

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

C.P., individually and on
behalf of F.P., a minor
child; D.O., individually
and on behalf of M.O., a
minor child; S.B.C.,
individually and on behalf
of C.C., a minor child; A.S.,
individually and on behalf
of A.A.S., a minor child;
M.S., individually and on
behalf of her minor child,
H.S.; Y.H.S., individually
and on behalf of his minor
child, C.H.S.; E.M. on behalf
of her minor child, C.M.;
M.M., individually and on
behalf of K.M.; L.G.,
individually and on behalf
of her minor child, T.M.;
E.P., individually and on
behalf of her minor child,
Ea.P.; and on behalf of ALL
OTHERS SIMILARLY SITUATED,

Plaintiffs,

v.

NEW JERSEY DEPARTMENT OF
EDUCATION; DR. LILY LAUX,
Commissioner of Education,
in her official capacity,
Defendants.

Civil Action No.
19-cv-12807-ESK-MJS

Edward S. Kiel, USDJ

Matthew J. Skahill, USMJ

Jaynee LaVecchia,
Special Master

SPECIAL MASTER HEARING

July 2, 2026

1:00 p.m. EST

Reported by:
Janice M. Koczek, CSR, CLR
Job No. 58647

6 1 SPECIAL MASTER LAVECCHIA: Just for 2 the record, let me just state for the court 3 reporter the caption. 4 C.P., individually and on behalf 5 of F.P., a minor child, et al., plaintiffs, 6 versus New Jersey Department of Education 7 and Dr. Lily Laux, defendants. The docket 8 number, for the reporter's benefit, is 9 Civil Action No. 19-CV-12807-ESK-MJS. 10 For those of you, particularly 11 the court reporter, I am Jaynee LaVecchia. 12 I'm the special master on this matter 13 appointed by the federal court pursuant to 14 an amended consent order that is in 15 process. 16 With me from my law firm of 17 McCarter & English, I'd like to introduce 18 Mark Makar, on the screen, and Brendan 19 Ashe, who is not on the screen but is part 20 of these proceedings orally. 21 So let's just have appearances 22 for plaintiffs, please, starting with you, 23 Ms. Reisman. 24 MS. REISMAN: Hi, good afternoon. 25 Catherine Reisman for the plaintiffs.	8 1 today. As you know, I issued an order on 2 June 22nd, 2026, directing certain briefing 3 by counsel, which was received via a joint 4 submission of both plaintiffs and defendants 5 on June 26th. 6 Upon my immediate review of that 7 document I found it necessary to issue a 8 supplemental order with some clarifying 9 questions and direction on the topics that 10 I wish to cover in this on-the-record 11 conference today. 12 So I appreciate you all being 13 here. I'm not sure we'll take two hours 14 but we have two hours scheduled just in 15 case. 16 I want to start with a couple of 17 basic questions and then I'm going to ask 18 both sides to tell me their views on how 19 this should be done. 20 But viewing it from the broadest 21 possible perspective, I am interested in 22 making sure that there is no difference of 23 opinion or if there is that I need to 24 clarify the circumstances under which days 25 from day one, which we know is the first
7 1 SPECIAL MASTER LAVECCHIA: Thank you. 2 MS. ATHOS: Elizabeth Athos of 3 Education Law Center, also for the 4 plaintiffs. 5 SPECIAL MASTER LAVECCHIA: Thank you. 6 MR. GILES: David Giles from the Law 7 Office of David Giles, also for the 8 plaintiffs. 9 MS. LANCHANTIN DWYER: Denise 10 Lanchantin Dwyer from the Law Office of 11 Denise Lanchantin Dwyer on behalf of the 12 plaintiffs. 13 SPECIAL MASTER LAVECCHIA: Thank you. 14 MS. REISMAN: We just had another 15 person join us from the plaintiffs. 16 SPECIAL MASTER LAVECCHIA: 17 Mr. Wasserman, if you could state your 18 appearance. And you are on mute right now. 19 MR. WASSERMAN: Good afternoon. Jeff 20 Wasserman from Wasserman Legal LLC, one of 21 the class counsel for the plaintiffs. 22 Thank you. Sorry that I was a 23 minute late. 24 SPECIAL MASTER LAVECCHIA: No worries. 25 Thank you all for joining me	9 1 day following the end of the resolution 2 period, to the initial prehearing conference 3 and through to hearing dates and the final 4 decision. 5 What should be regarded as a 6 party-generated adjournment that should 7 exclude those specific days from the 45-day 8 period? 9 I'm going to break it down into 10 periods and then ask you to address that 11 for me. 12 I'm familiar with the 13 adjournment form. I'm familiar with what 14 it's intended to capture. But I am getting 15 at premises as to how that adjournment form 16 is being utilized and reporting information 17 so that I can assess it as part of the 18 compliance plan that I will be developing 19 and submitting to the Court. 20 So each time we go through these 21 questions I'll ask class counsel to tell me 22 their view. And then Mr. Lynch, if you 23 could tell me the view of the State. 24 Are not all the calendar days 25 from day one counting toward compliance

