

These case summaries are not legal advice or legal interpretations. They are linked to the case decisions, statutes, ordinances.

Dual Compensation Cases

[Reeder v. State Representative Nancy Wagner.](#)

A private citizen sued the Representative alleging she violated the Dual Compensation law which bars elected State officials, and others, who are also employed by a State agency or educational institution from pay by both entities for overlapping hours. [29 Del. C. § 5822](#). She worked for a school district and used her “duty free planning period” to perform her paid legislative duties without adjustment to her teachers’ salary.

Complainant sought injunctive relief to stop receipt of alleged dual pay, and monetary relief by reimbursement of the State Treasury for any dual pay.

The merits were not reached. Complainant lacked standing as only the Attorney General can represent the State on litigation where matter is of statewide interest. [29 Del. C. § 2504](#).

[Robert P. Reeder and John D. Flaherty v. Hon. Nancy Wagner, et al.](#)

The allegations against the Representative were the same as above. However, the initial complainant was joined by another citizen, and they added to the “double dipping” claim against her, that the State Auditor failed to audit the time records, and also named the School Board Superintendent. [29 Del. C. § 5822 and § 5823](#). The relief sought was Declaratory Judgment, as opposed to an injunction in the above.

Chancery Court had no jurisdiction as it is an equity court. It cannot decide matters if a sufficient remedy exists under common law or statute through any other State Court. [10 Del. C. § 342](#). The Superior Court has authority to consider Declaratory Judgments.

[Reeder v. Honorable Wagner, et al.](#)

Appeal of Superior Court decision dismissing the complaint for lack of standing and lack of an actual controversy. (C.A. NO. 07C-11-016—UNAVAILABLE. THIS WAS THE SUPERIOR COURT ACTION AFTER TRANSFER BY CHANCERY COURT).

Del. Super.,
C.A. No.
06C-09-025
J. Cooch
(12/04/06)

Order.
Dismissed for
Lack of Standing

Del. Ch.,
C.A. No.
2907
V.C. Lamb
(11/01/07)

Order.
Transferred to
Superior
Court

Del. Supr.,
No. 435,
2008, June
2, 2009.

Order. Superior
Court affirmed.

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They sought declaratory relief for (1) alleged violations of the Dual Compensation law by the Legislator; and (2) State Auditor's failure to audit State employee time records. [29 Del. C. § 5822 and § 5823](#). The Superior Court had ruled that complainants had no standing and no actual controversy existed.

For plaintiff must show an "injury in fact," a causal connection, and the likelihood the Court will favorably address the injury. The suit could not be considered a tax-payers' claim because it was not to stop the misuse of money, but to have the Auditor perform discretionary duties to audit only one official.