BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of: CALVITA J. FREDERICK, Attorney-Respondent, No. 6184001.	Commission No. 2026PR00008

NOTICE OF FILING

TO: Scott Renfroe
Counsel for the Administrator
srenfroe@iardc.org

PLEASE TAKE NOTICE that on March 26, 2026, an electronic copy of the Answer to the Complaint with Exhibits was submitted to the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois for filing. On that same date, a copy was served by e-mail on Scott Renfroe at or before 10:00 p.m.

Respectfully submitted,

By: /s/ Calvita J. Frederick
Calvita J. Frederick

Calvita J. Frederick
Calvita J. Frederick & Associates
P.O. Box 802976
Chicago, IL 60680-2976
E-mail: ARDCeService@iardc.org
E-mail: cjf@cjfredericklaw.com

FILED
3/26/2026 9:51 PM
ARDC Clerk

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies, pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/109, that the Respondent's Answer to the Complaint with Exhibits served and a copy of the Notice of Filing served on Counsel for Administrator by email at srenfroe@iardc.org on March 26, 2026, at or before 10:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Calvita J. Frederick

Calvita J. Frederick

FILED
3/26/2026 9:51 PM
ARDC Clerk

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:	)	
CALVITA J. FREDERICK,	)	
Attorney-Respondent	)	Commission No: 2026PR00008
No. 6184001	)	

ATTORNEY RESPONDENT'S ANSWER TO THE COMPLAINT

NOW COMES CALVITA J. FREDERICK, Attorney-Respondent, Pro Se, and in support of the Agreed Motion for Extension of Time to Answer the Complaint and Disclose Witnesses, states as follows:

ANSWER TO COUNT I
(Failure to Refund $15,000 Unearned Fee – S. F.'s Dispute with School District)

A. Introduction

Paragraph 1. Prior to September 10, 2024, three women, each a current or former employee of a school district located in Kankakee County ("the District"), developed concerns about what they considered to be the District's discriminatory treatment of them. One of the women, whose initials are "S. F.," was then a tenured Assistant Superintendent of Human Resources for the District and had worked for the District for approximately seven years without having been disciplined. Another of the women, whose initials are "G. W.," was the former Superintendent of the District and claimed to have been the victim of racial discrimination and other issues that resulted in her constructive termination from that position. The third woman, whose initials are "O. S.,"

claimed that she had not been hired by the District despite a prior offer of employment, and that the District's decision not to complete the hiring process had been due to her race and other impermissible factors.

Answer: Attorney-Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the identities, employment histories, and discrimination concerns of the three women identified by initials "S. F.," "G. W.," and "O. S." and therefore denies the allegations.

B. Respondent's Representation of the Women

Paragraph 2: On September 10, 2024, S. F. received a letter from a District representative notifying her that she was being placed on paid administrative leave pending an investigation into her job performance. Because S. F. believed that she was the subject of employment discrimination, she began searching for an attorney to represent her in matters relating to her dispute with the District. As part of those efforts, S. F. discussed her situation with G. W., who later referred both S. F. and O. S. to Respondent.

Answer: Attorney-Respondent admits only that she was contacted by G.W. indicating that she represented a group of people that were interested in pursuing a potential class action against the District and that she, G.W. was so incensed by what the District had done that she would be willing to pay the Retainer Fee for herself and certain other potential Plaintiffs, because she knew that several of the potential Plaintiffs could not afford to pay the retainer fee. G.W. also indicated that she was awaiting Pension/Retirement payments that would allow her to make said retainer fee payments

for herself and several other of the potential plaintiffs. All remaining allegations in this paragraph are denied for lack of sufficient knowledge or are otherwise denied. Attorney-Respondent further states that she made it clear that the representation was dependent upon at least 3 Plaintiffs proceeding with the discrimination claims.

Paragraph 3: On September 17, 2024, Respondent met with the three women, following which she agreed to represent S. F., O. S., and G. W. in matters relating to their disputes with the District, its then-Superintendent, and nine of its board members. Respondent agreed that her representation of the women would include either the pursuit of a negotiated settlement of the disputes or the pursuit of litigation on the women's behalf if the disputes could not be resolved. In exchange for Respondent's legal services, the women each agreed to pay Respondent an initial security retainer fee of $15,000, against which Respondent agreed to bill at an hourly rate of $350 for time spent in Respondent's office, and $400 an hour for time spent outside the office, including court appearances or participation at depositions or mediation sessions. Respondent and the women also agreed that Respondent would receive an additional contingent fee of 20% of any award or settlement she obtained for the women from the District.

Answer: Attorney-Respondent admits that on September 17, 2024, she met with the three women, (a fourth, a man F.M, did not show up) although by the time of the meeting the Attorney-Respondent had had at least 3 lengthy telephone consultations with the F.M., who indicated that he believed that G.W. would pay his retainer fee, and agreed to represent each in matters relating to disputes with the District, its then-Superintendent, and nine board members, including efforts toward negotiated resolution or litigation if necessary. Attorney-Respondent admits the fee structure involved an initial retainer of

$15,000 per client, hourly rates of $350 for office time and $400 for out-of-office time including court, depositions, and or mediations, but denies that the retainer was a security retainer, but rather was a general or advanced payment retainer. In addition, Attorney-Respondent states that G.W. agreed to pay the retainer fee for O.S. and signed O.S.'s retainer agreement along with O.S. reflecting that agreement. ((See Exhibits A, B, and C of Exhibit 1 attached hereto). The Attorney Respondent denies that there was a contingent fee agreement for 20% of any award or settlement obtained for the women against the District.

Paragraph 4: S. F. paid Respondent the entire $15,000 retainer fee in three payments: on September 17, 2024, she paid Respondent $5,000; on September 27, 2024, S. F. paid Respondent an additional $2,000; and on October 18, 2024, S. F. paid Respondent the remaining $8,000. G. W. paid Respondent $1,000 at or around the time of the September 17, 2024, meeting, and paid Respondent an additional $2,000 sometime thereafter. Neither O. S. nor G.W. paid Respondent anything toward O.S.'s contracted retainer fee.

Answer: Attorney-Respondent admits the allegations contained in Paragraph 4.

Paragraph 5: On October 20, 2024, Respondent sent a three-page letter to the District's then-Superintendent outlining: the recent history of S. F.'s employment by the District; S. F.'s perception that she was being denied due process or a reasonable opportunity to respond to the District's September 10, 2024 letter; information concerning S. F.'s medical condition; and S.F.'s request to be placed on a medical leave of absence. In the letter, Respondent stated that she was "preparing to file charges with the Illinois Department of Human Rights, or other appropriate authority, required to exhaust our

administrative remedies, prior to filing our lawsuit." Both times Respondent referred to S. F. by her full name in the letter, she misspelled her client's first name.

Answer: Attorney-Respondent admits the allegations contained in Paragraph 5. In addition, Attorney-Respondent neither admits nor denies that the client's first name was misspelled twice in that letter, and further states that S.F., G.W. and O.S. all received, reviewed, edited and approved the October 20, 2024 letter, including the spelling of the S.F's name before the letter was sent to the Superintendent. (See Exhibit D of Exhibit 1 and text messages and emails attached hereto)

Paragraph 6: On Friday, November 29, 2024 (the day after Thanksgiving), the District's Superintendent contacted S. F. directly to notify her that S. F. was being directed to attend a meeting with the Superintendent the following Tuesday, December 3, 2024, at 3:30 in the afternoon. S. F. forwarded the Superintendent's message to Respondent shortly after she received it, and Respondent and S. F. later exchanged additional emails about the requested meeting. Respondent and S. F. later decided that neither S. F. nor Respondent would attend the December 3, 2024, meeting, and neither of them did so. On December 6, 2024, Respondent contacted the Superintendent to request that the meeting be rescheduled.

Answer: Paragraph 6: Attorney-Respondent admits that she and S.F. exchanged additional emails about the requested meeting, and that Attorney-Respondent and S. F. later decided that neither S. F. nor Respondent would attend the December 3, 2024, meeting, and neither of them did so. Attorney-Respondent admits that she and S. F. decided not to attend the December 3, 2024, meeting because the Attorney-Respondent had no authority to enter the school building where the meeting was to be held, and S.F.

did not want to go to the meeting without representation. Attorney-Respondent admits that on December 6, 2024, Respondent contacted the Superintendent to request that the meeting be rescheduled. Attorney-Respondent lacks sufficient knowledge or information to form a belief as to the truth of the allegations regarding the direct contact between the District's Superintendent and S. F. on November 29, 2024, and therefore denies this allegation. All remaining allegations in this paragraph are denied for lack of sufficient knowledge or are otherwise denied. (See Exhibit 1 emails and text messages)

Paragraph 7: Respondent did not meet again with S. F. during the period between October 18, 2024 (when S. F. made the final payment of the retainer fee) and December 6, 2024 (when Respondent sent the email message to the Superintendent asking to reschedule the meeting).

Answer: Attorney-Respondent admits that she did not meet again with S. F. between October 18, 2024, and December 6, 2024. Attorney-Respondent admits that she and S. F. exchanged emails about the meeting. Attorney-Respondent admits that on December 6, 2024, she contacted the Superintendent to request the meeting be rescheduled. All remaining allegations in this paragraph are denied for lack of sufficient knowledge or are otherwise denied. (See Exhibit 1 emails and text messages)

Paragraph 8: In early January 2025, Respondent contacted S. F. and G. W. to advise them that Respondent would no longer represent the women in matters relating to their disputes with the District. At the time of her decision to withdraw from representing the women, the primary actions Respondent had taken were to send a letter notifying the District of her involvement in pursuing the women's claims and requesting that the meeting with S. F. be rescheduled. Respondent had not negotiated a settlement of their

claims, nor had she submitted a complaint to the Illinois Department of Human Rights or any other agency on their behalf, nor had she filed a civil complaint against the District, its Superintendent, or any of the District's board members.

Answer: Attorney-Respondent denies that she made the initial decision to terminate the attorney client relationship with S.F, G.W. and O. S. and in the alternative states that she accepted S.F's decision to terminate the Attorney-Respondent. The Attorney-Respondent admits that she sent a letter to S.F., accepting S.F.'s decision to terminate the attorney client relationship, and that in early January 2025 she informed S. F. and G. W. that she would no longer represent them in matters relating to their disputes with the District. Attorney-Respondent, denies the characterizations of those actions as "primary" to the exclusion of other professional services required by S.F. and performed by the Attorney Respondent, and denies the remaining allegations for lack of sufficient information or as argumentative. Attorney-Respondent admits that she had not negotiated a settlement, filed an administrative charge, or filed a civil complaint on behalf of the women as of her withdrawal, because it was not yet time to take any of those actions. (See Exhibit E of Exhibit 1 and Exhibit 1 text messages and emails)

Paragraph 9: Between January 8, 2025, and March 19, 2025, S. F. sent at least ten emails to Respondent. In most of those messages, S.F. requested an itemization of the time Respondent claimed to have spent on S. F.'s dispute with the District and a refund of any unused portion of the $15,000 retainer fee S. F. had paid her. Although Respondent at various times stated that she would prepare an itemization of the time she spent on the matter and issue a refund of the unearned portion of the fee, as of March 25, 2025, when

S. F. submitted a complaint about Respondent's conduct to the Administrator, Respondent had not done so.

Answer: Attorney-Respondent admits that between January 8, 2025, and March 19, 2025, S. F. sent multiple emails requesting an itemization and a refund of any unearned portion of the retainer. Attorney-Respondent denies that she failed to prepare an itemization and in the alternative states that she kept an ongoing itemization of time spent on the ladies complaints against the District. Further, Attorney Respondent states she prepared an itemization of legal services rendered to S. F. which showed that no refund was due to S.F., or G.W, but in fact, additional fees were owed to the Attorney Respondent in the amount of $6,900.00. (See Exhibit 1 generally and Exhibit F of Exhibit 1)

Paragraph 10: As of January 19, 2026, the date the members of Panel C of the ARDC's Inquiry Board voted to file this complaint against Respondent, Respondent had not refunded to S. F any portion of the $15,000 retainer fee. The services Respondent provided to S. F. during the approximately 90 days between October 18, 2024 (when S. F. paid the final installment of the $15,000 retainer fee), and early January, 2025 (when Respondent notified S. F. that she would no longer represent her in matters relating to her dispute with the District) do not justify Respondent's continued retention of the entire retainer fee in light of the time Respondent expended on the matter, the lack of results she obtained, the amount customarily charged in the Chicago metropolitan area for similar work, or any other factors.

Answer: Attorney-Respondent admits that as of January 19, 2026, no refund had been issued to S. F. from the $15,000 retainer, and in the alternative states that no refund was

due to S.F. or G.W. Attorney-Respondent denies the allegation that the services provided during the referenced period do not justify retention of the retainer, denies the asserted comparisons to customary charges and results obtained, and denies all conclusions regarding reasonableness or entitlement to refund. (See Exhibit 1)

C. Conclusions of Misconduct

Paragraph 11: By reason of the conduct described above, Respondent has engaged in the following misconduct:

a. collecting an unreasonable fee, by conduct including charging S. F. $15,000 for less than three months of legal representation that did not result in the resolution of S. F.'s claims, the filing of a civil complaint or administrative charge, or any meetings with representatives of the District, in violation of Rule 1.5(a) of the Illinois Rules of Professional Conduct; and

Answer: Attorney-Respondent denies that she in any manner violated Rule 1,5 (a) of the Illinois Rules of Professional Conduct; denies that a $15,000.00 retainer fee was unreasonable in view of the contemplated representation; denies that the work spanned less than 3 months, denies that she collected an unreasonable fee in violation of Rule 1.5(a), denies that the charges for the work performed was unreasonable and denies the characterizations of the scope and results of the representation. In the alternative, Attorney Respondent states that S.F. continued throughout the period of representation to add additional responsibilities not contemplated by the Retainer Agreement, including but not limited to the review of hundreds of pages of additional documents and representation at three administrative hearings. Attorney Respondent admits that at the

time of the termination of the attorney representation that no meetings had occurred with representatives of the District and that no or administrative charge with the IDHR and no civil complaint with the appropriate court had been filed, and in the alternative states that the time for said meetings and/or filings had not been reached. (See Exhibit F of attached Exhibit 1)

b. failing to provide an itemized statement of services or to refund an unearned fee following the termination of her professional relationship with S. F., by conduct including failing to account for her services or to return any portion of the $15,000 fee that Respondent received from S.F., in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010).

Answer: Attorney-Respondent denies that she failed to provide an itemized statement of services following termination; denies that she in any manner violated Rule 1.16(d) (2010). Attorney Respondent admits that she failed to refund any portion of the Retainer fee and in support thereof states that S.F. owed her additional legal fees.(See Exhibit 1 generally and Exhibit F of Exhibit 1)

Affirmative Defenses:

1. Failure to State a Claim: Attorney-Respondent asserts that Count I fails to state a claim upon which relief can be granted.

2. Reasonableness and Quantum Meruit: Attorney-Respondent asserts that fees charged and retained were reasonable under the circumstances and that she is entitled to compensation in quantum meruit for services rendered.

3. Good-Faith Performance and Withdrawal: Attorney-Respondent asserts she acted in good faith, undertook necessary services, and withdrew consistent with professional

obligations when requested to do so by the Plaitniffs.

4. Mitigation: To the extent applicable, Plaintiff failed to mitigate alleged damages.

Prayer for Relief: Wherefore, Attorney-Respondent respectfully requests that Count I be dismissed with prejudice; that judgment be entered in Attorney-Respondent's favor; that the record related to this Charge be sealed, and for such other and further relief as the Court deems just and proper.

ANSWER TO COUNT II

(Lack of Diligence and Failure to Refund Unearned Fee – C.E.'s Dispute with Fire Department)

Paragraph 12: On November 30, 2021, a woman with the initials 'C. E.' retired from her position with the Chicago Fire Department. Because C. E. felt that she had been improperly forced to retire, she began seeking legal representation in connection with a potential age discrimination employment claim and was referred to Respondent. At Respondent's request, C. E. met with Respondent at a Panera restaurant in Chicago sometime the following month.

Answer to Paragraph 12 Respondent lacks knowledge sufficient to admit or deny the precise circumstances of C.E.'s retirement and therefore denies those allegations for lack of information. Respondent admits that C.E. sought legal representation regarding alleged claims relating to her employment and that they met at a Panera restaurant in Chicago after initial contact. Respondent recalls first meeting C.E. shortly after Respondent's mother's passing in January 2022 and acknowledges meeting at Panera as part of Respondent's post-COVID practice of meeting clients in public facilities or by Zoom.

Paragraph 13 As of November 2021, pursuant to both the Illinois Human Rights Act [775 ILCS 5/7A-102(A)(1)] and the Federal Age Discrimination Act [29 U.S.C. §

626(d)(1)(B)], an employee had 300 days from the date of an act of alleged discrimination to file a claim with the Illinois Department of Human Rights (IDHR) and the United States Equal Employment Opportunity Commission (EEOC), respectively. As a result, C.E. had until no later than September 26, 2022 (300 days after her retirement), to file any claims relating to her former employment with the Chicago Fire Department."

Answer to Paragraph 13: Respondent admits only that statutes of limitations and administrative filing periods apply to employment discrimination claims but denies the legal conclusions asserted herein as pleaded. Respondent further states that no legal authority is admitted by this Answer beyond the four corners of the cited statutes themselves. Respondent denies the calculation of any specific deadline as it pertains to C.E., and further states that the pleading's legal conclusions require no response; to the extent a response is required, they are denied.

Paragraph 14: On February 4, 2022, Respondent agreed to represent C.E. in matters relating to her claims against the City of Chicago. At that time, C.E. gave Respondent a cashier's check in the amount of $10,000 as an initial security retainer, against which Respondent agreed to bill at an hourly rate. At Respondent's request, C.E. had that initial check (which had been made payable to 'Calvita J. Frederick's Law Group') voided and had a second check for $10,000 reissued that was made payable to Respondent individually. C.E. gave that second cashier's check to Respondent on February 4, 2022, and Respondent later negotiated that check and used its proceeds for her own business or personal purposes."

Answer to Paragraph 14 Respondent admits that on or about early February 2022 she agreed to represent C.E. in matters related to potential claims, and that C.E. provided a

$10,000 cashier's check payable to an entity unknown to the Attorney Respondent. Respondent states that the parties' agreement was understood by Respondent to be an "advance payment retainer," that ownership of such a retainer passes to the attorney upon payment, and that the funds were deposited into Respondent's general account Respondent denies that the retainer was a "security retainer" to be billed against at an hourly rate as characterized in this paragraph and denies any improper use of funds. Respondent further states that C.E. reissued the initial check to be payable to Respondent individually at Respondent's request.

Paragraph 15: Over the next 20 months, Respondent and C.E. met six times, and Respondent told C.E. that she planned to pursue C.E.'s claim but was then busy with other professional and personal responsibilities. When C.E. offered to give Respondent a binder of printed documents relating to her employment claim, Respondent declined to accept them, saying it was 'a bad time' for her to read those materials. C.E. later offered the materials to Respondent in an electronic format, but Respondent again refused to accept them."

Answer to Paragraph 15: Respondent denies the characterizations that she declined to accept documents from C.E. and denies that she refused electronic materials. Respondent states that C.E. repeatedly promised to provide supporting documentation but failed to deliver any documents or even a flash drive despite multiple meetings and calls requesting same. Respondent's text message to C.E. in October 2023 states that over nearly two years C.E. had provided no documents, emails, contracts, dates, or names necessary to proceed and C.E. never contradicted those statements. Respondent lacks knowledge sufficient to admit or deny the exact number of meetings alleged and

therefore denies that specific number for lack of information. (See Response to ARDC Complaint filed by C.E. with exhibits attached hereto as Exhibit 2)

Paragraph 16: As of September 26, 2022, Respondent had not filed any claims on C.E.'s behalf with either the IDHR or the EEOC, and C.E.'s claims became time-barred."

Answer to Paragraph 16: Respondent admits that she had not filed an IDHR or EEOC charge for C.E. by late September 2022. Respondent states that she did not file because C.E. failed to provide necessary documentation and information to substantiate any filings. Respondent denies the legal conclusion that "C.E.'s claims became time-barred" and denies any responsibility for the running of any limitation period under the circumstances. Further, Attorney Respondent states that upon information and belief, C.E. may have previously and unsuccessfully pursued her claim against the Chicago Fire Department. (See Exhibit 2)

Paragraph 17: In September 2023, Respondent and C.E. again met at the Panera restaurant, and C.E. asked Respondent if there was an upcoming filing deadline that would affect her case. Respondent then asked C.E. for an additional $5,000, saying that Respondent's retainer fee for similar cases had increased from $10,000 to $15,000. C.E. declined to pay Respondent any additional funds and asked Respondent to stop work on her case and return any unearned fees from her initial $10,000 payment."

Answer to Paragraph 17: Respondent admits that she and C.E. communicated in September 2023 regarding the status and timing of potential claims. In September 2023 texts, Respondent discussed that certain claims (e.g., Title VII) were no longer available but indicated Section 1981 remained potentially viable and suggested moving quickly. Respondent's October 3, 2023 text acknowledges that an alternative settlement option did

not pan out and notes that after nearly two years she had yet to receive documents from C.E. Respondent denies the characterization that she "asked C.E. for an additional $5,000" as a precondition to action, and denies that any demand was improper; Respondent states that she informed C.E. that Respondent's retainer for similar matters had increased and discussed options. C.E. thereafter requested reimbursement via text messages in October 2023. That C.E.'s ongoing failure and refusal to provide Attorney Respondent with any documentation including the names, titles, of alleged discriminating parties, the dates of alleged improper activity, communications regarding her separation from employment, her employee file, etc., which was the basis for her alleged discrimination action and administrative charge to be filed to be filed, precluded the Attorney Respondent from filing any charges or complaints because C.E. had provided no evidence of same. Except as admitted, the remaining allegations are denied. (See Exhibit 2 attached hereto)

Paragraph 18 Between February 4, 2022 (when Respondent agreed to represent C.E. in matters relating to the end of her employment), and September 2023 (when the professional relationship ended and C.E. asked Respondent to return any unearned fees), Respondent had not negotiated a settlement of C.E.'s claims against the City of Chicago, nor had she submitted a complaint to the Illinois Department of Human Rights or any other agency on their behalf, nor had she filed a civil complaint for damages against the City."

Answer to Paragraph 18: Respondent admits that she did not file a charge with IDHR or EEOC and did not file a civil complaint during the period 12/04/22 and 09/2023. Respondent denies that the absence of those filings constitutes lack of diligence under the

circumstances. Respondent states that she repeatedly requested and awaited documents from C.E., and that she could not and would not file without evidentiary support as reflected in her October 21, 2023, text explaining the need for factual bases and documentation. Respondent denies any remaining allegations inconsistent with the foregoing. (See attached Exhibit 2)

Paragraph 19: As of January 20, 2026, the date the members of Panel C of the ARDC's Inquiry Board voted to file this complaint against Respondent, Respondent had not refunded to C.E. any portion of the $10,000 retainer fee. The services Respondent provided to C.E. during the approximately 20 months between February 4, 2022 (when C.E. paid Respondent the $10,000 retainer fee), and September 2023 (when C.E. discharged Respondent and asked for the return of any unearned fees) do not justify Respondent's continued retention of the entire retainer fee in light of the time Respondent expended on the matter, the lack of results she obtained, the amount customarily charged in the Chicago metropolitan area for similar work, or any other factors. On January 28, 2026, after this complaint was voted, Respondent gave C.E. a cashier's check for $9,500.

Answer to Paragraph 19: Respondent denies the conclusory assertions regarding the value and reasonableness of fees and denies any violation premised thereon. Respondent previously explained her understanding that the agreement with C.E. was an advance payment retainer and that ownership of funds passed upon payment. Respondent stated in December 2024 that she was unable to locate time records and believed it best to return $9,500 of the $10,000 retainer, with $500 reflecting two consultations, and requested three to six months due to illness and practice limitations. Respondent lacks sufficient knowledge to admit or deny the precise internal date on which Panel C voted; to the

extent an answer is required, it is denied for lack of information. Respondent tendered a cashier's check to C.E. in the amount of $9,500 on January 28, 2026. (See Exhibit 3)

Paragraph 20 By reason of the conduct described above, Respondent has engaged in the following misconduct:

a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to timely file a claim before the IDHR or the EEOC or to take any action to otherwise resolve C.E.'s claims against the City on behalf of C.E., in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);

b. failing to reasonably consult with her client about the means by which the client's objectives are to be accomplished, keep the client reasonably informed about the status of their matter, or promptly comply with reasonable requests for information, by conduct including failing to inform C.E. that she had not taken timely action to pursue her age discrimination claims in response to C.E.'s request for information about the status of her matter and any upcoming deadlines, in violation of Rules 1.4(a)(2), 1.4(a)(3), and 1.4(a)(4) of the Illinois Rules of Professional Conduct (2010);

c. collecting an unreasonable fee, by conduct including charging C.E. $10,000 for legal representation that did not result in the resolution of C.E.'s claims or the filing of a civil complaint or administrative charge, in violation of Rule 1.5(a) of the Illinois Rules of Professional Conduct; and

d. failing to provide an itemized statement of services or to refund an unearned fee, by conduct including failing to account for his services or to return any portion of the $10,000 fee that Respondent received from C.E., in violation of Rule 1.16(d) of the Illinois Rules of Professional Conduct (2010)."

Answer to Paragraph 20: Respondent denies each and every allegation of misconduct set forth in subparagraphs (a) through (d). Respondent consistently communicated that she required documentation and factual support before filing an administrative charge and or civil action, and explained her professional obligations and potential sanctions for frivolous filings in an October 21, 2023 text to C.E.. Respondent further explained her understanding that the parties' agreement was an advance payment retainer and that funds were deposited into her general account consistent with that understanding. Respondent elected to refund $9,500.00 as of December 2024 and tendered $9,500 by cashier's check on January 28, 2026. (See Receipt signed by C.E. attached hereto as Exhibit 3 and Exhibit 2) Respondent denies any remaining allegations of ethical violation.

GENERAL DENIAL To the extent any allegation in Count II is not specifically admitted herein, it is denied.

AFFIRMATIVE STATEMENTS Without admitting liability, Respondent states: C.E. did not provide the documents and information Respondent requested to evaluate, substantiate, or file timely claims;

Respondent advised C.E. regarding the status of potential claims and alternative legal theories in September 2023; and Respondent has returned $9,500 of the amount paid by C.E.

PRAYER FOR RELIEF

WHEREFORE, Respondent respectfully requests that Count II be dismissed with prejudice; that no discipline be imposed; that the record related to Count II be sealed; and for such other and further relief as is just and proper.

ANSWER TO COUNT III
(Lack of Competence, False Statements About a Judge, and Disobeying Pretrial Rulings)

Attorney-Respondent, by counsel, answers Count III paragraph by paragraph as follows. Each allegation not expressly admitted is denied.

A. Introduction and Background

Paragraph 21: Prior to 2022, Respondent agreed to represent a man with the initials "M. O." in matters relating to his disputes with the City of Chicago and three officials of the City's Department of Water Management. As discussed more specifically below, in a civil rights action she filed in the federal district court in Chicago on M. O.'s behalf, Respondent: did not participate with attorneys for the City in the preparation of a joint pretrial order, in violation of a local rule; initially advised the court that she would not file any motions in limine but then filed twenty such motions after the date they were due; made knowingly false or reckless statements concerning the qualifications or integrity of the Honorable Gary Feinerman, who presided over M. O.'s case; filed a frivolous lawsuit against Judge Feinerman; and repeatedly attempted to offer evidence at trial that she knew had been determined to be inadmissible by Judge Feinerman.

Answer: Respondent admits that she represented an individual identified as "M. O." in federal court litigation involving the City of Chicago and certain officials. Respondent

represented “M. O.” in a civil rights action in the federal district court in Chicago. Respondent denies that she violated any local rule, denies that any of her statements concerning Judge Feinerman were knowingly false or made with reckless disregard for the truth, denies that any lawsuit she filed was frivolous, and denies that she knowingly attempted to introduce evidence she knew had been ruled inadmissible. Respondent admits she sought leave to file motions in limine after previously indicating she did not intend to file such motions and asserts that leave was sought in good faith for the protection of her client’s rights. Respondent sought leave on August 31, 2022 to file twenty motions in limine after the deadline, and the request was later denied. (See attached Exhibit 4)

Paragraph 22: As a result of Respondent’s conduct at trial, Judge Feinerman granted the City’s third request for a mistrial, then, on December 30, 2022, entered a 41-page memorandum opinion and order that: granted the City’s request that he dismiss M. O.’s case with prejudice; reprimanded Respondent; and referred Respondent to the federal court’s Executive Committee for discipline. The Executive Committee for the United States District Court for the Northern District of Illinois later determined to suspend Respondent from its general and trial bars for at least one year.

Answer: Respondent denies that the mistrial and subsequent rulings were “as a result” of any misconduct by Respondent and denies the characterizations of her conduct. Respondent admits that a mistrial was granted and that on December 30, 2022, the court issued a memorandum opinion dismissing the case with prejudice, reprimanding Respondent, and referring her to the Executive Committee. On December 30, 2022, the court issued a 41-page opinion dismissing the case with prejudice, reprimanding

Respondent, and referring her to the Executive Committee . Respondent admits that the Executive Committee entered a suspension order and imposed conditions. On November 20, 2023, the Executive Committee suspended Respondent until further order and set conditions for any readmission . Respondent denies any implication that she agrees with or concedes the correctness of those determinations. In the alternative Attorney Respondent attaches as Exhibit 4, the Response to the Executive Committee Rule to Show Cause prepared by her attorneys, which addresses the issues raised by the Executive Committee.

B. The Pretrial Proceedings

Paragraph 23: Respondent filed M. O.'s case against the City and the other Attorney-Respondents in 2017. Between 2017 and 2022, the parties engaged in discovery and motion practice, including the Attorney-Respondents' request for summary judgment. In ruling on the summary judgment motion, Judge Feinerman determined that M. O.' claim that he had been the victim of retaliation should be dismissed.

Answer: Respondent admits that the case was filed in 2017 and that discovery and motion practice, including a defense summary judgment motion, occurred. Respondent admits that the court dismissed M.O.'s retaliation claim at summary judgment. (See Exhibit 4)

Paragraph 24: Judge Feinerman set trial to begin on September 23, 2022, and set deadlines for motions in limine and a pretrial order. Although the motions-in-limine deadline had passed four weeks earlier, and Respondent had advised defense counsel that she did not intend to file any, on August 31, 2022, Respondent moved for leave to file twenty motions in limine instanter, which was later denied.

Answer: Respondent admits the trial date and the existence of related deadlines. Trial was set to begin on September 23, 2022, with deadlines for motions in limine and an agreed pretrial order Respondent admits she moved on August 31, 2022 for leave to file twenty motions in limine instanter after previously indicating she did not plan to file such motions, and that the request was denied; Respondent states the motion was made in good faith to secure necessary evidentiary rulings. (See Exhibit 4)

Paragraph 25: The court ordered a joint pretrial order due August 31, 2022, and Local Rule 16.1 required collaboration. Instead of collaborating, at 11:00 p.m. on August 31 Respondent told opposing counsel she preferred to wait for rulings on motions in limine before completing the joint pretrial order; Attorney-Respondent filed a unilateral order timely, and Respondent filed pretrial orders on September 1 and 7, 2022, after the court's deadline.

Answer: Respondent admits that the court ordered a joint pretrial order for August 31, 2022, and that Local Rule 16.1 requires collaboration. The court ordered a joint pretrial order due August 31, 2022, with collaboration required under Local Rule 16.1 . Respondent admits she communicated late on August 31 a preference to await rulings on motions in limine and that Attorney-Respondents filed a unilateral order; Respondent further admits she filed pretrial submissions on September 1 and September 7, 2022. Respondent denies any suggestion that she acted in bad faith. (See Exhibit 4)

Paragraph 26: At the September 7, 2022, final pretrial conference, the court limited M.O. to Attorney-Respondents' listed exhibits and witnesses due to Respondent's failure to collaborate, and Respondent argued, among other things, that if she asked for more time she would "get ripped a new butthole."

Answer: Respondent admits that the court imposed limitations on exhibits and witnesses at the September 7, 2022, conference. On September 7, 2022, the court limited M.O. to exhibits and witnesses identified in Attorney-Respondents' filings due to Respondent's failure to collaborate on the pretrial order. Respondent denies the characterization that she "failed" to collaborate and asserts she sought to coordinate the pretrial order in light of pending evidentiary issues. Respondent lacks sufficient knowledge to admit the precise phrasing attributed to her and therefore denies that quotation as stated. (See Exhibit 4).

C. Respondent's False Statements About the Judge's Qualifications or Integrity

Paragraph 27: On September 15, 2022, Respondent filed a motion requesting judicial notice of twenty proposed exhibits, asking for a ruling by September 20, 2022, and asserting that the court could not expect M.O. to sit idle while his due process right to a fair and impartial trial was being eroded.

Answer: Respondent admits filing the September 15, 2022 motion and requesting prompt consideration; the motion speaks for itself. On September 15, 2022, Respondent moved for judicial notice of twenty proposed exhibits and requested a ruling by September 20, 2022 . Respondent denies any improper motive and denies any implication that the filing violated any rule or order. (See attached Exhibit 4)

Paragraph 28: On September 16, 2022, the court granted in part and denied in part Attorney-Respondents' motions in limine, including rulings requiring preview of certain noose-related articles and OIG references outside the jury's presence, and precluding lay testimony that work caused or exacerbated complex medical conditions such as high blood pressure or diabetes.

Answer: Respondent admits the court issued rulings on September 16, 2022, as described. On September 16, 2022, the court granted in part and denied in part Attorney-Respondents' motions in limine, requiring preview of certain noose-related articles and OIG references and precluding lay testimony about causing or exacerbating complex conditions like high blood pressure or diabetes.(See attached Exhibit 4)

Paragraph 29: On September 19, 2022, Respondent moved to stay pending a declaratory judgment action accusing due process violations, asserting the judge's rulings blatantly violated due process and tended to grant Attorney-Respondents' wishes, and explaining she had been unable to file due to other demands; the court denied the stay on September 20.

Answer: Respondent admits filing a motion to stay on September 19, 2022, and that the court denied it on September 20, 2022; the motion's text speaks for itself. On September 19, 2022, Respondent moved to stay pending a planned declaratory judgment action alleging due process violations, and the court denied the stay the next day. Respondent denies that any statements therein were knowingly false or reckless. (See attached Exhibit 4).

Paragraph 30: On September 22, 2022, Respondent moved for an emergency injunction to stay the case pending the declaratory judgment action, including statements that evidence had been improperly excluded, that the judge had no right to hold the case "hostage" to illegal rulings, that the judge intended to rule against the law in jury instructions, and that the judge was prejudiced, biased, lost objectivity, retaliated against Respondent, and knowingly issued rulings in conflict with the law.

Answer: Respondent admits filing the September 22, 2022 emergency motion; the motion speaks for itself. On September 22, 2022, Respondent sought an emergency injunction to stay the case pending a declaratory judgment action and included statements criticizing the court's rulings and impartiality. Respondent denies that any statements were knowingly false or made with reckless disregard for truth and asserts they were advocacy statements made in the context of seeking relief for perceived due process violations. (See attached Exhibit 4)

Paragraph 31: Respondent's September 22 statements related to Judge Feinerman's qualifications or integrity by accusing bias, prejudice, and intentional unlawful rulings.

Answer: Respondent admits the statements addressed judicial impartiality but denies that they impugned qualifications or integrity in violation of professional rules; Respondent denies wrongdoing. (See attached Exhibit 4)

Paragraph 32: Allegation: Respondent's statements were false or made with reckless disregard for truth, based solely on disagreement with rulings.

Answer: Denied. (See attached Exhibit 4)

D. Respondent's Conduct Results in a Mistrial

Paragraph 33: Trial began September 23, 2022; during opening, Respondent referenced a dismissed retaliation claim, and the court sustained an objection.

Answer: Respondent admits the start date of the trial and that the court sustained an objection during opening; denies that any reference was intentional or improper advocacy. (See attached Exhibit 4)

Paragraph 34: Later in opening, Respondent mentioned a photo of a noose, drawing objection because M.O. had not seen a photo and because the issue had to be previewed; the court concluded Respondent's opening; defense moved for mistrial over the weekend and the court denied it.

Answer: Respondent admits Respondent's noose reference drew an objection for lack of preview and the court concluded the opening; over the weekend, Attorney-Respondents moved for mistrial in writing, which the court denied. Respondent denies any intent to violate the court's rulings. (See attached Exhibit 4)

Paragraph 35: During direct of M.O., in response to "notice" questioning, M.O. began to refer to the OIG; defense objected and moved for a mistrial; the court sustained and instructed the jury to disregard.

Answer: Admitted as to the sequence and rulings; denied as to any willful violation by Respondent. During direct, M.O. began referring to the OIG, drawing objection and a mistrial motion; the court sustained the objection and instructed the jury to disregard. . (See attached Exhibit 4)

Paragraph 36: Later in direct, M.O. testified his blood pressure was "shot"; defense objected and moved for mistrial; the court sustained, instructed the jury to disregard blood-pressure testimony, but allowed consideration of stress, tension, and prayer.

Answer: Admitted as to the court's rulings; denied as to any intentional elicitation of prohibited medical testimony. The court sustained an objection to blood-pressure testimony, instructed the jury to disregard it, and allowed consideration of stress, tension, and prayer testimony. (See Exhibit 4)

Paragraph 37: M.O. referenced that there were things he could not testify about due to rulings.

Answer: Respondent lacks sufficient knowledge to admit the precise wording but admits the witness referenced limitations arising from pretrial rulings. M.O.'s testimony referenced earlier rulings limiting topics he could address. (See attached Exhibit 4)

Paragraph 38: Following discussion the next morning, the court granted the Defendants' requests for a mistrial, concluding violations and reference to a dismissed claim were too much for a curative instruction.

Answer: Respondent admits that the court granted a mistrial and stated its reasons. (See attached Exhibit 4)

E. The Case is Dismissed and Respondent Sues Judge Feinerman

Paragraph 39: Counsel for Defendants moved to dismiss for want of prosecution; the court issued an order to show cause re dismissal, sanctions, and referral; on October 12, 2022, one day before the response deadline, Respondent filed on behalf of M.O. an 86-page declaratory judgment complaint against Judge Feinerman, the City's Water Department, and three opposing attorneys, with over 1,000 pages of exhibits, alleging conspiracy and abuse of discretion.

Answer: Respondent admits that Defendants moved to dismiss for want of prosecution, that the court issued an order to show cause, and that on October 12, 2022, she filed an 86-page declaratory judgment complaint on behalf of M.O. with extensive exhibits naming the identified parties; the filing speaks for itself. On October 12, 2022,

Paragraph 40: On December 30, 2022, the court dismissed M.O.'s 2022 lawsuit with prejudice, reprimanded Respondent, and referred her to the Executive Committee.

Answer: Admitted. On December 30, 2022, the court dismissed the lawsuit with prejudice, reprimanded Respondent, and referred her to the Executive Committee. . (See attached Exhibit 4)

Paragraph 41: On January 3, 2023, Judge Durkin dismissed the declaratory judgment case without prejudice for lack of subject matter jurisdiction due to lack of standing after the earlier dismissal.

Answer: Admitted On January 3, 2023, Judge Durkin dismissed the declaratory judgment action without prejudice for lack of subject matter jurisdiction based on standing.

Paragraph 42: On January 31, 2023, Respondent moved to alter or amend, accusing Judge Durkin of manifest errors of fact and law and stating that Judge Feinerman or someone on his behalf suggested to the court that it lacked jurisdiction.

Answer: Admitted that such a motion was filed; the motion speaks for itself. On January 31, 2023, Respondent moved to alter or amend, asserting manifest errors and suggesting improper communication regarding jurisdiction.

Paragraph 43: Judge Durkin denied the request, denied speaking to Judge Feinerman, and held that declaratory relief could not be granted because Judge Feinerman was no longer assigned and that appeal was the proper avenue.

Answer: Admitted as to the court's ruling and reasoning; the order speaks for itself. Judge Durkin denied the motion, denied having spoken to Judge Feinerman, and held that declaratory relief was unavailable and that appeal was the proper remedy.

Paragraph 44: On February 2, 2023, the individual City defendants sought sanctions; on June 22, 2023, Judge Durkin issued a 24-page order finding Respondent unnecessarily multiplied proceedings, that the claims lacked legal basis which she knew or should have known, noting that district judges lack appellate jurisdiction over each other and that M.O. could not qualify for the relief sought, awarding reasonable costs and fees to the City Attorneys, and referring Respondent to the Executive Committee for further action.
Answer: Respondent admits that the City attorneys sought sanctions and that on June 22, 2023, the court issued an order making the described findings, awarding reasonable costs and fees, and referring Respondent; the order speaks for itself. On June 22, 2023, the court found Respondent unnecessarily multiplied proceedings, that her claims lacked legal basis she knew or should have known, awarded reasonable costs and fees to the City attorneys, and referred Respondent to the Executive Committee. Respondent denies that she acted in bad faith, and further states that the reasonable costs were timely paid by the Attorney Respondent. (See Exhibit 4)

F. Respondent is Suspended by the Executive Committee

Paragraph 45: After having issued two rules to show cause to respondent and considering her responses, on November 20, 2023, the Executive Committee of the United States District Court for the Northern District of Illinois entered an order that found Respondent had violated Rules 1.1, 3.1, 3.2 and 3.5 of the Illinois Rules of Professional Conduct, and suspended Respondent until further order of the Court. The

Executive Committee also ordered that prior to seeking readmission to the Court's general bar, Respondent would be required to complete a trial practice course, complete webinars offered by the ARDC on civility and professionalism and mindfulness, complete a continuing legal education course on appellate practice, serve as a second chair on at least five trials, and attend monthly meetings of the Lawyers' Assistance Program for at least one year. The Executive Committee reinstated Respondent to the federal court's general bar on April 30, 2025.

Answer: Respondent admits entry of the November 20, 2023, order, the findings stated therein, and the conditions imposed; On November 20, 2023, the Executive Committee found violations of Rules 1.1, 3.1, 3.2, and 3.5 and suspended Respondent until further order, imposing specified conditions for readmission. on April 30, 2025. The Executive Committee Reinstated Respondent to the general bar on April 30, 2025. Further Attorney Respondent states that on March 6, 2025 she petitioned the Executive Committee for reinstatement to the Federal Bar. (See Attorney Respondent's Petition for Reinstatement to the federal bar attached hereto as Exhibit 5) On April 30, 2025, the Executive Committee entered an Order reinstating Attorney Respondent's admission to the Federal bar. (See Order Reinstating Attorney Respondent attached hereto as Exhibit 6)

Paragraph 46: By reason of the conduct described above, Respondent has engaged in the following misconduct:

a. failing to provide competent representation to a client, by conduct including failing to participate in drafting the joint pretrial memorandum in M. O.'s case, filing untimely motions in limine, and presenting argument and witness testimony

in such a way as to result in a mistrial and the dismissal of her client's case, all in violation of Rule 1.1 of the Illinois Rules of Professional Conduct (2010);

b. bringing a proceeding (the declaratory judgment action before Judge Durkin) where there was no basis for doing so that was not frivolous, in violation of Rule 3.1 of the Illinois Rules of Professional Conduct (2010);

c. failing to make reasonable efforts to expedite litigation consistent with the interests of the client, by conduct including not expediting litigation in M. O.'s case by not participating in drafting an agreed pretrial order and filing untimely motions in limine, in violation of Rule 3.2 of the Illinois Rules of Professional Conduct (2010);

d. knowingly disobeying an obligation under a tribunal, by conduct including presenting argument and eliciting testimony that violated Judge Feinerman's rulings on the defendants' motions in limine, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010);

e. engaging in conduct intended to disrupt a tribunal, by conduct including violating Judge Feinerman's pretrial rulings, in violation of Rule 3.5(d) of the Illinois Rules of Professional Conduct (2010); and

f. made statements that she knew to be false, or which were made with reckless disregard for their truth or falsity, concerning Judge Feinerman's qualifications or integrity, by conduct including accusing Judge Feinerman of making illegal rulings, of being prejudiced and attempting to retaliate against her, and that he had

lost the ability to be objective, and of intentionally violating M. O.'s due process rights, all in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct.

Answer: Attorney Respondent denies the allegations contained in Paragraph 46 that she (a) failed to provide competent representation to a client, (b) that she intentionally brought a proceeding knowing that same was frivolous; (c) that she intentionally failed to make reasonable efforts to expedite litigation consistent with the interests of the client; (d) that she knowingly disobeyed an obligation under a tribunal; (e) that she knowingly engaging in conduct intended to disrupt a tribunal; and (f) that she made statements that she knew to be false, or which were made with reckless disregard for their truth or falsity, concerning Judge Feinerman's qualifications or integrity. Attorney Respondent further states that she has been disciplined three times for this cases involving M.O., including being publicly reprimanded by Judge Feinerman, sanctioned and fined by Judge Durkin, those fines have been paid, and then suspended by the Executive Committee of the US District Court for the Norther District of Illinois. Further, Attorney Respondent has now been reinstated to the federal general bar with no restrictions

COUNT IV
(False Statements About Judge Seeger's Qualifications or Integrity)

Paragraph 47: Beginning in 2021, Respondent represented a woman with the initials "E.P." in federal claims against the University of Illinois at Chicago School of Medicine. The case was originally assigned to the Honorable Robert M. Dow, Jr., and later reassigned to the Honorable Steven C. Seeger.

Answer: Attorney-Respondent admits the allegations contained in Paragraph 47.

Paragraph 48: While E. P.'s case was assigned to Judge Dow, he determined that the complaint prepared by Respondent was legally deficient and he granted Respondent leave to file an amended complaint. Respondent later requested leave to do so, counsel for the defendants responded, and on December 20, 2023, Judge Seeger entered an order that denied Respondent's motion with prejudice and entered judgment in favor of the defendants.

Answer: Attorney-Respondent admits that while E.P.'s case was assigned to Judge Dow, he determined that the complaint prepared by Attorney-Respondent was legally deficient and granted leave to file an amended complaint; that Attorney-Respondent later requested leave to do so; and that on December 20, 2023, Judge Seeger entered an order denying the motion with prejudice and entering judgment in favor of the Defendants. . Attorney-Respondent further states that in the underlying matter judgment was entered against the plaintiff on a motion for leave to file an amended complaint. To the extent Paragraph 48 characterizes any legal conclusions beyond the foregoing admissions, Attorney-Respondent denies such characterizations.

Paragraph 49: Respondent later filed a motion on E. P.'s behalf to alter or amend the December 20, 2023, judgment. In that motion, Respondent stated that in entering judgment against her client, Judge Seeger had likely not actually prepared the order dismissing the case and had relied on his clerk to prepare it; that he "was mistaken and/or deliberately chose to disregard the evidence in the record"; that the dismissal order was "saturated with manifest errors of facts and law and will may well [sic] be reversed on appeal"; that Judge Seeger had not done any research on the issues in the case before

entering judgment; and that he had "launched an underserved [sic] attack on [E. P.] for simply following the law in the matters at hand."

Answer: Attorney-Respondent admits that she filed a motion on E.P.'s behalf to alter or amend the December 20, 2023 judgment pursuant to Rule 59(e). Attorney-Respondent admits that, as described by Count IV, the motion included statements asserting, among other things, that Judge Seeger had likely not actually prepared the order and had relied on a clerk; that he "was mistaken and/or deliberately chose to disregard the evidence in the record"; that the order was "saturated with manifest errors of facts and law and will may well [sic] be reversed on appeal"; that he had not done research before entering judgment; and that he "launched an underserved [sic] attack" on E.P. for following the law. Attorney-Respondent further states that these arguments were made in support of the Rule 59(e) standard requiring a showing of manifest error of law or fact. Except as expressly admitted, Attorney-Respondent denies the remaining allegations in Paragraph 49 and denies any implication that the motion's arguments were made in bad faith. (See Letter prepared on behalf of Attorney respondent relative to this case attached hereto as Exhibit 7)

Paragraph 50: In the motion, Respondent also wrote that "[a]ny litigant, including Plaintiff is entitled to a presiding officer who knows the law that governs the proceeding before the Court." Respondent went on to state that:

It goes without saying that the problem of a Court that lacks working knowledge of the law that governs the cases the Court presides over is even more acute when that Court denies with prejudice a Plaintiff's Motion for Leave to File an Amended Complaint while at the same time the Order denying the Leave shows a disconcerting lack of

familiarity with the governing law as well as disregard for the Court's need to educate itself in the law before launching in [sic] baseless attacks against a litigant.

If this Court had just even taken the time to carefully read Judge Dow's Order, or the Amended Complaint and the footnotes, for that matter, the reason for the inclusion of the individual defendants would have become apparent.

But apparently for whatever reason, the Court did not. Instead, the record shows that this Court summarily skimmed through the filings of the case to cherry pick-in the shortest time possible-whatever would have been useful to put together an Order against Plaintiff with a minimum appearance of legality.

Answer: Attorney-Respondent admits that the motion stated that "[a]ny litigant, including Plaintiff is entitled to a presiding officer who knows the law that governs the proceeding before the Court," and further included the quoted passages concerning the Court's familiarity with governing law, review of filings, and "cherry pick" language. Attorney-Respondent further states that the quoted language was presented to argue manifest error under Rule 59(e) and to preserve issues for potential appeal under an abuse-of-discretion standard. Except as expressly admitted, Attorney-Respondent denies any characterization of these statements as impugning personal integrity rather than arguing legal error. (See attached Exhibit 7)

Paragraph 51: Respondent's statements concerning Judge Seeger related to his qualifications or integrity, in that they accused him of being deliberately choosing to disregard evidence, that he had not understood the issues in the case or done any research and had instead relied exclusively on a clerk before entering an order he had not read, and

that he had been biased against E. P. and "launched an underserved [sic] attack" upon her.

Answer: Denied. Attorney-Respondent states that her statements were legal arguments directed to judicial error under the applicable Rule 59(e) standard and not assertions of personal bias or lack of qualifications, and that references to clerk assistance were offered as context and not as a factual assertion of exclusive reliance or unread orders. (See Attached Exhibit 7)

Paragraph 52: Respondent's statements concerning Judge Seeger's qualifications or integrity were false or were made with reckless disregard to their truth or falsity and were based on nothing other than Respondent's disagreement with Judge Seeger's decision to deny with prejudice Respondent's request to file an amended complaint.

Answer: Denied. Attorney-Respondent states that her arguments were made to identify alleged manifest errors of law or fact in support of a Rule 59(e) motion and were not based solely on disagreement with the decision. (See attached Exhibit 7)

Paragraph 53: By reason of the conduct described above, Respondent has engaged in the following conduct:

a. made statements that she knew to be false, or which were made with reckless disregard for their truth or falsity, concerning Judge Seeger's qualifications or integrity, by conduct including accusing Judge Seeger of having entered an order without having read it, without understanding the applicable law or conducting any research, with knowingly disregarding evidence, and with launching an attack on E. P., in violation of Rule 8.2(a) of the Illinois Rules of Professional Conduct.

Answer: Denied. Attorney-Respondent denies that she made statements she knew to be false or with reckless disregard for truth concerning Judge Seeger's qualifications or integrity, and states that her filings were intended to respectfully advance legal arguments within the bounds of Rule 59(e) and applicable standards of review (See attached Exhibit 7)

Affirmative and Other Defenses: Attorney-Respondent reserves all rights to assert affirmative defenses and objections as may be appropriate following discovery and further proceedings.

Prayer for Relief: Attorney-Respondent respectfully requests that Count IV be dismissed with prejudice; that judgment be entered in Attorney-Respondent's favor; that the record relating to Count IV be sealed; and for such other and further relief as the Court deems just and proper.

COUNT V
(Failure to Appear for Trial and Neglect of Related Appeal)

Paragraph 54. Respondent represented a man with the initials "F. A." in matters relating to a 2017 lawsuit in the Circuit Court of Cook County alleging that F. A. and his spouse ("S. A." who had separate counsel) violated the Chicago Residential Landlord and Tenant Ordinance, the Security Deposit Return Act, and multiple warranties of habitability.

Answer: Admitted

Paragraph 55. The lawsuit related to the plaintiff's tenancy in a residential building, which began in 2012. The plaintiff alleged that the monthly rental for the unit was $900, that he paid his landlords a security deposit of $1,350 (150% of the monthly rent), that there were various problems with the unit that caused the plaintiff to withhold rent, and

that he resided in the unit until July 7, 2016, when he moved out and requested the return of his security deposit. Respondent entered her appearance in the case in 2019, as F. A.'s 3rd or 4th lawyer in this case, at which time F. A. had yet to file an answer to the plaintiff's complaint.

Answer: Admitted

Paragraph 56. After obtaining two extensions of time to respond to the complaint, Respondent filed a response containing a counterclaim and affirmative defenses. The trial court later ruled that the Chicago Residential Landlord and Tenant Ordinance did not apply to the case because at least one of the defendants was an owner and occupier of the premises where the plaintiff rented an apartment, but that the plaintiff could proceed with his claim for the return of the security deposit. The plaintiff later filed an amended complaint to add counts alleging breaches of a warranty of habitability.

Answer: Admitted and in addition to the added counts alleging breach of warranty of habitability the Plaintiff refiled as his Amended Complaint, the entire previous filed Complaint.

Paragraph 57. Disputes arose between the parties over various issues, including F. A.'s responses to discovery requests, his appearance at a deposition, and his failure to answer the plaintiff's amended complaint, and counsel for the plaintiff filed a motion for a default judgment against F. A. On November 3, 2021, the court set an in-person trial for March 21, 2022, and counsel for the plaintiff served Respondent and F. A. with a notice, pursuant to Illinois Supreme Court Rule 237, requiring F. A. to personally appear at the trial. The weekend before the trial was scheduled to start, Respondent notified opposing

counsel by email that she was ill and that a doctor had ordered her to be on a "work restriction." Respondent did not file a motion to continue the trial date.

Answer: Attorney Respondent admits that many disputes arose between the parties including F. A.'s responses to discovery requests, his appearance at a deposition, and his failure to answer the plaintiff's amended complaint, and counsel for the plaintiff filed a motion for a default judgment against F. A. Attorney Respondent further states that F.A.'s responses to discovery, were completed and served on the Plaintiff; F.A. appeared for his deposition, notwithstanding his residing in Mexico, his illness and COVID restrictions on travel; F.A. did file an Answer to Amended Complaint, even though the filing of same was improper to the extent that the Amended Complaint repeated all of the count s related to the alleged violation of the Landlord Tenant Ordinance which Counts the Court had previously ruled did not apply to F.A. because the property was owner occupied' and counsel for Plaintiff's numerous motions for default judgment, all of which were denied.. Attorney Respondent admits that on November 3, 2021, the court set an in-person trial for March 21, 2022, and counsel for the plaintiff served Respondent and F. A. with a notice, pursuant to Illinois Supreme Court Rule 237, requiring F. A. to personally appear at the trial. Attorney Respondent admits that the weekend before the trial was scheduled to start, Respondent notified opposing counsel by email that she was ill and that a doctor had ordered her to be on a "work restriction." Respondent admits that Respondent did not file a motion to continue the trial date.

Paragraph 58. Neither Respondent nor F. A. appeared for trial on March 21, 2022, and the court proceeded in their absence, entering a default judgment against F. A. in the amount of $81,470.50 ($72,097.50 of which some $77,000+ was the plaintiff's attorney's

fees). The court also dismissed co-defendant S. A. from the lawsuit without prejudice. On June 9, 2022, the court entered an order that denied Respondent's motion to vacate the March 21, 2022, judgment order.

Answer: Attorney Respondent admits the allegations contained in Paragraph 58 and further states that by their own admission counsel for Plaintiff and counsel for co-defendant admitted that the trial Judge wanted to continue the trial date because of the illness of Attorney Respondent but the counsel for Plaintiff and counsel for co-defendant convinced the Court to enter a default judgment instead.

