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Pratt replacement accused of false billing

Complaint alleges new judge charged for nearly 24 hours of work in one day

By Kiah Collier

The Webster lawyer whose criminal complaints sparked two Harris County grand jury investigations and led to the eventual resignation of a family court judge earlier this year has filed a complaint against her replacement.

Lawyer Greg Enos filed a criminal complaint this month with the District Attorney's Public Integrity Division alleging 311th District Court Judge Alicia Franklin submitted false and questionable pay vouchers to the county for court-appointed work in Child Protective Services cases, including one in which she billed for nearly 24 hours of work in a single day and others for work apparently done after she had been sworn in as a judge, a violation of the Code of Judicial Conduct. She also is accused of billing for trips to the post office and other administrative tasks.

"Taxpayers should not pay attorneys to print documents, e-file pleadings, lick envelopes or drive to the post office to put envelopes in the mail box," Enos wrote in the complaint. "These amazing time entries are proof that the CPS lawyers submitting invoices have no shame and no fear of their bills being reviewed. It is definite proof that the judges do not even read the time entries being submitted before they approve them for payment."

Given by opponent

Enos' 20-page complaint is based on CPS pay vouchers he obtained from Franklin's Democratic opponent in the November general election, Sherri Cothrun. The complaint details vouchers filed on four separate days in May when Franklin billed anywhere from 19 hours to 23.5 hours, and show that she billed only in 15-minute increments.

Since filing the complaint, Enos said he has discovered additional vouchers that show Franklin billed for more than 32 hours in a single day, something legal experts say could be either unethical or illegal, if true.

Consultant Jim Mc-Grath, whose public relations firm Franklin hired, was dismissive of Enos' complaint, calling it a "political smear job" by a "self-described 'liberal Democrat.' "

"It stinks to high heaven as far as we're concerned, but it's the season for politics," McGrath said.

Gov. Rick Perry appointed Franklin, a Republican, in June to replace Judge Denise Pratt, who resigned in late March as part of a deal with the district attorney's office to avoid criminal charges. Enos, whose criminal complaints against Pratt sparked two grand jury investigations, had accused Pratt of tampering with government records by backdating court documents and signing orders that said she had notified lawyers and held hearings before dismissing hundreds of cases.

Franklin's defense

Harris County district attorney spokesman Jeff McShan said this week he could not confirm or deny whether the office was investigating Enos' complaint about Franklin.

At a Houston Chronicle editorial board meeting last month, Franklin defended her billing practices, saying the seemingly high hours listed on her pay vouchers was because she billed for work done by her associates and that she had submitted vouchers after being appointed judge for work she had done previously. Some of the dates on the vouchers Enos obtained, however, show dates after June 13, the day Franklin was sworn in.

Disconnect apparent

Judge David Farr, the administrative judge of the county's nine family courts, said he believes the law is clear that only the lawyer appointed to a case may be paid. However, he said a "disconnect" has developed between that law and what actually is happening in the courts. Sometimes lawyers have to send one of their associates to court to cover for them, he said, but that is not going to stop the judge from making a decision on behalf of a child.

"There are loopholes in the law," he said. "This is a bigger issue. It's something we need to discuss."

Outside experts said the evidence in Enos' complaint is sufficient to warrant an investigation.

"It's problematic on its face, there's no doubt about that," said Robert Schuwerk, professor emeritus at the University of Houston Law Center. "I think it's got to be looked into."

Jim McCormack, former general counsel and chief disciplinary counsel of the State Bar of Texas, said the complaint "raises serious questions of fraud, theft and dishonest conduct."

"Those allegations should be fully investigated by the appropriate prosecutor and the State Bar of Texas," he said. "Allegations of fraudulent payment requests by a lawyer to a government entity, as well as the alleged charging of unconscionable fees implicate both the criminal laws applicable to everyone and the disciplinary rules governing lawyers."

'Systemic issue'

Judicial conduct consultant Lillian Hardwick said the implications could even reach the judges who approved any false vouchers.

"A judge can be sanctioned for not reporting misconduct of lawyers," she wrote in an email.

Farr, however, said there is no way judges in the county's backlogged family courts have time to check each voucher.

McGrath's partner, Chris Begala, said there is no space on the voucher form to note that an additional person assisted with a certain task, and that every CPS lawyer has a support staff that performs administrative work. Singling out Franklin for what could be described as a "systemic county-wide issue," he said, is "unfair."

Enos has requested that an independent prosecutor look into his complaint, noting that District Attorney Devon Anderson, also a Republican, is on the same ticket as Franklin in November.

He denied the complaint is politically motivated, noting that he was among the lawyers who donated to Franklin before her successful runoff election with Pratt. He also has donated to Cothrun, records show.

"I was actually a fan of hers until I saw these documents," Enos said. kiah.collier@chron.com twitter.com/kiahcollier