

Plaintiff correctly argues that the SA is the sole legal representative of the County and its officers pursuant to 55 ILCS 5/3-9005 with certain exceptions. The court agrees with the Plaintiff that the situation in this case is not an exception. The Board is authorized, however, to set the number of assistant state's attorneys pursuant to 55 ILCS 5/4-2003. Although the minutes of the December 18, 2014, Board meeting are silent as to the position of the SA, it is clear to the court that the SA concurred in and encouraged this decision as evidenced by his presence in court with Attorney Koester at today's hearing.

The court does not agree with defendants' position that the "services" language of 55 ILCS 5/3-9006 empowers the SA to hire attorneys outside of the assistant state's attorney realm. This section must be read in conjunction with Section 5/4-2003. The defendants' interpretation would render Section 5/4-2003 meaningless. Even if Section 5/4-2003 does not authorize it, the Board minutes say that the Board would hire Attorney Koester.

The court believes the Board attempted to comply with the spirit of the law although it did not follow the letter of the law. The court will allow the defendants until April 21, 2015, to remedy this issue and properly authorize the SA to employ one additional assistant state's attorney, assuming the SA still concurs with that process. The court will reserve ruling on this motion until that time. Assuming this issue is corrected, plaintiff's motion will be denied. Ruling otherwise would likely result in a delay to the underlying litigation which no one desires.

2. Plaintiff's motion to compel discovery

It is acknowledged by the parties that defendants owe the plaintiff additional discovery materials. While the court is not pleased with the defendants' lack of diligence, the court can not find that the defendants have intentionally delayed compliance with discovery. At this time, no sanction will be imposed. Defendants are ordered to provide any outstanding discovery to Plaintiff no later than April 15, 2015.

The Clerk is directed to forward this order via fax and mail the parties instanter.

4-9-15

Entered



Associate Judge