



make them and other City personnel aware that compliance with orders of this Court is not optional.

B. The hundreds and perhaps thousands of honest citizens who have applied or been considered for City employment or promotions but who have been deprived by such violations of a fair chance to obtain public employment, or promotions or advancement in positions with the City, should be identified and given priority consideration for an appropriate City job, and their applications should be evaluated under non-political standards.

C. The rights of candidates for public office and their supporters that have been adversely affected by the use of City employment to create political work forces to support favored candidates also warrants relief. The individuals who were hired or advanced in violation of this Court's orders, and any organizations, formal or informal, for whom they were required to do political work or provide financial contributions, should be identified. Responsible persons who directed coerced political work or financial contributions in violation of this Court's orders, or who otherwise participated in the City's violations of this Court's orders, should be subjected to civil contempt proceedings and appropriately sanctioned.

2. To accomplish the foregoing, the Court should appoint a Special Master pursuant to Federal Rule of Civil Procedure 53 from candidates proposed by the Plaintiffs. The Special Master should be authorized and directed to investigate the matters referred to in this Application and to identify the perpetrators and victims of the City's illegal activities. The Special Master should have all the powers of the Court to obtain documents and testimony and

to conduct hearings for the purposes authorized. The Special Master should from time to time as appropriate report to the Court concerning (a) individuals who should be subject to civil contempt proceedings and the grounds therefore, (b) applicants for employment and employees eligible for advancement who were discriminated against by the City's illegal practices and methods to afford those individuals fair opportunities to be considered for the next available appropriate City position, (c) the identity of organizations and individuals who benefitted from the City's violations of this Court's orders, and individuals who should be subject to civil contempt proceedings as a result thereof.<sup>1</sup>

3. Plaintiffs' counsel should be authorized and directed to review all proposals for modifications to the City's existing hiring practices and procedures and to recommend appropriate modifications or alternative methods or protections to prevent a repetition of the violations described herein.

4. The Special Master should be authorized to retain counsel and investigators, whose fees and costs, as well as those of the Special Master and those of the Plaintiffs' counsel in developing the above recommendations, should be paid by the City on a monthly basis.

5. The Special Master should consult with the Plaintiffs' counsel and City personnel, advise the office of the United States Attorney of the Special Master's activities, and when appropriate conduct public hearings. From time to time as appropriate the Special Master should issue interim reports. The City should be directed to fully cooperate with the Special Master.

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<sup>1</sup> This Court is authorized to appoint a special master in these circumstances. See *CHA v. Austin*, 511 F.2d 82 at 83 (7th Cir. 1975)(authorizing special master to study and report on how enforcement of prior judgments of the court could be facilitated, and formulating a plan to implement prior judgments); *Williams v. Lane*, 851 F.2d 867, 884 (7th Cir. 1988)(authorizing special master where defendants have "demonstrated a 'continued and deliberate inattention to plaintiffs' constitutional rights' . . ." and where "non-compliance with the previous district court order was emphasized.")

6. The Special Master should be authorized to exercise all powers provided in Rule 53 with respect to matters referred to the Special Master. The Plaintiffs should be authorized to take discovery on an accelerated basis commencing immediately and continuing from time to time. Defendants should be directed to comply with accelerated discovery requests.

**Nature of the Application**

7. The City has engaged in systematic, widespread violations of the Court Orders by: (1) conditioning, basing, or knowingly prejudicing or affecting the hiring of any person as a governmental employee because of political reasons and factors; (2) conditioning, basing, or knowingly prejudicing or affecting terms and aspects of governmental employment of employees because of political reasons and factors; (3) causing or permitting employees to do partisan political work during the regular working hours of his or her governmental employment; and (4) coercing political payments.

8. Plaintiffs petition this Court to enforce its judgments of May 5, 1972 and June 20, 1983, by holding the City in contempt of court. The judgments entered by this Court prohibit the City from coercing political payments, requiring city employees to engage in political activity during normal working hours, rewarding or promoting employees based upon political work, or hiring employees based upon political factors. The City has regularly and systematically violated the Court Orders by engaging in all of these activities.

