

EXHIBIT B

1 **TRANSCRIBED FROM DIGITAL RECORDING**

2 IN THE UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF ILLINOIS
4 EASTERN DIVISION

4 MICHAEL L. SHAKMAN, et al.,)
5 Plaintiff,)
6 vs.) No. 69 C 2145
7 COOK COUNTY DEMOCRATIC, et al.,)
8 Defendants.) Chicago, Illinois
) September 1, 2015
) 9:08 A.M.

9 TRANSCRIPT OF PROCEEDINGS - Motion
10 BEFORE THE HONORABLE SIDNEY I. SCHENKIER, Magistrate Judge

11 APPEARANCES:

11 For the Plaintiffs: LOCKE LORD LLP
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 BY: MR. BRIAN IGNATIUS HAYS

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21 **NOTE: Please notify of correct speaker identification.**
22 **FAILURE TO SPEAK DIRECTLY INTO THE MICROPHONE MAKES PORTIONS**
23 **UNINTELLIGIBLE.**
24
25

1 (Proceedings had in open court.)

2 THE CLERK: 69 C 2145, Shakman, et al., versus Cook
3 County Democratic, motion.

4 THE COURT: Good morning.

5 MS. MEADOR: Good morning, your Honor. Lisa Meador on
6 behalf of the Recorder of Deeds.

7 MR. HAYS: Good morning, your Honor. Brian Hays here
8 on behalf of the plaintiff classes.

9 THE COURT: Good morning. I always love it when I
10 call this case and the docket number is called, it strikes fear
11 into the heart of other, you know, litigants. Oh, my God,
12 there is cases that last that long.

13 MS. MEADOR: It is the gift that keeps on giving.

14 THE COURT: There you go.

15 So this is the recorder's motion to amend the exempt
16 list to add -- on what's the title, human resource --

17 MS. MEADOR: Chief of human resources.

18 THE COURT: -- chief? Right. As an exempt provision.

19 MS. MEADOR: Right.

20 MR. HAYS: Your Honor, as you will recall from our
21 prior status hearing, this motion isn't -- it can't be really
22 be viewed in isolation. It is part of a larger reorganization
23 of the HR department. And at this point the position of the
24 plaintiffs is we don't know how to respond to this because we
25 haven't been given the complete picture of exactly what's going

1 on in the HR department.

2 And our concern is that this position is actually
3 unnecessary. There is already a director of HR that has all of
4 these job responsibilities. And the problem appears to be that
5 the person who is currently holding that position just isn't
6 doing those jobs, isn't capable of doing those jobs. And so in
7 order for us to respond to this motion and to figure out
8 whether or not this is appropriate, if we -- we believe we need
9 to take some discovery to find out exactly what's been going on
10 with the HR reorganization. We have been asking for
11 information. I know that the RCA has been asking for
12 information since January and February.

13 And what we have received has been inconsistent,
14 contradictory. Recent information that's come to light is that
15 the current director of HR isn't doing anything. Working maybe
16 an hour or so a day by his own self-admission is our
17 understanding.

18 And so plaintiffs would ask for time to take some
19 discovery to see the documents that went into coming up with
20 this HR reorganization, to get a copy of these logs that the
21 people in HR took. If necessary take some depositions. We
22 believe we can get that all done and get our response, if we
23 need to file a response, on file within 60 days, your Honor.

24 THE COURT: Okay.

25 MS. MEADOR: Well, your Honor, frankly I am surprised

1 by plaintiffs's counsel's position.

2 THE COURT: But not stunned.

3 MS. MEADOR: No.

4 THE COURT: No, of course not.

5 MS. MEADOR: I could say stunned.

6 THE COURT: But you didn't.

7 MS. MEADOR: I am definitely surprised. This is by no
8 means a new issue that the recorder's office has been
9 attempting to address. And since as far back as November of
10 last year has been engaged in very extensive discussions with
11 the RCA and her counsel having meetings, conversations,
12 exchanging documents really where the RCA has been documenting
13 her concerns, her issues, her questions.

14 THE COURT: Uh-huh.

15 MS. MEADOR: And then the recorder's office responding
16 to those and taking quite seriously the concerns and issues
17 raised by the RCA.