Paragraph 59. On July 8, 2022, Respondent filed a notice of appeal of the March 21, 2022, and June 9, 2022, orders in the Illinois Appellate Court for the First District. Pursuant to Illinois Supreme Court Rule 326, Respondent was required to file the record on appeal within 63 days of filing the notice of appeal, which would have been September 9, 2022.

Answer: Attorney Respondent admits the allegations contained in Paragraph 59.

Paragraph 60. As of March 9, 2023, Respondent had not filed the record on appeal, and on that date, filed a motion to file the record on appeal, instanter. Respondent had not previously asked the appellate court to extend the deadline for the filing of the record on appeal. The appellate court granted the motion to file the record, instanter, on March 13, 2023, and on March 17, 2023, after counsel for the plaintiff and S. A. objected to the request, allowed the late filing to stand.

Answer: Attorney Respondent admits the allegations contained in Paragraph 60.

Paragraph 61. The appellate court issued its decision in the appeal on December 13, 2023. The court declined to reach the merits of the appeal because of what it termed the "extraordinarily late filing of the record on appeal," concluding that Rule 323 "has the force of law and is binding upon both the court and the litigant." Accordingly, a majority of the appellate panel determined that its March 13, 2023 order allowing Respondent's request to file the record on appeal, instanter, had been "ineffective to serve as an extension to cure the extraordinary filing delay," and concluded that "[t]hough the failure to timely file a record does not deprive us of jurisdiction, it is well within our discretion to decline to consider the merits of an appeal where the appellant has fragrantly violated our supreme court rules." The third member of the appellate panel concurred in the decision to dismiss the appeal due to the lack of compliance with the supreme court rules.

Answer: Attorney Respondent admits the allegations contained in Paragraph 61.

Paragraph 62. By reason of the conduct described above, Respondent has engaged in the following misconduct:

a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to appear at trial or timely file the record on appeal, resulting in both the judgment against her client and the dismissal of the subsequent appeal, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010).

Answer: Attorney Respondent admits the allegations contained in Paragraph 62, but further states that circumstances beyond her control prevented her from attending or timely filing a motion to continue the trial date, and that F.A. had a duty to appear for his own trial having been served with notice to do so. Had F.A. appeared for his own trial he

would not have been in default, notwithstanding the absence of his counsel for health reasons, no default would have been entered, and no appeal would have been necessary.

WHEREFORE, the Attorney Respondent respectfully requests that this matter be dismissed, that the record on this Count V sealed, with no recommendation of discipline.

Additional Information

The Attorney Respondent attaches as Exhibit 8 a letter requesting reconsideration of the Inquiry Board's decision to issue a complaint against her. (See attached Exhibit 8)

In compliance with the Rules of the Attorney Registration and Disciplinary Commission Rule 231 Attorney Respondents states as follows:

(a) Respondent's Professional Background

Attorney Respondent's Bar Admissions:

1. United States District Court for the Northern District of Illinois July 16, 2015
2. United States District Court for the Northern District of Indiana October 9, 2019
3. Supreme Court of the United States of America May 28, 1991; and
4. United States Court of Appeals 7th Circuit 2018

(b) Other Professional Licenses

Attorney Respondent received a Real Estate Broker's License in approx. 1993, and not renewed since approx. 2002

Respectfully submitted,

CALVITA J. FREDERICK
Attorney Respondent

BY: _____/s/ Calvita J. Frederick_____
Calvita J. Frederick

Calvita J. Frederick
Attorney-Respondent
Post Office Box 802976
Chicago, Illinois 60680
Telephone (312) 421-5544
Email: cjf@cjfrederiklaw.com

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 fax (312) 277-7190

May 22, 2025

Scott Renfroe
Deputy Administrator, Appeals
Attorney Registration & Disciplinary Commission
Of the Supreme Court of Illinois
130 E. Randolph Drive Suite 1500
Chicago, Illinois 60601

Re: Calvita J. Frederick
In relation to
Shermeka Fountain
No. 2025IN01225
Octavia Smith and Genevra Walters
2025IN01753

Dear Mr. Renfroe:

Thank you for the opportunity to respond to the concerns of Shermeka Fountain, Octavia Smith, and Genevra Walters. I apologize for the delay in responding to this complaint. I am in the process of preparing for two upcoming trials and the federal court pre-trial process is extremely time-consuming. In addition, I had planned a short family vacation for last week I appreciate your patience in granting me the additional requested time to respond.

I also appreciate your granting me permission to respond to these two complaints together, as the complainants are connected. It is good that Ms. Walters also filed a complaint because it contains information about how this legal representation started, the promises that were made by each of the parties, along with my requirements for taking on this assignment.

Ms. Walters initially contacted me via telephone having been referred to me by one of my trusted colleagues. Ms. Walters advised that she represented a group of current or former employees, and job applicants of the Kankakee School District 111 ("Kankakee" or School

District"), who wished to bring a lawsuit against Kankakee and potentially against the individual board member of Kankakee, as well.

Ms. Walters was a former Superintendent of Kankakee who had a claim for discrimination in employment based upon race, retaliation, harassment, hostile work environment, disparate treatment, which resulted in her wrongful constructive termination in violation of Title VII, libel and slander, and other violations of her constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act.

In her current position of Assistant Superintendent of Human Resources, Ms. Fountain had been placed on paid administrative leave after questioning the absence of due process given to another employee. Ms. Fountain's claims were based upon allegations of retaliation for engaging in a protected activity, harassment, hostile work environment, and sexual harassment in violation of the Illinois Human Rights Act and Title VII of the Civil Rights Act of 1964, violation of the American with Disabilities Act, ("ADA") violation of her Constitutional Rights, in particular the 14th Amendment right to due process, and 42 U.S.C. §1981 and §1983.

In addition, Ms. Walters and Ms. Fountain had a potential claim for libel and slander having been depicted on Facebook by one of the board members as thieves accused of having wrongfully taken some $900,000 of the Kankakee School District's monies.

Ms. Smith presented with a claim for discrimination in employment based upon race, failure to hire, harassment, disparate treatment in violation of Title VII, violation of the American with Disabilities Act, ("ADA"), violation of Section 504 of the Rehabilitation Act, and other violations of her constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act. Ms. Smith had received a letter of intent to hire but then was told she did not meet the qualifications for the position. Ms. Smith suffered with Sickle Cell Anemia and believed the reversal of the decision to hire was based upon her disability.

Mr. Frank Menzies had a claim for discrimination in employment based upon race, retaliation, harassment, hostile work environment, disparate treatment and wrongful termination in violation of Title VII, and other violations of your constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act. Mr. Menzies was terminated for a situation the School Board was well aware of prior to hiring him.

From our initial telephone conversation and at all times thereafter, Ms. Walters made it clear that she would be responsible for paying the bulk of the legal fees because:

A. She was the former Superintendent of the School District and was aware of violations endured by several of the current, former and potential employees, including herself;
B. Ms. Walters felt so strongly about the potential discrimination cases that she was willing to pay the legal fees herself.
C. Ms. Walters was aware that most of the potential plaintiffs could not afford to pay legal fees and without her financial assistance, the wrongs suffered by the above listed potential plaintiffs would not be addressed; and
D. Ms. Walters was expecting to receive a large sum of money connected to her pension/retirement and could afford to pay the legal fees for the parties.

Ms. Walters assured me that there were at least four Plaintiffs and believed others would join as we proceeded with the litigation.

I made it very clear to Ms. Walters that I was only willing to take on the assignment with multiple plaintiffs and that I would not proceed with only one Plaintiff as I have taken on litigation against suburban school districts before and I knew the fight would be difficult.

I discussed my retainer fee of $15,000 payable for each of the parties to be involved, for a total $45,000.00 retainer fee for the case. Ms. Walters assured me that the monies would be available, some coming from the individual Plaintiff's but the bulk coming from her. We had many telephone conversations, most of which included Ms. Walters and Ms. Fountain. On three occasions I spoke over the telephone with Mr. Menzies who called me pursuant to Ms. Walters' direction. Mr. Menzies was a band/music teacher who was facing a termination hearing and wanted me to attend the hearing on his behalf. Mr. Menzies failed and refused to provide any funds for legal fees wanting to be included in the group that Ms. Walters was to pay for. Eventually Mr. Menzies dropped out of the group, but not before I had spent considerable time and had several lengthy telephone calls with him.

Ms. Walters made an initial payment of $1,000.00 and we agreed to meet. Because all of the parties lived in or near Kankakee, I arranged for a meeting in Crete/Monee. At that time, I met Ms. Walters, Ms. Fountain and Ms. Smith. Three Retainer Agreements were signed at that meeting, each for $15,000.00. One was signed by Ms. Fountain, and one signed by Dr. Walters and the third agreement was signed by both Ms. Smith and Ms. Walters, Ms. Walters making herself responsible for the payment of Ms. Smith's Retainer Fee of $15,000.00, and a total of $30,000.00. Mr. Menzies was expected but did not appear at that meeting.

Ms. Fountain made an initial payment of $5,000.00 at the September 17, 2025, meeting and set forth a payment arrangement for the balance. Ms. Smith's Retainer Agreement provided for a $3,000.00 downpayment and an arrangement for the payment of the balance. Ms. Walters' Retainer fee left the payment arrangement open. (See Retainer Fee Agreements attached hereto as Exhibit "A", "B" and "C").

Over the next 4-5 months, I continued to work on the cases as Ms. Walters continued to assure me that her payments were coming. Ms. Fountain paid the balance of $15,000.00 of the total $45,000.00 fee she had promised to pay, as agreed.

Ms. Walter, Ms. Fountain and Ms. Smith pushed for the cases to go forward and, based upon the repeated assurances that funds were forthcoming, I continued to work on the cases.

In mid-October, I prepared a letter that was sent to Kankakee, advising that I had been retained, the nature of the complaints to be filed, and my intention to process claims before the Illinois Department of Human Rights. Before sending the letter, I obtained the approval of all three parties: Ms. Walters, Ms. Fountain and Ms. Smith. (See Letter to Kankakee School Board attached hereto as Exhibit "D")

The deadlines promised for payment by Ms. Walters came and went. In addition, Ms. Walters scheduled an appointment with me and canceled it after I had arrived at the designated meeting place, a 45-minute drive for me.

Finally, in December of 2024, Ms. Walters advised that her monies had been sent and even provided screen shots detailing the deposit made, advising that she was waiting for funds to clear. Based upon Ms. Walters' continuing promises, I continued to work preparing the IDHR charges on behalf of Ms. Fountain and Ms. Smith. I still needed more detail on Ms. Walters' case which was to be provided at the meeting she cancelled.

On the day after sending the screen shot of the monies, Ms. Walters advised she did not intend to pay and terminated the relationship. Additionally, I never heard anything from Ms. Smith, had only met her that one time and she never paid me any money directly.

It should be noted that Ms. Fountain had been on paid administrative leave since the day before I was retained. In early December 2024, Ms. Fountain received a Resolution Regarding the Termination of a Tenured Teacher and Bill of Particulars from the School District. Upon receipt of the termination packet, Ms. Fountain took certain steps, which I believe negatively affected her rights to certain other administrative hearings before different bodies. These hearings were not contemplated nor covered within the Retainer Agreements signed by the parties which only provided for the filing of the Charge before the IDHR and the subsequent lawsuit. When I initially told Ms. Fountain that this additional work was not included, and would require an additional retainer, Ms. Fountain asked me how much. I advised that this additional work would be on a straight hourly payment and would require a $10,000 retainer fee. Ms. Fountain became angry and argued that the $15,000.00 fee previously paid should be applied to this new work assignment. I respectfully disagreed.

Communications with Ms. Fountain and Ms. Walters became increasingly hostile and argumentative. In our last telephone conversation, Ms. Fountain expressed her intent to seek new counsel. I believed that I was being terminated and wrote a letter to Ms. Fountain accepting the termination. (See letter attached as Exhibit "E")

Attached is the Invoice I prepared for work completed by my office related to this group assignment. (See Exhibit "F") I also attach the files of each of the Plaintiffs as follows:

Ms. Walters' file as Group Exhibit "G")

Ms. Smith's file as Group Exhibit "H") and

Ms. Fountain's file as Group Exhibit "I".

I do not know or understand what the Complaint filed by Ms. Smith and Ms. Walters is requesting. Ms. Walters agreed to pay $30,000.00 on behalf of herself and Ms. Smith. $3,000.00 was paid by Ms. Walters. Ms. Smith never paid me any money. No refund is requested, and no refund is due. The relationship was terminated by Ms. Walters and I accepted her decision.

As related to Ms. Fountain, as per my Invoice, I do not believe any refund is due. In fact, a balance is owed to me. My conversations and emails were almost always received from and sent to all parties. I made it clear from the beginning that my agreement was to represent at least three plaintiffs against the School District otherwise I would not take on the cases. Ms. Walters, who was my initial contact and the person in charge of this litigation plan, said she understood my position. As I understood the arrangement, this was a joint undertaking with all parties contributing to the $45,000.00 pot. Ms. Walters wanted me to start the work on all parties' behalf once the initial payment of $5,000.00 was made by Ms. Fountain, as it was a group effort. Once Ms. Walters began to renege on her promises to pay, the parties wanted me to operate as if Ms. Fountain was a stand-alone client, and she was not, and had never been. That was not the original agreement and to attempt to change the agreement well into the game is grossly unfair to me. Nevertheless, it is my belief that Ms. Fountain's $15,000.00 was mostly used in her case.

Ms. Walters admits in her complaint that she made the initial contact and paid the initial deposit in a plan for me to take on the three cases. Additional payments were made by both Ms. Walters and Ms. Fountain, and the work of my office continued in good faith for all parties involved. It is difficult if not impossible to now require me to separate out and only charge Ms. Fountain for the work done on her behalf, and then to take a loss on the work done on behalf of Ms. Walters, Mr. Menzies and Ms. Smith. I had no direct contact with Ms. Fountain except through Ms. Walters.

I am not the party responsible for the breakdown of the relationship, nor was it my decision to terminate the relationship. Ms. Walters breached the retainer agreement contract by non-payment, and Ms. Fountain began taking pro-se actions that put her legal right in jeopardy and then terminated me because I did not agree with what she had done. In addition, Ms. Fountain required me to take on three additional hearings with outside administrative bodies for no additional pay, which I refused to do. I should not be left holding the bag.

Thank you for the opportunity to respond to these complaints.

Respectfully submitted,

Calvita J. Frederick

Attachments

CALVITA J. FREDERICK
Attorney at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312)277-7190 fax

Dated: September 17, 2024

CONTRACT FOR LEGAL SERVICES

Client: SHAMEKA FOUNTAIN

I do hereby agree to act as your attorney in representing you and attempting to effect settlement or a litigated resolution of an action to be brought by you against KANKAKEE SCHOOL DISTRICT 111, TERESA LANCE, EdD, individually and in her official capacity as Superintendent of KANKAKEE SCHOOL DISTRICT 111, nine (9) individual KANKAKEE SCHOOL BOARD MEMBERS to be named, individually and in their official capacity as Board Members of the KANKAKEE SCHOOL DISTRICT 111, their agents, employees, designees, insurance companies, successors and or assigns (and any other person, firm, association or legal entity who may be proper defendants) for discrimination in employment based upon race, retaliation, harassment, hostile work environment, disparate treatment and wrongful termination in violation of Title VII, and other violations of your constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act and to be filed in the appropriate Court, in Illinois.

In consideration of the services to be rendered by me, you agree to pay me an initial retainer fee of Fifteen Thousand Dollars ($15,000.00) to be applied for legal services to be rendered by the attorney at the approximate rate of $350.00 for hour for office time, including telephone calls, travel time and necessary time spent filing required documents with the courts, state, city and federal agencies, and $400.00 per hour for time spent out of the office on activities related to this legal matter including court

appearances, depositions mediation hearings, etc.. The initial retainer fee is to be paid as follows: $5000.00 up front paid on or about September 16, 2024, and the balance to be paid ~~monthly beginning~~ 9/27, 2024, at the rate of $ 2000.00 ~~per month until the balance is paid in full~~. + Then $8000 on Oct 18, 2024

Initials

It is further understood and agreed that **additional fees** will be required and that after the retainer fee is paid that the parties agree that in addition to the retainer fee, client agrees to a contingency fee agreement based upon the following arrangement: 1/3 of all sums collected by settlement or verdict as a result of a trial to the attorney, payment of all outstanding costs and the balance of all sums collected to the client. Any additional fees will be discussed and agreed upon between the parties.

In addition, it is understood and agreed that the attorney may attempt to resolve this matter via settlement. **The term "settlement" shall refer to any settlement made by me with your approval and any settlement made by you without my approval. I understand that I have no authority to effect a settlement without your express consent.**

Initials

It is understood and agreed that I accept said assignment prior to the presentation of all of your documents and proofs and without an opportunity to investigate or research the issues presented. I therefore retain the right to decline said assignment based upon my investigation and research and return the unused portion of the retainer agreement.

Initials

Necessary out-of-pocket litigation and other expenses may be advanced by the firm but shall be reimbursed by you either out of any settlement or award or directly by you upon demand. These expenses include but are not limited to court reporting services, expert witness fees, court filing fees, (estimated to be $750.00, payable when the case is deemed ready for filing in court) reasonable travel expenses, subpoena costs and fees paid to trial witnesses, the cost to create demonstrative trial exhibits, and the costs to obtain copies of any records on your behalf from third parties. The attorney shall have no obligation to advance such expenses but may agree to do so as a courtesy to you.

Initials

I agree to diligently prosecute your claim and make all reasonable and necessary efforts to collect any judgment rendered on said claim in your favor, and I will promptly communicate to you any settlement offers. I reserve the right to employ other counsel at no added expense to you if (in my discretion) I feel such employment desirable or necessary.

If you agree with all of the foregoing, please sign under the words "Agreed to and Accepted" and return to me, making this your contract with me. Retain one copy of this agreement for your records.

Very Truly Yours,
Calvita J. Frederick.
Attorney at Law

By: Calvita J. Frederick
Attorney at Law
Dated 9/17/2024

Agreed to and accepted
SHAMEKA FOUNTAIN

Dated 9/17/24

PLEASE READ THESE IMPORTANT INSTRUCTIONS

1. Do not discuss your case with anyone other than your attorney

2. Refer all inquiries concerning your case to your attorney. Instruct members of your family (and all others who may possess information concerning your case) to refer all such inquiries to you. ***You in turn should refer all such inquiries to your attorney.***

3. Do not sign or initial any documents, statements or forms of any kind unless approved by your attorney.

CLIENT BILL OF RIGHTS

EACH CLIENT SHALL HAVE THE FOLLOWING RIGHTS:

I. **RESPONSIVE SERVICE:** The client shall have the right to expect their phone call returned by an attorney or staff member on the same business day as received, but in no event later than the business day after receipt.

II. **RESPECTFUL TREATMENT:** The client shall be treated with courtesy, compassion and respect.

III. **COMPETENT REPRESENTATION:** The client shall receive dedicated and competent legal representation during the attorney-client relationship.

IV. **INFORMED REPRESENTATION:** The client shall have the right to be kept reasonably advised of the progress of the case/matter at reasonable intervals during the attorney-client relationship.

V. **REASONABLE FEES:** The client shall have the right to be billed a fair and reasonable fee based on the legal service performed.

VI. **ADVANCE KNOWLEDGE OF FEES:** The client shall have the right to know in advance what fee or fee range will be incurred.

VII. **ENGAGEMENT LETTER:** The client shall have the right to receive a letter, promptly upon engagement, outlining the scope and objective of the representation and the fee and billing arrangement.

VIII. **SOLUTIONS:** The client shall have the right to be presented with not only an analysis of the legal issues, but also as many solutions to those issues as are reasonably feasible.

IX. **SATISFACTION WITH BILLING AND SERVICE:** The client shall have the right to pay only for services, which were performed in a manner reasonably satisfactory to the client.

X. **EVALUATION OF THE SERVICES PERFORMED:** The client shall have the right to evaluate, anonymously if desired, the work performed.

I HAVE RECEIVED AND READ THE AFOREGOING DOCUMENT

SHAMEKA FOUNTAIN

9/17/24
DATED

CALVITA J. FREDERICK
Attorney at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312)277-7190 fax

Dated: September 17, 2024

CONTRACT FOR LEGAL SERVICES

Client: OCTAVIA SMITH

I do hereby agree to act as your attorney in representing you and attempting to effect settlement or a litigated resolution of an action to be brought by you against KANKAKEE SCHOOL DISTRICT 111, TERESA LANCE, EdD, individually and in her official capacity as Superintendent of KANKAKEE SCHOOL DISTRICT 111, nine (9) individual KANKAKEE SCHOOL BOARD MEMBERS to be named, individually and in their official capacity as Board Members of the KANKAKEE SCHOOL DISTRICT 111, their agents, employees, designees, insurance companies, successors and or assigns (and any other person, firm, association or legal entity who may be proper defendants) for discrimination in employment based upon race, failure to hire, harassment, disparate treatment in violation of Title VII, violation of the American with Disabilities Act, ("ADA"), violation of Section 504 of the Rehabilitation Act, and other violations of your constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act and to be filed in the appropriate Court, in Illinois.

In consideration of the services to be rendered by me, you agree to pay me an initial retainer fee of Fifteen Thousand Dollars ($15,000.00) to be applied for legal services to be rendered by the attorney at the approximate rate of $350.00 for hour for office time, including telephone calls, travel time and necessary time spent filing required documents with the courts, state, city and federal agencies, and $400.00 per hour for time

spent out of the office on activities related to this legal matter including court appearances, depositions mediation hearings, etc.. The initial retainer fee is to be paid as follows: $ 2000.00 up front paid on or about September 16, 2024, and the balance to be paid ~~monthly beginning _____, 2024, at the rate of $_____ per month until the balance is~~ paid in full. no later than Nov 30, 2024

Initials _____

It is further understood and agreed that **additional fees** will be required and that after the retainer fee is paid that the parties agree that in addition to the retainer fee, client agrees to a contingency fee agreement based upon the following arrangement: 1/3 of all sums collected by settlement or verdict as a result of a trial to the attorney, payment of all outstanding costs and the balance of all sums collected to the client. Any additional fees will be discussed and agreed upon between the parties.

In addition, it is understood and agreed that the attorney may attempt to resolve this matter via settlement. **The term "settlement" shall refer to any settlement made by me with your approval and any settlement made by you without my approval. I understand that I have no authority to effect a settlement without your express consent.**

Initials _____

It is understood and agreed that I accept said assignment prior to the presentation of all of your documents and proofs and without an opportunity to investigate or research the issues presented. I therefore retain the right to decline said assignment based upon my investigation and research and return the unused portion of the retainer agreement.

Initials _____

Necessary out-of-pocket litigation and other expenses may be advanced by the firm but shall be reimbursed by you either out of any settlement or award or directly by you upon demand. These expenses include but are not limited to court reporting services, expert witness fees, court filing fees, (estimated to be $750.00, payable when the case is deemed ready for filing in court) reasonable travel expenses, subpoena costs and fees paid to trial witnesses, the cost to create demonstrative trial exhibits, and the costs to obtain copies of any records on your behalf from third parties. The attorney shall have no obligation to advance such expenses but may agree to do so as a courtesy to you.

Initials OS

I agree to diligently prosecute your claim and make all reasonable and necessary efforts to collect any judgment rendered on said claim in your favor, and I will promptly communicate to you any settlement offers. I reserve the right to employ other counsel at no added expense to you if (in my discretion) I feel such employment desirable or necessary.

If you agree with all of the foregoing, please sign under the words "Agreed to and Accepted" and return to me, making this your contract with me. Retain one copy of this agreement for your records.

Very Truly Yours,
Calvita J. Frederick.
Attorney at Law

Calvita Frederick
By: Calvita J. Frederick
Attorney at Law
Dated_____

Agreed to and accepted
OCTAVIA SMITH
O Smith
Dated 9/17/24
Genevra Walters

PLEASE READ THESE IMPORTANT INSTRUCTIONS

1. Do not discuss your case with anyone other than your attorney

2. Refer all inquiries concerning your case to your attorney. Instruct members of your family (and all others who may possess information concerning your case) to refer all such inquiries to you. ***You in turn should refer all such inquiries to your attorney.***

3. Do not sign or initial any documents, statements or forms of any kind unless approved by your attorney.

CLIENT BILL OF RIGHTS

EACH CLIENT SHALL HAVE THE FOLLOWING RIGHTS:

I. **RESPONSIVE SERVICE:** The client shall have the right to expect their phone call returned by an attorney or staff member on the same business day as received, but in no event later than the business day after receipt.

II. **RESPECTFUL TREATMENT:** The client shall be treated with courtesy, compassion and respect.

III. **COMPETENT REPRESENTATION:** The client shall receive dedicated and competent legal representation during the attorney-client relationship.

IV. **INFORMED REPRESENTATION:** The client shall have the right to be kept reasonably advised of the progress of the case/matter at reasonable intervals during the attorney-client relationship.

V. **REASONABLE FEES:** The client shall have the right to be billed a fair and reasonable fee based on the legal service performed.

VI. **ADVANCE KNOWLEDGE OF FEES:** The client shall have the right to know in advance what fee or fee range will be incurred.

VII. **ENGAGEMENT LETTER:** The client shall have the right to receive a letter, promptly upon engagement, outlining the scope and objective of the representation and the fee and billing arrangement.

VIII. **SOLUTIONS:** The client shall have the right to be presented with not only an analysis of the legal issues, but also as many solutions to those issues as are reasonably feasible.

IX. **SATISFACTION WITH BILLING AND SERVICE:** The client shall have the right to pay only for services, which were performed in a manner reasonably satisfactory to the client.

X. **EVALUATION OF THE SERVICES PERFORMED:** The client shall have the right to evaluate, anonymously if desired, the work performed.

I HAVE RECEIVED AND READ THE AFOREGOING DOCUMENT

O Smith
OCTAVIA SMITH

9/17/24
DATED

Genevra Walters
Genevra Walters

CALVITA J. FREDERICK
Attorney at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312)277-7190 fax

Dated: September 17, 2024

CONTRACT FOR LEGAL SERVICES

Client: GENEVRA WALTERS

I do hereby agree to act as your attorney in representing you and attempting to effect settlement or a litigated resolution of an action to be brought by you against KANKAKEE SCHOOL DISTRICT 111, TERESA LANCE, EdD, individually and in her official capacity as Superintendent of KANKAKEE SCHOOL DISTRICT 111, nine (9) individual KANKAKEE SCHOOL BOARD MEMBERS to be named, individually and in their official capacity as Board Members of the KANKAKEE SCHOOL DISTRICT 111, their agents, employees, designees, insurance companies, successors and or assigns (and any other person, firm, association or legal entity who may be proper defendants) for discrimination in employment based upon race, retaliation, harassment, hostile work environment, disparate treatment and wrongful constructive termination in violation of Title VII, libel and slander,and other violations of your constitutional rights pursuant to Sections 1981 and/or 1983 of the Civil Rights Act and to be filed in the appropriate Court, in Illinois.

In consideration of the services to be rendered by me, you agree to pay me an initial retainer fee of Fifteen Thousand Dollars ($15,000.00) to be applied for legal services to be rendered by the attorney at the approximate rate of $350.00 for hour for office time, including telephone calls, travel time and necessary time spent filing required documents with the courts, state, city and federal agencies, and $400.00 per hour for time

spent out of the office on activities related to this legal matter including court appearances, depositions mediation hearings, etc.. The initial retainer fee is to be paid as follows: $_____ up front paid on or about September 16, 2024, and the balance to be paid monthly beginning _____, 2024, at the rate of $_____ per month until the balance is paid in full.

TBD

Initials _____

It is further understood and agreed that **additional fees** will be required and that after the retainer fee is paid that the parties agree that in addition to the retainer fee, client agrees to a contingency fee agreement based upon the following arrangement: 1/3 of all sums collected by settlement or verdict as a result of a trial to the attorney, payment of all outstanding costs and the balance of all sums collected to the client. Any additional fees will be discussed and agreed upon between the parties.

In addition, it is understood and agreed that the attorney may attempt to resolve this matter via settlement. **The term "settlement" shall refer to any settlement made by me with your approval and any settlement made by you without my approval. I understand that I have no authority to effect a settlement without your express consent.**

Initials _____

It is understood and agreed that I accept said assignment prior to the presentation of all of your documents and proofs and without an opportunity to investigate or research the issues presented. I therefore retain the right to decline said assignment based upon my investigation and research and return the unused portion of the retainer agreement.

Initials _____.

Necessary out-of-pocket litigation and other expenses may be advanced by the firm but shall be reimbursed by you either out of any settlement or award or directly by you upon demand. These expenses include but are not limited to court reporting services, expert witness fees, court filing fees, (estimated to be $750.00, payable when the case is deemed ready for filing in court) reasonable travel expenses, subpoena costs and fees paid to trial witnesses, the cost to create demonstrative trial exhibits, and the costs to obtain copies of any records on your behalf from third parties. The attorney shall have no obligation to advance such expenses but may agree to do so as a courtesy to you.

Initials _____

I agree to diligently prosecute your claim and make all reasonable and necessary efforts to collect any judgment rendered on said claim in your favor, and I will promptly communicate to you any settlement offers. I reserve the right to employ other counsel at no added expense to you if (in my discretion) I feel such employment desirable or necessary.

If you agree with all of the foregoing, please sign under the words "Agreed to and Accepted" and return to me, making this your contract with me. Retain one copy of this agreement for your records.

Very Truly Yours,
Calvita J. Frederick.
Attorney at Law

_____
By: Calvita J. Frederick
Attorney at Law
Dated 9/17/2024

Agreed to and accepted
GENEVRA WALTERS

_____
Dated 9/17/2024

PLEASE READ THESE IMPORTANT INSTRUCTIONS

1. Do not discuss your case with anyone other than your attorney

2. Refer all inquiries concerning your case to your attorney. Instruct members of your family (and all others who may possess information concerning your case) to refer all such inquiries to you. *You in turn should refer all such inquiries to your attorney.*

3. Do not sign or initial any documents, statements or forms of any kind unless approved by your attorney.

CLIENT BILL OF RIGHTS

EACH CLIENT SHALL HAVE THE FOLLOWING RIGHTS:

I. **RESPONSIVE SERVICE:** The client shall have the right to expect their phone call returned by an attorney or staff member on the same business day as received, but in no event later than the business day after receipt.

II. **RESPECTFUL TREATMENT:** The client shall be treated with courtesy, compassion and respect.

III. **COMPETENT REPRESENTATION:** The client shall receive dedicated and competent legal representation during the attorney-client relationship.

IV. **INFORMED REPRESENTATION:** The client shall have the right to be kept reasonably advised of the progress of the case/matter at reasonable intervals during the attorney-client relationship.

V. **REASONABLE FEES:** The client shall have the right to be billed a fair and reasonable fee based on the legal service performed.

VI. **ADVANCE KNOWLEDGE OF FEES:** The client shall have the right to know in advance what fee or fee range will be incurred.

VII. **ENGAGEMENT LETTER:** The client shall have the right to receive a letter, promptly upon engagement, outlining the scope and objective of the representation and the fee and billing arrangement.

VIII. **SOLUTIONS:** The client shall have the right to be presented with not only an analysis of the legal issues, but also as many solutions to those issues as are reasonably feasible.

IX. **SATISFACTION WITH BILLING AND SERVICE:** The client shall have the right to pay only for services, which were performed in a manner reasonably satisfactory to the client.

X. **EVALUATION OF THE SERVICES PERFORMED:** The client shall have the right to evaluate, anonymously if desired, the work performed.

I HAVE RECEIVED AND READ THE AFOREGOING DOCUMENT

Genevra Walters — 09-17-24

GENEVRA WALTERS — DATED

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
Post Office Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312) 277-7190
cjf@cjfredericklaw.com Calvita.frederick@at.net

PERSONAL AND CONFIDENTIAL – FOR SETTLEMENT PURPOSES ONLY

October 20, 2024

Dr Teresa A. Lance
Superintendent of Schools
Kankakee School District 111
240 Warren Avenue
Kankakee, IL. 60901

Re: Shermeka Fountain, Octavia Smith, et al vs Dr. Teresa A. Lance, Kankakee School District 111, et al

Dear Dr. Lance:

You are hereby notified that Shermeka Fountain (Ms. Fountain), and others have retained our office- the undersigned -- as plaintiff's attorney to prosecute for collection by suit or settlement, a claim, demand, or cause of action against you individually, the Kankakee School District 111, ("District 111") and its individual board members. Ms. Fountain's claims are based upon allegations of retaliation for engaging in a protected activity, harassment, hostile work environment, and sexual harassment in violation of the Illinois Human Rights Act and Title VII of the Civil Rights Act of 1964, violation of the American with Disabilities Act, ("ADA") violation of her Constitutional Rights, in particular the 14th Amendment right to due process, and 42 U.S.C. §1981 and §1983.

As I understand the pertinent facts, Ms. Fountain has been employed by the District 111 since approximately 2017. Her current position is Assistant Superintendent of Human Resources. She is a *tenured* staff member, has had no performance issues and has never been disciplined.

On September 10, 2024, Ms. Fountain was called into the office and handed the attached letter advising that she was immediately placed on paid administrative leave, pending an investigation into her performance that could lead to discipline, up to and

including termination. No performance issues or incidents were listed, and Ms. Fountain has no idea why she has been placed on administrative leave. Ms. Fountain was then advised to turn over certain items, including her keys and computer, and was escorted out of the building by the head of security.

Since September 10, 2024, one meeting was held where Ms. Fountain was questioned about matters unrelated to the current disciplinary leave. Ms. Fountain's request for a Complaint Manager to attend that meeting was denied by you.

On October 8, 2024, Ms. Fountain received a telephone call from your office requiring her to attend a meeting scheduled for October 9, 2024. Within the next two hours Ms. Fountain received an email rescheduling that meeting for October 22, 2024, at 10:00 AM. For the reasons set forth below, Ms. Fountain cannot attend that scheduled meeting.

Suffice it to say, Ms. Fountain is very upset by these actions. No explanation has been provided detailing the basis for the discipline. Not knowing the nature and extent of the allegations against her, Ms. Fountain has, of course, been denied due process in the failure to know what she is charged with and provided a reasonable opportunity to defend herself. As a result of these erratic and unexplained actions taken against her, her stress level has greatly increased

As you know, Ms. Fountain is an [redacted]. Increased stress levels are dangerous risk factors for [redacted] and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an [redacted] and a [redacted]. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

Ms. Fountain also believes that she is being set up for termination. Her anxiety related to the potential for termination appears to be well-grounded in fact. Upon

information and belief, an interim superintendent of Human Resources has been hired to temporarily fill her position at the Kankakee School District.

As a *tenured* staff member, with a Professional Education License, Ms. Fountain is entitled to certain protections under the Illinois School Code. The manner in which you have chosen to issue discipline to Ms. Fountain appears to be intended to harass and humiliate her, along with producing extreme anxiety and stress. These actions not only violate state and federal statutes, including the Illinois School Code, but also run afoul of the policies and procedures set forth in the School District 111 Board Policy, currently in place to protect District 111 employees.

Ms. Fountain is not the only District 111 employee who has retained our office to pursue a claim against the District 111 and its official Board members. Ms. Octavia Smith has also requested we represent her in a claim for harassment and violation of the ADA based upon matters surrounding her employment application. Ms. Smith suffers from [redacted] and the manner in which her application for employment was handled landed her in the emergency room for stress-related symptoms.

Please know that I am preparing to file charges with the Illinois Department of Human Rights, or other appropriate authority, required to exhaust our administrative remedies, prior to filing our lawsuit.

In the short interim, we are open to settlement discussions. Should your organization and its board have any desire to seek an amicable resolution of Ms. Fountain and Ms. Smith's discrimination claims, you, or your legal counsel, should contact my office immediately.

Sincerely,

CJ Frederick
Calvita J. Frederick

Attachment

Cc: Teresa Lance teresa-lance@ksd111.org
Christopher Bohlen christopher-bohlen@ksd111.org
Jess Gathing jess-gathing@ksd111.org
Tracy Verrett tracy-verrett@ksd111.org
Mary Archie mary-archie@ksd111.org
Deb Johnston deb-johnston@ksd111.org
Darrell Williams darrell-williams@ksd111.org
Suzzana Berrones suzanna-berrones@ksd111.org

From: CALVITA Frederick Sowell <calvita.frederick@att.net>

Date: Mon, Jan 6, 2025, 5:50 PM

Subject: Re: Meeting with Shemeka Fountain 12.3.24

To: shemeka fountain <shemekamfountain@gmail.com>, Genevra Walters <committeetoelectgenevraw@gmail.com>, Octavia Smith <smithoctavia913@yahoo.com>

Good afternoon:

Based upon our last telephone conversation, I am concerned about the following:

1 Your inability to understand my position relates to the retainer fee paid and the additional work required.

Our agreement in place today provides for representation in preparing and filing an employment discrimination case. It is a retainer fee plus a contingency fee arrangement. The agreement contemplated me preparing and submitting a demand letter, the preparation and filing of a charge with either the EEOC or Illinois Department of Human Rights and the preparation and filing of the lawsuit, including responding to motions, participating in discovery and trial, should the case proceed to trial.

2. It has now become evident that additional representation is needed for you in the form of preparation and representation in several administrative hearings related to your possible termination of employment from District 111 as a tenured employee, including a hearing before the District 111 Board, a pubic hearing, and a hearing before the Illinois State Board of Education. This work will be based upon a separate hourly agreement with no contingency fee arrangement involved. This additional attorney time is substantial, was not contemplated in our initial agreement and is not covered by the retainer

agreement currently in place. Also since one agreement is a retainer plus contingency and the new retainer agreement for the hearings is a straight hourly agreement, I cannot combine this work under the original agreement. When I first discussed this matter with you I thought that you understood that the additional work required additional legal fees, as you asked me how much.

3. I believe a separate agreement is required for the new additional work that is being added. I advised that the additional retainer fee is $10,000.00. Based upon our last telephone conversation, you see my request for additional monies for the added work as a money grab and refuse to pay it. So be it.

4. Our conversations over the past several months causes me to believe you are not satisfied with my representation of your case and intend to seek new counsel, which is certainly your right.

5. There is also the problem of your submission of pro se responses either to District 111 representatives, the State Board of Education, or their attorney; responses that will most likely affect the outcome of your case. You have advised me several times that you are aware of the district policies, have worked with the Board's attorney before and know what is needed to defend yourself. This leads me to believe that you feel confident to represent yourself in these district hearings. Based upon what you told me about how you requested a hearing, I pointed out that the request for a hearing (which I have not seen) did not comply with the requirements to request a hearing before the State Board of Education, set forth in the Bill of Particulars. You responded that you should not have to read the legal requirements, essentially making it my fault that the request was not properly made, and the deadline had now passed.

You should recall that you sent the request for the State of Illinois hearing and

your original response to the Resolution Regarding Dismissal of a Tenured Teacher, Notice of Charges, Bill of Particulars and Hearing, prior to ever forwarding the documents you received from Dr. Lance to me. Your rationale was that you had to get something on file immediately. Once I got the documents sent to you by the District, an email was prepared and sent by me to the District's attorney. An extension was granted. Further, you told me at that time that you had what you needed to prepare a response to the District's accusations against you and demanded that you prepare the draft response. I required that you send the draft response to me for review, before you sent anything else out without my involvement and approval.

But over the holiday, you sent me a text asking if I had received anything from the District. It appears that you assumed that I knew that you needed additional documents to complete the response. I made no such assumption, because you clearly stated to me that you had what you needed.

I asked for a telephone conversation with you to ensure that my request for access to the necessary information was thorough, including all necessary types of documents. You advised me that the District was closed until after the New Year and refused to talk with me.

6. Your responses lead me to believe that there will be ongoing problems with you as a client, and I do not wish to place myself in harms' way for responsibility for errors I did not make.

7. You came to me through Dr. Walters who made the initial call for legal counsel, made many promises used to entice me to represent a group of dissatisfied current or former employees of District 111, including herself. As you know, because you were included on most of the telephone calls with Dr. Walters, Dr. Walters' promises included the promise to pay legal fees for

several of the Plaintiffs. You will recall that the demand letter I sent to the District was reviewed and approved by you, Dr. Walters, and Ms. Smith. I did not think that it was time for a demand letter to be sent but the three of you insisted and I complied with your demands. Based upon Dr. Walters' failure to abide by the contract with me, after many promises made with supporting documentation of her intent and ability to pay, I believe the relationship is now toxic, and that there is an irretrievable breakdown in communications resulting in irreconcilable differences, along with unpaid bills.

8. You have indicated your dissatisfaction with my services and I accept your decision to seek new counsel.

I will so advise the District's attorney that I no longer represent you, Dr. Walters, Ms. Smith and others.

I wish you the best.

Cal

Calvita J. Frederick

Calvita J. Frederick & Associates

Attorney at Law

Post Office Box 802976

Chicago, IL. 60680

312-421-5544

Fax:312-277-7190

CALVITA J. FREDERICK
Attorney at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312)277-7190 fax

September 18, 2024

INVOICE FOR LEGAL SERVICES

KANKAKEE SCHOOL DISTRICT CASE

REVIEW OF FILES

OCTAVIA SMITH

09/17/2024

REVIEW EMAILS, FILES, PRINT/ORGANIZE FILE	1.25
PREPARE CONTRACTS	.50
MEET WITH CLIENT	1.00

SHERMEKA FOUNTAIN

09/17/2024

REVIEW EMAILS, FILES, PRINT/ORGANIZE FILE	1.00
PREPARE CONTRACTS	.50
MEET WITH CLIENT	1.00

GENEVRA WALTERS

TELEPHONE CALLS/TEXT

09/06/2024

Review emails and attachments	2.00
Tel calls x's 2 /text	.25

09/09/2024

Telephone calls X's 4	.50

09/10/2024

Telephone X's 8	1.50
09/11/2024	
Text X's 2	.50
09/14/2024	
Text messages X's 11	1.00
09/17/2024	
Phone calls texts x's 8	.50

09/17/2024

REVIEW FILES, PRINT ORGANIZE FILE	1.50
PREPARE CONTRACTS	.50
MEET WITH CLIENT	1.00

FRANK MENZIES

09/08/2024

Receive text and responses	.25
O9/09/2024	
Telephone calls X's 5	1.50
09/17/2024	
ORGANIZE FILE	.75
PREPARE CONTRACTS	.50

Total time office 14.75 min X's $350 = $5162.50

Total time out of office 3.00 hours X $400.00 per hour - $1,200.00

TOTAL AMOUNT DUE $6362.50

Amount paid on 09/17/2024

Shermeka Fountain $5000.00

Genevra Walaters $1,000.00

09/28/2024 New Billing

OCTAVIA SMITH

Prepare Attorney Packet for IDHR	2.00
Complainant Information Sheet	
Attorney Appearance	

GENERVA WALTERS

Meeting Scheduled/ no show	1.00
09/28/2024	
Text Messages from Genevra Walters	
Emails from Genevra Walters	

SHERMEKA FOUNTAIN

Telephone call with client (18.05 mins)	.25
10/07/2024	
Text messages X's 9	.25
Review Client information packet re HR issues and And administrative leave	1.25
10/08/2024	
Telephone call with client (1hour 30 mins)	1.50
Hostile work environment, harassment, etc	
10/17/2024	1.00
Received from client: request for FMLA	
Send and receive acknowledgment of FMLA from the District	
10/18/2024	
Meeting with Shemeka at Panera Bread	2.00
10/19/2024	
Initial draft of Letter to Dr. Lance	1.00
10/20/2024	

Edit demand letter and review with client 2.25

10/21/2024

Telephone call with client (7 mins) n/c

She is tenured and entitled to protection

Edit and send letter to Ms. Walters, and Olivia Smith
And receive response; send letter out 1.75.

11/29/2024

t/c with client (8 mins) n/c

12/03/2024
t/c with client (30 mins) .50
The district is not taking the letter seriously

12/05/2024 1.25
Receive and respond to email from District's attorney
Telephone call with client

12/06/2024

Review resolution and bill of particulars 1.75

Research board policies 1.00

Telephone call with client (57 mins) 1.00

Illinois School Code, tenured staff member has right to request a Hearing and presenting her case

Draft response to District's attorney, send to client for review;
send email; received response 1.75

12/27/2024

Telephone call with client (51 mins) 1.00

Discussion about requesting information from the district's attorney,

12/12/2024

Prepare Attorney Packet for IDHR 2.00
Complainant Information Sheet
Attorney Appearance

Total Emails 42

Total Text messages 63

Reconciliation

Total Office Time 24.75 hours X's $350.00 =	$8,662.50
Total Time out of Office 4.00 hours X's $400.00 =	$1,600.00
Travel time 9 hours X's $200.00 =	$1,800.00
Emails 42 @ .25 hours = 10.50 hours X's $350.00 =	$3,675.00
Text messages 63@ .12 = 8 hours X's $350.00 =	$2,800.00
Previous Balance	$6,362.50

Total Amount Due	$24,900.00
Total Amount Paid	$18,000.00
Balance Due	**$6,900.00**

*.25 = 15 minutes
.50 = 30 minutes
.75 = 45 minutes
1.00 = 60 minutes

Balance payable upon Receipt of Invoice

State of Illinois
Department of Human Rights

COMPLAINANT INFORMATION SHEET

(For All Cases not related to Housing Discrimination)

Office Use Only:	Control No:	Inv. Init.	Date:

Instructions: Read this entire form carefully before completing. Answer all questions and use additional sheets if necessary. This form must be signed and dated on page 4, and postmarked or received by IDHR within **300 days** of the date of the alleged discrimination. **THIS IS NOT A FORMAL CHARGE.** IDHR must determine if Illinois law covers your complaint before we can investigate. If IDHR accepts your claim, we will send you a formal charge document for signature. Return this form by email to IDHR.Intake@illinois.gov or by mail, fax or in person. Find all contact information & details at **dhr.illinois.gov**.

NOTE: If your alleged complaint of discrimination is related to Housing, e.g., in buying or renting a house or apartment, or experiencing a refusal to a request to modify your housing, please STOP and fill out an IDHR Housing Complainant Information Sheet (CIS).

1. COMPLAINANT INFORMATION This is you, i.e. the person filing the charge and who alleges they were discriminated against.

Name: Genevra Walters	Phone No: 708-932-0035	Alt. Phone No:
Address: 1310 Oaktree Lane	Apt No:	City,State,ZIP: Kankakee, IL 60901
E-Mail: genevra.walters@yahoo.com	☑ E-Mail Consent: By checking this box, I consent to service of notices by IDHR via email.	

Please provide the following information for statistical purposes only.

Country of National Origin:	Date of Birth:	Sex:

2. WHO CAN WE CALL IF WE CANNOT CONTACT YOU? Make sure their mailing addresses are different from your mailing address. Your charge could be dismissed if you do not provide this information and we are unable to locate you.

First Contact Name: Antoine Moore			Phone No:
Address: P.O. Box 24	City: Kankakee	State: IL	ZIP: 60901
Second Contact Name: Shemeka Fountain			Phone No:
Address: 514 Betty Lane	City: South Holland	State: IL	ZIP: 60473

3. RESPONDENT INFORMATION Write out the full legal name of the company or organization that you believe discriminated against you in Illinois (i.e. the Respondent). (Employer, Employment Agency, Financial Institution, Union, Place of Public Accommodation, School or University, etc.)

Name: Kankakee School District #111	Address: 240 S. Warren		
City: Kankakee	State: IL	ZIP: 60901	Phone No: 815-933-0700
County: Kankakee	Website: K50111.org		

4. WHAT IS YOUR RELATIONSHIP WITH THE RESPONDENT

☑ **EMPLOYMENT**: Respondent is my Employer / Former Employer / Potential Employer.

REQUIRED, IF EMPLOYMENT: If the Respondent is an employer, do they employ 15 or more employees in the United States? Yes ☒ No ☐

☐ **FINANCIAL CREDIT**: Respondent is a Financial Institution, such as a bank or an insurance company, to which I applied for an account or line of credit.

☐ **PUBLIC ACCOMMODATIONS**: Respondent is a Public Entity or Place of Business, such as a Store, Restaurant, Public Park, Educational Program, or Public Official, and has denied me a service or access or has subjected me to pervasive harassment.

☐ **EDUCATION (SEXUAL HARASSMENT or HARASSMENT)**: Respondent is or represents an Educational Institution in which I (or my minor child) am currently, recently, or I have applied to be enrolled that I believe has sexually harassed or harassed me (or my minor child), or has retaliated against me (or my minor child) for reporting, opposing or for participating in an investigation of sexual harassment or harassment.

What type of business or organization is the Respondent? For example, a Private Employer, Public or Non-Profit Organization, Government, School or University (specify Public or Private, and grade level, etc., and your current enrollment status), Employment Agency, Municipality, Union, Bank, Insurance Company, Individual, etc.	Office Use Only

EXHIBIT "G" MS. WALTERS' FILE

5. DESCRIPTION OF THE ISSUES AND BASES YOU ARE REQUESTING IDHR TO INVESTIGATE

Each of your COMPLAINTS of discrimination must contain two (2) parts: the ISSUE and the BASIS.

- The ISSUE is the harm or action that was taken against you. (Such as being discharged from your employment or being denied access to a public service.)
- The BASIS is the legally protected class you believe is the reason for the action that was taken against you. Your complaint can have multiple bases.
- **IDHR can only investigate ISSUES alleging one or more of the following specific BASES of discrimination:**
  - Age (+40)
  - Ancestry
  - Arrest Record
  - Conviction Record
  - Color (Skin Tone/Complexion)
  - Disability (Physical or Mental)
  - Marital Status
  - National Origin
  - Order of Protection Status
  - Pregnancy
  - Race
  - Religion
  - Retaliation (Opposing Unlawful Discrimination)
  - Sex
  - Sexual Harassment
  - Sexual Orientation / Gender Identity
  - Military Status
  - Unfavorable Military Discharge

Employment Only

- Citizenship Status
- Language
- Work Authorization Status

1st COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

BASIS:(as described above) Date(s) of ISSUE/HARM:

Name and Job Title of the person who committed the action or gave you this information:

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

2nd COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

BASIS: (as described above) Date(s) of ISSUE/HARM:

Name and Job Title of the person who committed the action or gave you this information:

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

6. IF YOU HAVE BEEN EMPLOYED BY THE RESPONDENT, PLEASE FILL IN THE FOLLOWING:

Your Job Title:	Supervisor:

Please use additional sheets as necessary to provide the above information for each complaint or to add additional complaints.

7A. If you are filing based on SEXUAL HARASSMENT in EMPLOYMENT or EDUCATION:

Name of the harasser:			
Job Title of harasser:	Address:		
City:	State:	ZIP:	Phone No:
Do you want the harasser charged separately as an additional Respondent?	Yes ☐	No ☐	

Identify the date(s) and describe the action(s) taken against you. Use additional sheets, if necessary. Common examples include: Unwelcome sexual advances, Requests for sexual favors, Quid pro quo (actions contingent upon sexual conduct) or creating a hostile or offensive environment.

When and how did you reject the conduct or make it known that the conduct was unwelcome?

7B. If you are filing based on PHYSICAL DISABILITY or MENTAL DISABILITY:

Describe your medically diagnosed disability/disabilities. Explain when and how the Respondent learned about your disability/disabilities:

7C. If you are filing based on RETALIATION:

Name of the retaliator:		Job Title of retaliator:	
Was the retaliation against you within the normal job duties of the retaliator? NOTE: If "Yes", IDHR does not have jurisdiction over the individual retaliator.	Yes ☐	No ☐	
If "No", do you want the retaliator charged separately as an additional Respondent?	Yes ☐	No ☐	
Provide contact information for the retaliator.	Address:		
City:	State:	ZIP:	Phone No:

State how you opposed unlawful discrimination: (i.e., testified at a discrimination hearing, filed a prior discrimination complaint, or complained about unlawful discrimination). Include dates, charge numbers, and/or the name or title of the person to whom you complained.

7D. If your complaint involves DENIAL OF FINANCIAL CREDIT: Explain your understanding of the qualifications necessary to obtain credit from the institution, and how you met those qualifications:

8. HAVE YOU FILED A GRIEVANCE OR COMPLAINT INTERNALLY WITH THIS RESPONDENT?
(Such as a Human Resources Department, Manager, Customer Service Center, Union, Advocacy Group, or Guidance Counselor)

If "Yes", to whom did you submit the complaint (name and job title), on what date(s), and what were the results of your complaint thus far?

9. HAVE YOU FILED A PREVIOUS CHARGE AGAINST THIS RESPONDENT WITH IDHR OR ANOTHER INVESTIGATORY AGENCY OR COMMISSION? (Such as the EEOC, US Dept. of Education, or the US Dept. of Labor)

Yes ☐ No ☐ If "Yes", when?	Charge Number(s):

You must sign and date the last page of this form.

10. MEDIATION: IDHR offers free mediation, where a neutral person will talk to you and the Respondent to see if your complaint can be resolved before an investigation. If both parties agree to participate, mediation may resolve your case faster. Mediation conferences are held at IDHR's Chicago office or virtually/online. If the case is not resolved at Mediation, the case will be investigated.

Are you interested in Mediation? Yes ☐ No ☐ Learn more about IDHR's **Mediation Program** at **dhr.illinois.gov**

11. ASSISTANCE: Do you need special assistance from IDHR to communicate with you about this matter?

☐ Non-English language or sign language interpreter (specify language)_____

☐ Disability assistance (specify assistance)_____

☐ Other (specify)_____

IDHR Notice of Accessibility

IDHR is accessible to persons with disabilities in compliance with the ADA and the Rehabilitation Act of 1973. A person needing an accommodation to participate in IDHR programs should contact the ADA Coordinator at: 312-814-6262, 866-740-3953 (TTY), or e-mail IDHR.ADA@illinois.gov. IDHR provides interpreters upon request for sign language and for languages other than English. If a party chooses to use their own interpreter, the interpreter must be at least 18 years of age and able to communicate effectively in both languages. For information, email IDHR.LEP@illinois.gov.

Notice to complainant on release of identity and personal information

The Illinois Human Rights Act ("Act"), 775 ILCS 5/1-101 *et seq.*, and IDHR's Rules and Regulations, 56 Ill. Admin. Code, Ch. II, Section 2520.330, require a charge to contain certain information in such detail as to substantially apprise the parties of the time, place, and facts with respect to the alleged civil rights violation. Pursuant to IDHR's Rules and Regulations (2 Ill. Admin Code, Ch. X, Section 926.210), anyone who submits information to IDHR in connection with a discrimination charge should take notice and be aware of the following. During IDHR's investigation:

(a) All contents and files maintained by IDHR pertaining to charges shall be confidential and not subject to public disclosure. Relevant exceptions are:
(1) the parties and non-parties to a charge may inspect the file at any time subsequent to the written notice of substantial evidence, default, or dismissal, administrative closure, or approval of terms of settlement by the Human Rights Commission ("Commission");
(2) after the filing of a Complaint with the Commission or the institution of judicial proceedings involving a charge, the Director may release information pertaining to the charge if such information is requested of IDHR or if the Director finds such information newsworthy, useful in education or training, relevant to an issue before the General Assembly, or similarly appropriate for disclosure.

(b) Authorized personnel within IDHR analyze information that IDHR collects. This information may include personal information. IDHR staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the charge, or to discover new facts which will help IDHR to determine whether the law has been violated. IDHR may need to disclose to Respondent correspondence that IDHR receives from Complainant or other sources.

(c) After the completion of the investigation, IDHR may release the investigation file, which includes the identity and personal information of the parties pursuant to a Freedom of Information Act ("FOIA") request, a subpoena or a court order, and information submitted to or obtained by IDHR may also be revealed to persons outside of IDHR to enforce a Commission Order or a settlement agreement.