10 1 with the 45-day period through to hearing 2 and decision, beginning with the first day, 3 day one, all the way through? And let me 4 break it down even further for the first 5 question. 6 Under what circumstances should 7 the calendar days between the date of the 8 initial prehearing conference and the first 9 day of hearing offered by OAL and agreed to 10 without dispute by either party not count 11 towards expiration of the 45-day period? 12 Ms. Reisman, are there any 13 circumstances? 14 MS. REISMAN: Where they would not 15 count? 16 SPECIAL MASTER LAVECCHIA: Yeah. 17 MS. REISMAN: No, no. 18 SPECIAL MASTER LAVECCHIA: Mr. Lynch? 19 MR. LYNCH: Yeah, we're -- we 20 completely agree. All days between 21 transmittal and the decision due date 22 count. 23 SPECIAL MASTER LAVECCHIA: Okay. So 24 the parties show up at the first prehearing 25 conference. Maybe a day goes by from the	12 1 ones? 2 MS. REISMAN: No. 3 MR. LYNCH: Yeah, I don't think any. 4 Yeah. 5 SPECIAL MASTER LAVECCHIA: None? 6 MR. LYNCH: No. 7 SPECIAL MASTER LAVECCHIA: Okay. 8 Suppose the parties need two 9 days of hearing and the judge offers a 10 date. The first one doesn't work. They go 11 to that third date, so three days later for 12 the first day of hearing. And then a 13 second day of hearings is offered by the 14 judge that is two weeks later and the 15 parties agree to it. 16 Does any of that get excluded 17 from the expiration of the 45-day time 18 period? 19 MS. REISMAN: No, the decision due 20 date has not changed. 21 MR. LYNCH: Agreed. And you know, 22 we're starting to get into the territory 23 where, you know, depending on when the 24 first hearing date is and when the second 25 hearing date is, where, you know, as a
11 1 day it's received by OAL. And the next day 2 or one or two days after then a prehearing 3 conference is conducted by telephone. 4 None of those days are excluded, 5 correct? 6 MR. LYNCH: Correct. 7 MS. REISMAN: That's correct. 8 SPECIAL MASTER LAVECCHIA: At the 9 prehearing conference the judge offers -- 10 because the parties say they want one day 11 of hearing, the judge offers a date. And 12 all parties agree to that date. 13 None of that is considered an 14 adjournment request for any specific number 15 of days; is it? 16 MR. LYNCH: No. 17 MS. REISMAN: No. 18 SPECIAL MASTER LAVECCHIA: Okay. 19 Suppose the first day that's offered by the 20 judge cannot be acceptable to a party, 21 regardless of which party it is, and the 22 judge offers an alternative date three days 23 later. 24 Do any of those days count as 25 requests for adjournment and, if so, which	13 1 practical matter the ALJ might have to 2 inform the parties, like if you guys need 3 two -- need two days and they -- and they 4 got to be like X amount of days apart and 5 that's up against the deadline or making it 6 impossible or impracticable for me to get 7 the decision out within the initial 45-day 8 due date, that, you know, one of you is 9 going to need -- someone is going to need 10 to request a specific extension of time of 11 the decision due date. 12 SPECIAL MASTER LAVECCHIA: So your 13 answer so far has -- for both sides has 14 assumed that we are still within the 45 15 days, initial 45-day period? 16 MR. LYNCH: Right. 17 MS. REISMAN: That's correct. All 18 the dates that have been offered have been 19 within the 45-day period. 20 SPECIAL MASTER LAVECCHIA: Okay. 21 Suppose the judge at that first prehearing 22 conference offers a date that is the 23 outside of the 45-day window. Not at the 24 request of a party but that is the first 25 date that is open in that judge's view.

14 1 Let me be more specific so we 2 have a number of days that we're talking 3 about. 4 The judge offers a first hearing 5 date on the 55th day after day one. Is 6 that reasonable? 7 MS. REISMAN: I mean, our position is 8 that that is a noncompliant case because 9 that is -- there was no party request for 10 an extension of time and the decision is 11 not going to be delivered within 45 days. 12 SPECIAL MASTER LAVECCHIA: Okay. 13 Mr. Lynch? 14 MR. LYNCH: Yeah, that shouldn't -- I 15 believe we agree that that shouldn't be 16 happening. 17 SPECIAL MASTER LAVECCHIA: Okay. I 18 am gleaned from your responses to these 19 scenarios that I've posed that the judge 20 offering dates and the parties agreeing to 21 them, not asking for a specific date but 22 just agreeing to what the judge is 23 offering, none of these circumstances, 24 aside from the last one that we were 25 talking about were outside the 45 days,	16 1 what you're saying is if the parent comes 2 in and says, you know, I had the file 3 because I've stayed put and I need an 4 expert to get in for an observation and I'm 5 going to need 30 days in order to have the 6 observation done and have the parent -- 7 have the expert ready to testify, then I 8 think the parent would have to do a request 9 for a specific request extension of time of 10 30 days. And then that would extend the 11 decision due date for 30 days. 12 SPECIAL MASTER LAVECCHIA: So in 13 doing the calculation on paper it should 14 show day one, 45 days from that which is 15 the automatic 45-day final decision due 16 date? 17 MR. LYNCH: Right. 18 SPECIAL MASTER LAVECCHIA: Assuming 19 the parties -- parents' request for the 20 30 days to secure an expert is granted, 21 then that date, no matter when the 30 days 22 takes place that the parent needs to get 23 the expert, that 45-day original date is 24 pushed back 30 days? 25 MR. LYNCH: Yeah, if the parent makes
15 1 none of them are regarded as a party- 2 generated request for an adjournment? 3 MR. LYNCH: Correct. Yeah, it -- 4 nothing -- none of those actions in and of 5 themselves extend the decision due date 6 unless there is a specific request to 7 extend the decision due date as a part of 8 it. 9 Like what we were saying, like 10 where, you know, the parties are meeting in 11 this initial conference and let's say one 12 of the parties says, well, I need to get an 13 expert and that's going to take me 30 days. 14 The ALJ says, well, then you're going to 15 need to request a specific extension of 16 time for 30 days because that's making it 17 -- that would make it effectively 18 impossible or almost impossible or -- you 19 know, maybe to meet the 45-day timeline 20 line depending -- based on the remaining 21 other things that need to be done. You 22 know, like -- so would you agree with that, 23 Catherine? 24 MS. REISMAN: I would -- right. I 25 think -- I think what you're saying -- if	17 1 the specific extension of time because of 2 that need. 3 Right, Catherine? 4 MS. REISMAN: That's -- that's -- 5 that's how we see it, yes. 6 SPECIAL MASTER LAVECCHIA: Okay. So 7 what should happen at that prehearing 8 conference? Should there be a scheduling 9 of the hearing date -- 10 MR. LYNCH: Yes. 11 SPECIAL MASTER LAVECCHIA: -- within 12 the extended time period that complies with 13 the new end date of the 45-day time period? 14 MS. REISMAN: Yes, I think so because 15 I think otherwise -- I'm -- I think so 16 because otherwise the judge may have an 17 issue with getting that date scheduled 18 later. 19 I do realize that the 20 practicality of the situation is that it's 21 possible that that date that's scheduled, 22 there may -- the parent attorney may need 23 to request another extension of time 24 depending on the availability of the 25 expert.

