

**Supreme Court**

No. 2009-263-M.P.  
(PC 09-5025)

Rhode Island Council, 94, American :  
Federation of State, County and Municipal  
Employees, AFL-CIO, by and through its  
President, J. Michael Downey et al.

v. :

Donald L. Carcieri, in his capacity as :  
Governor of the State of Rhode Island  
et al.

**ORDER**

This case came before the duty justice on September 3, 2009, pursuant to a petition for a writ of certiorari and a motion for injunctive relief by the plaintiffs, Rhode Island Council, 94, AFSCME, AFL-CIO, et al. (plaintiffs). On August 24, 2009, the defendant, Governor Donald L. Carcieri, issued Executive Order 09-20, entitled "Reduction in Personnel Costs," and authorized the Director of the Department of Administration to implement, as he in his discretion may determine, a shutdown of some, but not all, of the departments and agencies of state government, for a total of twelve (12) business days between August 24, 2009 and the end of the fiscal year.

On August 28, 2009, the Director of the Department of Administration issued a schedule for shutdown days, the first of which is scheduled for tomorrow, September 4, 2009.

On August 31, 2009, plaintiffs filed a demand for arbitration in accordance with the provisions of their collective bargaining agreements with the state. The plaintiffs also

filed a verified complaint in Superior Court seeking, inter alia, injunctive relief against any “unilateral action taken by the Governor in Executive Order 09-20.” On September 3, 2009, a justice of the Superior Court granted defendants’ motion to stay all proceedings pending arbitration of this dispute; the parties were ordered to arbitrate said issues in accordance with the trial justice’s bench decision. However, the order issued by the trial justice failed to address plaintiffs’ request for temporary and preliminary injunctive relief to stay, pending arbitration, the implementation of Executive Order 09-20.

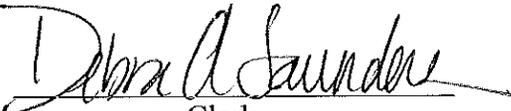
After conference with counsel for the parties and review of the papers in this case, the duty justice directs that the following Order shall issue:

1. The plaintiffs’ request for temporary injunctive relief is granted.
2. The planned implementation of Executive Order 09-20 is temporarily stayed pending the decision of the full Court relative to the within petition for writ of certiorari.
3. This case is assigned to the Court’s September 11, 2009 conference calendar.
4. The defendants shall file, no later than the close of business on September 8, 2009, their response to the petition for writ of certiorari.
5. To the extent the defendants are seeking a supersedeas bond as security against the issuance of injunctive relief by this Court, they shall address the grounds upon which such relief is sought, the law in support of that request, and the amount and basis of the proposed bond.
6. The plaintiffs shall file, on or before the close of business on September 9, 2009, a responsive memorandum.
7. The parties are directed to address whether the action contemplated by the Director of the Department of Administration constitutes a lockout, as that term is defined in the parties’ respective collective bargaining agreements.

8. The parties are directed to address the issue of election of remedies and whether the plaintiffs, having sought arbitration, have elected their remedies.
9. Finally, the parties shall meet on or before Wednesday, September 9, 2009, and attempt to reach an agreed statement of facts. The parties shall file a joint statement setting forth the undisputed facts in this case as well as those facts to which the parties are unable to agree.

Entered as an Order of this Court, this 3<sup>rd</sup> day of September, 2009.

By Order,

  
Clerk