

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

MICHAEL L. SHAKMAN, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case Number: 69 C 2145
v.	)	
	)	Magistrate Judge Schenkier
CLERK OF THE CIRCUIT COURT OF COOK	)	
COUNTY, et al.,	)	
	)	
Defendants.	)	

**SUPPLEMENTAL RELIEF ORDER  
FOR THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY**

In 1972, Defendant Clerk of the Circuit Court of Cook County (Clerk of Court’s Office”) entered into a Consent Decree (“1972 Consent Decree”) which, among other things, prohibited the Clerk of Court’s Office 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.” On April 4, 1983, this Court entered judgment (“1983 Judgment Order”) against the Clerk of Court’s Office and a number of other defendants which, among other things, prohibited the Clerk of Court’s Office from “conditioning, basing, or affecting of the hiring of Governmental Employees (other than for Exempt Positions) upon or because of any political reason or factor . . . .” *See Shakman v. Democratic Org. of Cook County*, 569 F.Supp. 177, 179 (N.D. Ill. 1983). The 1972 Consent Decree and 1983 Judgment Order are collectively referred to as the “Clerk of Court’s Decrees.” The Clerk of Court’s Decrees and this SRO address unlawful political discrimination and do not address any other form of employment discrimination, *e.g.* race, gender, national origin.

The Clerk of Court’s Office and the Plaintiffs on behalf of classes of past, present, and

future (i) candidates, (ii) voters, (iii) applicants for employment with the Clerk of Court's Office, and (iv) employees of the Clerk of Court's Office (the "Class Members") (collectively "the Parties") agree to the entry of this Supplemental Relief Order ("SRO") as follows:

1. Rule 23 Approval. The Court shall enter an order in the form attached as Exhibit 1 preliminarily approving this SRO and setting forth procedures for notice, public hearing, final approval of the SRO, and for fully incorporating the SRO into the 1972 Consent Decree and the 1983 Judgment Order.

2. Conditions Precedent to Final Approval. Prior to final approval of the SRO by the Court:

A. The Clerk of Court will have promulgated an executive order in the form that shall be attached to the final SRO as Exhibit 2 forbidding unlawful political discrimination in all aspects of employment with the Clerk of Court's Office, except with respect to positions that are Exempt Positions under the 1983 Judgment Order, as modified from time to time by the Court, and (ii) adopting the provisions of the SRO.

B. The executive order shall make it a condition of employment, including but not limited to hiring, that any employee of the Clerk of Court's Office who learns of any unlawful political discrimination in connection with any aspect of government employment with the Clerk of Court's Office or seeking employment with the Clerk of Court's Office, except with respect to Exempt Positions, or who believes that such unlawful political discrimination has occurred or is occurring, must report all relevant information to the Inspector General for the Clerk of the Circuit Court of Cook County ("Inspector General") directly and without undue

delay. The Inspector General shall immediately provide all complaints and reports to the Clerk of Court's Compliance Administrator appointed pursuant to Section I of this SRO. No person shall be compelled to report unlawful political discrimination in violation of her or his constitutional rights. No person shall be subject to any negative employment action as a result of filing any such report in good faith.

C. The Clerk of Court shall have approved and consented to the terms of this SRO.

D. The Clerk of Court shall have adopted a written, effective whistleblower policy, in the form that shall be attached to the final SRO as Exhibit 3 (the "Whistleblower Policy"), that forbids retribution for reporting any suspected violations of the Clerk of Court's Decrees or this SRO, so as to be fully protective of anyone who in good faith makes any complaint of any employment practice which the person may believe violates the Clerk of Court's Decrees or this SRO.

3. No Effect on Other Parties to the Shakman Litigation. This SRO shall have no effect on any judgments or orders in this case as to defendants other than the Clerk of Court's Office (collectively, "Other Parties"), or individuals who opt out of the SRO to file their own lawsuits. This Court retains jurisdiction to hear and determine all claims and issues involving the validity of the Consent Judgments or the SRO.

4. Prior Judgments. The Clerk of Court's Decrees shall remain in full force and effect after the Court's approval of this SRO.

5. No Admission. The Parties understand, acknowledge, and agree that this SRO constitutes the settlement and compromise of disputed claims. This SRO is inadmissible as

evidence against any of the Parties in this or any other litigation except to enforce the terms of the SRO, and it is not an admission of wrongdoing or liability on the part of any Party to this SRO.

The Parties further agree and the Court orders the following:

**I. APPOINTMENT OF A SPECIAL MASTER**

The Court hereby appoints a Clerk of Court's Compliance Administrator to ensure future compliance with the Clerk of Court's Decrees and the SRO.

