

Albany Times Union

Court puts hold on Ravitch

Judge blocks lieutenant governor appointment; more judicial action possible today

By **FRANK ELTMAN**, Associated Press

First published in print: Wednesday, July 22, 2009

MINEOLA -- A judge has issued a restraining order blocking Richard Ravitch from serving as New York Gov. David Paterson's lieutenant governor.

State Supreme Court Justice William LaMarca in Nassau County issued his ruling late Tuesday afternoon.

"The court is convinced that this is the rare case in which a preliminary injunction enjoining an act of the governor of the state is appropriate," LaMarca wrote.

He ordered another court hearing on the issue on Aug. 25.

The judge also denied a request to move the case to the state capital in Albany.

"Were the governor to die, resign, or be removed from office, Mr. Ravitch, if allowed to remain in office, is next in the line of succession," LaMarca wrote.

"For an illegally appointed lieutenant-governor to act as governor of the state would clearly constitute irreparable harm."

"Governor Paterson's appointment of Richard Ravitch as Lieutenant Governor is legally sound and we are confident the appellate courts will ultimately rule in our favor," said the governor's communications director, Peter E. Kauffmann.

He said the governor's office planned go to court today to seek to have the preliminary injunction lifted.

Senate Republican Leader Dean G. Skelos praised the ruling in a statement issued Tuesday evening. "There clearly is no basis in the constitution or the law that gives any governor the power to appoint a lieutenant governor and the judge's decision to restrain the governor from proceeding with this action was the right decision."

A spokesman said Sen. Malcolm Smith declined to comment.

Calls from The Associated Press to Sen. Pedro Espada Jr. and Democratic Conference Leader Sen. John Sampson were not immediately returned Tuesday evening.

The governor's attorney argued that a provision of the state Public Officers Law allows him to fill some vacant posts until the next election. Senate attorneys said the state constitution does not allow for the appointment of a lieutenant governor when a vacancy occurs.

LaMarca sided with the Senate. "Thus, the court must hold that the office of lieutenant-governor is not an 'elective office,'" the judge said.

Paterson appointed Ravitch, a former head of the Metropolitan Transportation Authority, earlier this month as a way of breaking a monthlong leadership deadlock in the state Senate.

Paterson's appointment provided a tie-breaking vote in the Senate, which had been deadlocked at 31-31 since shortly after a June 8 overthrow of Democratic leadership.

In cases of ties in the Senate, a lieutenant governor casts the deciding vote.

Paterson was elected lieutenant governor in 2006, but ascended to the governor's office in March 2008 after Gov. Eliot Spitzer resigned in a sex scandal.