18 1 But I think it's better to have 2 the date in place rather than wait until, 3 you know, we know when the expert -- and 4 aim to get the expert in on that date 5 rather than wait until, you know, it's 30 6 days later and then you're dealing with the 7 ALJ's calendar, which is now, you know, 8 probably got less availability in it. 9 Does that make sense? 10 SPECIAL MASTER LAVECCHIA: I understand 11 what you're saying. It leads me to ask 12 this next question, though. 13 When offering dates, is there 14 ever a reason that the judge's availability 15 and the extended period that that requires 16 should convert to a parent request to 17 adjourn for additional days in order to 18 accommodate the next available date for a 19 judge? 20 MS. REISMAN: Our position is, no, 21 that that should not happen. It should not 22 happen that there is, you know, the next 23 available -- all the dates should be within 24 the 45 days. If they're not, then the -- 25 it can't be that it -- the next available	20 1 thing would comply with that, what you need 2 to do with that. But -- but I just wanted 3 to kind of set that aside. 4 But I think like -- 5 SPECIAL MASTER LAVECCHIA: I 6 understand what you're saying. And I am 7 concerned with trying to zero in -- 8 MR. LYNCH: Right. 9 SPECIAL MASTER LAVECCHIA: -- as much 10 as I possibly can in understanding the two 11 sides' position by what should be 12 considered by me a party-generated request 13 as opposed to a delay associated with some 14 other reason. 15 MR. LYNCH: I think -- yeah, so I 16 think -- I think -- so I agree with what 17 Catherine was saying. So let's say that 18 there's the conference -- and also say 19 this, too, is that, you know, we -- it's 20 not specifically addressed in either the 21 federal or the State regulations. But you 22 know, Judge Moskowitz has instructed and 23 trained the ALJs to kind of treat -- to try 24 to treat the initial scheduling conference 25 holistically to get a full picture of what
19 1 date must result in either the parent or 2 the school district asking for a specific 3 extension of time to make the case compliant 4 on the judge's calendar. 5 SPECIAL MASTER LAVECCHIA: Mr. Lynch, 6 does the State agree with that? 7 MR. LYNCH: Yes, I think we do. But 8 I want to -- I want to make one kind of 9 statement in terms of what -- because we're 10 kind of like -- we're moving kind of more 11 into like a -- some more practical 12 consideration questions that are kind of 13 mixed questions of compliance with the 14 regulations and also like practical 15 considerations. 16 But because -- you know, you 17 were asking the question about -- and so 18 there's kind of the distinction of whether 19 or not like what we're talking about is 20 like something that's contemplated or 21 addressed under 34 C.F.R. 300.115(c), which 22 is like the regulation about 45 days and 23 the specific extensions of time and whether 24 or not it's kind of more of a practical 25 consideration about whether or not doing X	21 1 the parties need in order to find out -- 2 and to ask those sorts of questions and get 3 those -- that information on the front end, 4 like what Catherine was saying about one 5 party needs to get an expert and how that's 6 going to require 30 days. And then how if 7 they want to write -- if they want to have 8 written summations after the hearing and 9 therefore that would necessitate requiring 10 -- like if both parties want that, that 11 would necessitate requiring, you know, 12 ordering transcripts. 13 SPECIAL MASTER LAVECCHIA: Okay. 14 You're moving ahead into questions I'd like 15 to break down into slivers. Okay? 16 MR. LYNCH: Okay. 17 SPECIAL MASTER LAVECCHIA: Because to 18 me I need to consider them as slivers. 19 MR. LYNCH: Okay. 20 SPECIAL MASTER LAVECCHIA: But you're 21 right. Many of my questions are generated 22 from having examined examples of the 23 adjournment forms. And I'm seeing 24 omnibus-long extensions either in a 25 previously granted extension or the only

