

# Judges propose to settle clerk case

*Cross-training plan will get 6-month trial*

By **Stephanie A. Stanley**  
St Tammany bureau

The judges of 22<sup>nd</sup> Judicial District Court have announced a proposed settlement of their lawsuit against Clerk of Court Malise Prieto, who they sued in January over a disagreement about the appointment and assignment of minute clerks.

The proposal, which was made in a June 25 letter to Prieto's attorneys and released Wednesday, says two of the nine judges are willing to accept Prieto's changes in minute clerk assignments for six months while she tests a cross-training program for her staff.

As proposed, the settlement would not end the litigation, but would temporarily stop any legal proceedings while the two sides try to reach a permanent out of court agreement.

"We've looked for ways to end this tempest in a teapot for months," said Charles Hughes Jr., the judges' attorney. "This is another effort for the judges to try to resolve this in a professional and amenable fashion."

## Prieto wants new system

### JUDGES, from A-1

Prieto is out of town at a national clerks convention until Monday, but her office released a statement Thursday, saying, "She is favorably disposed to reaching an amicable settlement, and she is encouraged by the judges' offer."

Her attorney, Randall Smith, added, "The devil is in the details, but hopefully, this is the basis of a settlement."

Prieto's office which countersued the judges, has spent more than \$30,000 "to defend itself from the judges lawsuit and maintain its right to continue cross-training its employees," her office said.

Likewise, the judges expressed some frustration at the amount of money they have spent, which was at \$14,000 this week, pursuing their lawsuit.

"The court and the clerk have both been required to spend substantial sums in connection with this litigation," the judges' statement said. "Should it continue, costs will only escalate. These funds can be better used in providing needed services to the public."

In January, state District Judge Larry Green, acting as chief of the district, sued Prieto after she initiated a cross-training program and reassigned two minute clerks to participate in it.

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**CHARLES HUGHES JR.**  
attorney for judges of 22<sup>nd</sup> Judicial District Court

Arguing that state law requires the court's approval for all assignments of minute clerks, the judges balked at Prieto's move, claiming she did not receive proper approval and that her plans would create a chaotic revolving door of minute clerks through their courtrooms.

Prieto contends that state law does not require her to obtain the judges' approval to reassign minute clerks, and she has argued that her cross-training program would enhance the efficiency of her clerks, not disrupt it.

Minute clerks play an essential part in managing a judge's docket by recording rulings and keeping track of hundreds of cases for the judge they are assigned to assist.

Traditionally, judges in the 22<sup>nd</sup> Judicial District Court have been assigned two minute clerks each, one to handle criminal proceedings and one for civil. Prieto wants to cross-train criminal clerks in civil proceedings and vice versa so that each clerk could handle both types of cases if needed.

Eventuelle Prieto has said, the program may lead to a new

Clerk system in which each judge would have a team of clerks who could do both civil and criminal.

Earlier this month, ad hoc District Judge Jerome Winsberg, who was appointed by the state Supreme Court to hear the case, ruled Prieto must continue to provide each with two minute clerks.

As part of the proposed settlement, however, state District Judge Elaine Guillot in court division E and William Burriss in division B each have agreed to accept a single minute clerk who is participating in the cross-training program.

"Those two divisions are willing to work with the clerk," Hughes said. "Whatever she wants those two divisions to do — within reason — they'll do it despite the ruling from Judge Winsberg."

The settlement would require Prieto to continue providing the other seven divisions with two minute clerks each.

As proposed, after the six-month period ends, the judges and Prieto would discuss whether the cross-training program works and whether to proceed in the future, Hughes said.

If they cannot agree at that point, the litigation could end up back in court.

Stephanie A. Stanley can be reached at [ssstanley@timespicayune.com](mailto:ssstanley@timespicayune.com) or (985) 898-4827.