(d) No person is required to file a charge with IDHR and reveal personal information to IDHR; however, if a person files a charge and IDHR cannot obtain the information needed to fully investigate the allegations in the charge, IDHR may close the case.

CONSENT AGREEMENT AND RELEASE

I have read the provided "Notice to Complainant" and I understand that:

1) If my charge is regarding employment, IDHR may also file my charge of discrimination with EEOC if it has jurisdiction, and I authorize EEOC to look into the discrimination alleged above; 2) In the course of investigating my charge, IDHR will reveal my identity (including my name) and my personal information to named Respondent(s) in my charge to obtain facts and evidence regarding my charge; 3) I do not have to reveal my personal information to IDHR, but IDHR may close my charge if I refuse to reveal information needed to fully investigate my charge; 4) IDHR may be required by law, subpoena, court order, and/or FOIA request to disclose my charge and information in IDHR's investigation file concerning my charge to persons outside of IDHR.

If IDHR takes a charge based on the information provided, I consent for IDHR to disclose my identity and personal information as necessary to process and investigate my charge, and I release IDHR from any liability whatsoever concerning disclosure of my identity and any personal information I provided to IDHR or IDHR obtained in processing my charge.

My signature below verifies the accuracy of the information provided herein and my consent and release as indicated above.

Print Name _____ Signature _____ Date _____

NOTE: If there is certain personal information you would like withheld, please discuss your concern with an Intake supervisor.

Explore Frequently Asked Questions online at **dhr.illinois.gov/filing-a-charge/faq-home.html**

In a public meeting new Dr Lance stated $900,000 missing from local funds.

Facebook communicators that Dr Walters are stealing

Dr Walters saw a Facebook page We Support Kandake Jenkins picture of Dr Walters + Shemeka caption said # range suits

Dr Walters believes Rep Johnston a board member is behind it

discovery will disclose

believe missed job opportunity for Springfield All Dos of School Admin collaborators

PERFORMANCE BASED SUPERINTENDENT'S CONTRACT
(July 1, 2019 through June 30, 2024)
DR. GENEVRA WALTERS

This Agreement is between the Board of Education (the "Board") of Kankakee School District Number 111, Kankakee County, Illinois (the "School District") and Dr. Genevra Walters (the "Superintendent").

In consideration of the mutual promises herein contained, the Board and the Superintendent agree as follows:

1. **Employment.** In accordance with the provisions of Section 10-23.8 of the School Code of Illinois (105 ILCS 5/10-23.8), the Superintendent is hereby employed as Superintendent of Schools of the School District under this contract for the period beginning July 1, 2019, and extending through June 30, 2024. The contract year under this contract is July 1 through the succeeding June 30 of each year.

2. **Performance Goals And Indicators Of Student Academic Improvement.** This is a performance-based contract, the goals of which are set forth in the attached Exhibit 1. Accomplishment of the goals, as may be amended from time to time, will enhance student performance and achieve academic improvement. By October 1, 2019, the Board, in consultation with the Superintendent, shall review the goals set forth in Exhibit 1 and make such modifications as it determines appropriate given the Superintendent's greater understanding, by such time, of the needs of the School District and the vision of the Board. Along with the evaluation criteria set forth in paragraph 13, a primary measure of the performance and effectiveness of the Superintendent each contract year shall be whether the Superintendent has accomplished the goals for that contract year and has made adequate progress toward completion of the goals which are

to be accomplished in a later contract year, as such goals are set by the Board in consultation with the Superintendent.

By June 30 of each contract year in consultation with the Superintendent, the Board will review and revise, where appropriate, the goals to be accomplished during the remaining contract years. Any modified goals shall be incorporated into a document to be entitled "Superintendent's Performance Goals," which shall be signed and dated by the Board President and the Superintendent and considered a part of this contract.

3. **Duties.** The duties of the Superintendent shall be those duties prescribed by the laws and regulations of the State of Illinois and by the rules, regulations and directions of the Board, all of the foregoing as may be amended or modified from time to time, and those duties which are customarily or necessarily incidental to the position of Superintendent.

4. **Salary.** As compensation for the duties set forth in this contract, the Superintendent shall be paid an annual base salary for the contract year beginning July 1, 2019 equal to the Superintendent's annual base salary for the 2018-2019 contract year plus 4%. The salary shall be payable in equal installments in the same manner as the salaries of other twelve month administrators in the School District are paid.

Each subsequent contract year, the Superintendent's annual base salary shall increase by a minimum of 2% over the prior year's base salary up to a maximum of 5%, as determined by the Board in its sole discretion, without entering into a new contract or extending the term of this contract.

5. **TRS and THIS Contributions.** In addition to the salary provided for in this contract, the Board shall pick up and pay, on behalf of the Superintendent, all retirement contributions to the Illinois Teachers' Retirement System (TRS) and contributions to the Teachers'

Health Insurance (THIS) Fund paid to TRS, as those amounts may be amended from time to time Although designated by the Illinois Pension Code as employee contributions, the amounts herein required to be picked up by the Board shall be paid by the Board in lieu of contributions by the Superintendent. The Superintendent shall not have the option of choosing to receive directly the amounts contributed to TRS by the Board on the Superintendent's behalf, nor any right or claim to the contributions to TRS except as such may subsequently become available pursuant to the provisions of the Pension Code and TRS rules and regulations.

6. **Vacation.** The Superintendent shall receive twenty working days of vacation annually at full pay, exclusive of holidays. The Board of Education President shall be advised in advance of all vacations which are more than three consecutive working days in length. Unless otherwise approved by the Board, all vacation must be used in the contract year for which vacation is granted, except that the Superintendent may exchange up to ten unused days of vacation for pay at the Superintendent's then current per diem. Otherwise, vacation which is not used during the contract year earned shall not be compensated and any unused days shall be lost and not accumulated. If this contract is terminated during a contract year, vacation for that year which has not been used at the time of termination shall be compensated to the extent required by law and paid within thirty days after the later of the Superintendent's last regular paycheck or last day of work so as to avoid the payment by the Board of any penalties to TRS. Payment shall be at the Superintendent's then current base salary divided by 260.

7. **Personal Leave**. The Superintendent shall be granted up to three personal business leave days per contract year. Personal business leave days not used at the end of any contract year may not be accumulated as personal business leave, but up to two unused personal business days per year may be transferred to accumulated sick leave. The Superintendent shall also receive two

PTO days annually. PTO days not used at the end of any contract year will not carry over to the next contract year.

8. **Sick Leave And Disability.** The Superintendent shall be granted the same number of sick days of each contract year, and may accumulate unused sick days, on the same basis as are granted to, and accumulated by, teachers.

9. **Medical Examination.** The Superintendent shall submit to a comprehensive medical examination by no later than July 1 of each contract year. The examination shall be performed by doctor(s) approved by the Board. Any expenses in excess of the School District's existing coverage for medical examinations shall be paid for by the Board. A report generally describing the Superintendent's health and fitness to perform her duties shall be presented to the Board, filed separately from the Superintendent's personnel file, and treated as confidential information by the Board. The Superintendent shall further submit to, and furnish the Board with reports of, such health examinations as the Board may from time to time require at its expense. This contract is contingent on the initial health report demonstrating the Superintendent's fitness, with reasonable accommodation to the extent required by law, to perform fully under this contract.

10. **Health Benefits Program.** The Board shall pay the entire premium for the participation of the Superintendent in the Board's health insurance program Should the Superintendent elect employee plus spouse, employee plus child or family coverage, the Board shall provide coverage under the health insurance program, as may be amended from time to time, on the same basis as the Board provides for its twelve-month certified administrative employees. If the Superintendent chooses not to participate in the Board's health insurance program, then the Board shall pay to the Superintendent an amount equal to the Board's cost for employee plus child coverage.

11. **Life Insurance**. The Board, at its cost, shall provide the Superintendent with group term life insurance with a death benefit of five hundred thousand and no/100 ($500,000.00) dollars, provided the Superintendent meets the ordinary requirements of the insurer.

12. **Residency**. The Superintendent shall reside in the School District to permit the Superintendent to satisfy the Board's expectation of her active participation in the affairs of the schools and the school community.

13. **Automobile/Travel Expenses**. The Superintendent shall provide an automobile for use in the performance of the Superintendent's duties The Superintendent shall insure the automobile used in such performance with an insurer and in an amount and coverage reasonably satisfactory to the Board. The Board shall provide the Superintendent with a monthly automobile stipend of $600.00, in lieu of reimbursement on a mileage basis.

14. **Membership**. The Board shall pay the membership fee for the Superintendent's membership in a local service club, to the Illinois Association of School Administrators, the American Association of School Administrators, the Association for Supervision and Curriculum Development, and to such other professional organizations as are acceptable to the Board.

15. **Additional Coursework**. The Board shall reimburse the Superintendent for tuition and related fees for a single college course per contract year, provided the course relates to Dr. Walters' duties as Superintendent as determined by the Board. The amount reimbursed shall not exceed Two Thousand Dollars ($2,000.00) per contract year. Prior to reimbursement, the Superintendent shall provide the Board with a copy of the receipt for tuition paid, evidence of satisfactory completion of each course, and a written summary of the subject matter of each course.

16. **Certificate.** The Superintendent shall furnish to the Board, before beginning employment under this contract, a valid and appropriate certificate to act as Superintendent of Schools. Such certificate shall be maintained at all times during the term of this contract.

17. **Evaluation.** Annually, on or before June 1 of each contract year, the Board shall review with the Superintendent the Superintendent's progress toward meeting established goals and assess the working relationships among the Superintendent, the Board, the faculty, the staff, and the community; provided, however, in the last year of this contract, the review shall take place on or before January 31. The Board's obligations under this paragraph are contingent on the Superintendent providing notice of such obligations by April 1 of each contract year, except that in the last contract year notice shall be given by November 1. The Board may terminate, or not extend, the contract under any provision of this contract, even if the evaluations provided for in this paragraph have not occurred.

18. **Other Work.** The Superintendent shall devote her full time, attention, and energy to the business of the School District and related professional activities. With the prior permission of the Board, the Superintendent may teach university courses, seminars, or other professional growth activities; serve as a consultant to another district or educational agency for a short-term duration without loss of salary; lecture and engage in writing activities and speaking engagements. The Superintendent may not jeopardize the functioning of the School District by any lengthy and conspicuous absence for such professional activities.

19. **Professional Activities.** The Superintendent shall be expected to attend appropriate professional meetings at the local, state, and national levels. Within budget constraints as approved by the Board and with prior Board approval, the cost of attendance shall be paid by the Board.

20. **Tenure.** By accepting this contract, the Superintendent waives any rights pursuant to Section 24-11 through 24-16 of the Illinois School Code, as may be amended from time to time.

21. **Termination For Cause And Non-Renewal Without Cause.** In the event the Board intends to terminate this contract before its expiration for good cause, the Board shall give the Superintendent written notice of such intention, together with a statement of the reasons for termination. Within ten business days of receipt of such notice, the Superintendent may request in writing a hearing before the Board, which shall be in closed session. If no hearing is timely requested, the termination shall become effective on the date specified in the Board's notice. Pending any hearing requested by the Superintendent, the Board may suspend the Superintendent with pay. At the conclusion of any hearing, the Board shall determine whether or not to terminate this contract and the Superintendent's employment.

If the Board and the Superintendent enter into a severance agreement in resolution of a dispute, the salary and any benefits provided for in such agreement shall be limited to twenty (20) weeks from the date of termination in accordance with the Illinois Government Severance Pay Act (5 ILCS 415/1, *et seq.*, the "Act"). No such salary and benefits shall be provided by the Board if the termination is for misconduct as defined in the Act.

In the event the Board or the Superintendent decides not to renew this contract at the end of its term, notice of such intention and an opportunity for a closed session hearing shall be given in accordance with Section 10-21.4 of the Illinois School Code; provided, however, if the Superintendent notifies the Board in writing by no later than December 15 of the last year of this contract of the Board's obligations under Section 10-21.4 and requests notice by February 1 of the last year of this contract, then the date in the last year of this contract by which the Board shall give the Superintendent notice of such intention shall be February 1. Otherwise, the Superintendent

shall notify the Board of its obligations by March 1, and the Board shall give notice of intention not to renew this contract by April 1, of the last year of this contract. If the Superintendent timely gives notice of the Board's obligations and the Board then fails to give the Superintendent timely notice in accordance with this paragraph, this contract shall be automatically extended for one additional year as provided in Section 10-21.4; otherwise this contract shall terminate and not be extended

22. **Unilateral Termination By Board Of Education.** The Board may, at its option, and by a minimum of sixty days' notice to the Superintendent, unilaterally terminate this contract during its term without cause. In the event of such termination, the Board shall pay to the Superintendent, as severance pay, the lesser of the amount of the base annual salary set forth in paragraph 4 above or the amount the Superintendent would have earned under paragraph 4 of this contract from the actual date of termination to the termination date set forth in this contract. The Board shall also provide, at its expense through COBRA, insurance coverage as provided under paragraph 10 for the Superintendent and eligible dependents for the lesser of one year from the effective date of termination, or from the effective date of termination to the date of expiration of this contract, or such time as the Superintendent becomes eligible for insurance coverage for the Superintendent and eligible dependents from another employer.

23. **Unilateral Termination By The Superintendent.** The Superintendent may, at the Superintendent's option, and by a minimum of ninety days' notice to the Board, unilaterally terminate this contract during its term. In the event of unilateral termination with at least one-hundred-eighty days' notice to the Board and an effective date at the end of the school year, the Superintendent shall pay to the Board ten thousand dollars ($10,000.00), which relates to some of the aggregate costs to the Board of the search to obtain the Superintendent's successor and any

interim replacement. In the event of unilateral termination with less than one-hundred-eighty days' notice or an effective date not at the end of the school year, the Superintendent shall pay to the Board, as liquidated damages, fifteen thousand dollars ($15,000.00), which relates to much of the aggregate costs to the Board of the search to obtain the Superintendent's successor and any interim replacement. The payment of liquidated damages by the Superintendent under this paragraph shall be the Board's exclusive remedy for any claims of breach of this contract due to the Superintendent's unilateral termination. However, this paragraph does not apply in the event that the parties mutually agree to end this contract or to termination for disability which qualifies the Superintendent for temporary or permanent disability benefits from the Illinois Teachers' Retirement System.

24. **Notice.** Any notice or communication permitted or required under this contract shall be made in writing and shall become effective on the day of service thereof by personal service or by first class mail, registered or certified, return receipt, postage prepaid, sent to the parties at their respective addresses listed below, or at such other addresses as the parties may from time to time advise in writing. Service by mail, as provided above, shall be deemed made upon deposit in the mail.

If to the Board:	President, Board of Education Kankakee School District Number 111 240 Warren Avenue Kankakee, Illinois 60901-4319
With a copy to:	President, Board of Education [at his or her last known home address]
If to the Superintendent:	Dr. Genevra Walters [at the Superintendent's last known home address]

25. **Miscellaneous.**

A. If any provision of this contract is subsequently declared by the proper judicial authority to be unlawful or unenforceable, all other provision of the contract shall remain in full force and effect.

B. Paragraph headings and numbers have been inserted for convenience of reference only, and if there shall be any conflict between any such headings or numbers and the text of this contract, the text shall control.

C. This contract may be executed in one or more counterparts, each of which shall be considered an original, and all of which taken together shall be considered one and the same instrument.

26. **Complete Contract.** This contract sets forth all of the promises, agreements, conditions and understandings between the parties relative to the Superintendent's employment by the Board. No modifications of this contract shall be binding on the parties unless in writing and duly approved and signed by each party. This contract shall become effective as of the date the last of the parties signs this contract, as set forth below.

KANKAKEE SCHOOL DISTRICT # 111
BOARD OF EDUCATION

By: _____
President

Attest:

By: _____
Secretary

Dated: 4/30/19

SUPERINTENDENT

_____
Dr. Genevra Walters

Dated: 5/24/19

Superintendent Goals

District Goal #1 Student Achievement

The Superintendent will work towards increasing student achievement and closing the achievement gap.

Indicators – The Superintendent will:

1. Work with the administration on leading the implementation of strategies to aide in the effort of increasing the number of students performing at grade level in content areas.
2. Work towards maintaining high graduation rate. Current graduation rate is 92%.
3. Superintendent will provide more Professional Development that focuses on increasing administrators' capacity to provide instructional leadership.
4. Superintendent will work towards the implementation of secondary (grades 6-12) programming that provides differentiation for varied student needs around college/career/life readiness.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Superintendent will report out to the Board on a quarterly basis around student growth in academics and behavior.
2. Superintendent will provide on-track data by grade level and report to Board on a semi-annual basis.
3. Continuously monitor teachers on Professional Development needs: Quantity and Quality.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

District Goal #2 Public Perception

The Superintendent will work towards Improving the public perception of the district, by communicating all positive attributes of our school community.

Indicators – The Superintendent will:

1. Continue opportunities to provide input on district programming.
2. Continue relationships with the media to foster open and positive communication.
3. Continue to engage with community and educational stakeholders to communicate the vision for the district.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Examples of positive comments about the district (Facebook, Newspaper articles, YouTube videos). Report out to the Board on a quarterly basis.
2. Archive positive articles. Foster positive relationship with the press. Report out to the Board.
3. Increased outreach to real estate agents and business community around district and district programs. Report out to the Board.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 15th

Superintendent

District Goal #3 Funding/Finances

The Superintendent will work towards maintaining expenditures that lead to the district maintaining financial health.

Indicators – The Superintendent will:

1. Maintain a long-term financial plan.
2. Develop a plan to increase revenue in form of available grants.
3. Implement ongoing plan to increase bond balances over time to replenish funds borrowed through QSCB program.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Regular financial statements: Report out to the Board on a monthly basis.
2. Provide bond balances report: Report out to the Board on a semi-annual basis.
3. Support the increase of Board's knowledge and understanding of district financial data.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 15th

Superintendent

District Goal #4 Consistent Leadership

The Superintendent will develop and align all staff leadership to the district's ongoing focus on high student achievement.

Indicators – The Superintendent will:

1. Strengthen induction process for new administrators and communicate the vision and mission of the district/schools.
2. Superintendent will continue to make all new employee final selection for recommendation to the Board of Education for cabinet and principal level hiring.
3. Revise and improve hiring procedures within all departments based on data from previous school year.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Report out to the Board of Education annually on retention of staff.
2. Provide evidence that superintendent participated in all new hires for cabinet and principal level hiring.
3. Collect data around hiring procedures in order to improve hiring practices.

Adoption Date April 30, 2019

Barbara T. Bell

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

District Goal #5 Community Engagement

The Superintendent will increase community engagement to form partnerships for student success.

Indicators – The Superintendent will:

1. Continue partnerships with local business and higher education.
2. Expand mentoring programs for all staff within KSD 111.
3. Showcase district at community events.
4. Further develop an employability program/job readiness program.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Report to the Board of Education quarterly a list of partners and events.
2. Report to the Board of Education semi-annually on mentoring initiatives.
3. Report to the Board of Education semi-annually on community events.
4. Report to the Board of Education at beginning and end of the year.

Adoption Date April 30 2019

Barbara A Falk
President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

RESOLUTION AUTHORIZING PERFORMANCE BASED SUPERINTENDENT'S CONTRACT BETWEEN THE BOARD OF EDUCATION AND DR. GENEVRA WALTERS

BE IT RESOLVED, by the Board of Education of Kankakee School District No. 111, Kankakee County, Illinois, as follows:

1. The Board hereby finds that the Superintendent, Dr. Genevra Walters, has met the goals of the current July 1, 2017 - June 30, 2022 Performance Based Superintendent's Contract (the "Current Contract") between Dr. Walters and the Board and that the Board is, therefore, authorized by law to enter into a new multi-year Performance Based Superintendent's Contract with Dr. Walters.

2. The Board hereby approves, and authorizes the President and Secretary to sign, an agreement with Dr. Walters terminating the Current Contract, substantially in the form of the attached Exhibit 1, and establishing a new multi-year Performance Based Superintendent's Contract with Dr. Walters, substantially in the form of the attached Exhibit 2, for the period July 1, 2019, through June 30, 2024.

3. This Resolution shall be in full force and effect upon its adoption.

ADOPTED this 30 day of April, 2019, by a roll call vote, as follows:

YES: Gathing, Shea, Williams, Works, Archie, Bohlen, Wells

NO: None.

ABSENT: None.

President, Board of Education

ATTEST:

Secretary, Board of Education

AMENDMENT TO PERFORMANCE BASED SUPERINTENDENT'S CONTRACT
(July 1, 2019 through June 30, 2024)
DR. GENEVRA WALTERS

The Board of Education of Kankakee School District 111, Kankakee County, Illinois and Dr. Genevra Walters (the "Superintendent"), agree to modify the Performance Based Superintendent's Contract (July 1, 2019 through June 30, 2024) as follows:

1. The Superintendent's annual salary, as set forth in Section 4 (Salary) of the Contract, shall be set for the contract year beginning July 1, 2022 at an amount equal to the Superintendent's base salary for the 2021-2022 contract year plus 6%. The Superintendent's annual salary, as set forth in Section 4 (Salary) of the Contract, shall be set for the contract year beginning July 1, 2023 at an amount equal to the Superintendent's base salary for the 2022-2023 contract year plus 6%.

2. The Superintendent will receive a post-retirement incentive of $15,000 paid 30 days after the effective date of her retirement and after receipt of her final regular paycheck.

In all other respects, the terms of the Performance Based Superintendent's Contract are unchanged.

This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below:

KANKAKEE SCHOOL DISTRICT # 111
BOARD OF EDUCATION

By: _____
President

Attest:

By: _____
Secretary

Dated: June 27, 2022

SUPERINTENDENT

_____
Dr. Genevra Walters

Dated: June 27, 2022

SEPARATION AGREEMENT

This Agreement is made and entered into on the date of the last signature hereto, by and between **KANKAKEE SCHOOL DISTRICT 111, KANKAKEE COUNTY, ILLINOIS** (hereinafter referred to as the "Board" or "District"), and **DR. GENEVRA A. WALTERS** (hereinafter referred to as "Walters"), collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Walters is currently employed by the Board as Superintendent; and

WHEREAS, the Parties desire to fully settle and resolve any and all outstanding issues related to Walter's employment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated into this Paragraph by reference.

2. **Withdrawal of Complaint Against District.** Contemporaneous with the execution of this Agreement by all Parties, Walters withdraws the hostile work environment complaint that she filed against the District on March 18, 2022 and agrees that all matters alleged in said complaint are fully resolved. Walters agrees not to refile the complaint, or any part thereof, with the Board or any other entity, court, or tribunal.

3. **Settlement Terms.** The Board agrees to the following:

    a. The Essential Board Processes Agreement (see Exhibit A) shall be approved by the Board no later than the Board's regularly scheduled meeting in June of 2024.

    b. In order to assist Walters with the purchase of service credit from IMRF, the Board shall pay Walters the sum of Eight Thousand, Six Hundred and Ninety-Seven Dollars ($8,697). This payment shall be made five (5) business days after Walters' last day of employment or last regular paycheck, whichever occurs later. The purpose of structuring the settlement payment in this manner is to avoid the payment from constituting creditable earnings under the Rules of the Teachers' Retirement System of the State of Illinois. The District shall issue Walters an IRS form 1099 for this payment and Walters shall be responsible for any and all resulting taxes.

    c. The Board agrees to pay the full cost of Walters family health insurance until Walters, 60th birthday, as follows:

i. Upon retirement, Walters shall elect COBRA family coverage and shall maintain such coverage through the end of her COBRA eligibility period. Walters shall complete all necessary paperwork for COBRA coverage.

ii. After the expiration of Walters' COBRA coverage, and until Walters' 60th birthday, the District shall reimburse Walters for health insurance coverage. Reimbursement shall be limited to Walters' actual cost of family insurance through a recognized insurance provider of Walters' choosing and reimbursement shall not exceed the cost of premiums that the District would otherwise pay for family coverage under COBRA. Walters must submit in writing verification of the insurance premium in order to receive reimbursement. Reimbursement shall be made on a monthly basis.

d. The Board shall reimburse Walters up to $5,000 for legal fees related to Walters filing the March 18, 2022 complaint against the District. In order to obtain reimbursement, Walters shall present to the District an itemized billing statement from her attorney showing the specific amount of legal fees paid by Walters. The District shall issue Walters an IRS form 1099 for such payment.

4. **Terms of Underlying Employment Contract.** All terms and conditions of Walters employment contract with the Board remain in full force and effect, including all terms and conditions of Walters' employment contract in effect from July 1, 2019 through June 30, 2024 and the amendment to said contract executed on June 27, 2022.

5. **No Admission.** This Agreement shall not in any way be construed or used as an admission of any wrongdoing or liability of any kind or nature by either Party.

6. **Release of Claims by Walters & Older Workers Benefit Protection Act of 1990.** Except as otherwise provided in this Agreement, Walters does hereby release, remit, acquit, and forever discharge the Board and its respective members, individually and collectively, and its officers, representatives, agents, attorneys, insurers, employees, assignees, and successors, in their official and individual capacities, from any and all damages or liability as a result of any claims, damages, causes of action of every kind or nature, at law or in equity, demands, debts, costs or attorney fees that have arisen as a result of any event in connection with or occurring during Walters's employment by the Board through the date of execution of this Agreement, whether known or unknown, anticipated or unanticipated, including but not limited to:

a. Any claim, cause of action, or liability arising out of the hostile work environment complaint filed by Walters on March 18, 2022;

b. Any claim, action, cause of action, or liability arising under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*), the Illinois Human Rights Act (775 ILCS 5/1-101, *et seq.*) or any other federal, state or municipal employment discrimination statute, regulation, or ordinance (including but not limited to those claims based upon age, gender, race, religion, national origin, disability, or retaliation);

c. Any claim, action, cause of action, or liability arising under any other federal, state, or local statute, law, ordinance or regulation;

d. Any claim, action, cause of act, or liability arising out of breach of contract, retaliatory discharge or constructive discharge claims and/or unjust dismissal, mental and emotional distress, damage to reputation, detrimental reliance, and costs or attorneys' fees related to the employment relationship and Walters's resignation;

e. Walters also waives any and all claims and rights she may have under the Older Workers Benefit Protection Act (29 U.S.C. 626, *et seq.*), the Age Discrimination in Employment Act (29 U.S.C. 621, *et seq.*), the Family and Medical Leave Act of 1993, 29 U.S.C. §2601, *et seq,* and the Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*); and

f. In exchange for consideration that is in addition to anything of value to which Walters is otherwise entitled, she knowingly and voluntarily relinquishes and waives all legal and equitable remedies provided under the Older Workers Benefit Protection Act and the Age Discrimination in Employment Act. Walters acknowledges that she is aware of and understands all rights and claims pursuant to this Act, including without limitation, the following:

   i. That Walters has been afforded provided twenty-one (21) calendar days following the receipt of this Agreement to consider entering into and signing this Agreement and acknowledges that she may sign it sooner and that her decision to do so is knowing and voluntary and not induced by the Board through fraud, misrepresentation, or threat;

   ii. That, for a period of seven (7) calendar days following Walters's execution of this Agreement, she has the right to revoke this Agreement by delivering a written revocation to the Superintendent, by no later than 5:00 p.m. on the seventh calendar day following her execution of this Agreement;

   iii. The Board hereby notifies Blount that she has a right to consult with an attorney prior to executing this Agreement; and

   iv. That, by the release and waiver provisions contained in this Agreement, Walters does not waive rights or claims that may be brought before a court or administrative body pursuant to the Age Discrimination in Employment Act arising after the date this Agreement is executed.

7. **Illinois Workplace Transparency Act.** In accordance with the Illinois Workplace Transparency Act (820 ILCS 96/1-1, *et seq.*), Walters represents and warrants that she was afforded twenty-one (21) calendar days to consider this Agreement and was notified of the right to consult with an attorney or a representative of her choice prior to executing this Agreement. Walters further represents and warrants that she has been notified of, and

acknowledges her understanding of, certain rights afforded by the Act, including, without limitation, the following:

a. That by virtue of entering into this Agreement, Walters does not waive rights or claims that may arise after the date of execution of this Agreement except those expressly stated herein;

b. That Walters waives rights or claims under the Illinois Workplace Transparency Act only in exchange for consideration in addition to anything of value to which she already is entitled arising out of her employment relationship with the Board;

c. That Walters acknowledges and agrees that the Board does not herein include any unilateral clause that prohibits Walters from making truthful statements or disclosures regarding unlawful employment practices. However, by mutual agreement herein Walters acknowledges that she understands that the Board denies Walters's claims concerning alleged unlawful employment practices, if any, and Walters understands that by signing this Agreement she has waived any right to seek or obtain any remedies relating to any alleged unlawful employment practice claim that occurred before the date on which this Agreement is executed;

d. That Walters acknowledges and agrees that the Board does not herein include any requirement that Walters waive her right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged unlawful employment practices on the part of the other Party to the Agreement, if Walters were to be required or requested to attend a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature;

e. That Walters has been provided twenty-one (21) calendar days following the receipt of this Agreement to consider entering into and signing this Agreement; and,

f. That for a period of seven (7) days following Walters's execution of this Agreement, Walters shall have the right, which under the Illinois Workplace Transparency Act may be voluntarily waived, to revoke this Agreement.

In return for the monetary payments, promises, and other consideration provided herein, Walters has agreed to and hereby knowingly and voluntarily waives the aforesaid twenty-one (21) day consideration period, as set forth in Paragraph 11(e) above, and further knowingly and voluntarily waives the seven (7) day revocation period, as set forth in Paragraph 11(f) above, as allowed under the Workplace Transparency Act. Walters hereby declares that this waiver of the twenty-one (21) day consideration period, the waiver of the seven (7) day revocation period, and the waiver of other rights under the Illinois Workplace Transparency Act, are knowing and voluntary. Walters further agrees that any changes to this Agreement, whether material or immaterial, will not restart the running of the consideration period.

8. **Mutual Confidentiality.** The Parties agree to keep the facts and terms of this Agreement strictly confidential and shall not disclose the facts or terms of this Agreement to any third parties, except as may be required by law or to enforce the terms of this Agreement.

9. **Mutual Non-Disparagement.** Each Party shall refrain from making derogatory or disparaging comments about the other Party, either orally or in writing.

10. **Effect of Agreement.** This Agreement shall inure to the benefit of and bind the Board and its members, officers, agents, representatives, administrators, insurers, successors, and assignees, and each and every one of them, and Walters and her heirs, agents, representatives, successors, executors, and assignees.

11. **Complete Understanding.** This Agreement sets forth all of the promises, agreements, conditions, and understandings between the Parties relative to the subject matter hereof, and no other promises, agreements, or understandings, whether oral or written, expressed or implied, exist among the Parties.

12. **Advice of Counsel.** Each Party acknowledges that they have had the ability and opportunity to consult with legal counsel regarding the terms and requirements of this Agreement.

13. **Contractual Capacity.** The Parties acknowledge that each has entered into this Agreement voluntarily and knowingly and with the full and complete authority and contractual capacity to do so. The Parties acknowledge that each has been provided the opportunity to consult with an attorney prior to executing this Agreement and has had ample opportunity to review its terms.

14. **Amendments.** No subsequent alteration, amendment, change, addition, deletion, or modification to this Agreement shall be binding upon the Parties hereto unless reduced to writing and duly authorized and signed by each of them.

15. **Applicable Law.** This Agreement, and all claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement shall be governed by, and enforced in accordance with, the laws of the State of Illinois, including its statutes of limitations.

16. **Execution.** This Agreement may be executed in counterparts. A set of documents bearing the signatures of each Party hereto shall constitute a valid agreement as fully as if the Parties had signed a single document. Signatures provided by facsimile, email transmission, or third-party signatory verification service (such as DocuSign®), shall be deemed legal and binding for all purposes.

17. **Additional Documents to Effectuate Agreement.** The Parties shall execute any and all additional documents necessary to effectuate the intent and purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement to take effect immediately upon execution of all Parties.

KANKAKEE SCHOOL DISTRICT 111

By: _____
Board President

May 13, 2024
Date

Attest: _____
Board Secretary

May 13, 2024
Date

DR. GENEVRA A. WALTERS

By: _____
Dr. Genevra A. Walters

May 13, 2024
Date

Exhibit A
Essential Board Processes Agreement

Kankakee SD 111 - Essential Board Process Agreement
March 2024

Placing items on the agenda:

- The Board President, the Board Vice President, and the Superintendent confer to generate an agenda for an upcoming board meeting **on the Tuesday immediately preceding a regularly scheduled board meeting** (where this agenda will be utilized).
- Any board member desiring to add an item considered for an upcoming board agenda should **contact the Board President prior to the timeframe of the "agenda generating meeting"** (which includes the Board President, the Board Vice President, and the Superintendent).
- If a concern about the agenda inclusion exists and involves a perceived lack of connection to Board goals and or "ends," the requesting board member should secure one other board member who concurs with the need for agenda placement based on belief that a connection to Board goals and or "ends" exist.
- The requesting board member should contact the Board President and confirm that another board member concurs with agenda placement prior to the "agenda generating meeting;"
    - Following contact with the Board President, the requested agenda item will be placed under the agenda under the heading, "New Business" (for discussion only).
    - (At the Board meeting when this agenda item is addressed) The requesting board member will explain the connection between the requested agenda topic and Board goals and/or "ends." The Board will determine, via consensus of the majority, if the requested topic relates to Board goals and/or "ends" and whether this item will advance to a subsequent agenda for board action.

Asking questions about upcoming agenda items:

- A board member who has a question regarding an upcoming agenda item should contact the Board President no later than noon on the Monday of the board meeting.

Communicating with members:

- Adhere to the Open Meetings Act (OMA) and board policy.

Communicating with staff:

- A board member desiring to contact a staff member should contact the Superintendent and the Superintendent will respond accordingly.
- Board will not communicate to staff to create work.

Responding to Concerns:
GENERAL CONCERNS

- If imminent threats are reported via any means (e.g., verbally, via email, via text message, via social media), Board members will convey those concerns to the Superintendent.
- Listen to the citizens.

- Acknowledge the concern(s) of the citizen.
- Refer the individual sharing concern(s) to established board policy such as the Chain of Command.
- (Based on the severity of the concern) Inform the Superintendent of the citizen concern along with the response offered by responding board member.
- Communicate.

EMAILED CONCERNS

- Acknowledge the email with a reply to the sender.
- Forward the email to the Superintendent.
- The Superintendent will reply to the sender, based on the issue.
- If the email topic addresses a concern involving the Superintendent, a board member should forward the email to the Board President (who will reply accordingly to the initial sender.

SOCIAL MEDIA CONCERNS

- Inform the Superintendent and Board President of the post and share the post with them.
- The Superintendent, in conjunction with the Board President, shall determine the appropriate response, if any.

Communicating with the media:

- The Board President, in consultation with the Superintendent, serves as the spokesperson of the Board with the media.
- (As needed) The Board President may delegate respondent duties to the Superintendent.
- The Superintendent, in consultation with the Board President, serves as the spokesperson of the District with the media.

Communicating with the public:

- The Board President, in consultation with the Superintendent, serves as the spokesperson of the Board with the public.
- (As needed) The Board President may delegate respondent duties to the Superintendent.
- The Superintendent, in consultation with the Board President, serves as the spokesperson of the District with the public.

Orienting new members:

- A conference will be conducted between each new board member, the Superintendent, and the Board President
- Mandated board training sessions and deadlines will be shared with each new board member.
- Board mentor-mentee relations will occur involving each new board member and a veteran school board member.

Closed Session:

- What's discussed/occurs in closed session stays in closed session.

Actions by individual board members:

- Board members recognize that they cannot speak on behalf of the Board or District or take any action on behalf of the Board or District unless such action is approved by the Board at a validly called Board meeting. Board members may not assume powers or duties belonging to the full Board and have only the same rights and powers as other citizens when the Board is not in session.
- Board members are free to visit and inspect schools only in accordance with the Board policies regulating public visitation of schools.

Participating during public forums:

- Adhere to board policy, ensuring that any statements regarding District policies and procedures are consistent with those outlined in the District's board polices.

Board member comments:

- Each board member will refrain from making negative comments about any district employee while in public.

Kankakee SD 111
Board/Superintendent Communication Expectations
March 2024

The Superintendent expects:

1. The board will adhere to its board agreements/protocols regarding items for agenda placement before significant staff time is expended. The agreement protocols include the following:
   - The Board President, the Board Vice President, and the Superintendent confer to generate an agenda for an upcoming board meeting **on the Tuesday immediately preceding a regularly scheduled board meeting** (where this agenda will be utilized).
   - Any board member desiring to add an item considered for an upcoming board agenda should **contact the Board President prior to the timeframe of the "agenda generating meeting"** (which includes the Board President, the Board Vice President, and the Superintendent).
   - If a concern about the agenda inclusion exists and involves a perceived lack of connection to Board goals and or "ends," the requesting board member should secure one other board member who concurs with the need for agenda placement based on belief that a connection to Board goals and or "ends" exist.
   - The requesting board member should contact the Board President and confirm that another board member concurs with agenda placement prior to the "agenda generating meeting;"
     - Following contact with the Board President, the requested agenda item will be placed under the agenda under the heading, "New Business" (for discussion only).
     - (At the Board meeting when this agenda item is addressed) The requesting board member will explain the connection between the requested agenda topic and Board goals and/or "ends." The Board will determine, via consensus of the majority, if the requested topic relates to Board goals and/or "ends" and whether this item will advance to a subsequent agenda for board action.
2. That direction is only given at board meetings when a majority of the board votes to give direction. Anything brought to consensus in committee meetings will be brought to the Board for consideration and action.
3. The board members will be respectful toward staff and be respectful of staff's time.
4. The board members will read all supporting documentation before the board meeting.
5. That board members will contact the **Board President** with questions about agenda items or supporting materials **no later than noon on the Monday of the school board meeting**.
6. That there will be no surprises. No one gets surprised at any time-in the meeting or between meetings. The truth of no surprises is respect for all participants and the process.
7. That Board members will communicate with the appropriate committee chair(s) and/or the Administrative Assistant to the Superintendent regarding additional agenda items.
8. That Board members will follow the District's Chain of Command policy.

The Board expects:

1. A regular communication from the Superintendent **via email, as needed**.
2. To be notified via email as soon as possible for:
   a. School emergency (lock down, fire, etc.)
   b. Bus accident
   c. Student emergency (arrest, serious injury involving the presence of paramedics, death)
   d. Staff emergency (arrest, serious injury involving the presence of paramedics, death)
3. To receive board packets and supporting documentation that is available **four (4)** calendar days before the scheduled board meeting. Under no circumstances shall updates to the HR agenda occur after 12:00 pm on the day of the Board meeting, except in exceptional circumstances.
4. To receive regular monthly expenditure reports.
5. That all board members will receive the same information.
   a. One member's request for additional information results in all members receiving or having the same access to the information.
6. That board members will treat each other, the Superintendent, and staff with respect.
7. That the Superintendent and staff will treat all board members with respect.
8. That reasonable requests for additional information will be satisfied in a timely manner.
9. That there will be no surprises. No one gets surprised at any time- in the meeting or between meetings. The truth of no surprises in respect for all participants and the process.
10. The Administration will provide multiple copies of relevant documents (e.g., resumes) for review during closed session.

One knows/gets; all know/get

Ekl, Williams
& Provenzale LLC
Attorneys and Counselors at Law

Partners
Terry A. Ekl
Patrick J. Williams
Patrick L. Provenzale
Tracy L. Stanker

Kevin A. Halverson
Nemura G. Pencyla

901 Warrenville Rd., #175
Lisle, IL 60532
Ph: 630-654-0045
Fx: 630-654-8318

www.eklwilliams.com

November 30, 2022

Privileged Attorney-Client Communications

Via Email Transmission
Barbara Wells, President and
Members of the Board of Education
Board of Education of
Kankakee School District #111
240 Warren Avenue
Kankakee, IL 60901

Our File No.
4313.000

Writer's Direct Dial No.
(630) 654-9975

Writer's Email Address
pprovenzale@eklwilliams.com

RE: *Independent External Investigation*

Dear President Wells and Members of the Board of Education:

I am writing to provide you a pre-interview phase status report for my investigation, and also to bring matters to your attention that you should be aware of before this investigation moves into the respondent notice and interviews / fact finding phases.

First, by way of status and detailing otherwise the timeline to this point, I was retained by the Board on May 9, 2022, to conduct an independent investigation of an email communication from Dr. Walters dated March 18, 2022, to Barbara Wells and Darrell. Williams, copying Shemeka Fountain, forwarding an email from Chris Bohlen to Dr. Walters of the same day, in which forwarded message Dr. Walters advised Mrs. Wells and Mr. Williams "I am considering a hostile work environment."

Since being retained on May 9, 2022, to investigate Dr. Walters' allegation of a "hostile work environment," I have made multiple efforts to communicate with Dr. Walters and her counsel to gain an understanding of the factual bases of her "hostile work environment" claim and to understand the nature of her complaint. Due to her twice cancelling the initial interview on the eve of a scheduled interview this past June and August, and her unavailability otherwise, I did not conduct the initial interview of Dr. Walters until September 13, 2022. After my initial interview of Dr. Walters, I requested numerous items for follow-up / additional information from Dr. Walters for the sake of cataloging and documenting, where reasonably available, recorded activity of contemporaneous events (*i.e.,* newspaper articles, Board meeting minutes, audio or video recordings, etc.) corresponding to dates of her allegations. I allowed Dr. Walters, granting her requests for extensions of time, until the end of October to provide me the supplemental / additional information I sought, and for the most part, she has now provided me the information requested.

Now that I have completed my preliminary efforts to catalog the factual bases of Dr. Walters' allegations, and have an effective understanding of the nature of her complaint of a "hostile work environment," I need to bring several matters to the attention of the full Board of Education:

first, I need to advise the Board of the anticipated scope of the investigation, both in terms of anticipated cost and length of time to complete, so as to provide an opportunity for Board feedback and any dialogue the Board may request with me about the anticipated scope of the investigation; *second*, and relatedly, I need to notify the Board that current and former Board Members are implicated as either or both an accused and/or a witness to alleged misconduct. For your reference and as relates to the discussion, below, the summary of the formal allegations constituting Dr. Walters' complaint for "hostile work environment" is attached hereto.

Scope of the Investigation / Potential Conflicts

As you can see from the summary complaint catalog, the allegations registered by Dr. Walters accuse 4 (four) Board of Education members (3 current and 1 former) of improper conduct. Furthermore, the allegations that Dr. Walters claims form the basis of a hostile work environment involve events that occurred as far back as 2014, and as recent as last month. In general, Dr. Walters claims the incidents, individually and collectively, constitute hostile work environment discrimination based on her race and gender, as well as violations of various Board policies. While I have not yet given formal notice to the accused individuals to initiate due process for formal responses from each, to identify witnesses whom he or she wants me to interview or evidence he or she wants me to review in support of his or her formal response to the allegations, I anticipate that the total number of witnesses that I may have to interview will easily exceed 15. I expect some of these individuals will have been witness to multiple of the alleged events, so there will be some economy achieved by covering multiple topics during interviews of the same witness, but some interviews will likely last hours. I estimate that, once I initiate formal notice to the accused individuals to solicit responses, it will take my office approximately 120 days thereafter to complete the fact finding phase of the investigation.

Conservatively, I anticipate that the cost to complete the fact-finding phase of the investigation - interview each respondent / witness, summarize the interviews, review related documentary or recorded material, cross reference witness accounts in a rolling fashion to evaluate / re-evaluate investigative direction and materiality, and provide complainant an opportunity to reply to the accumulated investigatory record with additional information or witnesses - will exceed $50,000.

I am bringing this to the Board's attention now because the Board may perceive that some of the allegations in the attached, *taken individually* and even accepting them as true, may not constitute actionable misconduct or otherwise violate existing Board policies, Illinois law or federal or

constitutional law, and/or otherwise occurred so long ago, involving former Board members, that the allegations may be legally stale. However, as an independent investigator, I must make you aware that hostile work environment claims involve examinations of courses of conduct, or patterns and practices, looking at the totality of the circumstances such that even arguably *de minimis* individual incidents, if pervasive, widespread and/or persistent, can make out a claim for discrimination or harm. *See, e.g.*, Williams v. General Motors Corp., 187 F.3d 553, 562 (6thCir.1999) ("Thus, the issue is not whether each incident of harassment *standing alone* is sufficient to sustain the cause of action in a hostile environment case, but whether-taken together-the reported incidents make out such a case. . . . [T]he totality of the circumstances test mandates that district courts consider harassment by all perpetrators combined when analyzing whether a plaintiff has alleged the existence of a hostile work environment, . . ."). Moreover, incidents occurring outside of an applicable limitations period may be considered if the incidents are sufficiently related or part of the same actionable practice. Villar v. City of New York, 135 F.Supp.3d 105, 131-32 (S.D.N.Y.2015).

As the Board is the deliberative and acting agency for the District, it is well within the Board's purview to contour an independent investigation so as to avoid waste or excess of the District's resources - in other words, to advise me as the investigator what allegations to investigate and what not to investigate. Moreover, I do not believe any *per se* conflict of interest or ethical rule exists that prohibits any current member of the Board to recommend, vote for or against, and/or otherwise advocate about any particular position regarding the scope of the investigation (either to permit it as determined in the opinion of the investigator, or to limit the scope), just by virtue of his or her status as an accused or a witness (or both) related to the allegations. In point of fact, in my current assessment, voluntary recusal by current Board members on grounds of status as either respondent or witness, to avoid the appearance of conflict, self-interest or bias, could strip the Board of its ability to constitute a quorum to contour the investigation.

However, I feel it necessary to notify the Board that any decisions or directions that the Board gives me related to the scope of my investigation, while such might otherwise be facially reasonable, and purportedly based in non-biased, non-discriminatory and/or non-retaliatory rationale, may be construed by someone after-the-fact as effort to improperly influence and/or interfere with the investigation and / or to influence its outcome for personal or political benefit,

or otherwise to turn a blind eye. In other words, any action by the Board to instruct me on what to investigate or not investigate may expose the investigative outcome as either unreliable or rigged. Additionally, failure by the Board to authorize

Conclusion

As I mentioned, I am happy to meet with the Board to answer any questions the Board may have, or provide feedback to the Board regarding, the availability or propriety of contouring the scope of the investigation I will conduct. Furthermore, given my estimate for the cost of completing the fact-finding phase of the investigation of Dr. Walters' complaint, I wanted to make the Board aware of that, and to ensure that the Board is authorizing me to proceed with the investigation with full knowledge of what that currently involves. Thank you, and I look forward to hearing from you soon.

Sincerely,
Ekl, Williams & Provenzale LLC

Patrick L. Provenzale

PLP/mn
Enclosure

Summary Catalog of Dr. Walters' Allegations

Formal Complaint of Hostile Work Environment

Respondent - Jess Gathing

- #1: April, May or June (Spring) of 2014

In the spring of 2014 before Dr. Walters was formally hired as Superintendent, you were verbally aggressive and unprofessional toward Dr. Walters during a closed session of a regular Board meeting to discuss personnel matters, when you raised the volume of your voice with an emotional tone and stated to her and about her refusal to agree with you, "this is bullshit," when discussing the restoration of Tammy Williams' salary to the rate before her administrative reassignment.

- #2: 2018

At the Junior High School, you verbally confronted Dr. Walters about missing band uniforms in an aggressive and unprofessional manner, yelling and screaming at her.

- #3: December 19, 2019

While attending a public gathering to discuss the Jr. Kay's Football Club in the auditorium at the High School, you publicly confronted Dr. Walters in an unprofessional and aggressive manner by shouting at her and aggressively pointing your finger at her when she was on stage addressing the crowd in attendance with a microphone.

- #4: April 12, 2021

During a Board meeting discussing the appointment of Calvin Works as assistant principal of the High School, you exhibit aggressive behavior toward Dr. Walters through the volume and tone of your voice in disagreement, stating that she "must be in Mr. Works' pocket," and stating words to the effect of "what do I owe you," and "I could do anything I want to you." Later in the same meeting, you also exhibited verbal aggression toward Dr. Walters in the same demeanor in that you cursed at her, told her that the community harassment referenced in the cease-and-desist letter of March 31, 2021, was what Dr. Walters deserved and that she "brought it all upon herself," and that you and Board Member Bohlen did not want to hire an attorney for her to stop the harassment of her by the community members.

- #5: 2014 - present

During Board meetings, you have made unprofessional and discriminatory statements about or to Dr. Walters to the effect of "what do I owe you," and I could do whatever I want to you" and "we can tell her what to do" and "she has to do what we tell her" because of her gender.



- #6: 2021-22

That you have exhibited indifference to the wellbeing of Dr. Walters in connection with issues involving her safety and reputation in the community, specifically taking no action to address the circumstance of security breach at a D111 school building, not defending her against Facebook posts attacking her for the scheduling delays in 2021, and resisting efforts to secure her legal representation in her official capacity in response to harassment and intimidation from members of the D111 community in 2020 and 2021.

- October 20, 2022

At a Business / Finance meeting, you stated to Dr. Walters that she should pay back all of the money the District has paid her

Respondent - <u>Joe Lightfoot, Sr.</u>

- #1: May 10, 2015

After the hiring of Ron Wilcox in 2015, you were a finalist candidate for the position of Head Boys' Basketball Coach for Kankakee High School. That on May 10, 2015, you went to Dr. Walters' personal home to complain to her about her recommendation that the Board hire your son, Joe Lightfoot, Jr., in that position at the next night's Board meeting. That after your son was hired and you were not, you were mad at Dr. Walters for not hiring you, and that you told her that you remained mad at her about that in 2017 during a pastors' meeting with Dr. Walters. That after your son was hired, false rumors were floating in the D111 community that Dr. Walters was improperly or illicitly in a sexual relationship with her subordinate, Ron Wilcox, and that you initiated or spread these rumors to others in the D111 community up through 2018. That related to communications related to initiating or spreading these false rumors, you told Dr. Walters and Barbara Wells and others that Martin Whalen had Dr. Walters followed and that compromising pictures of her with Mr. Wilcox existed, and you told Chris Pickett that Dr. Walters could not be trusted and that Mr. Wilcox was hired in the position of Athletic Director because of his sexual relationship with Dr. Walters.

- #2: Late 2015 or early 2016

While in Tinley Park for attendance at a Superintendent's Commission on Demographics and Diversity, you engaged in unprofessional and discriminatory behavior toward Dr. Walters based on her race and gender when you stated "I would be upset if you dated a white man."

- #3: March 29, 2016

That days prior a regular Board meeting on March 29, 2016, during the spring break period, you texted an implied threat to Dr. Walters that if she terminated the employment of Lori Holmes, the then-principal at the Lafayette Primary School, at the upcoming meeting, "God would terminate" Dr. Walters. Then days later, during the closed session of a regular Board meeting to discuss personnel matters, you exhibited verbal and physical aggression toward Dr. Walters by speaking toward her with an elevated volume and tone accompanied by animated demeanor while arguing about her recommendation to terminate Lori Holmes, while you stood in such close proximity to where she was seated and leaned over her so as to intimidate and threaten her sense of physical safety.

- #4: June 13, 2016

That during a closed session of a regular Board meeting to discuss personnel matters on June 13, 2016, at either Edison or Mark Twain Elementary School, you exhibited verbal aggression toward Dr. Walters by speaking toward her in an elevated volume and tone during a discussion regarding Alicia Young's reassignment to a non-administrator position, and that after that closed session, you followed her down the hallway from the classroom toward the gym where the public meeting was to be resumed, and you exhibited verbal and physical aggression toward her ordering her "come back here, don't walk away from your boss," and "you don't always tell the truth" and "just because its on paper does not mean it happened," or words to those effects, while approaching and standing in such close proximity to Dr. Walters, while being physically animated and emotionally elevated, so as to intimidate and threaten Dr. Walters sense of physical safety, and cause another Board member, Darrell Williams, to physically intervene.

Further, that later in early 2017 during a reconciliation / mediation meeting with you, your Pastor Wills, Dr. Walters and her pastor, you denied being aggressive and denied confronting her in the hallway in any aggressive or intimidating way.

- #5: June 13, 2016

That during a board meeting, in connection with comments from Gloria Kennedy, you became verbally aggressive toward Dr. Walters related to Dr. Walters' decision, approved by the District's legal representative, to allow a transgender student to use her name on her diploma, angrily asking Dr. Walters if that decision "was the right thing to do," and during closed session, you brought up the earlier allegation from Gloria Kennedy about an alleged "black list" and threatened that "it was coming," and also in anger were verbally aggressive toward Dr. Walters because she declined your request to investigate the athletic director for allegedly having a sexual relationship with a teacher.

- May 187, 2017

You were visibly angry and verbally aggressive toward Dr. Walters during board discussions regarding hiring Bill Yohnka, a Community Engagement Specialist, and about the hiring of the girls' basketball coach resulting in the Board going into closed session twice due to your aggressive behavior.

- March 6, 2018

During closed session of a regular Board meeting at Mark Twain, you were verbally aggressive toward Dr. Walters, and after Dr. Walters left the room, you became more verbally aggressive in the hallway back to the open session, and continued your aggressive behavior into the open session, leading to a second closed session to address your aggressive behavior.

- 2014 – 2018

That you engaged in the above unprofessional, aggressive and discriminatory behavior, because of Dr. Walters' gender.

Respondent - <u>Chris Bohlen</u>

- #1: Year-end 2019

In a 2019 Board survey response regarding Dr. Walters' annual review, you communicated an unprofessional accusation toward Dr. Walters asserting that Dr. Walters had ruined her or the District's relationship with the D111 community without evidentiary support.

- #2: March 2022

During the closed session of a regular Board meeting to discuss personnel matters, after a presentation by Dr. Walters and Pamela Bell during open session regarding the issue of staffing the High School's media and information hubs / library, you exhibited verbally and physically aggressive behavior toward Dr. Walters in that you walked toward Dr. Walters to a distance of approximately three feet while in an elevated emotional state, red faced and threw something in the garbage forcefully, all in such a manner as to intimidate and threaten Dr. Walters safety.

- #3: General

That you have exhibited indifference to the wellbeing of Dr. Walters in connection with issues involving her safety and reputation in the community, specifically taking no action to address the circumstance of security breach at a D111 school building, not defending her against Facebook posts attacking her for the scheduling delays in 2021, and resisting efforts to secure her legal representation in her official capacity in response to harassment and intimidation from members of the D111

community in 2020 and 2021 because it would negatively affect her relationship with Mayor Chastity.

Respondent - Deb Johnston

- September 2021

That you communicated with members of the D111 community in an unprofessional manner about Dr. Walters in connection with leaked audio recording of D111 staff discussing the D111 schedule for 2021, which recording was evidence that a delay in the schedule which the community had blamed or criticized Dr. Walters about, while she was dealing with a diagnosis of colon cancer, was not Dr. Walters' fault.

- October 20, 2022

At a Business / Finance meeting, you discussed a matter not on the agenda disparaging of Dr. Walters, saying that the Community Center should not be named after Dr. Walters.

JUSTIA

Henrich v. Libertyville HS

Henrich v. Libertyville HS
Docket No. 84094-Agenda 18-May 1998.

JOSHUA A. HENRICH, by his Mother and Next Friend, Judith Henrich, Appellant, v. LIBERTYVILLE HIGH SCHOOL et al., Appellees.

Opinion filed December 3, 1998.-Modified on denial of rehearing June 1, 1999.

CHIEF JUSTICE FREEMAN delivered the judgment of the court:

Sections 24-24 and 34-84a of the School Code (105 ILCS 5/24-24, 34-84a (West 1994)) immunize teachers and certain other educational employees from liability for injuries caused by their negligent supervision of school activities. To recover for such an injury, a plaintiff student must plead and prove that the teacher committed willful and wanton misconduct by such supervision. Kobylanski v. Chicago Board of Education, 63 Ill. 2d 165, 171-73 (1976). Those sections apply equally to public and private schools. See, e.g., Hilgendorf v. First Baptist Church, 157 Ill. App. 3d 428, 429 (1987).

