

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**ASSOCIATION OF OREGON CENTERS  
FOR INDEPENDENT LIVING, MARTHA  
MAE BRYSON, KIMBERLY MORRISEY,  
DAVE MAULE, JORDAN OHLDE,  
WILLIAMS PHILLIPS, LAURIE SITTON,  
CARRIE TAYLOR, and LAURA POTTS,**

Plaintiffs,

vs.

**OREGON DEPARTMENT OF  
TRANSPORTATION; and MATTHEW  
GARRETT, *in his official capacity as  
Director of the Oregon Department of  
Transportation,***

Defendant(s).

) Case No. 3:16-cv-00322-HZ

) **ORDER APPOINTING SPECIAL  
MASTER**

The parties hereto stipulated and jointly moved the Court for the Appointment of Special Master for Settlement Agreement ("Motion for Special Master") pursuant to Federal Rule of Civil Procedure ("FRCP") 53. After considering the papers submitted in support of and in opposition to the motion, arguments of counsel, and all other matters presented to the Court,

**IT IS HEREBY ORDERED THAT** the Parties' Stipulated Motion for Special Master is

**GRANTED.**

**IT IS FURTHER ORDERED THAT** pursuant to FRCP 53, the Court hereby appoints the Hon. Janice Wilson (Ret.), as the Special Master in this case.

1). **Scope of Duties:** The Special Master shall adjudicate all disputes under Section 12 of the Settlement Agreement approved by the Court on March 29, 2017 including but not limited to disputes as to the award of attorney fees and under Section 12.

2). **Scope of Authority:** The Special Master shall have all the authority provided in FRCP 53(c)(1) and (2) to resolve disputes within the scope of Section 1 herein.

3). **Procedures for Briefing Submitted to Special Master.** The Special Master may resolve disputes presented orally in-person or telephonically, in a letter brief, or in formal motions. All papers will be submitted directly to the Special Master by e-mail with a courtesy copy by US Mail or overnight courier, as directed by the Special Master. Briefing schedules will be determined by the Special Master.

4). **Discovery Disputes.** Meet and confer required. In the event of a discovery dispute under Section 12 of the Settlement Agreement, the parties shall first meet and confer in good faith to attempt to resolve the dispute. In the event the parties are not able to reach an agreement, the dispute will be resolved by the Special Master. The party seeking relief shall, with notice to the other party, contact the Special Master to determine her availability for a telephonic conference at a time when both parties are available. In the event that the party seeking the relief wishes to submit a letter brief, the party seeking relief shall send a letter not to exceed five (5) pages (to be distributed by email) outlining the issues(s) in the dispute and its position. The party opposing may submit a letter not to exceed five (5) pages (to be distributed by email) outlining the party's reasons for its opposition. Should the Special Master find further briefing necessary

upon conclusion of the telephone conference, the Special Master will order it. This paragraph sets forth the default procedures for resolution of discovery disputes. The Special Master, however, may alter these procedures with respect to a particular dispute as she deems appropriate and necessary.

5). **Preservation of Record.** Pursuant to FRCP 53(b)(2)(C), the Special Master shall maintain orderly files consisting of all documents submitted to her by the parties and any of her written orders, findings, and/or recommendations. Any order issued by the Special Master shall be e-mailed to the parties. Such e-mailing shall fulfill the Special Master's duty to serve her order on the parties. In addition, any order issued by the Special Master shall be filed via Electronic Case Filing ("ECF") in a notice of ruling by the party designated by the Special Master in the order, or, in the absence of such designation, the moving party. Any records of the Special Master's activities other than her written orders, findings, and/or recommendations shall be filed in accordance with paragraph 6.3 herein.

6). **Action on Special Master's Orders, Reports, or Recommendations**

6.1) Pursuant to FRCP 53(b)(2)(D) and (g), the procedures described in paragraphs 6.2 through 6.3 herein shall govern any action on the Special Master's orders, reports and/or recommendations.

6.2) **Time Limits for Review.** Any party dissatisfied with the Special Master's resolution of a dispute may present the dispute for resolution by Judge Simon within the time set forth in Section 12 of the Settlement Agreement between the parties.

6.3) **Filing the Record for Review.** The party presenting a dispute for resolution by Judge Simon shall submit with such request for resolution any record necessary for Judge Simon to review the Special Master's order, report, and/or recommendation, including any transcripts of

proceedings before the Special Master and any documents submitted by the parties in connection with the Special Master's order, report, and/or recommendation.

7). **Ex Parte Communications.** To facilitate the fulfillment of her duties hereunder, the Special Master may communicate ex parte to Judge Simon to the extent that the Special Master deems necessary and appropriate. In addition, the Special Master may have ex parte communications with a party but such communications shall be limited to administrative matters such as scheduling hearings, telephone calls or briefing, if such arrangements cannot be made in a timely manner by contacting any administrative assistant of the Special Master.

8). **Compensation.** The Special Master shall be compensated at her normal hourly rate for her services. The cost of the Special Master's compensation shall be paid by the State of Oregon by and through the appropriate agency thereof.

9). **Master's Declaration.** Pursuant to FRCP 53(a)(2) and (b)(3), the Special Master shall file a declaration with this Court that states she is not subject to any of the grounds for disqualification of judges set out in 28 U.S.C. § 455 prior to undertaking duties pursuant to this order.

10). **Diligence.** Pursuant to FRCP 53(b)(2), the Court hereby directs the Special Master to proceed with all reasonable diligence in performing her duties.

DATED this 2<sup>nd</sup> day of June, 2017.

  
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United States District Court Of Oregon