22 1 one that is represented in the form in 2 front of me. 3 And there is no breakdown to be 4 able to understand whether or not the 5 number of days that are pushing out the new 6 final decision due date are legitimate or 7 are they simply the cumulative effect of 8 many pieces of information gathered at that 9 initial telephone conference and estimated 10 out, sometimes very long, sometimes not so 11 long, to a new final decision date that is 12 of varying length beyond the original 13 intended 45 days from the date of 14 transmittal. 15 And for me, just so all the 16 parties are clear, I am asking these 17 questions because I intend to come up with 18 a compliance plan that is going to look at 19 that level of detail for compliance. And I 20 need to get underneath the adjournment 21 forms that I am reviewing because they 22 don't provide enough information. 23 And the additional information I 24 have been able to acquire, and I will 25 continue to acquire unless I can come up	24 1 sense. 2 SPECIAL MASTER LAVECCHIA: So I'm 3 going to come back to your question, 4 Mr. Lynch. 5 MR. LYNCH: Sure. 6 SPECIAL MASTER LAVECCHIA: In some of 7 these prehearing conferences they do cover 8 all the things that you raised. 9 They rightfully are asking the 10 parties to anticipate wanting to submit 11 written summations or -- and do you need a 12 transcript. Regardless of whether there 13 should be written summations, in so many 14 cases that's beside the point for now. 15 MR. LYNCH: Right. 16 SPECIAL MASTER LAVECCHIA: But let's 17 assume the parties answer yes, one or both. 18 Should an estimate for the time 19 of the transcript be added into an omnibus 20 order that extends the final decision due 21 date? 22 Ms. Reisman, what do you think? 23 MS. REISMAN: I think that -- that it 24 -- that the transcript -- the summation 25 should be discussed at the conference and
23 1 with a better way of doing it, is going to 2 come from listening to each individual 3 prehearing conference session. 4 This is a difficult prospect. 5 And it prompted me to reach out to you 6 because the adjournment form, while it 7 accomplishes many things, it takes certain 8 things for granted and slough, goes right 9 over it, to an end result. 10 But I think we need to look more 11 finely at what's going on and what is 12 leading to some rather lengthy times for 13 disposition of matters so that we see in 14 the data that I've been presented, that I'm 15 seeing in, you know, individual complaints 16 that are popping up in the 45-day emails, 17 which have a lot of other things going on. 18 But it has led me to believe 19 that all the necessary information that 20 will be required in order to, one, come up 21 with a plan to better ensure compliance; 22 two, test compliance; and, three, be able 23 to report on it, it's not being -- is not 24 being gathered right now. 25 MR. LYNCH: Understood. That makes	25 1 that -- that if the parties decide -- if 2 both parties want to issue -- to have 3 summations -- and I think there's a 4 question whether if only one party wants to 5 have a summation if -- I mean, whether it 6 should be that both parties want it, 7 because of the timeline, because it is 8 going to extend the timeline to do written 9 summations. 10 I think at that time the -- they 11 -- there should be a request for the 12 extension due date -- an extension of the 13 decision due date to allow the parties to 14 get the transcripts and maybe 14 days that 15 would allow them to -- I mean, because it's 16 not just going to be -- it's going to be 17 extending the decision due date for 14 days. 18 And that would -- and then a 19 time should be set for the -- for the 20 summations to be filed that leaves the ALJ 21 enough time to finish the decision before 22 the extended decision due date. 23 SPECIAL MASTER LAVECCHIA: And you 24 would consider all of that a party- generated 25 request?

26 1 MS. REISMAN: I would consider if the 2 party wants to do summations -- I think it 3 depends. I think if the party wants to do 4 summations and the ALJ says the last 5 hearing date in this case is five days 6 before the decision due date, so if you 7 want to do summations, I don't know how 8 you're going to get a written summation to 9 me in time for me to do -- I mean, I think 10 it depends on the circumstances of the 11 case. 12 And I think everybody has to be 13 acting in good faith. But if they -- if 14 the party really wants to do a written 15 summation and you have a hearing date 16 that's five days before the decision due 17 date, as a practical matter you're going to 18 need an extension of time to do a written 19 summation. And I think that the parties 20 should request an extension of time in 21 order to accomplish that. 22 SPECIAL MASTER LAVECCHIA: And you 23 think that should be estimated up-front? 24 MS. REISMAN: I do. 25 SPECIAL MASTER LAVECCHIA: And do you	28 1 then the parties need to make their decision 2 whether or not they want to -- if it's so 3 important for them to have written 4 summations, that they would make a specific 5 extension of time request in order to do 6 so. 7 SPECIAL MASTER LAVECCHIA: So you're 8 sounding like almost a presumption of oral 9 summations unless someone convinces a judge 10 that written summations are needed, 11 strongly preferred, and require a 12 transcript in that extended period of time? 13 MR. LYNCH: Yes. I -- I -- you know, 14 there -- I don't -- I don't think there's 15 anything, you know, in regulations that -- 16 SPECIAL MASTER LAVECCHIA: Right. 17 MR. LYNCH: -- or anything like that 18 that like creates that presumption or that 19 desire. I know that Judge Moskowitz would 20 prefer that being the presumption, from my 21 conversations with him, and he's big on 22 that. 23 But like it just seems like so 24 many practitioners -- and I don't know if 25 class counsel would agree with this or not,
27 1 think the parties and the judge should 2 agree upon a reasonable period of time on 3 an individual basis? Obviously it may 4 depend on the length of the hearing. 5 MS. REISMAN: I think -- I think they 6 should. I think that if a party knows that 7 they're going to be doing a summation, they 8 can be asking for the transcripts as the 9 case goes along, so that it should be only 10 one transcript that you're waiting for at 11 the end and not three. So I think it can 12 be done. 13 SPECIAL MASTER LAVECCHIA: Mr. Lynch, 14 what do you think? 15 MR. LYNCH: I think I agree. I think 16 the alternative, like what the judge 17 probably should say, but could say, is the 18 ALJ could say, well, you know, I'm not 19 going to allow written summations unless 20 you request a specific extension of time, 21 right? Otherwise in order to meet my 22 decision due date I'm going to have to 23 start rendering a decision immediately at 24 the close of hearing. 25 And then they have to -- and	29 1 it seems like so many of people and members 2 of the bar really want -- oftentimes want 3 to do written summations. So... 4 SPECIAL MASTER LAVECCHIA: So yeah, 5 you know, one of the things that occurs to 6 me is that, you know, we have a legislative 7 preference that these are supposed to be 8 expedited hearings -- 9 MR. LYNCH: Right. 10 SPECIAL MASTER LAVECCHIA: -- conducted 11 and resolved in a very short period of time. 12 And obviously Congress thought 13 they can and should be done that way except 14 in the, you know, more unusual 15 circumstance. And you know, you don't want 16 it to slip into that's the normal way of 17 over- -- I'm going to use the term 18 loosely -- over-litigating these matters 19 just like they're any other matter of 20 litigation. 21 So you know, that's -- we're 22 talking about not just the letter but the 23 spirit of this act, the IDEA. 24 MS. REISMAN: And I'm -- I'm not sure 25 but I think there may be a presumption of