Also, when properly raised, the Local Governmental and Governmental Employees Tort Immunity Act (Tort Immunity Act or Act) provides an extensive list of immunities to local governmental units, specifically including school districts. 745 ILCS 10/2-106 (West 1994). Section 3-108(a) of the Act immunizes a local public entity or a public employee from liability for an injury caused by a failure to supervise an activity on, or a failure to supervise the use of, any public property. 745 ILCS 10/3-108(a) (West 1994). Section 3-108(a) immunizes local public entities and employees from liability based on both ordinary negligence and willful and wanton misconduct. Barnett v. Zion Park District, 171 Ill. 2d

378, 391-92 (1996). The Tort Immunity Act does not apply to private schools. Cooney v. Society of Mt. Carmel, 75 Ill. 2d 430, 434 (1979).

The question presented for review is which statute's immunity controls in a case involving the failure to supervise public school activities: the immunity provided by the School Code, or the immunity provided by the Tort Immunity Act when properly raised? We hold that in such a case the immunity provided by the Tort Immunity Act controls.

BACKGROUND

This cause is before us following a motion to dismiss pursuant to section 2-619(a)(9) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(9) (West 1994)). The motion admits all well-pled allegations in the complaint and reasonable inferences to be drawn from the facts. Fireman's Fund Insurance Co. v. SEC Donahue, Inc., 176 Ill. 2d 160, 161 (1997).

The complaint alleges as follows. On February 14, 1994, plaintiff, Joshua A. Henrich, underwent spine fusion surgery for a lower back medical condition. On September 2, 1994, plaintiff's surgeon advised plaintiff in a letter that he was permanently restricted from participating in "contact sports, such as wrestling and football in gym class at school." On or before January 25, 1995, defendant Libertyville High School District 128 (district) had received a copy of the letter and also had actual knowledge of plaintiff's lower back condition and the permanent restrictions on his activities in physical education class.

On February 2, 1995, plaintiff was a 17-year-old student at Libertyville High School. On that date, a substitute physical education instructor supervised the physical education class at the high school's pool area. The instructor required plaintiff to participate in a game of water basketball. The district knew or should have known that water basketball involved physical contact between the players. While participating in the water basketball game, plaintiff was severely and permanently injured.

Plaintiff brought a personal injury action in the circuit court of Lake County against the district, the high school (collectively, the district), and Justin Burg, a fellow student. Count I of the three-count complaint alleged that the district required, allowed, or failed to prohibit plaintiff's participation in the water basketball game. The district so acted knowing that the game involved physical contact, knowing of plaintiff's medical condition, and knowing of the permanent medical restrictions on his activities due to his medical condition. Count I also alleged that the district allowed Burg to participate in the game knowing that Burg was a particularly rough player. Count I alleged that the district's acts constituted willful and wanton misconduct.

Count II reiterated the above acts and additionally alleged that the district assigned a noncertified or inadequately trained substitute teacher to the physical education class, and failed to adequately supervise the class. Count II alleges that those acts constituted ordinary negligence.

Count III is directed against Burg and alleges negligence. Burg subsequently brought a counterclaim against the district seeking contribution.

The district filed a combined motion to dismiss the complaint. See 735 ILCS 5/2-619.1 (West 1994). The district sought the dismissal of count I on the ground that it failed to state a cause of action for willful and wanton misconduct. See 735 ILCS 5/2-615 (West 1994). The trial court denied this part of the motion.

The district also sought the dismissal of counts I and II on the ground that the district was immune from liability under the Tort Immunity Act (745 ILCS 10/1-101 et seq. (West 1994)). See 735 ILCS 5/2-619(a)(9) (West 1994). The district argued that section 3-108(a) of the Act immunized it from counts I and II. The district also argued that section 3-109 of the Act additionally immunized it from the claims contained in count II. 745 ILCS 10/3-108(a), 3-109 (West 1994).

In separate orders, the circuit court dismissed counts I and II based on the Tort Immunity Act. In dismissing count I, the court expressly found that section 3-108(a) immunized the district from count I. The court also dismissed Burg's counterclaim for contribution against the district. The court noted that count III, directed against Burg, remained pending. The court also found that its orders were final and appealable. See 155 Ill. 2d R. 304.

On appeal, plaintiff contested only the dismissal of count I, which alleged willful and wanton misconduct. The appellate court upheld the dismissal. 289 Ill. App. 3d 809. The court addressed the issue of which statutory immunity controlled the disposition of count I: section 24-24 of the School Code (105 ILCS 5/24-24 (West 1994)), or section 3-108(a) of the Tort Immunity Act (745 ILCS 10/3-108(a) (West 1994)). The appellate court concluded that the immunity provided by section 3-108(a) of the Act was available to the district. Since that section immunizes willful and wanton misconduct, the appellate court upheld the dismissal of count I. 289 Ill. App. 3d at 817.

We allowed plaintiff's petition for leave to appeal (166 Ill. 2d R. 315). We subsequently granted the Illinois Trial Lawyers Association leave to file an amicus curiae brief in support of plaintiff; we also granted the Chicago Board of Education, the Illinois Association of School Boards, and the Illinois Association of School Administrators leave to file an amicus

curiae brief in support of the district. 155 Ill. 2d R. 345. We now affirm the judgment of the appellate court.

DISCUSSION

Section 2-619(a)(9) of the Code of Civil Procedure permits dismissal where "the claim asserted *** is barred by other affirmative matter avoiding the legal effect of or defeating the claim." 735 ILCS 5/2-619(a)(9) (West 1994). When ruling on a motion to dismiss, the trial court must interpret all pleadings and supporting documents in the light most favorable to the nonmoving party. The court should grant the motion only if the plaintiff can prove no set of facts that would support a cause of action. On appeal, review is de novo. In re Chicago Flood Litigation, 176 Ill. 2d 179, 189 (1997).

This controversy centers upon the interpretation of two immunity statutes. Plaintiff contends that section 24-24 of the School Code (105 ILCS 5/24-24 (West 1994)) controls the disposition of count I. According to plaintiff, since that section does not immunize willful and wanton misconduct, then count I stands. On the other hand, the district contends that section 3-108(a) of the Tort Immunity Act (745 ILCS 10/3-108(a) (West 1994)) controls the disposition of count I. According to the district, since that section immunizes willful and wanton misconduct, then count I was properly dismissed.

To resolve this issue, we must interpret these two statutes. The primary rule of interpreting statutes, to which all other rules are subordinate, is that a court should ascertain and give effect to the intent of the legislature. The court should seek the legislative intent primarily in the language of the statute. Also, the statute should be evaluated as a whole; the language within each section of a statute must be examined in light of the entire statute. Abrahamson v. Illinois Department of Professional Regulation, 153 Ill. 2d 76, 91 (1992). When this court has interpreted a statute, that interpretation is considered as part of the statute itself unless and until the legislature amends it contrary to the interpretation. Miller v. Lockett, 98 Ill. 2d 478, 483 (1983); see People v. Woodard, 175 Ill. 2d 435, 443-44 (1997).

Section 3-108(a) of the Tort Immunity Act provides in pertinent part that:

"neither a local public entity nor a public employee is liable for an injury caused by a failure to supervise an activity on or the use of any public property." 745 ILCS 10/3-108(a) (West 1994).

Further, a " `[l]ocal public entity' includes a *** school district." 745 ILCS 10/1-206 (West 1994). Also, the Act must be raised and pled as an affirmative defense or else it is waived,

even if the evidence supports the existence or appropriateness of the defense. Martin v. Chicago Housing Authority, 264 Ill. App. 3d 1063, 1075 (1994); First National Bank v. Village of Mundelein, 166 Ill. App. 3d 83, 90 (1988).

The plain language of section 3-108(a) does not contain an exception for willful and wanton misconduct. Based on this plain language, this court has interpreted section 3-108(a) to immunize willful and wanton misconduct. Barnett, 171 Ill. 2d at 391-92. We note that the School Code was not at issue in Barnett.

In this case, the district raised the affirmative defense of the Tort Immunity Act. The district contends that since it is a local public entity, then section 3-108(a) applies to count I.

At the time this cause arose, section 24-24 of the School Code, which applies to cities with a population of less than 500,000, and section 34-84a of the Code, which applies to cities with a population of greater than 500,000, provided in pertinent part that:

"[t]eachers and other certificated educational employees shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians." 105 ILCS 5/24-24, 34-84a (West 1994).

By its plain language, section 24-24 confers on educators the status of parent or guardian to their pupils. Therefore, this statute grants educators the immunity that parents enjoy (Kobylanski, 63 Ill. 2d at 170-73), and which school districts vicariously enjoy (Sidwell v. Griggsville Community Unit School District No. 4, 146 Ill. 2d 467, 472-73 (1992)).

Section 24-24 of the School Code confers on teachers in loco parentis status in all matters relating to the supervision of students in school activities. This court has interpreted section 24-24 to immunize ordinary negligence, but not to immunize willful and wanton misconduct. Gerrity v. Beatty, 71 Ill. 2d 47, 50 (1978); Kobylanski, 63 Ill. 2d at 171-73. This interpretation is keyed to the rule that parents are not liable to their children for ordinary negligence, but are liable for willful and wanton misconduct. Thomas v. Chicago Board of Education, 77 Ill. 2d 165, 171 (1979); Kobylanski, 63 Ill. 2d at 170.

We note that this court has narrowed parental immunity to cover only ordinary negligence

arising from conduct that is inherent to the parent-child relationship; i.e., conduct that concerns parental discretion in discipline, supervision, and care of the child. Absent such conduct, a child may recover from a parent for negligence. Cates v. Cates, 156 Ill. 2d 76, 104-05 (1993). As a result of Cates, the educator immunity provided by section 24-24 of the School Code is accordingly narrowed. See Cates, 156 Ill. 2d at 110-11 (Miller, C.J., dissenting); Stiff v. Eastern Illinois Area of Special Education, 279 Ill. App. 3d 1076, 1080-81 (1996).

Plaintiff contends that since this cause arose from the supervision of students in a school physical education program, then section 24-24 applies to count I.

This court has noted that the immunity provided by section 24-24 of the School Code did not derive from the immunity provided by the Tort Immunity Act. Kobylanski, 63 Ill. 2d at 174. This has indicated to the appellate court that section 24-24 of the School Code and section 3-108(a) of the Tort Immunity Act are to be interpreted as two independent statutes. Lewis v. Jasper County Community Unit School District No. 1, 258 Ill. App. 3d 419, 421 (1994); Bowers v. Du Page County Regional Board of School Trustees District No. 4, 183 Ill. App. 3d 367, 377 (1989). We agree and so hold.

It appears from this examination of section 3-108(a) of the Tort Immunity Act and section 24-24 of the School Code that both immunities apply to count I. Not only must we accept as true the allegations of willful and wanton misconduct contained in count I, but also the circuit court found that count I stated a cause of action. Accordingly, under section 3-108(a) of the Tort Immunity Act, count I cannot stand. However, under section 24-24 of the School Code, count I stands. Thus, the two statutes appear to conflict in this case.

Plaintiff argues that section 24-24 of the School Code controls the disposition of count I because it is more specific than section 3-108(a) of the Tort Immunity Act. It is a well-settled rule of statutory construction that " '[w]here there are two statutory provisions, one of which is general and designed to apply to cases generally, and the other is particular and relates to only one subject, the particular provision must prevail.' " Hernon v. E.W. Corrigan Construction Co., 149 Ill. 2d 190, 195 (1992), quoting Bowes v. City of Chicago, 3 Ill. 2d 175, 205 (1954). A policy expressed in the specific statutory provision should prevail over general statutory statements. Sierra Club v. Kenney, 88 Ill. 2d 110, 126 (1981).

The appellate court in this case acknowledged that both section 24-24 of the School Code and section 3-108(a) of the Tort Immunity Act applied to count I. 289 Ill. App. 3d at 814-15. The court concluded that section 3-108(a) controlled the disposition of count I. The appellate court described the immunity that section 24-24 of the School Code provides as

not arising directly from the statute. Rather, according to the appellate court, "whatever immunity section 24-24 provides arises indirectly from the in loco parentis relationship of teachers and other educational employees with students." Further, the court noted that "any immunity provided to a school district by section 24-24 is vicarious in that it is derived from the immunity provided to teachers and other educational employees." In contrast, the appellate court described the immunity provided by section 3-108(a) of the Tort Immunity Act, read with section 1-206 of the Act, as "much more direct and specific than section 24-24 of the School Code." 289 Ill. App. 3d at 815.

We need not decide whether section 3-108(a) of the Tort Immunity Act is more specific than section 24-24 of the School Code. Rather, we can ascertain the legislative intent from the plain language of section 3-108(a) and can give it effect without resorting to other aids for construction. See Illinois Power Co. v. Mahin, 72 Ill. 2d 189, 194 (1978), quoting Western National Bank v. Village of Kildeer, 19 Ill. 2d 342, 350 (1960). Where the language of a statute is unambiguous, the only legitimate function of the courts is to enforce the law as enacted by the legislature. Certain Taxpayers v. Sheahen, 45 Ill. 2d 75, 84 (1970). There is no rule of construction which authorizes a court to declare that the legislature did not mean what the plain language of the statute says. Illinois Power Co., 72 Ill. 2d at 194, quoting Western National Bank, 19 Ill. 2d at 350.

In the present case, the plain language of section 3-108(a) of the Tort Immunity Act immunizes a local public entity's failure to supervise an activity on or the use of public property (745 ILCS 10/3-108(a) (West 1994)), and a "local public entity" expressly includes a school district (745 ILCS 10/1-206 (West 1994)). The legislature could not have made its intent any plainer.

We reach our conclusion that section 3-108(a) of the Tort Immunity Act controls the disposition of count I also by comparing the plain language of that section with section 24-24 of the School Code. A court presumes that two or more statutes which relate to one subject are governed by one spirit and policy, and that the legislature intended the statutes to be operative and harmonious. Therefore, statutes relating to the same subject must be compared and so construed with reference to each other that effect may be given to all of the provisions of each, if it can fairly and reasonably be done. Ashton v. County of Cook, 384 Ill. 287, 298 (1943).

We note that the Seventy-fourth General Assembly enacted section 24-24 of the School Code (1965 Ill. Laws 1459 (passed June 28, 1965)) and the Tort Immunity Act (1965 Ill. Laws 2982 (passed June 30, 1965)) only two days apart. Statutes that relate to the same subject matter, passed at the same session of the General Assembly, should be interpreted

with reference to each other. A court should not consider such statutes inconsistent if it is possible to interpret them otherwise. People ex rel. Vaughan v. Thompson, 377 Ill. 244, 249 (1941).

In the present case, section 3-108(a) of the Tort Immunity Act and section 24-24 of the School Code each stands in its own sphere. Section 24-24 of the School Code applies equally to public and private schools. See Hilgendorf, 157 Ill. App. 3d at 429; Cotton v. Catholic Bishop, 39 Ill. App. 3d 1062 (1976); Merrill v. Catholic Bishop, 8 Ill. App. 3d 910 (1972). In contrast, the Tort Immunity Act does not apply to private schools, but only to public schools. Cooney, 75 Ill. 2d at 434. Although "public and private schools may sometimes be classified together in light of the similarity of their functions and activities *** it does not follow that the legislature is required to adopt that classification in the *** Tort Immunity Act." Cooney, 75 Ill. 2d at 435. By the plain language of section 3-108(a) of the Tort Immunity Act, the legislature has chosen to grant public school teachers and public school districts greater immunity than private school teachers and private schools.

By giving effect to the plain language of section 3-108(a) of the Tort Immunity Act, we effectuate the purposes of both section 3-108(a) and section 24-24 of the School Code. The Act itself states that its purpose is "to protect local public entities and public employees from liability arising from the operation of government." 745 ILCS 10/1-101.1 (West 1994); accord Bubb v. Springfield School District 186, 167 Ill. 2d 372, 378 (1995) ("By providing immunity, the legislature sought to prevent the diversion of public funds from their intended purpose to the payment of damage claims").

Sections 24-24 and 34-84a of the School Code reflect the basic policy "that teachers, standing in loco parentis, should not be subjected to any greater liability than parents, who are liable to their children for willful and wanton misconduct." Kobylanski, 63 Ill. 2d at 173. This court has explained that those sections:

"reflect a legislative determination that the orderly conduct of the schools and the maintenance of a sound learning atmosphere require that there be a personal relationship between teacher and student in which the teacher has disciplinary and supervisory authority similar to that which exists between parent and child. It is evident that this relationship would be seriously jeopardized if teachers and school districts were amenable to ordinary negligence actions for accidents occurring in the course of the exercise of such authority." Gerrity, 71 Ill. 2d at 51.

Thus, "[i]n the interest of student-teacher harmony, litigation between them should not be encouraged-absent wilful and wanton conduct." Thomas, 77 Ill. 2d at 171; accord Albers v.

Community Consolidated No. 204 School, 155 Ill. App. 3d 1083, 1085 (1987); see, e.g., Stiff, 279 Ill. App. 3d at 1080-81.

Our interpretation of section 3-108(a) of the Tort Immunity Act is consistent with the purpose of either statute. True, the immunities that section 3-108(a) of the Tort Immunity Act and section 24-24 of the School Code provide serve different purposes. However, both statutes discourage tort claims and, by the plain language of section 3-108(a), the legislature has chosen to discourage such claims against public school teachers and school districts more broadly. We conclude that section 3-108(a) of the Tort Immunity Act controls the disposition of count I.

According to plaintiff, holding that section 3-108(a) of the Tort Immunity Act controls the disposition of count I is absurd and unjust. To him, we are effectively holding that while parents are required to send their children to school, public school teachers have no tort duty of care for their pupils and parents have no recourse for any injuries to their children, even injuries caused by willful and wanton misconduct. A court presumes that the General Assembly, in enacting legislation, did not intend absurdity or injustice. Hernon, 149 Ill. 2d at 195; Halberstadt v. Harris Trust & Savings Bank, 55 Ill. 2d 121, 128 (1973).

However, to hold that section 24-24 of the School Code controlled the disposition of count I would effectively delete the explicit language in section 1-206 of the Tort Immunity Act that applies section 3-108(a) to school districts. In interpreting a statute, a court should, if possible, give significance and effect to every word without destroying the sense or effect of the law. The court should interpret the statute, if possible, so that no word is rendered meaningless or superfluous. People ex rel. Barrett v. Barrett, 31 Ill. 2d 360, 364-65 (1964).

CONCLUSION

It is the province of the legislature to enact laws; it is the province of the courts to construe them. Courts have no legislative powers; courts may not enact or amend statutes. A court cannot restrict or enlarge the meaning of an unambiguous statute. The responsibility for the justice or wisdom of legislation rests upon the legislature. People ex rel. Roan v. Wilson, 405 Ill. 122, 128 (1950); People ex rel. Nelson Brothers Storage & Furniture Co. v. Fisher, 373 Ill. 228, 234 (1940). A court must interpret and apply statutes in the manner in which they are written. A court must not rewrite statutes to make them consistent with the court's idea of orderliness and public policy. Kozak v. Retirement Board of the Firemen's Annuity & Benefit Fund, 95 Ill. 2d 211, 220 (1983).

We hold that section 3-108(a) of the Tort Immunity Act controls the disposition of count I.

Since count I states a cause of action for willful and wanton misconduct, and since section 3-108 immunizes willful and wanton misconduct, then count I cannot stand.

For the foregoing reasons, the judgment of the appellate court is affirmed.

Affirmed.

JUSTICE HEIPLE, specially concurring:

I concur with the majority's conclusion that section 24-24 of the School Code (105 ILCS 5/24-24 (West 1994)) and section 3-108(a) of the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/3-108(a) (West 1994)) do not conflict. However, the majority's rationale is wrong.

The two provisions at issue in this case both grant immunity to a defendant where a plaintiff alleges ordinary negligence. However, whereas section 24-24 of the Code grants immunity for ordinary negligence only, section 3-108(a) of the Act grants immunity for both ordinary negligence and willful and wanton conduct. Thus, where ordinary negligence is alleged, either the Code or the Act may be raised as an affirmative defense, and the two provisions do not conflict. Rather, they simply complement each other.

Where a plaintiff alleges willful and wanton conduct, however, section 3-108(a) of the Act is alone available as an affirmative defense. That is because section 24-24 of the Code does not immunize willful and wanton conduct. On the other hand, neither does it create liability for willful and wanton conduct. It simply has no application in that situation. That is to say, section 3-108(a) of the Act does not conflict with section 24-24 of the Code; the Act merely grants a greater immunity than the Code. Consequently, the Act controls the disposition in the case at hand. Thus, I concur with the judgment of the court but not its opinion.

JUSTICE HARRISON, dissenting:

I agree that section 3-108(a) of the Tort Immunity Act (745 ILCS 10/3-108(a) (West 1994)) contains no exception for willful and wanton misconduct. In my view, however, the majority's discussion of the relationship between section 3-108(a) and section 24-24 of the School Code (105 ILCS 5/24-24 (West 1994)) is fundamentally flawed. Section 24-24 is the controlling provision in this case, not section 3-108(a), and under section 24-24, count I of plaintiff's complaint asserts a viable claim against the school district for willful and wanton misconduct.

In count I plaintiff seeks to hold the school district vicariously liable for the conduct of one of its employees. Where, as here, a school district's liability is vicarious rather than direct, the district is subject to the immunity rules established pursuant to section 24-24 of the School Code if the employee is also subject to those rules. See Sidwell v. Griggsville Community Unit School District No. 4, 146 Ill. 2d 467, 473 (1992). Not every school employee, however, falls within the ambit of the statute. By its terms, section 24-24 applies only to "teachers and other certificated educational employees." 105 ILCS 5/24-24 (West 1994).

In the case before us today, plaintiff's complaint alleges that the school employee whose conduct is at issue was an agent or employee of the school district, but "not a teacher or certified educational employee." If that were true, disposition of this case would be straightforward. Where an employee is not a teacher or other certified educational employee, section 24-24 is inapplicable. Accordingly, the statute could not be invoked vicariously with respect to the school district. The question of immunity would be governed instead by the Tort Immunity Act. See, e.g., Montag v. Board of Education, School District No. 40, 112 Ill. App. 3d 1039, 1043 (1983) (non-certified school employees subject to section 3-108 of the Tort Immunity Act rather than section 24-24); Jackson v. Chicago Board of Education, 192 Ill. App. 3d 1093, 1099 (1989) (employee who was not a teacher performing the function of classroom instruction was protected by provisions of Tort Immunity Act, not section 24-24 of the School Code). Under section 3-108(a) of the Tort Immunity Act, the district would plainly be immune under count I of plaintiff's complaint.

The reason this case is more difficult is that plaintiff's characterization of the employee has proven to be inaccurate. Contrary to plaintiff's allegations, the school employee whose conduct is at issue here was indeed a "teacher[ ]" or "other certificated educational employee[ ]" within the meaning of section 24-24. 105 ILCS 5/24-24 (West 1994). In support of their motion to dismiss under section 2-619(a)(9) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(9) (West 1994)), defendants submitted affidavits from the school employee and the school superintendent specifically stating that the employee was "a certificated teacher with the State of Illinois" under a current and valid high school teaching certificate issued by the State Teacher Certification Board. A copy of the employee's actual teaching certificate was attached to the employee's affidavit and confirmed his status.

Because the employee fell within the category of employees governed by section 24-24, that statute, as well as section 3-108(a) of the Tort Immunity Act, was applicable to the allegations contained in count I of plaintiff's complaint. To understand the relationship

between these two provisions, it is important to understand the scope of section 24-24.

Section 24-24 confers immunity on teachers and other certificated educational employees for "matters relating to the discipline in and conduct of the schools and the school children." 105 ILCS 5/24-24 (West 1994). Unlike section 3-108(a), however, section 24-24's immunity extends only to ordinary negligence. The statute does not confer immunity for willful and wanton misconduct. O'Brien v. Township High School District 214, 83 Ill. 2d 462, 467 (1980). Accordingly, our court has long interpreted the statute to mean that a public school student may bring an action to recover damages for injuries he sustained as a result of conduct by teachers or coaches who exhibited a reckless disregard for his welfare. O'Brien, 83 Ill. 2d at 469; Kobylanski v. Chicago Board of Education, 63 Ill. 2d 165, 173 (1976); see Palmer v. Mt. Vernon Township High School District 201, 169 Ill. 2d 551, 562 (1996).

Today the majority has taken an altogether different view. Under its new approach, the student's action would be barred by section 3-108(a) of the Tort Immunity Act even if it would otherwise be proper under section 24-24 of the School Code. My colleagues believe this view is compelled by the plain language of section 3-108(a) "without resorting to other aids for construction." Slip op. at 8. The flaw in their analysis is that we are not dealing with section 3-108(a) alone. We have two separate statutes here, and if both apply by their terms, the "plain language" rule settles nothing.

In attempting to reconcile section 3-108(a) with section 24-24, we must be guided by the principle that, whenever possible, a court must construe statutes which are in conflict or which appear repugnant so as to give effect to both. See People ex rel. Moore v. Chicago, Burlington & Quincy R.R. Co., 414 Ill. 419, 425 (1953). The majority's analysis violates this rule. Under my colleagues' approach, section 24-24 has been reduced to a nullity. For all practical purposes, it will no longer serve any function.

The majority tries to save section 24-24 by asserting that it will continue to apply to private schools. This argument has no basis in the law and no support in the precedent of our court. Except in specific and limited circumstances not present here, the School Code is, by its terms, limited in application to public schools. Similarly, the provisions of section 24-24 govern only conduct of teachers and other educational employees who are certified by the state. The state certification requirements do not apply to private schools.

Private schools may, of course, voluntarily adopt the standards imposed by the School Code. In addition, the School Code may provide an appropriate model for formulating common law standards of care owed by teachers and other personnel employed by private

schools. It is important to keep in mind, however, that the usefulness of the School Code in making that type of policy determination is independent of the law's actual purpose, meaning and effect. With respect to private schools, the School Code has absolutely no legal force except in narrowly delineated, incidental and indirect ways. See, e.g., Chady v. Solomon Schechter Day Schools, 269 Ill. App. 3d 31, 35 (1995) (because plaintiff's employer was a private school, the School Code did not apply to give her any statutory rights to employment). As a result, when the majority suggests that section 24-24 was intended by the legislature to apply to private schools but not to public schools, they have gotten things completely backwards.

Contrary to what my colleagues may believe, section 24-24 of the School Code can be reconciled with section 3-108 of the Tort Immunity Act, and it can be reconciled in a very straightforward way. Where there are two statutory provisions relating to the same subject, either in the same act or in separate acts, the specific provision controls and should be applied. People v. Villarreal, 152 Ill. 2d 368, 379 (1992). Section 24-24 is plainly more specific in its application than section 3-108. Section 3-108 pertains generally to the liability of public entities or public employees for failure to supervise an activity on or the use of public property. Section 24-24 of the School Code, by contrast, applies to a narrowly defined group of public employees, "teachers and other certificated educational employees," in a narrowly defined context, namely, when they are engaged in "activities connected with the school program, including all athletic and extracurricular programs." 105 ILCS 5/24-24 (West 1994). Accordingly, where, as here, section 24-24 applies, it controls over section 3-108(a) and permits a claim for willful and wanton misconduct.

There is nothing the slightest bit novel or controversial about this conclusion. As my previous discussion has indicated, our court has long recognized the viability of damage actions against school districts based on the willful and wanton misconduct of teachers and other certified educational employees. I cannot fathom why my colleagues have suddenly decided to disavow that precedent and leave the children of this state completely unprotected from even the most reckless and irresponsible conduct of those charged with their care at school. Perhaps it is simply another example of the majority's utter disregard for children. See, e.g., Barnett v. Zion Park District, 171 Ill. 2d 378 (1996); Mt. Zion State Bank & Trust v. Consolidated Communications, Inc., 169 Ill. 2d 110 (1995). In any case, it is an outrage.

My colleagues cannot escape responsibility for their actions by placing blame on the legislature. The legislature is presumed to know our prior construction of the law, and although section 24-24 has been amended repeatedly, the legislature has made no changes

that would alter our view that willful and wanton misconduct is actionable. Under these circumstances, we must assume that the legislature intended the law to have the meaning we previously ascribed to it. Cripe v. Leiter, No. 84117, slip op. at 10 (October 22, 1998); People v. Agnew, 105 Ill. 2d 275, 280 (1985). Accordingly, it is not the legislature that will be to blame for the awful consequences of today's decision. It is the members of this court.

JUSTICE NICKELS joins in this dissent.

JUSTICE McMORROW, also dissenting:

I disagree with and reject the first sentence in Justice Harrison's dissenting opinion in this case. In all other respects, I agree with and join in that opinion. I further dissent, as follows.

The majority has voted to affirm dismissal of plaintiff's claim grounded in willful and wanton misconduct, despite the fact that this result immunizes public schools from civil liability for even deliberate injuries to students. See 745 ILCS 10/1-210 (West 1996). I find this result untenable.

The majority opinion unfortunately perpetuates and extends erroneous interpretations of section 3-108 of the Local Governmental and Governmental Employees Tort Immunity Act previously published by the court. In Barnett v. Zion Park District, 171 Ill. 2d 378 (1996), this court ruled that section 3-108 blanketed the Zion Park District with immunity, despite allegations by the plaintiff that lifeguards at a Zion Park District swimming pool knowingly and willfully disregarded pleas to help the plaintiff's drowning decedent, thereby causing the decedent's death. I dissented in Barnett (Barnett, 171 Ill. 2d at 399 (McMorrow, J., dissenting)), and attempted to demonstrate the fallacy of the majority's conclusions. I argued, inter alia, that the absence of an explicit exemption in section 3-108 for willful and wanton conduct does not lead ineluctably to the conclusion that the legislature meant to include willful and wanton behavior within the scope of immunized conduct. I noted as well that reasons sustaining governmental immunity for simple negligence do not necessarily apply to willful and wanton conduct, and therefore a legislative purpose to extend immunity to willful and wanton conduct demands an express statement of that intent. I observed that the majority's expansive reading of section 3-108 defied our constitutional duty (Ill. Const. 1970, art. XIII, §4) to find only those immunities expressly granted by statute and to assume that any immunity not specifically enacted did not exist.

My conviction that this court reads a willful and wanton exception into an enactment where none exists remains as strong today as when I stated it in Barnett, and later stated it

in In re Chicago Flood Litigation, 176 Ill. 2d 179, 213 (1997) (McMorrow, J., concurring in part and dissenting in part), and Harinek v. 161 North Clark Street Ltd. Partnership, 181 Ill. 2d 335, 354 (1998) (McMorrow, J., concurring in part and dissenting in part)). For the reasons stated in those separate opinions, I would reverse the decisions of the circuit and appellate courts in the case at bar and reinstate count I of plaintiff's complaint.

SUPPLEMENTAL OPINION UPON DENIAL OF REHEARING

CHIEF JUSTICE FREEMAN delivered the opinion of the court:

In his petition for rehearing, plaintiff notes that the General Assembly has recently exercised its legislative responsibility in this area. The legislature rewrote section 3-108; it now reads as follows:

"§3-108. (a) Except as otherwise provided in this Act, neither a local public entity nor a public employee who undertakes to supervise an activity on or the use of any public property is liable for an injury unless the local public entity or public employee is guilty of willful and wanton conduct in its supervision proximately causing such injury. (b) Except as otherwise provided in this Act, neither a local public entity nor a public employee is liable for an injury caused by a failure to supervise an activity on or the use of any public property unless the employee or the local public entity has a duty to provide supervision imposed by common law, statute, ordinance, code or regulation and the local public entity or public employee is guilty of willful and wanton conduct in its failure to provide supervision proximately causing such injury." (Emphasis added.) Pub. Act 90-805, §5, eff. December 2, 1998 (amending 745 ILCS 10/3-108 (West 1994)).

The amended section 3-108 expressly allows claims of willful and wanton misconduct against local public entities and employees such as contained in count I of plaintiff's complaint. Plaintiff notes that the new section 3-108 took effect on December 2, 1998, and that this court issued its original judgment the next day, December 3. Plaintiff contends that the new version of section 3-108 applies to his case. He asks us to reverse the dismissal of count I and to remand this cause to the circuit court for further proceedings relating thereto. We cannot accept plaintiff's contention, and we decline to reverse the dismissal of count I.

Plaintiff argues that the legislative debates surrounding the amended section 3-108, coupled with the fact of its enactment, demonstrate that the legislature never intended to

immunize willful and wanton misconduct. Thus, according to plaintiff, since the unamended section 3-108 never immunized willful and wanton misconduct, then plaintiff should be allowed to pursue count I. We disagree. Illinois courts ascertained the legislative intent of the unamended section 3-108 from its plain language. Barnett, 171 Ill. 2d at 391-92; Payne v. Lake Forest Community High School District 115, 268 Ill. App. 3d 783, 785-87 (1994). That intent must prevail and be given effect without resort to other interpretive aids. See Envirite Corp. v. Illinois Environmental Protection Agency, 158 Ill. 2d 219, 216-17 (1994).

We conclude that the amended section 3-108 does not apply to count I also because the school district in this case has a vested right to the total immunity provided by the unamended section 3-108. It is settled that where the legislature changes the law pending an appeal, "a reviewing court should simply apply the law as it exists at the time of the appeal, unless doing so would interfere with a vested right." (Emphasis added.) First of America Trust Co. v. Armstead, 171 Ill. 2d 282, 290 (1996). "Although not capable of precise definition, a vested right is a complete and unconditional demand or exemption that may be equated with a property interest." First of America Trust, 171 Ill. 2d at 291. The due process clause of the Illinois Constitution (Ill. Const. 1970, art. I, §2) protects such vested rights from legislative interference. First of America Trust, 171 Ill. 2d at 289. Further, the property rights of local public entities "are protected by the same constitutional guaranties which shield the property of individuals from legislative aggression." Board of Education of Normal School District v. Blodgett, 155 Ill. 441, 450 (1895).

This court has agreed with the view that " 'an exemption from a demand or an immunity from prosecution in a suit is as valuable to the one party as the right to the demand or to prosecute the suit is to the other.' " Blodgett, 155 Ill. at 449, quoting Campbell v. Holt, 115 U.S. 620, 630, 29 L. Ed. 483, 487, 6 S. Ct. 209, 214 (1885) (Bradley, J., dissenting, joined by Harlan, J.). Thus, it has long been recognized that "[a] vested ground of defense is as fully protected from being cut off or destroyed by an act of the legislature as is a vested cause of action." 16A C.J.S. Constitutional Law §260(b), at 91 (1984); accord 6 R.C.L. Constitutional Law §306, at 319 (1915); see, e.g., Massa v. Nastri, 125 Conn. 144, 148-49, 3 A.2d 839, 841 (1939) (amended statute cannot retroactively impose on defendant liability for simple negligence when, under former statute, defendant was liable only for willful and wanton misconduct). Put simply, the legislature lacks the power to reach back and breathe life into a previously barred claim. See Sepmeyer v. Holman, 162 Ill. 2d 249, 254 (1994); Wilson v. All-Steel, Inc., 87 Ill. 2d 28, 40-41 (1981).

When this cause of action arose, the school district's immunity under the unamended section 3-108 was "unconditional," and " 'immediate, fixed and determinate' " (see First of America Trust, 171 Ill. 2d at 291, quoting City of Chicago v. Collin, 302 Ill. 270, 275 (1922)); it did not depend on the entry of a judgment. Thus, the school district's right to the total immunity provided by the unamended section 3-108 vested when the cause of action accrued. See Harraz v. Snyder, 283 Ill. App. 3d 254, 263 (1996); Zielnik v. Loyal Order of Moose, Lodge No. 265, 174 Ill. App. 3d 409, 411 (1988); Massa, 125 Conn. at 148-49, 3 A.2d at 841. The amended section 3-108 cannot reach back and take that vested right away, impose a new duty on the school district, and breathe life into this previously barred claim.

We note that none of the cases cited by Justice Harrison in his supplemental dissent involves a local public entity as a tort defendant. It is true that a school district, in its capacity as a political subdivision of the state, has no due process rights. People ex rel. Dixon v. Community Unit School District No. 3, 2 Ill. 2d 454, 465-66 (1954); People ex rel. Taylor v. Camargo Community Consolidated School District No. 158, 313 Ill. 321, 324-25 (1924). However, the Tort Immunity Act places a school district, when in the role of a tort defendant, in a different position. Section 1-101.1(b) of the Tort Immunity Act provides that "[a]ny defense or immunity, common law or statutory, available to any private person shall likewise be available to local public entities and public employees." 745 ILCS 10/1-101.1(b) (West 1994). In this case, since a private defendant has a vested right to the defense of an immunity, then so does the school district in its position as a private defendant.

DISSENTING OPINIONS UPON DENIAL OF REHEARING

JUSTICE HARRISON, dissenting:

The day before the court issued its original judgment, new legislation took effect which amended the Tort Immunity Act to eliminate the problem created by the judgments of the circuit and appellate courts in this case. Under the new version of the law, the Tort Immunity Act cannot be invoked by public entities to avoid liability for willful and wanton conduct in supervising activities on public property. Accordingly, even if my colleagues were correct that count I of plaintiff's complaint is subject to the Tort Immunity Act rather than the School Code, that count is no longer subject to dismissal on grounds of statutory immunity. We should therefore grant the petition for rehearing, reverse the judgment of the appellate court, and remand the cause to the circuit court for further proceedings.

The majority's refusal to apply the new version of the law to the present case is wholly improper. Our court has repeatedly held that where the legislature changes the law pending an appeal, the case must be disposed of by the reviewing court under the law as it then

exists, not as it was when the judgment was entered in the lower court. Envirite Corp. v. Illinois Environmental Protection Agency, 158 Ill. 2d 210, 215 (1994); Bates v. Board of Education, Allendale Community Consolidated School District No. 17, 136 Ill. 2d 260, 268-69 (1990).

Although an exception to this rule exists where application of the change in the law would affect a vested right (First of America Trust Co. v. Armstead, 171 Ill. 2d 282, 290 (1996)), that exception is inapplicable here. It is inapplicable because it is founded on the due process clause of the Illinois Constitution of 1970 (Ill. Const. 1970, art. I, §2) (see First of America Trust Co., 171 Ill. 2d at 289), and political subdivisions of the state, including school districts, have no due process rights.

The reason that political subdivisions of the state cannot claim due process protection against action by the General Assembly is legislative supremacy. That doctrine holds that because counties, cities, school districts and other local governmental entities are created by authority of the legislature, their rights and powers may be enlarged, diminished, modified or revoked by the legislature at any time at its pleasure. Under the doctrine, the state may apportion the common property and common burdens of such entities however it wishes, with or without notice, regardless of whether the inhabitants approve, and without any need to pay just compensation. People ex rel. Gutknecht v. City of Chicago, 414 Ill. 600, 621-22 (1953). Properly speaking, these entities have no property of their own. In fact and in law, their property is the property of the state and subject to legislative will. That being so, the entities have no property rights of which they may be deprived in violation of the due process clause of our constitution. People ex rel. Dixon v. Community Unit School District No. 3, 2 Ill. 2d 454, 466 (1954).

There is nothing novel about these principles. Had my colleagues checked the law after 1895, they would have discovered that the doctrine of legislative supremacy is well established and has been frequently applied by our court. Only two years ago, in East St. Louis Federation of Teachers, Local 1220 v. East St. Louis School District No. 189 Financial Oversight Panel, 178 Ill. 2d 399, 413 (1997), we specifically held that because school boards are "municipal corporations" created by the legislature and wholly within the legislature's control, they cannot assert due process claims against legislation enacted by the General Assembly. This holding followed an established line of cases from our court (see, e.g., Village of Riverwoods v. Department of Transportation, 77 Ill. 2d 130, 136 (1979); Meador v. City of Salem, 51 Ill. 2d 572, 578 (1972); Supervisors of the County of Boone v. Village of Rainbow Gardens, 14 Ill. 2d 504, 507-08 (1958); People ex rel. Taylor v. Camargo Community Consolidated School District No. 158, 313 Ill. 321, 324-25 (1924)) and from the

appellate court (see, e.g., City of Evanston v. Regional Transportation Authority, 202 Ill. App. 3d 265, 278 (1990); Franciscan Hospital v. Town of Canoe Creek, 79 Ill. App. 3d 490, 496-97 (1979); People v. Valentine, 50 Ill. App. 3d 447, 452-53 (1977)).

The majority's analysis is also infirm because it overlooks the language and purpose of the due process clause. That provision applies by its terms to "persons" and was intended to protect the property of individuals and corporations. Governmental entities do not constitute such "persons" (see Franciscan Hospital, 79 Ill. App. 3d at 496-97), and due process guarantees do not extend to the sovereign or subsidiaries of the sovereign (see City of Evanston, 202 Ill. App. 3d at 278). See also Cronin v. Lindberg, 66 Ill. 2d 47, 55-56 (1976) (school board and superintendent had no right to raise due process challenge to statutory amendment because "[d]ue process guarantees, in the ordinary sense, do not extend to them"); Village of Schaumburg v. Doyle, 277 Ill. App. 3d 832, 836 (1996) (municipalities cannot assert due process claims). Accordingly, there is no constitutional impediment to application of the amended version of the Tort Immunity Act here.

Contrary to my colleagues' assertion, section 1-101.1(b) of the Tort Immunity Act (745 ILCS 1-101.1(b) (West 1994)) does not alter this conclusion. That provision is inapposite. The statute refers to private individuals as a way to define the range of defenses available to a local public entity. Its point is simply to make clear that if a defense is available to a private person, it is available to a governmental entity as well. For example, when comparative negligence was adopted as a defense in Illinois, this section served as authority for the proposition that the defense could be invoked by municipalities just as it could be used by any other tort defendant. Wagner v. City of Chicago, 166 Ill. 2d 144, 152 (1995).

In the matter before us here, defining the scope of the applicable immunity is not at issue. Under the majority's disposition, the immunity rules have been set out by the legislature in section 3-108. The real question in this case is which version of section 3-108 should apply. That is an issue which section 1-101.1(b) does not address and was not intended to address.

To say that a local governmental entity may avail itself of the same defenses available to a private individual, as section 1-101.1(b) does, is not the same as saying that a local governmental entity is a private individual, or is equivalent to a private individual for any other purposes. The Tort Immunity Act merely grants immunities and defenses. It is not a source of rights. Vesey v. Chicago Housing Authority, 145 Ill. 2d 404, 412-13 (1991); 745 ILCS 10/1-101.1(a) (West 1994). Moreover, because it is in derogation of the common law, it must be strictly construed against the public entity involved. Zimmerman v. Village of Skokie, 183 Ill. 2d 30, 44 (1998). Accordingly, it cannot be interpreted as bestowing on public entities due process or any other constitutional protections. Local governmental

entities can assert defenses where authorized by law, but where the legislature sees fit to change the law and eliminate an immunity, as it has done here, the governmental entities have no basis under the due process clause of the Illinois Constitution of 1970 to complain.

Even if we could ignore the language and purpose of the due process clause and revoke the legislative supremacy doctrine, the majority's analysis would still be untenable. My colleagues' "vested right" analysis presumes that before the recent statutory amendment, school districts were, in fact, immune from liability arising from willful and wanton conduct. As I pointed out in my original dissent, however, such was not the case. Prior to this litigation, the law was well established that a public school student could bring an action to recover damages for injuries he sustained as a result of teachers or coaches who exhibited a reckless disregard for his welfare. It was not until our original judgment here that this court determined that school districts could invoke the Tort Immunity Act to avoid liability in such cases. By that time, however, the Tort Immunity Act had already been amended to provide that public entities are not, in fact, immune from liability for willful and wanton conduct in supervision of activities on public property. As a result, there was never a time when the defendant school district could claim a settled expectation that it would be immune from liability arising from circumstances such as those present here.

Although the circuit and appellate courts had ruled in favor of the defendant school district before the amended version of the Tort Immunity Act took effect, that is of no consequence. Contrary to the majority's unsupported assertion, the school district's right to invoke immunity under the old law did not vest when the circuit court dismissed count I of the complaint. Under this court's precedent, the district could only claim a vested right after final judgment was entered. At the time the amended law took effect in this case, there was no final adjudication because the cause remained on appeal. The new law should therefore apply. Bates v. Board of Education, 136 Ill. 2d at 269.

Given the absence of a final adjudication, the majority's claim that the legislature was attempting to breathe life into a previously barred claim is nonsensical. Nor can my colleagues legitimately object to application of the new legislation on separation of powers principles. Unlike In re Marriage of Cohn, 93 Ill. 2d 190, 202-07 (1982), there has been no showing that the legislature acted as it did with the express intention of overruling the appellate court's decision in this case. Moreover, unlike In re Petition of Kirchner, 164 Ill. 2d 468, 496-98 (1995), the case does not present a situation where the legislature was attempting to alter the rights of parties after this court had finally adjudicated those rights. As previously noted, the change in the law here came before our decision, not afterwards.

Aside the technical flaws in the majority's disposition, it is unworthy of support for one

final and inarguable reason. It is utterly lacking in basic fairness. The injured students who preceded Joshua Henrich could recover under the law as previously construed by our court. The injured students who follow Joshua Henrich will be able to recover under the law as revised by the General Assembly. It is only Joshua Henrich who is without redress. Why?

When the legislature establishes a political entity such as a school district and then expressly decrees that the entity may no longer invoke immunity, our court has no legitimate basis for refusing to honor the legislature's will. To cling to the old law, as my colleagues do today, is the sorriest form of judicial obstructionism. It is an insult to the legislature and an insult to the people of Illinois.

For a court with any notion of justice, the legislature's amendment of the law following the lower court's actions here would at least give pause to reconsider whether our construction of the original statute was correct. See People v. Brooks, 158 Ill. 2d 260, 270 (1994) (where amendment to statute is enacted soon after controversy arises regarding statute's interpretation, amendment may be indicative of legislative intent even where the law is not ambiguous). For my colleagues, however, the amendment is nothing more than an unwelcome impediment to denying another child's claims.(1) The law means nothing. Fairness means nothing. Justice means nothing. All that matters to them is that this one school district be protected from this one crippled boy. Poor Joshua. Poor us.

JUSTICE McMORROW, also dissenting:

The General Assembly's amendment to section 3-108 of the Tort Immunity Act (745 ILCS 10/3-108 (West 1994)), effective December 2, 1998, excludes willful and wanton conduct from the immunity granted by the statute. The amendment further fortifies the conclusion I advocated in this opinion and elsewhere (see Barnett v. Zion Park District, 171 Ill. 2d 378, 399 (1996) (McMorrow, J., dissenting)), namely, that our legislature never intended to immunize willful and wanton conduct in the immunity provisions of section 3-108.

JUSTICE RATHJE, also dissenting:

I agree with the legal analysis set forth in Justice Harrison's dissent to the majority's original opinion. Unlike Justice Harrison, however, I would not ascribe an "utter disregard for children" to my colleagues in the majority simply because they reach a conclusion different from my own.

I also agree with Justice Harrison's supplemental dissent that the Illinois Constitution in no way precludes the application of the amended section 3-108 to this case. I likewise

dissent.

1. 1With all due respect to Justice Rathje, I do not accuse my colleagues of disregard for the rights of children simply because they do not agree with me. I accuse them of disregard for the rights of children based upon their consistent pattern of denying recovery to children no matter how shocking the facts or how compelling the law might be. Examples are cited in my original dissent.

Some case metadata and case summaries were written with the help of AI, which can produce inaccuracies. You should read the full case before relying on it for legal research purposes.

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

KANKAKEE SCHOOL DISTRICT 111
DR. TERESA A. LANCE
SUPERINTENDENT OF SCHOOLS

HUMAN RESOURCES
240 WARREN AVENUE
KANKAKEE, IL 60901
PHONE: (815) 933-0702
FAX: (815) 802-7714
EMAIL: HUMANRESOURCES@KSD111.ORG

August 28, 2024

AUG 30 7:12

Octavia Smith
439 S. Lincoln Ave
Kankakee, Illinois 60901

RE: Letter of Intent to Hire

Dear Ms. Smith,

On behalf of Kankakee School District 111, we are pleased by your interest in collaborating with us to serve the needs of our School District. Please accept this document as notice of intent to hire for the position as follows:

- Position: Childcare Worker
- Location: Proegler School
- Starting Date: September 10, 2024
- Board Date: September 9, 2024
- First Check Date: Septemebr 30, 2024

Please note that this is a preliminary letter of agreement and is not intended to be all-inclusive. With your acceptance, our District's Human Resources Department will contact you to solidify compensation, other details of this offer, and the associated final agreement as required. For your reference, Kankakee School District 111 offers the following competitive benefits and options to our staff:

- Salary: $15.90 per hour
- Sick Days: 10(pro-rated)
- Bereavement Day: 1

Type text here

EXHIBIT H SMITH FILE

State of Illinois
Department of Human Rights

COMPLAINANT INFORMATION SHEET

(For All Cases not related to Housing Discrimination)

Office Use Only:	Control No:	Inv. Init.	**Date:**

Instructions: Read this entire form carefully before completing. Answer all questions and use additional sheets if necessary. This form must be signed and dated on page 4, and postmarked or received by IDHR within **2 years** (300 days if cross-filing with EEOC) of the date of the alleged discrimination. **THIS IS NOT A FORMAL CHARGE.** IDHR must determine if Illinois law covers your complaint before we can investigate. If IDHR accepts your claim, we will send you a formal charge document for signature.
Return this form by email to IDHR.Intake@illinois.gov or by mail, fax or in person. Find all contact information at **dhr.illinois.gov**.

NOTE: If your alleged complaint of discrimination is related to Housing, e.g., in buying or renting a house or apartment, or experiencing a refusal to a request to modify your housing, please STOP and fill out an IDHR Housing Complainant Information Sheet (CIS).

1. COMPLAINANT INFORMATION

This is you, the person who alleges they were discriminated against. NOTE: If you are under age 18, check this box. ☐

Name:	Phone No:	Alt. Phone No:
OCTAVIA SMITH	(815) 549-7454	

Address:	Apt No:	City,State,ZIP:
439 S LINCOLN AVE		KANKAKEE, IL. 60901

E-Mail: smitythoctavia913@yahoo.com

☐ E-Mail Consent: By checking this box, I consent to service of notices by IDHR via email.

Please provide the following information for statistical purposes only.

Country of National Origin:	Date of Birth [redacted]	Sex:
		female

2. WHO CAN WE CALL IF WE CANNOT CONTACT YOU?

Make sure their mailing addresses are different from your mailing address. Your charge could be dismissed if you do not provide this information and we are unable to locate you.

First Contact Name:	Phone No:
Calvita J. Frederick	(312) 421-5544

Address:	City:	State:	ZIP:
Post Office Box 802976	Chicago	il	60680

Second Contact Name:	Phone No:
Genevra Walters	(708) 932-0034

Address:	City:	State:	ZIP:
1310 Oaktree Lane	Kankakee	IL	60901

3. RESPONDENT INFORMATION

Write out the full legal name of the company or organization that you believe discriminated against you in Illinois (i.e. the Respondent). (Employer, Employment Agency, Financial Institution, Union, Place of Public Accommodation, School or University, etc.)

Name:	Address:
KANKAKEE SCHOOL DISTRICT 11	240 WARREN AVE

City:	State:	ZIP:	Phone No:
KANKAKEE	IL	60901	(815) 802-7700

County:	Website:
KANKAKEE	WWW.KSD111.ORG

4. WHAT IS YOUR RELATIONSHIP WITH THE RESPONDENT

■ **EMPLOYMENT**: Respondent is my Employer / Former Employer / Potential Employer.

REQUIRED, IF EMPLOYMENT: If the Respondent is an employer, do they employ 15 or more employees in the United States? Yes ☑ No ☐

☐ **FINANCIAL CREDIT**: Respondent is a Financial Institution, such as a bank or an insurance company, to which I applied for an account or line of credit.

☐ **PUBLIC ACCOMMODATIONS**: Respondent is a Public Entity or Place of Business, such as a Store, Restaurant, Public Park, Educational Program, or Public Official, and has denied me a service or access or has subjected me to pervasive harassment.

☐ **EDUCATION (SEXUAL HARASSMENT or HARASSMENT)**: Respondent is or represents an Educational Institution in which I (or my minor child) am currently, recently, or I have applied to be enrolled that I believe has sexually harassed or harassed me (or my minor child), or has retaliated against me (or my minor child) for reporting, opposing or for participating in an investigation of sexual harassment or harassment.

What type of business or organization is the Respondent? For example, a Private Employer, Public or Non-Profit Organization, Government, School or University (specify Public or Private, and grade level, etc., and your current enrollment status), Employment Agency, Municipality, Union, Bank, Insurance Company, Individual, etc.	Office Use Only
PUBLIC SCHOOL DISTRICT	

5. DESCRIPTION OF THE ISSUES AND BASES YOU ARE REQUESTING IDHR TO INVESTIGATE

Each of your COMPLAINTS of discrimination must contain two (2) parts: the ISSUE and the BASIS.

- The ISSUE is the harm or action that was taken against you. (Such as being discharged from your employment or being denied access to a public service.)
- The BASIS is the legally protected class you believe is the reason for the action that was taken against you. Your complaint can have multiple bases.
- **IDHR can only investigate ISSUES alleging one or more of the following specific BASES of discrimination:**

- Age (+40)
- Ancestry
- Arrest Record
- Conviction Record
- Color (Skin Tone/Complexion)
- Disability (Physical or Mental)
- Marital Status
- National Origin
- Order of Protection Status
- Pregnancy
- Race
- Religion
- Reproductive Health Decisions
- Retaliation (Opposing Unlawful Discrimination)
- Sex
- Sexual Harassment
- Sexual Orientation /Gender Identity
- Military Status
- Unfavorable Military Discharge

Employment Only

- Citizenship Status
- Family Responsibilities
- Language
- Work Authorization Status

1st COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

i was interviewed for the position of Child care worker and signed a letter of intent to hire and given a start date, and the work schedule for the moth of September. I was then informed that I was not placed in the board packet for hire approval. I contacted the superintendent to get clarity as to why I was on the board agenda and she refused to give me an answer, only informing me that I was taken off the schedule. Octavia was not allowed to start her part time position as a Childcare worker on September 10, 2024, despite meeting all qualifications and having no legal issues on her background check. The reason for the delay was not clearly communicated, but it was implied that further investigation was needed

BASIS:(as described above) DISABILITY

Date(s) of ISSUE/HARM: 09/10/2024

Name and Job Title of the person who committed the action or gave you this information:

Dr. Teresa Lance, Superintendent of Kankakee School District 111

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

I BELIEVE I WAS NOT HIRED BECAUSE OF MY DISABILITY, [redacted]

2nd COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

BASIS: (as described above)

Date(s) of ISSUE/HARM:

Name and Job Title of the person who committed the action or gave you this information:

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

6. IF YOU HAVE BEEN EMPLOYED BY THE RESPONDENT, PLEASE FILL IN THE FOLLOWING:

Your Job Title:	Supervisor:

Please use additional sheets as necessary to provide the above information for each complaint or to add additional complaints.

7A. If you are filing based on SEXUAL HARASSMENT in EMPLOYMENT or EDUCATION:

Name of the harasser:			
Job Title of harasser:	Address:		
City:	State:	ZIP:	Phone No:
Do you want the harasser charged separately as an additional Respondent? Yes ☐ No ☐			
Identify the date(s) and describe the action(s) taken against you. Use additional sheets, if necessary. Common examples include: Unwelcome sexual advances, Requests for sexual favors, Quid pro quo (actions contingent upon sexual conduct) or creating a hostile or offensive environment.			
When and how did you reject the conduct or make it known that the conduct was unwelcome?			