9. Based on the City's extensive and continued violations of the Court Orders, this Court should hold the City in contempt and impose additional obligations upon the City both as a remedy for the City's past violations and to ensure future compliance with the Court Orders. The City's course of behavior makes it evident that this Court must impose additional obligations upon the City to force the City to comply with its judgments.

10. This Court has jurisdiction over this matter because it involves the enforcement of the Court Orders entered by this Court. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994).

11. Venue is appropriate pursuant to 28 U.S.C.A. § 1391 because this Application is brought in the judicial district where the Defendants reside and violations of the Court Orders occurred.

**Statement of Facts Applicable to All Counts**

12. On October 17, 1969, Michael L. Shakman and Paul M. Lurie brought a lawsuit against the City alleging that the City had engaged in unconstitutional patronage practices in its methods of hiring and firing employees.

13. On May 5, 1972, the City entered into a consent judgment with the Plaintiffs which prohibits “coerced political financial contributions by any governmental employee, contractor or supplier, to any individual or organization . . . .” *Shakman* consent judgment entered May 5, 1972, ¶ D (the “1972 Court Order,” located at Appendix “A.”).<sup>2</sup>

14. The 1972 Court Order also prohibits the City from:

(1) 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;

(2) knowingly causing or permitting any employee to do any partisan political work during the regular working hours of his or her governmental employment, or during time paid for by public funds.

1972 Court Order, ¶ E.

15. In 1983, the City entered into a second consent judgment in the *Shakman* litigation. This consent judgment (the “1983 Court Order,” located at Appendix “B”) extended

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<sup>2</sup> A separate Appendix containing the documents cited and incorporated herein was filed concurrently with this Application.

the 1972 Court Order to include a prohibition against hiring based on political factors. 1983 Court Order, ¶ E.

16. Specifically, the 1983 Court Order enjoins the City from:

(1) conditioning, basing or knowingly prejudicing or affecting the hiring of any person as a Governmental Employee (other than for Exempt Positions), upon or because of any political reason or factor including, without limitation, any prospective employee's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such prospective employee's political sponsorship or recommendation.

*Id.*

17. As part of the 1983 Court Order, the City was required to submit a Plan of Compliance outlining the steps the City would take in hiring and promoting employees to ensure compliance with the Court Orders. The Plan of Compliance applies "to all hiring decisions concerning individuals who currently are not employed by the City as well as to transfer, demotion, promotion, and reclassification decisions involving current City employees." Plan of Compliance, I-1 (located at Appendix "C").

18. The City has an affirmative obligation to ensure that its employees comply with the Court Orders. When an employee of the City violates the Court Orders, the City is deemed to have violated the Court Orders. *Wzorek v. City of Chicago*, 906 F.2d 1180, 1183 (7th Cir. 1990) (rejecting City's argument that it should not be held in civil contempt when its "lower level supervisors" violate the 1972 Court Order).

19. Recently it has been discovered the City has routinely committed widespread, systematic violations of the Court Orders.

**Holding the City in Contempt and Imposing Relief Is Necessary to Remedy Past Violations and to Ensure Compliance with the Court Orders**

20. This Court's ability to impose sanctions to punish disobedience of judicial orders

is essential to ensure the judiciary's ability to uphold its judgments. This Court has broad discretion to fashion a remedy specific to the nature of the harm resulting from disobeying a court order and to take into consideration the effects of alternative remedies.

21. Civil sanctions for contempt are designed to compel or coerce obedience to a court order and to compensate the parties for losses resulting from the contemnors' non-compliance with a court order.

22. The Court Orders have for years set forth clear, unequivocal and well-known commands which the City has recently and repeatedly violated.

23. The coercive function of civil contempt is necessary to compel the City's compliance with the Court Orders. Although the two Court Orders have long been in place, the City continues to violate the constitutional rights of candidates, voters, employees, and job applicants on an ongoing and widespread basis.

24. A finding of contempt is necessary to hold the City accountable for its conduct and to send the City and its employees a message that the orders of this Court must be obeyed.

25. The prospective relief requested is necessary to ensure compliance and to protect the constitutional rights of the Plaintiff class members, as well as the rights of City employees and job applicants.

