

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

MICHAEL L. SHAKMAN, PAUL M. LURIE, )  
KENNETH AYERS, ANN M. KING, )  
INDEPENDENT VOTERS OF ILLINOIS- )  
INDEPENDENT PRECINCT )  
ORGANIZATION, MICHAEL SULLIVAN, )  
DARRYN JONES, STUART MAJERCZYK, )  
RICHARD GRAMAROSSA and CONNIE )  
GRAMAROSSA, et al., )

Plaintiffs, )

v. )

CITY OF CHICAGO, et al., )

Defendants. )

Case Number: 69 C 2145

Magistrate Judge Schenkier

**JOINT MOTION FOR SETTING A HEARING DATE AND FOR A FINDING OF  
SUBSTANTIAL COMPLIANCE AND DISMISSAL OF THE CITY OF CHICAGO**

The City of Chicago (“City”), by its attorney, Stephen Patton, Corporation Counsel of the City of Chicago, and the Shakman Class Plaintiffs, by and through their attorneys, Roger R. Fross and Brian I. Hays, Edward W. Feldman and Michael L. Shakman (the City and the Shakman Class Plaintiffs herein collectively referred to as the “Parties”), respectfully request that the Court enter the accompanying Agreed Order Setting a Hearing Date for the Joint Motion for a Finding of Substantial Compliance and Dismissal of the City of Chicago in the form attached as Exhibit 1. In support, the Parties state as follows:

1. On May 29, 2007, the Parties entered into a settlement agreement in this case entitled the Agreed Settlement Order and Accord (“Accord”) (Dkt. 642).
2. The Accord lists the standards for a finding of substantial compliance with

its provisions by the City. Included are the following five factors:

- (1) The City has implemented a New Plan for public employment practices, including procedures to ensure compliance with the New Plan and to identify instances of non-compliance;
- (2) The City has acted in good faith to remedy instances of non-compliance with the Accord and prior Court orders that have been identified, and prevent a recurrence;
- (3) The City does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions;
- (4) The absence of material noncompliance which frustrates the Accord's essential purpose. The Monitor and the Court may consider the number of post-Accord complaints that the Inspector General found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the City is not in substantial compliance; and
- (5) The City has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with City employment. (Dkt. 642, § I.G.8.)

3. Over the past several years, the City has developed and implemented policies and procedures to help ensure that unlawful political reasons and factors are not and will not be considered in the City's employment actions. The Court has approved the City's General Hiring Plan (Dkt. 2007, 2279), and Hiring Plans for the Chicago Police Department (Dkt. 2466) and the Chicago Fire Department (Dkt. 2568). The City has further revised these Hiring Plans to address issues that arose as the Hiring Plans were implemented. Copies of the Hiring Plans, as amended through the date hereof (collectively the "Hiring Plans"), are attached as Exhibits 2, 3 and 4 for the Court's review and approval.

4. To facilitate monitoring of the City's compliance with the Hiring Plans and investigations into alleged violations of those Hiring Plans, the City and the Office of

the Inspector General for the City have agreed to a protocol for addressing claims of attorney-client privilege and work product protection. A copy of the Protocol is attached as Exhibit 5, has been adopted by the City and the Parties request that it be approved by the Court as part of the order sought by this Motion.

5. The City submits the Hiring Plans and Protocol as evidence that it has implemented procedures that will continue after the Accord is terminated to effect long-term prevention of unlawful political discrimination.

6. The Accord provides that prior to a finding of Substantial Compliance the Commissioner of the Department of Human Resources and the Mayor will sign a Certification of Substantial Compliance stating that, after appropriate review and inquiry, the Commissioner and the Mayor believe that the City is in Substantial Compliance with the Accord. Accord, § I.G.1 and 2. Copies of such certifications are attached hereto as Exhibits 6 and 7.

7. Based upon reports by the Monitor and the Inspector General, and review of the Hiring Plans, the Protocol, and the City's conduct in the last several years, Plaintiffs agree that the Hiring Plans and Protocol can reasonably be expected to satisfy the objectives of the Accord, and that the City has met the requirements of the Accord for a finding of substantial compliance with the Accord.

8. The Parties and the Monitor agree that the City is in substantial compliance with the Accord.

9. The Parties agree that the Court should terminate the Accord, with the Court retaining jurisdiction regarding a final fee petition, which the Plaintiffs shall submit within 60 days after the Court rules on this motion. Consistent with their past practice,

the Parties will confer and attempt to reach agreement regarding fees prior to the submission of the petition.

10. The Parties further agree that the remedies set forth in Section IV of the Accord shall be extended and made available to City employees who participated in the Department of Streets and Sanitation, Bureau of Forestry hiring sequences for the Forestry Supervisor positions that have been rescinded and are in the process of being redone. Any of these employees may submit an Accord Complaint or file suit to enforce the Accord within 180 days of the date the City provides the employees written notice of its final decision. The Court shall retain jurisdiction after termination of the Accord to enforce the terms of this paragraph and to resolve any issues related to Plaintiffs' and the Monitor's petitions for fees and costs.

