

Bentkowski v City of New York

2023 NY Slip Op 34662(U)

September 19, 2023

Supreme Court, New York County

Docket Number: Index No.: 154962/2023

Judge: Lyle E. Frank

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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INDEX NO. 154962/2023

ROBERT BENTKOWSKI, KAREN ENGEL, MICHELLE FEINMAN, NANCY LOSINNO, JOHN MIHOVICS, KAREN MILLER, ERICA RHINE, ELLEN RIESER, BEVERLY ZIMMERMAN, THE NEW YORK CITY ORGANIZATION OF PUBLIC SERVICE RETIREES, INC.,

MOTION DATE 06/08/2023

MOTION SEQ. NO. 002

Petitioner,

- v -

THE CITY OF NEW YORK, ERIC ADAMS, THE CITY OF NEW YORK OFFICE OF LABOR RELATIONS, RENEE CAMPION, THE NEW YORK CITY DEPARTMENT OF EDUCATION, DAVID C. BANKS,

DECISION + ORDER ON MOTION

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 2, 82, 83, 84, 85, 86, 87, 88, 89, 90, 92

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER)

The Decision and Order of this Court dated August 11, 2023, NYSCEF Doc. 102 is hereby vacated as it relates to motion sequence 001. The Decision and Order this Court, dated July 6, 2023, NYSCEF Doc. 95 is the final decision of this Court as it relates to motion sequence 001.

The Decision and Order of this Court as it relates to the Notice of Petition, motion sequence 002, is as follows:

On June 5, 2023, the Court issued a preliminary injunction in this matter. The Court has been informed by the parties that they do not wish for the Court to hold any additional argument, nor will there be further submissions. As such, this matter is ripe for a final determination.

The Court therefore grants the petition for the reasons indicated in the July 6, 2023, namely that both the doctrine of promissory estoppel and the provisions of New York City

Administrative Code Section 12-126 bars the actions sought to be taken by respondents. The Court does not reach the last point of relief in the petition, namely that the respondents should be enjoined from disseminating alleged false and misleading statements of the Aetna Medicare Advantage Plan. Based on the foregoing, it is hereby

ORDERED that the Respondents are permanently enjoined from requiring any City retirees, and their dependents from being removed from their current health insurance plan(s), and from being required to either enroll in an Aetna Medicare Advantage Plan or seek their own health coverage.


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9/19/2023
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED
 GRANTED DENIED

NON-FINAL DISPOSITION
 GRANTED IN PART OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT REFERENCE