

Date: December 1, 2015

To: Presiding Judge Gary Paden

From: Stephanie Cameron, Human Resources Manager

Subject: Resolution to appoint LaRayne Cleek as an Interim Court Executive Officer to fill a critically needed position for a limited duration before 180 days following the date of retirement under California Government Code Section 7522.56 (Resolution No. 2015-01)

Contact: Ellen Kennedy (559) 730-5000, ext. 1359

### **Overview**

This report recommends adoption of Resolution No. 2015-01 to approve an exception to the 180 day wait period to hire LaRayne Cleek as a Retired Annuitant in order to fill a critically needed Interim Court Executive Officer position for a limited duration, pursuant to California Government Code Section 7522.56. The impact of the resolution would be to move Ms. Cleek's start date up from June 9, 2016 (which represents 180 days after her retirement) to December 12, 2015 so that she can step into a temporary vacancy.

### **Recommendation**

Adopt attached resolution which would certify the nature of the employment and that the appointment of LaRayne Cleek is necessary to fill a critically needed Interim Court Executive Officer position before 180 days have passed following the date of her retirement from service.

### **Fiscal Impact**

The hourly equivalent for the Interim Court Executive Officer position is \$94.521. The total annual cost for the Retired Annuitant to work the maximum 960 hours allowed in any fiscal year is approximately \$90,740.16. Individuals hired as Retired Annuitants currently do not receive benefits, incentive, compensation in-lieu of benefits, or other forms of compensation in addition to the biweekly rate of pay. Funding for the position will be provided by the operating budget with salary savings from the vacant Court Executive Officer position.

## **BACKGROUND**

There is a current need for an experienced Interim Court Executive Officer to provide critical assistance to the Tulare County Superior Court (Court) in training and supporting the newly hired Assistant Court Executive Officer. Government Code Section 7522.56, enacted as part of the California Public Employee's Pension Reform Act of 2013 (PEPRA), allows appointment of a retired employee to serve as a Retired Annuitant without reinstatement from retirement or loss or interruption of benefits for a limited term of 960 hours in any calendar or fiscal year. Generally such an appointment may not be made until 180 days after the retirement of the individual proposed to serve as a Retired Annuitant. There is, however, an exception to the 180 day requirement where the employer certifies the nature of the employment and that the

**Resolution to appoint LaRayne Cleek as an Interim Court Executive Officer to fill a critically needed position for a limited duration before 180 days following the date of retirement under California Government Code Section 7522.56 (Resolution No. 2015-01)**  
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appointment is necessary to fill a critically needed position and the appointment is approved by the governing body of the employer in a public meeting.

**DISCUSSION**

The Court relies on the Court Executive Officer to provide strategic direction, program and budget development and coordination, and goal setting within the Tulare County Superior Court (Court). Effective December 12, 2015, there will be a critical need for an experienced Court Executive Officer to provide these services and training and support to the newly hired Assistant Court Executive Officer.

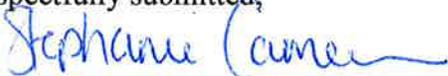
The Court Executive Officer has overall management authority and responsibility for the non-judicial components of the court system. The proposed Retired Annuitant, LaRayne Cleek, has over 43 years of Court experience, with 35 years of Court Administration experience, and has a direct working knowledge of the Tulare County Superior Court. In July 2009, the Deputy Court Executive Officer retired and the position remained vacant until September 2015. Given her experience and abilities, she is uniquely qualified to provide the much needed training and support for the recently appointed Assistant Court Executive Officer. Ms. Cleek truly possesses specialized skills that would allow her to perform the duties required to avoid disruption to the Court. Hiring an individual without the intimate knowledge of Court Administration, specifically the knowledge of the Tulare Superior Court, would disadvantage the Court. The appointment is of limited duration, not to exceed 960 hours in a fiscal year. The appointment would take effect on December 12, 2015 and would otherwise be entitled to return on June 9, 2016, such appointment would mean that Ms. Cleek would return to court service prior to the normal 180 day period. While it is recommended Ms. Cleek be appointed December 12, 2015, compensation would begin no earlier than January 11, 2016.

