

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

WINFIELD SCHOOL DISTRICT 34 BOARD  
OF EDUCATION OF  
Plaintiff

-VS-

WINFIELD VILLAGE OF  
Defendant

2021CH000454  
CASE NUMBER

**FILED**

22 Jun 16 AM 11: 50



CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

ORDER

This cause coming before the Court on June 14, 2022, for hearing on the Defendant Village’s Motion for Partial Summary Judgment, and counsel for all parties being present in person or via Zoom, and the Court being fully advised in the premises, and having jurisdiction of the subject matter, **IT IS HEREBY ORDERED:** that the Village’s Motion for Partial Summary Judgment is hereby granted for the reasons stated on the record at the hearing. The matter is set for status on July 14, 2022 at 9:00 AM in courtroom 2007 without further notice.

Submitted by: DAVID FREEMAN  
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*Bonnie M Wheaton*

JUDGE BONNIE M WHEATON

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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

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BOARD OF EDUCATION OF WINFIELD )  
SCHOOL DISTRICT 34, )  
 )  
Plaintiff, )  
 )  
BOARD OF EDUCATION OF )  
COMMUNITY HIGH SCHOOL DISTRICT )  
94, )  
 )  
Plaintiff-Intervenor, )  
 )  
-vs- )  
 )  
VILLAGE OF WINFIELD, )  
 )  
Defendant. )

No. 21 CH 454  
Motion

REPORT OF PROCEEDINGS had at the  
hearing of the above-entitled cause, before the  
Honorable BONNIE M. WHEATON, Judge of said Court,  
recorded on the DuPage County Computer-Based Digital  
Recording System, DuPage County, Illinois, and  
transcribed by THERESA HARRIS, Certified Shorthand  
Official Court Reporter, commencing on the **14th day of  
June, 2022.**

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PRESENT:

HODGES, LOIZZI, EISENHAMMER, RODICK & JOHN, LLP,  
by  
MR. JASON T. MANNING and  
MR. DEAN W. KRONE,

appeared on behalf of The People of the  
State of Illinois;

PETRARCA GLEASON BOYLE & IZZO, LLC, by  
MR. JOHN IZZO,

appeared on behalf of BOARD OF EDUCATION OF  
COMMUNITY HIGH SCHOOL DISTRICT 94,  
Plaintiff-Intervenor;

ROBBINS SCHWARTZ NICHOLAS LIFTON & TAYLOR, LTD.,  
by  
MR. DAVID FREEMAN and  
MS. KATHLEEN ELLIOTT,

appeared on behalf of the VILLAGE OF  
WINFIELD, Defendant.

1 THE COURT: Is this Winfield School District?

2 UNIDENTIFIED PERSON: Correct.

3 THE COURT: Okay. And one of the attorneys has  
4 COVID and will be arguing -- that wasn't any of you?

5 MR. MANNING: No. I'm sorry, your Honor. Jason  
6 Manning on behalf of the plaintiff. My partner, Dean  
7 Krone, is on Zoom, I believe.

8 THE COURT: Okay. He was the one that --

9 MR. MANNING: Yes.

10 THE COURT: -- was going to be on Zoom. Okay.  
11 All right. I'll call this, then, since everyone is  
12 ready.

13 21 CH 454, Winfield School District versus  
14 the Village of Winfield.

15 Can you identify yourselves for the record,  
16 please?

17 MR. IZZO: John Izzo on behalf of plaintiff  
18 intervenor School District 94.

19 THE COURT: And spell your last name, please.

20 MR. IZZO: I-z-z-o.

21 MR. MANNING: And good morning, your Honor. Jason  
22 Manning, M-a-n-n-i-n-g, on behalf of plaintiff Board of  
23 Education for Winfield School District 34.