30 1 oral summations in the general administrative 2 regulations. And if that's the case, if 3 there's nothing that conflicts with it in 4 -- in the special ed. regulations, then 5 that would apply. 6 SPECIAL MASTER LAVECCHIA: So we have 7 talked about transcripts. 8 And what I'm hearing from both 9 of you is that judge-offered dates are not 10 presumed to be or regarded as party-generated 11 requests for adjournments. 12 What is legitimately a 13 party-generated request is because the 14 party needs a specific number of days to do 15 something or needs extra time to be 16 available for a hearing. 17 You know, I'm trying to come up 18 with a couple of examples. But truly 19 party-generated, correct? 20 MR. LYNCH: Correct. 21 SPECIAL MASTER LAVECCHIA: Not the 22 convenience of the Court? 23 MR. LYNCH: Correct. Except that -- 24 yes, correct. 25 There's one thing, you know,	32 1 like I forget if that's a two- -- or if 2 that's a two -- every two weeks or 3 something like. So you know, you can order 4 -- judge -- ALJ can offer two back-to-back 5 days, right. And then parties are like, 6 no, we need four. 7 I think that's all probably like 8 in the realm of what I was -- we were just 9 talking about, too, of like the ALJ kind of 10 maybe like putting up a stop sign a little 11 bit and being like, hey, like, I -- I -- 12 you know, if you want four days, I can't do 13 four days consecutively -- not -- I mean, 14 that's not to say that that would be the 15 case every time, maybe they can 16 sometimes -- I can't do four days -- four 17 consecutive days or four days all close 18 together. 19 So like you need to request a 20 specific extension of time to get four days 21 otherwise I'm holding you, you know, to 22 two. I think that -- you know, so like 23 there being a four-day hearing or whatever 24 doesn't automatically -- I don't think 25 automatically extends the decision due date
31 1 that kind of is -- is in line with some of 2 the things that you were talking about. 3 I think, you know, you asked the 4 question about a judge, an ALJ, who says, 5 oh, I only have a date that is like 50 days 6 out or something like that. 7 SPECIAL MASTER LAVECCHIA: Yes. 8 MR. LYNCH: And we both answered that 9 shouldn't happen. 10 SPECIAL MASTER LAVECCHIA: Right. 11 MR. LYNCH: There is kind of this 12 intermediate thing where like, you know -- 13 and this also ties in to with what you were 14 saying about the legislative presumption of 15 there being -- of these being like, you 16 know, somewhat at least expedited 17 proceedings, not full-blown litigation, you 18 know, in the ordinary course of things, you 19 know. 20 You know, ALJ offers day one 21 that's -- or even day two, because I think, 22 you know, from what I understand 23 Judge Moskowitz requires them to have like 24 days within every month that are held 25 specifically for special education. So	33 1 in and of itself either. 2 SPECIAL MASTER LAVECCHIA: So in your 3 example, are you talking about four days 4 within the initial 45-day period or some 5 that are going outside of the 45-day period? 6 MR. LYNCH: Either some that are 7 going outside the 45-day period or like -- 8 like are right up against it or something 9 like that. You know, like such that it 10 would make it an effective impossibility, 11 right. 12 So like -- so days -- days one 13 and two are, you know, two weeks out, still 14 within a time frame that is doable. But 15 like say days three and four are like days 16 44 and 45, or 43 and 44, or something like 17 that. 18 I think that it should be a 19 scenario where the ALJ is saying like 20 either you request a specific extension of 21 time to get those -- that second set of 22 days in or we're going to have to -- we're 23 going -- I'm going to have to hold you to 24 two. 25 SPECIAL MASTER LAVECCHIA: Ms. Reisman,

34 1 I can see you have something to say. 2 MS. REISMAN: I -- I don't agree with 3 that. 4 MR. LYNCH: No? 5 MS. REISMAN: I think one of the -- 6 one of the things that -- and there is a 7 reason this is in the consent order, is 8 that the Special Master is to look at the 9 impact on procedural rights of any -- any 10 rules that are adopted in order to comply 11 with the 45-day rule. 12 And I think that that -- I think 13 that that is the judge's -- the ALJ's 14 calendar dictating, requiring the -- the 15 parties to request the specific extension 16 of time. 17 I don't think -- I mean, two 18 days is one day per side. And I don't -- I 19 mean, even though the hearings are supposed 20 to be expedited, I think that that's -- for 21 most hearings that's probably not enough 22 time. 23 And I think the problem with the 24 fact that we don't have the date -- and 25 you're right, we don't because we just have	36 1 is there any reason why I shouldn't do 2 that, because I think it's needed? And 3 that's why I asked the question. And now 4 we're probing the kinds of things that 5 would go into that level of detail. 6 MS. REISMAN: I think -- I mean, when 7 I saw your second order I was thrilled to 8 see it because I felt like -- I mean, I 9 felt like this is, you know, this is really 10 honing in on what the problems are. 11 And when we created the 12 adjournment form -- I mean, it -- it hasn't 13 served the purpose that it was designed to 14 serve. I don't think it's giving you the 15 information you need. 16 SPECIAL MASTER LAVECCHIA: No. 17 MS. REISMAN: And I completely agree 18 with your assessment. Not that -- not that 19 you need me to agree with you. But... 20 SPECIAL MASTER LAVECCHIA: I think it 21 -- I think it can but there needs to be 22 more transparency and guardrails as it how 23 it is to be used than exists right now. 24 MS. REISMAN: I agree. 25 SPECIAL MASTER LAVECCHIA: And that's
35 1 these big chunks of extensions and we don't 2 know what was causing them -- is that we 3 don't know what's driving the problem. And 4 if we don't know what's driving the problem 5 we can't solve the problem. 6 SPECIAL MASTER LAVECCHIA: Well, 7 honestly, that's what led to the order that 8 I issued saying I don't see why I shouldn't 9 detail in a proposed order to be filed with 10 the judge my understanding from this 11 conversation of what is and is not a party- 12 generated request and direct that the 13 adjournment forms going forward have to 14 abide by that interpretation of what 15 qualifies as a party-generated request to 16 adjourn and thereby extend the final 17 decision due date. 18 Then the adjournment form would 19 be more comfortably accepted as adhering to 20 understood norms by all parties to this 21 action and all participants in the due 22 process system. But I feel like that is 23 lacking right now. And that's what led me 24 to this. 25 So my first question to you is	37 1 why we're having this conversation. 2 I have one further question that 3 I jumped over when we were going back and 4 forth. 5 In reviewing adjournment forms 6 and some matters to the extent I have so 7 far, a recurring issue is the unavailability 8 of attorneys. And in particular because 9 there -- you know, particularly in 10 representing boards of education, there are 11 frequent participants in special education 12 matters as a defensive matter -- probably 13 also on plaintiffs but I just haven't seen 14 it quite to the same degree -- where the 15 reason that hearings are being turned down 16 and longer extended hearing dates are 17 having to be offered is because of the 18 unavailability of counsel. And it's the 19 same counsel appearing in other adjournment 20 forms. 21 So there is a stymying of the 22 system because of people's popularity and 23 familiarity with the area and the desire to 24 be used. 25 But on the other hand, that

