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PRESS RELEASE

Lynch urges Court to reduce Judge Yashar's pension

Attorney General Patrick C. Lynch today questioned the legality of the decision that effectively granted former Traffic Tribunal Associate Justice Marjorie R. Yashar a pension equal to 100 percent of her former salary.

Based on his reading of the State law governing credit given for a voluntary, unpaid leave of absence, Lynch urged the Rhode Island Supreme Court to look into whether Judge Yashar truly qualified for the \$120,310 annual pension that she is now receiving.

In a letter today to Supreme Court Administrator Joseph Baxter, Lynch said he saw "two scenarios under which Judge Yashar qualifies for a pension, but both of them award her a pension of 75 percent."

Lynch wrote: "First, if she is eligible to purchase credit for the period of her voluntary, unpaid leave, she would only get pension credit for that purchase if she worked at least one year from the end of her leave. She did not do so. Assuming that Judge Yashar is exempt from that provision, as she appears to be, there is no provision that allows her to obtain credit for a voluntary, unpaid leave of absence. In other words, R.I. Gen. Laws § 36-9-25.1 is the only provision in State law that allows an employee to receive credit towards a pension for a voluntary, unpaid leave of absence. Since Judge Yashar is exempt from that provision, she is not entitled to such credit. Stated differently, state employees are not entitled to credit for voluntary, unpaid leaves unless they qualify to purchase 'credit' under R.I. Gen. Laws § 36-9-25.1."

Lynch continued: "Moreover, it is clear from R.I. Gen. Laws § 36-9-25.1 that a voluntary, unpaid leave is not 'service' to the State. First, R.I. Gen. Laws § 36-9-25.1 defines the period subsequent to the voluntary, unpaid leave as a 'return to service,' which clearly defines the period of the leave as something other than 'service' to the State. Second, subsection (a) of R.I. Gen. Laws § 36-9-25.1 states that the purchased time shall be entitled to 'credit as service' once it is paid for, not as service, which, again, indicates that the leave time is something other than 'service' to the State. These statutory provisions when given their plain and ordinary meanings show that voluntary, unpaid leave is not 'service' within the meaning of the retirement statutes. If that were not so, there would be no reason for an employee to purchase credit for that time period."

As was first reported in *The Providence Sunday Journal* on March 26, the eight months that Yashar spent on unpaid leave from the Traffic Tribunal give her an extra \$38,660 in pension benefits every year, for as long as she lives.

"State law clearly states that former Judge Yashar is not entitled to have the eight months she spent on unpaid leave calculated into her pension benefits," Lynch said. "To heap an extra serving of this proportion on a plate that's fully funded by the taxpayers of Rhode Island is not only costly and offensive, but wrong, under the law. It's imperative that former Judge Yashar's pension is adjusted to reflect her actual service to the state during her employment."

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