7B. If you are filing based on PHYSICAL DISABILITY or MENTAL DISABILITY:

Describe your medically diagnosed disability/disabilities. Explain when and how the Respondent learned about your disability/disabilities:
I HAVE AND INFORMED THEM OF MY DIAGNOSIS

7C. If you are filing based on RETALIATION:

Name of the retaliator:	Job Title of retaliator:		
Was the retaliation against you within the normal job duties of the retaliator? NOTE: If "Yes", IDHR does not have jurisdiction over the individual retaliator. Yes ☐ No ☐			
If "No", do you want the retaliator charged separately as an additional Respondent? Yes ☐ No ☐			
Provide contact information for the retaliator.	Address:		
City:	State:	ZIP:	Phone No:
State how you opposed unlawful discrimination: (i.e., testified at a discrimination hearing, filed a prior discrimination complaint, or complained about unlawful discrimination). Include dates, charge numbers, and/or the name or title of the person to whom you complained.			

7D. If your complaint involves DENIAL OF FINANCIAL CREDIT: Explain your understanding of the qualifications necessary to obtain credit from the institution, and how you met those qualifications:

8. HAVE YOU FILED A GRIEVANCE OR COMPLAINT INTERNALLY WITH THIS RESPONDENT?
(Such as a Human Resources Department, Manager, Customer Service Center, Union, Advocacy Group, or Guidance Counselor)

If "Yes", to whom did you submit the complaint (name and job title), on what date(s), and what were the results of your complaint thus far?

9. HAVE YOU FILED A PREVIOUS CHARGE AGAINST THIS RESPONDENT WITH IDHR OR ANOTHER INVESTIGATORY AGENCY OR COMMISSION? (Such as the EEOC, US Dept. of Education, or the US Dept. of Labor)

Yes ☐ No ☑ If "Yes", when?	Charge Number(s):

You must sign and date the last page of this form.

10. MEDIATION: IDHR offers free mediation, where a neutral person will talk to you and the Respondent to see if your complaint can be resolved before an investigation. If both parties agree to participate, mediation may resolve your case faster. Mediation conferences are held at IDHR's Chicago office or virtually/online. If the case is not resolved at Mediation, the case will be investigated.

Are you interested in Mediation? Yes ☑ No ☐ Learn more about IDHR's **Mediation Program** at **dhr.illinois.gov**

11. ASSISTANCE: Do you need special assistance from IDHR to communicate with you about this matter?

☐ Non-English language or sign language interpreter (specify language)_____

☐ Disability assistance (specify assistance)_____

☐ Other (specify)_____

IDHR Notice of Accessibility

IDHR is accessible to persons with disabilities in compliance with the ADA and the Rehabilitation Act of 1973. A person needing an accommodation to participate in IDHR programs should contact the ADA Coordinator at: 312-814-6262, 866-740-3953 (TTY), or e-mail IDHR.ADA@illinois.gov. IDHR provides interpreters upon request for sign language and for languages other than English. If a party chooses to use their own interpreter, the interpreter must be at least 18 years of age and able to communicate effectively in both languages. For information, email IDHR.LEP@illinois.gov.

Notice to complainant on release of identity and personal information

The Illinois Human Rights Act ("Act"), 775 ILCS 5/1-101 *et seq*., and IDHR's Rules and Regulations, 56 Ill. Admin. Code, Ch. II, Section 2520.330, require a charge to contain certain information in such detail as to substantially apprise the parties of the time, place, and facts with respect to the alleged civil rights violation. Pursuant to IDHR's Rules and Regulations (2 Ill. Admin Code, Ch. X, Section 926.210), anyone who submits information to IDHR in connection with a discrimination charge should take notice and be aware of the following. During IDHR's investigation:

(a) All contents and files maintained by IDHR pertaining to charges shall be confidential and not subject to public disclosure. Relevant exceptions are:
(1) the parties and non-parties to a charge may inspect the file at any time subsequent to the written notice of substantial evidence, default, or dismissal, administrative closure, or approval of terms of settlement by the Human Rights Commission ("Commission");
(2) after the filing of a Complaint with the Commission or the institution of judicial proceedings involving a charge, the Director may release information pertaining to the charge if such information is requested of IDHR or if the Director finds such information newsworthy, useful in education or training, relevant to an issue before the General Assembly, or similarly appropriate for disclosure.

(b) Authorized personnel within IDHR analyze information that IDHR collects. This information may include personal information. IDHR staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the charge, or to discover new facts which will help IDHR to determine whether the law has been violated. IDHR may need to disclose to Respondent correspondence that IDHR receives from Complainant or other sources.

(c) After the completion of the investigation, IDHR may release the investigation file, which includes the identity and personal information of the parties pursuant to a Freedom of Information Act ("FOIA") request, a subpoena or a court order, and information submitted to or obtained by IDHR may also be revealed to persons outside of IDHR to enforce a Commission Order or a settlement agreement.

(d) No person is required to file a charge with IDHR and reveal personal information to IDHR; however, if a person files a charge and IDHR cannot obtain the information needed to fully investigate the allegations in the charge, IDHR may close the case.

CONSENT AGREEMENT AND RELEASE

I have read the provided "Notice to Complainant" and I understand that:

1) If my charge is regarding employment, IDHR may also file my charge of discrimination with EEOC if it has jurisdiction. This filing **must** be received by IDHR within 300 days of the alleged discriminatory act for EEOC to have jurisdiction. I also grant authorization for the EEOC to investigate the discrimination claims mentioned above; 2) In the course of investigating my charge, IDHR will reveal my identity (including my name) and my personal information to named Respondent(s) in my charge to obtain facts and evidence regarding my charge; 3) I do not have to reveal my personal information to IDHR, but IDHR may close my charge if I refuse to reveal information needed to fully investigate my charge; 4) IDHR may be required by law, subpoena, court order, and/or FOIA request to disclose my charge and information in IDHR's investigation file concerning my charge to persons outside of IDHR.

If IDHR takes a charge based on the information provided, I consent for IDHR to disclose my identity and personal information as necessary to process and investigate my charge, and I release IDHR from any liability whatsoever concerning disclosure of my identity and any personal information I provided to IDHR or IDHR obtained in processing my charge.

My signature below verifies the accuracy of the information provided herein and my consent and release as indicated above.

Print Name OCTAVIA SMITH Signature _____ Date _____

NOTE: If there is certain personal information you would like withheld, please discuss your concern with an Intake supervisor.

State of Illinois
Department of Human Rights

COMPLAINANT INFORMATION SHEET

(For All Cases not related to Housing Discrimination)

Office Use Only:	Control No:	Inv. Init.	**Date:**

Instructions: Read this entire form carefully before completing. Answer all questions and use additional sheets if necessary. This form must be signed and dated on page 4, and postmarked or received by IDHR within **2 years** (300 days if cross-filing with EEOC) of the date of the alleged discrimination. **THIS IS NOT A FORMAL CHARGE.** IDHR must determine if Illinois law covers your complaint before we can investigate. If IDHR accepts your claim, we will send you a formal charge document for signature.
Return this form by email to IDHR.Intake@illinois.gov or by mail, fax or in person. Find all contact information at **dhr.illinois.gov**.

NOTE: If your alleged complaint of discrimination is related to Housing, e.g., in buying or renting a house or apartment, or experiencing a refusal to a request to modify your housing, please STOP and fill out an IDHR Housing Complainant Information Sheet (CIS).

1. COMPLAINANT INFORMATION

This is you, the person who alleges they were discriminated against. NOTE: If you are under age 18, check this box. ☐

Name:	Phone No:	Alt. Phone No:
OCTAVIA SMITH	(815) 549-7454	

Address:	Apt No:	City,State,ZIP:
439 S LINCOLN AVE		KANKAKEE, IL. 60901

E-Mail: smitythoctavia913@yahoo.com

☐ E-Mail Consent: By checking this box, I consent to service of notices by IDHR via email.

Please provide the following information for statistical purposes only.

Country of National Origin:	Date of Birth [redacted]	Sex:
		female

2. WHO CAN WE CALL IF WE CANNOT CONTACT YOU?

Make sure their mailing addresses are different from your mailing address. Your charge could be dismissed if you do not provide this information and we are unable to locate you.

First Contact Name:	Phone No:
Calvita J. Frederick	(312) 421-5544

Address:	City:	State:	ZIP:
Post Office Box 802976	Chicago	il	60680

Second Contact Name:	Phone No:
Genevra Walters	(708) 932-0034

Address:	City:	State:	ZIP:
1310 Oaktree Lane	Kankakee	IL	60901

3. RESPONDENT INFORMATION

Write out the full legal name of the company or organization that you believe discriminated against you in Illinois (i.e. the Respondent). (Employer, Employment Agency, Financial Institution, Union, Place of Public Accommodation, School or University, etc.)

Name:	Address:
KANKAKEE SCHOOL DISTRICT 11	240 WARREN AVE

City:	State:	ZIP:	Phone No:
KANKAKEE	IL	60901	(815) 802-7700

County:	Website:
KANKAKEE	WWW.KSD111.ORG

4. WHAT IS YOUR RELATIONSHIP WITH THE RESPONDENT

■ **EMPLOYMENT**: Respondent is my Employer / Former Employer / Potential Employer.

REQUIRED, IF EMPLOYMENT: If the Respondent is an employer, do they employ 15 or more employees in the United States? Yes ☑ No ☐

☐ **FINANCIAL CREDIT**: Respondent is a Financial Institution, such as a bank or an insurance company, to which I applied for an account or line of credit.

☐ **PUBLIC ACCOMMODATIONS**: Respondent is a Public Entity or Place of Business, such as a Store, Restaurant, Public Park, Educational Program, or Public Official, and has denied me a service or access or has subjected me to pervasive harassment.

☐ **EDUCATION (SEXUAL HARASSMENT or HARASSMENT)**: Respondent is or represents an Educational Institution in which I (or my minor child) am currently, recently, or I have applied to be enrolled that I believe has sexually harassed or harassed me (or my minor child), or has retaliated against me (or my minor child) for reporting, opposing or for participating in an investigation of sexual harassment or harassment.

What type of business or organization is the Respondent? For example, a Private Employer, Public or Non-Profit Organization, Government, School or University (specify Public or Private, and grade level, etc., and your current enrollment status), Employment Agency, Municipality, Union, Bank, Insurance Company, Individual, etc.
PUBLIC SCHOOL DISTRICT

Office Use Only

5. DESCRIPTION OF THE ISSUES AND BASES YOU ARE REQUESTING IDHR TO INVESTIGATE

Each of your COMPLAINTS of discrimination must contain two (2) parts: the ISSUE and the BASIS.

- The ISSUE is the harm or action that was taken against you. (Such as being discharged from your employment or being denied access to a public service.)
- The BASIS is the legally protected class you believe is the reason for the action that was taken against you. Your complaint can have multiple bases.
- **IDHR can only investigate ISSUES alleging one or more of the following specific BASES of discrimination:**

- Age (+40)
- Ancestry
- Arrest Record
- Conviction Record
- Color (Skin Tone/Complexion)
- Disability (Physical or Mental)
- Marital Status
- National Origin
- Order of Protection Status
- Pregnancy
- Race
- Religion
- Reproductive Health Decisions
- Retaliation (Opposing Unlawful Discrimination)
- Sex
- Sexual Harassment
- Sexual Orientation /Gender Identity
- Military Status
- Unfavorable Military Discharge

Employment Only

- Citizenship Status
- Family Responsibilities
- Language
- Work Authorization Status

1st COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

i was interviewed for the position of Child care worker and signed a letter of intent to hire and given a start date, and the work schedule for the moth of
September. I was then informed that I was not placed in the board packet for hire approval. I contacted the superintendent to get clarity as to why I
was on the board agenda and she refused to give me an answer, only informing me that I was taken off the schedule. Octavia was not allowed to start her part time position as a Childcare worker on September 10, 2024, despite meeting all qualifications and having no legal issues on her background check. The reason for the delay was not clearly communicated, but it was implied that further investigation was needed

BASIS:(as described above) DISABILITY

Date(s) of ISSUE/HARM: 09/10/2024

Name and Job Title of the person who committed the action or gave you this information:

Dr. Teresa Lance, Superintendent of Kankakee School District 111

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

I BELIEVE I WAS NOT HIRED BECAUSE OF MY DISABILITY,

2nd COMPLAINT: Describe the ISSUE/HARM (as described above). Be specific and concise.

BASIS: (as described above)

Date(s) of ISSUE/HARM:

Name and Job Title of the person who committed the action or gave you this information:

Why do you feel discriminated against because of the BASIS you have identified, or how has this action created a hostile or offensive environment?

6. IF YOU HAVE BEEN EMPLOYED BY THE RESPONDENT, PLEASE FILL IN THE FOLLOWING:

Your Job Title:	Supervisor:

Please use additional sheets as necessary to provide the above information for each complaint or to add additional complaints.

7A. If you are filing based on SEXUAL HARASSMENT in EMPLOYMENT or EDUCATION:

Name of the harasser:			
Job Title of harasser:	Address:		
City:	State:	ZIP:	Phone No:
Do you want the harasser charged separately as an additional Respondent? Yes ☐ No ☐			
Identify the date(s) and describe the action(s) taken against you. Use additional sheets, if necessary. Common examples include: Unwelcome sexual advances, Requests for sexual favors, Quid pro quo (actions contingent upon sexual conduct) or creating a hostile or offensive environment.			
When and how did you reject the conduct or make it known that the conduct was unwelcome?			

7B. If you are filing based on PHYSICAL DISABILITY or MENTAL DISABILITY:

Describe your medically diagnosed disability/disabilities. Explain when and how the Respondent learned about your disability/disabilities:
I HAVE [redacted] AND INFORMED THEM OF MY DIAGNOSIS

7C. If you are filing based on RETALIATION:

Name of the retaliator:	Job Title of retaliator:		
Was the retaliation against you within the normal job duties of the retaliator? NOTE: If "Yes", IDHR does not have jurisdiction over the individual retaliator. Yes ☐ No ☐			
If "No", do you want the retaliator charged separately as an additional Respondent? Yes ☐ No ☐			
Provide contact information for the retaliator.	Address:		
City:	State:	ZIP:	Phone No:
State how you opposed unlawful discrimination: (i.e., testified at a discrimination hearing, filed a prior discrimination complaint, or complained about unlawful discrimination). Include dates, charge numbers, and/or the name or title of the person to whom you complained.			

7D. If your complaint involves DENIAL OF FINANCIAL CREDIT: Explain your understanding of the qualifications necessary to obtain credit from the institution, and how you met those qualifications:

8. HAVE YOU FILED A GRIEVANCE OR COMPLAINT INTERNALLY WITH THIS RESPONDENT?
(Such as a Human Resources Department, Manager, Customer Service Center, Union, Advocacy Group, or Guidance Counselor)

If "Yes", to whom did you submit the complaint (name and job title), on what date(s), and what were the results of your complaint thus far?

9. HAVE YOU FILED A PREVIOUS CHARGE AGAINST THIS RESPONDENT WITH IDHR OR ANOTHER INVESTIGATORY AGENCY OR COMMISSION? (Such as the EEOC, US Dept. of Education, or the US Dept. of Labor)

Yes ☐ No ☑ If "Yes", when?	Charge Number(s):

You must sign and date the last page of this form.

10. MEDIATION: IDHR offers free mediation, where a neutral person will talk to you and the Respondent to see if your complaint can be resolved before an investigation. If both parties agree to participate, mediation may resolve your case faster. Mediation conferences are held at IDHR's Chicago office or virtually/online. If the case is not resolved at Mediation, the case will be investigated.

Are you interested in Mediation? Yes ☑ No ☐ Learn more about IDHR's **Mediation Program** at **dhr.illinois.gov**

11. ASSISTANCE: Do you need special assistance from IDHR to communicate with you about this matter?

☐ Non-English language or sign language interpreter (specify language)_____

☐ Disability assistance (specify assistance)_____

☐ Other (specify)_____

IDHR Notice of Accessibility

IDHR is accessible to persons with disabilities in compliance with the ADA and the Rehabilitation Act of 1973. A person needing an accommodation to participate in IDHR programs should contact the ADA Coordinator at: 312-814-6262, 866-740-3953 (TTY), or e-mail IDHR.ADA@illinois.gov. IDHR provides interpreters upon request for sign language and for languages other than English. If a party chooses to use their own interpreter, the interpreter must be at least 18 years of age and able to communicate effectively in both languages. For information, email IDHR.LEP@illinois.gov.

Notice to complainant on release of identity and personal information

The Illinois Human Rights Act ("Act"), 775 ILCS 5/1-101 *et seq*., and IDHR's Rules and Regulations, 56 Ill. Admin. Code, Ch. II, Section 2520.330, require a charge to contain certain information in such detail as to substantially apprise the parties of the time, place, and facts with respect to the alleged civil rights violation. Pursuant to IDHR's Rules and Regulations (2 Ill. Admin Code, Ch. X, Section 926.210), anyone who submits information to IDHR in connection with a discrimination charge should take notice and be aware of the following. During IDHR's investigation:

(a) All contents and files maintained by IDHR pertaining to charges shall be confidential and not subject to public disclosure. Relevant exceptions are:
(1) the parties and non-parties to a charge may inspect the file at any time subsequent to the written notice of substantial evidence, default, or dismissal, administrative closure, or approval of terms of settlement by the Human Rights Commission ("Commission");
(2) after the filing of a Complaint with the Commission or the institution of judicial proceedings involving a charge, the Director may release information pertaining to the charge if such information is requested of IDHR or if the Director finds such information newsworthy, useful in education or training, relevant to an issue before the General Assembly, or similarly appropriate for disclosure.

(b) Authorized personnel within IDHR analyze information that IDHR collects. This information may include personal information. IDHR staff may need to reveal some of the personal information to individuals outside the office in order to verify facts related to the charge, or to discover new facts which will help IDHR to determine whether the law has been violated. IDHR may need to disclose to Respondent correspondence that IDHR receives from Complainant or other sources.

(c) After the completion of the investigation, IDHR may release the investigation file, which includes the identity and personal information of the parties pursuant to a Freedom of Information Act ("FOIA") request, a subpoena or a court order, and information submitted to or obtained by IDHR may also be revealed to persons outside of IDHR to enforce a Commission Order or a settlement agreement.

(d) No person is required to file a charge with IDHR and reveal personal information to IDHR; however, if a person files a charge and IDHR cannot obtain the information needed to fully investigate the allegations in the charge, IDHR may close the case.

CONSENT AGREEMENT AND RELEASE

I have read the provided "Notice to Complainant" and I understand that:

1) If my charge is regarding employment, IDHR may also file my charge of discrimination with EEOC if it has jurisdiction. This filing **must** be received by IDHR within 300 days of the alleged discriminatory act for EEOC to have jurisdiction. I also grant authorization for the EEOC to investigate the discrimination claims mentioned above; 2) In the course of investigating my charge, IDHR will reveal my identity (including my name) and my personal information to named Respondent(s) in my charge to obtain facts and evidence regarding my charge; 3) I do not have to reveal my personal information to IDHR, but IDHR may close my charge if I refuse to reveal information needed to fully investigate my charge; 4) IDHR may be required by law, subpoena, court order, and/or FOIA request to disclose my charge and information in IDHR's investigation file concerning my charge to persons outside of IDHR.

If IDHR takes a charge based on the information provided, I consent for IDHR to disclose my identity and personal information as necessary to process and investigate my charge, and I release IDHR from any liability whatsoever concerning disclosure of my identity and any personal information I provided to IDHR or IDHR obtained in processing my charge.

My signature below verifies the accuracy of the information provided herein and my consent and release as indicated above.

Print Name OCTAVIA SMITH Signature _____ Date _____

NOTE: If there is certain personal information you would like withheld, please discuss your concern with an Intake supervisor.

240 Warren Avenue
Kankakee, IL 60901
Phone: (815) 933-0702
Fax: (815) 802-7714
Email: humanresources@ksd111.org

August 28, 2024

Octavia Smith
439 S. Lincoln Ave
Kankakee, Illinois 60901

AUG 30 7:12

RE: Letter of Intent to Hire

Dear Ms. Smith,

On behalf of Kankakee School District 111, we are pleased by your interest in collaborating with us to serve the needs of our School District. Please accept this document as notice of intent to hire for the position as follows:

- Position: Childcare Worker
- Location: Proegler School
- Starting Date: September 10, 2024
- Board Date: September 9, 2024
- First Check Date: Septemebr 30, 2024

Please note that this is a preliminary letter of agreement and is not intended to be all-inclusive. With your acceptance, our District's Human Resources Department will contact you to solidify compensation, other details of this offer, and the associated final agreement as required. For your reference, Kankakee School District 111 offers the following competitive benefits and options to our staff:

- Salary: $15.90 per hour
- Sick Days: 10(pro-rated)
- Bereavement Day: 1



Childcare Schedule:
Proegler: Anecycia, Jennifer, Gabby, Nevaeh, LaTasha
Community Center: Kemiya, Janet, Ashanti, Octavia
Imani - Spends 1 ½ hours at the Community Center 7:30 am- 9:00 am for Community Center & 9:30 - 11:00 am - Proegler
11:00 am–11:30 am lunch & Plan 11:30 am - 12:10 pm

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
8	9 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm Imani 12:10 pm - 3:20	10 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	11 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	12 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	13 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	14

15	16 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	17 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	18 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	19 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	20 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	21
22	23 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	24 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	25 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	26 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	27 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20	28
29	30 Community Center Kemiya 6:45 a.m. -3:45 p.m Janet 7:00 a.m. - 4:00 pm Ashanti, 10:30 am - 5:30 pm Octavia - 1:30 pm- 5:30 pm Proegler					

	Anecyia 6:45 a.m. -3:45 p.m Jennifer 7:00 a.m. - 2:00 pm Gabby 7:00 am - 2:00 pm LaTasha 9:30 am - 5:30 pm Nevaeh 9:30 am - 5:30 pm Imani 12:10 pm - 3:20					

AGE OF CHILDREN STAFF/CHILD RATIO MAXIMUM GROUP SIZE -

Age of Children	Staff Child Ratio	Maximum Numbers
12 months - 23 months	(1:4 - up to 14 months) 1:5	12
24 months - 4 years old	(1:8 - 2) 3 & 4 - 1:10	20
School Age - Kindergarten & up	1:20	30

Me 5:22 PM

To: Dr. Teresa Lance & 9 more

Good Evening Board Members and Dr. Lance,

I have been placed in a very concerning position on today that is pertaining to my offer for a position within the childcare program for the school district. I have emailed you all with my concerns and I have just recently been made aware that at the board members request personally, I was not allowed to go into the board packet for approval of hire at tonight's board meeting, which is what I was instructed by HR was the very last step to my hiring process. I would like a clear understanding from someone as to what exactly the issue is, and why isn't anyone stating what the issue clearly is?!?! I am just requesting some clarification of the issue surrounding my PART-TIME EMPLOYMENT POSITION for the childcare program. I met all qualifications that were required for the position, the director interviewed me herself and saw fit for me to be a part of her program. So, I do not know what could possibly be the issue for the board to decide that I didn't meet the qualifications for such a position. All I am requesting is that someone explains to me exactly why I am not allowed to be placed on the agenda for board approval for hire, and be able to start my position tomorrow as I was instructed? What are the other things that needed to be looked into in my behalf, and pertaining to me supervising children, something that I have an abundance amount of experience in? I have never heard of this taking place before after someone is hired for a position, unless there was something in their background that was concerning, which is not at all the case with me. I do thank you all for your time and patience, but I am deserving of answers as to what all of this is pertaining to.

Thank You,
Octavia Smith

Sent from Yahoo Mail for iPhone

Show trimmed content

Re: Candidate for hire

Me 4:14 PM

I am much more comfortable communicating via email due to the fac...

Dr. Teresa Lance 4:20 PM

To: Me & 2 more

Yes, I do understand. First, please know that the [redacted] runs in my family and I lost my uncle to the sickle cell disease many years ago. Therefore, I can attest that the hold-up has nothing to do with any health related issues. Unfortunately, I do not have more information to give other than I take my directive from the Board of Education and I was asked to hold until they can discuss your position during closed session. I do not foresee any issues, but again, my directives come from the Board of Education.
I will circle back with you after tonight's meeting.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, **ONE vision** for **ALL** children

KANKAKEE
SCHOOL DISTRICT # 111

Show trimmed content

4:21

Re: Candidate for hire

Me 4:14 PM

To: Dr. Teresa Lance

I am much more comfortable communicating via email due to the fact that I do not know exactly what the holdup is in the first place. I am very confused right now and would just prefer to keep all lines of communication via email so that things can remain on the record. I hope that is ok?!! May I ask, what are the few things that still needed to be looked into on behalf of me being able to be brought to the board members for approval for hire? I have taken all steps necessary for hire, I appropriately applied for the position, I interviewed for the position professionally with Mrs. Powell herself and another colleague that was present during the interview as well. I was called an offered the position for the childcare department, and I accepted the position on multiple occasions. I was also made aware on multiple occasions that the last and final step was for me to be presented to the board for approval, which wouldn't be an issue due to the fact that there were no questionable legalities present on my background check. Now, I am not able to start the part-time position on tomorrow, Tuesday, September 10, 2024, due to a few more things needed to be looked into, that I am not being made aware of. The only other situation that I assume could be at question is the fact that I have [redacted] which shouldn't be an issue at all because my physician signed off on my physical. Trust me, if I didn't think I could do this job due to health reasons, I would not have applied. I am just looking for some clarity in all of this, that's all. I hope you understand, Thank you!!

Sent from Yahoo Mail for iPhone

Show trimmed content

Delete Reply Forward Move More

Re: Candidate for hire

Dr. Teresa Lance 3:15 PM

To: Me & 2 more

Unfortunately, you cannot report to work until the Board approves you. As an FYI, I did meet with Ms. Powell this morning and I am confident she will be able to manage without you for two additional weeks. I will be able to provide you with additional information regarding your appointment after the Board meeting. If you provide me with your phone number, I can call you.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, **ONE vision** for **ALL** children

KANKAKEE
SCHOOL DISTRICT #111

Show trimmed content

Re: Candidate for hire

Dr. Teresa Lance 3:15 PM

To: Me & 2 more

Unfortunately, you cannot report to work until the Board approves you. As an FYI, I did meet with Ms. Powell this morning and I am confident she will be able to manage without you for two additional weeks. I will be able to provide you with additional information regarding your appointment after the Board meeting. If you provide me with your phone number, I can call you.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, **ONE vision** for **ALL** children

KANKAKEE
SCHOOL DISTRICT #111

Show trimmed content

Candidate for hire

Dr. Teresa Lance 9:19 AM

To: Me & 3 more

Dear Ms. Smith,
I am in receipt of your email forwarded to me by Ms. Fountain. I need to look into a few things and confer with my employer, the Board of Education. Once I do that, you will hear back from me or a designee. At this time, there is nothing further you need to do.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, **ONE vision** for **ALL** children

KANKAKEE
SCHOOL DISTRICT #111

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF	)	
	)	
OCTAVIA SMITH	)	
	)	
COMPLAINANT	)	
	)	
AND	)	CHARGE NO.:
	)	
KANKAKEE SCHOOL DIST 111	)	EEOC NO.:
	)	
RESPONDENT	)	

A P P E A R A N C E

CALVITA J. FREDERICK , hereby enter the
(Name of law firm/attorney/non-attorney representative)

appearance of OCTAVIA SMITH
(Name of Complainant or Respondent)

and our Appearance as their attorney (or non-attorney representative), and request that copies of all Pleadings, Orders, and other documents be served upon the undersigned for said Party in lieu service upon the Party.

CALVITA J. FREDERICK
PRINT name of attorney/non-attorney representative

CALVITA J. FREDERICK & ASSOCIATES
Firm Name

POST OFFICE BOX 802976
Address

CHICAGO | IL | 60680
City | State | Zip Code

(312) 421-5544
Telephone Number

calvita.frederick@att.net
Email Address

312-277-7190
Fax Number

☒ By checking this box, I consent to service of all pleadings, orders, and other documents by the Department via electronic mail and understand that electronic service to this Email Address is deemed complete upon transmission.

DATED: _____ By: _____
Signature

Rev. 2/2021

Kankakee School District 111

Superintendent's Office
240 Warren Avenue
Kankakee, IL 60901
(815) 802-7700

Dr. Teresa A. Lance, Superintendent of Schools

Shemeka Fountain
514 Betty Lane
South Holland, IL 60473

Re: NOTICE OF PAID ADMINISTRATIVE LEAVE

Dear Ms. Shemeka Fountain

Effective today, September 10, 2024, you are being placed on paid administrative leave pending an investigation into your performance that could lead to discipline, up to and including termination. You will remain on paid administrative leave until further notice.

While you are on paid administrative leave, I am directing you as follows:

1. You are directed to immediately turn over to me:
    - all keys to District property issued to you;
    - all District credit cards issued to you;.
2. You may not be on any District property, including all campuses, or attend school sponsored events unless you have my prior, express written consent to enter/attend.
3. You are not to contact District students or staff. All communications are to be channeled through me. In addition, you are not to contact parents/families, or any other potential witness about the investigation or about any evidence that may be reviewed as part of the investigation.
4. You are directed to remain available by telephone, during your normal work hours, so that you can be contacted if the need arises. You are further directed to be available to meet with me during your normal work hours if instructed to do so by me.

Your failure to comply with the above directives may be considered as insubordination, which could lead to discipline, up to and including dismissal.

Professional Personnel

Suspension

Suspension Without Pay

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.

Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or

2. Remove the employee as recommended by DCFS, proceeding with:
   a. A suspension with pay; or
   b. A suspension without pay.

Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 105 ILCS 5/24-12.
5 ILCS 430/5-60(b), State Officials and Employee Ethics Act.
325 ILCS 5/7.4(c-10), Abused and Neglected Child Reporting Act.
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).
Barszcz v. Cmty College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill. 1975).
Massie v. East St. Louis Sch. Dist. No.189, 203 Ill.App.3d 965 (5th Dist. 1990).

CROSS REF.: 5:290 (Employment Termination and Suspensions)

Amended: July 2023

I am coming to the Board not to have any discussions about me personally or my experiences. I also understand that me speaking with you may cause adverse harm to myself, but I do hold myself to a level of integrity in this position. My concerns are that we are not currently following the processes and procedures of HR management, which in the long run can cause liability to the district. In the incidents that I am going to raise to you, I have raised to Dr. Lance, but have been met with follow my directives or I am done talking to you about it. There has been an absence of due process given to some employees in the district that is causing concern. Due process also must be given in a timely manner and once an investigation is closed, the administration has missed the opportunity for discipline.

I was asked to put Mr. Gilbert on paid administrative leave due to incidents that were investigated last school year. There were two specific instances, one involving Mr. Gilbert not following job expectations and the other incident involving a young lady with cerebral palsy. The special education director was not happy with the fact that Mr. Gilbert was asked backed to the district and has complained to me on several occasions about his return, but the administration failed to do the following according to the contract:

1. Complete an official write up or letter of reprimand that was placed in his personnel file
2. Provide the employee with training to care for a special needs student (although he requested the training) per 5.12 of the paraprofessional contract. The incident that happened was truly unfortunate and I am grateful that the student was ok, but the incident was a mistake

3. Obtain evidence from a female employee of Mr. Gilbert's inappropriate behavior
4. Follow the evaluation procedures and rubric of the paraprofessional contract. The tool states that if anyone receives a needs improvement or an unsatisfactory, evidence of must rating must be stated. No evidence was given to the employee about his ratings and there was no indication that administration was recommending non renewal.

We can't operate on how we feel about a person, but we have to make decisions based on documented evidence

Recommendations for hire. We allow administrators to interview and recommend candidates for positions in their buildings. Once a recommendation is submitted,reference checks are completed, and background checks are administered. The HR department informs the candidate that we have everything that we need, we tell them what board meeting they will be recommended for and we send the information to the board. The board has every right to remove a person, once they come to you, but it looks as if the HR department has not done what we are supposed to do when we tell a candidate that they are going to a board meeting and they are not on the agenda. The board has removed people from the agenda in open session, but it's not right to have a person recommended and have a favorable background check and then they are removed before the board has a chance to vote.

Finally Mr. Hill, I am not here to speak on whether or not he should be terminated. I will speak on the fact that when Dr. Walters posed the question to Sally. Sally stated

that we could not let someone go merely on an arrest record, she stated that we would be in violation of the Human Rights Act and as long as the individual is employed my office has an obligation to fill out any paperwork that is asked of us until they cease from being an employee of the district. I also think there may be some confusion on the note that was left per me in Skyward to pay Mr. Hill $1063.00

Paraprofessionals can elect to be paid through the summer, what this means is that like teachers they receive checks in the summer even though they are not working.

Mr. Hill's bi weekly salary was $798.00. If he would have elected to only get paid while he was working, his checks would have been larger, but because he chose to get money in the summer his pay was the $798.00. Mr.Hill would have received the following in the summer:

6/15	$798.00
6/30	$798.00
7/15	$798.00
7/30	$798.00
8/15	$798.00
8/30	$798.00
Total	$4788.00

Mr. Hill was docked (35) days for work missed beginning 4/15/24. He was docked a total of $3725.00 from his summer pay which left him with the sum of $1063.00 which was paid June 27th

Currently I have had people come to me yelling at me and my staff for decisions that we have not made. I want to ensure that we are following the correct procedures and keeping the integrity of the department.

Gmail shemeka fountain <shemekamfountain@gmail.com>

Meeting with Complaint Manager

7 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jul 26, 2024 at 9:16 AM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: shemekamfountain@gmail.com

Dr. Lance,

Attached you will find my request to have an outside person at our scheduled meeting, as I believe the emails that were sent to me were hostile in nature and demeaned me as a professional educator in the district.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

2 attachments

EMCOM.pdf
363K

CE.pdf
43K

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jul 29, 2024 at 7:57 AM
To: shemekamfountain@gmail.com

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Mon, Jul 29, 2024, 7:38 AM
Subject: Re: Meeting with Complaint Manager
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Christopher Bohlen <christopher-bohlen@ksd111.org>

Dear Ms. Fountain,
As an Assistant Superintendent of HR, you are not entitled to a complaint manager and I am expecting you to arrive at my office on Tuesday, July 30th at 3:45pm as previously requested to discuss the concerns I have with your work performance.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

[Quoted text hidden]

shemeka fountain <shemekamfountain@gmail.com> Mon, Jul 29, 2024 at 7:58 AM

To: Genevra Walters <committeetoelectgenevraw@gmail.com>

[Quoted text hidden]

2 attachments

EMCOM.pdf
363K

CE.pdf
43K

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jul 29, 2024 at 8:00 AM
To: shemekamfountain@gmail.com

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Mon, Jul 29, 2024, 7:38 AM
Subject: Re: Meeting with Complaint Manager
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Christopher Bohlen <christopher-bohlen@ksd111.org>

Dear Ms. Fountain,
As an Assistant Superintendent of HR, you are not entitled to a complaint manager and I am expecting you to arrive at my office on Tuesday, July 30th at 3:45pm as previously requested to discuss the concerns I have with your work performance.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

On Fri, Jul 26, 2024 at 9:16 AM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
[Quoted text hidden]

---

shemeka fountain <shemekamfountain@gmail.com> Mon, Jul 29, 2024 at 8:02 AM
To: Genevra Walters <committeetoelectgenevraw@gmail.com>

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jul 29, 2024 at 4:45 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>, Christopher Bohlen <christopher-bohlen@ksd111.org>, shemekamfountain@gmail.com

Hello,

Since Mr. Bohlen has been added to the email, I want everyone to have the full context of the email. Attached is the information that I shared with Dr. Lance. This issue started in April, the content of the emails

is why I requested to have a complaint manager, as I believe that some of the emails and conversations shared towards me are hostile in nature.

I have no objections to discussing any concerns about work performance, that is what I have requested in the attached documents. I shared that I would like the information in writing. I also disagree that as an employee of the district,and because my title is Assistant Superintendent does not mean that I can't have a complaint manager present according to board policy, but I will check with others outside of the district to understand my rights.

I will attend the meeting as requested but I am again requesting that all communication of concerns are put in writing. In order to maintain transparency, I am also more than happy to consent to having the meeting recorded and consent to having your share with Mr. Bohlen, board members and anyone else you deem necessary who are associated directly with the district.

---------- Forwarded message ---------
From: **Shemeka Fountain** <shemeka-fountain@ksd111.org>
Date: Fri, Jul 26, 2024 at 9:16 AM
Subject: Meeting with Complaint Manager
To: Dr. Teresa Lance <teresa-lance@ksd111.org>
Cc: <shemekamfountain@gmail.com>

[Quoted text hidden]

2 attachments

EMCOM.pdf
363K

CE.pdf
43K

Dr. Teresa Lance <teresa-lance@ksd111.org> Tue, Jul 30, 2024 at 3:47 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Christopher Bohlen <christopher-bohlen@ksd111.org>, shemekamfountain@gmail.com

Dear Ms. Fountain,
I do not consent to the recording of our meeting we are scheduled to have today, July 30th.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

[Quoted text hidden]

Gmail **shemeka fountain <shemekamfountain@gmail.com>**

Re: Mr. D. Bradley

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Aug 15, 2024 at 1:20 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>
Bcc: shemekamfountain@gmail.com

Hello,

If the decision is to terminate, the next step is to reach out to him and have him invite his union rep to the meeting. Discuss the findings of the investigation and let him know the recommendation for termination.

On Thu, Aug 15, 2024 at 1:06 PM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> Ms. Fountain,
> Just circling back on this. Please let me know my most immediate next steps.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE SCHOOL DISTRICT #111
>
> On Tue, Aug 13, 2024 at 7:45 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:
>
> > Good morning Ms. Fountain,
> > I provided the board with an update on the investigation of Mr. D. Bradley. Please outline the next steps for bringing him to the board for termination on August 26th.
> > Thank you,
> >
> > Teresa A. Lance, Ed.D
> > Superintendent of Kankakee School District
> > ONE Community, ONE District, ONE vision for ALL children
> >
> > KANKAKEE SCHOOL DISTRICT #111

Re: Personnel Matters (Kennedy)

3 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 3, 2024 at 9:12 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: shemekamfountain@gmail.com

Dr. Lance,

I'm not sure what the assumption is. The non-renewable list is published on the board agenda for all principals to see. When a principal has asked me about the candidate that was non nenewed, I told them they were non renewed and we would not hire them. As I stated I can't stop people from applying, but I have not hired anyone that was non renewed.

On Wed, Jul 3, 2024, 7:44 PM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> Yes, but we should communicate to our principals if a person is no longer employable in our system.
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
>
> On Wed, Jul 3, 2024 at 7:41 PM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> > Dr. Lance,
> >
> > We can't control who applies for a position. We monitor all recommendations for hire and would not hire a person that has been fired.
> >
> > On Wednesday, July 3, 2024, Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:
> >
> > > Dear Shemeka,
> > > Today, I met with Ms. Anderson, principal of Kennedy. During our meeting I learned that the following Instructors were recommended for non-renewal; those individuals are Leslie Anderson and Alexis Sturdevant. However, Ms. Anderson believes that they both applied to different schools for the 24-25 SY. What is our process for allowing individuals to return/rehire if they were non-renewed? My preference is that we do not allow them to reapply for another school building. Please advise as I might be missing additional information.
> > > Thank you,
> > >
> > > Teresa A. Lance, Ed.D
> > > Superintendent of Kankakee School District
> >
> > --
> > Shemeka M. Fountain
> > Assistant Superintendent Human Resource Department
> > Kankakee School District 111

Dr. Teresa Lance <teresa-lance@ksd111.org> Wed, Jul 3, 2024 at 9:21 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: "Dr. Teresa Lance" <teresa-lance@ksd111.org>, shemekamfountain@gmail.com

I have zero assumptions Ms. Fountain. I'm asking questions to get a better understanding of our practices. Please keep in mind that it is my third day and I do not have years of history regarding past and current practices. Please refrain from becoming defensive when the sole intent of my questions is to learn.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 3, 2024 at 9:33 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: shemekamfountain@gmail.com

Dr. Lance,

I'm not being defensive in any way. When you stated that we should tell our principals about non renewals. Im pointing out , that the principals are told. I'm stating the facts of what has happened. In your time here, thus far I have answered all of your questions and provided you with anything you have asked of me.

It is not my personality to get defensive. It is black and white for me. If you have additional questions, I will do my best to answer them as i have been doing.

Enjoy your weekend.
[Quoted text hidden]

Gmail **shemeka fountain <shemekamfountain@gmail.com>**

Re: Resignation of Employment

Shemeka Fountain <shemeka-fountain@ksd111.org> Tue, Aug 13, 2024 at 7:47 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Christopher Bohlen <christopher-bohlen@ksd111.org>, Tracy Verrett <tracy-verrett@ksd111.org>, Jess Gee Gathing <jgathin1@comcast.net>, Darrell Williams <darrell-williams@ksd111.org>, Suzanna Berrones <suzanna-berrones@ksd111.org>, Mary Archie <mary-archie@ksd111.org>, Deb Johnston <deb-johnston@ksd111.org>
Bcc: shemekamfountain@gmail.com

Dr. Lance,

So that I am clear on the expectation. You are concerned because I did not remind you a 4th time about holding teaching certificates. In your letter of direction to me you stated that I had to be more responsive to emails, does not the same expectation apply to you? On Thursday August 1st I reached out to you to ask you if we were holding teaching certificates for late resignations and you stated yes. I also reminded you during Cabinet on August 6th about holding certificates.I again asked you on August 8th about asking the Board to deny the resignations.

It appears to me that you are placing blame on me for your own oversight. I reached out to you three times about holding certificates. This is an unfair expectation of me having to remind you multiple times of a task that had to be done. Would you like for me to add Rachel to all of the emails so that she can help remind you as well?

As far as Ms. Ferris, see the attached communication that I have had with Ms. Ferris, Dr. Gilbert just mentioned it first in our meeting. It is starting to appear that you are looking for things to reprimand me for with no validity. This is the second incident in two days that I have been misrepresented on the tasks that I have completed. I have added the Board due to this feeling of being misrepresented. Please let me know how I can assist you further as we all have a lot on our plates.

On Tue, Aug 13, 2024 at 6:44 PM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> Dear Ms. Fountain,
> This is very concerning to me. We meet every Monday prior to our Board meeting to review the board packet in its entirety, including yesterday. Not once did you indicate to me that I needed to ask the board to deny the resignations of any individual teacher. I agree that you shared that message in an email on August 8th; however, the purpose of our Board review is to catch any last minute changes. For example, there was a last minute change to a new hire's salary that Kelly caught during our Board review.
>
> Ms. Fountain, I recognize that we are all going a mile a minute as we prepare for opening day, August 21st, but I really need you to help me with the finest of details; this was a serious oversight that could have been avoided.
>
> If you need to talk, let me know.
> [Quoted text hidden]
> [Quoted text hidden]

2 attachments

Patricia Ferris.pdf
95K

Certificatehold.pdf
163K

Re: Security Positions

6 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 24, 2024 at 11:55 AM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Willie Hunt <willie-hunt@ksd111.org>, shemekamfountain@gmail.com

Hello,

To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.

Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.

Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.

On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> FYI. Is this true? Did you cancel his requested meeting with you?
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE SCHOOL DISTRICT #111
>
> ---------- Forwarded message ---------
> From: **Willie Hunt** <willie-hunt@ksd111.org>
> Date: Wed, Jul 24, 2024 at 10:34 AM
> Subject: Security Positions
> To: Dr. Teresa Lance <teresa-lance@ksd111.org>
> CC: Rachel Thornton <rachel-thornton@ksd111.org>
>
> Good morning Dr. Lance,
>
> I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.
>
> The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.
>
> I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.

"For tomorrow belongs to the people who prepare for it today. "

Willie Hunt <willie-hunt@ksd111.org> Wed, Jul 24, 2024 at 12:14 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: "Dr. Teresa Lance" <teresa-lance@ksd111.org>, shemekamfountain@gmail.com

Good afternoon,

The meeting for today was scheduled on July 16th by Maria. At the board meeting on Monday, I had a brief conversation with Ms. Fountain and she stated that she was attending the baby's funeral service and she would be a little late. I told her I would wait for her.

Yes, I did tell Mr. James that the administration was changing from day one when he was interviewed. Every time he reached out to me, I would reach out to the ladies in the office and I got the same explanation that they were waiting on salary from Ms. Fountain.

I didn't mention the retired officer pay because I was under the impression that I would have the chance to bring it up in the meeting today. I assumed that these HR issues with security personnel.

"For tomorrow belongs to the people who prepare for it today. "

> On Jul 24, 2024, at 11:55 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> Hello,
>
> To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.
>
> Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.
>
> Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.
>
> On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:
>> FYI. Is this true? Did you cancel his requested meeting with you?
>>
>> Teresa A. Lance, Ed.D
>> Superintendent of Kankakee School District
>> ONE Community, ONE District, ONE vision for ALL children
>>
>> KANKAKEE
>> SCHOOL DISTRICT #111
>>
>> ---------- Forwarded message ---------
>> From: **Willie Hunt** <willie-hunt@ksd111.org>
>> Date: Wed, Jul 24, 2024 at 10:34 AM
>> Subject: Security Positions

To: Dr. Teresa Lance <teresa-lance@ksd111.org>
CC: Rachel Thornton <rachel-thornton@ksd111.org>

Good morning Dr. Lance,

I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.

The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.

I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.

"For tomorrow belongs to the people who prepare for it today. "

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 24, 2024 at 12:32 PM
To: Willie Hunt <willie-hunt@ksd111.org>
Cc: "Dr. Teresa Lance" <teresa-lance@ksd111.org>, shemekamfountain@gmail.com

Hello,

As stated I initiated the meeting, after the directive, I spoke to you and said we were following the directive given by Dr. Lance.

When I spoke with you this morning you never indicated to me that you had questions or needed anything from me. When you were in the building today, you did not indicate to me or my office that you needed to speak with me.

Now that I'm aware that you have concerns that you want to address but did not communicate that to me, you can schedule an appointment with Maria and I will address your concerns.

Have a great day.

On Wed, Jul 24, 2024, 12:15 PM Willie Hunt <willie-hunt@ksd111.org> wrote:

Good afternoon,

The meeting for today was scheduled on July 16th by Maria. At the board meeting on Monday, I had a brief conversation with Ms. Fountain and she stated that she was attending the baby's funeral service and she would be a little late. I told her I would wait for her.

Yes, I did tell Mr. James that the administration was changing from day one when he was interviewed. Every time he reached out to me, I would reach out to the ladies in the office and I got the same explanation that they were waiting on salary from Ms. Fountain.

I didn't mention the retired officer pay because I was under the impression that I would have the chance to bring it up in the meeting today. I assumed that these HR issues with security personnel.

"For tomorrow belongs to the people who prepare for it today. "

> On Jul 24, 2024, at 11:55 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> Hello,
>
> To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive

in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.

Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.

Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.

On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> FYI. Is this true? Did you cancel his requested meeting with you?
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> ---------- Forwarded message ---------
> From: **Willie Hunt** <willie-hunt@ksd111.org>
> Date: Wed, Jul 24, 2024 at 10:34 AM
> Subject: Security Positions
> To: Dr. Teresa Lance <teresa-lance@ksd111.org>
> CC: Rachel Thornton <rachel-thornton@ksd111.org>
>
> Good morning Dr. Lance,
>
> I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.
>
> The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.
>
> I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.
>
> "For tomorrow belongs to the people who prepare for it today. "

Dr. Teresa Lance <teresa-lance@ksd111.org> Wed, Jul 24, 2024 at 7:02 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Willie Hunt <willie-hunt@ksd111.org>, shemekamfountain@gmail.com

Ms. Fountain,
As an FYI, just because a person may report directly to me that should not preclude them from meeting with you.
It is my expectation that if I am needed to make a decision on the hiring of additional personnel, you will let me know.
Thank you,

Teresa A. Lance, Ed.D

Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

On Wed, Jul 24, 2024 at 12:32 PM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

Hello,

As stated I initiated the meeting, after the directive, I spoke to you and said we were following the directive given by Dr. Lance.

When I spoke with you this morning you never indicated to me that you had questions or needed anything from me. When you were in the building today, you did not indicate to me or my office that you needed to speak with me.

Now that I'm aware that you have concerns that you want to address but did not communicate that to me, you can schedule an appointment with Maria and I will address your concerns.

Have a great day.

On Wed, Jul 24, 2024, 12:15 PM Willie Hunt <willie-hunt@ksd111.org> wrote:

Good afternoon,

The meeting for today was scheduled on July 16th by Maria. At the board meeting on Monday, I had a brief conversation with Ms. Fountain and she stated that she was attending the baby's funeral service and she would be a little late. I told her I would wait for her.

Yes, I did tell Mr. James that the administration was changing from day one when he was interviewed. Every time he reached out to me, I would reach out to the ladies in the office and I got the same explanation that they were waiting on salary from Ms. Fountain.

I didn't mention the retired officer pay because I was under the impression that I would have the chance to bring it up in the meeting today. I assumed that these HR issues with security personnel.

"For tomorrow belongs to the people who prepare for it today. "

On Jul 24, 2024, at 11:55 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

Hello,

To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.

Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.

Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.

On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

FYI. Is this true? Did you cancel his requested meeting with you?

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

---------- Forwarded message ---------
From: **Willie Hunt** <willie-hunt@ksd111.org>
Date: Wed, Jul 24, 2024 at 10:34 AM
Subject: Security Positions
To: Dr. Teresa Lance <teresa-lance@ksd111.org>
CC: Rachel Thornton <rachel-thornton@ksd111.org>

Good morning Dr. Lance,

I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.

The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.

I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.

"For tomorrow belongs to the people who prepare for it today. "

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 24, 2024 at 7:37 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Willie Hunt <willie-hunt@ksd111.org>, shemekamfountain@gmail.com

Dr. Lance,

I'm fully aware of this. For that reason once I became aware that Mr. Hunt had HR concerns I had Maria schedule a meeting. As I stated before this information was not communicated to me, once it was communicated I scheduled a meeting.

On Wed, Jul 24, 2024, 7:03 PM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> Ms. Fountain,
> As an FYI, just because a person may report directly to me that should not preclude them from meeting with you.
> It is my expectation that if I am needed to make a decision on the hiring of additional personnel, you will let me know.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

On Wed, Jul 24, 2024 at 12:32 PM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

Hello,

As stated I initiated the meeting, after the directive, I spoke to you and said we were following the directive given by Dr. Lance.

When I spoke with you this morning you never indicated to me that you had questions or needed anything from me. When you were in the building today, you did not indicate to me or my office that you needed to speak with me.

Now that I'm aware that you have concerns that you want to address but did not communicate that to me, you can schedule an appointment with Maria and I will address your concerns.

Have a great day.

On Wed, Jul 24, 2024, 12:15 PM Willie Hunt <willie-hunt@ksd111.org> wrote:

Good afternoon,

The meeting for today was scheduled on July 16th by Maria. At the board meeting on Monday, I had a brief conversation with Ms. Fountain and she stated that she was attending the baby's funeral service and she would be a little late. I told her I would wait for her.

Yes, I did tell Mr. James that the administration was changing from day one when he was interviewed. Every time he reached out to me, I would reach out to the ladies in the office and I got the same explanation that they were waiting on salary from Ms. Fountain.

I didn't mention the retired officer pay because I was under the impression that I would have the chance to bring it up in the meeting today. I assumed that these HR issues with security personnel.

"For tomorrow belongs to the people who prepare for it today. "

On Jul 24, 2024, at 11:55 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

Hello,

To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.

Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.

Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.

On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

FYI. Is this true? Did you cancel his requested meeting with you?

Teresa A. Lance, Ed.D

Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

---------- Forwarded message ---------
From: **Willie Hunt** <willie-hunt@ksd111.org>
Date: Wed, Jul 24, 2024 at 10:34 AM
Subject: Security Positions
To: Dr. Teresa Lance <teresa-lance@ksd111.org>
CC: Rachel Thornton <rachel-thornton@ksd111.org>

Good morning Dr. Lance,

I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.

The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.

I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.

"For tomorrow belongs to the people who prepare for it today. "

Dr. Teresa Lance <teresa-lance@ksd111.org> Wed, Jul 24, 2024 at 7:43 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Willie Hunt <willie-hunt@ksd111.org>, shemekamfountain@gmail.com

We will discuss further when we meet next week, Ms. Fountain.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

On Wed, Jul 24, 2024 at 7:38 PM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
> Dr. Lance,
>
> I'm fully aware of this. For that reason once I became aware that Mr. Hunt had HR concerns I had Maria schedule a meeting. As I stated before this information was not communicated to me, once it was communicated I scheduled a meeting.

On Wed, Jul 24, 2024, 7:03 PM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

Ms. Fountain,
As an FYI, just because a person may report directly to me that should not preclude them from meeting with you. It is my expectation that if I am needed to make a decision on the hiring of additional personnel, you will let me know.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

On Wed, Jul 24, 2024 at 12:32 PM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

Hello,

As stated I initiated the meeting, after the directive, I spoke to you and said we were following the directive given by Dr. Lance.

When I spoke with you this morning you never indicated to me that you had questions or needed anything from me. When you were in the building today, you did not indicate to me or my office that you needed to speak with me.

Now that I'm aware that you have concerns that you want to address but did not communicate that to me, you can schedule an appointment with Maria and I will address your concerns.

Have a great day.

On Wed, Jul 24, 2024, 12:15 PM Willie Hunt <willie-hunt@ksd111.org> wrote:

Good afternoon,

The meeting for today was scheduled on July 16th by Maria. At the board meeting on Monday, I had a brief conversation with Ms. Fountain and she stated that she was attending the baby's funeral service and she would be a little late. I told her I would wait for her.

Yes, I did tell Mr. James that the administration was changing from day one when he was interviewed. Every time he reached out to me, I would reach out to the ladies in the office and I got the same explanation that they were waiting on salary from Ms. Fountain.

I didn't mention the retired officer pay because I was under the impression that I would have the chance to bring it up in the meeting today. I assumed that these HR issues with security personnel.

"For tomorrow belongs to the people who prepare for it today. "

> On Jul 24, 2024, at 11:55 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> Hello,
>
> To answer your question yes I did cancel the meeting. Here are the facts, I spoke to Mr. Hunt during the board meeting and I requested the meeting to go over staffing for next year. Upon following your directive in your email , I pulled back from having conversations with him as you stated he would report to you. I did cancel the meeting for this afternoon at 2 and I told Mr. Hunt per the email he was to meet with you and direct his questions to you.

Mr. Hunt never told me on Monday that he wanted to speak with me, I initiated the meeting. Mr. Hunt never spoke to me about Mr. James, salary being a hold up, in fact Mr. James called me and stated that Mr. Hunt told him he was waiting on the transition of leadership to see if he would be hired.

Mr. Hunt never mentioned anything about the retired police officer salary, or that he needed to speak with me. Again the meeting was initiated by me, not Mr. Hunt. I am more than willing to meet with all parties as I will not allow misinformation to be presented about me.

On Wed, Jul 24, 2024, 11:32 AM Dr. Teresa Lance <teresa-lance@ksd111.org> wrote:

> FYI. Is this true? Did you cancel his requested meeting with you?
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> ---------- Forwarded message ---------
> From: **Willie Hunt** <willie-hunt@ksd111.org>
> Date: Wed, Jul 24, 2024 at 10:34 AM
> Subject: Security Positions
> To: Dr. Teresa Lance <teresa-lance@ksd111.org>
> CC: Rachel Thornton <rachel-thornton@ksd111.org>
>
> Good morning Dr. Lance,
>
> I had a scheduled meeting with Ms. Fountain today at 2:30 that was canceled at 9:48 am after the email I sent. And was told to direct all my security concerns to you, although I believe these are HR issues. Well, Mr. Eddie James applied for a security position two months ago, passed the background, and has not received a call as of yet. I was told that the salary was the only holdup. Mr. James will fill a crucial spot that would financially put us in a better position budget wise because he would work the afternoon shift help me better manage the overtime.
>
> The other issue I wanted to talk about was the retired police officer's pay. School security will be making more than them and I do not believe that is fair when you consider the training and wealth of experience they bring to the table.
>
> I already know that your calendar is triple booked, but these are the issues that I would have discussed if I had a meeting.
>
> "For tomorrow belongs to the people who prepare for it today. "

Gmail **shemeka fountain <shemekamfountain@gmail.com>**

Rebuttal

5 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 31, 2024 at 6:21 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: shemekamfountain@gmail.com

Dr. Lance,

Attached is my rebuttal to the letter of direction that I stated I will send to you. I would hope to receive a response.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Rebuttal.pdf
1391K

Dr. Teresa Lance <teresa-lance@ksd111.org> Wed, Jul 31, 2024 at 8:41 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: shemekamfountain@gmail.com

Received.