It is recommended that you adopt the resolution and certify the nature of the employment and that the appointment of Ms. Cleek is necessary to fill a critically needed position.

**FINANCIAL ANALYSIS**

The approximate hourly equivalent for the Court Executive Officer is \$94.521. The total annual cost for the Retired Annuitant to work the maximum 960 hours allowed in any fiscal year is approximately \$90,740.16. Individuals hired as Retired Annuitants currently do not receive benefits, incentive, compensation in-lieu of benefits, or other forms of compensation in addition to the biweekly rate of pay. Funding for the position will be provided by the operating budget with salary savings from the vacant Court Executive Officer position.

Respectfully submitted,



STEPHANIE CAMERON

Human Resources Manager

Attachments: Resolution No. 2015-01

**RESOLUTION NO. 2015-01**

**RESOLUTION APPOINTING LARAYNE CLEEK AS AN INTERIM COURT EXECUTIVE OFFICER FOR A LIMITED DURATION BEFORE 180 DAYS FOLLOWING THE DATE OF RETIREMENT UNDER CALIFORNIA GOVERNMENT CODE SECTION 75222.56**

**WHEREAS**, California Government Code section 7522.56, enacted as part of the California Public Employees' Pension Reform Act of 2013 (PEPRA), requires a retired person not be employed by a public employer in the same retirement system from which they received a retirement allowance for a period of 180 days following the date of retirement; and

**WHEREAS**, an exception under Gov. Code 7522.56 (f)(1) allows appointment of a retired person to serve as a Retired Annuitant for a limited term of 960 hours in any fiscal year before 180 days following the date of retirement if the employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position; and

**WHEREAS**, the exception under Gov. Code 7522.56 (f)(1) requires that the appointment of the Retired Annuitant is approved by the governing body of the employer in a public meeting and may not be placed on a consent calendar; and

**WHEREAS**, there is a critical need at the Superior Court of California, County of Tulare (Court), for an Interim Court Executive Officer for a limited duration; and

**WHEREAS**, LaRayne Cleek ("Retiree") will retire from the Superior Court of California, County of Tulare (Court), effective December 11, 2015; and

**WHEREAS**, Ms. Cleek as a retired Court Executive Officer with more than 43 years of court experience, including 35 years of experience in Court Administration, has the unique skills necessary to perform the needed work; and

**WHEREAS**, the Court desires to appoint Retiree to fill a critically needed position to perform work of a limited duration; and

**WHEREAS**, appointment of Retiree shall be effective on December 12, 2016, but will not receive compensation prior to January 11, 2016, and will not exceed a total of 960 hours in any fiscal year, regardless of whether the Retiree works for one or more employers; and

**WHEREAS**, the Retiree's sole compensation from the Court shall be payable at the approximate hourly equivalent of \$94.521 per hour, and Retiree will not receive any benefit, incentive, compensation in-lieu of benefits, or other form of compensation, unless prescribed by law, in addition to this monthly pay rate; and

**WHEREAS**, the rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the Court to other employees performing comparable duties to the Retiree; and

**WHEREAS**, the Retiree has attained “normal retirement age,” as that term is defined by the Tulare County Employees’ Retirement System, and therefore no bona fide separation is required under Gov. Code section 31485.21; and

**WHEREAS**, the Retiree has received no retirement incentives; and

**WHEREAS**, Retiree has certified that she did not, during the 12-month period preceding the reemployment date of December 12, 2015, receive unemployment insurance arising from prior employment.

**NOW, THEREFORE**, the Honorable Gary Paden, Presiding Judge, Superior Court of California, County of Tulare, resolves and certifies the nature of the employment and that the appointment of Retiree is necessary to fill a critically needed Interim Court Executive Officer position before 180 days have passed following the date of his retirement from service, pursuant to California Government Code Section 7522.56.

The foregoing resolution was passed, approved, and adopted by the Honorable Gary Paden, Presiding Judge of the Superior Court of California, County of Tulare, State of California, this 8th day of December, 2015, with the following vote, to wit:

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The Honorable Gary Paden  
Presiding Judge  
Superior Court of California, County of Tulare



ATTEST:

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Name, Title