

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

MICHAEL L. SHAKMAN and PAUL M.)
LURIE, et al.,)
et al,)
Plaintiffs,)
vs.) No. 69 C 2145
THE DEMOCRATIC ORGANIZATION)
OF COOK COUNTY, et al.,)
Defendants.)

**PLAINTIFFS’ MOTION FOR ENTRY OF SUPPLEMENTAL RELIEF
WITH RESPECT TO THE GOVERNOR OF ILLINOIS**

Plaintiffs respectfully move for entry of further relief as to the Governor of the State of Illinois (the “Governor”). In support, Plaintiffs state as follows:

Relevant Prior Orders of this Court.

1. This Court’s Judgment Order of May 5, 1972, attached here to as Exhibit A (“1972 Order”), enjoined the Governor and other defendants 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.” ¶ E(1).

2. Under the terms of the 1972 Order the Court retained jurisdiction to determine: (i) which employment positions are exempt from the rules prohibiting consideration of political factors in setting conditions of employment, ¶ H(1)(a), and (ii) whether political sponsorship or other political consideration can be taken into account in hiring employees. ¶ H(1)(b). Under the 1972 Order the Court also retained jurisdiction to determine (iii) “[w]hat remedies and implementing procedures ought to be granted and established by the court in connection with the

resolution of” the issues over which the Court retained jurisdiction. ¶H(1)(c). This Motion is brought pursuant to the Court’s retained jurisdiction under the 1972 Order and based upon events occurring subsequent to that Order.

3. The Court has previously ruled that the 1972 Order is binding upon the office of Governor and applies, pursuant to Fed. Rule Civ. Proc. 25(d), to successor Governors. Subsequent Governors are automatically substituted as a party to this case by virtue of holding the office of Governor. See Memorandum Opinion of March 11, 1976, attached hereto as Exhibit B.

4. The United States Supreme Court decision in *Rutan vs. Republican Party of Illinois*, 497 U.S. 62 (1990), held that except with respect to a limited number of exempt positions, political sponsorship or other political consideration cannot be taken into account in hiring public employees. It thus resolved one of the issues on which the Court had retained jurisdiction by finding that patronage practices in connection with most hiring decisions are unlawful.

Violations of the 1972 Order and the Law With Respect to Employment Under the Control of the Governor Warrants Relief.

5. Governor Rod Blagojevich, who was impeached and removed from office in early 2009, maintained and operated an illegal patronage employment system that violated the 1972 Order with respect to person who were already government employees, and violated the principles established in the *Rutan* case with respect to hiring persons for positions under the jurisdiction of the Governor. Governor Blagojevich’s misdeeds were not limited to his administration, but grew out of a pervasive disregard of applicable court orders and law by personnel administrators and others operating under the jurisdiction of the Governor. Upon information and belief, many of the individual who operated the illegal Blagojevich patronage

system continue to hold positions of responsibility for employment decisions in state government today.

The Collins Commission Report
Recommended Much of the Relief Sought Here.

6. While serving as Lieutenant Governor, the present Governor, Patrick Quinn, appointed a special task force on reforming Illinois government known as the “Illinois Reform Commission” or “Collins Commission”. That task force’s report of April 28, 2009, confirmed the pervasive nature of patronage abuses in Illinois government and the need for relief as sought in this Motion.

7. The Collins Commission report stated, in part, as follows (at 72-73, Exhibit C hereto)(emphasis added):

Altering Illinois’ culture of patronage and cronyism requires multi-faceted reform. In addressing this broad challenge, the Commission heard testimony and reviewed research regarding widespread abuse of patronage hiring, manipulation of the personnel system, and weaknesses in the State’s ethics training. To combat the culture of corruption and its crushing effects on employee morale, structural and ethical reforms are required. Accordingly, the Commission recommends:

1) combating patronage by *reforming the personnel system to better protect non-political positions and the employees who hold them, revising the hiring process, and potentially reducing the number of political positions not subject to the protections of the personnel system,*

* * * * *

4) more clearly defining whistleblower protections to ensure and expand coverage for state employees, and

5) creating additional safeguards to protect against ethical violations by those exiting state employment.

