

CONCORD MONITOR

Published on *Concord Monitor* (<http://www.concordmonitor.com>)

[Home](#) > Lawyers: Adequately fund courts

Lawyers: Adequately fund courts

By *Annmarie Timmins*

Created 08/09/2010 - 00:00

Group to sue state over cuts to justice system

About 20 years ago, a group of school districts sued the state over what it felt was inadequate educational opportunities. Now a group of civil lawyers is at work on a similar lawsuit, only this one accuses the state of failing to adequately fund the court system.

The effort is being led by Concord attorney and former state Supreme Court justice Chuck Douglas. The lawsuit basis, he said, is the state Constitution.

"Every subject of this state is entitled to a certain remedy, by having recourse to laws, for all the injuries he may receive," it reads. It goes on to say that justice should be obtained "promptly and without delay."

That prompt access is no longer available, Douglas said, because legislative cuts to the judicial branch's budget have led to the elimination of months of jury trials, overwhelming staff shortages and a growing number of judicial vacancies.

Court officials are warning that civil trials in superior court won't be heard for a year or more. In the state's district courts, judges are increasingly unable to hear small-claims cases because criminal and other time-sensitive matters take priority. And family court cases are moving along more slowly than they did before years of cuts.

"We'd be asking for a (court) order to adequately fund the civil side of the court docket," Douglas said. "It would be for the Legislature to fulfill it."

Douglas and the others are meeting later this month to decide whether to bring the case in federal or state court and to decide which client would be named in the action. Douglas said that because the state Constitution considers the right to a jury trial a "sacred" one, lawmakers have no right to give the courts too little money to keep civil trials on track.

The governor's office thinks Douglas is misplacing the blame. Colin Manning, spokesman for Gov. John Lynch, said Friday that the court system could have preserved civil jury trials by using its reduced budget differently.

"During one of the most difficult economic recessions that we've seen, the governor and the Legislature had to make hard choices and basically figure out how to do more with less," Manning said. "And the court system should be expected to do the same."

He said the court system has "unfortunately" not used its budget to protect services. It recently eliminated jury trials for three months instead of dipping into its \$600,000 technology account, \$2 million miscellaneous fund or the nearly \$400,000 set aside for the law library.

"While some things may be worthy, it's better to put them off and fund our priorities," Manning said. "And I don't think we've seen that with the court system."

Chief Justice John Broderick issued a response through a court spokesperson this weekend. "I find Mr. Manning's comments both sad and uninformed," Broderick said. "Indeed, it is the Governor's office that has misprioritized the value of our state courts and the critical services they provide to the people of our state."

The New Hampshire Association for Justice, a statewide association of trial lawyers, proposed a different idea for restoring some of the judicial branch's budget. The group argued that the courts should receive some money from those state agencies that rely on the courts to handle their regulatory matters.

The agencies named were the banking and insurance departments and the Public Utilities Commission. Rather than return unspent money to those agencies at year's end, some of it could be dedicated to the courts to compensate them for hearing agency-related legal matters.

The budget session ended with no decision, and court officials aren't sure that argument will be resurrected in the next legislative session.

Howard Zibel, legal counsel for the state Supreme Court, called the proposal interesting but said it was unlikely to generate enough money to make a significant difference. Court cases that relate directly to the state Insurance Department, for example, are small in number and therefore wouldn't bring in much compensation.

State Rep. Stephen Shurtleff, a Penacook Democrat who chairs the House Criminal Justice and Public Safety Committee, hadn't heard about the lawsuit Douglas and his colleagues are contemplating against the state. "But I'm not entirely surprised," he said.

Shurtleff said he and others in the Legislature worry that "the courts may not be adequately funded." He added, "There's an old adage, 'Justice delayed is justice denied,' and I think there is some truth to that."

The difficult economic climate is not lost on him, he said, "but I am concerned about the funding of the courts."

Related content:

Justice delayed ^[1]



[1]

Marital Master Deborah Kane Rein has 16 divorce or custody cases awaiting resolution at the Concord family court. She knows each is an urgent matter to a family in crisis. A mom doesn't want her 7-year-old visiting his imprisoned father. A man says his ex-wife is not paying taxes on the home they still own together.... [36](#) ^[2]

August 8, 2010

[Politics](#) [CONCORD \(NH\)](#) [Front page](#) [Publishable](#) [regional authority](#) [Resellable](#) [Review](#)
[Geography](#) [State](#) [Judiciary \(system of justice\)](#) [News Articles](#) [Lawyers May Sue State Over Court Funding](#) [Anmarie Timmins](#) [Monitor staff](#)

Source URL: <http://www.concordmonitor.com/article/lawyers-adequately-fund-courts>

Links:

[1] <http://www.concordmonitor.com/article/justice-delayed>

[2] http://www.concordmonitor.com/article/justice-delayed#comment_block