

Lewis County Loses Appeal in Liability Burden Case

By Lisa Broadt / lbroadt@chronline.com | Posted: Thursday, December 19, 2013 10:19 am

Lewis County will continue to be held financially accountable for the actions of its judicial branch, an appeals court ruled Tuesday.

The county had sought judgment declaring that the state, not the county, should bear civil liability for the actions of Lewis County Superior Court judges and judicial staff. Had it been successful, the county would have reversed 123 years of established law and practice.

But the county's case never got far.

A trial court in 2011 refused to consider its claim.

According to the court: the county failed to present an actual, present and existing dispute or an issue of major public importance — prerequisites to judicial consideration.

It dismissed the county's case.

Lewis County appealed the ruling, but on Tuesday, the appeals court upheld the trial court's decision.

The county had hoped to change a system that, it says, leaves it with full financial responsibility for its judicial branch, but no power to control how the judicial branch handles legal action.

In the past, the county wrote in its case, Lewis County judges have decided whether to use the prosecutor's attorneys or hire private defense, without consultation with the county.

According to a filing by the county's human resources administrator, Lewis County's judges do not use county human resources, have their own human resources or contract outside human resources — a failing that clearly increases the risk of suit. The county can offer advice, the County Commission said in a declaration submitted to the court, but cannot adopt any policies to reduce civil liability for the judicial branch.

“The frequency and regularity with which damage claims against the officers and employees of all 39 Washington superior courts arise,” makes its case actual, present and existing, not hypothetical, the county said.

But, the state countered, “the county has no individuals suing or even making a demand on the county for the judicial branch's conduct.”

The appeals court in its ruling said it agreed with the state. The county made “bare assertions but does not cite similar cases that would (prove its case)” the court said.

The county asked the court, alternatively, to rule that its case is of great public importance.

Washington courts in the past have applied the public importance exception in cases involving, for example, eligibility to stand for public office, freedom of choice in elections, and the constitutionality of excise taxes.

“Clearly (those issues) affect every citizen in the state, while the County’s case here really affects only the corresponding budgets of the county and the state,” the appeals court wrote. “A declaratory judgment here ultimately would not even directly affect citizens who bring claims against the judicial branch because the only issue presented is who is financially responsible: the county or the state.”