24 MR. FREEMAN: Good morning, your Honor. David

1 Freeman, F-r-e-e-m-a-n, on behalf of the Village.

2 MS. ELLIOTT: Good morning, your Honor. Kathleen  
3 Elliott, E-l-l-i-o-t-t, on behalf of the Village of  
4 Winfield.

5 MR. KRONE: And Dean Krone on behalf of the  
6 plaintiff.

7 THE COURT: A very interesting issue, a case of  
8 first impression. And I have read the materials that  
9 are submitted, so, Mr. Freeman, this is your motion and  
10 Ms. Elliott's motion for --

11 MR. FREEMAN: Ms. Elliott I believe is going to  
12 take the argument today, your Honor. Thank you.

13 THE COURT: Okay. All right. You may proceed.

14 MS. ELLIOTT: Good morning, your Honor. The  
15 Village of Winfield, in an effort to promote its  
16 economic development and expand the downtown, entered  
17 into a somewhat historic agreement with Central DuPage  
18 Hospital, a development agreement that included funding  
19 for various economic development and public  
20 improvements in a TIF district funded by the hospital's  
21 parking deck that it was building offsite by agreeing  
22 to place that property on the tax rolls for at least  
23 20 years and funding the majority of the new TIF.

24 This was a result of extensive negotiations

1 in which the hospital seek to -- sought to expand its  
2 footprint off of its main campus site and into what is  
3 the Village's downtown.

4 The Village had resisted those efforts  
5 because of the tax consequences of expanding tax exempt  
6 property off of the hospital site, so we entered into  
7 this development agreement where both sides got what  
8 they needed. The Village got funding for economic  
9 development and public improvements, and the hospital  
10 was able to locate its parking deck offsite as well as  
11 a medical office building offsite.

12 And what the Village got out of it was an  
13 agreement that the hospital would build certain  
14 commercial properties. They would be the landlord and  
15 own those properties and then would have tenants.

16 Now, the -- in a somewhat unusual twist, the  
17 hospital did not need TIF funds because they are  
18 well-funded; however, both sides, and including our TIF  
19 consultant, recognized the tenants would need  
20 assistance to be able to do their build-outs and offset  
21 the market rents that would have to be charged due to  
22 the new construction, so that's how the development  
23 agreement came about.

24 As part of this agreement, the Village

1 reviewed its entire TIF 1. The map of TIF 1 is  
2 included in our -- in our motion and reply. It shows  
3 that TIF 1, which is due to expire in approximately TIF  
4 years -- six years, constituted a majority of the  
5 downtown both north and south of the UP tracks in  
6 downtown Winfield.

7 What the Village decided to do was -- well,  
8 some of the properties north of the tracks would be  
9 included -- would be included in a new TIF district  
10 that would be covered by the development agreement that  
11 we entered into with the hospital.

12 Other properties were removed early from the  
13 TIF district, including some of the strip centers south  
14 of the tracks where there has not been any economic --  
15 significant economic development activity, and there's  
16 no TIF dollars going to any property owners that the  
17 Village had to maintain.

18 And then some property remains in TIF 1 until  
19 it expires, including the new Winfield station and an  
20 approximately 167-unit apartment building that had a  
21 development agreement where they're getting reimbursed  
22 TIF funds for their costs. That site, you might be  
23 familiar with the old Winfield Fuel and Materials site,  
24 had a number of site issues that needed to be dealt

1 with and was beyond normal costs and, thus, TIF dollars  
2 were used.

3 After we entered into this agreement with the  
4 hospital, we started the process of forming the new TIF  
5 district, taking the properties out and leaving some of  
6 them in. The process to create the new TIF 2 was done  
7 according to the TIF Act. All the provisions were  
8 completed, including notices of public hearing, notice  
9 to adjoining property owners, notice -- calling the  
10 joint review board hearing, having a public hearing,  
11 and passing the ordinances.

12 The way the ordinances were adopted, the one  
13 ordinance removes certain properties from the TIF, that  
14 included properties that were both permanently removed  
15 and then the properties that would be subsequently  
16 added into TIF 2. Then the Village passed the three  
17 TIF ordinances that established the new TIF 2 in the  
18 area north of the tracks.