- A. Clerk of Court's Compliance Administrator Powers. The Clerk of Court's Compliance Administrator shall be an agent of the Court and shall have only the duties, responsibilities and authority conferred herein by the Court and by subsequent Court Orders. The Clerk of Court's Compliance Administrator, subject to the supervision and orders of the Court, shall with all reasonable diligence (i) audit all hires, promotions, and transfers in the Clerk of Court's Office since January 1, 2014, (ii) investigate any evidence of unlawful political discrimination, (iii) recommend measures that may be necessary or appropriate to prevent any recurrence of any unlawful political discrimination uncovered, and (iv) make recommendations for how to remedy any violations of the Clerk of Court's Decrees. The Clerk of Court's Compliance Administrator and the Clerk of Court's Compliance Administrator's staff members (including independent contractors, attorneys, non-attorneys, and their employees and agents) shall possess the same immunity from suit as the Court.
- B. Initial Report. Within 90 days of being appointed, the Clerk of Court's Compliance Administrator shall file with the Court a report on the status of her activities. Thereafter, to the extent that his or her appointment has not been

completed, the Clerk of Court's Compliance Administrator shall file reports with the Court quarterly. The Clerk of Court's Compliance Administrator's reports shall be filed as the record of the Special's 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.

- C. Compensation of Clerk of Court's Compliance Administrator. The Clerk of Court's Compliance Administrator and the Clerk of Court's Compliance Administrator's counsel shall be compensated at a rate of \$250 per hour and the Clerk of Court's Compliance Administrator's staff at reasonable hourly rates that the Court shall set or by agreement between the Clerk of Court's Compliance Administrator and the Clerk of Court's Office. These rates may periodically be adjusted with Court approval or by agreement between the Clerk of Court's Office and the Clerk of Court's Compliance Administrator. Cook County (the "County") shall promptly pay any and all reasonable fees and costs necessary to fulfill the work of the Clerk of Court's Compliance Administrator.
- D. Ex Parte Communications. The Clerk of Court's Compliance Administrator and the Clerk of Court's Compliance Administrator's counsel and staff shall be permitted to conduct *ex parte* communications with the Court, the Parties and their counsel, the Inspector General and employees of the Clerk of Court's Office. The Parties and their counsel shall be permitted to conduct *ex parte* communications with the Court.
- E. Cooperation with the Clerk of Court's Compliance Administrator. The Clerk of Court's Office shall cooperate with the Clerk of Court's Compliance

Administrator in connection with the Clerk of Court's Compliance

Administrator's efforts to audit past employment practices, investigate evidence of unlawful political discrimination, and to oversee and ensure implementation of the remaining portions of the Clerk of Court's Decrees and this SRO, including providing reasonable access to all relevant non-privileged documents and to current employees at all levels. The Clerk of Court's Compliance Administrator shall attempt to minimize disruption to the workplace during the course of the Clerk of Court's Compliance Administrator's activity. The Clerk of Court will designate an executive employee to act as a liaison with the Clerk of Court's Compliance Administrator and the Inspector General to ensure that they receive cooperation from all Clerk of Court's Office employees.

- F. Confidentiality. Given the possibility that the Clerk of Court's Compliance Administrator may need to review confidential business information maintained by the Clerk of Court's Office, the Clerk of Court's Compliance Administrator, and anyone working in conjunction with the Clerk of Court's Compliance Administrator, shall sign a confidentiality agreement. The confidentiality agreement will be in form as agreed to by the Parties, or if they are unable to agree shall be determined by the Court. The confidentiality agreement will not prohibit or interfere with the Clerk of Court's Compliance Administrator's obligation to perform the duties provided in this SRO. Within two weeks of receiving a request from the Clerk of Court's Compliance Administrator, the Clerk of Court's Office shall either produce all requested documents or provide a time frame for when documents will be produced. Documents produced to the

Clerk of Court's Compliance Administrator may be subject to the confidentiality agreement. If necessary, the Clerk of Court's Compliance Administrator, the Clerk of Court's Office and the Plaintiffs shall agree to a Protective Order to be entered by the Court to address disclosure of relevant employee information or documents absent authorization from the employee.

- G. Review Employment Practices and Recommend Changes. The Clerk of Court's Compliance Administrator shall review the Clerk of Court's Office's employment practices including observing actual hiring sequences to determine whether the Clerk of Court's Office is complying with the Clerk of Court's Decrees and hiring procedures. The Clerk of Court's Compliance Administrator shall make recommendations for changes, if warranted, to the Clerk of Court's Office's hiring procedures. The Clerk of Court's Compliance Administrator shall work with the Clerk of Court's Office's employees to observe current employment practices, answer questions and provide guidance as deemed necessary.

The Court hereby appoints the Honorable Clifford Meacham as Clerk of Court's Compliance Administrator.