**The Recently-Disclosed Governor's Clout Lists
Confirm the Need for Supplemental Relief.**

8. Violations of this Court's 1972 Order and the rules established by the *Rutan* have been confirmed by a series of articles in the Chicago *Sun-Times* appearing in October 2009. Those articles, and the documents that accompanied them, disclosed the existence of several hundred "clout lists" maintained by the Governor's office under the Blagojevich administration, involving thousands of state jobs. An article dated October 16, 2009 (Exhibit D hereto) stated:

Behind the scenes, . . . Blagojevich aides flouted the supposed [hiring] freeze, forging a patronage machine that . . . eventually would provide state jobs or promotions to nearly 2,500 people with enough clout to have political sponsors, a secret trove of Blagojevich hiring records obtained by the Chicago Sun-Times shows.

Among those who sponsored candidate to the Blagojevich administration for jobs and promotions between 2003 and 2005 were members of Chicago's City Council and members of Congress, Lobbyists and Blagojevich's own top fund-raisers asked for and got people state jobs, too.

* * * * *

In all, the Blagojevich hiring database lists 386 political sponsors and 5,700 candidates for jobs or promotions controlled by Blagojevich's administration. Beyond the nearly 2,500 people who got hired or promoted, dozens more were appointed by the governor to paid and unpaid state board positions.

9. A *Sun-Times* article appearing on October 17, 2009 (Exhibit E hereto) stated that Governor Patrick Quinn had sponsored four people on one of the Blagojevich Clout Lists. It also stated that "Quinn spokesman Bob Reed acknowledged the governor recommended the four people on his list. 'Three of them had working relationships with Quinn when he held various public offices,' Reed said."

10. Attached here to as Group Exhibit F are ten Clout Lists obtained by the *Sun-Times*, listing sponsors, the names of individuals who were sponsored and the individuals who received jobs, promotions or other employment benefits by virtue of such sponsorship. It is apparent from a review of the job positions listed, that many are clearly non-exempt, non-policy making governmental jobs for which political sponsorship could have no lawful role. Some of the employment actions referred in the Clout Lists involved providing benefits to persons who then held government jobs under the jurisdiction of the Governor. Such action violated the injunction contained in the 1972 Order.

Summary of Relief Sought.

11. The foregoing establishes the need for supplemental relief with respect to the 1972 Order similar to the supplemental relief orders entered by this Court in the last several years with respect to the City of Chicago, Cook County and other governmental offices. In summary, plaintiffs seek the following:

A. Additional injunctive relief prohibiting the basing or conditioning of hiring for non-exempt employment positions under the jurisdiction of the Governor upon political sponsorship, support or other impermissible political conditions or factors.

B. The appointment of special master, monitor or compliance administrator (“Special Master”) to investigate and recommend appropriate reforms in the employment practices for non-exempt jobs under the jurisdiction of the Governor within the Northern District of Illinois.

C. Appropriate remedial measures with respect to prior violations of the Court’s 1972 Order, including a damage remedy for persons harmed by prior illegal patronage employment practices.

D. Development, with input from the Special Master, of a hiring plan for non-exempt positions.

E. Development, with input from the Special Master, of a list of employment positions that are properly exempt from the rules against political sponsorship or conditioning employment upon political factors or considerations.

F. For such other relief as the Court deems appropriate.

Dated: December 22, 2009

Respectfully submitted,

MILLER SHAKMAN & BEEM LLP

By: /s/ Roger J. Perlstadt
One of the Attorneys for Plaintiffs

C. Richard Johnson
5728 South Dorchester Avenue
Chicago, Illinois 60637
(773) 493-8311

Roger R. Fross
Brian I. Hays
Katherine Heid Harris
Locke Lord Bissell & Liddell, LLP
111 South Wacker Drive
Chicago, Illinois 60606
(312) 443-1707

Michael L. Shakman (ARDC #02558823)
Edward W. Feldman (ARDC #06187541)
Roger J. Perlstadt (ARDC #6278220)
Miller Shakman & Beem LLP
180 North LaSalle Street, Suite 3600
Chicago, Illinois 60601
(312) 263-3700