19 The school district then was unhappy with the  
20 establishment of the TIF and negotiations were entered  
21 into. We were unable to reach any agreement regarding  
22 fund -- distribution of TIF funds, and this suit was  
23 filed.

24 One of the allegations in the case that our



1 motion is directed to is that somehow the TIF statute  
2 prohibits what's commonly referred to as the  
3 de-TIF/re-TIF process. I would point out that the  
4 burden of proof in this is the plaintiffs alleging that  
5 the TIF statutes are invalid.

6 I believe that the Village has not -- even  
7 though the Village is not required to prove that it's  
8 valid, it's their burden. I believe we've shown that  
9 they are valid both by statutory -- statutes themselves  
10 and the statutory interpretation case law that we've  
11 supplied. There is no prohibition in the TIF Act from  
12 the de-TIF/re-TIF process.

13 The complaint itself does not allege that  
14 we -- that the TIF Act prohibits it. It, rather,  
15 asserts that -- that the Village is attempting to  
16 circumvent the provisions of the TIF Act. So what  
17 they're asking the Court to do is to read into the TIF  
18 Act a limitation or prohibition that is not in the act.

19 The case law that we supplied clearly  
20 establishes that that's not appropriate. The, quote,  
21 de-TIF/re-TIF process is not something that's unusual.  
22 It's been done by a number of municipalities throughout  
23 the state.

24 I think one of the problems with TIF has been

1 that when you have economic fluctuations in the middle  
2 of the TIF Act, the original purpose of the TIF may not  
3 be able to be accomplished, and it often requires  
4 realigning boundaries, realigning time frames, and so  
5 forth. And the legislature has had an opportunity on  
6 many occasions to correct that, if they wished, if they  
7 did not agree with being able to put a property in a  
8 TIF after it had been in a previous TIF, and they have  
9 not done so.

10 Clearly -- well, the school district cites  
11 the fact that the act allows -- specifically provides  
12 for extension of certain TIF districts, that involves  
13 extending the ordinance that adopted the entire TIF.  
14 That's not what we've done here. We haven't extended  
15 the TIF 1. We have continued it for certain  
16 properties, eliminated it for other properties, and  
17 then some of the properties that were eliminated we put  
18 into a new TIF district.

19 I would also point out that when we remove  
20 properties from a TIF district, that resets the base  
21 value at the time that the property was removed, so  
22 we're not extending that TIF district because the base  
23 changes from what it was originally set --

24 THE COURT: Were some parcels removed and not put

1 into TIF 2?

2 MS. ELLIOTT: Yes.

3 THE COURT: Okay.

4 MS. ELLIOTT: Yes, the properties mostly south of  
5 the tracks, mostly on the -- well, really, everything  
6 south of the tracks, except for Winfield station, the  
7 apartment building, so quite a significant area was  
8 permanently removed from the TIF early.

9 THE COURT: And that returns them to the tax  
10 rolls?

11 MS. ELLIOTT: Correct. They will -- they will be  
12 on, I believe, this year's tax rolls, yes.

13 THE COURT: I'm sorry. You may continue.

14 MS. ELLIOTT: I think that basically summarizes  
15 our argument. The statute does not prohibit the  
16 de-TIF/re-TIF process; and, in fact, if you look at the  
17 case law, it indicates that the interpretation that  
18 they are would result in an absurd result which is that  
19 you could never place a property in a new TIF at any  
20 time after it had been in another TIF, and the statute  
21 simply does not prohibit that, and it should not read  
22 in prohibitions into an act that are not there,  
23 especially when the legislature has an opportunity to  
24 speak, as they have amended the TIF Act in other

1 instances.

2 For example, there used to be no limitation  
3 on building municipal buildings with TIF funds, and the  
4 legislature added a requirement that the property  
5 that any municipal buildings were on had to be  
6 redeveloped commercially before you could spend money  
7 on TIF funds, so the legislature has acted to amend the  
8 TIF Act when they felt that it was inappropriate, and  
9 they have not done so for this, so we believe this  
10 issue is as a matter of law and should be resolved at  
11 this time. Thank you.

