

News Briefs

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Gov's Council OKs Sushchik, Johnson

Two of Gov. Charlie Baker's judicial nominees received unanimous approval from the Governor's Council on Jan. 31.

Paul M. Sushchik will join the Probate & Family Court and Thomasina Y. Johnson will take a seat on the Suffolk Juvenile Court bench.

Each received a 7-0 vote. Councilor Joseph C. Ferreira was absent.

Sushchik most recently practiced in Worcester and previously was with the firms Army & Army and Berg & Laipson.

Johnson has been the assistant clerk-magistrate for the Brockton Juvenile Court since September 2016.

The pair of votes brought the number of judicial nominees approved by the council under Baker to 100, Lt. Gov. Karyn Polito told the council.

Of those 100 confirmed nominees, 44 have been women and 19 have been "diverse," Polito said.

'Farak' arguments scheduled for May

The Supreme Judicial Court is expected to hear arguments in May on the potential dismissal of remaining cases affected by the Sonja Farak scandal after Justice Frank M. Gaziano recently referred the case to the full court.

A lawsuit brought by the state chapter



RECOGNIZING EXCELLENCE

The Massachusetts Family and Probate American Inn of Court hosted a luncheon with Worcester County Register of Probate Stephanie K. Fattman to recognize the staff at the Worcester Probate & Family Court. The employees were lauded for their 'uncompromising excellence, dedication, and leadership in the pursuit of justice for the people of Worcester County.' From left: Inn of Court President Patricia Saint James, Probate Court Chief Justice Angelea M. Ordonez and Register Fattman

of a two-day Drug Court conference attended by the entire team.

Despite agreeing over the phone that they would never engage in sexual conduct again, about a week later Estes allegedly invited the plaintiff into his chambers in Belchertown and, after she arrived,

so-called clean rooms in which the drugs were made.

Prosecutors wanted a 35-year-sentence for Chin, pointing to the devastating impact the outbreak had on families across the country. Chin's lawyers asked for about three years behind bars.

Massport employee, the Supreme Judicial Court has ruled.

"Upon review, we discern no reason to conclude that the Legislature intended to include sick pay as 'wages' under the Wage Act," Justice Kimberly S. Budd wrote for the court.

"Because accrued, unused sick time is not compensable under a 'use it or lose it' sick time policy, such time clearly is not a wage under the act," Budd stated.

Under Massport's sick time policy, rather than requiring employees to forfeit any accrued, unused sick time when they separate from the agency, Massport pays departing employees a certain percentage of that sick time. That compensation is payable under two conditions: The employee must have worked at Massport for at least two years, and he or she must not have been terminated for cause.

"It is, essentially, a contingent bonus paid to separating employees for not having used all of their accrued sick time and not engaging in conduct warranting termination for cause," Budd wrote.

"The only contingent compensation recognized expressly in the act is commissions, which are considered wages when they 'ha[ve] been definitely determined and due and ha[ve] become payable to [the] employee,'" Budd noted.

"We have not broadly construed the term 'wages' for the purposes of the act to encompass any other type of contingent compensation," she added.

The nine-page decision is *Mui v. Massachusetts Port Authority*. Lawyers Week-

A lawsuit brought by the state Chapter of the American Civil Liberties Union and the Committee for Public Counsel Services seeks the dismissal of all cases handled by Farak, who pleaded guilty in 2014 to tampering with evidence at the state laboratory in Amherst.

About 8,000 cases connected to Farak have been dismissed by district attorneys across the state, but roughly 45 convictions remain in place, according to Gaziano's order.

District Court judge subject of federal suit

A former specialty court clinician who said she endured months of forced sexual encounters with District Court Judge Thomas Estes filed a federal lawsuit against Estes and Behavioral Health Network on Jan. 22, alleging she was subjected to sex discrimination and a hostile work environment under Title VII.

After being appointed to preside over the Pittsfield Drug Court in the summer of 2016, Estes approved the hiring of the plaintiff, Tammy Cagle, as the court's first specialty court clinician.

The first of a series of alleged sexual encounters between Cagle and Estes occurred on Nov. 16, 2016, on the first night

closed the window blinds and shut and locked the door, telling her he wanted to "continue what they had started" on Nov. 16. She would eventually be forced to perform oral sex, the complaint alleges.

The scenario would repeat itself "more than 10 times" in the months that followed, with Estes allegedly calling Cagle to arrange private meetings in his Belchertown District Court chambers.

Cagle alleges a pattern of conduct at work, whereby Estes acted coldly toward her at Drug Court staff meetings and during the Drug Court sessions whenever she suggested stopping their sexual relationship, but validated her opinions in team meetings and defended her treatment decisions to other team members if she obliged his sexual requests.

Cagle was reassigned from Drug Court and eventually quit Behavioral Health Network and moved to Georgia, though Estes continued to receive sexual favors from her, according to the complaint.

As of August 2017, Estes was removed from his position as chief of Belchertown District Court and reassigned to "administrative duties" in Holyoke.

— KRIS OLSON

Ex-NECC pharmacist gets 8-year sentence

Glenn Chin, the pharmacist convicted for his role in a deadly 2012 meningitis outbreak caused by tainted drugs, was sentenced on Jan. 31 to eight years in prison.

Nearly 80 people died and almost 800 were sickened in what is considered the worst public health crisis in recent U.S. history. The fungal meningitis outbreak was caused by mold-tainted steroid injections produced by the New England Compounding Center, where Chin ran the

Chin, 49, was convicted in October of racketeering and mail fraud but was cleared of second-degree murder, which could have brought a life sentence. He had been charged with the deaths of 25 people in Florida, Indiana, Maryland, Michigan, North Carolina, Tennessee and Virginia.

Throughout his trial, prosecutors portrayed him as a callous employee who cut corners and ignored warning signs that the pharmacy's production methods were unsafe in order to boost production and profits.

Chin's attorneys argued that he did not deserve more time behind bars than the pharmacy's co-founder, Barry Cadden, who received a nine-year sentence for his role in the outbreak. Cadden also was acquitted of second-degree murder.

SJC: sick time isn't covered by Wage Act

The Wage Act did not apply to accrued, unused sick time owed to a former

ly No. 10-016-18. The full text of the ruling and Lawyers Weekly's opinion digest of the case can be found at masslawyerweekly.com.

— THOMAS E. EGAN

Discretion granted in bail revocation

The Supreme Judicial Court has clarified the number of days someone can be held without bail after a bail revocation hearing.

The court held that when a person has been released on bail pursuant to G.L.c. 276, §58, and there is probable cause to believe that person committed a crime while released on bail, a trial court judge may revoke bail under either §58 — which has a 60-day revocation period — or G.L.c. 276, §58B, which has a 90-day revocation period.

"The judge must then determine whether the Commonwealth satisfied the requirements of the particular

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Court Vacancies

PROBATE & FAMILY COURT

Barnstable

Deadline: March 6

• Associate judge

Visit www.mass.gov and www.mad.uscourts.gov for the complete policies on the application processes.