## **II. NEW EMPLOYMENT PLAN.**

- A. Review of Current Employment Practices.
1. The Clerk of Court's Office and the Plaintiffs shall review the Clerk of Court's Office's employment practices for non-Exempt employees and shall make recommendations for change as warranted.
  2. The Clerk of Court's Office and the Plaintiffs shall define appropriate and inappropriate employment practices, consistent with law, the Clerk of Court's Decrees and this SRO.

- B. Notification to Current and Potential Employees; Training Employees.
1. The head of Human Resources and the Inspector General shall train the Clerk of Court's Office's employees in order to effectuate a culture free of political consideration in all aspects of governmental employment for non-Exempt Positions, including but not limited to, hiring, promotion, discharge, overtime and transfers of the Clerk of Court's Office's employees.
  2. The Clerk of Court's Office shall provide written notification to job applicants regarding the Clerk of Court's Office's employment practices and prohibitions as well as how to report allegations of non-compliance.
- C. New Employment Plan Development. The Parties shall negotiate, in good faith, a new employment plan ("New Employment Plan") that will govern the Clerk of Court's Office's employment practices, policies and procedures, including, but not limited to, hiring, promotion, transfer, assignment of overtime, discipline and discharge. The New Employment Plan shall be presented to the Court for approval. When adopted and approved by the Court, the New Employment Plan shall be fully incorporated into the Clerk of Court's Decrees and SRO.
- D. Application Tracking System. The Clerk of Court's Office, with the input of the Plaintiffs, shall implement an application tracking system that is user friendly and available to applicants through web-based access, to determine their current status in the hiring process in order to enhance the availability of information about the hiring process. All hiring activity for non-exempt positions shall employ the application tracking system.



- E. Exemptions. A list of Exempt Positions (the “Exempt List”) shall consist of those positions that under applicable law are exempt from consideration of political reasons or factors because political affiliation is an appropriate requirement for the effective performance of the position. The Exempt List shall be filed with the Court for approval. The Clerk of Court’s Office shall propose a list of Exempt Positions to Plaintiffs’ Class Counsel for comment and discussion in a good faith effort to reach agreement on the list. Any disagreements shall be presented to the Court for resolution. The Exempt List shall be attached as Exhibit II.G to the final SRO approved by the Court. The Parties may amend the Exempt List, including changes to position titles and job descriptions, from time to time. Prior to submitting any such amendments to the Court for approval, the party proposing the amendment shall present the amendment to the other party for comment and discussion in a good faith effort to reach agreement on the amendment.
- F. Impasse Resolution. If, at any time prior to the adoption of the New Employment Plan, the Clerk of Court’s Office and Plaintiffs reach an impasse regarding any component of the New Employment Plan, the Clerk of Court’s Compliance Administrator shall report to the Court the nature of the unresolved issue(s) and may make a written recommendation as how to resolve such issue(s) for the Court’s determination. The Parties shall have the right to be heard and make submissions concerning the resolution of any unresolved issue(s), and the Court shall then rule on the unresolved issue(s). Provisions as ordered by the Court pursuant to such ruling(s) shall become part of the New Employment Plan.

### **III. MONITORING AND ENFORCEMENT.**

- A. Covered Employees. The prohibitions of the Clerk of Court's Decrees cover all employment by or for the Clerk of Court's Office, or by or for any person or entity under the direction and control of the Clerk of Court's Office, except for Exempt Positions. For this purpose "employment" means the relationship that constitutes employment at common law by the Clerk of Court's Office or by or for any person or entity under the direction and control of the Clerk of Court's Office except for Exempt Positions and includes probationary, temporary, part time and permanent employment, whether employed pursuant to a written contract or otherwise. The prohibitions do not apply to the retention of persons or firms functioning as independent contractors and retained for such purposes by the Clerk of Court's Office. Nothing in this SRO shall have any effect on any other consent decree applicable to any other governmental body or public office.
- B. Continued Jurisdiction of the Court. The Court retains jurisdiction for purposes of enforcement and ongoing monitoring of the Clerk of Court's Office's compliance with the Clerk of Court's Decrees and the SRO, including auditing and monitoring by the Clerk of Court's Compliance Administrator and the Clerk of Court's Compliance Administrator's counsel and staff, until such time as the Clerk of Court's Decrees and the SRO terminate.
- C. Clerk of Court's Compliance Administrator Reports. The Clerk of Court's Compliance Administrator shall prepare and file reports with the Court providing an update regarding the Clerk of Court's Office's compliance with the SRO, development and implementation of the New Employment Plan, and progress made toward substantial compliance. The Parties may provide input to the Court

regarding information contained in the Clerk of Court's Compliance Administrator's reports.