12 THE COURT: Thank you. Mr. Manning, are you going  
13 to be arguing?

14 MR. MANNING: Yes, your Honor, I will.

15 THE COURT: You may proceed.

16 MR. MANNING: Thank you. Thank you, your Honor,  
17 and just a couple preliminary points after hearing  
18 counsel's argument.

19 We heard a lot of argument about the  
20 Village's alleged compliance with the TIF Act and how  
21 they believe the TIF 2 complies across the board with  
22 all of the factors they must prove and satisfy, and we  
23 heard a lot about development agreements and why this  
24 was done and why it was good, but none of those facts

1 are in the record, to be clear, on this motion.

2 We're here on the very narrow legal question  
3 as to whether or not a village can take parcels, take  
4 them from one TIF, put them in another, and thereby  
5 extend the duration of the TIF from 23 to 40 continuous  
6 years, which is what they've admitted they've done  
7 here. So I would ask that the remarks, factually, that  
8 are both in their briefs as well and arguments that are  
9 not supported by any evidence or affidavit be stricken  
10 or disregarded for purposes of this motion.

11 With that out of the way, in our view this is  
12 a fairly straightforward issue. It is a novel issue of  
13 first impression. It has not been addressed by the  
14 appellate courts to date; however, we -- the Village's  
15 main argument is that there doesn't -- there isn't a  
16 limitation in the TIF Act on what they've done here.

17 First of all -- there's two problems. The  
18 first issue with that is the TIF Act itself is a  
19 statute that grants very limited powers to  
20 municipalities, specific limited powers, and so the  
21 first question is does the statute grant them the power  
22 to do what they did here?

23 They want to argue that there's no express  
24 limitation. The first question has to be, does it even

1 allow them to do what they did? And they haven't cited  
2 any provision in the TIF Act that allows them to do  
3 what they did, take parcels from one TIF, remove them,  
4 and put them in a new TIF. They haven't cited that.  
5 But, more importantly, there is a clear statutory  
6 limitation on what they've done.

7 The legislature clearly limited TIF treatment  
8 of parcels to 23 years, by statute, and the language  
9 says, you know, unless otherwise provided in the  
10 statute by the general assembly, you cannot extend the  
11 continuous life of a TIF beyond 23 years, and there was  
12 a process available.

13 You know, the school districts are not  
14 suggesting in any way that the goals of the TIF Act are  
15 not important, economic development is not important,  
16 but there is a remedy and there is a process under the  
17 statute if a municipality believes it has a bona fide  
18 reason to extend TIF treatment of parcels of land  
19 beyond 23 years.

20 The statute says, come to the general  
21 assembly, propose an amendment, and if you need more  
22 years of TIF treatment for parcels, the legislature is  
23 the body with the jurisdiction and power to grant that  
24 approval, not the municipality.

1 THE COURT: The municipality doesn't need  
2 legislative approval to remove a parcel from the TIF  
3 district, does it?

4 MR. MANNING: It does not need approval to  
5 terminate TIF treatment early. The 23-year limit is an  
6 outer boundary.

7 THE COURT: Right.

8 MR. MANNING: The statute does allow them to  
9 terminate earlier if, for instance, development is  
10 completed early, they can terminate it early. I would  
11 agree with that, they can remove, but what they cannot  
12 do is in a two-step process remove and then continue  
13 under what's -- they are just simply labeling it a new  
14 TIF district. That -- that is our position on the core  
15 issue in the case.

16 And you can see in the provisions of the code  
17 that we cite where the 23-year limit applies -- is set  
18 forth, and that's in Section 74.4-3.5 of the TIF Act,  
19 the legislature has acted numerous times not just in  
20 extending TIF districts for additional years, but in  
21 special circumstances, they've given municipalities the  
22 power by their own ordinance to extend the amount of  
23 time to pay back bonds beyond 23 years.

