

## JUDGE GRANTS WINSTON'S MOTION TO DISMISS

### MOLLER LAWSUIT AGAINST LAKE SHASTINA

In response to a demurrer filed by Lake Shastina Community Services District legal counsel, Robert Winston, the Siskiyou County Superior Court has dismissed the lawsuit filed by Lake Shastina resident Corrine Moller against the District and three members of its board of directors.

Winston is a principal attorney at Kirsher, Winston & Boston. He has represented the Lake Shastina District for some 30 years and has extensive experience in public agency law and litigation.

A demurrer is a court motion in which a defendant argues that even if the plaintiff proves all of the allegations of its complaint, it will not be legally entitled to the relief it is seeking.

According to Winston, the District's demurrer was sustained without leave to amend, the judge having determined that there was nothing Moller could possibly allege in her Complaint that would entitle her to proceed with her case.

The proceeding was highly contested over many months, involving six attorneys at various times representing one or more of the seven parties.

The Moller lawsuit had sought to set aside the current board's 2015 settlement of a lawsuit between the District and DECO, a local real estate development company, to establish the District's ownership of the medical clinic building without having to buy it, and to require the defendant directors and DECO to reimburse the District for any funds already paid by it to DECO for the building.

In 2005, DECO had constructed a building on property leased from the District, for use by a medical clinic. The District agreed to collect rent from the clinic operator and use those funds to eventually purchase the building from DECO.

When the District suspended its payments to DECO, DECO filed suit in 2013. The District filed a cross-complaint seeking a decree that it was entitled to the building without having to pay for it.

The board members who were named as defendants in the Moller lawsuit ran for office two years ago with a promise to voters that they would settle the DECO lawsuit. They did so within months of taking office, reconfirming the District's agreement to purchase the medical building from DECO.

The three directors named in the Moller suit easily prevailed against her and two of her colleagues in the 2014 election.

The ruling on the demurrer was entered by Anne Bouliane, a retired Superior Court judge who had been assigned to hear the case. Along with her dismissal of the case, Judge Bouliane will award the District its court costs.

The Lake Shastina Community Services District provides police, fire, park & recreation, water, and sewer services to the community, but does not receive any money from the state or county to do so. Instead, its property owners pay annual assessments.

Winston has served as legal counsel to the District since shortly after it was formed by a vote of the property owners.