- D. Continued Clerk of Court's Compliance Administrator Monitoring. The Clerk of Court's Compliance Administrator, with the Clerk of Court's Compliance Administrator's counsel and staff, shall continue to actively monitor the Clerk of Court's Office's compliance with the Clerk of Court's Decrees, the SRO, and the New Employment Plan until their termination.
- E. Monitoring by Plaintiffs. Plaintiffs shall monitor the Clerk of Court's Office's performance under the Clerk of Court's Decrees, the SRO (including Post-SRO Complaint Procedures), and the New Employment Plan through counsel of their choice, may present matters to the Court including enforcement actions, and may petition the Court for payment of costs and attorneys' fees incurred as part of their reasonable, appropriate, non-duplicative monitoring and enforcement and for carrying out any of their obligations under this SRO.
- F. Sunset Procedures.
1. Motion to Terminate. No sooner than one year after the New Employment Plan is implemented or at any time that the Court shall order, the Clerk of Court's Office may file a Motion to Terminate the Clerk of Court's Decrees and this SRO. The Clerk of Court's Office shall provide a copy of the Motion to Dissolve to Plaintiffs' Class Counsel and the Clerk of Court's Compliance Administrator thirty (30) days prior to filing the Motion to Terminate. The Clerk of Court's Office has the burden of showing that it is in Substantial Compliance (as defined below).

2. Certification of Substantial Compliance. As a condition precedent to filing a Motion to Terminate, the Clerk of Court, the Clerk of Court's Office's head of Human Resources, and the Inspector General must certify in writing in the form that is attached to the final SRO as Exhibit III.F.2, that, after appropriate review and inquiry, each believes that the Clerk of Court's Office is in Substantial Compliance with the Clerk of Court's Decrees and this SRO and that there is no material non-compliance (together, the "Certifications of Substantial Compliance"). The Certifications of Substantial Compliance must be attached as exhibits to the Motion to Terminate.
3. Clerk of Court's Compliance Administrator's Opinion. Within fourteen (14) days after the Motion to Terminate is filed with the Court, the Clerk of Court's Compliance Administrator shall advise the Court whether, in the opinion of the Clerk of Court's Compliance Administrator ("Clerk of Court's Compliance Administrator's Opinion"), the Clerk of Court's Office is or is not in Substantial Compliance with the Clerk of Court's Decrees and the SRO. The Clerk of Court's Office and Plaintiffs' Class Counsel have the right to contest the Clerk of Court's Compliance Administrator's Opinion and to request a hearing from the Court.
4. Plaintiffs' Response. Within fourteen (14) days of service of the Clerk of Court's Compliance Administrator's Opinion, Plaintiffs may file a response to the Motion to Terminate.

5. Conditions to Termination of the Clerk of Court's Decrees and the SRO.

The Clerk of Court's Decrees and the SRO shall terminate if (i) the Certifications of Substantial Compliance have certified that the Clerk of Court's Office is in Substantial Compliance, (ii) the Clerk of Court's Compliance Administrator has advised the Court of the Clerk of Court's Compliance Administrator's Opinion, and (iii) the Court has determined, after such procedures as the Court deems appropriate, that the Clerk of Court's Office is in Substantial Compliance.

6. Effective Date of Termination. The effective date of termination shall be the date upon which all judicial proceedings, and expiration of rights to appeal, have concluded following a final judicial decision that Substantial Compliance has been achieved. Termination of the Clerk of Court's Decrees and the SRO shall have no effect on any claim or complaint under the terms of the Clerk of Court's Decrees or the SRO filed within one hundred eighty (180) days after the date the SRO and Clerk of Court's Decrees are terminated if based on alleged conduct occurring prior to termination.

7. Reinitiating Substantial Compliance Process. If the Clerk of Court's Decrees and SRO are not terminated after the filing of a Motion to Terminate by the Clerk of Court's Office, they shall remain in effect. In its order denying the Motion to Terminate, the Court, with the input of the Parties, shall set a new date after which the Clerk of Court's Office may

reinitiate the above Substantial Compliance certification and Clerk of Court's Compliance Administrator Opinion process.

8. Substantial Compliance Definition. Substantial Compliance means:

- (1) the Clerk of Court's Office has implemented the New Employment Plan, including procedures to ensure compliance with the New Employment Plan and identify instances of non-compliance;
- (2) the Clerk of Court's Office has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
- (3) the Clerk of Court's Office does not have a policy, custom or practice of making employment decisions based on political reasons or factors except for Exempt Positions;
- (4) the absence of material noncompliance which frustrates the Clerk of Court's Decrees and the SRO's essential purpose. The Clerk of Court's Compliance Administrator and the Court may consider the number of post-SRO complaints that have been found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the Clerk of Court's Office is not in substantial compliance; and
- (5) the Clerk of Court's Office has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the Clerk of Court's Office.

9. Recommendations and Definition of Political Reasons and Factors.

Nothing in the SRO shall limit the right of any citizen, including elected officials, to make recommendations not based on political reasons or factors, to personnel involved in making employment decisions on behalf of the Clerk of Court's Office. In the case of hiring for positions that are not Exempt Positions, recommendations from public office holders or political party officials that are based on such individual's personal knowledge of the applicant's work skill, work experience or other job-related qualifications are permitted and may be considered.