18 And it has been a -- while it has not been, you know,
19 hand holding along the way, you know, it has been a cooperative
20 process. Really where the recorder's office has been
21 attempting to -- you know, it is -- everyone is aware that
22 human resources is kind of the pivot point with regard to
23 Shakman and getting in substantial compliance. The recorder's
24 office is aware of that.

25 THE COURT: Well, only one leg at a time.

1 MS. MEADOR: Yes. Yes.

2 THE COURT: Right? The recorder --

3 MS. MEADOR: Yes.

4 THE COURT: -- DOC --

5 MS. MEADOR: Yes.

6 THE COURT: -- human resources.

7 MS. MEADOR: Right. Right.

8 THE COURT: Okay. They are -- they are all essential.

9 MS. MEADOR: Absolutely.

10 THE COURT: They are all essential.

11 And we have got DOC, and that's a good thing. And it
12 is hard to move forward ultimately to where everybody wants to
13 be until we get sorted out the human resources component.

14 MS. MEADOR: Right, absolutely.

15 THE COURT: And I guess the position I hear is this,
16 is that there has been -- there is, you know, a position that
17 is -- the deputy, is that what it is called?

18 MS. MEADOR: I think it is director.

19 THE COURT: Director of human resources?

20 MR. HAYS: Yes.

21 THE COURT: And the director position, will you
22 refresh me, that's exempt, non-exempt?

23 MS. MEADOR: It is non-exempt.

24 THE COURT: Right. And so the issue is -- that is
25 being raised by the plaintiffs is that, well, what you want to

1 do is basically now create an exempt position, chief of human
2 resource. I will probably get the names wrong, but you'll
3 understand.

4 MS. MEADOR: No, that's fine.

5 THE COURT: And you make the point in your papers
6 that, you know, when you look at that position across different
7 entities that had been within this Shakman litigation, that
8 position and the responsibilities it occupies and the roles had
9 been treated as exempt. Okay?

10 And I'm not here quarrelling with any of that. And I
11 don't know that the plaintiffs are because they certainly
12 didn't say that. But what they are really saying, it seems to
13 me, is that they have concern about creating an exempt position
14 that would be layered over a position that already does all of
15 that or is supposed to do all of that without then knowing what
16 happens to the position that was supposed to be doing all of
17 that. And, you know, not -- it is not that I think anybody is
18 saying that the recorder is then going to use that exempt
19 position improperly, but, you know, what we talk about is
20 structure. Right?

21 And so if you have structurally a situation where you
22 have a non-exempt position that's kind of overlaid on -- or an
23 exempt position overlaid on a non-exempt position, they are
24 both really occupying the same field. What's that about and
25 what's happening with that exempt position? Or what's

1 happening with that non-exempt position? So I think what they
2 are saying is we need at least to see how those fit together.

3 Now I don't know why we need 60 days of discovery to
4 do that. I would -- for an issue that I know has been kicking
5 around for a long time, for a long time.

6 So I guess from the recorder's point of view, why are
7 they incorrect in saying, you know, we need to see -- or you,
8 Judge, you need to see the broader picture in order to assess,
9 you know, this situation? Why should we do this in kind of a
10 piecemeal way?

11 MS. MEADOR: Well, I would say that we are addressing
12 it in the motion in a way that is really just what's allowed to
13 us under the consent decree and the employment plan, and
14 essentially it is adding an exempt position.

15 THE COURT: Sure.

16 MS. MEADOR: And --

17 THE COURT: But adding an exempt position to occupy
18 what's being done or is supposed to be done right now by a
19 non-exempt position. So I guess the question is then what
20 happens to the position.

21 MS. MEADOR: Well --

22 THE COURT: What's the interrelationship? Because
23 your motion doesn't real speak to that.

24 MS. MEADOR: Right. Because we felt it wasn't --

25 THE COURT: Yeah.

1 MS. MEADOR: -- kind of appropriately addressing the
2 motion itself and what we're allowed. But all of the
3 discussions --

4 THE COURT: Uh-huh.

5 MS. MEADOR: -- exchange of information between us and
6 the RCA, and then looping in plaintiffs's counsel, have
7 involved the entirety of the reorganization of human resources.
8 That's something that we have discussed with your Honor at our,
9 you know, regular statuses.

