

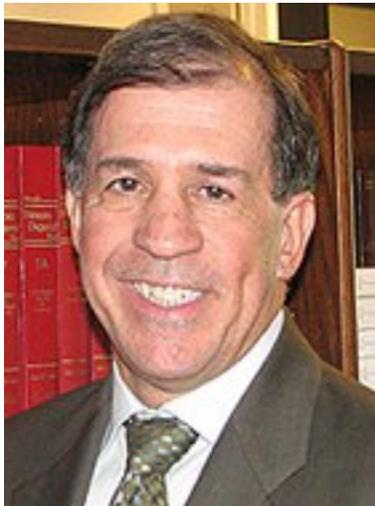
Chicago Daily Law Bulletin.

Appellate defender owes \$1M to former employee

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POSTED September 26, 2016 2:36 PM

UPDATED September 30, 2016 4:05 PM



Michael J. Pelletier



Rebecca Pallmeyer

A federal judge on Thursday ordered the state appellate defender's office to pay more than \$1 million to a former employee who was retaliated against because she complained about her salary being reduced.

U.S. District Judge Rebecca R. Pallmeyer's decision to award Alice Washington \$1,067,158.04 in damages and other costs builds on a November 2015 jury finding that she was forced to resign from her job as an investigator because of her complaint.

"Ms. Washington has been fighting this termination for almost a decade now," said Christopher P. Keleher, the owner of the Keleher Appellate Law Group LLC and one of her attorneys. "She's very happy with the result and that she's finally seeing justice after almost 10 years."

Her legal fight might not be over, though. In an interview, State Appellate Defender Michael J. Pelletier said his office will exercise "all of its options" to overturn both the judgment and the jury's verdict. This includes an appeal, he added.

However, a spokeswoman with the Illinois Attorney General's Office — which represented the defender's office and Pelletier — said they “are reviewing the decision to determine the next steps.”

Pelletier claimed they did not receive a fair trial, saying there “were serious trial errors that prevented the jury from hearing all of the evidence on the issues that were before them.”

Months after the jury reached its decision, the parties are still at odds over details of the case. In her second amended complaint, filed in April 2015, Washington said Pelletier called her three weeks after she was discharged on Feb. 4, 2008, and had filed a discrimination charge against him.

Pelletier, according to Washington's lawsuit, said he would ensure she would never receive unemployment benefits or work for the state again.

Both sides disagree whether this communication actually occurred. Pelletier said he never called Washington and threatened her; the only time he ever communicated with her was on Feb. 8 to inform her internal discrimination grievance against him and the defender's office was denied.

But Washington's lawyer maintain that Pelletier, on cross-examination during the three-day jury trial, had admitted he had contacted her. However, he said he did not know Washington's personal e-mail address, nor was the e-mail ever produced during discovery.

In an interview, Pelletier reiterated he had never called Washington and he did not recall e-mailing her.

Washington was employed as an investigator for defender's office death penalty trial assistance unit, which helped indigent defendants who could be executed. An investigator tracks down and interviews potential witnesses for these cases. And as a forensic social historian, Washington researched a defendant's life and background.

Pelletier became the defender on Jan. 1, 2008. Before then, Washington claimed, he was aware she had a serious medical condition — breast cancer — which required medical leave.

Fifteen days after Pelletier's appointment, he reduced Washington's salary from \$60,400 to \$49,400. Washington filed a complaint alleging racial and disability discrimination. In February, Pelletier allegedly offered Washington and her co-workers the chance to resign; if they didn't, they would be fired for not utilizing a new computer program.

Washington alleged in her lawsuit that other non-black, non-disabled investigators who did not use the program were never asked to resign or be fired.

Pelletier maintained that Washington was a “ghost payroller” — an employee who never did any work. Moreover, the unit she worked in was extremely dysfunctional and also not doing work, he said.

Washington’s attorneys disputed this, pointing to the witnesses during the trial who testified about her hard work.

Washington filed complaints with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission in 2008, which led to this lawsuit being filed in federal court in October 2012.

In her amended complaint, Washington also alleged racial and disability discrimination. The jury found in favor of the defender’s office and Pelletier on those claims.

Other charges, like Pelletier’s intent to inflict emotional distress, were dismissed before the jury trial.

The case has been expensive for the defender’s office. Pelletier said the judgment will come out of the office’s budget, which could result in both program cuts and staff layoffs. He also indicated in a Dec. 21, 2015, testimony that the defender’s office would ask state lawmakers for more money.

But Pelletier has been adamant in not settling the case.

“She has ripped off the state of Illinois, and I’m not going to be a party to settling with this fraud,” Pelletier said.

He noted that “a lot of resources have been wasted,” but he said he did not expect to lose during the jury trial. He said he hopes to win the case in a post-trial motion or on appeal, and said the office has evidence that would have conclusively decided the case in her favor.

He added, “I cannot in good conscience settle with this woman.”

It’s not like no one has talked about settling either. Washington’s lawyers said they have always been open to a settlement, and even Pallmeyer has urged the parties to talk.

In a May 31 opinion, Pallmeyer noted that Washington’s termination “has turned out to be extraordinarily costly, and the final tally is not yet determined.”

“Ms. Washington would be well served in putting this dispute behind her, and the taxpayers of Illinois can ill afford the cost of additional litigation,” Pallmeyer wrote. “The parties are again urged to discuss settlement.”

Washington was also represented by John Thomas Moran Jr. and Jawayria Z. Kalimullah of The Moran Law Group.

Pelletier and the defender's office was represented by Helena L.B. Wright, John R. Hayes and S. Ann Walls of the Illinois Attorney General's Office.

The case is *Alice Washington v. Office of the State Appellate Defender, et al.*, No. 12 CV 08533.