11. The Parties have agreed to provide a Notice of Hearing to class members in the form attached as Exhibit 1.A. The Notice will be provided to current City employees with their paychecks on May 16, 2014. The Notice will also be sent to the last known address of individuals who submitted a claim to the Monitor as part of the pre-Accord claim process. On or before May 23, 2014, the Notice shall be published as a display advertisement in one daily edition in each of the Chicago Tribune and the Chicago Sun-Times, which newspapers each has a circulation through the Northern District of Illinois in excess of 750,000 people. The City shall pay all costs associated with giving the Notice.

12. Class members who wish to object to a finding of Substantial Compliance or who wish to be heard at the hearing must file any objection or request with the clerk of the court by 3:00 p.m. on June 6, 2014, with copies sent to the Corporation Counsel and

Plaintiffs' Class Counsel, as more fully stated in the Notice of Hearing.

WHEREFORE, the Parties respectfully request that the Court (i) enter the attached Agreed Order Setting a Hearing Date for the Joint Motion for a Finding of Substantial Compliance and Dismissal of the City of Chicago, providing for such hearing to occur on June 16, 2014 at 10:00 a.m., and (ii) following such hearing, grant the motion for substantial compliance with the Accord and dismiss the City as a defendant.

Respectfully submitted,

<p>MICHAEL L. SHAKMAN, et al.:</p> <p>By: <u> /s/ Roger R. Fross</u> Roger R. Fross Brian I. Hays Katherine H. Harrison LOCKE LORD LLP 111 S. Wacker Dr. Chicago, IL 60606 312.443.1707</p> <p>Michael L. Shakman Edward W. Feldman MILLER, SHAKMAN &amp; BEEM, LLP 180 N. LaSalle Street, Suite 3600 Chicago, Illinois 60601 Phone: 312.263.3700</p>	<p>CITY OF CHICAGO</p> <p>By: <u> /s/ Stephen R. Patton</u> Stephen R. Patton Corporation Counsel CORPORATION COUNSEL'S OFFICE City of Chicago Suite 1020 30 N. LaSalle St. Chicago, IL 60602</p>
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**CERTIFICATE OF SERVICE**

I, Brian I. Hays, hereby certify that I have caused a true and correct copy of the foregoing to be served upon all counsel of record via E-Filing on May 15 2014.

/s/ Brian I. Hays  
One of the Attorneys for Class Plaintiffs

# Exhibit 1

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

MICHAEL L. SHAKMAN, PAUL M. LURIE, )  
KENNETH AYERS, ANN M. KING, )  
INDEPENDENT VOTERS OF ILLINOIS- )  
INDEPENDENT PRECINCT ORGANIZATION, )  
MICHAEL SULLIVAN, DARRYN JONES, )  
STUART MAJERCZYK, RICHARD )  
GRAMAROSSA and CONNIE GRAMAROSSA, )  
et al., )

Plaintiffs, )

v. )

CITY OF CHICAGO, et al., )

Defendants. )

Case Number: 69 C 2145

Magistrate Judge Schenkier

**AGREED ORDER SETTING A HEARING DATE**

This matter comes to be heard on a Joint Motion for Setting a Hearing Date and for a Finding of Substantial Compliance and Dismissal of the City of Chicago (“Joint Motion”). The Court orders as follows:

1. A hearing (the “Hearing”) shall be held at 10:00 a.m. on June 16, 2014 for the purpose of determining whether the Court should enter an order (i) finding the City of Chicago (“City”) to be in Substantial Compliance with the Agreed Settlement Order and Accord (“Accord”) and (ii) dismissing the City from this case, all as set forth in the attached form of Notice of Hearing (the “Notice”), Exhibit 1.A hereto. The form of the Notice is approved.

2. On or before May 23, 2014, the Notice shall be published as a display advertisement in one daily edition of each of the Chicago Tribune and the Chicago Sun-Times, which newspapers each has a circulation through the Northern District of Illinois in excess of 750,000 people. For the purpose of such publication, the Notice shall not include as an exhibit the text of the Accord or the submissions filed in support of the Joint Motion, but shall state that the text of these documents are available on the City’s website at [www.cityofchicago.org](http://www.cityofchicago.org) and the Shakman Decree Monitor’s website at [www.shakmanmonitor.com](http://www.shakmanmonitor.com). Notice of the Hearing shall also be delivered to each employee of the City in the form attached hereto as Exhibit 1.A by enclosing such Notice with each employee’s paycheck or other equivalent means of delivery on a date no

later than May 16, 2014. Appropriate affidavits showing that the Notice has been given as provided shall be filed with the Court no later than the hearing. The Monitor shall send a copy of the Notice by U.S. Mail to the last known address of each individual who filed a written request for a distribution from the \$12 million fund administered by the Monitor pursuant to the Accord.