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

[Quoted text hidden]

shemeka fountain <shemekamfountain@gmail.com> Sun, Aug 4, 2024 at 8:39 PM
To: Genevra Walters <committeetoelectgenevraw@gmail.com>

[Quoted text hidden]

Rebuttal.pdf
1391K

Shemeka Fountain <shemeka-fountain@ksd111.org> Sun, Aug 4, 2024 at 8:42 PM
To: shemeka fountain <shemekamfountain@gmail.com>

---------- Forwarded message ----------
From: **Shemeka Fountain** <shemeka-fountain@ksd111.org>
Date: Friday, August 2, 2024

Subject: Rebuttal
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Christopher Bohlen <christopher-bohlen@ksd111.org>, Jess Gee Gathing <jgathin1@comcast.net>, Suzanna Berrones <suzanna-berrones@ksd111.org>, Tracy Verrett <tracy-verrett@ksd111.org>, Mary Archie <mary-archie@ksd111.org>, Darrell Williams <darrell-williams@ksd111.org>, Deb Johnston <deb-johnston@ksd111.org>

Hello,

On July 25th you requested for me to set up a meeting with you through Rachel to discuss work expectations. I asked to have a complaint manager or a recorded meeting to take place, and I was denied both requests.

I met with you on July 30th and at that meeting you handed me a letter of direction. I responded to you that I would respond in writing as we had never had any conversations about those things that were contained in the letter and I disputed some of the information contained in the letter.

I sent a rebuttal, that is attached and asked you to revise the letter of direction with updated information, as I provided written evidence to you as proof of some of the inaccuracies contained in the letter of direction. I also asked for clarification of some of the expectations, so that I am following your directives.

To date, I have not received a response. I am asking for a timeline on when I will recieve clarification on the directives given to me. I would like to go into a new week with a fresh start and clear expectations.

Thank you for your consideration.

---------- Forwarded message ---------
From: **Shemeka Fountain** <shemeka-fountain@ksd111.org>
Date: Wed, Jul 31, 2024, 6:21 PM
Subject: Rebuttal
To: Dr. Teresa Lance <teresa-lance@ksd111.org>
Cc: <shemekamfountain@gmail.com>

[Quoted text hidden]

--
[Quoted text hidden]

Rebuttal.pdf
1391K

---

shemeka fountain <shemekamfountain@gmail.com> Sun, Aug 4, 2024 at 8:42 PM
To: Genevra Walters <committeetoelectgenevraw@gmail.com>

[Quoted text hidden]

Rebuttal.pdf
1391K

Gmail shemeka fountain <shemekamfountain@gmail.com>

Violation of Board Policy

3 messages

shemeka fountain <shemekamfountain@gmail.com> Thu, Sep 12, 2024 at 7:51 PM
To: "christopher-bohlen@ksd111.org" <christopher-bohlen@ksd111.org>, "jess-gathing@ksd111.org" <jess-gathing@ksd111.org>, suzzane-berrones@ksd111.or, "tracy-verrett@ksd111.org" <tracy-verrett@ksd111.org>, "mary-archie@ksd111.org" <mary-archie@ksd111.org>, "deb-johnston@ksd111.org" <deb-johnston@ksd111.org>, "darrell-williams@ksd111.org" <darrell-williams@ksd111.org>
Cc: calvita.frederick@att.net, Cjf@cjfredericklaw.com, "genevra.walters@yahoo.com" <genevra.walters@yahoo.com>, "teresa-lance@ksd111.org" <teresa-lance@ksd111.org>

Board of Education,

Attached is the letter of administrative leave with pay. The superintendent has violated the attached board policy, specifically:

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed.

I have copied my attorney.

2 attachments

image.pdf
31K

5_240.23.pdf
58K

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Thu, Sep 12, 2024 at 7:51 PM
To: shemekamfountain@gmail.com

Address not found

Your message wasn't delivered to **suzzane-berrones@ksd111.or** because the domain ksd111.or couldn't be found. Check for typos or unnecessary spaces and try again.

LEARN MORE

The response was:

```
DNS Error: DNS type 'mx' lookup of ksd111.or responded with code NXDOMAIN Domain name not
found: ksd111.or For more information, go to https://support.google.com/mail/?p=BadRcptDomain
```

Final-Recipient: rfc822; suzzane-berrones@ksd111.or
Action: failed
Status: 5.1.2
Diagnostic-Code: smtp; DNS Error: DNS type 'mx' lookup of ksd111.or responded with code NXDOMAIN
Domain name not found: ksd111.or For more information, go to https://support.google.com/mail/?p=BadRcptDomain
Last-Attempt-Date: Thu, 12 Sep 2024 17:51:49 -0700 (PDT)

---------- Forwarded message ----------
From: shemeka fountain <shemekamfountain@gmail.com>
To: "christopher-bohlen@ksd111.org" <christopher-bohlen@ksd111.org>, "jess-gathing@ksd111.org" <jess-gathing@ksd111.org>, suzzane-berrones@ksd111.or, "tracy-verrett@ksd111.org" <tracy-verrett@ksd111.org>, "mary-archie@ksd111.org" <mary-archie@ksd111.org>, "deb-johnston@ksd111.org" <deb-johnston@ksd111.org>, "darrell-williams@ksd111.org" <darrell-williams@ksd111.org>
Cc: calvita.frederick@att.net, Cjf@cjfredericklaw.com, "genevra.walters@yahoo.com" <genevra.walters@yahoo.com>, "teresa-lance@ksd111.org" <teresa-lance@ksd111.org>
Bcc:
Date: Thu, 12 Sep 2024 19:51:44 -0500
Subject: Violation of Board Policy
----- Message truncated -----

---

shemeka fountain <shemekamfountain@gmail.com> Thu, Sep 12, 2024 at 8:02 PM
Draft

[Quoted text hidden]

2 attachments

image.pdf
31K

5_240.23.pdf
58K

A letter of direction is given when verbal expectations are given and they are not followed. When you sent me the email about work expectation, it referenced email communication, yet in the letter of direction nothing was mentioned about email communication.

During the 1:1 discussion that took place on July 16th, nothing was brought to my attention verbally or written about the dates that you listed for reporting to work after 9. There also was never discussion with me about the expectation of hours. As far as me not putting in days. I will add the 15th, even though there was a day that I took off and came to work. I will put in 2.5 hours for attending the student's funeral, as legally I am entitled to lunch. In addition my whole staff has my schedule and I speak with them almost every morning before I come to work and notify them of any changes in my schedule.

Work Calendar not Monitored on July 24th	In your statement you stated that I did not notify you that I was not going to be at work. I was at work. After meeting with Dr. Sims. I came to LCC. I swiped in at LCC at 9:28 a.m..I attended the funeral services for J. Frazier. I swiped back in at 1:48 p.m. and met with Mariza Avalos at 2:00 p.m. I also meet with Stacy Glenn and Albert Brass at 3:00 p.m. Also prior to the meeting that was set up with Pathfinders, I stated that I may not be able to attend, due to a prior meeting. You stated that you would have the meeting anyway.
July 23rd - Admin Licensure	In the letter, you stated that I did not respond to your question about administrator licensure. I did respond to the initial email that was self explanatory

	about who was on the list.
Responsiveness to emails	Since July 1st you alone have sent me 150 emails. A lot of it has been information that you needed for background knowledge. Out of the many emails that you sent. I will acknowledge that I did not respond to three
Sarah Hartman - Not brought to the board meeting	See attached email where an offer was made to Ms. Hartman and she requested to meet. Maria scheduled a meeting with her at her earliest convenience. I also called Ms. Jackson to let her know she was requesting a meeting.
Michelle Koler - Not brought to the board meetings	See the attached email that was given to the candidate on June 17th. Also attached is the communication sent to the hiring administrator. I have stated several times to ensure that we are not removing people from the board agenda, we wait until they come and sign their letter of intent. Candidate did not come in to sign paperwork until July 10th
Tia Gunby - Not brought to the board meeting	See the attached email that was sent to Ms. Gunby before your start date on July 1 and her response on July 2nd. I have stated several times to ensure that we are not removing people from the board agenda, we wait until they come and sign their letter of intent
Charles Bohac - Not being brought to the July 22nd board meeting	See the email on April 24th to Mr. Bohac and his decline of the position with the administrator at the high school copied. I can't bring a person that declined an offer to the board for hire. Also indicated on the hire spreadsheet sent to all administrators
Jessica Griffin - Not being brought to the July 22nd board meeting	See the email attached email that Ms. Griffin declined the position. I can't bring a person that declined an offer to the board for hire. Also indicated on the hire spreadsheet sent to all

	administrators
Klarissa Henderson - Not brought to the July 22nd board meeting	See the attached email that Ms. Henderson never responded to calls or emails. I can't bring a person that won't respond to an offer to the board for hire. Also indicated on the hire spreadsheet sent to all administrators
Shelby Meents - Not being brought to the board meeting	See attached email that I sent to Ms. Clodi about the recommendation for hire being incomplete with no information uploaded for the candidate. If the administrator does not upload the correct information, I can't process the hire.
Amanda Sandy - Not brought to the board	Amanda Sandy did not come in to sign paperwork until July 8th, per the new procedure we could not add her to the board meeting. We can't make candidates come in earlier. I have stated several times to ensure that we are not removing people from the board agenda, we wait until they come and sign their letter of intent.
Theresa Lindstrom - Not brought to the board	Theresa Lindstrom did not come in to sign paperwork until July 8th, per the new procedure we could not add her to the board meeting. We can't make candidates come in earlier. I have stated several times to ensure that we are not removing people from the board agenda, we wait until they come and sign their letter of intent.
July 3rd	I was in my car on the phone with the judge for an unemployment hearing. The judge called around 8:58 and I remained stationary in the car, until the hearing was over and then reported for transportation negotiations.

Tommy Boudreau - Not brought to the Board	Accepted the salary by phone and never came in to do paperwork
Cassandra McCullough - Not brought to the board	Never responded to emails

Attached is the email communication with Mr. Harris, I did contact him a second time, but made a mistake in the email in which I will own.

Questions

What is my start and end time in the district?

Is it your directive that I have to put in writing a request to use my benefit days before I put them in the system? Is this the expectation for all assistant superintendents and administrators?

When was I notified verbally, before it was put in writing that I had to start my day at LCC or notify you when I did not? Is this the expectation for all Assistant Superintendents?

I have attended the funerals of every student here in Kankakee since I worked here. Did Ms. Powell and Dr. Sims have to notify you about attendance for a funeral or put in time off for one of our students, or was this just an expectation for me?

Besides the three emails that I acknowledge, can you share with me the dates where I did not respond to a phone call?

I will put in for the July 15th date, as I called you and told you I had an emergency with my father. I would also note that day, I took a phone call with you, Dr. Gilbert, Kim Starkey and the attorney. That date has been added to the system.

I will never say that I am perfect. I have no problem taking responsibility for any mistakes that I make, I would ask for an updated letter of direction, as I have provided you with written proof and documentation that some of the statements in the letter of direction are inaccurate.

Ms. Fountain

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

3 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 18, 2024 at 12:52 PM
To: "preen22@live.com" <preen22@live.com>

Hello,

You have been recommended for the parent liaison position at King. The salary for this position is $40,000.00. If you are interested respond to this email.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Sarah Hartman <preen22@live.com> Thu, Jul 18, 2024 at 6:07 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Thank you for reaching out! I am extremely interested in this position. Would it be possible to schedule a time to talk at your earliest convenience and answer a few questions that I have about the benefits that comes with the position?

Thank you again and I look forward to speaking with you!

Sarah Hartman

> On Jul 18, 2024, at 12:52 PM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> [Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 18, 2024 at 7:44 PM
To: Sarah Hartman <preen22@live.com>
Cc: Maria Chavez <maria-chavez@ksd111.org>

Yes. I'm adding my assistant to schedule a time.

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org>

Invitation: S. Hartman @ Thu Aug 1, 2024 1pm - 1:30pm (CDT) (preen22@live.com)

1 message

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 24, 2024 at 8:51 AM

Reply-To: Maria Chavez <maria-chavez@ksd111.org>
To: preen22@live.com

When

Thursday Aug 1, 2024 · 1pm – 1:30pm (Central Time - Chicago)

Location

Lincoln Cultural Center, 240 Warren Ave, Kankakee, IL 60901, USA
View map

Guests

Shemeka Fountain - organizer
preen22@live.com
View all guest info

Reply for preen22@live.com

Yes No Maybe More options

Invitation from Google Calendar

You are receiving this email because you are an attendee on the event. To stop receiving future updates for this event, decline this event.

Forwarding this invitation could allow any recipient to send a response to the organizer, be added to the guest list, invite others regardless of their own invitation status, or modify your RSVP. Learn more

---

invite.ics
2K

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

5 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jun 17, 2024 at 6:01 AM
To: "dmkoler@sbcglobal.net" <dmkoler@sbcglobal.net>

Ms. Koler,

You have been recommended for an English position at Kankakee High School. We can offer you the following based on a Masters Degree and 20 years (+) of teaching experience.

Base Salary - $ 73,764.00
Base Salary and TRS - $81,059.00
Insurance: Blue Cross / Blue Shield - Single (94% paid by District) Family (74% paid by District)

If you are interested in this position, respond to this email and someone for the HR office will contact you concerning next steps.
Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Donald Michelle Koler <dmkoler@sbcglobal.net> Mon, Jun 17, 2024 at 4:42 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Yes I accept! Thank you! I look forward to working with all of you!
Sent from my iPhone

> On Jun 17, 2024, at 6:01 AM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> [Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Tue, Jun 25, 2024 at 5:55 PM
To: Donald Michelle Koler <dmkoler@sbcglobal.net>

Hello,

You may come to the HR office at 240 Warren Avenue in Kankakee and ask for Deb. The office is open Monday - Thursday from 8:30 a.m. until 4:00 p.m.
[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jun 28, 2024 at 2:26 PM
To: "Dr. Albert Brass" <albert-brass@ksd111.org>, Calvin Works <calvin-works@ksd111.org>, Bradley Bochenek <bradley-bochenek@ksd111.org>, Jason Worden <jason-worden@ksd111.org>, Tracee Steele <tracee-steele@ksd111.org>

FYI
[Quoted text hidden]

Bradley Bochenek <bradley-bochenek@ksd111.org> Fri, Jun 28, 2024 at 2:51 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

That is great! Thank you for letting us know.
Sent from my iPhone

> On Jun 28, 2024, at 2:26 PM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> [Quoted text hidden]

Kankakee School District 111

Dr Genevra A Walters
Superintendent of Schools

Department of Human Resources
240 Warren Avenue
Kankakee IL 60901
Phone (815) 933-0702
Fax (815) 802-7714
Email humanresources@ksd111 org

July 3, 2024

JUL 8 13:01

Michelle Koler
2187 Sky View Drive
New Lenox, Illinois 60451

RE: Letter of Intent to Hire/Contract of Employment

Dear Ms. Koler,

On behalf of Kankakee School District 111, we are pleased by your interest in collaborating with us to serve the needs of our School District. Please accept this document as notice of intent to hire for the position as follows:

- Position: English Teacher
- Location: Kankakee High School
- Starting Date: August 19, 2024
- Board Date: July 22, 2024
- First Check Date: Septemebr 15, 2024
- Salary: $73,764.00(M-20)
- Salary with TRS: $81,059.00
- Sick Days: 12
- Personal Days: 3
- Bereavement Day: 1

Please note that this is a preliminary letter of agreement and is not intended to be all-inclusive. With your acceptance, our District's Human Resources Department will contact you to solidify compensation, and other details of this offer.

This offer is also contingent upon the successful completion of background checks, medical clearance, required forms, reference checks, licensing verifications, and credentialing processes, as well as approval by our District's Board of Education.

If the Board of Education approves your hiring, this document will become your signed contract.

By signing this letter, you indicate your acceptance of the offer.

Thank you for your interest in Kankakee School District 111. We look forward to having you as a valued member of our team.

Sincerely,

Ms. Shemeka Fountain
Assistant Superintendent for Human Resources

==========

ACCEPTANCE OF OFFER

In affixing my signature below, I attest that this agreement does not conflict with any other employment or contractual agreement into which I am currently entered or anticipate entering.

Accordingly, I accept this offer with understanding that this is a conditional offer to hire based on information as stated herein and with the understanding that upon Board approval, this is my contract of employment with the District.

Applicant Signature

7/8/2024
Date

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

3 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jun 28, 2024 at 2:41 PM
To: "tgunby1221@gmail.com" <tgunby1221@gmail.com>

Ms. Gunby,

You have been recommended for an English position at Kankakee High School. We can offer you the following based on a Bachelor's Degree with this being your first year of teaching experience.

Base Salary - $41,300.00
Base Salary and TRS - $45,385.00
Insurance: Blue Cross / Blue Shield - Single (94% paid by District) Family (74% paid by District)

If you are interested in this position, respond to this email and someone from the HR office will contact you.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

TIA GUNBY <tgunby1221@gmail.com> Tue, Jul 2, 2024 at 11:40 AM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Goodmorning Ms. Fountain,

I Apologize For The Delayed Response.

Thank You So Much For This Email.

I Will Accept The Position!

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 3, 2024 at 3:04 PM
To: TIA GUNBY <tgunby1221@gmail.com>
Cc: Debra Hults <debra-hults@ksd111.org>, Jason Worden <jason-worden@ksd111.org>, "Dr. Albert Brass" <albert-brass@ksd111.org>

Great Ms. Gunby,

You may come to Lincoln Culture Center to fill out paperwork. The address is 240 Warren Ave. We at here Monday - Thursday from 8:30 a.m. to 4:00. Ask for Deb in the HR Office.

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

2 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Apr 24, 2024 at 5:09 PM
To: "charliebee67@gmail.com" <charliebee67@gmail.com>

Mr. Bohac,

You have been recommended for an English position at Kankakee High School. We can offer you the following based on a Bachelor's Degree with 20 years of teaching experience. Twenty years is as high as we give credit for in the district,

Base Salary - $ 66,911.00
Base Salary and TRS - $73,529
Insurance: Blue Cross / Blue Shield - Single (94% paid by District) Family (74% paid by District)

If you are interested in this position, respond to this email and someone for the HR office will contact you concerning next steps.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Charles Bohac <charliebee67@gmail.com> Wed, Apr 24, 2024 at 5:22 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>, Bradley Bochenek <ikan+14e69baf-856@applitrack.com>

Good evening,

I'm sorry to say that I just accepted another offer. I appreciate you reaching out to me and I hope that if I ever were to interview again that I would be be hireable. Thank you for your time and consideration. Have a great evening!

Respectfully,
Charles Bohac
[Quoted text hidden]

Kankakee School District 111
Committed To Excellence

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

2 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 18, 2024 at 12:59 PM
To: j.griffin4@yahoo.com

Ms. Griffin,

You have been recommended for a music position at King School. We can offer you the following based on a Bachelor's - First year.

Base Salary - $ 41,300.00
Base Salary and TRS - $45,385.00

If you are interested in this position, respond to this email and someone for the HR office will contact you concerning next steps.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Jessica Griffin <j.griffin4@yahoo.com> Thu, Jul 18, 2024 at 1:37 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Ms. Fountain,
Thank you so much for reaching out. At this time I have accepted a full-time position with another district. I wish you the best on filling the King music position.

Best regards,
Jessica Griffin
[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

4 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jun 17, 2024 at 6:09 AM
To: "klarissahenderson01@gmail.com" <klarissahenderson01@gmail.com>

Ms. Henderson,

You have been recommended for a Math position at Edison School. We can offer you the following based on a Bachelor's Degree with this being your first year of teaching experience.

Base Salary - $ 41,300.00
Base Salary and TRS - $45,385.00
Insurance: Blue Cross / Blue Shield - Single (94% paid by District) Family (74% paid by District)

If you are interested in this position, respond to this email and someone for the HR office will contact you concerning next steps.

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jun 28, 2024 at 2:13 PM
To: Cale Kuester <cale-kuester@ksd111.org>

Hello,

This is the email that was sent to Ms. Henderson (11) days ago. She has not responded to the email. Has she contacted you?

[Quoted text hidden]

Cale Kuester <cale-kuester@ksd111.org> Sat, Jun 29, 2024 at 6:26 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>, Teresa Lance <teresa-lance@ksd111.org>

I'm sorry, I don't know who Ms. Henderson is and I don't have a math position as I am only a K-3 School.

Thanks,
Kuester

Sent from my iPhone

> On Jun 28, 2024, at 2:13 PM, Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:
>
> [Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Sun, Jun 30, 2024 at 7:39 AM
To: Cale Kuester <cale-kuester@ksd111.org>
Cc: Teresa Lance <teresa-lance@ksd111.org>

Thank you Mr. Kuester. The applicant put in Edison. She is going to Stueben.
[Quoted text hidden]

Kankakee School District 111
Committed To Excellence

Shemeka Fountain <shemeka-fountain@ksd111.org>

Offer

7 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 3, 2024 at 1:32 PM
To: "slmeents@gmail.com" <slmeents@gmail.com>

Ms. Meents,

You have been recommended for a Special Education at the High School We can offer you the following based on a Bachelors Step 5..

Base Salary - $45,968.00
Base Salary and TRS - $50,514.00
Insurance: Blue Cross / Blue Shield - Single (94% paid by District) Family (74% paid by District)

Shemeka M. Fountain
Assistant Superintendent Human Resource Department
Kankakee School District 111

Shelby Meents <slmeents@gmail.com> Wed, Jul 3, 2024 at 1:48 PM
To: shemeka-fountain@ksd111.org

Hello,

I just wanted to clarify that I would be at step 7 this year. Is the district able to do that?

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Wed, Jul 3, 2024 at 3:18 PM
To: Shelby Meents <slmeents@gmail.com>

Hello,

I would need to know more information about your job at The Baby Fold to give you those years of experience.

[Quoted text hidden]

Shelby Meents <slmeents@gmail.com> Wed, Jul 3, 2024 at 3:21 PM

To: shemeka-fountain@ksd111.org

Would you be willing to give me a call at your convenience? 815-922-1935

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Tue, Jul 9, 2024 at 10:41 AM
To: Shelby Meents <slmeents@gmail.com>

Hello Ms. Meents,

I spoke with Ms. Clodi and she told me she had a discussion with you. Can you come in this week to fill out paperwork at Lincoln Culture Center - 240 Warren Avenue.
[Quoted text hidden]

Shelby Meents <slmeents@gmail.com> Tue, Jul 9, 2024 at 11:54 AM
To: shemeka-fountain@ksd111.org

I can come in this afternoon or Thursday afternoon if that works

[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Tue, Jul 9, 2024 at 11:58 AM
To: Shelby Meents <slmeents@gmail.com>

Ok sounds good.
[Quoted text hidden]

Kankakee School District 111
Committed To Excellence

Shemeka Fountain <shemeka-fountain@ksd111.org>

Fwd: Follow Up

7 messages

Carrie Clodi <carrie-clodi@ksd111.org> Wed, Jul 3, 2024 at 12:25 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>, "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>

Ms. Fountain, may I please inquire as to the status of hiring this applicant. It is critical that we get her hired, as we lost the Kennedy Living and Learning Candidate, and this individual will assist to remediate that loss.

Carrie Ganci-Clodi, M.Ed., J.D.

---------- Forwarded message ---------
From: **Shelby Meents** <smeents@mcusd1.net>
Date: Wed, Jul 3, 2024 at 11:14 AM
Subject: Follow Up
To: carrie-clodi@ksd111.org <carrie-clodi@ksd111.org>, jason-worden@ksd111.org <jason-worden@ksd111.org>

Good morning,

I wanted to follow up with both of you regarding my potential employment. I am really excited to join your team, but I have not received a call from HR yet. Is there anything I need to do or someone I need to contact?

Thank you!

Shelby Meents

Sent from Mail for Windows

Virus-free.www.avg.com

--
Carrie Ganci-Clodi, M.Ed., J.D.
Kankakee School District 111
Director of Special Education Services

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 4, 2024 at 10:19 AM
To: Carrie Clodi <carrie-clodi@ksd111.org>
Cc: "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>

Hello Carrie,

Ms. Meents has been contacted and she is currently trying to negotiate years of experience. When you did her reference check, did you verify her work at her last place of employment? Can you send me those notes, that can help me determine if I will give her the additional money she is asking for. Thank you for your help.
[Quoted text hidden]

Carrie Clodi <carrie-clodi@ksd111.org> Thu, Jul 4, 2024 at 11:31 AM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

Thank you for the follow-up with the applicant. To date, we have not been required to ask for a verification of employment. If you can please communicate out the system you would like Admin to use when checking references, I would gladly follow your directive moving forward.

It is critical that we get this applicant hired, as we lost the Kennedy Living and Learning Candidate three weeks ago, and this individual will assist to remediate that loss. Please let me know as soon as possible how I can assist.

Carrie Ganci-Clodi, M.Ed., J.D.
[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 4, 2024 at 12:41 PM
To: Carrie Clodi <carrie-clodi@ksd111.org>
Cc: "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

Ms. Clodi,

If you look in the google form there is a folder that is attached to ask the administrators to upload relevant information, such as interview questions and responses and the application as well. Looking at the recommendation form for Ms. Meents it is blank, there is no documentation uploaded.

The HR office in our process looks at the documentation that is uploaded and we complete the verification of employment, but if there are no documents there Ms. Clodi, I have to rely upon the individuals that conducted the interview. Since you were present in the interview I am asking you about her experience as I did not interview her in order to negotiate her salary. You are more than willing to look at the information that was sent to me that does not contain the appropriate attachments.

I want nothing more than to fill the position and she was given an offer, but she countered with the fact that she explained her work experience in the interview and she is requesting additional money. So I am reaching out to you as you were there. While we want to hire candidates as quickly as possible, all of the relevant information must be provided in the system that is given.

The HR office has reached out to the previous employer with no response and we have nothing uploaded, that is why I have reached out to you. Again did you all speak to her about her work experience? Can you have the administrator on the interview team with you that has the appropriate documents upload them in the portal for the recommendations for hire.

[Quoted text hidden]

Carrie Clodi <carrie-clodi@ksd111.org> Fri, Jul 5, 2024 at 9:43 AM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

I did not attend the interview, nor did I submit the Rec to Hire. While I typically participate, there was an oversight with my invite on this particular candidate. In collaboration with the building's efforts, however, I did follow-up with the Candidate directly following the interview to introduce myself, and I did follow-up with a reference (Penny Sylvester) to ensure Shelby would be a good candidate for District 111.

Recognizing the need for additional details, I spoke with Shelby yesterday (with her consent, since it was a holiday), and, through our discussion, determined that the confusion with years of experience surrounds her time at Baby Fold (which is typical for candidates coming from the private sector who do not understand the transition into a TRS-based role). I shared with Shelby that her time at Baby Fold was not a TRS position and, as such, typically is not counted towards years of experience in most public school districts.

I clarified with Shelby that I could not recommend salary but rather was calling her to ensure her understanding of the potential discrepancy in years. By the end of our discussion, she understood the potential loss of years and that this would be determined by the Human Resources Department, in alignment with historical practice and the current Teacher Union

Contract. Shelby awaits your decision on the proposed years and now understands the rationale of reduction in years, if that is what is decided.

Hopefully this additional information will allow for a full offer on Monday. Shelby stated that she teaches in the AM but is available for a call after noon. I would be happy to circle back to those administrators who participated in the interviews, to request additional details, if so desired, but I hope these additional details resolve the presented issue so we may move forward in an expedited manner.

Ms. Fountain, I recognize that you have many staff to hire and will amend my future interview questions to allow for questions itemized to length of time in each employment. Additionally, I will ensure that all future submissions, as related to special education positions, are inclusive of interview question results. Thank you for all that you do. Please advise on next steps.

Carrie Ganci-Clodi, M.Ed., J.D.

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jul 5, 2024 at 10:32 AM
To: Carrie Clodi <carrie-clodi@ksd111.org>
Cc: "Dr. Kelly Gilbert" <kelly-gilbert@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

Ms. Clodi,

Now that I have all the information, no further actions need to happen on your end. I will amend the offer letter that was a sent her last week.
[Quoted text hidden]

Dr. Kelly Gilbert <kelly-gilbert@ksd111.org> Sat, Jul 6, 2024 at 7:52 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>
Cc: Carrie Clodi <carrie-clodi@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

If anything further is needed, please let me know.
Thank you,
Kelly
[Quoted text hidden]
--
Dr. Kelly A. Gilbert, Assistant Superintendent of Curriculum and Instruction
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
HIGH SCHOOL

Kankakee School District 111

Dr. Genevra A. Walters
Superintendent of Schools

Department of Human Resources
240 Warren Avenue
Kankakee IL 60901
Phone (815) 933-0702
Fax (815) 802-7714
Email humanresources@ksd111.org

July 10, 2024

Theresa Lindstrom
435 W Station Street
Saint Anne, Illinois 60964

JUL 10 16:24

RE: Letter of Intent to Hire/Contract of Employment

Dear Ms. Lindstrom,

On behalf of Kankakee School District 111, we are pleased by your interest in collaborating with us to serve the needs of our School District. Please accept this document as notice of intent to hire for the position as follows:

- Position: PFA-E Teacher
- Location: Proegler School
- Starting Date: August 19, 2024
- Board Date: July 22, 2024
- First Check Date: Septemebr 15, 2024
- Salary: $42,888.00(B-2)
- Salary with TRS: $47,129.00
- Sick Days: 12
- Personal Days: 3
- Bereavement Day: 1

Please note that this is a preliminary letter of agreement and is not intended to be all-inclusive. With your acceptance, our District's Human Resources Department will contact you to solidify compensation, and other details of this offer.

This offer is also contingent upon the successful completion of background checks, medical clearance, required forms, reference checks, licensing verifications, and credentialing processes, as well as approval by our District's Board of Education.

If the Board of Education approves your hiring, this document will become your signed contract.

By signing this letter, you indicate your acceptance of the offer.

Thank you for your interest in Kankakee School District 111. We look forward to having you as a valued member of our team.

Sincerely,

Ms. Shemeka Fountain
Assistant Superintendent for Human Resources

==========

ACCEPTANCE OF OFFER

In affixing my signature below, I attest that this agreement does not conflict with any other employment or contractual agreement into which I am currently entered or anticipate entering.

Accordingly, I accept this offer with understanding that this is a conditional offer to hire based on information as stated herein and with the understanding that upon Board approval, this is my contract of employment with the District.

Theresa A. Lindstrom
Applicant Signature

7-10-2024
Date

Kankakee School District 111

Dr Genevra A Walters
Superintendent of Schools

Department of Human Resources
240 Warren Avenue
Kankakee IL 60901
Phone (815) 933-0702
Fax (815) 802-7714
Email humanresources@ksd111 org

JUL 8 14:27

July 8, 2024

Amanda Sandy
2000 McDonough Street
Joliet, Illinois 60436

RE: Letter of Intent to Hire/Contract of Employment

Dear Ms. Sandy,

On behalf of Kankakee School District 111, we are pleased by your interest in collaborating with us to serve the needs of our School District. Please accept this document as notice of intent to hire for the position as follows:

- Position: 6th grade Instructor
- Location: King Middle School
- Starting Date: August 19, 2024
- Board Date: July 22, 2024
- First Check Date: Septemebr 15, 2024
- Salary: $44,300.00 (M-1)
- Salary with TRS: $48,681.00
- Sick Days: 12
- Personal Days: 3
- Bereavement Day: 1

Please note that this is a preliminary letter of agreement and is not intended to be all-inclusive. With your acceptance, our District's Human Resources Department will contact you to solidify compensation, and other details of this offer.

This offer is also contingent upon the successful completion of background checks, medical clearance, required forms, reference checks, licensing verifications, and credentialing processes, as well as approval by our District's Board of Education.

If the Board of Education approves your hiring, this document will become your signed contract.

By signing this letter, you indicate your acceptance of the offer.

Thank you for your interest in Kankakee School District 111. We look forward to having you as a valued member of our team.

Sincerely,

Ms. Shemeka Fountain
Assistant Superintendent for Human Resources

==========

ACCEPTANCE OF OFFER

In affixing my signature below, I attest that this agreement does not conflict with any other employment or contractual agreement into which I am currently entered or anticipate entering.

Accordingly, I accept this offer with understanding that this is a conditional offer to hire based on information as stated herein and with the understanding that upon Board approval, this is my contract of employment with the District.

Amanda Sandy
Applicant Signature

7/8/24
Date

Kankakee School District 111
Committed To Excellence

Shemeka Fountain <shemeka-fountain@ksd111.org>

Follow Up

11 messages

Shemeka Fountain <shemeka-fountain@ksd111.org> Sat, Jul 13, 2024 at 8:00 AM
To: George Harris <george-harris@ksd111.org>

Mr. Harris,

The school district would like you to do a follow up appointment with Dr. Barras on July 26th at 12:30 p.m. In his Skokie office.

George Harris <george-harris@ksd111.org> Mon, Jul 15, 2024 at 5:25 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

I will be there, thank you. I assume the meeting will be to discuss the results of the psychological examination that took place last October and the follow up visit and MRI procedure with my primary doctor. If not please advise.

On Sat, Jul 13, 2024 at 8:00 AM Shemeka Fountain <shemeka-fountain@ksd111.org> wrote:

> Mr. Harris,
>
> The school district would like you to do a follow up appointment with Dr. Barras on July 26th at 12:30 p.m. In his Skokie office.

--

Mr. George Harris

Principal of Steuben Elementary School

Phone: 815.933.8713

Shemeka Fountain <shemeka-fountain@ksd111.org> Mon, Jul 15, 2024 at 6:14 PM
To: George Harris <george-harris@ksd111.org>

Mr. Harris,

It is a follow up appointment. I will let Dr. Barras know that you will be there for the appointment. If for any reasons you will be unable to make the appointment, notify me as soon as possible. After the appointment we will discuss next steps.
[Quoted text hidden]

George Harris <george-harris@ksd111.org> Tue, Jul 16, 2024 at 7:48 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Yes ma'am. Thank you for the response.
[Quoted text hidden]

Shemeka Fountain <shemeka-fountain@ksd111.org> Thu, Jul 18, 2024 at 1:25 PM
To: George Harris <george-harris@ksd111.org>

Mr. Harris,

Dr. Barras has requested that we move the appointment to July 26th at 12:30 p.m. Will you be able to make the changed appointment?
[Quoted text hidden]

George Harris <george-harris@ksd111.org> Fri, Jul 19, 2024 at 10:17 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>

Yes, I agreed I will be there. The appointment is Friday, July 26th at 12:30pm.
[Quoted text hidden]

George Harris <george-harris@ksd111.org> Fri, Jul 26, 2024 at 1:38 PM
To: Shemeka Fountain <shemeka-fountain@ksd111.org>, "Dr. Teresa Lance" <teresa-lance@ksd111.org>

Hello Ms. Fountain,

I am still sitting in the Skokie Office of Dr. Barras while writing this email. I arrived for the appointment at 12:30pm and no one came out. Someone got Dr. Barras to come out and speak to me and he stated my appointment was Tuesday July 30th at 11am. I tried to show him our communication thread about the appointment being July 26th at 12;30pm but he was busy with a client. Please confirm the follow up appointment for Tuesday July 30th at 11am that was communicated to me by Dr. Barras office before I make a return trip to Skokie.

(The trip from South Holland to Skokie is 51 miles each way. I will submit a mileage sheet for all three of my appointments out here. October 23rd, July 26th and the upcoming appointment on July 30th)

Thank you and have a good day.

Shemeka Fountain <shemeka-fountain@ksd111.org> Fri, Jul 26, 2024 at 3:23 PM
To: George Harris <george-harris@ksd111.org>
Cc: "Dr. Teresa Lance" <teresa-lance@ksd111.org>

Mr. Harris,

I truly apologize for the mix up and any inconvenience. As far as your mileage, I will defer to Dr. Lance. I would also like to state that you have been on paid administrative leave, with no use of benefit days.
[Quoted text hidden]

Dr. Teresa Lance <teresa-lance@ksd111.org> Sat, Jul 27, 2024 at 8:17 AM
To: George Harris <george-harris@ksd111.org>
Cc: Shemeka Fountain <shemeka-fountain@ksd111.org>

Good morning Mr. Harris,
Unfortunately, I do not believe you are eligible for mileage reimbursement.
Thank you,

Teresa A. Lance, Ed.D

Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

[Quoted text hidden]

George Harris <george-harris@ksd111.org> Mon, Jul 29, 2024 at 12:47 PM
To: "Dr. Teresa Lance" <teresa-lance@ksd111.org>
Cc: Shemeka Fountain <shemeka-fountain@ksd111.org>

Good Morning Dr. Lance,

That is perfectly fine. The reimbursement agreement was only mentioned because I rearranged my schedule to be at the appointment and was told I had the wrong date. I have not submitted any reimbursements requests up to this point. And although mileage reimbursement and medical costs were mentioned in the original fit for duty letter sent by Ms. Fountain on October19th, my focus is just to physically return to work and support the community of Kankakee. Thank you.

[Quoted text hidden]
[Quoted text hidden]

Dr. Teresa Lance <teresa-lance@ksd111.org> Mon, Jul 29, 2024 at 12:53 PM
To: George Harris <george-harris@ksd111.org>
Cc: Shemeka Fountain <shemeka-fountain@ksd111.org>

Mr. Harris,
I do not have your original 'fit for duty' letter. If you could share that with me and depending on its contents, I may be able to reverse my decision.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

October 17, 2024

Attached you will find my request for FMLA. My leave will extend to the allowable 12 weeks. Per Board Policy 5:185:

- An eligible employee may take FMLA leave for up to 12 weeks each in a 12 month period.
- While FMLA is normally unpaid, the District will substitute an employees accrued compensatory time-off and or paid leave is substituted for unpaid FMLA

I have enough accrued sick time to allow for (60) school days which is the allowable 12 weeks. My notes from my medical healthcare provider and my behavioral specialist will be forthcoming. As per my healthcare providers the avoidance of stress due to a hostile work environment is critical to my recovery.

Shemeka M. Fountain
Shemeka M. Fountain

FMLA - Request for Leave of Absence (1)

(Any employee requesting time off must complete the request for leave of absence form and submit it to the Human Resources Department for approval.)

Today's Date: 10 / 17 / 24

Employee Name: Shemeka M. Fountain

Title: Assistant Superintendent HR

Requesting: ☒ Continuous Leave ☐ Intermittent Leave ☐ Reduced Work Schedule

Beginning Date of Leave: October 18, 2024

Ending Date of Leave: February 3, 2025

Reason for Leave:

- ☐ For the birth of a child and/or to care for the newborn child
- ☐ For placement of a child with you for adoption or foster care
- ☑ Your own serious health condition-
- ☐ To provide care for your ☐ spouse; ☐ child; ☐ parent due to his/her serious health condition.
- ☐ Because of a qualifying exigency arising out of the fact that your ☐ spouse; ☐ son or daughter; ☐ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- ☐ Because you are the ☐ spouse; ☐ son or daughter; ☐ parent; ☐ next of kin of a covered servicemember with a serious injury or illness.

Please provide any other details regarding this leave of absence in the space below:

See Attached

Contact Information (while on leave):

Address: 514 Betty Lane - South Holland 60473

Phone: 708-212-6105

Email: Shemeka.m.fountain@gmail.com

Employee Signature — Date: 10/17/24

For Office Use Only

The above request for leave of absence has been:

☐ Approved ☐ Disapproved

Human Resources Manager Signature — Date

(The Human Resources Department must copy this form and send a copy to the employee and submit the original to payroll for tracking of vacation, personal, and sick time as is applicable.)

Please provide any other details regarding the leave of absence in the space below:

July 30th I sent an email to the superintendent, my immediate supervisor and expressed my concern about the hostile work environment that I was experiencing with her. I was denied the right to have a complaint manager at the meeting. I was also denied having the meeting recorded. A month later while being falsely accused of illegally recording a meeting during a cabinet meeting, I again expressed my concerns of the hostile work environment that I was experiencing. I sent another email to the superintendent expressing my concerns and was told in the email that she would respond to my concerns, that response never happened.

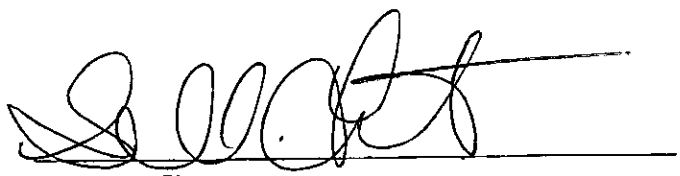
As an insulin dependent diabetic, undo stress is not beneficial to my health. All jobs have a certain amount of stress which I am accustomed to dealing with, but the hostile work environment that was caused at the hands of my immediate supervisor has caused an adverse effect on my health.

(2)

Kankakee SD #111

Acknowledgement, Agreement, and Receipt of Family Medical Leave Policy

The undersigned hereby acknowledges receipt of a copy of the Family and Medical Leave Policy. The undersigned hereby acknowledges and agrees that nothing contained in the policy including practices, and benefits stated herein are intended to create any contractual right, express or implied, to employment or to any particular term or condition of employment. We retain the right to revise, amend the policy or terminate any policy unilaterally without notice at any time and the employee's continued employment will be deemed acceptance of such revisions and modifications.



Employee Signature

Witness Signature

10/17/24

Date

(This acknowledgement will be retained in the employee's personnel file.)

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 51
DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND DISMISSAL OF TENURED TEACHERS AND PRINCIPALS UNDER ARTICLE 34 OF THE SCHOOL CODE

SUBPART A: GENERAL PROVISIONS

Section

51.10 Definitions

SUBPART B: STANDARD DISMISSAL PROCEDURES UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE

51.20 Applicability of this Subpart B
51.30 Notice of Charges to Tenured Teachers
51.35 Suspension without Pay
51.40 Qualifications and Selection of Hearing Officers; Conditions of Service
51.50 Suspension Pending the Hearing (Repealed)
51.55 Pre-Hearing Procedures
51.60 The Hearing
51.70 The Decision: School Districts Not Organized under Article 34 of the School Code
51.75 The Decision: School Districts Organized under Article 34 of the School Code
51.80 Waiver, Interpretation and Application of this Part (Repealed)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section

51.200 Purpose and Applicability of this Subpart C
51.210 Establishment of the List of Second Evaluators; Qualifications
51.220 Selection of Second Evaluators
51.230 Use of a Second Evaluator in Specific Remediations
51.235 Approval of Providers of PERA Training
51.240 Hearing Procedures

51.250 Notice of Dismissal to the Affected Tenured Teacher
51.260 Qualifications and Selection of Hearing Officers
51.270 Scope of the Hearing
51.280 Findings of Fact and Recommendation of the Hearing Officer
51.290 Decision of Board

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005; amended at 32 Ill. Reg. 4824, effective March 21, 2008; amended at 36 Ill. Reg. 12829, effective July 25, 2012; amended at 38 Ill. Reg. 21906, effective November 3, 2014; amended at 44 Ill. Reg. 14763, effective August 27, 2020; amended at 48 Ill. Reg. 8591, effective May 29, 2024.

SUBPART A: GENERAL PROVISIONS

Section 51.10 Definitions

As used in this Part:

"Board" means the local school board and not the State Board of Education.

"Day" means calendar day unless otherwise specified in this Part, and the time within which any action required under this Part must occur shall be determined in accordance with the provisions of Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11].

"General Superintendent" means the chief executive officer of City of Chicago School District 299. (See 105 ILCS 5/34-6.)

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

"PERA" means the Performance Evaluation Reform Act of 2010 (P.A. 96-861, effective January 15, 2010).

"School Code" or "Code" means 105 ILCS 5.

"State Board" means the Illinois State Board of Education.

"Tenured Teacher" means any teacher who has entered upon contractual continued service pursuant to Section 24-11 of the School Code [105 ILCS 5/24-11] and, in school districts organized under Article 34 of the School Code [105 ILCS 5/Art. 34], a teacher or principal (see Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85]).

(Source: Amended at 44 Ill. Reg. 14763, effective September 11, 2020)

SUBPART B: STANDARD DISMISSAL PROCEDURES UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE

Section 51.20 Applicability of this Subpart B

This Subpart B applies to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under Section 24-12(d) or Section 34-85 of the School Code, other than a tenured teacher for whom alternative procedures are established in an agreement entered into pursuant to Section 34-85c of the School Code [105 ILCS 5/34-85c]. That is, this Subpart B applies to dismissals of tenured teachers other than honorable dismissals (i.e., those set forth in Section 24-12(a) or (b) of the School Code), as follows:

a) For any tenured teacher who fails to complete a remediation plan with a performance evaluation rating of "satisfactory" or "proficient" or better or who, in accordance with Section 24A-5(n) of the School Code, successfully completes a remediation plan but receives a subsequent performance evaluation rating of "unsatisfactory" anytime during the 36 months following the completion of the remediation plan (see Section 24A-5(m) and (n) of the School Code);

b) For any tenured teacher who is being dismissed due to conduct that the Board does not consider remediable. (See Sections 24-12(d) and 34-85(a) of the School Code.)

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.30 Notice of Charges to Tenured Teachers

The provision of notice of charges to the affected tenured teacher shall be as set forth in Section 24-12(d)(1) or 34-85 of the School Code, as applicable, and this Section.

a) Notice of Charges for School Districts Not Organized under Article 34 of the School Code

1) The notice shall be mailed by first-class U.S. mail to the tenured teacher and provided either by electronic mail, certified mail, return receipt requested, or personal delivery with receipt, within five days after the Board's adoption of a motion for the dismissal (see Section 24-12(d) of the School Code). If the teacher cannot be found by diligent inquiry, then the charges may be sent by certified mail, return receipt requested, at the teacher's last known address. A return receipt showing delivery to the teacher's last known address within 20 calendar days after the date of approval of the charges shall constitute proof of service.

2) The notice shall include a bill of particulars and inform the tenured teacher of the teacher's right to request, in writing to the school district, a hearing within 17 days after receiving the notice (see Section 24-12(d) of the School Code).

A) The notice shall inform the tenured teacher of the requirement to copy the State Board on a request for a hearing submitted pursuant to subsection (a)(3) addressed to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

B) In addition, *any written notice sent on or after July 1, 2012 shall inform the teacher of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher and the Board, or a hearing before a Board-selected hearing officer, with the cost of the hearing paid by the Board* (Section 24-12(d)(1) of the School Code).

3) If the tenured teacher chooses to have a hearing, then the tenured teacher shall submit a request for a hearing in writing to the school district within the timeline set forth in subsection (a)(2) that specifies the tenured teacher's desire to have the hearing either before a mutually selected

hearing officer or a Board-selected hearing officer. The tenured teacher shall send a copy of the request for a hearing to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

A) Failure of the tenured teacher to notify the State Board of the tenured teacher's request for a hearing is not jurisdictional.

B) If a tenured teacher fails to specify the method by which a hearing officer is to be selected, then the hearing officer shall be selected as set forth in Section 51.40(a)(3).

b) Notice of Charges for School Districts Organized under Article 34 of the School Code

1) The written notice shall be served upon the tenured teacher within 10 business days after approval of the charges (see Section 34-85(a) of the School Code). For purposes of this subsection (b)(1), "service" shall be by first-class U.S. mail, and also either by certified mail, return receipt requested, or personal delivery. If the tenured teacher cannot be found upon diligent inquiry, then the charges may be served by certified mail, return receipt requested, sent to the tenured teacher's last known address. A return receipt showing delivery to the teacher's last known address within 20 calendar days after the date of approval of the charges shall constitute proof of service. (See Section 34-85(a)(1) of the School Code.)

2) The notice shall include the specifications of the dismissal and inform the tenured teacher of the right to request, in writing to the general superintendent, a hearing within 17 days after receiving the notice (see Section 34-85(a) of the School Code).

A) The notice shall inform the tenured teacher or principal of the requirement to copy the State Board on a request for a hearing submitted pursuant to subsection (b)(3) addressed to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661, if the teacher elects not to participate in the process to select a hearing officer.

B) In addition, *any notice sent on or after July 1, 2012 shall inform the teacher or principal of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing*

officer split equally between the teacher or principal and the Board, or a hearing before a qualified hearing officer chosen by the general superintendent, with the cost of the hearing officer paid by the Board (Section 34-85(a)(1) of the School Code).

3) If the tenured teacher chooses to have a hearing, then the tenured teacher shall submit a request for a hearing in writing to the general superintendent within the timeline set forth in subsection (b)(2) that specifies the tenured teacher's desire to have the hearing either before a mutually selected hearing officer or a hearing officer selected by the general superintendent. If the tenured teacher elects not to participate in the process to select a hearing officer, then the tenured teacher shall send a copy of the request for a hearing to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

A) Failure of the tenured teacher to notify the State Board on the tenured teacher's request for a hearing is not jurisdictional.

B) If a tenured teacher fails to specify the method by which a hearing officer is to be selected, then the hearing officer shall be selected as set forth in Section 51.40(b)(3).

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.35 Suspension without Pay

a) For school districts not organized under Article 34 of the School Code, *if, in the opinion of the Board, the interests of the school require it, the Board may suspend the teacher without pay, pending the hearing, but if the Board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits*, less setoffs for mitigation, *by reason of the suspension* (Section 24-12(d)(1) and (d)(8) of the School Code).

b) For a school district organized under Article 34 of the School Code, the general superintendent or his or her designee may make the determination to suspend the tenured teacher *without pay in accordance with rules prescribed by the Board, provided that, if the teacher or principal charged is not dismissed based on the charges, he or she must be made whole for lost earnings, less setoffs for mitigation* (Section 34-85(a)(2) of the School Code).

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.40 Qualifications and Selection of Hearing Officers; Conditions of Service

a) Master List of Hearing Officers and Selection of Hearing Officers – School Districts Not Organized under Article 34 of the School Code

1) The State Board shall maintain a master list of qualified impartial hearing officers in accordance with Section 24-12(d)(3) of the School Code. Each hearing officer on the master list maintained by the State Board shall possess the following qualifications:

A) The hearing officer *must be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between employers and employees or their exclusive bargaining representatives* (Section 24-12(d)(3) of the School Code).

B) The hearing officer must not be a resident of the school district involved in the hearing (see Section 24-12(d)(3) of the School Code).

C) The hearing officer must be disinterested and impartial.

D) The hearing officer must have no financial or personal interest in the result of the hearing.

E) Beginning on September 1, 2012, the hearing officer must have successfully completed the training provided or approved by the State Board specific *to issues generally involved in evaluative and non-evaluative dismissals* (Section 24-12(d)(3) of the School Code).

F) The hearing officer *must be available to commence the hearing within 75 days and conclude the hearing within 120 days* after *being selected as hearing officer* (Section 24-12(d) of the School Code).

2) A hearing officer shall be selected as set forth in Section 24-12(d)(3) of the School Code and this subsection (a)(2) if the tenured teacher has requested a hearing before a mutually selected hearing officer.

A) The State Board shall, from the master list, provide, on a rotating basis, a list of five prospective hearing officers within five business days after receiving a copy of the tenured teacher's request for a hearing.

B) *Within three business days* after receiving the list of prospective hearing officers*, the Board and the teacher, or their legal representatives, shall* either:

i) *alternately strike one name from the list until one name remains (unless waived by the teacher, the teacher shall have the right to strike first); or*

ii) *reject all prospective hearing officers on the list, in which case,* the party rejecting the entire list *shall notify the State Board* and the other *party.* (See Section 24-12(d)(3) of the School Code.)

C) If the parties reject the entire list, the notification sent to the State Board shall include whether the parties prefer that the State Board appoint, on a rotating basis, a hearing officer from the master list who was not on the parties' rejected list, or whether the parties intend to select a hearing officer through an alternative method in accordance with Section 24-12(d)(4) of the School Code.

3) A hearing officer shall be selected in accordance with Section 24-12(d)(3) of the School Code and this subsection (a)(3) if the tenured teacher has requested a hearing before a Board-selected hearing officer. Within three business days after receipt of the master list from the State Board, the Board shall select one name from the master list established pursuant to subsection (a)(1) and, in writing, notify the tenured teacher and the State Board of its selection. Notification to the State Board shall be addressed to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

4) In lieu of selecting a hearing officer pursuant to subsection (a)(2) or (a)(3), the parties may mutually select either an impartial hearing officer who is on the State Board's master list but was not on the list provided to the parties under subsection (a)(2) or *an impartial hearing officer who is not on the State Board's master list either directly or by using procedures for the appointment of an arbitrator established by the Federal Mediation and*

Conciliation Service or the American Arbitration Association. *The parties shall notify the State Board of their intent to select a hearing officer using an alternative process within 3 business days* after *the receipt of the list of prospective hearing officers provided by the State Board, or the notice of appointment of hearing officer by the State Board, or receipt of notice from the State Board that it cannot provide a list* of qualified, impartial hearing officers, whichever occurs later (Section 24-12(d)(4) of the School Code).

b) List of Hearing Officers and Selection of Hearing Officers − School Districts Organized under Article 34 of the School Code

1) A school district organized under Article 34 of the School Code shall maintain a separate list of nine hearing officers to conduct hearings on charges and specifications. The school district shall develop the list *in good faith consultation with the exclusive representative of the board's teachers and professional associations that represent the board's principals* (Section 34-85(a)(3) of the School Code). Each hearing officer shall maintain the following qualifications:

A) The hearing officer *must be accredited by a national arbitration organization and have had a minimum of 5 years of experience as an arbitrator in cases involving labor and employment relations matters between employers and employees or their exclusive bargaining representatives* (Section 34-85(a)(3) of the School Code).

B) The hearing officer must be disinterested and impartial.

C) The hearing officer must have no financial or personal interest in the result of the hearing.

D) Beginning on September 1, 2012, the hearing officer must have successfully completed the training provided or approved by the State Board specific *to issues generally involved in evaluative and non-evaluative dismissals* (Section 34-85(a)(3) of the School Code).

E) The hearing officer must be available *to commence the hearing within 75 calendar days and conclude the hearing within 120*

calendar days after being selected as hearing officer (Section 34-85(a)(5) of the School Code).

2) A hearing officer shall be selected as set forth in Section 34-85(a)(3) of the School Code and this subsection (b)(2) if the tenured teacher has chosen to use a mutually selected hearing officer. *The general superintendent and the teacher or principal or their legal representatives, within 5 business days after receiving the notice of request for a hearing, shall alternately strike one name from the list* of nine qualified hearing officers *until only one name remains. Unless waived by the teacher, the teacher or principal shall have the right to proceed first with the striking.* (Section 34-85(a)(3) of the School Code)

3) A hearing officer shall be selected as set forth in Section 34-85(a)(4) of the School Code and this subsection (b)(3) if the tenured teacher does not participate in the selection process. The general superintendent either shall select the hearing officer from the list of nine qualified hearing officers or *select another qualified hearing officer from the master list maintained by the State Board.* (Section 34-85(a)(3) of the School Code) (See subsection (a)(1).)

c) For purposes of the master list maintained by the State Board pursuant to subsection (a)(1), the names of the four hearing officers not selected from among the five provided to a school district under subsection (a)(2) shall be placed at the bottom of the master list and the State Board shall rotate the names on the list accordingly.

d) As soon as possible, the prospective hearing officer shall disclose to the parties in writing any circumstances the hearing officer believes might disqualify them as an impartial hearing officer.