24 And in that particular situation, the general

1 assembly specifically said, even though you can -- if  
2 you meet these requirements, you can pay back your  
3 bonds for a few extra years beyond the 23-year period,  
4 you cannot keep properties in TIF beyond 23 years.

5 So the whole -- the statutory framework as a  
6 whole, in our view, is quite clear, because otherwise  
7 the absurd result that would -- that would ensue here  
8 is that it would render -- the Village's actions -- the  
9 villages could do this without any consequence, it  
10 would render the 23-year limit a nullity under the  
11 statute.

12 We know from maxims of statutory  
13 interpretation, we shouldn't read statutes to render  
14 terms obsolete or a nullity, and it simply begs the  
15 question, why didn't they simply go to the general  
16 assembly to get approval if they had -- if they truly  
17 felt that these 51 parcels needed to maintain TIF  
18 status for an extra 17 years?

19 We've cited this in our brief, but  
20 municipalities since the 1980s through today have been  
21 following the process under the statute to go to the  
22 general assembly and seek approval for additional TIF  
23 treatment for property parcels. And there's at least  
24 220 that are already set forth by amendment, and by my



1 count this morning, there are about 30 plus proposed  
2 amendments that villages have come to the general  
3 assembly to seek additional tax years for -- for TIF  
4 properties. So it was a process that they could have  
5 utilized; it is the process that is set forth in the  
6 statute. The process they used is not set forth in the  
7 statute.

8 The idea -- the argument that there's somehow  
9 a difference between an extension of a TIF versus  
10 taking properties out of one TIF and putting them in  
11 another, it's really a distinction without a  
12 difference. That distinction is not set forth in the  
13 statute, and we've cited the Illinois Supreme Court  
14 case of Village of Kildeer, which is not the TIF  
15 statute, but very close on point in terms of the steps  
16 that the Village took in that case to try to get around  
17 a clear statutory limit as well.

18 And they -- the Illinois Supreme Court  
19 clearly held that you can't do indirectly what the  
20 statute otherwise prohibits directly, and we'd submit  
21 that that analysis of a statutory limit and a village  
22 attempting, through creative measures, to circumvent  
23 the statutory limit is exactly what is at play here.

24 THE COURT: But in that statute the action that

1 the Village took was specifically prohibited, was it  
2 not?

3 MR. MANNING: Well, the Illinois Supreme Court  
4 held that it was an issue of statutory interpretation  
5 as to whether or not it was specifically prohibited,  
6 and what the Village argued there is that there wasn't  
7 a specific prohibition, the same thing that the Village  
8 is arguing here, and the Illinois Supreme Court  
9 disagreed and said, no, it is expressly prohibited,  
10 even though you've tried to structure your ordinances  
11 in a way to technically comply, the statute did  
12 actually prohibit what they did, and it's our view the  
13 same issue applies here.

14 There's a 23-year limit set forth in the TIF  
15 statute, and they're arguing that somehow that that  
16 limit doesn't apply here and that they can ignore it  
17 and keep these properties under TIF status for 17  
18 continuous extra years; and, simply, if that was the  
19 case, there would be no need for the 23-year limit, and  
20 villages could simply do this all the time.

21 And on that point, you know, the argument  
22 that other villages have done this really carries no  
23 legal weight. Factually there's nothing in the record  
24 on that point either that can be considered, and it's

1 also just immaterial as a matter of law. It's  
2 analogous to arguing to the police officer, I was going  
3 80, but everybody else was, too, even though the speed  
4 limit was 55. That's not an argument that suffices on  
5 an issue of statutory interpretation; the limit  
6 applies.

7 And for those reasons, and as we've set forth  
8 in our brief, we'd respectfully ask that you deny the  
9 Village's motion for summary judgment.

10 THE COURT: Thank you. Ms. Elliott.

11 MS. ELLIOTT: Yes, Judge. The school district's  
12 whole argument is that the Village is extending TIF 1.  
13 That's not correct, that's not what the Village has  
14 done. The Village terminated TIF 1 as to these  
15 properties.