38 1 shouldn't happen. And it's not uncommon in 2 judicial systems where -- it used to happen 3 in med-mal cases where certain defense 4 lawyers were the ones that everyone wanted 5 and they were shutting down trials in many, 6 many vicinages. 7 And the court system went to the 8 system of requiring backup counsel for 9 every matter so that unavailability of 10 counsel on any particular day would not be 11 an automatic reason to adjourn or seek an 12 alternative date. 13 Was that ever discussed in this 14 matter between counsel for both sides, use 15 of backup counsel, alternative counsel? 16 MS. REISMAN: No, we haven't 17 discussed use of backup counsel. But I do 18 think that you have identified a true 19 issue, which is that these delays are 20 sometimes caused by the availability of 21 attorneys and not ALJs. 22 And sometimes it's the parent 23 attorneys but in my experience it mostly 24 hasn't been. But also it's -- the act is 25 designed to protect children with	40 1 just to see like where we were on our 2 positions here. And we discussed the 3 issue. I don't think we discussed any 4 solution to it. 5 MS. REISMAN: No, we didn't discuss 6 backup counsel or anything like that. 7 MR. LYNCH: Right. 8 SPECIAL MASTER LAVECCHIA: We may be 9 getting a little bit beyond what we're 10 going to include in this first order. But 11 I appreciate the fact that you're talking 12 about it because we will be talking about 13 that some more. 14 So let me -- let's go back and 15 recap. 16 At the prehearing conference the 17 Court sets a hearing date, offers a hearing 18 date. Parties agree or they can't agree. 19 An alternative date is set for the first 20 hearing. 21 None of that -- none of those 22 days count as a party-generated -- party- 23 generated request for an adjournment, 24 correct? 25 MS. REISMAN: That's correct.
39 1 disabilities and their parents. And if 2 they have an attorney who is not 3 representing them appropriately and not 4 making themselves available, then they -- 5 they can either accept that and have delays 6 or get a new attorney. 7 But they can't control school 8 district attorneys who are not making 9 themselves available. And I do think that 10 is something that the -- that we're not 11 capturing. 12 I think it's really important to 13 capture when the date is offered. If it's 14 -- if it's not -- if it's not accepted, why 15 it's not -- who's -- who's not accepting it 16 and why they're not accepting it. And I 17 think the ALJ has the discretion to ask for 18 a reason. 19 SPECIAL MASTER LAVECCHIA: Mr. Lynch, 20 what's the State's position? Is this 21 something worth exploring? 22 MR. LYNCH: I think so. We discussed 23 -- we were actually discussing this problem 24 today. We had an earlier meeting like -- a 25 Zoom meeting with class counsel about this	41 1 MR. LYNCH: Yeah, not a -- not a 2 specific extension of time request for the 3 decision due date, correct. 4 SPECIAL MASTER LAVECCHIA: And 5 suppose the parties want two days and, 6 again, maybe they agree on what the second 7 date is or they don't agree, but they get a 8 second date set that is not the next day 9 but it's some number of days afterward, 10 none of those days count as a party-generated 11 request for an adjournment, correct? 12 MS. REISMAN: No, the time -- that 13 doesn't toll the running of the time. 14 SPECIAL MASTER LAVECCHIA: Okay. A 15 request to secure an expert or to make a 16 witness available who was only available on 17 a certain time -- I'm sorry, somebody is 18 just trying to reach me and I don't know 19 who that is. 20 So none of those examples that I 21 mentioned before are legitimate requests 22 for adjournment by a party but a request to 23 secure an expert or to have a witness 24 available on a certain day that pushes the 25 dates out, that might be, right?

