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Judge orders higher pay for county lawyer

By **Matthew Spina**

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A judge has ordered that the new Erie County attorney be paid at the \$150,000-a-year rate he was offered until court arguments on his disputed salary are heard April 14.

State Supreme Court Justice John L. Michalski signed the temporary restraining order at the request of two aides to County Executive Chris Collins: Personnel Commissioner John W. Greenan and Jeremy A. Colby, the new county attorney, whose paychecks have been in limbo.

Colby's first day on the job was March 8, the date the County Legislature confirmed him. But County Comptroller Mark C. Poloncarz has since refused to authorize his every-other-week paychecks or

direct-deposit transfers as long as the personnel commissioner calculates them at the \$150,000 annual level.

That's the amount that Collins offered candidates when he searched last year for a replacement for Cheryl A. Green, his first county attorney, whom he paid nearly \$125,000 a year.

The County Legislature never approved the \$150,000 figure when it adopted a county budget for 2011. The Legislature instead set the salary at \$99,226 —the starting salary for a county attorney under the county's pay grades and, consequently, the amount Poloncarz was willing to honor.

Collins, however, refused to accept the lesser amount and cited legal technicalities in declaring the Legislature's salary reduction "null and void." He lost that argument in

a separate court case, but the litigation remains ongoing between the county executive and a handful of Legislature Democrats.

Meanwhile, Collins and his aides assert that Colby's legal salary is \$150,000, and their court papers question the comptroller's right to block an employee's paychecks once the salary is determined by the personnel commissioner.

"This case is about whether the comptroller has the ability to unilaterally stop a county employee from being paid a county salary," said Sean P. Beiter, a lawyer with the firm Goldberg Segalla LLP, which the County Attorney's Office hired for help in the matter.

"New York State law sets forth a procedure whereby someone must go to court to get an injunction before payment is stopped to a municipal employee," Beiter said. "The comptroller didn't follow that procedure."

Poloncarz could not be reached Monday, but an aide said the comptroller wants to examine the judge's order with a lawyer before commenting.

Michalski's order tells Poloncarz to "perform his legal duty to prepare and sign all checks for the payment of the payroll, including the payment to Colby of his salary as certified by the Personnel Department." The order is retroactive to Colby's first day on the job.

There was some question Monday about whether Colby had already been paid. Colby said he did receive a check from the Personnel Department on Friday, a county payday. But that was before Michalski signed the order, and Poloncarz's office said it halted payment.

mspina@buffnews.com

Comments

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How insane is this judge? Or was there a payoff?

LYDIA BEZOUHOJNACKI, BUFFALO, NY on Tue Apr 5, 2011 at 11:48 AM

FLAG AS INAPPROPRIATE

Looks like its time to get a Control Board for Erie County. After all its only TAXPAYER MONEY.

PHILIP JAMES JAROSZ, BUFFALO, NY on Tue Apr 5, 2011 at 10:11 AM

FLAG AS INAPPROPRIATE

Unfortunately, Gary, there are too many morons in this county. Collins will win a second term. See: Joel Giambra.

LOU BORDONARO, BUFFALO, NY on Tue Apr 5, 2011 at 10:02 AM

FLAG AS INAPPROPRIATE

I don't understand why anyone dares to oppose Lord Collins. He is the supreme master of everything, particularly improving Erie County. His selective thriftiness is going to save the county. By slashing money to things and people he doesn't like, it allows him to give as much as he wants to whomever and whatever he deems appropriate. If that isn't running an efficient budget I don't know what is. We don't need a legislature, and certainly not a comptroller, Lord Collins should be given free reign of the county. Then all our lives would be better....Collins makes me want to vomit.

LOU BORDONARO, BUFFALO, NY on Tue Apr 5, 2011 at 10:01 AM

FLAG AS INAPPROPRIATE

CAN'T WAIT TIL ELECTION TO VOTE OUT COLLINS.WOULD VOTE FOR MICKY MOUSE BEFORE I GAVE HIM A VOTE.

GARY KING, CHEEKTOWAGA, NY on Tue Apr 5, 2011 at 08:23 AM

FLAG AS INAPPROPRIATE

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