10 THE COURT: Right.

11 MR. HAYS: And so -- and that really has been, and I
12 don't want to speak on behalf of the RCA, but that's been a
13 focus of those discussions --

14 THE COURT: Uh-uh.

15 MS. MEADOR: -- is really the reorganization. It is
16 not so much the chief position, but it is. This other --

17 THE COURT: Okay.

18 MS. MEADOR: -- and we understand that completely, but

19 --

20 THE COURT: But the question is how do we deal with it
21 in its entirety. Because I know you had all sorts of
22 discussions, and I think you all can discuss things and should
23 discuss things both in a macro and a micro way.

24 MR. HAYS: Sure.

25 THE COURT: But now we're in a different situation

1 because you're asking me to do something.

2 MS. MEADOR: Yes.

3 THE COURT: And so the question is how much of a
4 picture do I have and a context do I have when I'm asked to
5 act?

6 MS. MEADOR: Yes.

7 THE COURT: Right? And I guess apart from whatever
8 the plaintiffs may think, you know, I'm wondering about the
9 entirety of the context. But, again, I'm -- it seems to me
10 philosophically and practically the position that is being
11 talked about here in terms of what that would do and when I
12 look at what is true in other -- the governmental entities
13 makes sense in being exempt. Okay?

14 But it doesn't make sense to have an exempt and a
15 non-exempt position doing the same thing. And so I don't know
16 how those fit together. Okay?

17 And, you know, we're all dancing around a little but
18 of an issue, right? And the issue is in large measure who is
19 in the non-exempt position and what that person does or doesn't
20 do and who that person's connections are or are not. That's an
21 issue that at some point, someday, somehow you have to address,
22 and you have to address it or else I don't know how you're
23 going to move forward.

24 I'm not saying how you address it, okay? But kind of
25 submerging it is not addressing it.

1 MS. MEADOR: Well, and --

2 THE COURT: Fighting it under a -- you know, chief of
3 HR is not addressing it. Figuring out what you're going to do
4 with the position and the person so that the person actually
5 has some kind of duties if there are any, you have to figure
6 out how to do that. Okay?

7 MS. MEADOR: Sure.

8 THE COURT: Okay. This is not -- this is not the
9 solution to that issue.

10 Now in fairness on the plaintiffs's side, I want to
11 make sure you understood too, the chief of HR position also is
12 not something that I think is held hostage to the deputy. They
13 need to have a chief of HR. They need to have somebody who
14 functions. You want that. We all want that in order for them
15 to move forward. Okay?

16 But what I really like to see after all of the back
17 and forth that you have had is I'd like to see what the real
18 solution is, not just to one piece. Not that's just to one
19 piece. Okay?

20 We have a meeting, don't we, on September -- is it the
21 21st or --

22 MS. MEADOR: 21st.

23 THE COURT: The 21st.

24 MS. MEADOR: 21st.

25 THE COURT: You know, I have got one on the 21st, the

1 28th, and the 5th.

2 MS. MEADOR: Right.

3 THE COURT: And I was kind of getting mixed up which
4 is which.

5 So that's about three weeks. Okay? I want to see you
6 all actually come to me on the 21st and say, you know, how is
7 this all going to fit together, okay?

8 And, you know, we have our meetings generally on the
9 record. If there is ever a point that you want to go into an
10 off-the-record session, you know, I would be amenable to that
11 if that would be something that would facilitate the
12 discussion. Because, again, we're not -- the point of this is
13 not to be in an adversarial mode. The point of this is to try
14 to work as cooperatively as possible, you know, reaching toward
15 a common goal. That doesn't mean you agree on everything. But
16 I'm really reluctant to start down a path of let's take
17 depositions and let's put people on oath and let's have cross
18 examination and all of that because I think it changes the
19 atmosphere, and I'm not sure we need to do that here.

20 Now if I find at some point we need to do that, then
21 that's what we'll do.

22 MS. MEADOR: Okay.

23 THE COURT: But I'd like not to. So that's kind of
24 how I would like to proceed. I'd like to enter and continue
25 this.

1 MS. MEADOR: Okay.

2 THE COURT: And we can talk about it. I don't need a
3 response at this point because what I'd like you all to do is
4 to have some further conversation. But, I mean, conversation
5 that is actually toward, you know, how you're going to address
6 it.

7 And there are many ways that I can envision as a
8 practical matter to address both the position issue and the
9 person issue, which I think you all can figure out too.