1) The parties may waive the presumptive disqualification.

2) If either party declines to waive the presumptive disqualification, the party shall notify the State Board of this fact, and the State Board, within five days after receiving this disclosure, shall declare a vacancy.

e) If any hearing officer shall resign, die, withdraw, refuse, or be unable or disqualified to perform the duties of the position, the State Board shall, on proof satisfactory to it, declare the position vacant.

1) Vacancies shall be filled in the same manner as that governing the making of the original appointment; that is:

A) For school districts not organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the Board, or by the Board; and

B) For a school district organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the general superintendent, or by the general superintendent.

2) If a vacancy occurs at any point prior to the opening of the hearing, a new hearing officer shall be appointed and shall adopt all pre-hearing orders entered by the previous hearing officer.

3) If a vacancy occurs after the opening of a hearing, the entire matter shall be reheard by a new hearing officer unless, after considering arguments presented by each party, the hearing officer adopts the previous hearing officer's findings and agrees to move forward.

f) Fees and Costs

1) If the notice of dismissal is sent to the tenured teacher before July 1, 2012, the State Board shall pay the hearing officer a per diem of $300 for the days on which the hearing is held and $37.50 per hour for any other services, or greater amounts as the State Board may determine based on available resources. Billing procedures shall be arranged on an individual basis between the State Board and the hearing officer.

2) If the notice of dismissal is sent to the tenured teacher on or after July 1, 2012, payment shall be made in accordance with Section 24-12(d)(5) or 34-85(a)(4) of the School Code.

g) All communication from the parties to the hearing officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board. However, when circumstances necessitate, the hearing officer may make other appropriate arrangements, including, but not limited to, conference telephone calls. The hearing officer shall promptly report to the other party the complete substance of any unilateral communications.

h) All hearing officers shall abide by the professional standards set forth in "The

Code of Professional Responsibility for Arbitrators of Labor Management Disputes" (2007), published by the National Academy of Arbitrators, 1 North Main Street, Suite 412, Cortland, New York 13045; no later amendments to or editions of these standards are incorporated. A violation of the professional standards identified in this subsection shall be grounds for removal of the hearing officer from the master list maintained by the State Board.

i) The hearing officer shall interpret and apply the provisions of this Part insofar as they relate to the hearing officer's powers and duties and shall follow any court interpretation of this Part.

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.50 Suspension Pending the Hearing (Repealed)

(Source: Repealed at 29 Ill. Reg. 10108, effective June 30, 2005)

Section 51.55 Pre-Hearing Procedures

a) The parties and the hearing officer may agree to a location for the hearing. If there is a dispute as to the location of the hearing, the hearing officer shall fix the place of the hearing at a location within the district's boundaries.

b) The tenured teacher shall answer the bill of particulars or charges and specifications, aver any affirmative defenses, and update the answer and defenses, in accordance with the schedule set forth by the hearing officer pursuant to subsection (c) of this Section. (See Sections 24-12(d)(6) and 34-85(a)(5) of the School Code.)

c) Pre-Hearing Conference

No later than 10 days after being selected as the hearing officer, the hearing officer shall convene a pre-hearing conference with the parties for the purpose of, among other things, setting a schedule. The schedule shall be contained in the hearing officer's order that reflects the action taken at the conference and include:

1) The deadline for the tenured teacher's answer and any affirmative defenses to the bill of particulars or charges and specifications submitted pursuant to subsection (b) of this Section and for the updating of that information after pre-hearing discovery;

2) A schedule for discovery, including any written interrogatories and requests for production of documents;

3) The deadline for initial disclosures and updated disclosures to be sent to the other party, which deadline may be no later than 10 days prior to the commencement of the hearing (see Sections 24-12(d)(6) and 34-85(a)(5)); and

4) The dates, times and locations of any subsequent pre-hearing conferences, as needed.

d) Initial Disclosures and Updated Disclosures

Subject to the deadline established by the hearing officer in his or her order issued pursuant to subsection (c) of this Section, and in accordance with Sections 24-12(d)(6) and 34-85(a)(5) of the School Code, each party shall disclose in writing to the other, with copies to the hearing officer, the following information:

1) *The names and addresses of persons who may be called as witnesses at the hearing*;

2) *A summary of the facts or opinions each witness will testify to*; and

3) *All other documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing)*. (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code)

e) Discovery

The hearing officer shall allow for interrogatories and requests for production of documents, and may allow for other discovery, subject to reasonable limitations set forth by the hearing officer, in the order reflecting the pre-hearing conference or any future order. The hearing officer shall not allow for discovery depositions (see Sections 24-12(d)(6) and 34-85(a)(5) of the School Code).

1) Application for discovery shall be made by written motion to the hearing officer, with copies to the other party.

2) The motion shall state the specific nature of the discovery and the circumstances necessitating the discovery. If interrogatories are sought, a copy of the interrogatories shall be attached to the motion.

3) The hearing officer shall rule on the motion within five days after receipt of the motion, sending copies of the decision to both parties. The ruling shall set a date by which discovery shall be completed. In the case of interrogatories, receipt of the hearing officer's ruling shall be deemed service of the interrogatories when the provisions of subsection (e)(2) of this Section have been complied with.

4) In ruling on the motion, the hearing officer shall not permit discovery that will unnecessarily delay the proceedings or harass a party, and shall allow only that discovery that will further the resolution of the dispute, avoid surprise to a party, or aid in doing substantial justice.

5) Each party providing answers to discovery requests shall sign his or her responses under oath, and each attorney making objections shall sign his or her objections under oath.

f) Other pretrial motions may be filed and resolved prior to the hearing at the discretion of the hearing officer, provided that no motion shall be resolved prior to the hearing that would result in a default judgment against the tenured teacher.

g) Any party who proceeds with the hearing after knowledge that any provision of this Subpart B has not been complied with prior to the hearing and who fails to state his or her objection to the noncompliance in writing to the hearing officer shall be deemed to have waived his or her right to object.

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.60 The Hearing

a) The hearing shall be closed to the public unless one of the parties requests that it be open and the hearing officer so orders. The hearing officer shall exclude witnesses during the testimony of other witnesses upon the motion of either party, except that, at any time, one representative of each party in addition to counsel (or other authorized representative) shall be allowed to be present, even if that representative is also a witness. *In the case of charges involving any witness who is or was at the time of the alleged conduct a student or a person under the age of 18, the hearing officer shall make accommodations to protect a witness from being intimidated, traumatized, or re-traumatized* pursuant to Section 24-12(d)(6.5) or 34-85(a)(5.5) of the School Code, as applicable. In open hearings, individuals who are not witnesses are not affected by exclusion under this subsection (a).

b) The parties may be present and represented by counsel and by other authorized representatives.

c) The order of proceeding shall be as follows:

1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the hearing officer and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions submitted in accordance with Section 51.55 and not previously disposed of shall be heard at this time.

2) Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements.

3) The Board shall proceed first to present its evidence, and it shall have the burden of proof. Parties may agree to take witnesses out of order. The hearing officer may, at the hearing officer's discretion, vary the normal procedure under which the Board presents its case first, provided that the parties agree to take witnesses out of order, but in any event shall afford full and equal opportunity to all parties for presentation of relevant proof.

4) Either party may offer evidence and witnesses, cross-examine the witnesses, and present a defense or rebuttal.

5) All testimony shall be taken under oath or affirmation administered by the hearing officer.

6) The hearing officer may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum and, at the request of either of the parties, shall issue the requested subpoenas but may limit the number of witnesses to be subpoenaed on behalf of either party to not more than seven.

7) The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all the testimony. *The party or parties who are responsible for paying the fees and costs of the hearing officer* (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code) shall pay for the attendance and services of the court reporter or other competent reporter who can provide a verbatim transcript of the proceeding. (See Section 51.40(f))

A) The cost of any transcript ordered by the hearing officer shall be paid by the party or parties responsible for paying the fees and cost of the hearing officer.

B) Either party desiring a transcript of the hearing shall pay for the cost of the transcript (see Sections 24-12(d)(6) and 34-85(a)(5) of the School Code).

8) Exhibits, when offered by either party, may be received in evidence by the hearing officer. The names and addresses of all witnesses and exhibits, in order received, shall be made a part of the record. The hearing officer shall make rulings on the admissibility of exhibits.

9) The hearing shall commence within 75 days and conclude within 120 days after the appointment of the hearing officer, barring modification of these timelines by the hearing officer upon a showing of good cause or mutual agreement of the parties. "Good cause" for the purpose of this subsection (c)(9) shall mean *the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission* (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code).

10) The hearing may proceed in the absence of either party, who, after due notice, fails to be present or fails to obtain a continuance.

11) Each party shall be provided no more than three business days to present

its case, unless the hearing officer determines, in accordance with the provisions of Section 24-12(d)(6) or 34-85(a)(5) of the School Code, that more time is needed for either the tenured teacher or the Board to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses. For the purposes of this subsection (c)(11), a "business day" shall consist of 7.5 hours, such that three business days equates to 22.5 hours, exclusive of time taken for lunch and other breaks.

12) At the conclusion of the hearing, each party may make an oral closing statement incorporating arguments of fact and law.

13) When the hearing officer determines that neither party has further proof to offer or witnesses to be heard, the hearing officer shall declare the hearing concluded and so note in the record.

14) At the close of the hearing, the hearing officer shall direct the parties to submit post-hearing briefs no later than 21 days after receipt of the transcript, *unless extended by the hearing officer for good cause or by mutual agreement of the parties* (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code). Post-hearing briefs may not exceed 50 pages in length, unless the hearing officer determines in a written order that the circumstances of a particular matter (e.g., length of the hearing) warrant a limitation shorter or longer than 50 pages. Either party may waive submission of a brief. If written briefs are to be submitted subsequently, the hearing officer shall so note in the record.

15) The record of the proceedings shall not be considered closed until all evidence has been submitted and any briefs have been timely received by the hearing officer. The hearing officer shall notify the parties, in writing, of the closing date of the record.

d) Evidentiary rules to be followed during the hearing shall be as follows:

1) The parties may offer any evidence as they desire, and each party shall produce any additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute.

2) The hearing officer shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary.

3) Objections to evidentiary offers may be made and shall be noted in the record. The hearing officer shall have the power to make rulings, including the power to exclude evidence. "Offers of Proof" shall be permitted.

4) Any witness designated as hostile by the hearing officer may be examined as if under cross-examination.

5) If the hearing officer grants a party's request to submit a document after the evidentiary portion of the hearing is closed, the party shall file that document with the hearing officer and with the other party within the time designated by the hearing officer.

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.70 The Decision: School Districts Not Organized under Article 34 of the School Code

When a hearing is held under Section 24-12(d) of the School Code, the hearing officer must, *within 30 days after the hearing is concluded or the record is closed, whichever is later*, render *a final decision* as to whether the tenured teacher shall be dismissed pursuant to Article 24A of the School Code (unless the school district pursues the dismissal under Subpart C of this Part) *or findings of fact and recommendation as to whether the teacher must be dismissed for conduct* (Sections 24-12(d)(7) of the School Code). The hearing officer shall provide a copy of the decision or findings of fact and recommendation issued pursuant to this Section to the State Board of Education by certified mail addressed to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

a) Dismissal Due to Performance Pursuant to Article 24A of the School Code

1) In a dismissal hearing regarding performance pursuant to Article 24A of the School Code, the hearing officer shall render a decision in writing as to whether the tenured teacher shall be dismissed. *The hearing officer shall consider and give weight to all of the teacher's evaluations*, subject to their introduction at the hearing, *that are relevant to the issues in the hearing* (Section 24-12(d)(6) of the School Code).

2) A copy of the hearing officer's decision shall be given by certified mail to both the tenured teacher and the Board or their legal representatives of record.

3) The decision of the hearing officer is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 24-16 of the School Code.

A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(9) of the School Code).

B) The record of the proceedings shall contain each of the items listed in this subsection (a)(2)(B).

i) All pleadings and exhibits (including all notices and responses), motions, and rulings.

ii) All evidence received.

iii) A statement of matters officially noticed.

iv) Any offers of proof, objections, and rulings on the proof and objections.

v) Any proposed findings and exceptions.

vi) A transcript of the hearing.

vii) The decision of the hearing officer.

viii) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35].

b) Dismissal Due to Conduct Pursuant to Section 24-12(d) of the School Code
In a dismissal hearing regarding conduct pursuant to Section 24-12(d) of the School Code, the hearing officer shall issue *findings of fact and recommendation as to whether the conduct occurred, the conduct was remediable, and the proposed dismissal should be sustained* (Section 24-12(d)(8) of the School Code).

1) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to both the tenured teacher and the Board, or their legal representatives of record.

2) The Board, *within 45 days* after *receipt of the hearing officer's findings of fact and recommendation* rendered pursuant to Section 24-12(d) of the School Code, *shall issue a written order as to whether the teacher must be retained or dismissed for cause*. (Section 24-12(d)(8) of the School Code) A copy of the Board's written order shall be given by certified mail to the tenured teacher and the tenured teacher's legal representatives of record and to the State Board at the address set forth in this Section.

A) The order shall incorporate the findings of fact, except that the school board may modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence. (Section 24-12(d)(8) of the School Code)

B) *If the school board dismisses the teacher notwithstanding the hearing officer's findings of fact and recommendation, the school*

board shall make a conclusion in its written order, giving its reasons therefor, and such conclusion and reasons must be included in its written order. (Section 24-12(d)(8) of the School Code)

3) The decision of the Board, as set forth in its written order, is final unless reviewed under the Administrative Review Law, as provided in Section 24-16 of the School Code.

A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(10) of the School Code).

B) The record of the proceedings shall contain each of the items listed in this subsection (b)(3)(B).

i) All pleadings and exhibits (including all notices and responses), motions, and rulings.

ii) All evidence received.

iii) A statement of matters officially noticed.

iv) Any offers of proof, objections, and rulings on the proof and objections.

v) Any proposed findings and exceptions.

vi) A transcript of the hearing.

vii) The findings of fact and recommendation of the hearing officer.

viii) The decision of the Board, as set forth in its written order.

ix) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act.

c) Pursuant to Section 24-12(d)(7) of the School Code, if the hearing officer fails, without good cause specifically provided in writing to the parties and the State

Board, to render a decision issued pursuant to subsection (a) or findings of fact and recommendation issued pursuant to subsection (b) within 30 days after the later of the close of the hearing or the record, or if the hearing officer fails to make an accommodation as described in Section 24-12(d)(6.5) of the School Code, the parties may mutually agree to select a hearing officer pursuant to the alternative selection procedures provided under Section 24-12(d)(4) of the School Code to rehear the charges or review the record and render a decision.

1) *If any hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render a decision or findings of fact within 30 days after the hearing is concluded or the record is closed, whichever is later or if any hearing officer fails to make an accommodation as described in* Section 24-12(d)(6.5) of the School Code*, the hearing officer shall be removed from the master list of hearing officers maintained by the State Board of Education for not more than 24 months.*

2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer.

3) If any hearing officer repeats the failure described in subsection (c)(1), the State Board shall remove the hearing officer permanently from the master list and prohibit any party from selecting this hearing officer through the alternative selection process in Section 24-12(d)(4) of the School Code.

d) Pursuant to Section 24-12(d)(7) of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.75 The Decision: School Districts Organized under Article 34 of the School Code

When a hearing is held under Section 34-85 of the School Code regarding performance pursuant to Article 24A of the School Code or conduct, *the hearing officer shall, within 30 calendar days after the conclusion of the hearing, report to the general superintendent findings of fact and a recommendation as to whether the teacher or principal shall be dismissed* (Section 34-85(a)(6) of the School Code). The hearing officer shall provide a copy of the findings of fact and recommendation issued pursuant to this Section to the State Board by certified mail addressed to the Chief Legal Officer, Illinois State Board of Education, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

a) In a dismissal hearing regarding performance pursuant to Article 24A of the School Code, *the hearing officer shall consider and give weight to all of the teacher's evaluations*, subject to their introduction at the hearing, *that are relevant to the issues in the hearing*. (Section 34-85(a)(5) of the School Code)

b) *The hearing officer shall report to the general superintendent findings of fact and a recommendation as to whether the teacher or principal shall be dismissed and shall give a copy of the report to both the teacher or principal and the general superintendent* (Section 34-85(a)(6) of the School Code). A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to the tenured teacher or the tenured teacher's legal representatives of record.

c) *If any hearing officer fails without good cause, specifically provided in writing to both parties and the State Board of Education, to render findings of fact and recommendation within 90 days after closing of the record and receipt of post-hearing briefs, or if any hearing officer fails to make an accommodation pursuant to* Section 34-85(a)(5.5) of the School Code, *the hearing officer shall be removed from the list of hearing officers developed pursuant to* Section 34-85(a)(3) of the School Code, *and the master list of qualified hearing officers maintained by the State Board of Education for not more than 24 months. The parties and the State Board of Education may also take such other action* as described in Section 34-85(a)(6.5) of the School Code (see Section 34-85(a)(6.5) of the School Code or Public Act 103-354).

d) The decision of the hearing officer regarding dismissal due to either performance or conduct rendered pursuant to Section 34-85 of the School Code is the findings of fact and recommendation to the Board.

1) The Board shall make a decision as to whether the tenured teacher shall be dismissed within 45 days after receiving the hearing officer's report of findings and recommendation.

2) A copy of the Board's decision shall be given by certified mail to the tenured teacher and the tenured teacher's legal representatives of record, and to the State Board at the address set forth in this Section.

3) The Board's decision to dismiss a tenured teacher from its employ is final unless reviewed under the Administrative Review Law, as provided in Section 34-85b of the School Code, with the review required to be initiated in the Illinois Appellate Court for the First District (see Section 34-85(a)(8) of the School Code).

   A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the costs of preparing and filing the record equally.

   B) The record of the hearing shall contain each of the items enumerated in Section 51.70(b)(3)(B).

4) Pursuant to Section 34-85(a)(7) of the School Code, *the failure of the board to strictly adhere to the timeline set forth* in subsection (d)(1) of this Section *does not render it without jurisdiction to dismiss the tenured teacher*.

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.80 Waiver, Interpretation and Application of this Part (Repealed)

(Source: Repealed at 36 Ill. Reg. 12829, effective July 25, 2012)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section 51.200 Purpose and Applicability of this Subpart C

a) This Subpart C sets forth the requirements for a school district, including a school district organized under Article 34 of the School Code, to implement an optional alternative evaluative dismissal process authorized under Section 24-16.5 of the School Code [105 ILCS 5/24-16.5].

b) A school board may dismiss a tenured teacher using an optional alternative evaluative process if each of the conditions set forth in this subsection (b) are met. (See Section 24-16.5(b) of the School Code.)

1) The tenured teacher is being dismissed due to his or her failure to complete a remediation plan, developed pursuant to Section 24A-5 of the School Code [105 ILCS 5/24A-5], with a rating of "proficient" or better.

2) The "unsatisfactory" rating that precipitated the remediation plan resulted from a performance evaluation process that:

A) addressed teacher practice components and included data and indicators of student growth; and

B) was conducted on or after the date on which the school district was required to implement a performance evaluation plan incorporating data and indicators of student growth or an earlier date, as authorized under Section 24A-2.5 of the School Code [105 ILCS 5/24A-2.5].

3) The school district has complied with the requirements of Section 24-16.5(c) of the School Code and this Subpart C regarding the selection and use of a second evaluator during the pre-remediation and remediation processes.

c) *Nothing in this* Subpart C *is intended to change the existing practices or precedents under Section 24-12 or 34-85 of the School Code, nor shall this* Subpart C *be interpreted as implying standards and procedures that should or must be used as part of a remediation that precedes a dismissal sought under Section 24-12 or 34-85 of the School Code* (Section 24-16.5(b) of the School Code).

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.210 Establishment of the List of Second Evaluators; Qualifications

a) Before a school district's first remediation relating to a dismissal under Section 24-16.5 of the School Code and this Part, the school district shall establish a list of at least two evaluators who meet the qualifications set forth in subsection (b) of this Section to serve as second evaluators.

1) The school district shall provide written notification to the teacher representatives identified pursuant to subsection (e) of this Section of the names and qualifications of the individuals it has chosen to include as second evaluators.

2) The teacher representatives may submit in writing to the school district the names and qualifications of additional individuals to be included on the list of second evaluators, provided that they shall not *submit more teacher evaluators for inclusion on the list than the number of evaluators submitted by the school district* (Section 24-16.5(c)(1) of the School Code). Each individual whose name is submitted by the teacher representatives to serve as a second evaluator shall meet one of the qualifications specified in Section 24-16.5(c) of the School Code; that is, either:

A) holds certification from the *National Board of Professional Teaching Standards, with no "unsatisfactory" or "needs improvement" performance evaluation ratings in his or her two most recent performance evaluations*; or

B) has obtained a performance evaluation rating of "*excellent" in two of the three most recent performance evaluations, with no "needs improvement" or "unsatisfactory" performance evaluation ratings in his or her last three ratings*.

3) If the teacher representatives fail to submit in writing any names of additional second evaluators within 21 days after receiving the written notification specified in subsection (a)(1) of this Section, then the school district may proceed with a remediation using a list of second evaluators that includes only those names identified by the school district.

b) Each second evaluator shall be qualified to serve as an evaluator under Section 24A-3 of the School Code [105 ILCS 5/24A-3].

c) The list of second evaluators may be revised either by the school district or teacher representatives at any time, with the party initiating the revision providing at least three days notice to the other party of its intent to revise the list. The process to revise the list shall be made in accordance with this Section and Section 24-16.5(c)(2) of the School Code.

d) Establishment of the Process for Selecting a Second Evaluator

1) Before a school district's first remediation relating to a dismissal under Section 24-16.5 of the School Code and this Subpart, the school district also shall, in good faith cooperation with its teacher representatives, develop a process to be used to select a second evaluator from the list established pursuant to subsection (a) (see Section 24-16.5(c)(2) of the School Code).

2) The process may be amended at any time in good faith cooperation with the teacher representatives.

3) If the teacher representatives are given an opportunity to cooperate with the school district with respect to the establishment or amendment of the process and elect not to do so, then the school district may, at its discretion, establish or amend the process for selection.

4) Before the hearing officer and as part of any judicial review of a dismissal under Section 24-16.5 of the School Code, a tenured teacher may not challenge a remediation or dismissal on the grounds that the process used by the school district to select a second evaluator was not established in good faith cooperation with its teacher representatives.

e) For the purposes of this Section, "teacher representatives" shall mean:

1) the exclusive collective bargaining agent, or its designees, if the teachers are represented by a collective bargaining unit; or

2) a group of teachers, whose number shall not exceed the number of school district representatives participating in the selection process, who have been chosen by their peers to serve in this capacity.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.220 Selection of Second Evaluators

a) When a school district determines that it will use the optional alternative evaluative dismissal process for a particular tenured teacher, it shall choose a second evaluator using the process outlined in Section 51.210(d) of this Part from the list established pursuant to Section 51.210(a) of this Part, provided that:

1) the evaluator selected shall not be the same individual who made the determination to assign the affected tenured teacher a performance evaluation rating of "unsatisfactory" (see Section 24-16.5(c)(3) of the School Code); and

2) if the evaluator selected is an administrator, then the evaluator does not directly report to the individual who assigned the "unsatisfactory" rating to the affected tenured teacher (see Section 24-16.5(c)(3) of the School Code).

b) *The school district's authority to select a second evaluator from the list of second evaluators must not be delegated or limited through any agreement with the teacher representatives* (Section 24-16.5(c)(3) of the School Code).

c) Nothing in this Subpart C shall prohibit a school district and its teacher representatives from agreeing to use an individual as a second evaluator who is a member of the exclusive bargaining unit, provided that the individual otherwise qualifies under this Section and Section 24A-3 of the School Code.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.230 Use of a Second Evaluator in Specific Remediations

In accordance with the requirements of Section 24-16.5(c)(4) of the School Code, the second evaluator chosen to participate in an optional alternative evaluative dismissal process of a particular tenured teacher shall conduct an evaluation of that tenured teacher's performance by one of the methods specified in this Section.

a) The second evaluator may conduct a mid-point and final evaluation of the tenured teacher subject to dismissal during the period of the tenured teacher's remediation and award a performance evaluation rating of "excellent", "proficient", "needs improvement" or "unsatisfactory".

1) The mid-point evaluation shall assess the tenured teacher's performance during the time period since the completion of the evaluation that resulted in the "unsatisfactory" rating, and the final evaluation shall assess the tenured teacher's performance during the time period since the completion of the mid-point evaluation. (See Section 24A-5(k) of the School Code.)

2) The final evaluation shall include an overall evaluation of the tenured teacher's performance during the remediation period.

b) The second evaluator may conduct an independent assessment of whether the tenured teacher completed the remediation plan with a rating of "proficient" or "excellent". *The independent assessment may include, but is not limited to, personal or video-recorded observations of the teacher practice components of the remediation plan* developed pursuant to Section 24A-5 of the School Code (Section 24-16.5(c)(4) of the School Code).

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.235 Approval of Providers of PERA Training

In accordance with Section 24-16.5(f) of the Code, only members of the Board who have successfully completed a training program regarding performance evaluations administered or approved by the State Board shall consider the findings of fact and recommendation and make a determination as to whether the affected tenured teacher should be retained or dismissed using procedures set forth in this Subpart C.

a) Training organizations, institutions, regional offices of education, firms, professional associations, universities and colleges, or individuals may apply to the State Board of Education for approval to conduct PERA training.

b) Each entity wishing to receive approval to offer PERA training shall submit an application on a form supplied by the State Board of Education. The application shall include, but is not limited to:

1) evidence that the entity is knowledgeable about PERA and the optional alternative evaluation process;

2) a description of the training to be provided, to address how the training activities will present participants with:

A) a basic foundation of PERA;

B) information specific to the components of a performance evaluation plan required under Article 24A of the Code; and

C) information about the processes and procedures (i.e., professional development plans, remediation plans, dismissal procedures) to take place in the event of a "needs improvement" or "unsatisfactory" performance evaluation rating, as defined in 23 Ill. Adm. Code 50.30 (Evaluation of Educator Licensed Employees under Articles 24A and 34 of the Code);

3) the qualifications and experience of the entity and of each presenter to be assigned to provide the PERA training, which shall include evidence of a presenter's specific skills and knowledge in this area; and

4) assurances that the requirements of subsection (c) will be met.

c) Each entity approved to provide training under this Section shall:

1) verify attendance at its training activities, provide to participants a written confirmation of their completion of the training, and require participants to complete an evaluation of the training; and

2) maintain attendance and evaluation records for a period of not less than five years for each event or activity it conducts or sponsors.

d) Applicants may be asked to clarify particular aspects of their materials.

e) The State Superintendent of Education shall respond to each application for approval no later than 30 days after receiving it.

f) An entity shall be approved to offer PERA training if the entity's application presents evidence that the training that it conducts will be developed and presented by persons knowledgeable about PERA.

g) The State Board of Education will post on its website at www.isbe.net the list of all approved providers.

h) Approval as a provider shall be valid for two full fiscal years and expires on July 1 immediately following the second full fiscal year after the approval was issued. To request renewal of approval, a provider shall submit a renewal application on a form supplied by the State Board of Education containing:

1) a description of any significant changes in the material submitted as part of its approved application or a certification that no such changes have occurred; and

2) assurances that the PERA trainings will be provided in a manner consistent with the content of the approved application and any changes proposed for the renewal period.

i) A provider's approval shall be renewed if the application conforms to the requirements of subsection (h), provided that the State Superintendent has received no evidence of noncompliance with the requirements of this Section.

j) The State Board of Education may evaluate an approved provider at any time to ensure compliance with the requirements of this Section. Upon request by the State Board, a provider shall supply information regarding its schedule of training, which the State Board may, at its discretion, monitor at any time. If an

evaluation indicates that the requirements have not been met, the State Board of Education may withdraw approval of the provider.

(Source: Amended at 44 Ill. Reg. 14763, effective September 11, 2020)

Section 51.240 Hearing Procedures

A school district electing to use an optional alternative evaluative dismissal process shall comply with the procedures and requirements for a tenured teacher's request for a hearing, the selection of a hearing officer, pre-hearing and hearing procedures, and post-hearing briefs set forth in this Subpart C, and in either Section 24-12(d) or 34-85(a) of the School Code, as applicable, and Subpart B of this Part. (See Section 24-16.5(a) of the School Code.)

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.250 Notice of Dismissal to the Affected Tenured Teacher

a) A school district that meets the conditions set forth in Section 51.200(b) of this Part that elects to use an optional alternative evaluative dismissal proceeding shall provide a written notice to the affected tenured teacher of this fact within 30 days after completion of the final remediation evaluation. (See Section 24-16.5(d) of the School Code.) The notice shall:

1) comply with the notice requirements set forth in Section 51.30(a) of this Part for a school district not organized under Article 34 of the School Code, including the right of the affected tenured teacher to request a hearing before a mutually selected hearing officer or a hearing officer selected by the Board; or

2) comply with the notice requirements set forth in Section 51.30(b) of this Part for a school district organized under Article 34 of the School Code, including the right of the affected tenured teacher to request a hearing before a mutually selected hearing officer or to have a hearing officer selected by the general superintendent, should the tenured teacher not participate in the selection process.

b) The notice shall indicate that the dismissal is sought under the optional alternative evaluative dismissal process authorized under Section 24-16.5 of the School Code and this Subpart C. (See Section 24-16.5(d) of the School Code.)

c) The notice shall contain a copy of each performance evaluation that is the subject of the optional alternative evaluative dismissal process. (See Section 24-16.5(d) of the School Code.)

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.260 Qualifications and Selection of Hearing Officers

a) School districts not organized under Article 34 of the School Code shall select a hearing officer in accordance with the requirements of Section 51.40(a) of this Part.

b) School districts organized under Article 34 of the School Code shall select a hearing officer in accordance with the requirements of Section 51.40(b) of this Part.

c) In addition to the applicable qualifications of Section 51.40 of this Part, each hearing officer shall have successfully completed the prequalification process required under Section 24A-3 of the School Code [105 ILCS 5/24A-3] before conducting a hearing under the optional alternative evaluative dismissal process.

d) In accordance with Section 24-16.5(d)(1) of the School Code, the State Board may waive the prequalification process requirements in order to provide an adequate pool of hearing officers for consideration.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.270 Scope of the Hearing

a) In accordance with Section 24-16.5(d)(2)(A) of the School Code, the scope of the hearing held for an optional alternative evaluative dismissal process shall be limited to the school district's demonstration of each of the components listed in this subsection (a).

1) The performance evaluation rating *of "unsatisfactory" that preceded remediation applied the teacher practice components and student growth components and determined an overall evaluation rating of "unsatisfactory" in accordance with the standards and requirements of the school district's evaluation plan*;

2) The remediation plan for the affected tenured teacher complied with the requirements of Section 24A-5 of the School Code;

3) *The teacher failed to complete the remediation plan with a performance evaluation rating equal to or better than a "proficient" rating, based upon a final remediation evaluation that met the standards and requirements of the school district's evaluation plan, as applicable*; and

4) If the second evaluator selected pursuant to Section 51.220 of this Part conducts an independent assessment that results in a performance evaluation rating for the affected tenured teacher of "proficient" or "excellent", then *the school district must demonstrate that the final remediation evaluation is a more valid assessment of the teacher's performance than the assessment made by the second evaluator*. (Section 24-16.5(d)(2)(A) of the School Code)

b) Limitations of Action by the Tenured Teacher Subject to Dismissal

A tenured teacher subject to dismissal under an optional alternative evaluative dismissal process shall challenge only the substantive and procedural aspects of the process as set forth in this subsection (b). (See Section 24-16.5(d)(2)(B) of the School Code.)

1) The affected tenured teacher may challenge the performance evaluation rating of "unsatisfactory" that led to the remediation, the remediation plan developed pursuant to Section 24A-5 of the School Code, and the final evaluation conducted at the conclusion of the remediation period.

2) *To the extent the teacher challenges procedural aspects, including any in applicable collective bargaining agreement provisions, of a relevant performance evaluation rating or the remediation plan, the teacher must demonstrate how an alleged procedural defect materially affected the teacher's ability to demonstrate a level of performance necessary to avoid remediation or dismissal or successfully complete the remediation plan. Without any such material effect, a procedural defect shall not impact the assessment by the hearing officer, Board, or reviewing court of the validity of a performance evaluation or a remediation plan.* (Section 24-16.5(d)(2)(B) of the School Code)

c) *The hearing officer shall only consider and give weight to performance evaluations relevant to the scope of the hearing as described* in this Section (Section 24-16.5(d)(2)(C) of the School Code).

d) In accordance with Section 24-16.5(d)(3) of the School Code, each party shall have two business days, as defined in Section 51.60(c)(11) of this Part, to present evidence and testimony unless:

1) a longer period is mutually agreed to by the parties; or

2) the hearing officer deems the extension to be necessary to enable a party to present adequate evidence and testimony.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.280 Findings of Fact and Recommendation of the Hearing Officer

a) The hearing officer shall issue a report of findings of fact and recommendation to the Board, stating whether the affected tenured teacher shall be retained or dismissed and the reasons for the recommended action (see Section 24-16.5 of the School Code).

1) The report of findings of fact and recommendation shall be issued within 30 days after the hearing is concluded or the record of the hearing is closed, whichever is later. The record of the proceedings shall not be considered closed until all evidence has been submitted. The hearing officer shall notify the parties, in writing, of the closing date of the record.

2) The report of findings of fact and recommendation shall not exceed 30 pages.

3) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to the tenured teacher and the tenured teacher's legal representatives of record and to the State Board addressed to the Chief Legal Officer, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

b) The hearing officer shall provide a copy of the report of findings of fact and recommendation to the affected tenured teacher and the superintendent of the school district at the same time as the report is provided to the Board. The hearing officer shall provide a copy of the report to the State Board.

c) Pursuant to Section 24-16.5(e) of the School Code, if the hearing officer fails, without good cause specifically provided in writing to the parties and the State Board, to render findings of fact and recommendation within 30 days after the later of the close of the hearing or the record, the parties may mutually agree to select a hearing officer pursuant to the alternative selection procedures provided under Section 24-12(d)(4) of the School Code to rehear the charges or to review the record and render a recommendation.

1) The hearing officer who failed to timely render findings of fact and recommendation or failed to make the accommodations described in Section 24-12(d)(6.5) of the School Code shall have the hearing officer's name struck from the master list of hearing officers maintained by the State Board for a period of not more than 24 months.

2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer. If any hearing officer again fails to provide in a timely manner a decision or findings of fact and recommendation, or again fails to make the accommodations described Section 24-12(d)(6.5) of the School Code, the State Board shall remove the hearing officer permanently from the master list and prohibit any party from selecting this hearing officer through the alternative selection process in Section 24-12(d)(4) of the School Code.

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

Section 51.290 Decision of Board

a) Within 45 days after receiving the hearing officer's findings of fact and recommendation, the Board shall render a written order as to whether the affected tenured teacher be retained or dismissed.

1) A copy of the Board's decision shall be provided to the tenured teacher either by certified mail, return receipt requested, or personal delivery with receipt within five days after the date on which the Board rendered a decision to retain or dismiss the affected tenured teacher. A copy of the Board's decision also shall be given by certified mail to the State Board addressed to the Chief Legal Officer, 555 W. Monroe Street, Suite 900, Chicago IL 60661.

2) If the Board determines that the affected tenured teacher should be dismissed, contrary to the hearing officer's findings of fact and recommendation, then the Board shall provide in its written order its conclusion and the reasons for making that determination.

3) *The failure of the Board to strictly adhere to the timeline* set forth in this subsection (a) *does not render it without jurisdiction to dismiss the teacher* (Section 24-16.5(f) of the School Code).

b) The decision of the Board is final unless reviewed under the Administrative Review Law, as provided in Section 24-16.5(g) of the School Code.

1) The affected tenured teacher shall file the appeal within 35 days from the date that the tenured teacher received the Board's decision pursuant to subsection (a)(1).

A) *For a teacher dismissed by a school district having fewer than 500,000 inhabitants, the judicial review must be taken directly to the appellate court of the judicial district in which the school district's Board maintains its primary administrative offices* (Section 24-16.5(g)(2) of the School Code).

B) *For a teacher dismissed by a school district* organized under Article 34 of the School Code*, the judicial review must be taken directly to* the Illinois Appellate Court for the First District (Section 24-16.5(g)(1) of the School Code).

2) *If the hearing officer recommended dismissal, the decision of the Board may be reversed only if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law* (Section 24-16.5(g) of the School Code).

3) *In the event judicial review is instituted by a teacher, any costs of preparing and filing the record of proceedings must be paid by the teacher* (Section 24-16.5(g) of the School Code).

4) The record of the proceedings shall contain each of the items enumerated in Section 51.70(a)(2)(B).

c) Pursuant to Section 24-16.5(f) of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

(Source: Amended at 48 Ill. Reg. 8591, effective May 29, 2024)

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
Post Office Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312) 277-7190
cjf@cjfredericklaw.com Calvita.frederick@at.net

PERSONAL AND CONFIDENTIAL – FOR SETTLEMENT PURPOSES ONLY

October 20, 2024

Dr Teresa A. Lance
Superintendent of Schools
Kankakee School District 111
240 Warren Avenue
Kankakee, IL. 60901

Re: Shermeka Fountain, Octavia Smith, et al vs Dr. Teresa A. Lance, Kankakee School District 111, et al

Dear Dr. Lance:

You are hereby notified that Shermeka Fountain (Ms. Fountain), and others have retained our office- the undersigned -- as plaintiff's attorney to prosecute for collection by suit or settlement, a claim, demand, or cause of action against you individually, the Kankakee School District 111, ("District 111") and its individual board members. Ms. Fountain's claims are based upon allegations of retaliation for engaging in a protected activity, harassment, hostile work environment, and sexual harassment in violation of the Illinois Human Rights Act and Title VII of the Civil Rights Act of 1964, violation of the American with Disabilities Act, ("ADA") violation of her Constitutional Rights, in particular the 14th Amendment right to due process, and 42 U.S.C. §1981 and §1983.

As I understand the pertinent facts, Ms. Fountain has been employed by the District 111 since approximately 2017. Her current position is Assistant Superintendent of Human Resources. She is a *tenured* staff member, has had no performance issues and has never been disciplined.

On September 10, 2024, Ms. Fountain was called into the office and handed the attached letter advising that she was immediately placed on paid administrative leave, pending an investigation into her performance that could lead to discipline, up to and

including termination. No performance issues or incidents were listed, and Ms. Fountain has no idea why she has been placed on administrative leave. Ms. Fountain was then advised to turn over certain items, including her keys and computer, and was escorted out of the building by the head of security.

Since September 10, 2024, one meeting was held where Ms. Fountain was questioned about matters unrelated to the current disciplinary leave. Ms. Fountain's request for a Complaint Manager to attend that meeting was denied by you.

On October 8, 2024, Ms. Fountain received a telephone call from your office requiring her to attend a meeting scheduled for October 9, 2024. Within the next two hours Ms. Fountain received an email rescheduling that meeting for October 22, 2024, at 10:00 AM. For the reasons set forth below, Ms. Fountain cannot attend that scheduled meeting.

Suffice it to say, Ms. Fountain is very upset by these actions. No explanation has been provided detailing the basis for the discipline. Not knowing the nature and extent of the allegations against her, Ms. Fountain has, of course, been denied due process in the failure to know what she is charged with and provided a reasonable opportunity to defend herself. As a result of these erratic and unexplained actions taken against her, her stress level has greatly increased

As you know, Ms. Fountain is an [redacted] Increased stress levels are dangerous risk factors for [redacted] and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an [redacted] and a [redacted]. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

Ms. Fountain also believes that she is being set up for termination. Her anxiety related to the potential for termination appears to be well-grounded in fact. Upon

information and belief, an interim superintendent of Human Resources has been hired to temporarily fill her position at the Kankakee School District.

As a *tenured* staff member, with a Professional Education License, Ms. Fountain is entitled to certain protections under the Illinois School Code. The manner in which you have chosen to issue discipline to Ms. Fountain appears to be intended to harass and humiliate her, along with producing extreme anxiety and stress. These actions not only violate state and federal statutes, including the Illinois School Code, but also run afoul of the policies and procedures set forth in the School District 111 Board Policy, currently in place to protect District 111 employees.

Ms. Fountain is not the only District 111 employee who has retained our office to pursue a claim against the District 111 and its official Board members. Ms. Octavia Smith has also requested we represent her in a claim for harassment and violation of the ADA based upon matters surrounding her employment application. Ms. Smith suffers from [redacted] and the manner in which her application for employment was handled landed her in the emergency room for stress-related symptoms.

Please know that I am preparing to file charges with the Illinois Department of Human Rights, or other appropriate authority, required to exhaust our administrative remedies, prior to filing our lawsuit.

In the short interim, we are open to settlement discussions. Should your organization and its board have any desire to seek an amicable resolution of Ms. Fountain and Ms. Smith's discrimination claims, you, or your legal counsel, should contact my office immediately.

Sincerely,

CJ Frederick
Calvita J. Frederick

Attachment

Cc: Teresa Lance teresa-lance@ksd111.org
Christopher Bohlen christopher-bohlen@ksd111.org
Jess Gathing jess-gathing@ksd111.org
Tracy Verrett tracy-verrett@ksd111.org
Mary Archie mary-archie@ksd111.org
Deb Johnston deb-johnston@ksd111.org
Darrell Williams darrell-williams@ksd111.org
Suzzana Berrones suzanna-berrones@ksd111.org

THOUGHT LEADERSHIP

Teacher Tenure, Dismissal and Evaluation Legislative Updates

September 6, 2023

Eliza Kaye, Amy Kosanovich Dickerson, Nicki Bazer, James Petrungaro

Education, K-12 Education

This school year has begun with a number of changes related to teacher tenure, evaluations, and dismissals. On August 4, 2023, Governor Pritzker signed into law Public Act 103-0500, revising the Illinois School Code provisions regarding teacher tenure, particularly as it relates to the length of the probationary period, as well as non-renewal and honorable dismissal ("RIF") notice deadlines. Separately, Public Act 103-0085 amends Sections 24A and 34 of the School Code as they relate to retirement evaluations and Public Act 103-0549 amends Section 24-14 of the School Code as it relates to teacher resignations. We summarize below the key takeaways from these various Acts.

Teacher Tenure

employed by a school district on or after July 1, 2023. We include below a summary of the key changes for these two categories of teachers.

Teachers Hired Before July 1, 2023:

Accelerated Tenure. Most significantly, the Act changes the requirements for teachers hired before July 1, 2023 to be eligible to obtain "accelerated tenure" after three consecutive school terms of service rather than four school terms. Prior to the Act, teachers were eligible to obtain tenure if they completed three consecutive school terms of service and received three overall annual evaluation ratings of "Excellent." Now, teachers completing three consecutive school terms of service may be eligible to acquire tenure if they receive two Excellent ratings in that three consecutive school term period. Questions have been raised as to the retroactive impact of this change, specifically whether a teacher who just completed their third term of service prior to July 1, 2023 with two of their three evaluation ratings being excellent would now have acquired tenure as a result of the new law. We are continuing to review this issue, but believe that such a teacher would not have acquired tenure under the new law and rather would be considered and evaluated as a 4th year probationary teacher in the 2023-2024 school year. We currently think is the best interpretation in light of the Act's effective date, however recognizing the questions and differing interpretations surrounding this particular change, we encourage districts to consult with legal counsel regarding its applicability to current probationary teachers.

Professional Educator License The legislature also made clear through the Act that only those teachers who hold a Professional Educator License ("PEL") are eligible for tenure.

Tenure Acquisition. The other tenure acquisition provisions are unchanged for

below):

- 4 consecutive school terms of service in which the teacher holds a PEL AND receives overall annual evaluation ratings of at least “Proficient” in the last school term and at least “Proficient” in either the second or third school terms;
- 3 consecutive school terms of service in which the teacher holds a PEL AND receives 2 overall annual evaluations of “Excellent;” or
- 2 consecutive school terms of service in which the teacher holds a PEL and receives 2 overall annual evaluations of “Excellent” but only if the teacher:
    - Previously attained tenure in a different school district or program in the State,
    - Voluntarily departed or was honorably dismissed from that school district or program in the school term immediately prior to the teacher’s first school term of service in the current district, and
    - Received, in his or her most 2 recent overall annual or biennial evaluations from the prior school district or program, ratings of at least “Proficient,” with both such ratings occurring after the school district’s or program’s PERA implementation date.

Teachers Hired on or After July 1, 2023:

For teachers first employed as full-time teachers in a district or program on or after July 1, 2023, probationary periods have been shortened to allow such teachers to acquire tenure in just three years so long as they have at least a “proficient” rating in their last two school terms. Teachers completing two consecutive terms of full-time service with two “excellent” ratings are now eligible for “accelerated tenure,” whereas previously such teachers were only eligible to attain tenure in two years if they also met the tenure portability requirements.

- 3 consecutive school terms of service in which the teacher holds a PEL and receives overall annual evaluation ratings of at least “Proficient” in the second and third school terms; or
- 2 consecutive school terms of service in which the teacher holds a PEL AND receives 2 overall annual evaluation ratings of “Excellent.”
- Portable tenure: the existing portable tenure rules that allowed a teacher to acquire tenure with just two Excellent evaluation ratings after leaving a prior school district with tenure remain, but appear to have been rendered moot by the accelerated tenure changes.

Non-Renewal and Honorable Dismissal Notice Deadlines

Prior to Public Act 103-0500, the School Code provided that a notice for non-renewal or an honorable dismissal must be provided to an employee at least 45 days before the end of the school term. Beginning with the 2023-2024 school year, a school district must provide written notice for honorable dismissals (reduction-in-force) and probationary non-renewals on or before April 15. This change applies to all teachers, regardless of their date of first employment. This change is likely to be welcomed by school districts as it disposes of the annual practice of determining the 45-day period for purposes of complying with the School Code. Notably, however, if your collective bargaining agreement requires notice to be provided at least 45-days prior to the last student attendance day, notice should be provided by the earlier of the two dates. We recommend reviewing your agreements for any such contract language and consider proposing updates in light of this new change.

Resignation

Public Act 103-0549 amends Section 24-14 of the School Code and now aligns

teacher fails to do so, the teacher will be deemed to have resigned during the school term, subjecting the teacher to licensure revocation proceedings if the board of education contests the resignation.

Retirement and Evaluations

Lastly, Public Act 103-0085 amends sections 24A and 34 of the School Code regarding evaluations of teachers who are on an established path to retirement. Now, teachers who are due to be evaluated in the last year of employment before they are set to retire must be offered the opportunity to waive their evaluation and to retain their most recent rating, unless the teacher was last rated as “needs improvement” or “unsatisfactory.” However, the school district may still reserve the right to evaluate a teacher, provided the district gives notice to the teacher at least 14 days before the evaluation and a reason for evaluating the teacher.

SHARE THIS

Search

FILTER BY PRACTICE AREA

- Education
- Labor & Employment

YEARS

- Careers
- Community Investment
- Diversity
- General
- Higher Education
- K-12 Education
- News & Announcements
- Press Releases
- Publications

SUBSCRIBE TO OUR ALERTS

FRANCZEK BLOGS & PODCASTS

SPECIAL EDUCATION LAW INSIGHTS BLOG

TITLE IX INSIGHTS BLOG

EDUCATION LAW INSIGHTS PODCAST

TRAININGS AND TOOLKITS

FRANCZEK P.C. © 2024 ALL RIGHTS RESERVED

YEARS

A member of worklaw network

Shemeka Fountain

From Genevra Walters <genevra.walters@yahoo.com>
To Calvita Frederick <Cjf@cjfredericklaw.com>, Shemeka Fountain <shemekamfountain@gmail.com>
Date 2024-10-20 07:38

51ARK.pdf (~302 KB)

An administrator is governed under tenure laws unless the individual takes a multi year contract. Therefore, Shemeka has all of the rights of a tenure teacher.

Attached are the required procedures for dismissing a tenure teacher under Illinois School Code.

https://www.isbe.net/Documents/51ARK.pdf

Sent from my iPhone

RESOLUTION REGARDING THE DISMISSAL OF A TENURED TEACHER (SHEMEKA FOUNTAIN)

WHEREAS, the Board of Kankakee School District 111 has received information and recommendations from members of the administration regarding Shemeka Fountain, a licensed professional educator for the District and the Assistant Superintendent of Human Resources, and conducted a hearing at which Ms. Fountain was offered the opportunity to respond to the administration's reports and recommendations; and

WHEREAS, the Board finds that Ms. Fountain's conduct constitutes grounds for her dismissal, which is irremediable;

WHEREAS, it is the opinion of the Board that the best interests of Kankakee School District 111 require Ms. Fountain's dismissal and her suspension, without pay, as provided below;

NOW, THEREFORE, Be it Resolved by the Governing Board of Kankakee School District 111, Kankakee County, Illinois as follows:

Section 1: The Board has considered and hereby adopts the matters set forth in the preambles to this Resolution and in the Notice of Charges, Bill of Particulars and Hearing, being Exhibit A, attached hereto and made a part hereof, as the basis for the dismissal of Ms. Fountain as Assistant Superintendent and a tenured teacher in this District.

Section 2: Ms. Fountain is hereby suspended without pay pending conclusion of the hearing and final disposition of the dismissal proceedings initiated by this Resolution. Ms. Fountain's dismissal shall become effective at such time as this Board's decision to dismiss is affirmed as provided by law, or in the event that Ms. Fountain does not request a hearing within the time provided by law, immediately upon the expiration of the time to request a hearing, or in the event the hearing request is withdrawn, immediately upon the State Board of Education's confirmation of the termination of the hearing.

Section 3: The President and Secretary of this Board are hereby authorized and directed to prepare and serve, or cause to be prepared and served, on Ms. Fountain and on the Illinois State Board of Education, respectively, a written Notice of Charges, Bill of Particulars and Hearing, substantially in the form of Exhibit A, attached hereto and made a part hereof.

Section 4: In the event Ms. Fountain timely requests a hearing, the President and Secretary of this Board are hereby authorized and directed to prepare and serve, or cause to be prepared and served, a Notice of Hearing on the Illinois State Board of Education, substantially in the form of Exhibit B, attached hereto and made a part hereof, accompanied by a Secretary's Certificate certifying a true and correct copy of this Resolution and also certifying this Board's motion and vote on the dismissal of Ms. Fountain

Section 5: The President and Secretary of this Board are authorized and directed to prepare and serve, or cause to be prepared and served, such notices and documentation as may be necessary in order to effectuate the dismissal of Ms. Fountain as a tenured teacher and as Assistant Superintendent in this District. Any notice required or authorized to be given pursuant to this Resolution or by law may be served personally, by overnight mail and/or by registered or certified mail, return receipt requested. In the event Ms. Fountain does not accept service of, or claim from the United States Postal Service, any document sent by overnight mail or registered or certified mail to his last known residence, the document shall be deemed to have been received as follows:

(1) In the case of overnight mail, without requirement of personal receipt, on the date of delivery to her residence.

(2) In the case of overnight mail to be received only by Ms. Fountain or registered or certified mail, return receipt requested, on the date the Postal Service returns the document to sender because it could not be delivered and was not claimed in accordance with the customary procedures of the Postal Service.

Section 6: Franczek P.C., 300 South Wacker Drive, Suite 3400, Chicago, Illinois 60606, is hereby appointed agent and attorneys for this District in connection with the dismissal of Ms. Fountain and is authorized to proceed with the selection of the hearing officer as provided by law.

Section 7: This Resolution shall be in full force and effect upon its adoption.

ADOPTED this 9th day of December by the following roll call vote upon the motion of _____, seconded by _____.

YES:_____

NO:_____

ABSENT:_____

_____
President, Governing Board

Attest:

_____
Secretary, Governing Board

EXHIBIT A

December ___, 2024

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Ms. Shemeka Fountain
514 Betty Lane
South Holland, IL 60473

Re: Notice of Charges, Bill of Particulars and Hearing

Dear Ms. Fountain,

You are hereby notified that the Board of Kankakee School District 111 has adopted the following charges and particulars for your dismissal as a licensed professional educator and Assistant Superintendent of Human Resources in this District.