16 As I indicated in my argument previously,  
17 that resets the base EAV, it is not an extension of  
18 TIF 1. The TIF statute that allows extensions  
19 specifically states that the ordinance creating the TIF  
20 is being allowed to be extended. It's for the -- it's  
21 for situations for the entire TIF.

22 Of all of the 200 and some grants of TIF  
23 extensions, all of them refer to the ordinance and  
24 apply to the entire TIF, none of them refer to limited

1 parcels within a TIF being extended, so that provision  
2 is not comparable to what we've done here.

3 The resetting of the EAV clearly establishes  
4 that this is not extending TIF 1. I think that the  
5 Village's interpret -- cases that they provided, some  
6 of which are TIF cases that are specifically on point  
7 on how statutes should be interpreted is what's  
8 relevant here, and that the motion for summary judgment  
9 should be granted.

10 Thank you, Judge.

11 THE COURT: All right. I do have a question,  
12 though, in the other cases which have been referred to  
13 regarding the TIF district, is it the -- a specific  
14 parcel or was it the entire TIF district which was  
15 extended?

16 MS. ELLIOTT: I'm sorry, Judge?

17 THE COURT: In the -- or perhaps it's -- it's  
18 better to address it to the legislative extensions.  
19 Are those for entire districts or are those for parcels  
20 in the TIF district?

21 MS. ELLIOTT: Every single one of them is for the  
22 entire TIF district, and it specifically states that  
23 the municipalities may extend the time on the ordinance  
24 creating their TIF district, and they are all for the

1 entire TIF district.

2 THE COURT: Mr. Manning?

3 MR. MANNING: So, first of all, I want to be very  
4 clear, we're talking about subsection C of  
5 Section 74.4-3.5, and it doesn't say anything about  
6 giving municipalities the power to extend.

7 The general assembly acted to provide  
8 additional years of tax treatment for these 220 plus  
9 ordinances and TIF districts; and, to be honest, in  
10 reading them, it's actually not clear whether it  
11 applies to the entire TIF district or to parcels, and  
12 there are at least three legislative actions, this is  
13 subparts 96 and there are a couple of others, but I  
14 don't have them where -- hang on one second -- where it  
15 involved not just an original TIF ordinance but further  
16 amendments by the municipality.

17 So, for instance, subpart 96 is the City of  
18 Venice, the original ordinance was adopted in 1993,  
19 subsequently amended by the City of Venice in 2010, and  
20 so it's not -- it's not simply these were original  
21 ordinances across the board that are clearly on their  
22 face entire TIF districts. Subpart 105 is the City of  
23 Chicago.

24 THE COURT: Do you have the verbiage of the

1 extension part of the statute there?

2 MR. MANNING: Sure.

3 THE COURT: I could find it on the computer, but  
4 it's probably much quicker for you.

5 MR. MANNING: The relevant verbiage is, quote, the  
6 estimated dates of completion of the redevelopment  
7 project and retirement of obligations issued to finance  
8 redevelopment project costs, including refunding bonds  
9 under Section 11-74.4-7, may not be later than  
10 December 31st of the year in which the payment to the  
11 municipal treasurer as provided in subsection B of  
12 Section 11-74.4-8 of this act is to be made with  
13 respect to ad valorem taxes levied in the 35th calendar  
14 year after the year in which the ordinance approving  
15 the redevelopment project area was adopted.

16 So that language, the 35th calendar year, is  
17 what's different from the opening subsection which  
18 says, unless otherwise provided in this section, all  
19 TIF districts can be no longer than 23 years.

20 So the general assembly said, for the  
21 following TIFs they can -- they can extend up to  
22 35 calendar years, and then they cite the various  
23 ordinances below, the 220 some odd ordinances.

24 THE COURT: Well, that didn't clarify anything.

1 You know, as we have all noted, this is a case of first  
2 impression, it has never been addressed to any court in  
3 the state of Illinois.

