

Court rejects bid to dismiss lawsuit against district attorney

By LANE WALLACE

STAFF WRITER

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SANTA CRUZ — A taxpayers' lawsuit against District Attorney Art Danner moved a step closer to trial today when a judge denied the county's motion to dismiss the case.

The case "is probably going to go up on appeal" after it goes through the local courts, Superior Court Judge Sam Stevens said following a 15-minute hearing on the case.

Stevens told County Counsel Dwight Herr he still needs to come up with more arguments to support Danner's decision to keep attorney Catherine Gardner on the payroll for four months without requiring her to work before she was fired.

"You have to have your ducks in order," Stevens told Herr.

The suit against Danner and the county was filed by Ed Frey, who lost elections against Danner in 1990 and 1994.

Frey's suit asks that Danner be required to pay the \$35,000 in salary and benefits that Gardner received while not being required to work.

Gardner was fired last year after admitting she snorted what she thought was cocaine; she said it was under pressure from an abusive boyfriend. Danner said he kept her on the payroll while he was trying to work out a settlement; Frey contends Danner wanted to keep the issue quiet during the campaign in the spring of 1994.

The decision to keep Gardner on the payroll without requiring her to work violated county personnel rules, Stevens said. Danner had "no authority" to make such a decision, Stevens said.

Last December, county supervisors ratified the action Danner took earlier in the year in paying Gardner.

Stevens said papers submitted to the court have not established that what supervisors did absolves the county from any liability in a tax-

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payer's suit.

"There's a lot of issues that have to be developed," Stevens told Frey and Herr.

Stevens set another hearing on the case for Nov. 16. A trial is scheduled for Jan. 2.