



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

EILEEN D. MILLETT
COUNSEL

November 27, 2019

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Dear Mr. Millman and Mr. Brigandi:

As you are aware, Village Mayor Alan Simon previously served as Village Justice in Spring Valley. He was removed from his judicial office, by Determination of the Commission on Judicial Conduct, dated March 29, 2016, sustaining six charges of misconduct, which included inappropriate behavior toward the Chief Clerk and employees in the Chief Clerk's office. By Decision dated October 20, 2016, the removal was upheld by the Court of Appeals.

The Mayor has verbalized his intent to terminate the Chief Clerk, Elsie Cheron on Monday, December 2, 2019, and to appoint a new Chief Clerk. The Village Justices have relayed that they do not consent to the termination of Ms. Cheron, nor to the appointment of a new Chief Clerk.

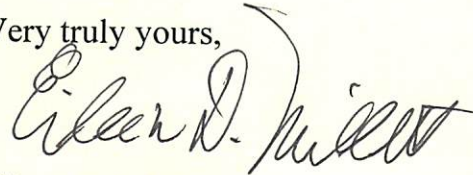
To be clear, Village Justices Djinsad Desir, David Fried, and Jacquelin Millien do not consent to the termination of Elsie Cheron, nor to the appointment of another Chief Clerk. Accordingly, any such attempted termination and appointment without their consent would be in violation of sections 3-301(2)(a) and 4-400(1)(c)(ii) of the Village Law, in which the Legislature clearly established that such action mandated the advice and consent of the Village Justices.

Village Law § 3-301(2)(a) in pertinent part states: “The clerk of the court of a village shall be discharged from employment **only upon the advice and consent** of the village justice or justices when the clerk, in his or her village duties, works solely for the village justice or justices” (emphasis added). Ms. Cheron serves solely for the Village Justices as Chief Clerk, and the Justices do not consent to her termination.

Similarly, Village Law § 4-400(1)(c)(ii) states that “It shall be the responsibility of the mayor:...to appoint the clerk of the court of the village, if the village has a court, **only upon the advice and consent** of the village justice or justices” (emphasis added). The Village Justices do not consent to the appointment of another Chief Clerk for the Justice Court.

Any termination of Ms. Cheron and appointment of a new Chief Clerk without the consent of the Village Justices, therefore in violation of the Village Law, would be null and void.

Very truly yours,



Eileen D. Millett

SK/

cc: Hon. Djinsad Desir
Hon. David Fried
Hon. Jacquelin Millien