4 I do note that this is for a specific parcel  
5 rather than for the entire TIF 1 district. I don't  
6 believe that there is anything in the statute that  
7 prohibits the removal of a parcel from the TIF 1  
8 district; and, indeed, as Ms. Elliott said, there were  
9 other parcels which were removed and are not an issue.

10 The only issue is whether the parcel, once  
11 having been removed from a TIF district, can  
12 subsequently be included in another TIF district. I  
13 don't believe that there is anything in the statute  
14 itself that prohibits this.

15 The situation in the Kildeer case did not  
16 involve a TIF district, and it did not involve an  
17 action by the municipality to remove a parcel, but  
18 rather to -- I believe it was to annex different  
19 parcels. I don't think that that is analogous, so I'm  
20 not sure that the supreme court holding in that case  
21 would apply to this one.

22 I am going to grant the Village's motion for  
23 summary judgment. I anticipate that this will be  
24 appealed and we'll -- this won't be the end of it, but

1 I think that, also, instructive is the fact that the  
2 legislature appears to be addressing this, although it  
3 has not passed any amendatory legislation, I think  
4 merely the fact that the de-TIF/re-TIF issue is being  
5 addressed is instructive to the Court, although it is  
6 certainly not dispositive, so for those reasons I'm  
7 going to grant the motion for summary judgment, and  
8 that will be a final and appealable order, and I thank  
9 you all for your excellent briefs and arguments.

10 MR. MANNING: Thank you. Your Honor, just one  
11 point of clarification. This is just to grant a  
12 partial summary judgment on this issue?

13 THE COURT: Correct, on this issue alone.

14 MR. MANNING: Okay.

15 THE COURT: Do you want language making it  
16 appealable?

17 MR. MANNING: Yes, I think we would request that  
18 at this time.

19 MS. ELLIOTT: Judge, we can draft an order and  
20 submit it to you.

21 MR. MANNING: Your Honor, could we have some time  
22 to consult with our client on the language for whether  
23 or not to make this an interlocutory appeal?

24 THE COURT: Certainly. If you -- if you don't get



1 the order in today, and I understand that that's a  
2 definite possibility, you'll have to call my secretary  
3 and ask her to put it on the call so that the order can  
4 be signed in a timely manner.

5 And, again, thank you for your scholarship  
6 and your excellent briefs.

7 MS. ELLIOTT: Thank you, Judge.

8 MR. FREEMAN: Your Honor, just as a matter of  
9 housekeeping, we're going to need a (indiscernible).

10 THE COURT: Oh, yes. We don't have one. What's a  
11 reasonable time to come in?

12 MR. FREEMAN: I'm not sure where we're going to go  
13 from here, so --

14 MS. ELLIOTT: Well --

15 MR. FREEMAN: -- I'm just going to suggest --

16 MS. ELLIOTT: -- I think we would like -- I'm  
17 sorry. I think we'd like to set a discovery schedule.

18 THE COURT: Okay.

19 MS. ELLIOTT: Okay. All right.

20 THE COURT: Do you want to come back in 30 days  
21 and you can have a case management order entered at  
22 that time?

23 MS. ELLIOTT: Yes, that would be fine, Judge.

24 That's what we're looking for, yes.

1 THE COURT: July 14th? And I'm told that the next  
2 time you come in you'll have a screen like that over  
3 here so you don't have to crane your necks.

4 MR. MANNING: Yes, the 14th works for me.

5 MR. FREEMAN: That date will work for us, Judge.

6 THE COURT: All right. Thank you.

7 MS. ELLIOTT: Will that be at 9:00 or 9:30, Judge?

8 THE COURT: At 9:00 o'clock.

9 MS. ELLIOTT: 9:00 o'clock. Thank you.

10 THE COURT: Thank you.

11 (Which were all of the proceedings had  
12 in the above-entitled matter.)  
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IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

I, THERESA HARRIS, hereby certify the  
foregoing to be a true and accurate transcript of the  
computer-based digitally recorded proceedings of the  
above-entitled cause to the best of my ability to hear  
and understand, based upon the quality of the audio  
recording, pursuant to Local Rule 1.03(c).



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