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Encinitas legislator's legal fund doubles after lawsuit by constituents settles

By Malcolm Maclachlan, Daily Journal

A Democratic legislator said Wednesday she plans to close a fund she opened in 2022 to defend herself from constituents who sued her after she blocked them from an official Facebook page. The fund has raised more than \$300,000, including \$182,000 since she settled the case in September.

The fund also received \$5,000 each from 10 law firms or individual attorneys, including Edelson PC and Baron & Budd PC. Several entities gave to both the legal fund and Blakespear's political campaign, including the Sycuan Band of the Kumeyaay Nation, attorneys with Singleton Schreiber and the Southwest Regional Council of Carpenters.

"The lawsuit was settled in the fall of 2023, and I have raised the funds to pay my legal debts," Sen. Catherine Blakespear, D-Encinitas, said in an email to *the Daily Journal*. "There is no other litigation, and I am in the process of closing the legal defense fund."

Attorney Carla A. DiMare of Rancho Santa Fe sued Blakespear on behalf of lead plaintiff Garvin Walsh and other constituents who claimed she illegally blocked them on Facebook. *Walsh v. Blakespear*, 37-2022-00038601-CU-BC-NC (S.D. Super. Ct., filed Sept. 28, 2022).

"The *Walsh v. Blakespear* settlement and Blakespear's apology were a very good result for my clients, the Encinitas community, and the First Amendment," DiMare said in an email. "Free speech is one of the most important issues of our time. If people are able, I hope they will fight the erosion of our fundamental rights."

According to records posted on Secretary of State Shirley Weber's website, Blakespear created the legal defense fund a year ago. The California Democratic Party made two donations totaling \$45,596. Through the end of August, the fund received another \$66,500 in donations. This included \$12,000 from a group sponsored by the Southwest Regional Council of Carpenters, \$10,000 from Denver-based kidney dialysis provider Davita Inc., \$7,500 from a PAC affiliated with the United Food and Commercial Workers Western States Council, \$5,000 from plaintiffs' firm Singleton Schreiber LLP and donations from two Southern California casino gaming tribes. Blakespear's 2026 Senate reelection campaign also loaned \$15,000 to the fund.

But it was after the case settled that donations really took off. Since Sept. 15, the fund has taken in \$182,000. This includes another \$10,000 from Davita, \$12,000 from the Northern California Carpenters Regional Council Issues PAC, from tribes, and \$10,000 each from the California Business Properties Association PAC and a committee affiliated with the California Faculty Association.

According to a statement filed with Weber's office, through Sept. 30 the fund had paid out over \$71,335, had a cash balance of \$32,665 and had debts of \$167,775. Of the money paid out at that

point, \$55,000 had gone to Olson Remcho LLP, a leading political law firm representing Democrats in California. The Sept. 30 form listed nearly \$147,000 still owed to Olson Remcho.

The fund had also paid \$6,707 to Dean & Company, a Sacramento political reporting and treasury firm. The fund paid \$6,537 to KM Strategies, a San Diego consultancy, for fundraising events.

The dispute began when Blakespear was mayor of Encinitas, a job she held from 2016 to 2022. DiMare wrote that Blakespear "deleted, blocked, or censored" several constituents "from her mayoral Facebook page." This includes Walsh, a conservative activist and media personality.

"Blakespear violated the free speech rights of 30 or more people in the Encinitas community, including the Plaintiffs, by blocking, deleting, and censoring their comments on her mayoral Facebook because she did not like their viewpoints," DiMare wrote.

Working with a different attorney, Michael D. Curran of Curran & Curran Law in Carlsbad, the constituents reached agreement with Blakespear on May 12, 2022. Under that deal, DiMare wrote, Blakespear agreed to unblock the constituents, pay \$5,000 in damages and post an online apology. But the apology Blakespear posted on her Facebook page days later angered some of her critics. She wrote, "As a woman serving in elected office, I have been the target of threatening and harassing comments" and complained that social media has "become an incubator for hate and vitriol." During her 2022 campaign, Blakespear's managers attacked the lawsuit as a politically motivated right wing stunt.

DiMare wrote that Blakespear breached the agreement by publicly disclosing the amount of the \$5,000 settlement and then paying it out of her defunct mayoral campaign account when it was a personal debt" The complaint sought to force Blakespear to pay damages and attorney fees.

A series of court cases have found that social media websites constitute a public forum and have barred politicians from blocking constituents under the First Amendment. This includes a case involving then-President Donald Trump, Knight First Amendment Institute v. Trump, 928 F.3d 226 (2019).

Blakespear won her seat in 2022 with one of the narrowest margins of any current Democratic senator. In the general election, she beat Republican businessman Matt Gunderson by about 16,000 votes, a margin of less than 5%. Gunderson polled almost 7,000 votes higher than Blakespear in a primary that eliminated another Democrat, retired Orange County fire captain Joe Kerr. Blakespear faces reelection in 2026.

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