42 1 MS. REISMAN: Correct. 2 MR. LYNCH: It would -- it may 3 necessitate a specifics extension of time, 4 yeah. 5 SPECIAL MASTER LAVECCHIA: Okay. 6 Okay. 7 And the third category we talked 8 about was the transcript, which could be an 9 estimated time? 10 MS. REISMAN: That's correct. 11 MR. LYNCH: Correct. 12 SPECIAL MASTER LAVECCHIA: Yes? Yes. 13 We talked about other things 14 associated with written submissions. But I 15 think beyond that we are not talking about 16 legitimate party-generated requests for 17 adjournment. 18 Did I miss something? 19 MR. LYNCH: No, I don't think so. 20 MS. REISMAN: No. 21 SPECIAL MASTER LAVECCHIA: And we 22 also seem to be in agreement that there 23 needs to be more detail provided and broken 24 down for the specific calculation of an 25 extended period of time of the final	44 1 counsel, to get input about how things are 2 working on the ground? 3 SPECIAL MASTER LAVECCHIA: Not for 4 purposes of this order. 5 MS. REISMAN: Okay. 6 SPECIAL MASTER LAVECCHIA: Anything 7 else that you wanted to add? 8 MS. REISMAN: No, I think that -- I 9 think that you -- I think you've got a 10 handle on what the problems are and what we 11 need to try to do to get solutions. 12 SPECIAL MASTER LAVECCHIA: Mr. Lynch, 13 I appreciate the clarity of your answers 14 and the effort that it must have taken to 15 be able to speak on these topics with one 16 voice. 17 MR. LYNCH: Thank you. 18 SPECIAL MASTER LAVECCHIA: Is there 19 anything that you would like to add or 20 clarify on the topics that we're talking 21 about? 22 MR. LYNCH: Yes, just one thing. It 23 was an issue that Ms. Athos actually raised 24 earlier, which by the way, she -- very -- 25 also very helpfully I think posted in the
43 1 decision due date. 2 MS. REISMAN: That's correct. There 3 needs to be some more detail about why the 4 dates are being pushed out so far. 5 MR. LYNCH: Yeah, we agree that that 6 information would be beneficial to ensuring 7 that, you know, knowing -- at least knowing 8 what's actually happening on the ground, 9 yes. 10 SPECIAL MASTER LAVECCHIA: Well, this 11 has been very helpful. And I'm going to 12 open it up from questioning you to ask 13 Ms. Reisman if there's anything more that 14 you would like to add on the general topics 15 that we're talking about, now that we've 16 refined and understood one another as to 17 why I'm asking these questions and what I 18 intend to do with the information that 19 you're providing me? 20 MS. REISMAN: No. I think the only 21 thing we were wondering after speaking 22 with, you know, stakeholders, members of 23 the bar, they -- were you planning to reach 24 out to practitioners, either board side or 25 parent side, to -- you know, besides class	45 1 chat to this -- the regulation about the 2 presumption of the lack of -- of -- of 3 submission briefing. 4 SPECIAL MASTER LAVECCHIA: Yes. And 5 thank you, counsel, for raising it. 6 Ms. Athos, I see it in the chat. 7 Thank you. 8 MR. LYNCH: Well, you know, we had 9 our discussion earlier and during that 10 Ms. Athos also raised a state special ed. 11 regulation, AOL regulation -- I think it's 12 NJAC 1:6A-9.2 -- that speaks to -- it 13 speaks to adjourning hearing dates of 14 special education matters and that -- 15 automatically extending the decision due 16 date. 17 Now -- so I think that can 18 affect -- I mean, that -- as a practical 19 matter, you know, I think what should be 20 happening right now probably is that, you 21 know, these initial hearing dates are dates 22 scheduled. And then say party requests an 23 adjournment of one of those hearing dates, 24 that the ALJ should -- 25 SPECIAL MASTER LAVECCHIA: Read me

46 1 that reg because I'm looking to see if I 2 have a copy of it here in front of me. I'm 3 not sure that I do. 4 MR. LYNCH: I think I have it pulled 5 up on Lexis real quick. Let me see. 6 SPECIAL MASTER LAVECCHIA: It's in 7 Title 1? No, it's in Title 6A? 8 MR. LYNCH: No, it's in Title -- I 9 think it's in Title 1. 10 SPECIAL MASTER LAVECCHIA: Oh, So 11 it's an OAL rule? 12 MR. LYNCH: Yeah, it's an OAL rule. 13 SPECIAL MASTER LAVECCHIA: Okay. 14 MR. LYNCH: But it's -- it's -- it's 15 -- it's 1:6A-9.2. 16 SPECIAL MASTER LAVECCHIA: I definitely 17 do not have that. I have only 6A regs in 18 front of me. 19 MR. LYNCH: B -- and B -- this is 20 Part B of that. Part A actually is about 21 there being a preemptory hearing date, 22 which doesn't -- 23 SPECIAL MASTER LAVECCHIA: I think 24 that's honored in the breach. 25 MR. LYNCH: Yeah, it's -- it's not --	48 1 But I just wanted to raise that 2 as being a wrinkle to look at that 3 Ms. Athos raised it earlier that we had 4 earlier in our conversations when we hadn't 5 fully thought about in relation to this -- 6 in this hearing. 7 That -- that's all. 8 SPECIAL MASTER LAVECCHIA: Well, this 9 language is not as precise as perhaps you 10 think it is. And as you mentioned, I am 11 coming up with the set of rules, if you 12 will, that I'm going to use to assess 13 compliance with the federal court order. 14 So I don't know that there's 15 necessarily such a direct conflict in what 16 I'm doing with you folks in this matter and 17 however worded that rule is and how it may 18 or may not be interpreted by OAL and 19 parties. But I thank you for bringing it 20 to my attention. 21 And Mr. Lynch, that may be 22 something in your lap to have to talk to 23 OAL about if need be. But I'm not 24 expressing a view on that. 25 MR. LYNCH: Yeah, no, and neither --
47 1 that's not really I think, you know, 2 something that is happening anymore. 3 But B says "No adjournment or 4 delay in the scheduling of the hearing 5 shall occur except by request of the 6 party." 7 Where's the other part? Oh, A, 8 it says "When an adjournment is granted, 9 the deadline for the decision will be 10 extended by an amount of time equal to the 11 adjournment." 12 Now -- 13 MS. REISMAN: I just put -- I just 14 put the regulation in the chat. 15 MR. LYNCH: Okay. Now, there's -- I 16 think there is, one, the question about 17 whether or not this reg -- there's issues 18 of preemption, potential preemption, that I 19 don't know that we fully have considered 20 working with and whether or not this -- 21 that reg can peacefully coexist with the -- 22 with 34 C.F.R. 300.115(c), which I think is 23 the cite for the specific extensions of 24 time of the 45-day period under the federal 25 regulations.	49 1 SPECIAL MASTER LAVECCHIA: And I 2 don't think that I need to. 3 MR. LYNCH: Yeah, neither are we. 4 And we're not taking a position on that one 5 way or the other right here. It's just -- 6 it was something that -- that -- that 7 Ms. Athos pointed out that I like haven't 8 even fully considered yet. But I just 9 wanted to put that as being like something 10 potentially relevant. 11 SPECIAL MASTER LAVECCHIA: You know, 12 my general approach, counsel, is that like 13 the DOE, you know, the OAL, they're all 14 part of the system that is obligated to 15 adhere to the federal law governed by the 16 IDEA and its regulations. 17 And you know, here we are well 18 down the road in this litigation where we 19 are fine tuning the State's coming into 20 full compliance with all that's required by 21 the letter and spirit of that federal law. 22 So you know, we're going to be moving 23 everything in the correct direction I 24 think. 25 MR. LYNCH: Great. That sounds

