

# The Star-Ledger

## Top court hears Katz e-mail case

**Corzine cites exec privilege**

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If Gov. Jon Corzine's e-mails with Carla Katz are made public, the power of his office and the ability of future governors to communicate freely will be diminished, the state attorney general argued in court yesterday.

If they are kept secret, a Republican lawyer countered, New Jerseyans will never know whether they can trust Corzine's judgment.

Those views collided yesterday in a Trenton courtroom, where an appeals court heard arguments that it will use to weigh whether the e-mails between Corzine and Katz, his ex-girlfriend and a former state workers union leader, should be released.

After more than an hour of back-and-forth with the lawyers -- including Attorney General Anne Milgram, who made a rare appearance on behalf of the governor -- the three-judge panel reserved decision on the closely watched and politically tinged case.

A decision could come within the next two weeks, said Mark Sheridan, the attorney for state Republican chairman Tom Wilson. Wilson sued for access to the correspondence between Corzine and Katz, the then-president of Communications Workers of America Local 1034, during a period that included negotiations of a state worker contract last year.

Corzine and Katz are each appealing a lower court ruling that ordered some of the e-mails released. Neither was in court yesterday.

Yesterday's clash centered on executive privilege, the doctrine made famous by President Richard Nixon that allows chief executives to keep certain communications private. Opening up the Katz e-mails would "basically blow the door off executive privilege," Milgram said, restricting the governor's ability to seek confidential outside opinions.

"Individuals who believe their statements will be made public are less likely to give the governor honest, candid advice," Milgram said, calling Wilson's request a "fishing expedition."

But Sheridan argued that Corzine could not claim Katz was acting as an adviser in the e-mails in question because she was the governor's adversary in the bargaining process. That

means executive privilege does not apply, he said, echoing the lower court's ruling.

The judges also heard from Katz's attorney, Paul Fishman, who said there is another reason, aside from executive privilege, to keep the e-mails under wraps. He said they qualify for an exemption under the Open Public Records Act because they were sent "in connection with" collective bargaining -- even though Corzine and Katz were not "engaged in collective bargaining" itself.

"They were talking about, at most, the pace of what was going on," Fishman said.

Afterward, he said Katz has not taken a position on whether she was acting as an adviser to the governor -- "she's a friend of the governor's, everybody knows that" -- and was fighting the case as "a matter of principle."

"She believes that when e-mails are exchanged during the course of collective bargaining, that under OPRA they should be protected," Fishman said. "For her, it's not about the e-mails themselves. She's not afraid of the e-mails."

Attorneys for the national CWA and Local 1034 argued that Katz could not claim the OPRA exemption because she was not authorized to negotiate on the contract.

After the proceedings, Wilson said keeping the e-mails out of sight would amount to an "unprecedented expansion" of government's "right to secrecy."

"The people of the state have a right and obligation to decide for themselves whether or not the governor was representing their interests or whether his behavior was somehow compromised by a relationship with Carla Katz," he said.

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