

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WANDA SPANN,	*	
	*	
Plaintiff,	*	
	*	
vs.	*	Civil Action No.:
	*	1:04-CV-1951 (MHS)
COBB COUNTY GOVERNMENT	*	
COBB COUNTY SUPERIOR COURT	*	
JUDGES COUNCIL	*	
COBB COUNTY PRETRIAL COURT	*	
SERVICES AGENCY,	*	
FRANK COX, in his OFFICIAL	*	
CAPACITY as HONORABLE CHIEF	*	
JUDGE OF THE COBB COUNTY	*	
MAGISTRATE COURT & in his	*	
INDIVIDUAL CAPACITY,	*	
	*	
Defendants	*	

AFFIDAVIT OF HOWARD CHESHIRE

After being properly sworn, Howard Chesshire testifies
as follows:

1.

I am competent in age and mind to give the testimony
in this affidavit, and I present this affidavit for use in
defending the above-styled case, currently pending before
this Court.

2.

I am employed as the Court Administrator of the Cobb
County Superior Court. I have held this position since
1985.

3.

I am familiar with the Cobb County Pre-trial Services program (hereinafter "Pre-trial Services"), the program that employed Plaintiff, Wanda Spann, and the manner in which it is operated.

4.

The pre-trial services function of the Cobb Judicial Circuit was officially recognized by an Order of the Superior Court of Cobb County filed October 22, 1973.
(Exhibit A)

5.

During the period between July 1, 1985 and October 24, 1985, Pre-trial Services was under the supervision and administration of the office of the Court Administrator of the Cobb County Superior Court as provided in Georgia Uniform Superior Court Rule 27.1.

6.

By Order of October 24, 1985, the supervision and administration of the Pre-trial Court Services was transferred entirely from the Court Administrator to the Chief Magistrate Judge. This was done pursuant to Uniform Superior Court Rule 1.2(B) and with the approval of the Georgia Supreme Court. (Exhibit B, and attached letters)

7.

The Superior Court has had no administrative role with regard to Pre-trial Services since ~~June 30~~, 1985.

October 24, 87
8 The
8.

The Superior Court does not have the authority to determine the terms and conditions of the employees of Pre-trial Services. The Superior Court does not determine who is hired by Pre-trial Services. It does not make decisions concerning the termination of employees of Pre-trial Services. It does not set the work schedule of Pre-trial Services employees, nor does it determine the manner, method and means by which the work done by the employees of Pre-trial Services is accomplished. Further, the Superior Court does not pay the wages and benefits of employees of the Pre-trial Services.

9.


Further, there is no appeal process of employment decisions made by the Cobb County Magistrate Court through the Superior Court. At no time did any judge or other agent of the Superior Court have the authority to make employment decisions concerning Plaintiff.

10.

The Superior Court Judges Council is not an entity that has the ability to hire and fire employees. The Council is made up of the Judges of the Superior Court of

Cobb County and functions solely as a group in order to
promote the efficient operation of the Superior Court and
its duties.

Further this affiant sayeth not.


Howard Chesshire

Sworn to and subscribed
Before me this 10th day
of November 2004.


NOTARY PUBLIC

My commission expires: Notary Public, Cobb County, Georgia
My Commission Expires April 21, 2008.



Please note page 3 of this affidavit states:

“The Superior Court Judges Council is not an entity that has the ability to hire and fire employees. The Council is made up of the Judges of Superior Court of Cobb County and functions solely as a group in order to promote the efficient operation of the Superior Court and its duties.”

However:

The external investigation of Mr. Chesshire reads:

The Court, working with the undersigned, responded with a number of actions. The day after the Complaint was received, the Judges Council made the decision to relieve Mr. Chesshire of all duties; and provide administrative leave pending further investigation. That action was interrupted on February 22, 2008 when Mr. Chesshire announced his retirement while meeting with Chief Judge Ingram and Judge LaTain Kell. At that time, Judge Ingram requested and directed that, until further notice, Mr. Chesshire should not be present in any Court offices; and should not contact any Court Administration employees. That request/direction remains in place.

An [article](#) from the *Atlanta Journal Constitution* reads:

“Cobb County spokesman Robert Quigley said the county initiated the investigation at the request of the Superior Court judges — Chesshire's employers. Cobb retained the labor and employment law firm of Fisher & Phillips.”

The Marietta Daily Journal [stated](#):

“The court administrator position is appointed by the Judges Council, which is composed of the 10 Superior Court judges. Duties include administering policies set by the Judges Council, implementing the court's budget, supervising all supporting court departments and coordination with other courts for judicial assistance. The court administrator's office oversees approximately 40 county employees.”