50 1 great, Your Honor. 2 SPECIAL MASTER LAVECCHIA: That's our 3 goal. That's our goal. 4 MS. REISMAN: Thank you, Your Honor. 5 SPECIAL MASTER LAVECCHIA: I know, 6 counsel, I asked for one to speak, but 7 since you're all here, was there anything 8 that your cocounsel wished to add to either 9 side? 10 (No response.) 11 SPECIAL MASTER LAVECCHIA: I thank 12 you very much for being present and for 13 your very helpful assistance and presence 14 at this hearing, both for class counsel and 15 for the State. 16 Luke, thank you. 17 And Brendan and Mark, thank you 18 very much. 19 Janice, thank you for joining us 20 today and for your ability to shift from 21 yesterday to today. I truly appreciate 22 that. And next week for the transcript as 23 you mentioned is certainly fine with me. 24 All right. With that we'll 25 conclude the proceedings. And counsel,	52 1 cognizant I've been trying to be, is using 2 -- so the -- I think the federal reg says, 3 you know, specific extensions of time of 4 the decision due date and not adjournment, 5 you know. 6 And I think something that I've 7 been doing and like that helps separate 8 what you were talking about like, all 9 right, let's say somebody adjourns the 10 hearing date or whatever, well, okay, like 11 that's an adjournment. But that doesn't 12 inherently -- unless that State reg 13 applies, that doesn't inherently extend the 14 -- the -- the 45-day decision due date. 15 Because that has to be a specific extension 16 of time of the 45-day decision due date. 17 So I've just -- I've been trying 18 to be very careful about the -- the 19 dichotomy between -- between using the word 20 "adjournment" and the specific extension of 21 time, you know, for whatever that's worth. 22 But... 23 SPECIAL MASTER LAVECCHIA: Well, I 24 think your answers to my question, and 25 let's be perfectly clear about this, when
51 1 I'll be issuing something in writing. 2 Before I end this, is there 3 anything in writing more that you might 4 want to submit? I think we've covered the 5 topics but I would listen if you absolutely 6 felt you needed to submit something in 7 writing on your points. 8 (No response.) 9 SPECIAL MASTER LAVECCHIA: Let's 10 follow the presumption that we have an OAL, 11 that this oral discussion has been more 12 than satisfactory in illuminating the 13 topics that I wished to talk to you about 14 today. 15 MR. LYNCH: Yes. 16 MS. REISMAN: I think that's right. 17 And I think that it was better to have 18 another oral discussion instead of more 19 writing. 20 SPECIAL MASTER LAVECCHIA: 21 MR. LYNCH: Yeah, I think -- the only 22 thing -- this is something else that we 23 were all discussing earlier today, too, 24 like -- and something that I've been -- the 25 more we've been talking about it, the more	53 1 there were not necessarily agreement but 2 there had to be some discussion as to 3 whether or not the parties would agree to 4 one of several dates that are being offered 5 by the ALJ within the 45-day -- initial 6 45-day period, those were not specific 7 requests to extend the time or for an 8 adjournment. 9 MR. LYNCH: Right. 10 SPECIAL MASTER LAVECCHIA: It was the 11 setting of the hearing dates. That's not a 12 party-generated request to extend out the 13 matter. 14 MR. LYNCH: Right. 15 SPECIAL MASTER LAVECCHIA: So I think 16 we are clearly on the same page by, you 17 know, your unequivocal answer to that and 18 Ms. Reisman's and, you know, my view, those 19 are not party-generated requests to push it 20 out. 21 MR. LYNCH: Agreed. 22 SPECIAL MASTER LAVECCHIA: Okay. 23 MR. LYNCH: Yep. 24 SPECIAL MASTER LAVECCHIA: Good. 25 With that we will conclude the

54 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 proceeding. Again, have a wonderful weekend and thank you very much for making yourselves available today. The proceedings are concluded. MR. LYNCH: Thank you. MS. REISMAN: Thank you. (Time concluded: 1:54 p.m.)	
55 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 STATE OF ILLINOIS)) SS: COUNTY OF C O O K) JANICE M. KOCEK, being first duly sworn, on oath, says that she is a certified shorthand reporter doing business in the State of Illinois; and that she reported in shorthand the proceedings of said hearing, and that the foregoing is a true and correct transcript of her shorthand notes so taken as aforesaid, and contains the proceedings given at said hearing. _____ JANICE M. KOCEK, CSR, CLR License No.: 084-008271 SUBSCRIBED AND SWORN TO before me this ____ day of _____ 2026. _____	

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