10 All right. So that's kind of my thought.

11 MR. HAYS: Your Honor, I very much appreciate that.
12 And I just -- but I do want to just say, so that we're all
13 clear on a going-forward basis, you know, the plaintiffs aren't
14 rushing or have no desire to rush to an adversarial process.
15 You know, it is a '69 case. I have been working on it for 17
16 years. And we have -

17 THE COURT: Didn't we do a calculation once that the
18 case is just a little bit older than you are?

19 MR. HAYS: Three months older than me.

20 (Laughter.)

21 MS. MEADOR: It is older than me.

22 MR. HAYS: And in the 17 years I have been working on
23 this case --

24 THE COURT: It is not older than me.

25 (Laughter.)

1 MR. HAYS: -- we have yet to take a deposition because
2 we have endeavored to work hard to achieve a common goal.

3 THE COURT: And I agree.

4 MR. HAYS: But the problem that we do have here, your
5 Honor, is that we have not been getting what we feel to be a
6 straight and clear answer. And I don't mean to impede anything
7 to Ms. Meador. She has always been completely honest and
8 professional in all of our dealings, and we have always
9 appreciated that. But, you know, what Ms. Meador --

10 THE COURT: And she appreciates your appreciating
11 that.

12 MS. MEADOR: Yes, I do.

13 MR. HAYS: But what Ms. Meador has been telling us
14 about how much work there is in the HR department does not seem
15 to jive with what we're seeing or what we're hearing about and
16 the actual data they (unintelligible) in that office. And we
17 need to get a clear, honest, forthright response from the
18 recorder and not from her attorneys.

19 THE COURT: Well, and that this -- and my point about
20 continuing it to the 21st and my comments is that without
21 trying to delve into the history about why we're after so many
22 months of conversation, you know, at this point, is to kind of
23 see if we can't move to where we need to be, which is to
24 actually deal with this issue. Okay? It won't go away.

25 MS. MEADOR: Right.

1 THE COURT: It won't go away unless somebody deals
2 with it.

3 And so I think what we're talking about is not having
4 a general conversation but saying, okay, here's what we are
5 planning to do, here's what we think will work. And then
6 people can start to talk beyond a generality but actually talk
7 about some specifics and see where people have agreement and
8 where they don't. And then, you know, something comes to me in
9 a different context. Okay?

10 But as I say there is two things I want you to take
11 away from this. One is that it does strike me that the
12 position that we're talking about in the motion, when I look at
13 what it should involve and when I look at other entities, it
14 makes sense as an exempt position.

15 And so on the one side I don't think it is appropriate
16 to hold that hostage for something else. But on the other side
17 of the question, let's be frank, you know, the recorder has
18 consistently, and I accept it, talked about how important
19 getting substantial compliance is. Number two right under
20 world peace. And as I have said, this is lot more achievable.
21 This is a lot more achievable. You know, there's road maps to
22 this. But this is one of those issues that will not go away
23 unless people solve it.

24 You know, when I have mediations, I talk to people
25 sometimes about weaknesses in their positions. And one

1 metaphor that I use is, you know, it is really a lousy feeling
2 when you are there at night preparing for trial, and, you know,
3 there is this fact that you know has been there from the
4 beginning, but you have kind of averted your gaze. You know,
5 you fall in love with all your good things, and then you're
6 actually there at the brink and that fact just won't go away,
7 it is right there in your face.

8 This is that fact. You have got to deal with it. Now
9 is the time. Okay?

10 MS. MEADOR: Understood. Absolutely.

11 THE COURT: All right. Thanks a lot.

12 MS. MEADOR: Okay.

13 THE COURT: So the motion is entered and continued.
14 I'll see you all on September 21st.

15 MS. MEADOR: Okay.

16 MR. HAYS: Thank you, your Honor.

17 MS. MEADOR: Thanks, Judge.

18 THE COURT: Thank you very much.

19 (Which concluded the proceedings.)

20 CERTIFICATE

21 I certify that the foregoing is a correct transcript
22 from the digital recording of proceedings in the above-entitled
matter to the best of my ability, given the limitation of using
a digital-recording system.

23 /s/ **Pamela S. Warren**
24 Official Court Reporter
United States District Court
Northern District of Illinois
Eastern Division

September 1, 2015
Date

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