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**Richard Wueste**

## Judge says former ASC president may sue trustees

By **ROBERT BOCZKIEWICZ**  
THE PUEBLO CHIEFTAIN

**DENVER** - A judge ruled Wednesday that Adams State College trustees are not immune from former President Richard Wueste's lawsuit alleging he was wrongfully fired.

Senior U.S. District Judge Richard Matsch's ruling allows Wueste's

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claim that the trustees violated his constitutional right of due process to proceed in court.

Wueste's Denver attorney, Todd McNamara, said the ruling will allow him to question the trustees under oath in depositions.

"This is everything they wanted to avoid," McNamara said following a hearing, the first courtroom proceeding in the case.

Matsch threw out Wueste's second claim, that the trustees breached his employment contract. The judge said that claim belongs in state court in Alamosa, not federal court.

McNamara said Wueste and he will decide later whether to file a lawsuit with that claim in Alamosa County District Court.

The trustees placed Wueste on leave of absence in June 2005 and fired him in October. He sued in federal court in December.

The trustees in March argued the lawsuit should be thrown out because they contended they are immune on the due-process claim and because they contended the federal court did not have jurisdiction on the contract claim.

A trial on the due-process claim is not expected before next year, McNamara said.

The trustees contended they were immune from the due-process claim because when they fired Wueste they were acting in the role of judge in a hearing. Wueste disputed that, saying the trustees did not act as an impartial judge because they also filed the charges against him and testified against him before making the firing decision.

"It is my view that they were acting (in the hearing) as an employer," Matsch concluded.

Because of that, the judge said the case should go forward to determine, among other things, the scope of due-process rights that Wueste had.

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Wueste contends that trustees violated his right to due process at various times between June 2005 by, among other things, having decided to fire him before they gave him a "sham" hearing in October.

The trustees deny his contention. They have said in court filings they gave him notice of specific issues the trustees had determined justified his firing and gave him an opportunity to defend himself.

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