3. The Court finds that the Notice of Hearing as prescribed by paragraph 2 constitutes the best notice practicable under the circumstances and constitutes due and sufficient notice of the Hearing to all persons affected by and/or entitled to participate in the Hearing.

4. Any Class Member may file a written objection to the Joint Motion 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 3:00 p.m. on June 6, 2014 showing that copies of the objection were mailed to Stephen Patton, Corporation Counsel of the City of Chicago, 121 N. LaSalle Street, Room 600, Chicago, Illinois 60602, Roger Fross, counsel for the plaintiff classes, Locke Lord LLP, 111 South Wacker Drive, Suite 4100, Chicago, Illinois 60606, and Noelle Brennan, Shakman Decree Monitor ("Monitor"), Noelle Brennan & Associates, Ltd., 20 South Clark, Suite 1530, Chicago, Illinois 60603.

5. A Class Member who files a written objection is not required to appear in person at the hearing in order for the Court to consider the objection. If a Class Member wishes to speak at the hearing, she or he must submit a written request to the Court for permission by filing the request with the Court and expressly stating that the individual seeks permission to speak at the settlement approval hearing in the case of **Shakman v. Democratic Organization of Cook County, No. 69 C 2145**, to be held on June 16, 2014. The request must show that copies were mailed to Mr. Patton, Mr. Fross and Ms. Brennan at the addresses listed above. The Class Member seeking to speak at the hearing should state her or his position and the basis for that position in the request. The request for permission to speak must be filed with the Court prior to 3:00 p.m. on June 6, 2014. The Court may, or may not, grant the request. All filings with the Court shall be made by filing a paper copy with the Clerk of the Court stating that the filing relates to **Shakman v. Democratic Organization of Cook County, No. 69 C 2145**, or by filing using the Court's electronic filing system.

Dated: May 15, 2014

ENTER:

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United States Magistrate Judge

## Exhibit 1.A

Exhibit 1.A

**IMPORTANT NOTICE OF HEARING  
ON JOINT MOTION TO SET A HEARING DATE AND FOR A FINDING OF  
SUBSTANTIAL COMPLIANCE AND DISMISSAL OF THE CITY OF CHICAGO**

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

MICHAEL L. SHAKMAN, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 69 C 2145
	)	
DEMOCRATIC ORGANIZATION OF	)	
COOK COUNTY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**TO: ALL PAST, PRESENT AND FUTURE PERMANENT AND TEMPORARY  
EMPLOYEES OF THE CITY OF CHICAGO, PAST, PRESENT AND FUTURE  
APPLICANTS FOR EMPLOYMENT WITH THE CITY OF CHICAGO AND  
CANDIDATES AND VOTERS OF COOK COUNTY, ILLINOIS,**

THIS NOTICE IS TO INFORM YOU THAT THE PARTIES IN THE SHAKMAN CASE HAVE FILED A JOINT MOTION TO SET A HEARING DATE AND FOR A FINDING OF SUBSTANTIAL COMPLIANCE AND DISMISSAL OF THE CITY OF CHICAGO. IF THE COURT FINDS THE CITY IS IN SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENTS OF A PRIOR COURT ORDER, DESCRIBED BELOW, FEDERAL COURT OVERSIGHT OF THE CITY OF CHICAGO IN THIS CASE WILL END.

PLEASE READ THIS NOTICE CAREFULLY AND COMPLETELY.

**YOU ARE NOTIFIED:**

- On May 15, 2014, the parties filed a Joint Motion to Set a Hearing Date and for a Finding of Substantial Compliance and Dismissal of the City of Chicago from the *Shakman* lawsuit. As required by a prior Court order (referred to as the “Accord” and more fully described below), the City has taken steps that the parties and the Court-Appointed *Shakman* Decree Monitor believe constitute Substantial Compliance with the prior order.
- The Court will hold a hearing on June 16, 2014, at 10:00 a.m., to decide whether to dismiss the City of Chicago from the *Shakman* lawsuit.

This Notice explains how you can participate in or object to the Joint Motion. Full details of the Joint Motion, the Monitor’s Final Report concluding that the City has met the requirements to be dismissed from this case, and the City’s Memorandum in Support of the Joint Motion for Entry of an Order of Substantial Compliance can be found on the Monitor’s website, [www.shakmanmonitor.com](http://www.shakmanmonitor.com) and the City’s website, [www.cityofchicago.org](http://www.cityofchicago.org). You can also obtain

Exhibit 1.A

copies by a request in writing to Stephen Patton, Corporation Counsel for the City of Chicago, 121 N. LaSalle Street, Room 600, Chicago, Illinois 60602, or Roger Fross, counsel for the plaintiff classes, Locke Lord LLP, 111 South Wacker Drive, Suite 4100, Chicago, Illinois 60606, or from Noelle Brennan, Shakman Decree Monitor, Noelle Brennan & Associates, Ltd., 20 South Clark, Suite 1530, Chicago, Illinois 60603.

