Court of Appeals, State of Michigan

ORDER

Daniel Adair v State of Michigan (On Second Remand)

Docket No. 230858

Michael J. Talbot
Presiding Judge

Henry William Saad

Karen M. Fort Hood
Judges

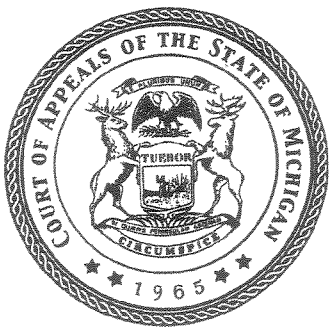
Pursuant to the agreement of the parties, the Court appoints Pamela R. Harwood, retired Wayne Circuit Judge, to serve as a special master to hear the remaining claims in this case. The parties shall share the costs of the proceedings before the special master.

The special master shall determine whether the record-keeping obligations imposed on plaintiff school districts by MCL 388.1752 and Executive Order No. 2000-9 constitute either a new activity or service or an increase in the level of a state-mandated activity or service within the meaning of Mich Const of 1963, art 9, § 29's prohibition of unfunded mandates. In making these determinations, the special master is obligated to entertain argument and proofs. The special master may consider the extent to which plaintiffs possess and use the computer and other facilities and equipment required for plaintiffs to perform data collection, maintenance, and reporting required under the CEPI dictates for purposes unrelated to those dictates, and the extent to which, as a result of the adoption of Proposal A, Const 1963, art 9, § 11, the state already furnishes the funding with which plaintiffs purchase such computer and other facilities and equipment. Further, the special master shall apply the provisions of MCL 21.231 *et seq.*, and the definitions found therein. The special master may allow discovery upon the request of either party and in her discretion. These instructions are not intended to limit the parties' or the special master's options or choices in the manner in which they or the special master wish to proceed.

The special master's findings of fact and other determinations shall be made in a written report to be filed with this Court. Thereafter, transcripts of the proceedings before the special master shall be transmitted to this Court within 28 days.

The parties shall have 21 days from the filing of the transcripts in which to file objections, with supporting briefs, to the master's report. Answers to the objections made by opposing parties shall be filed within 14 days of the filing of the objections.

Remanded for proceedings consistent with this order. We retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 18 2006
Date

Sandra Schultz Mengel
Chief Clerk