

Former Maryland public defender seeks \$1M, not reinstatement
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Former State Public Defender Nancy S. Forster sued the state of Maryland Monday, nearly a year after her controversial firing by two members of the agency's three-member board of trustees.

Forster, whose ouster from the 900-employee Office of the Public Defender led to legislative reform of the previously obscure board, alleges Chairman T. Wray McCurdy and member Margaret A. Mead "overstepped their authority" with "not negotiable" demands for structural and personnel changes.

"Mr. McCurdy and Ms. Mead acted in an unlawful and retaliatory manner ... when they decided to wrongfully discharge Ms. Forster based solely on her refusal to execute Mr. McCurdy and Ms. Mead's illegal orders," Andrew M. Dansicker, Forster's attorney, wrote in the suit filed in Baltimore City Circuit Court.

Forster's lawsuit seeks at least \$1 million in compensatory and punitive damages but does not request reinstatement because that's "probably unrealistic" at this point, according to Dansicker,

"I'm not a believer in throwing the kitchen sink in," he said of the single-count, single-defendant suit. "I'd rather get right to the meat of the case, which is the wrongful termination."

"If she prevails on wrongful termination, she'll get the damages that will make her whole again," Dansicker said.

But as Forster's is "not your run-of-the-mill" case, Dansicker said, the final word on that could be a ways off.

"I'm sure it'll end up in the Court of Appeals in a year, year and a half," he said.

Forster is not Dansicker's first high-profile client. He previously represented Thomas E. Perez in a constitutional challenge over his eligibility to seek office as the Maryland attorney general. Perez lost that challenge but went on to become state Secretary of Labor, Licensing and Regulation and is now assistant attorney general for the Justice Department's Civil Rights Division.

Nor is Dansicker Forster's first high-profile attorney. Monday's filing was presaged in January when Forster, who now teaches at the University of Baltimore School of Law and handles private criminal appeals, filed a notice of claim against the state.

That document was signed by William H. "Billy" Murphy Jr., who is no longer involved in the case.

A spokesman for Gov. Martin O'Malley declined to comment on the suit, as did a spokesman for the Office of the Attorney General, which will defend it.

McCurdy and Mead also declined to discuss the litigation, but each had praise for the OPD administration under Forster's successor, Paul B. DeWolfe Jr.

"They're doing great and they're within budget," Mead said.

The third board member, Theresa L. Moore of Prince George's County, did not return messages.

The board officially terminated Forster, 52, on Aug. 21 by a 2-1 vote, with Moore dissenting, after disagreements over how to spend the office's budget and what programs to cut.

Forster refused to disband certain units, such as the Juvenile Defender Division and Northwest Community Defenders, and make other cost-cutting changes itemized in a July 2009 letter signed by McCurdy and Mead.

"There [haven't] been any changes along the lines that were referenced in Mr. McCurdy's letter, I can confirm that," DeWolfe said Monday. However, he declined to comment on Forster's suit.

The complaint retells the story of how Forster's relationship with McCurdy and Mead deteriorated in the months leading up to her firing and provides further support for her actions before she was sacked.

She alleged McCurdy's "hostility and resentment toward OPD" stemmed from "his belief that OPD represents too many defendants thereby limiting the growth of his own personal legal practice."

Forster also claims she had support from Annapolis and the board members for her decision, in 2008, to stop hiring outside counsel (panel attorneys) in order to reduce agency costs.

The suit calls McCurdy's "ultimatum" letter "contradictory and nonsensical" and notes that "virtually none" of the demands therein have been implemented so far, "obvious evidence that the demands made by Mr. McCurdy and Ms. Mead were simply a bogus smokescreen used to justify their illegal termination of Ms. Forster's employment."

Baltimore City District Public Defender Elizabeth L. Julian led the agency on an interim basis until DeWolfe, who led the agency's second-largest district office in Montgomery County since 2000, was chosen to replace her on Dec. 8.

After hearings on largely similar bills in the House of Delegates and Senate, the General Assembly decided on a few major changes in April: the public defender will now serve a renewable six-year term; can now only be removed for cause; and will be overseen by a newly geographically diverse, 13-member board mostly appointed by the governor.

Under the new law, each of the 13 volunteer members of the Board of Trustees of the Office of the Public Defender will serve a three-year term and may be reappointed. Eleven of the members will be appointed by the governor and one each will be appointed by the Senate president and House speaker. In addition, the members will include a representative of each of the eight judicial circuits in the state.

The governor has until the end of the year to appoint the new board members.