Recommendations based on political reasons or factors shall not be given any effect, and shall be reported as provided in the New Employment Plan. As used herein, the phrase "political reasons or factors" includes:

- (1) Recommendations for hiring, promotion or other employment terms for specific persons from public office holders or political party officials that are not based on personal knowledge of the applicant or employment candidate's work skills, work experience or other job-related qualifications.
- (2) The fact that the applicant or employment candidate worked in a political campaign or belongs to a political organization or political party, or the fact that the person chose not to work in a political campaign or to belong to a political organization or a political party. The fact that an applicant or employment candidate worked for a political campaign for elective office does not prohibit

consideration of a recommendation related to that person insofar as the basis for that recommendation relates to the applicant's or employment candidate's relevant work experience.

- (3) The fact that the applicant or employment candidate contributed money, raised money or provided something else of value to a candidate for public office or a political organization, or the fact that the person chose not to contribute or raise money for a candidate for public office or a political organization.
- (4) The fact that the applicant or employment candidate is a Democrat or a Republican or a member of any other political party or group, or the fact that the applicant or employment candidate is not a member.
- (5) The fact that the applicant or employment candidate expressed views or beliefs on political matters such as which candidates or elected officials he or she favored or opposed, which public policy issue he or she favored or opposed, or which views on government actions or failures to act he or she expressed.

G. Waiver of Challenge to the Clerk of Court's Decrees and SRO Validity and Class Member Standing; Preservation of Other Defenses. The Clerk of Court's Office shall not seek to vacate, appeal or otherwise challenge the validity of the Clerk of Court's Decrees or the SRO. The Clerk of Court's Office expressly waives, covenants and agrees not to assert any argument or claim that any Class Member who seeks relief under the post-SRO complaint procedure lacks standing to



enforce the Clerk of Court's Decrees or this SRO or to seek relief under the Clerk of Court's Decrees or the SRO. However, the Clerk of Court's Office is not precluded from defending a claim brought under the Clerk of Court's Decrees or the SRO on the basis that the individual is not entitled to relief on grounds other than standing. If any individual opts out of this SRO to pursue her or his claims, the Clerk of Court's Office reserves the right to raise any and all defenses to such claims.

**IV. PROCEDURES FOR ALLEGED VIOLATIONS IDENTIFIED BY THE CLERK OF COURT'S COMPLIANCE ADMINISTRATOR OR OCCURRING AFTER FINAL APPROVAL OF THE SRO.**

The procedures set forth below shall govern investigations (i) by the Inspector General of complaints of alleged unlawful political discrimination occurring after approval of the SRO ("Post-SRO Complaints") and (ii) by the Clerk of Court's Compliance Administrator during the audit of the Clerk of Court's employment practices. Nothing in this SRO limits the right of any individual to file suit in any court of competent jurisdiction against the Clerk of Court's Office alleging unlawful political discrimination. However, any individual who submits a Post-SRO Complaint to the Inspector General agrees to follow these procedures.

- A. Making a Post-SRO Complaint. Any individual may submit a Post-SRO Complaint of unlawful political discrimination in connection with any aspect of government employment with the Clerk of Court's Office alleged to have occurred during the period that this SRO is in effect. To toll the running of the limitations period for filing a lawsuit based on a claim of unlawful political discrimination ("Post-SRO Complainants") an individual asserting such claim (a "Complainant") must timely submit a Post-SRO Complaint Form (Form 1) to the Inspector General. The Post-SRO Complaint Form must be received by the

Inspector General or be postmarked by a United States Post Office within one hundred eighty (180) days after the Complainant knew or should have known of the alleged unlawful conduct. A Post-SRO Complainant who submits a Post-SRO Complaint Form to the Inspector General may not file a lawsuit in federal court or state court until after the Inspector General issues a report under Section IV.I and the Complaint participates in a mandatory settlement conference under Section IV.J.

B. Requirements for Post-SRO Complaint Forms. Complaints submitted on Post-SRO Complaint Forms shall include a sworn statement setting forth the Post-SRO Complainant's claims, and should include:

1. the date or dates of the alleged violation;
2. narrative description of the alleged violation;
3. a description of the alleged damages;
4. identifying information including the Post-SRO Complainant's name, address, telephone number;
5. copies of the appropriate supporting documentation, if in the possession of the Post-SRO Complainant; and
6. a statement of the relief requested by the Post-SRO Complainant including the amount of any damages, if known, the Post-SRO Complainant seeks to recover or the nature of the injunctive relief.

