

S.L. Attorney Again Hired In Fight Over Abortion

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The Deseret News. Salt Lake City, Utah: October 20, 1994. pg. B.10.

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It was described as unabashed partisan maneuvering and a highly unusual legal move. But that didn't detour House and Senate Republicans from again hiring controversial Salt Lake attorney Mary Ann Wood to represent the Legislature in its ongoing legal battles over abortion.

``It is a slap at (Democratic attorney general) Jan Graham," says House Minority Whip Kelly Atkinson, D-West Jordan. Graham is representing the state on numerous appeals of Utah's restrictive abortion law. But on Wednesday, the Legislative Management Committee decided she needed help. They voted to pay Mary Ann Wood up to \$30,000 to file a friend of the court brief on behalf of the Legislature.

The hiring adds another chapter to the now-you're-hired, now-you're-not saga of Wood's relationship with Utah's executive branch. Wood was originally hired by then-Attorney General Paul Van Dam at the specific request of the Legislature. Almost a million dollars later, she was fired by Graham, who said the case had progressed to the point where her staff could handle the case without additional cost to taxpayers.

Gov. Mike Leavitt then retained Wood as his own counsel on the matter.

Wednesday's hiring of Wood by the Legislature clearly reflected the displeasure of conservative lawmakers who have openly questioned Graham's commitment to winning the abortion battle and who were upset when Leavitt and Graham decided to drop the state's appeals of certain aspects of a federal court ruling. Counterappeals by the American Civil Liberties Union are still pending.

House Democrats tried to block Wood's latest hiring, but the start of the Management Committee was delayed 15 minutes until Republicans could muster the votes to override the Democrats. Senate Democrats Rex Black, Eldon Money and Scott Howell voted with Republicans to hire Wood.

If Wood can help the state win an ACLU appeal of an award of attorneys fees to the state, ``it will be money well spent," Black said.

``It's a matter of having two opinions instead of one," added Senate President Lane Beattie, R-Bountiful.

But House Democrats were united in their opposition. ``Citizens don't want to spend more money in these areas," Atkinson said.

Assistant House Whip Grant Protzman, D-North Ogden, suggested the Legislature direct its own attorneys to file the friend of the court brief, saying if they were ``competent enough to draft the law, they are competent enough to draft an amicus brief for the law they drafted."

Utah lawmakers have been under pressure from conservative groups to pursue abortion laws and appeals beyond what Graham and Leavitt have committed. Howell, D-Salt Lake, said his voting in favor of the \$30,000 expenditure was not a ``kowtowing to any group that has bawled and begged," and he threatened retaliation against those groups who have tried to politicize the Leavitt-Graham legal strategy.

What makes Wednesday's move unusual is that the expenditure of funds was not approved by the 1994 Legislature during its constitutionally mandated budget process.

The committee's vote constitutes a "gentleman's agreement" to pay the legal bills when it convenes new budget hearings in January.

Also unusual is the fact that Wood will represent the Legislature when she files a friend of the court brief. Those briefs are generally filed by interested third parties, but in this case the Legislature is anything but a third party.

"It is peculiar," said Jerry Jensen, legislative liaison for the Utah attorney general's office, "You have the Legislature filing an amicus brief on behalf of the state and theoretically the Legislature is the state."

Jensen told the committee that the AG's office was ambivalent about the friend of the court brief, saying "it gives us no heartburn whatsoever."

Gov. Leavitt and his staff spent much of the day meeting with lawmakers to explain his decision not to pursue appeals rulings on those portions of the 1991 abortion law the state lost in court. The meetings were characterized by some as an apology by Leavitt for not notifying lawmakers of the decision before it became public.

Conservative lawmakers were unsuccessful in their attempts to persuade Leavitt and their more moderate colleagues to reinstate the appeals.

House Democrats praised Leavitt's commitment to resolve the abortion appeals and to drop those segments of the case "that cannot possibly pass constitutional scrutiny. We do not need to spend more taxpayer money on something that is blatantly unconstitutional," Atkinson said.