26. The actions described herein include repeated violations of Court Orders by City department heads and commissioners who report directly to Richard M. Daley, as Mayor of the City of Chicago. Richard M. Daley is a "hands-on" administrator who takes an active role in the activities pursued by subordinates. As the Mayor of the City of Chicago, Richard M. Daley has the responsibility for monitoring the activities of his department heads, commissioners and other ranking City officials. More importantly, he has the responsibility for setting the ethical

standards and establishing a culture of compliance with the law for the entire City workforce. Because of the aforementioned extensive, continuing and deliberate violations of the Court Orders we are also seeking sanctions against the Mayor for civil contempt.

***Count I***  
**VIOLATIONS OF THE 1972 COURT ORDER**  
**INVOLVING COERCED POLITICAL CONTRIBUTIONS**

27. Plaintiffs reallege paragraphs 1 through 26 as if set forth here in full.

28. On February 24, 2005, the United States of America brought an indictment against a number of high ranking City employees including, Gerald Wesolowski, Roger McMahon, and Flcnory Barnes, for criminal activity arising out of the City's Hired Truck Program. *See* Superseding Indictment (located at Appendix "D").

29. A number of defendants in those criminal cases have pleaded guilty to their roles in the Hired Truck Program. *See* Wesolowski Plea Agreement, McMahon Plea Agreement and Barnes Plea Agreement located at Appendix "E", Appendix "F", and Appendix "G".

30. The allegations in the Superseding Indictment and the admissions in the Plea Agreements are incorporated herein by reference as though fully set forth herein.

31. The statements contained in the Plea Agreements are substantiated in whole or in part by several other guilty pleas by other defendants named in the Superseding Indictment. *See* Joseph Ignoffo Plea Agreement (located at Appendix "H"); Commelie Peters Plea Agreement (located at Appendix "I"); Leroy S. Peters Plea Agreement (located at Appendix "J"); Charles Romano Plea Agreement (located at Appendix "K"); Debra Coveliers Plea Agreement (located at Appendix "L"). The admissions in these Plea Agreements are incorporated herein by reference as though fully set forth herein.

32. The United States Attorney's criminal investigation of the Hired Truck Program



and the resulting indictments and guilty pleas allege that the City has regularly and systematically coerced political financial contributions, through threats of economic harm, in violation of the 1972 Court Order, ¶ D.

33. The City's Hired Truck Program provided certain City operating departments with a mechanism to use privately provided trucking services on an as-needed basis to assist in the delivery of City services. Participating trucking companies were hired by the City and provided equipment and operators to the respective City operating departments to perform specific tasks. The principal operating departments using Hired Truck Program services were the Department of Water, the Department of Streets and Sanitation, the Department of Transportation and the Department of Sewers.

34. City employees routinely demanded payment of money in the form of political contributions from persons seeking contracts and trucking assignments through the Hired Truck Program. This process was used to raise campaign funds from the participating companies.

35. The City's conduct as alleged in the Superseding Indictment constitutes widespread, systematic violations of the Court Orders by high level City employees, and would establish that the City must be subjected to contempt sanctions.

36. The City has knowing and willfully violated the requirements of the Court Orders.

37. These facts further allege a culture of disobeying federal court orders within the City and, therefore, would demonstrate the necessity for contempt sanctions.

WHEREFORE, Plaintiffs respectfully pray that this Honorable Court enter judgment in their favor and against Defendants, as follows:

- a. Find the City and its Mayor in civil contempt for their repeated violations of the 1972 Court Order.

- b. Appoint a Special Master from candidates proposed by the Plaintiffs to investigate the matters referred to in this Application, identify the perpetrators, beneficiaries and victims of the City's illegal activities, and to report to the Court the Special Master's findings and recommendations. The Special Master should be given all powers provided by Rule 53 with respect to the matters referred to the Special Master.
- c. Authorize the Plaintiffs to monitor and ensure the continuing enforcement of the Court Orders and the Plan of Compliance and to present matters through counsel of their choice in connection with carrying out the Court Orders and Plan of Compliance.
- d. Impose a fine for the purposes permitted by the law of civil contempt upon any person found to be in contempt.
- e. Award the Plaintiffs their reasonable attorneys' fees and costs incurred in bringing this action.