Nothing in this SRO shall restrict the Inspector General's authority or ability to investigate any allegations of unlawful political discrimination in connection with employment with the Clerk of Court's Office received in any other manner

established by the Inspector General, including through the Inspector General's complaint hotline, through a website complaint system, by fax, by phone or by letter. The filing of a Post-SRO Complaint Form (Form 1) shall toll an individual's federal statute of limitations as described in paragraph IV.L below.

C. Availability of Post-SRO Complaint Forms. Post-SRO Complaint Forms will be available from the Clerk of Court's Compliance Administrator, the Clerk of Court's Office, the Inspector General, and Plaintiffs' Class Counsel. Post-SRO Complaint Forms shall also be made available upon request to the Clerk of Court's Office's website and the Inspector General's website.

D. Inspector General and Clerk of Court's Compliance Administrator Investigation. The Clerk of Court's Compliance Administrator shall be responsible for investigating any evidence of unlawful political discrimination uncovered during the audit of the Clerk of Court's Office's employment practices. The Inspector General shall be responsible for conducting or directing the investigation of Post-SRO Complaints. Except as necessary to conduct an investigation or to confirm to the Clerk of Court's Office that a plaintiff in a lawsuit alleging political discrimination in connection with employment with the Clerk of Court's Office does not have a Post-SRO Complaint pending with the Inspector General's Office, the Inspector General and his or her agents shall not disclose the identities of Post-SRO Complainants to anyone other than the Court or Plaintiffs' Class Counsel.

E. Distribution of Post-SRO Complaints to Clerk of Court's Compliance Administrator. Within seven (7) days of receiving a Post-SRO Complaint, the

Inspector General shall provide a copy of the Post-SRO Complaint to the Clerk of Court's Compliance Administrator and Plaintiffs' Class Counsel. The Post-SRO Complaint shall remain confidential and, except as provided herein, shall not be disclosed to anyone outside the Inspector General's Office except as provided for in this SRO. The Clerk of Court's Compliance Administrator and his or her agents and Plaintiffs' Class Counsel shall not disclose the contents or existence of the Post-SRO Complaint to anyone other than the Court until (1) the Inspector General completes his or her investigation and issues his or her report, (2) the Post-SRO Complainant files a lawsuit, (3) as provided in Section IV.D, or (4) as necessary to carry out the duties under this SRO. The Inspector General shall, within fourteen (14) days of receipt of a Post-SRO Complaint Form, send a "Notice of Rights," in the form that shall be attached as Exhibit IV.E, to any Post-SRO Complainant who submitted a Post-SRO Complaint Form.

- F. Cooperation with Inspector General and Clerk of Court's Compliance Administrator. The Clerk of Court, the Clerk of Court's Office, its departments and its employees and agents shall fully cooperate with investigations conducted by the Inspector General or the Clerk of Court's Compliance Administrator, by, among other things, promptly providing all requested relevant, non-privileged documents and information to the Inspector General or Clerk of Court's Compliance Administrator, in a manner that will preserve the confidentiality of the investigation. No person shall be compelled to respond to any request for information in violation of her or his constitutional rights.
- G. Inspector General's Resources. The Clerk of Court's Office shall provide the

Inspector General with reasonable and fair resources to independently, effectively, and expeditiously investigate Post-SRO Complaints and shall maintain such resources until the Inspector General has completed its duties hereunder.

- H. Timing of Inspector General Investigation. The Inspector General shall investigate Post-SRO Complaints expeditiously. The Inspector General shall attempt to complete its investigation within one-hundred eighty (180) days after its initiation. If any investigation is not completed within one-hundred eighty (180) days after its initiation, the Inspector General shall notify the Clerk of Court's Compliance Administrator, the Clerk of Court's Office General Counsel, Plaintiffs' Class Counsel, and the Post-SRO Complainant of the general nature of the complaint and the reasons for its failure to complete the investigation within one hundred eighty (180) days.
- I. Investigation Report. At the conclusion of an investigation, the Inspector General or the Clerk of Court's Compliance Administrator shall report in writing the results of its investigation to the Post-SRO Complainant, any individual believed to be a victim of unlawful political discrimination, the Clerk of Court's Compliance Administrator, the Clerk of Court, Plaintiffs' Class Counsel, and counsel for the Clerk of Court's Office. If the Inspector General or the Clerk of Court's Compliance Administrator finds at the conclusion of an investigation that impermissible political factors were considered in an employment decision, the Investigation Report shall include the names of all individuals who, according to the investigation, were victims of unlawful political discrimination in connection

with any aspect of government employment with the Clerk of Court's Office and the names of any individuals responsible for such discrimination. The copy of the Investigation Report sent to the Post-SRO Complainant and the individuals believed to be victims of political discrimination shall be accompanied by a Notice of Rights and Request for Settlement Conference (Form 2).

