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## Former Fire Chief Must Pay City Legal Costs In Termination Lawsuit

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**California** - Former Alameda fire Chief Dave Kapler must pay more than \$260,000 that the city rang up fighting his alleged wrongful termination under a judgment Friday in Alameda County Superior Court that city officials say ends his lawsuit. The judgment comes in the wake of a California Court of Appeals ruling in September 2012 that upheld the decision by city officials to fire Kapler after he was photographed using a city gas pump to fuel his BMW.

The appeals court also said the city was entitled to reimbursement of its legal costs, prompting Kapler to ask the court to dismiss his lawsuit, which happened Friday when the court entered judgment against him and found in favor of the city.

"Alameda taxpayers and the city have been vindicated by this substantial final judgment for over \$260,000 against Kapler for his unsuccessful attempt to shake down and intimidate the city," Mayor Marie Gilmore said.

When the gas pump photo emerged in August 2010, Kapler denied wrongdoing and maintained the accusations against him stemmed from disgruntled rank-and-file firefighters angry over his leadership.

He also said his contract allowed him to use the pump to fuel a personal vehicle while carrying out city business.

Ann Marie Gallant, then interim city manager, moved to fire Kapler in September 2010. He worked out a deal with Gallant that called for the city to pay him \$75,000 and to provide insurance benefits after his departure in exchange for him quitting and dropping any claims against the city.

The City Council rejected the agreement, and Kapler resigned in November 2010 in "an effort to preserve what he claimed was a 40-year exemplary employment record," according to court documents.

His salary as Alameda fire chief was about \$195,000 annually.

As part of his October 2007 contract, Kapler's Honda Ridgeline truck was outfitted with a radio and other equipment so he could use it if needed; he also was given a \$250 monthly car allowance.

Debra Kurita, who was city manager when he was hired, told him he could use city gas, Kapler said, although City Council members said they did not know about the arrangement and never approved it.

The photograph showing Kapler at the city pump was leaked by Domenick Weaver, president of the local firefighters union, according to court records.

It followed firefighters taking a "no confidence" vote in Kapler in June 2009, saying he was not doing enough to promote a safe level of staffing. The photograph also emerged after the closure of an Alameda fire station to save money.

The state appeals court ruling in September 2012 that rejected Kapler's claims of breach of contract and wrongful termination found his employment agreement showed he could be fired at any time under the city manager's discretion.

In December 2012, the Alameda County Superior Court awarded the city its legal costs to fight the case, which officials said after Friday's judgment totaled \$260,585.39.

Written by Oakland Tribune

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