

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MICHAEL L. SHAKMAN and PAUL M. LURIE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 69 C 2145
	)	
THE DEMOCRATIC ORGANIZATION OF COOK COUNTY, et al.,	)	
	)	
Defendants.	)	

**ORDER APPOINTING A SPECIAL MASTER FOR IDOT**

On May 5, 1972, the Court entered an order enjoining Governor Richard B. Ogilvie, individually and as Governor of the State of Illinois, his successors in office, and other defendants from “conditioning, basing or knowingly prejudicing or affecting any term or aspect of governmental employment, with respect to one who is at the time already a governmental employee, upon or because of any political reason or factor” (“1972 Decree”). 1972 Decree at ¶ E(1). Plaintiffs filed an Amended Motion for Entry of Supplemental Relief with Respect to the Governor of Illinois on April 22, 2014 (Dkt. 3744). Plaintiffs asked the Court to appoint a special master as more fully set forth in the Amended Motion.

1. In light of the submissions presented to the Court by the Plaintiffs and the Governor, and the Final Summary Report, Case #11-01567 (“OEIG Report”) (Dkt. 3944, Appendix), submitted to the Court by *amicus curiae* Office of Executive Inspector General (“OEIG”) and for the reasons set forth in open court on October 22, 2014, this Court granted Plaintiffs’ request for appointment of a Special Master. By minute order of October 24, 2014, the Court appointed Noelle C. Brennan of Noelle Brennan & Associates, Ltd., as Special Master

pursuant to Rule 53 of the Federal Rules of Civil Procedure and the Court's equitable powers to enforce its judgments. As Counsel to the Special Master, the Court hereby appoints Thomas K. McQueen of the Law Offices of Thomas K. McQueen, P.C.

2. The Court's October 24, 2014 order stated that details of the appointment of Ms. Brennan would be set forth in a later order. This Order provides the details.

3. The Special Master, subject to the supervision and orders of this Court, shall with all reasonable diligence (i) investigate the scope and reason for any violations of the 1972 Decree regarding the Illinois Department of Transportation ("IDOT"), (ii) recommend measures that may be necessary or appropriate to prevent any recurrence, (iii) assess the implementation of those efforts to ensure that they are effective; (iv) address whether positions in IDOT labeled as exempt were properly exempt under applicable legal principles, and (v) make recommendations for how to remedy any violations of the 1972 Decree. The Special Master shall be an agent of the Court and shall only have the duties, responsibilities and authority conferred by this Order and subsequent Court Orders regarding such duties. The Special Master may retain staff to assist her in carrying out her duties. The Special Master, her Counsel and staff shall possess the same immunity from suit as the Court.

4. The Special Master, her Counsel and staff, and the parties and their counsel shall be permitted to have *ex parte* communications with the Court. The Special Master, her Counsel and staff shall be permitted to have *ex parte* communications with the parties and the parties' counsel. During the pendency of any contested motions, the Court shall not have any *ex parte* communications with the parties or their counsel relating to that motion.

5. The Special Master shall serve on the parties a draft of her initial report on or before February 17, 2015. The parties have until February 20, 2015 to provide any comments to

the Special Master. The Special Master shall file her initial report by February 27, 2015. Thereafter, to the extent that her appointment has not been completed, the Special Master shall file reports with the Court every 120 days, following her initial report on February 27, 2015. The Special Master shall provide a draft of her reports to the parties not less than 10 days in advance. The parties may submit comments on each draft report to the Special Master within three business days of receiving a draft. The Special Master's reports shall be filed as the record of the Special Master's activities. Any party may file objections thereto with the Court within 14 days of filing, which shall be heard and resolved as the Court shall determine.

6. In the course of the performance of her duties hereunder, the Special Master and her Counsel shall have the power to cause subpoenas to be issued and to take testimony to the same extent as a lawyer for a party in discovery proceedings in civil litigation pursuant to the Federal Rules of Civil Procedure. Notwithstanding the foregoing, the Special Master shall not have the authority to compel testimony or production of documents or information by the OEIG other than in accordance with paragraph 9.

7. The Governor and all employees under the direction or control of the Governor including IDOT (collectively hereinafter, "the State"), which does not include the OEIG, shall cooperate with the Special Master in connection with her activities pursuant to this Order and any further orders of this Court, including providing reasonable access to all relevant, non-privileged documents and reasonable access to employees at all levels whether employed by IDOT or any other department, commission or body under the direction and control of the State. The State shall provide the Special Master access to other sources of non-privileged information in whatever form they are maintained in the ordinary course of business, necessary or appropriate to the exercise of her authority. The Special Master shall make best efforts to



minimize the disruption to the workplace during the course of her activities. The production of information or testimony by any person or entity to the Special Master shall not preclude production of the same information to the OEIG.

8. The Special Master shall have access to and, upon her request, shall receive a copy of all or any part of the unredacted OEIG Report and investigatory files from the State.

9. In the event that the Special Master subpoenas any files or other information from the OEIG, and the OEIG objects to such disclosure based on Section 20-90 and/or Section 20-95 of the Ethics Act, the Special Master may submit the matter to the Court for resolution, in lieu of the OEIG filing a motion for a protective order or motion to quash. In resolving any such matters, the Court will hear from the Special Master, the OEIG, and the parties in the manner and medium that the Court deems appropriate.

10. In the event the Special Master reviews non-privileged, confidential information maintained by the State or OEIG, such review by the Special Master and anyone working in conjunction with her, will be subject to the terms of a Confidentiality Order to be entered by the Court.

11. The Special Master having filed the affidavit required by Fed. R. Civ. P. 53(b)(3)(A), disclosing whether there is any ground for disqualification under 28 U.S.C. § 455, and no such grounds appearing, this Order is effective upon entry.


12. IDOT shall compensate the Special Master and her Counsel at the agreed rate of \$250 per hour. IDOT shall compensate any employees or contractors the Special Master deems necessary to fulfill her duties at such other rates that are agreed upon among the parties and the Special Master. IDOT shall pay any and all reasonable costs necessary to fulfill the work of the Special Master. The Special Master and her Counsel shall submit itemized bills for their services

and for any costs incurred to IDOT on or before the fifteenth day of each calendar month for the previous month (the "billing period"). The Special Master and her Counsel shall provide IDOT 14 calendar days to review said bills and to communicate any questions or comments regarding the bills to the Special Master and her Counsel. The Special Master and IDOT will cooperate informally to resolve any disputes regarding any bills. On or before the last day of the month following the billing period, the Special Master and her Counsel shall file their finalized bills for their services for the preceding billing period and shall serve copies of the same upon counsel for IDOT and the Plaintiffs. IDOT shall have 10 days to file with the Court any specific written objection to any time billed or costs incurred. Any objections not filed within this period shall be deemed waived. IDOT shall pay the Special Master and her Counsel's undisputed fees and costs within 60 days of receipt of the finalized invoice. IDOT shall pay any disputed fees and costs within 60 days of IDOT and the Special Master or the Special Master's Counsel resolving the dispute or the entry of an order by the Court resolving the same, whichever occurs first.

13. This Order may be amended at any time after notice to the parties and an opportunity to be heard.

Dated: November 18, 2014

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Sidney I. Schenkier,  
United States Magistrate Judge