- J. Mandatory Settlement Conference. Before any Post-SRO Complainant or individual identified as a potential victim of unlawful political discrimination by the Clerk of Court's Compliance Administrator or the Inspector General (collectively referred to as "Claimants") may seek relief for any injury suffered as a result of political discrimination in connection with any aspect of government employment with the Clerk of Court's Office, the Claimant must first participate in a mandatory settlement conference. A Claimant initiates the settlement conference by submitting a Request for Settlement Conference (Form 2) to the Clerk of Court's Office General Counsel within thirty (30) days of the date of the Inspector General's Report or the Clerk of Court's Compliance Administrator's Report. Within sixty (60) days of receipt of the Request for Settlement Conference, the Clerk of Court's Office and the Claimant shall hold an in person settlement conference for settlement purposes only. All statements made and the positions taken at such conference shall be deemed settlement discussions subject to Rule 408 of the Federal Rules of Evidence, and shall not be disclosed by the parties except as required to obtain settlement approval. The Claimant and the Clerk of Court's Office may agree in writing to an extension of the time to conduct such meeting. The Claimant may be represented at the settlement

conference by counsel or any other representative of her or his choice. Settlement offers will be made at the discretion of the Clerk of Court's Office. Settlement offers may include, but are not limited to, monetary damages, reinstatement, or other relief. If accepted by the Claimant, copies of executed settlement agreements shall be provided to the Inspector General, the Clerk of Court's Compliance Administrator and Plaintiffs' Class Counsel within seven (7) days of execution. The parties may agree to additional settlement conferences.

- K. Inspector General Reports to the Court. No later than the fifteenth day of April, August, and December, the Inspector General shall file with the Court a report, accurate as of the last day of the preceding month, indicating: the number of Post-SRO Complaints received since the date of the last report and the general nature of those Complaints; the number of investigations initiated since the date of the last report; the number of investigations concluded since the last report broken down by sustained and non-sustained cases and providing a summary of the findings and recommendations in the completed investigation; and the number of investigations pending as of the reporting date.
- L. Tolling During Inspector General Investigation and Settlement Conference. The filing of a Post-SRO Complaint Form (Form 1) shall toll a Complainant's statute of limitations on any claims while the SRO investigation and settlement conference procedures are pending. A Claimant shall have thirty (30) days after termination of the mandatory settlement conference procedures required under Section IV.J to file a complaint in federal court. Pursuant to Local Rule 40.4, either party to a lawsuit alleging a violation of this SRO may file a motion to have

the case reassigned to the judge presiding over case Number 69 C 2145 case as a related matter.

- M. Audit Documentation. The Clerk of Court's Office shall maintain all documentation related to complaints, investigations, and lawsuits arising under Section V until two years after the SRO has terminated.

## **V. NO RETALIATION**

No person shall take any unlawful retaliatory action against any individual who exercises any rights provided by, or who reports violations of, the Clerk of Court's Decrees or the SRO, including but not limited to rights under the Clerk of Court's Whistleblower Policy. Any individual who believes retaliation has occurred may seek relief under the post-SRO process.

## **VI. ATTORNEYS' FEES.**

The Parties have not agreed to or discussed the amount of attorneys' fees awardable to Plaintiffs' Class Counsel or their reimbursable costs prior to entry of this SRO, but shall attempt to reach agreement as to such amount within forty-five (45) days of entry of the SRO for presentation to the Court for its review and approval. If the Parties are unable to reach agreement, the Plaintiffs' Class Counsel shall be entitled to petition for an award of fees and the Clerk of Court's Office shall be entitled to assert objections thereto. The County shall promptly pay any and all reasonable fees and costs awarded by the Court.

## **VII. TERMINATION OF THE SRO.**

- A. Effect of Non-Approval. If, for any reason, the SRO does not become final (that is, is finally approved and the time for appeal expires with no appeal being filed or all appellate review has been exhausted and the SRO remains in effect and unmodified), the Parties shall retain all of their rights and defenses as they existed immediately prior to the execution of the SRO.



- B. Effect of Termination. If the SRO is terminated as provided for in Section III.F. above, the SRO shall have no further force and effect. All negotiations, proceedings and statements made in connection therewith shall be without prejudice to any person or party thereto, shall not be deemed or construed to be an admission by any Party of any act, matter or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in the Action or in any other action or proceeding.

### **VIII. ENTIRE AGREEMENT.**

All prior negotiations and agreements between the parties hereto (other than the Clerk of Court's Decrees), with respect to the SRO, shall be superseded by the SRO. No representation, warranties, understandings, or agreements of the parties relating to the subject matter thereof, other than the Clerk of Court's Decrees and those expressly set forth in the SRO shall be binding upon the parties.