**The Lawsuit**

On October 28, 1969, Michael L. Shakman and Paul M. Lurie filed suit on behalf of themselves and all candidates for public office and registered voters asking the Court to prohibit the City of Chicago and its Mayor, among other defendants, from conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor in a case captioned Shakman v. Democratic Organization of Cook County, No. 69 C 2145. On May 5, 1972 and June 20, 1983, the United States District Court for the Northern District of Illinois entered Consent Judgments with respect to, among others, the City of Chicago and its Mayor, prohibiting the City from conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor. On May 31, 2007, the Court entered the Agreed Settlement Order and Accord renewing the prohibition against political discrimination and directing a court-appointed Monitor to oversee the City's employment actions.

**Standard for Substantial Compliance with the Accord**

The Accord required the City to develop and implement new policies and procedures governing hiring and other employment actions. The Accord also included a definition of Substantial Compliance and a procedure for ending federal court oversight of the City's employment actions. The Accord included the following standard for determining whether the City has achieved Substantial Compliance:

- (1) The City has implemented the New Plan for public employment, including procedures to ensure compliance with the New Plan and to identify instances of non-compliance;
- (2) The City has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
- (3) The City does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions;
- (4) The absence of material noncompliance which frustrates the Accord's essential purpose; and
- (5) The City has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment.

Over the last several years, the City has worked to achieve Substantial Compliance. Among other things, the City has adopted and implemented the General Hiring Plan for all City departments and Hiring Plans for the Police Department and Fire Department. The City has also implemented policies and procedures governing other employment actions. The City has also authorized the Office of the Inspector General to monitor, investigate and audit the City's compliance with the Hiring Plans and the new policies and procedures. The parties and the Monitor agree that the City has met the requirements for a finding of Substantial Compliance

Exhibit 1.A

under the Accord. For a more detailed statement of the steps taken by the City and the basis for the Monitor's conclusion that the City has achieved Substantial Compliance, see the Monitor's Report, which is available on the Monitor's website, or contact the Monitor in writing to request a copy. Copies may also be obtained from the City's website, [www.cityofchicago.org](http://www.cityofchicago.org).

**Objecting to the Motion for a Finding of Substantial Compliance**

Any member of the plaintiff classes – who consist of present and future applicants for employment with the City, past, present and future employees of the City, registered voters, and candidates for public office – may file a written objection to the Motion 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 3:00 p.m. on June 6, 2014**, showing copies of the objection were mailed to Mr. Fross, Mr. Patton and Ms. Brennan at the addresses above. To file an objection, send or deliver it to the Clerk of the United States District Court, 219 N. Dearborn Street, Chicago, Illinois 60604, and indicate on the first page that it relates to Case No. 69 C 2145. A Class Member who files a written objection is not required to appear in person at the hearing in order for the Court to consider the objection.

**Public Hearing on Joint Motion**

A hearing will be held in Room 1843 of the United States Courthouse, 219 South Dearborn Street, Chicago Illinois, at 10:00 a.m. on June 16, 2014, to determine whether the Court should dismiss the City of Chicago from the lawsuit.

Class Members are welcome to attend the hearing, at their own expense, and they may request permission to speak to the Court by following the procedure described below. Class Members may also hire their own lawyers at their own expense to speak on their behalf. If Class Members have sent a written objection, they do not need to come to Court. If the Class Member's objection was postmarked or delivered on time, the Court will consider it.

If a Class Member wishes to speak at the hearing, she or he must ask the Court for permission. To do so, a Class Member must submit a request to the Clerk of the Court at the address listed above, and mail copies to Mr. Fross, Mr. Patton and Ms. Brennan at their addresses listed above, requesting permission to speak at the hearing in the case of **Shakman v. Democratic Organization of Cook County, No. 69 C 2145**, scheduled for June 16, 2014. The request should summarize the Class Member's position and the basis for that position. The request for permission to speak must be received by the Clerk of the Court prior to 3:00 p.m. on June 6, 2014. The Court may, or may not, grant the request to be heard.

**DO NOT CALL OR WRITE THE COURT TO OBTAIN COPIES OF DOCUMENTS OR TO ASK QUESTIONS ABOUT THE HEARING. THIS NOTICE PROVIDES INFORMATION ON HOW TO OBTAIN DOCUMENTS RELEVANT TO THE MOTION.**

Dated: Chicago, Illinois  
May 15, 2014

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Hon. Sidney I. Schenkier  
United States Magistrate Judge