*Count II*  
**VIOLATIONS OF THE COURT ORDERS**  
**IN THE CITY'S EMPLOYMENT PRACTICES**

38. Plaintiffs reallege paragraphs 1 through 26 as if set forth here in full.

39. The investigation of the United States Attorney's office has also revealed violations of the Court Orders' prohibitions against conditioning any aspect of employment with the City on political factors or considerations.

40. In addition to the Superseding Indictment and Plea Agreements identified above, on July 17, 2005, the United States of America filed criminal complaints against Robert Sorich and Patrick Slattery, both high ranking City employees, alleging criminal activity in connection with the City's hiring procedures. Copies of these criminal complaints are located at Appendix "M" and Appendix "N" and are incorporated by reference as though fully set forth herein.

41. The facts in the Superseding Indictment, Plea Agreements, and the Sorich and Slattery criminal complaints allege that since 1993 and continuing:

- The City has regularly and systematically hired employees based upon political

factors, in violation of the 1983 Court Order.

- The City has regularly and systematically promoted employees based upon political factors, in violation of the 1972 Court Order.
- The City has regularly and systematically rewarded City employees with raises and overtime pay based on political factors in violation of the 1972 Court Order.

42. The Sorich and Slattery complaints and the admissions by high-ranking City officials described therein, allege that City employees engaged in an elaborate conspiracy to commit and hide violations of the Court Orders by acts of fraud and deception. City employees routinely manipulated the interview and selection process for certain City employment positions by conducting sham interviews, falsely inflating interview scores, and otherwise guaranteeing that certain pre-selected candidates who were favored by top City officials would win the employment positions, often to the exclusion of equally or more qualified candidates. This pre-selected status was granted by City officials at times because of the prospective employee's association with particular political organizations or contributions of labor to certain political organizations or candidates.

43. City employees routinely and consistently manipulated and falsified the ostensibly merit-based ratings given to prospective employees in order to improperly influence the hiring and promotions for *Shakman*-covered positions.

44. These facts allege recent widespread, systematic violations of the Court Orders by high level City employees justifying the imposition of contempt sanctions against the City.

45. The Superseding Indictment and Plea Agreements allege that City employees participated in political work on behalf of candidates the selection of which was determined by City officials. City officials notified high ranking City employees as to the particular field

work each employee's organization was to conduct. The City employees then held meetings of other City employees in their department during the business day to notify them of the particular political campaigns they would be supporting and to discuss the intended work plan for carrying out the political activities.

46. Following these meetings, the City employees in attendance contacted additional employees to provide them with their field assignments for the upcoming election cycle. These employees in turn contact additional employees to obtain "volunteers" for the field activities.

47. During the field activities, sign up lists were maintained and the political work performed by City employees was tracked. City officials and employees met after each election cycle to review the individual political performances of City employees. The purpose of these meetings was to provide specific information to high ranking City employees in order to obtain work-related benefits for the City employees who had performed political work. City employees were given raises, promotions and overtime as a reward for their political work.

48. The City has knowing and willfully violated the requirements of the Court Orders.

49. These facts further allege a culture of disobeying Federal Court orders within the City of Chicago and would demonstrate the necessity for contempt sanctions.

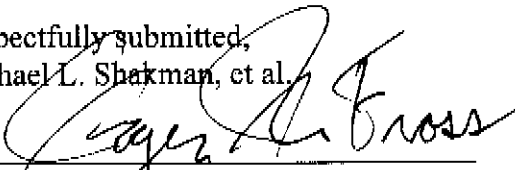
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- b. Appoint a Special Master from candidates proposed by the Plaintiffs to investigate the matters referred to in this Application, identify the perpetrators, beneficiaries and victims of the City's illegal activities, and to report to the Court the Special Master's findings and recommendations. The Special Master should be given all powers provided by Rule 53 with respect to the matters referred to the Special Master.

- c. Authorize the Plaintiffs to monitor and ensure the continuing enforcement of the Court Orders and the Plan of Compliance and to present matters through counsel of their choice in connection with carrying out the Court Orders and Plan of Compliance.
- d. Impose a fine for the purposes permitted by the law of civil contempt upon any person found to be in contempt.
- e. Award the Plaintiffs their reasonable attorneys' fees and costs incurred in bringing this action.

Respectfully submitted,  
Michael L. Shakman, et al.

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