**ENTER:**

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Hon. Sidney I. Schenkier  
United States Magistrate Judge

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

MICHAEL L. SHAKMAN, et al.,	)	
	)	
Plaintiffs,	)	
	)	Case Number: 69 C 2145
v.	)	Magistrate Judge Schenkier
	)	
CLERK OF THE CIRCUIT COURT OF COOK	)	
COUNTY, et al.,	)	
	)	
Defendants.	)	

**PRELIMINARY APPROVAL ORDER  
SUPPLEMENTAL RELIEF ORDER FOR THE  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY**

1. This case comes to be heard on the Agreed Motion of Class Plaintiffs and the Clerk of the Circuit Court of Cook County (“Clerk of Court”) for approval of a proposed SUPPLEMENTAL RELIEF ORDER FOR THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY (“SRO”). The Court orders as follows:

2. The proposed SRO, a copy of which is attached as Exhibit A, is preliminarily approved, subject to the holding of a hearing on the settlement as provided by this Order. The terms of the SRO are fully incorporated by reference into the May 22, 1992 Consent Decree.

3. A hearing shall be held at 8:30 a.m. on August 9, 2018 before this Court, for the purpose of determining whether the Court should approve the proposed SRO, all as set forth in the attached form of Notice of Hearing. The Notice is approved.

4. Prior to June 1, 2018 notice in the form attached hereto as Exhibit B shall be published at the Clerk of Court’s expense as a display ad on one day in the Chicago Tribune and on a different date in the Chicago Sun-Times, which newspapers have circulations throughout the Northern District of Illinois. For the purpose of this Publication, the Notice shall not include as an exhibit the text of the proposed SRO, but the text shall be available on the Clerk of Court’s website at [www.cookcountyclerkofcourt.org](http://www.cookcountyclerkofcourt.org). Notice of the SRO shall also be delivered to anyone who was employed by the Clerk of Court or applied for a position with the Clerk of Court at any time on or after August 1, 2015 in the form attached hereto as Exhibit B by enclosing such Notice with each employee’s paycheck or by interoffice or US mail no later than June 22, 2018. Appropriate affidavits showing that the Notice has been given as provided herein shall be filed with the Court no later than the final approval hearing.

5. The Court finds that the Hearing Notice as prescribed by paragraphs 2 and 3 constitutes the best notice practicable under the circumstances and constitutes due and sufficient

notice of the Settlement Hearing and proposed SRO to all persons affected by and/or entitled to participate in the Settlement.

6. Any Class Member who wants to be excluded from the class must give written notice of her or his intent to opt-out by mail to the Clerk of Court's Compliance Administrator. A form Opt-Out Notice can be obtained from the Clerk of Court's website at [www.cookcountyclerkofcourt.org](http://www.cookcountyclerkofcourt.org), the Clerk of Court's Compliance Administrator, or from Brian Hays, Locke Lord LLP, 111 S. Wacker Drive, Chicago, Illinois 60606. The Opt-Out Request shall state: (a) the name and docket number of this case; (b) the Class Member's legal name, address, and telephone number; and (c) that the Class Member wishes to be excluded from membership in the Class. An Opt-Out Notice must be postmarked by a United States Post Office by July 20, 2018.

7. Class Members who elect to opt-out of the SRO must file an enforcement action or bring a separate lawsuit to assert any claims they may have against the Clerk of Court. Claims based on alleged political discrimination in employment brought under 42 U.S.C. § 1983 and related provisions of civil rights legislation are subject to a two-year limitations period. Additional time may be afforded to bring claims where the basis therefore has been concealed. A Class Member who elects to pursue a remedy outside of the SRO should act quickly to protect whatever rights she or he may have. Class Members who elect to pursue a remedy outside of the SRO should act quickly to protect whatever rights they may have.

8. Any Class Member may file a written objection to the SRO with the Court. The objection must state its substance, the nature of the objector's interest in the case and the name and address of the objector. Written objections must be filed with the Court prior to 4 p.m. on July 20, 2018 and must show that a copies of the objection were served on Brian Hays at Locke Lord LLP, 111 S. Wacker Drive, Chicago, Illinois 60606 and Joseph Gagliardo, Laner Muchin Ltd., 515 North State Street, Suite 2800, Chicago, IL 60654.

9. If a Class Member wishes to speak at the settlement approval hearing, she or he must ask the Court for permission by filing a request with the Court, showing copies to Brian Hays at Locke Lord LLP, 111 S. Wacker Drive, Chicago, Illinois 60606 and Joseph Gagliardo, Laner Muchin Ltd., 515 North State Street, Suite 2800, Chicago, IL 60654, requesting permission to speak at the hearing in the case of **Shakman v. Clerk of the Circuit Court of Cook County, 69 C 2145**. The Class Member should state her or his position and the basis for that position. The Class Member need not appear at the hearing. The Court will consider all written submissions before deciding whether to approve the SRO. A request for permission to speak must be filed with the Court prior to 4 p.m. on July 20, 2018. The Court may, but is not required to, grant the request.

May 24, 2018

ENTER:

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United States Magistrate Judge