

GOVERNMENT

Judge sides with Collier commissioners in suit against Clerk Dwight Brock over purchases

By Greg Stanley of the Naples Daily News

Collier County commissioners have every right to let their county manager greenlight smaller purchases under a certain dollar threshold, a circuit court judge ruled Thursday.

Throwing out Collier Clerk Dwight Brock's lawsuit against the county manager, purchasing director and commissioners, Judge James R. Shenko called such purchases "administrative and ministerial."

"The county manager and his designees have the lawful authority to make purchases," Shenko said in the ruling. "Such authority was properly delegated by the county commission."

"The ruling allows the county government to keep spending money the same way it has for more than a decade: with County Manager Leo Ochs and

Brock had argued that only county commissioners have the authority to spend public money, and that commissioners would need to approve each expense before it was incurred.

The disagreement turned into a familiar, stubborn spat between commissioners and the clerk, who had already spent six years and more than \$2 million of public money fighting each other in court over a separate matter.

Attorneys fees in this case still have to be tallied, and it remains to be seen if Brock will appeal the decision.

Brock was out of town Thursday and unable to return phone calls seeking comment, his office said.

Many were surprised that the case ended up in court at all.

The clerk, whose elected role requires him to oversee public money and make payment on all of the county's expenses, had complained about the county's purchasing policy in the past. But he had gone along with it since he took office in 1993.

To settle the debate, Brock and commissioners agreed in 2014 to write a letter to the state attorney general's office, seeking an opinion. The two sides couldn't agree on the language to use in the letter.



Collier Clerk of Courts Dwight Brock (submitted)

Purchasing Director Joanne Markiewicz able to buy previously budgeted items under \$50,000 without direct commission approval.

Brock sued in April.

In June, he stopped paying the county's bills.

Over the course of a month, hundreds of companies, vendors and employees stopped getting checks for work they did for the county. Some, like Chris Hogenson, whose company Entertainment Source has provided music and games for the county's summer camp programs for 15 years, worried they would go out of business waiting.

Brock refused to pay a total of \$5.6 million during that month until the two sides agreed to a deal that allowed vendors to be paid while the matter worked through court.

Brock's attorneys argued the practice allows county staff to make purchases under \$50,000 with little scrutiny from commissioners or the public. In many cases, staff members approved and signed multiyear contracts that added up to much more than \$50,000.

The practice is necessary to keep the government functioning, said attorney Jamie Cole, who represents Ochs.

"If a staff person needs a hammer they can't wait two or four weeks until a commission meeting," Cole said. "That's the whole reason you have a county administrator. If you have a big contract for a lot of

money the county commissioners need to be more actively involved. To have commissioners approve smaller routine day-to-day expenditures in advance is not realistic and it's not efficient."

The ruling should help clear up any uncertainty raised by the lawsuit for the majority of counties across the state that also delegate spending authority to administrators or managers, Cole said.

"This confirms the manner in which nearly all counties and municipalities in the state delegate at least some level of purchasing authority," he said.

Going forward the county needs to have a better relationship with its vendors, said Commissioner Tim Nance.

"We have to treat them fairly and get them paid," Nance said. "As long as we are receiving a good product that we bargained for, I'm satisfied. We don't need to make it any more difficult to do business with the county than we absolutely have to. I'm happy to have this over with."

Brock has 30 days to file a notice to appeal the decision.