

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BARBARA LENSING,)	
Plaintiff,)	
)	No. 1:03-cv-575
-v-)	
)	HONORABLE PAUL L. MALONEY
JOHN POTTER, POSTMASTER GENERAL,)	
UNITED STATES POSTAL SERVICE,)	
Defendant.)	
_____)	

**NOTICE OF APPOINTMENT OF SPECIAL MASTER
FOR CALCULATION OF DAMAGES**

On September 2, 2010, a jury returned a verdict in favor of Plaintiff Barbara Lensing. (ECF No. 186.) The jury concluded Plaintiff was denied a promotional opportunity on the basis of her race. Before the Court are the parties' vastly different calculations of economic damages, which were reserved for the Court's determination if plaintiff prevailed.

This Order gives the parties notice that a Special Master, attorney Sarah Howard of Warner, Norcross & Judd, will be appointed to resolve the completing calculations of damages. *See* Fed. R. Civ. P. 53(b)(1). The Court has decided to appoint a special master to perform the difficult computation of damages. *See* Fed. R Civ. P. 53(a)(1)(B)(ii). The complaint in this action was filed in 2003 and the litigation has been delayed several times. In light of these delays, and the fragile health of Plaintiff, the Court finds that the post-trial calculation of damages cannot be effectively and timely addressed given the time available on the Court's calendar. *See* Fed. R. Civ. P. 53(a)(1)(C). Upon appointment, the Special Master will resolve the competing calculations of damages submitted by the parties. The Special Master will resolve any outstanding legal and factual issues necessary in calculating the damages owed to Plaintiff Barbara Lensing. The Special Master shall be provided access to the sealed documents already filed with the Court. In executing the

duties, the Special Master shall be able to communicate ex parte with the parties.

Where necessary, the Special Master may order the parties to provide additional materials necessary to resolve the damage claims. Any such order shall be filed with the Court by the Special Master. Either party may appeal the order of the Special Master within fourteen (14) days. Any additional materials ordered by the Special Master and provided by the parties must be included as part of the Special Master's report.

The Special Master shall file a report that includes any necessary findings of fact and law and shall make recommendations regarding the calculation of damages. The Special Master shall serve the report on the parties when filed. The Special Master's report shall be subject to objections by the parties and review by the Court under Fed. R. Civ. P. 53(f)(2).

The Special Master shall file her report 91 days from the date of the Order Appointing the Special Master.

The court, if requested by either party, will schedule oral argument on objection(s) to the Special Master's Report. Such argument shall be held no later than 42 days after the expiration of the time for filing objections and shall be based only on the state of the record at the time of the Special Master's Report.

Because Plaintiff prevailed, Defendant shall bear the burden of compensating the Special Master. Ms. Howard shall be compensated at the rate of \$280 per hour.

Within ten days of the date of this Order, Ms. Howard shall file an affidavit disclosing any grounds that might disqualify her under 28 U.S.C. § 455. *See* Fed. R. Civ. P. 53(b)(3).

The parties **SHALL FILE ANY OBJECTIONS** to an order appointing Ms. Howard no more than 14 days after her affidavit is filed with the Court. **IT IS SO ORDERED.**

Date: October 12, 2011

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge