time of separation."

Mielke said the county may pay more defending Plese's lawsuit than it would by paying Plese's claim. But he said it's important to settle the issue before District Court Judge John Cooney, who is uncontested in the upcoming election, makes the same transition to Superior Court.

"There is a difference of opinion on how to interpret the county policy," Mielke said. "We are simply asking a third party, in this case the courts, to make a ruling about how the policy should be interpreted."

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