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## NYC Officials Sued For Axing Benefits To Cover Parental Leave

By **Shayna Posses**

Law360, New York (May 6, 2016, 6:36 PM ET) -- A group of New York City manager-level employees filed suit against Mayor Bill de Blasio and other city officials Friday, challenging the decision to eliminate a pay raise and two days of annual leave for senior managers in order to cover a new paid parental leave program.

Wasył Kinach, a 54-year-old manager with the New York City Comptroller's Office, and others filed a complaint in state court contending the mayor's elimination of a promised 0.47 percent wage increase and two leave days to pay for a program providing 30 days of paid leave for new parents is discriminatory, unconstitutional and a breach of contract.

"By the time a manager achieves 15 years of employment, he or she is beyond the child-rearing age and will never benefit from paid parental leave," the complaint says. "However, it is these very older managers who have their annual leave taken away in order to pay for a benefit enjoyed by younger managers."

The complaint — which also names NYC Department of Education head Carmen Fariña and Comptroller Scott Stringer, among others — explains that de Blasio issued an order in January establishing that managers are entitled to go on paid leave for six weeks for the birth of a child or a child's placement with an employee for adoption or foster care.

To cover the program's cost, de Blasio got rid of a 0.47 percent pay increase that was supposed to go into effect for all managers in July 2017, according to the complaint. He also eliminated two days of annual leave for managers with more than 15 years of experience, the managers said.

Kinach and the other senior city managers — all between 41 and 63 years old — contend they were promised when they began their employment that they would receive 27 days of annual leave starting in their 15th year of service, a policy that's been in place since the mid 1980s. Eliminating this benefit and taking away the pay raise constitutes a breach of contract, they say.

The managers also allege the move violates the nonimpairment and equal protection provisions of the state constitution by impairing their retirement benefits and treating more experienced managers differently than their younger colleagues.

"There is no rational basis for this disparate treatment," the complaint says. "Benefits are being taken from managers to pay for a benefit that they will not enjoy. Yet, those younger managers who will enjoy paid parental leave are not losing any annual leave time."

On top of being arbitrary and capricious, the decision to take away the benefits is discriminatory, forcing older employees who can't have children to pay for a policy from

which they gain nothing, the complaint says.

The complaint seeks a declaration that sections of the order eliminating the benefits are unenforceable and asks for an injunction.

Monica Klein, deputy press secretary for the mayor's office, said in a Friday email, "This is a common sense policy that will make for healthier and more financially stable working families, and a more effective city government."

Stuart Salles, who represents the workers, told Law360 on Friday the lawsuit is not challenging the paid leave program itself.

"We're so supportive of it," he said. "Paid parental leave is a phenomenal program. The challenge is the procedure they're using to fund it."

The workers are represented by Stuart Salles of the Law Office of Stuart Salles.

Counsel information for the mayor and the city officials wasn't immediately available Friday.

The case is Wasyl Kinach et al. v. Bill de Blasio et al., case number 153833/2016, in the Supreme Court of the State of New York, County of New York.

--Editing by Aaron Pelc.

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