1. **You engaged in irremediable conduct that damages your reputation as the Assistant Superintendent for Human Resources, damaged the reputation of the District, and caused harm to the staff and students of the District.**

The particulars supporting this charge are as follows:

a. You have engaged in serious and intentional misconduct that has harmed District operations and finances, including approval of the continued payment of wages to employees who are not performing any work for the District and attempting to mislead regarding the reason for an employee's absence. Your conduct has been unethical, reflects poor judgment, and has significantly undermined the trust of the District community.

   i. Employee L. H. has been incarcerated since on or about April 17, 2024. You were notified by the Director of Safety and Security of L.H.'s incarceration. Although incarcerated and unable to work, L.H. was paid his wages from April through June 30, 2024.

   ii. When questioned in a meeting on September 6, 2024, you claimed that L.H. was on FMLA leave. That statement was not truthful. You were unable to produce any FMLA paperwork for Hill. Further, incarceration does not qualify an employee for FMLA leave, and FMLA leave is unpaid, so that would not account for Hill having received his wages while incarcerated.

   iii. In September 2024, you directed your direct reports to sign off on a blank form approving disability leave for L.H. prior to him filling out the request or

providing any supporting medical information. When asked, you stated it was common for you or your designee to approve disability leave without any supporting documentation. In this specific instance your intent was to approve medical leave for an employee you were aware is incarcerated, knowing that the reason for the employee's absence was not medical leave.

iv. L. K. is a part-time employee who was hired on February 14, 2022. On February 28, 2023, you sent L.K. home after an incident of potential misconduct and you told them that they would continue to be paid until you met with them to investigate the alleged misconduct. You never contacted L.K. for a meeting and L.K. remained at home, not working and yet receiving pay for the remainder of the school year. You authorized payroll and so should have been aware that L.K. continued to be paid, yet you failed to take any action.

b. You have engaged in serious and intentional financial mismanagement that has harmed the District, including: 1) incorrectly placing teachers on the salary schedule; 2) allowing teachers in the retirement track to earn in excess of 6% resulting in significant TRS penalties; 3) late contributions to TRS that have resulted in penalties for untimely payments; 4) granting administrators more sick days than teachers, resulting in potential TRS penalties; 5) failure to monitor or record overtime hours worked.

i. Salary Audit and Letters

i. An audit of teacher salaries was conducted by the District beginning in spring 2024. The audit determined that multiple teachers were being paid incorrectly, including 90 teachers who were receiving a different salary than their peers with the same degrees and years of credited service.

ii. Based on the audit and contract negotiations over a salary reopener with the teachers' union, salary letters were to be completed prior to July 1, 2024 with each teacher's new salary placement. You did not complete all of the salary letters by July 1 and of those you sent out, at least 44 included inaccurate compensation information. As an example, one employee was notified of a 12% increase when they should have received a 6% increase.

iii. The Superintendent directed you to create a Google form teachers could use to notify you if they did not receive a salary letter or if their salary was incorrect. You had to be redirected to do so. When employees submitted concerns about their salary placement on the Google form, you failed to respond to them. Ultimately, an outside

consultant had to review and correct the inaccurate salary placements you made. In all, over 270 salary letters were required to be resent, due to your failure to adequately perform your duties.

ii. End of Career Earnings in Excess of 6% TRS Cap and Penalties for Late Payments

i. When a teacher or administrator retires, the employer will be required to pay extra contributions to the Teachers Retirement System (TRS) for any salary increase over 6% that is used in the final average salary calculation. Part of your responsibilities as the Assistant Superintendent of Human Resources is to monitor the salary, extra duty pay and stipends paid to persons in the retirement track to avoid or lessen any penalties paid to TRS. You failed to do so, resulting in significant penalties to the District from TRS for excess salaries. Additionally, the District has to pay penalties to TRS for late contribution payments.

ii. In fiscal year 2023-2024, the District paid over $24,000 in penalties as a result of excess salaries and had to pay over $3,000 for late contributions.

iii. So far in fiscal year 2024-2025, the District paid $61,977 in penalties to TRS as a result of excess salaries and paid $26,056 in penalties as a result of late contributions.

iii. Sick Day Allotment

i. Administrators and other non-union employees are granted 13 sick days per year, which is one more sick day than what the teachers receive pursuant to the collective bargaining agreement.

ii. The Illinois Teachers Retirement System (TRS) imposes penalties on employers for granting sick leave days to persons in the retirement track in excess of the teachers' normal annual sick leave allotment. The normal annual sick leave allotment is defined by TRS as sick leave granted to members under the collective bargaining agreement.

iii. You were aware or should have been aware that administrators and other TRS-covered employees were receiving sick days in excess of the normal annual leave allotment, exposing the District to TRS penalties, yet took no action to correct the allotment or exposure.

iv. Monitoring of Hours Worked

i. Employees who are non-exempt must be compensated for hours worked in addition to their regular work day. Currently, timesheets are not submitted for extra duties and you do not have a system in place to monitor compliance with the Fair Labor Standards Act and payment of overtime.

c. You have failed to perform required duties that have jeopardized District funding and damaged its standing with the Illinois State Board of Education.

i. As the Assistant Superintendent for Human Resources, you are required to assist with ensuring the District retains its School Improvement Grant funds. The District was notified in July 2024 that it was in jeopardy of losing over $1 million in school improvement grant funds because you failed to provide information necessary for receipt of the funds. You were asked on June 18 and June 21, 2024 to provide a staffing list to the District's consultant by July 10, 2024. You did not provide a list by July 10, 2024, and the Illinois State Board of Education notified the school it was in jeopardy of losing the improvement funds.

d. You have failed to comply with legal requirements regarding teacher evaluations. In your role you are responsible for ensuring the evaluation process meets legal requirements and you have failed to do so.

i. Illinois law requires that student growth data must be included in educator evaluations. Currently student growth is to be at least 30% of the calculation of the final assigned rating. The evaluation plan uses no student growth in the determination of the final rating, so it is not compliant with School Code requirements.

ii. The School Code requires that the PERA joint committee meet annually to assess and review the effectiveness of the district's evaluation plan. The PERA joint committee has not met for the last several years, in violation of the School Code.

iii. ISBE requires that school districts report on teacher and administrator evaluation outcomes and that districts upload individual employee evaluations. No evaluation data was reported to EIS for the last school year. As of August 30, 2024, 280 teachers evaluations from the 2023-2024 school year were not reported to ISBE. Even though you received notification from ISBE that these reports were not complete, you failed to submit the reports and denied it was a part of your job duties.

iv. Teachers are to receive summative ratings on their evaluations. For tenured teachers, the district's evaluation process does not require a final evaluative summary, so many tenured teachers do not receive a required final rating.

e. You have repeatedly failed to perform your assigned job tasks and to follow instructions given to you by the Superintendent. Your conduct has been unprofessional, reflects poor judgment, and has significantly undermined the trust of the District community, school administrators, and teachers. You have also hindered the District's ability to adequately operate and act as administrators.

i. You were asked to provide the Superintendent with an update on staffing patterns on April 22, 2024, May 13, 2024, and on July 23, 2024. You never provided this information to the Superintendent, which was necessary in determining staffing needs for the 2024-2025 school year and beyond.

ii. You do not have a formal process for developing a staffing plan, nor do you have a process for managing or tracking positions comprehensively. When asked for a list of existing positions and employees, no such list was readily available. Your ad hoc approach to staffing undermines accountability and effective budgeting.

i. Positions exist as "special other" positions without clearly defined duties or roles. The District employs at least one remote teacher without a defined reason to do so. Permanent substitutes with a PEL may attain tenure, and there is no system in place to monitor their status.

iii. On August 28th, the Superintendent learned employee MG was reassigned to another campus. You failed to notify the receiving principal of MG's assignment. You failed to address significant performance issues by MG including a report that a non-verbal student was "inadvertently" fed her food with ceramic glass broken off inside. Additionally, this employee left his job without notice or prior approval for more than three weeks and you failed to take any action and instead held his job for his return.

iv. You failed to take timely, appropriate action regarding the non-renewal of a teacher for the 2024-2025 school year. A non-tenured teacher was recommended for non-renewal for the upcoming school year, and you failed to present that recommendation to the Board of Education. The teacher remained employed for the 2024-2025 school year because of your failure to follow through on the recommendation to non-renew. In addition, you failed

to have a system in place that flagged when employees who were non-renewed applied for employment with the District at another school.

v. You are responsible for assigning teacher evaluations to their applicable school leaders. On August 27, 2024 you were asked to clarify the teacher evaluation assignments and tools for the 2024-2025 school year. You were given time on September 10, 2024 during a principal meeting to address any outstanding questions. Nonetheless as of September 17, 2024 the evaluation lists for three of nine principals were incorrect.

vi. On August 19, 2024, you were directed by the Superintendent to provide a rubric that accompanied teacher evaluations for school administrators. The Superintendent re-requested the rubric on August 23, 2024 and you eventually provided an insufficient version on August 26, 2024. You have not yet provided a sufficient rubric to the Superintendent.

vii. You initially were paying and then stopped paying an employee, without cause while they were on leave. When questioned about why you stopped paying, you responded because they were receiving worker's compensation. However, you failed to follow-up on this matter and the employee, in fact, did not receive worker's compensation until September 2024.

viii. You failed to attend required meetings on multiple occasions, including on September 6, 2024 when you did not attend a meeting with an auditor of the District's human resources department.

ix. On July 2, 2024, the Superintendent sent you an email requesting information relating to the return a Principal following his leave during the previous school year. You refused to provide the Superintendent with the requested information.

x. On or around July 10, 2024 you were asked to provide a detailed itinerary for New Teacher Orientation by July 17, 2024. The training was held August 5-6, 2024. You only provided a limited itinerary, not a detailed one as requested. You created an itinerary for the Kindergarten to 6th grade new teachers but not for the 7-12th grade new teachers. You were directed to provide a more detailed itinerary and failed to do so.

xi. On August 15th, I learned that Kankakee School District employed, for more than one year, employee FM whose license was revoked. You knowingly extended a contract offer to FM although his teaching license was revoked by the state of Illinois.

xii. You are required to approve time off requests for employees under your supervision. You failed to approve a time off request for an employee who

reported to you. You failed to approve his time on July 25, August 30, and September 3, 2024. You also did not provide a basis for why the time off request should be denied, nor why you did not approve the request in a timely manner.

f. On July 30, 2024 you were provided a Letter of Direction due to missed meetings, your lack of responsiveness to employees emails and phone calls, and lack of follow-through. Your performance did not improve after receiving that letter.
   i. August 18th-no response regarding the process to evaluate specific employees (ex. Permanent subs, long term subs, nurses, etc).
   ii. August 20th-no response regarding LinkedIn job postings.
   iii. August 27th-no response regarding the request for an evaluation tool of 12-month special other employees
   iv. August 28th-no response regarding a teacher evaluation rubric
   v. August 30th-no response to AS
   vi. September 2nd-no response regarding the salary of contractual employee

2. **You engaged in insubordinate and unprofessional conduct by violating directives set forth in Board Policy 5:120-AP2: Administrative Procedure – Employee Conduct Standards. As the Assistant Superintendent for Human Resources and a District leader, your unprofessional, damaging, irresponsible, and insubordinate conduct has caused irreparable damage to the trust which is essential between the District, its educators, and all stakeholders in the District Community.**

The particulars supporting this charge are set forth in Paragraphs 1(a) to (d) above.

3. **You failed to conduct yourself in a manner that demonstrates good judgment and recognition of your role, authority, and responsibility as an administrator and tenured teacher. You failed to serve as the role model required by Section 27-12 of the Illinois School Code. You engaged in conduct that damaged your fitness to serve as an effective Assistant Superintendent in the District and damaged your reputation as a teacher and a member of the school community.**

The particulars which support this charge are set forth in Paragraphs 1(a) to (d) above.

4. **In the opinion of the Board, you are not qualified to serve as the Assistant Superintendent for Human Resources or a licensed professional educator and the interests of the District require your dismissal pursuant to Section 10-22.4 of the Illinois School Code.**

The particulars supporting this charge are set forth in Paragraphs 1(a) to (d) above.

Section 24-12 of the School Code permits you to request a hearing before a hearing officer selected through the offices of the Illinois State Board of Education. You have the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between you and the Governing Board, or before a Governing Board-selected hearing officer, with the cost of the hearing officer paid by the Governing Board

Your request for this hearing must be made within seventeen days of your receipt of this notice. If such a request is made, it must be submitted in writing to Rachel Thornton, Board Recording Secretary. Your request for a hearing must be personally delivered to Rachel Thornton's office, or, if mailed, show a postmark within the seventeen-day request period. If you request a hearing in a timely manner your request will be forwarded to the Illinois State Board of Education.

Your dismissal will become effective as provided in the enclosed certified copy of a "Resolution Regarding the Suspension and Dismissal of a Tenured Employee (Shemeka Fountain)" providing for your dismissal.

GOVERNING BOARD OF KANKAKEE
SCHOOL DISTRICT 111
KANKAKEE COUNTY, ILLINOIS

By:_____
President

Attest:

_____
Secretary

Dated:_____

EXHIBIT B
NOTICE OF HEARING

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

TO: State Board of Education
100 West Randolph Street
14th Floor, Suite 300
Chicago, IL 60601
Attention: Legal Department

Dear Legal Department Representative:

Pursuant to Section 24-12 of the School Code and the Rules and Regulations Governing the Procedure for the Dismissal of Tenured Teachers of the State of Illinois, the President and Secretary of the Governing Board of Kankakee School District 111, Kankakee County, Illinois, hereby serve upon you a copy of the Resolution regarding the dismissal of Shemeka Fountain adopted on December 9, 2024.

Also enclosed is a Secretary's Certificate certifying the Resolution to be a true and correct copy and certifying the Board's motion and vote on the dismissal of Ms. Fountain. Finally, enclosed is a copy of the request for a hearing submitted by or on behalf of Ms. Fountain, dated [DATE], 2024, and received by the School District on [DATE], 2024.

Please note that the Board, in its Resolution regarding the dismissal of Ms. Fountain, has authorized the law firm of Franczek P.C., 300 South Wacker Drive, Suite 3400, Chicago, Illinois 60606 to proceed on behalf of the School District with the selection of a hearing officer as provided by law. We, therefore, request that a list of prospective hearing officers be sent directly to Sally Scott of such law firm.

BOARD OF KANKAKEE School District 111
KANKAKEE COUNTY, ILLINOIS

By:_____
President

Attest: _____
Secretary

Dated:_____

Enclosures – Certified Copy of Motion, Vote, and Resolution

STATE OF ILLINOIS)
) SS
KANKAKEE COUNTY)

SECRETARY'S CERTIFICATE

I, Suzanna Berrones, the duly qualified and acting Secretary of the Governing Board of Kankakee School District 111, Kankakee County, Illinois, do hereby certify that attached hereto is a true and correct copy of a Resolution entitled:

"RESOLUTION REGARDING THE DISMISSAL OF A TENURED TEACHER (SHEMEKA FOUNTAIN)"

which Resolution was duly adopted by the Governing Board at a Board meeting held on December 9, 2024.

I do further certify that a quorum of said Governing Board was present at said meeting, that the President received the affirmative vote of at least four members of the Governing Board and that all requirements of the Illinois Open Meetings Act, as amended, were met.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of December 2024.

_____
Secretary, Governing Board of Kankakee County School District 111, Kankakee County, Illinois

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF	)	
	)	
SHERMEKA FOUNTAIN	)	
	)	
COMPLAINANT	)	
	)	
AND	)	CHARGE NO.:
	)	
KANKAKEE SCHOOL DIST 111	)	EEOC NO.:
	)	
RESPONDENT	)	
	)	

A P P E A R A N C E

CALVITA J. FREDERICK , hereby enter the
(Name of law firm/attorney/non-attorney representative)

appearance of SHERMEKA FOUNTAIN
(Name of Complainant or Respondent)

and our Appearance as their attorney (or non-attorney representative), and request that copies of all Pleadings, Orders, and other documents be served upon the undersigned for said Party in lieu service upon the Party.

CALVITA J. FREDERICK
PRINT name of attorney/non-attorney representative

CALVITA J. FREDERICK & ASSOCIATES
Firm Name

POST OFFICE BOX 802976
Address

CHICAGO | IL | 60680
City | State | Zip Code

(312) 421-5544
Telephone Number

calvita.frederick@att.net
Email Address

312-277-7190
Fax Number

☒ By checking this box, I consent to service of all pleadings, orders, and other documents by the Department via electronic mail and understand that electronic service to this Email Address is deemed complete upon transmission.

DATED: _____ By: _____
Signature

Rev. 2/2021

ILLINOIS DEPARTMENT OF
Human Rights

JB Pritzker, Governor
James L. Bennett, Director

Dear Attorney:

This Attorney Packet contains information to assist you in preparing and filing a discrimination charge with the Department of Human Rights ("IDHR"). The U.S. Equal Employment Opportunity Commission ("EEOC") Requires these forms. Your use of these procedures and forms will help IDHR provide you and your client with prompt service.

Charge Requirements:

A charge filed with IDHR must contain the following:

- Complainant's contact information, including full name, address, city, state, ZIP code, and telephone number.
- Respondent's contact information, including full name, address, city, county, state, ZIP code, and telephone number.
- Complainant's specific allegations in prima facie case format, including the alleged harm, date of harm, and the basis of discrimination (see pages 3 and 4 of this packet).
- Per the Human Rights Act, all charges must be signed, dated and verified by certification under Section 1-109 of the Illinois Code of Civil Procedure by Complainant. Complainant's attorney cannot sign the charge on behalf of Complainant.
- If notarized, the notary public must sign and date the charge on the same date as Complainant. The notary public cannot use an embossed seal as a notary stamp. Every notary public must use a rubber stamp seal. These notary procedures must be adhered to or the charge is not valid.
- Please provide IDHR with an appearance form with each original charge filed.

For allegations against multiple Respondents:

IDHR requires separate charges for each Respondent your client alleges has discriminated against him or her. IDHR no longer amends charges. If your client has additional issues or bases, a new charge will be drafted and a new charge number assigned. This ensures that the statutory time limit for IDHR to investigate the allegations filed against each Respondent is calculated properly.

A. Charge Forms:

Complete the appropriate charge form and return to our office with all the necessary elements needed to process your client's charge. When filling the charge, **make sure the date on which the earliest allegation of discrimination took place is within the statutory time frame if not a continuing violation.**

Use the State/Federal EEOC #5 form for all state and federal jurisdiction charges. Use the EEOC #5 form for combined jurisdictions (i.e., race and physical/mental disability). Use IDHR #6 form for charges filed for jurisdictions covered only by the state (i.e., military status, arrest record, marital status, etc.). The second page of the charge form should contain the issue and basis for either the EEOC #5 form or IDHR #6 form.

Do not file the same charge with EEOC. If appropriate, IDHR will cross file the charge with EEOC.

When filing a charge you are required to use the proper form. Please see the attached forms.

B. Format and Content

Please follow the format exactly as follows below. Failure to do so may cause a delay in processing the charge.

I. A. ISSUE/BASIS

Harm (ISSUE), the date of the harm and the relevant category of discrimination (BASIS)

B. PRIMA FACIE ALLEGATIONS

1. Identify how Complainant is a member of a protected group.

2. Indicate the harm and Respondent's reason for taking the adverse action against Complainant. Identify by name, job title, and relevant category, the individual who communicated said reason to Complainant.

3. Identify Respondent's applicable policy or practice and how Complainant was in compliance with the policy or practice, was qualified for the position, or was performing satisfactorily in the position.

4. State how Complainant was treated differently than similarly situated individuals who are not members of the protected group. Identify those individuals by name, title, and relevant category.

For multiple issues: You must repeat the steps indicated above for each issue/harm. You must also match the appropriate basis to each issue. Some examples of the charge format are attached for your review.

Cover Sheets: Please use form EE05 as a cover sheet for all charges that should be cross-filed with EEOC. For all charges that will not be cross-filed with EEOC, please use IDHR form #6. For example, a sexual harassment charge against an individual can only be investigated by IDHR. Therefore, IDHR form #6 is required.

Note: The prima facie allegations for disability, retaliation, and sexual harassment are different than above. Also, note that not every fact in regards to the dealings between the parties should be listed in the charge (those will be dealt with during the charge investigation). Every charge should only have the 4 or 5 prima facie allegations as illustrated in samples provided.

Drafting the charge as described above will assist IDHR in investigating the charge more expeditiously and thoroughly. All charges to be filed MUST be sent directly to: **INTAKE UNIT,** Department of Human Rights, 555 West Monroe Street, 7th Floor, Chicago, IL 60661 or emailed to IDHR.Intake@illinois.gov (Please only send via one of the methods above as to not create duplicate charges).

For additional information regarding filing a discrimination charge under the Illinois Human Rights Act, please refer to the IDHR website: www.illinois.gov/dhr. If you have additional questions, feel free to contact the Intake Unit at IDHR.Intake@illinois.gov.

EXAMPLES

I. A. ISSUES/BASIS

Discharge - July 20, 2020, because of my race, black.

B. PRIMA FACIE ALLEGATIONS

1. My race is black.

2. I was discharged on July 20, 2020. The reason given by Shirley Pine (non-Black), Supervisor, for the discharge was poor performance.

3. I performed my job duties in a satisfactory manner. I began my employment with Respondent on May 1, 2019.

4. My performance was as good as that of Tina New (non-Black), who was not discharged under similar circumstances.

II. A. ISSUE/BASIS

Discharge - July 20, 2020, because of my physical disability, diabetes.

B. PRIMA FACIE ALLEGATIONS

1. I am an individual with a disability within the meaning of Section 1-103(I) of the Human Rights Act.

2. Respondent has been aware of my disability since November 2019, when it was diagnosed.

3. I was discharged by my Supervisor, Shirley Pine (disability unknown), due to alleged poor performance.

4. My disability is unrelated to my ability to perform my job duties.

EXAMPLES

I. A. ISSUES/BASIS

Sexual Harassment - June 2019 until July 14, 2020.

B. PRIMA FACIE ALLEGATIONS

1. From June 2019 until July 14, 2020, I was subjected to sexual harassment by William Hart, Supervisor. The sexual harassment consisted of sexually offensive questions about my sexual habits and sexual jokes on a daily basis, and inappropriate touching by Hart on a weekly basis.

2. I found the harassment offensive and I rejected the advances.

3. I reported the harassment to Human Resources in November 2019 and January 2020, however, the sexual harassment continued.

4. The sexually offensive conduct created a hostile and intimidating work environment for me and interfered with my ability to do my job.

II. A. ISSUE/BASIS

Discharge - July 17, 2020, in Retaliation for filing an internal complaint of discrimination with Respondent.

B. PRIMA FACIE ALLEGATIONS

1. In November 2019, I reported sexual harassment by Hart to Human Resources. In January 2018, I reported the sexual harassment to Cindy Benson, Director of Human Resources.

2. On July 17, 2020, I was discharged by Michael Hart, Supervisor. The reason given for the discharge was alleged insubordination. I have never been insubordinate to anyone.

3. The discharge followed my last complaint of discrimination within a short period of time, thereby raising an inference of retaliatory motivation.

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF	)	
	)	
	)	
	)	
COMPLAINANT	)	
AND	)	CHARGE NO.:
	)	
	)	EEOC NO.:
	)	
RESPONDENT	)	

A P P E A R A N C E

_____ , hereby enter the
(Name of law firm/attorney/non-attorney representative)

appearance of _____
(Name of Complainant or Respondent)

and our Appearance as their attorney (or non-attorney representative), and request that copies of all Pleadings, Orders, and other documents be served upon the undersigned for said Party in lieu service upon the Party.

_____
PRINT name of attorney/non-attorney representative

_____
Firm Name

_____
Address

_____
City State Zip Code

_____
Telephone Number

☐ By checking this box, I consent to service of all pleadings, orders, and other documents by the Department via electronic mail and understand that electronic service to this Email Address is deemed complete upon transmission.

_____
Email Address

_____
Fax Number

DATED: _____ By: _____
Signature

Rev. 4/2022

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.

#

AGENCY

☒ **IDHR**

☐ **EEOC**

CHARGE NUMBER

Illinois Department of Human Rights and EEOC

NAME OF COMPLAINANT (indicate Mr. Ms. Mrs.)	**TELEPHONE NUMBER** (include area code)

STREET ADDRESS	**CITY, STATE AND ZIP CODE**	**DATE OF BIRTH**
		MM / DD / YYYY

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)

NAME OF RESPONDENT	**NUMBER OF EMPLOYEES, MEMBERS 15+**	**TELEPHONE NUMBER** (include area code)

STREET ADDRESS	**CITY, STATE AND ZIP CODE**	**COUNTY**

CAUSE OF DISCRIMINATION BASED ON:	**DATE OF DISCRIMINATION EARLIEST (ADEA/EPA) LATEST (ALL)**
	☐ **CONTINUING ACTION**

THE PARTICULARS OF THE CHARGE ARE AS FOLLOWS:

S E E A T T A C H E D

Page 1 of 2

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true. [735 ILCS 5/1-109]

X_____

SIGNATURE OF COMPLAINANT **DATE**

SAMPLE

I. A. ISSUE/BASIS

(Issue/Harm) – ON OR ABOUT (Date), DUE TO MY (Basis)

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

4.

II. A. ISSUE/BASIS

(Issue/Harm) – ON OR ABOUT (Date), DUE TO MY (Basis)

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

4.

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

CHICAGO OFFICE

DEPARTMENT OF HUMAN RIGHTS
555 W. MONROE ST., 7TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 814-6200
(866) 740-3953 (TTY)

SPRINGFIELD OFFICE

DEPARTMENT OF HUMAN RIGHTS
524 S 2ND STREET, STE. 300
SPRINGFIELD, ILLINOIS 62701
(217) 785-5100
(866) 740-3953

CHARGE NO: _____

CONTROL NO: _____

CHARGE OF DISCRIMINATION

COMPLAINANT

Name
Address
City, State ZIP
Telephone Number

I believe that I have been personally aggrieved by a civil rights violation committed on

(Date/s of harm): _____, by:

RESPONDENT

Name
Address
City, State ZIP
Telephone Number

County

S E E A T T A C H E D

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matter the undersigned certifies as aforesaid that the undersigned verily believes the same to be true. [735 ILCS 5/1-109]

_____
Complainant's Signature and Date

RETURN THIS COPY

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF	)	
	)	
SHERMEKA FOUNTAIN	)	
	)	
COMPLAINANT	)	
	)	
AND	)	CHARGE NO.:
	)	
KANKAKEE SCHOOL DIST 111	)	EEOC NO.:
	)	
RESPONDENT	)	
	)	

A P P E A R A N C E

CALVITA J. FREDERICK , hereby enter the
(Name of law firm/attorney/non-attorney representative)

appearance of SHERMEKA FOUNTAIN
(Name of Complainant or Respondent)

and our Appearance as their attorney (or non-attorney representative), and request that copies of all Pleadings, Orders, and other documents be served upon the undersigned for said Party in lieu service upon the Party.

CALVITA J. FREDERICK
PRINT name of attorney/non-attorney representative

CALVITA J. FREDERICK & ASSOCIATES
Firm Name

POST OFFICE BOX 802976
Address

CHICAGO | IL | 60680
City | State | Zip Code

(312) 421-5544
Telephone Number

calvita.frederick@att.net
Email Address

312-277-7190
Fax Number

☒ By checking this box, I consent to service of all pleadings, orders, and other documents by the Department via electronic mail and understand that electronic service to this Email Address is deemed complete upon transmission.

DATED: _____ By: _____
Signature

Rev. 2/2021

10 08 2024 Notes from telephone call with Shemeka Fountain

Telephone call with client (1hour 30 mins) 1.50

Hostile work environment, harassment, she wants board and

Dr. Lance to be on notice, wants a letter sent putting pressure on

Board it is not her goal to be terminated; harassment not to be tolerated.

Tenured staff member 7 years on job; wants to be paid out of contract

Request to go to a meeting tomorrow

10/21/2024 Telephone call with client (7 mins) n/c

She is a tenured staff member and is entitled to certain

Protections under the Illinois School Code; Dr Lance violated

The Il School code as relates to tenured staff; she has a Prof

Education license; look to Illinois School Code and

Kankakee School District 111 Board Policy

12.03.2024 telephone call with Shemeka (30 mins) .50

Shemeka doesn't believe the District is not taking my letter seriously

They sent the letter to their attorney; only 3-4 weeks

Of FMLA left; FMLA paperwork has been received

Therapist referred her to psychiatrist; can't get in for

another appointment: board member died, two are out ill

who are fans of Dr. Lance

12 27 2024 Text messages Xs Telephone call with client 51 mins 1.00

Discussion about requesting information from the district's attorney, including Ms. Fountain's emails, Google drive, shared drive, personnel file. She will draft a list and get back to me. I advised that I did not want to make an incomplete request and have to go back several times. Also advised that I don't believe we have a right to demand the documents. They may refuse. Ms. Fountain advised the District is shut down until January 6, 2024. I advised that all lawyers are not out on vacation and that we need to get the request out asap.

ILLINOIS DEPARTMENT OF
Human Rights

JB Pritzker, Governor
James L. Bennett, Director

Dear Attorney:

This Attorney Packet contains information to assist you in preparing and filing a discrimination charge with the Department of Human Rights ("IDHR"). The U.S. Equal Employment Opportunity Commission ("EEOC") Requires these forms. Your use of these procedures and forms will help IDHR provide you and your client with prompt service.

Charge Requirements:

A charge filed with IDHR must contain the following:

- Complainant's contact information, including full name, address, city, state, ZIP code, and telephone number.
- Respondent's contact information, including full name, address, city, county, state, ZIP code, and telephone number.
- Complainant's specific allegations in prima facie case format, including the alleged harm, date of harm, and the basis of discrimination (see pages 3 and 4 of this packet).
- Per the Human Rights Act, all charges must be signed, dated and verified by certification under Section 1-109 of the Illinois Code of Civil Procedure by Complainant. Complainant's attorney cannot sign the charge on behalf of Complainant.
- If notarized, the notary public must sign and date the charge on the same date as Complainant. The notary public cannot use an embossed seal as a notary stamp. Every notary public must use a rubber stamp seal. These notary procedures must be adhered to or the charge is not valid.
- Please provide IDHR with an appearance form with each original charge filed.

For allegations against multiple Respondents:

IDHR requires separate charges for each Respondent your client alleges has discriminated against him or her. IDHR no longer amends charges. If your client has additional issues or bases, a new charge will be drafted and a new charge number assigned. This ensures that the statutory time limit for IDHR to investigate the allegations filed against each Respondent is calculated properly.

A. Charge Forms:

Complete the appropriate charge form and return to our office with all the necessary elements needed to process your client's charge. When filling the charge, **make sure the date on which the earliest allegation of discrimination took place is within the statutory time frame if not a continuing violation.**

Use the State/Federal EEOC #5 form for all state and federal jurisdiction charges. Use the EEOC #5 form for combined jurisdictions (i.e., race and physical/mental disability). Use IDHR #6 form for charges filed for jurisdictions covered only by the state (i.e., military status, arrest record, marital status, etc.). The second page of the charge form should contain the issue and basis for either the EEOC #5 form or IDHR #6 form.

Do not file the same charge with EEOC. If appropriate, IDHR will cross file the charge with EEOC.

When filing a charge you are required to use the proper form. Please see the attached forms.

B. Format and Content

Please follow the format exactly as follows below. Failure to do so may cause a delay in processing the charge.

I. A. ISSUE/BASIS

Harm (ISSUE), the date of the harm and the relevant category of discrimination (BASIS)

B. PRIMA FACIE ALLEGATIONS

1. Identify how Complainant is a member of a protected group.

2. Indicate the harm and Respondent's reason for taking the adverse action against Complainant. Identify by name, job title, and relevant category, the individual who communicated said reason to Complainant.

3. Identify Respondent's applicable policy or practice and how Complainant was in compliance with the policy or practice, was qualified for the position, or was performing satisfactorily in the position.

4. State how Complainant was treated differently than similarly situated individuals who are not members of the protected group. Identify those individuals by name, title, and relevant category.

For multiple issues: You must repeat the steps indicated above for each issue/harm. You must also match the appropriate basis to each issue. Some examples of the charge format are attached for your review.

Cover Sheets: Please use form EE05 as a cover sheet for all charges that should be cross-filed with EEOC. For all charges that will not be cross-filed with EEOC, please use IDHR form #6. For example, a sexual harassment charge against an individual can only be investigated by IDHR. Therefore, IDHR form #6 is required.

Note: The prima facie allegations for disability, retaliation, and sexual harassment are different than above. Also, note that not every fact in regards to the dealings between the parties should be listed in the charge (those will be dealt with during the charge investigation). Every charge should only have the 4 or 5 prima facie allegations as illustrated in samples provided.

Drafting the charge as described above will assist IDHR in investigating the charge more expeditiously and thoroughly. All charges to be filed MUST be sent directly to: **INTAKE UNIT,** Department of Human Rights, 555 West Monroe Street, 7th Floor, Chicago, IL 60661 or emailed to IDHR.Intake@illinois.gov (Please only send via one of the methods above as to not create duplicate charges).

For additional information regarding filing a discrimination charge under the Illinois Human Rights Act, please refer to the IDHR website: www.illinois.gov/dhr. If you have additional questions, feel free to contact the Intake Unit at IDHR.Intake@illinois.gov.

EXAMPLES

I. A. ISSUES/BASIS

Discharge - July 20, 2020, because of my race, black.

B. PRIMA FACIE ALLEGATIONS

1. My race is black.

2. I was discharged on July 20, 2020. The reason given by Shirley Pine (non-Black), Supervisor, for the discharge was poor performance.

3. I performed my job duties in a satisfactory manner. I began my employment with Respondent on May 1, 2019.

4. My performance was as good as that of Tina New (non-Black), who was not discharged under similar circumstances.

II. A. ISSUE/BASIS

Discharge - July 20, 2020, because of my physical disability, diabetes.

B. PRIMA FACIE ALLEGATIONS

1. I am an individual with a disability within the meaning of Section 1-103(I) of the Human Rights Act.

2. Respondent has been aware of my disability since November 2019, when it was diagnosed.

3. I was discharged by my Supervisor, Shirley Pine (disability unknown), due to alleged poor performance.

4. My disability is unrelated to my ability to perform my job duties.

EXAMPLES

I. A. ISSUES/BASIS

Sexual Harassment - June 2019 until July 14, 2020.

B. PRIMA FACIE ALLEGATIONS

1. From June 2019 until July 14, 2020, I was subjected to sexual harassment by William Hart, Supervisor. The sexual harassment consisted of sexually offensive questions about my sexual habits and sexual jokes on a daily basis, and inappropriate touching by Hart on a weekly basis.

2. I found the harassment offensive and I rejected the advances.

3. I reported the harassment to Human Resources in November 2019 and January 2020, however, the sexual harassment continued.

4. The sexually offensive conduct created a hostile and intimidating work environment for me and interfered with my ability to do my job.

II. A. ISSUE/BASIS

Discharge - July 17, 2020, in Retaliation for filing an internal complaint of discrimination with Respondent.

B. PRIMA FACIE ALLEGATIONS

1. In November 2019, I reported sexual harassment by Hart to Human Resources. In January 2018, I reported the sexual harassment to Cindy Benson, Director of Human Resources.

2. On July 17, 2020, I was discharged by Michael Hart, Supervisor. The reason given for the discharge was alleged insubordination. I have never been insubordinate to anyone.

3. The discharge followed my last complaint of discrimination within a short period of time, thereby raising an inference of retaliatory motivation.

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

IN THE MATTER OF	)	
	)	
SHERMEKA FOUNTAIN	)	
	)	
COMPLAINANT	)	
	)	
AND	)	CHARGE NO.:
	)	
KANKAKEE SCHOOL DISTRICT 111	)	EEOC NO.:
	)	
RESPONDENT	)	

A P P E A R A N C E

CALVITA J. FREDERICK , hereby enter the
(Name of law firm/attorney/non-attorney representative)

appearance of SHERMEKA FOUNTAIN
(Name of Complainant or Respondent)

and our Appearance as their attorney (or non-attorney representative), and request that copies of all Pleadings, Orders, and other documents be served upon the undersigned for said Party in lieu service upon the Party.

CALVIATA J. FREDERICK
PRINT name of attorney/non-attorney representative

CALVITA J. FREDERICK & ASSOCIATES
Firm Name

PO BOX 802976
Address

CHICAGO | IL | 60680
City | State | Zip Code

312-421-5544
Telephone Number

calvita.frederick@att.net
Email Address

312-421-5544
Fax Number

☐ By checking this box, I consent to service of all pleadings, orders, and other documents by the Department via electronic mail and understand that electronic service to this Email Address is deemed complete upon transmission.

DATED: _____ By: _____
Signature

Rev. 4/2022

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974: See Privacy act statement before completing this form.

#

AGENCY
☒ IDHR
☐ EEOC

CHARGE NUMBER

Illinois Department of Human Rights and EEOC

NAME OF COMPLAINANT (indicate Mr. Ms. Mrs.)
SHERMEKA FOUNTAIN

TELEPHONE NUMBER (include area code)

STREET ADDRESS | **CITY, STATE AND ZIP CODE** | **DATE OF BIRTH**
514 BETTY LANE | SOUTH HOLLAND, IL. 60473 | 07/07/1975
MM / DD / YYYY

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW)

NAME OF RESPONDENT
KANKAKEE SCHOOL DISTRICT 111

NUMBER OF EMPLOYEES, MEMBERS 15+ 15

TELEPHONE NUMBER (include area code)
815- 802-7700

STREET ADDRESS | **CITY, STATE AND ZIP CODE** | **COUNTY**
240 WARREN AVE KANKAKEE, IL 60901

CAUSE OF DISCRIMINATION BASED ON:
RETALIATION OPPOSSING UNLAWFUL DISCRIMINATION/SEXUAL HARASSMENT

DATE OF DISCRIMINATION
EARLIEST (ADEA/EPA) LATEST (ALL)

☐ **CONTINUING ACTION**

THE PARTICULARS OF THE CHARGE ARE AS FOLLOWS:

S E E A T T A C H E D

I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that the undersigned verily believes the same to be true. [735 ILCS 5/1-109]

X_____
SIGNATURE OF COMPLAINANT **DATE**

SAMPLE

I. A. ISSUE/BASIS

(Issue/Harm) – ON OR ABOUT (Date), DUE TO MY (Basis)

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

4.

II. A. ISSUE/BASIS

(Issue/Harm) – ON OR ABOUT (Date), DUE TO MY (Basis)

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

4.

STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS

CHICAGO OFFICE

DEPARTMENT OF HUMAN RIGHTS
555 W. MONROE ST., 7TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 814-6200
(866) 740-3953 (TTY)

SPRINGFIELD OFFICE

DEPARTMENT OF HUMAN RIGHTS
524 S 2ND STREET, STE. 300
SPRINGFIELD, ILLINOIS 62701
(217) 785-5100
(866) 740-3953

CHARGE NO: _____

CONTROL NO: _____

CHARGE OF DISCRIMINATION

COMPLAINANT

Name SHERMEKA FOUNTAIN
Address 514 BETTY LANE
City, State ZIP SOUTH HOLLAND IL. 60473
Telephone Number 708-212-6105

I believe that I have been personally aggrieved by a civil rights violation committed on

(Date/s of harm): 09/10/2024 **, by:**

RESPONDENT

Name DR. TERESA LANCE/ KANKAKEE SCHOOL DISTRICT 11
Address 240 WARREN AVAE
City, State ZIP KANKAKEE IL 60901
Telephone Number 815-802-7700

County KANKAKEE

S E E A T T A C H E D

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matter the undersigned certifies as aforesaid that the undersigned verily believes the same to be true. [735 ILCS 5/1-109]

_____

Complainant's Signature and Date

RETURN THIS COPY

Charge Number:

Complainant: SHERMEKA FOUNTAIN

I. A. ISSUE/BASIS
Retaliation for Opposing Unlawful discrimination

(Issue/Harm) – ON OR ABOUT (Date), DUE TO MY (Basis)

B. PRIMA FACIE ALLEGATIONS

1. I was asked to place Mr. Gilbert on Administrative Leave based upon alleged incidents that occurred in the past school year

2. One incident alleged Mr. Gilber did not follow job expectations

3. Another incident alleged improper behavior with a student with cerebral palsy

4. Administration failed to follow contract guidelines for due process

5. I complained that Mr. Gilbert was denied due process

6. I was placed on administrative leave

II. A. ISSUE/BASIS

Termination for Opposing Unlawful Discrimination

(Issue/Harm) – ON OR ABOUT (December 6, 2024), DUE TO MY (Termination for Opposing Unlawful Discrimination)

B. PRIMA FACIE ALLEGATIONS

1. I was asked to place Mr. Gilbert on Administrative Leave based upon alleged incidents that occurred in the past school year

2. One incident alleged Mr. Gilber did not follow job expectations

3. Another incident alleged improper behavior with a student with cerebral palsy

4. Administration failed to follow contract guidelines for due process

5. I complained that Mr. Gilbert was denied due process

6. I was placed on administrative leave

III. A. ISSUE/BASIS

Sexual Harassment

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

IV. A. ISSUE/BASIS

Hostile Work Environment

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

V. A. ISSUE/BASIS

Hostile Work Environment

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

IV. A. ISSUE/BASIS

Discrimination based upon Disability (Diabetes)

B. PRIMA FACIE ALLEGATIONS

1.

2.

3.

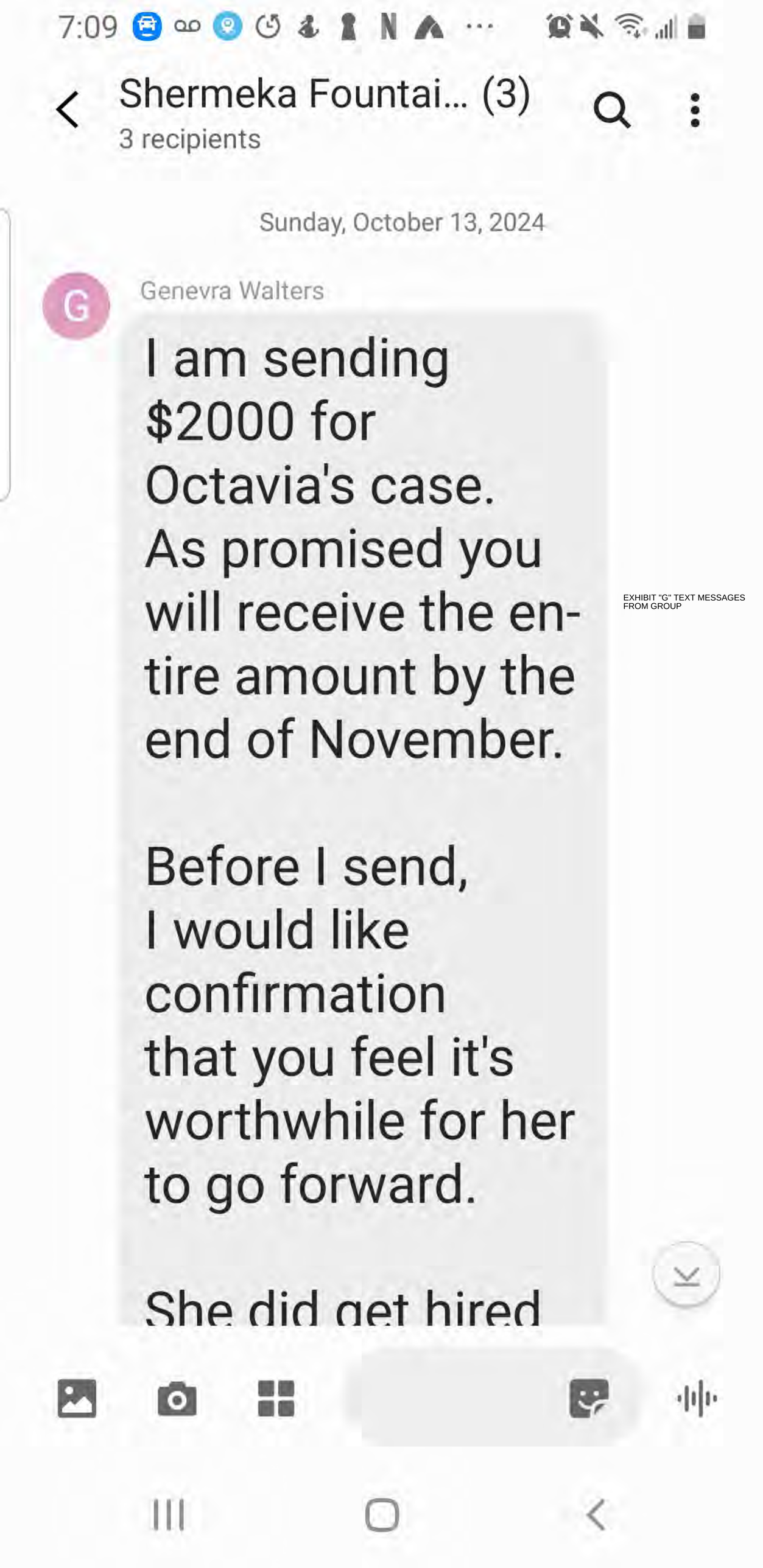


EXHIBIT "G" TEXT MESSAGES FROM GROUP

Before I send,
I would like
confirmation
that you feel it's
worthwhile for her
to go forward.

She did get hired
and is currently
working.

Octavia is
included in this
thread.

MMS
10:10 AM

Tuesday, October 15, 2024

Good morning.

Me
9:39 AM, Oct 15

(No subject)

Good morning.
You contacted me asking for representation for a multi-plaintiff action to be brought against the Kankakee School Board. We met as a group and evaluated 3 cases.
I advised that each case strengthened the others. We signed 3 agreements.
The EEOC and IDHR always inquire about other people similarly situated, who were also discriminated against by the same employer.
All cases are not equal, rather they show a pattern or practice of discrimination.
My position has not changed.

Genevra Walters

I originally contacted you about several people. They have decided that they do not have the $15,000 to par-ticipate. I will be paying Octavia's part. But because of tort immunity in schools, I do not have a case.

MMS
10:00 AM

Genevra Walters

I am sending money for

G

Genevra Walters

I am sending money for Octavia. Can you please tell me which account to send it to.

MMS
10:04 AM

GM Dr. Walters
I cannot comment on your case because we never had the detailed discussion, contemplatednor was I ever provided documents related to your seperation

Ringtone



(No subject)

GM Dr. Walters
I cannot comment on your case because we never had the detailed discussion, contemplat-ednor was I ever provided documents related to your seperation from employment.
I do seem to recall the potential for several different causes of action, including retaliation, that fit within the context of employment discrimination.
Libel/slander did come up at the end of our meeting but was not the only coa and was not in my opinion the only way to interpret the comments made at the public meeting or the Facebook postings.



Copy text



Share







Genevra Walters

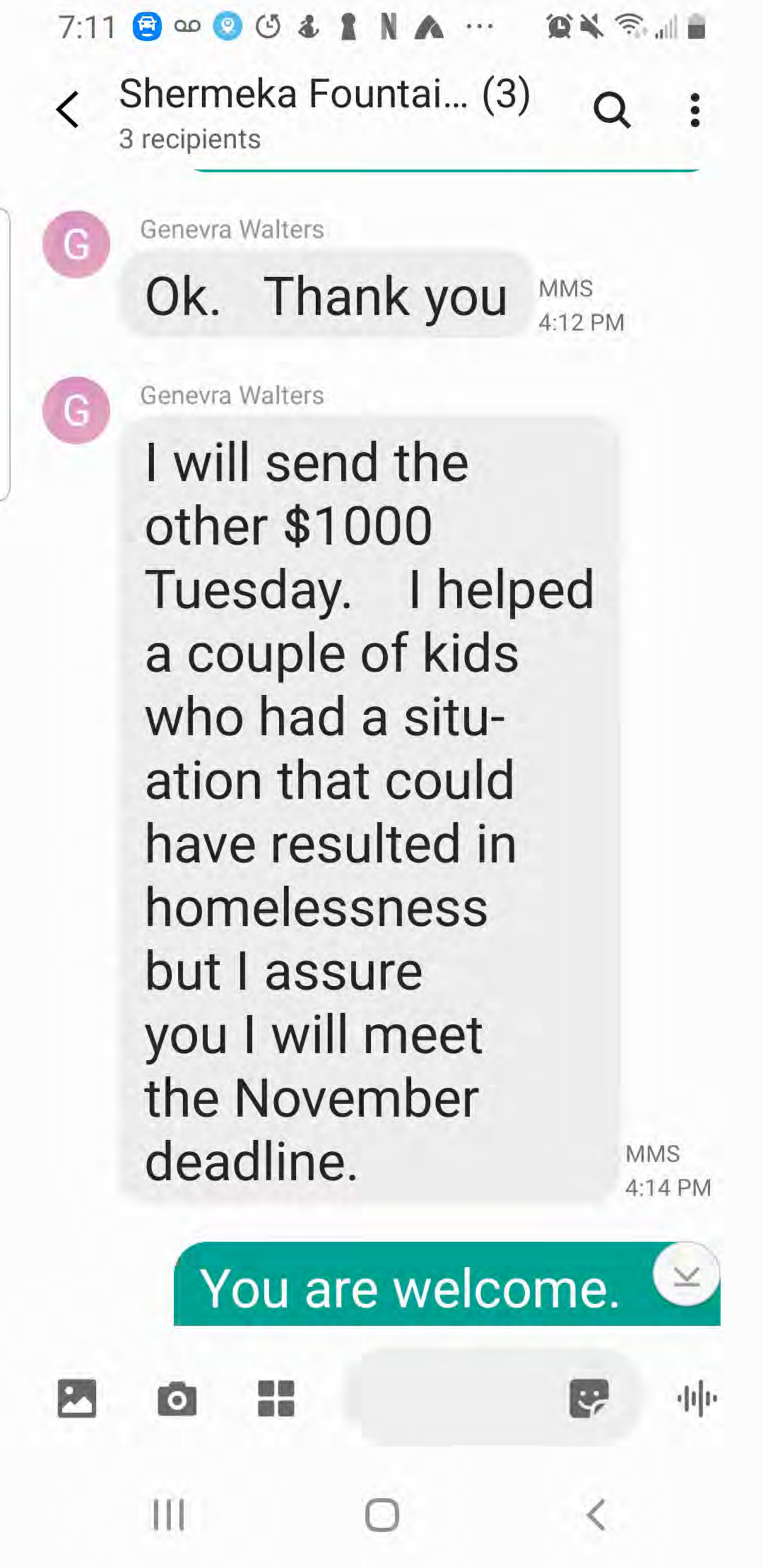
I sent $1000 until next week. My deadline is November 30th.

MMS
2:29 PM

I point it out be-cause your text from Sunday said you were sending $2000. Lest there be confusion between what you said you were sending and what was received . Thanks

MMS
4:12 PM

Genevra Walters


7:11
Shermeka Fountai... (3)
3 recipients
Genevra Walters
Ok. Thank you
MMS
4:12 PM
Genevra Walters
I will send the other $1000 Tuesday. I helped a couple of kids who had a situ-ation that could have resulted in homelessness but I assure you I will meet the November deadline.
MMS
4:14 PM
You are welcome.

deadline.

MMS
4:14 PM

You are welcome.
No problem.
Thank you

MMS
4:16 PM

Tuesday, October 22, 2024

G

Genevra Walters

Octavia,

We have a cam-
paign location.
It's huge. Will
you be willing to
work with us as an
event planner and
decorator?

MMS
7:56 AM

1:48

New conversation

+17089320034

Genevra Walters

Recipient

G Ok 2:24 PM

G We will finish eating. We are 5 mins away. 3:15 PM

3:15 PM Exiting at Monee Manhattan rode. 6 minutes away



531KB

1:48

New conversation
+17089320034

Genevra Walters

Recipient

Thursday, September 19, 2024

Tariq
+17735440201
MMS

He said to call him. He is willing to talk with you.
11:28 AM

6:24 PM
Just saw this

Friday, September 20, 2024

Please call me asap



531KB

6:42

Genevra Walters
+17089320034

money yet.
6:58 PM

Delivered
7:11 PM
Ok thanks

Thursday, December 12, 2024

Delivered
11:49 AM
Are you available to talk now?

G
No. I am working.
11:52 AM

Delivered
11:53 AM
Ok. When can you talk today please?



531KB

6:44

Genevra Walters
+17089320034

Delivered
7:08 PM

Thank you

Wednesday, December 11, 2024

Delivered
6:52 PM

Were you able to call please?

G

Lincoln investment does not have the money yet.

6:58 PM

Delivered
7:11 PM

Ok thanks

Thursday, December 12, 2024



531KB

G Ok 4:41 PM

Tuesday, December 10, 2024

G The check will be issued to Lincoln investment. Now I will call to see when they will release the portion that comes directly to me. 7:24 AM

Delivered 7:08 PM Thank yo



531KB

4:38 PM

Have you arrived?

G

I am not able to make it. I sent a text. On the phone with the state trying to get a file uploaded

On the phone with the state

4:39 PM

Oh wow. No text came through. No



531KB

4:38 PM

Have you arrived?

G

I am not able to make it. I sent a text. On the phone with the state trying to get a file uploaded

On the phone with the state

4:39 PM

Oh wow. No text came through. No



531KB

6:44

Genevra Walters
+17089320034

On the phone with the state

4:39 PM

Oh wow. No text came through. No problem . We are an meet when you return

4:41 PM

G

Ok

4:41 PM

Tuesday, December 10, 2024

G

The check will be issued to Lincoln



531KB

6:56 AM Thank you

G I would like to talk soon. 7:01 AM

7:24 AM Me too. I can talk Friday or Saturday?

G Ok. Friday is good 7:43 AM

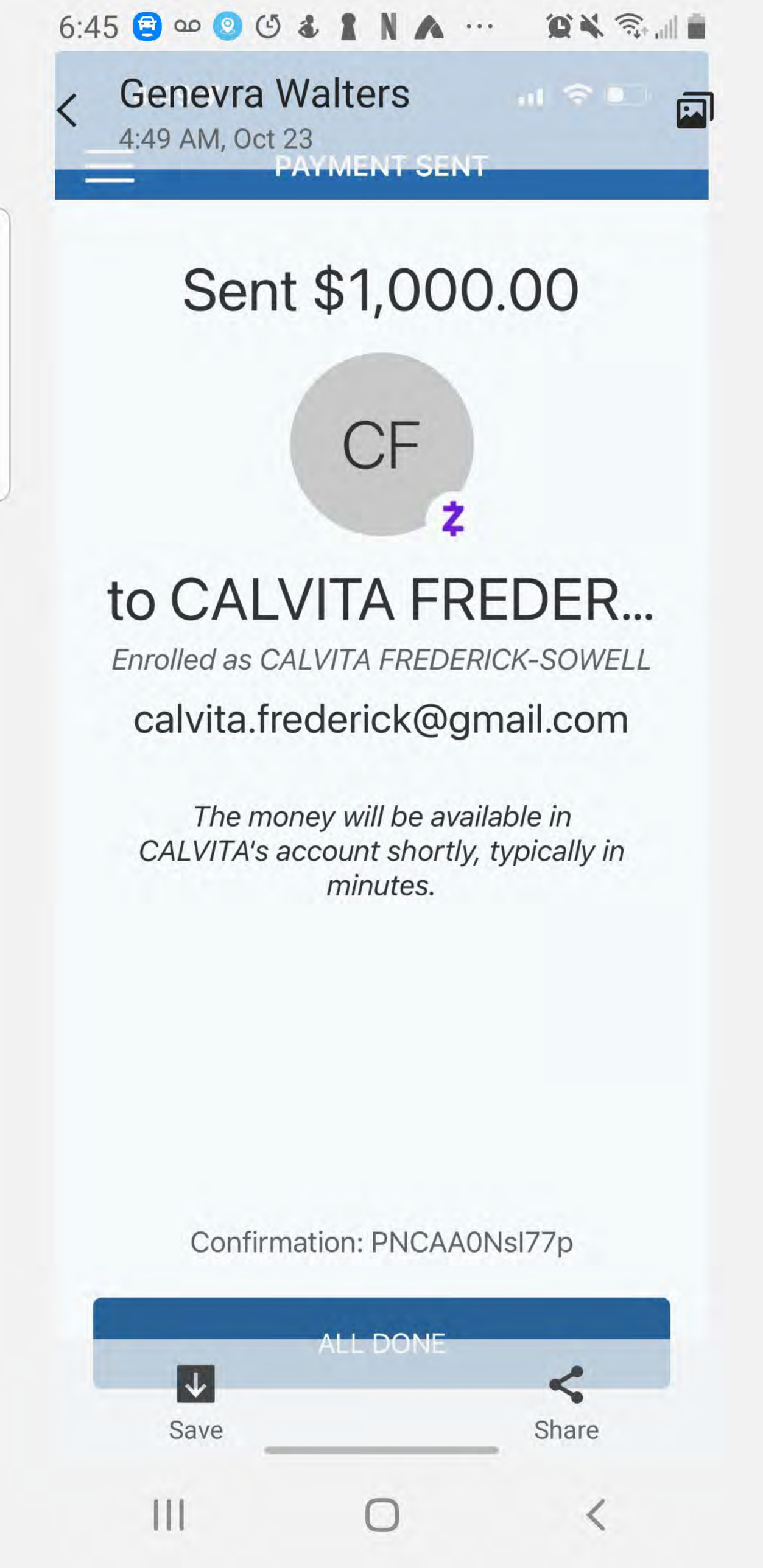
Thursday, October 31, 2024

4:38 PM Have you arrived

Type text here



531KB


6:45
Genevra Walters
4:49 AM, Oct 23
PAYMENT SENT
Sent $1,000.00
CF
to CALVITA FREDER...
Enrolled as CALVITA FREDERICK-SOWELL
calvita.frederick@gmail.com
The money will be available in CALVITA's account shortly, typically in minutes.
Confirmation: PNCAA0NsI77p
ALL DONE
Save
Share

Hello Dr. Walters. Please confirm that the letter sent to you and Ms. Smith via email, is OK to send to Dr. Lance and the board.
Thank you.
Calvita Frederick

12:43 PM

G

Talked with Octavia. She said it's ok

12:5



531KB

6:46

Genevra Walters
+17089320034

Hi Dr Walters
So sorry I missed the payment.
Thanks for your diligence and committment to this cause.

10:29 AM

G You are welcome

10:30 AM

Tuesday, September 24, 2024

G Shemeka and I are in a meeting.



531KB

10:29 AM

commitment to this cause.

G

You are welcome

10:30 AM

Tuesday, September 24, 2024

G

Shemeka and I are in a meeting. Can we call back around 8 pm?

7:35 PM

Ok

7:36 PM

Monday, October 21, 2024



531KB

6:46

Genevra Walters
+17089320034

Friday, September 20, 2024

9:41 AM **Please call ne asap**

G **Ok. Will be a few More minutes** 9:43 AM

9:43 AM **Ok**

G

ENT 09/18/20

CF CALVITA FREDERICK-SOWELL $2,000.0
calvita.frederick@gmail.com

Confirmation: PNCAA0NKI29F

MMS 10:02 AM

Hi Dr Walters



531KB

So sorry. In route but running very behind

2:23 PM

G

Ok

2:24 PM

G

We will finish eating. We are 5 mins away.

3:15 PM

Exiting at Monee Manhattan rode. 6 minutes away

3:15 PM



531KB

Ringtone

G

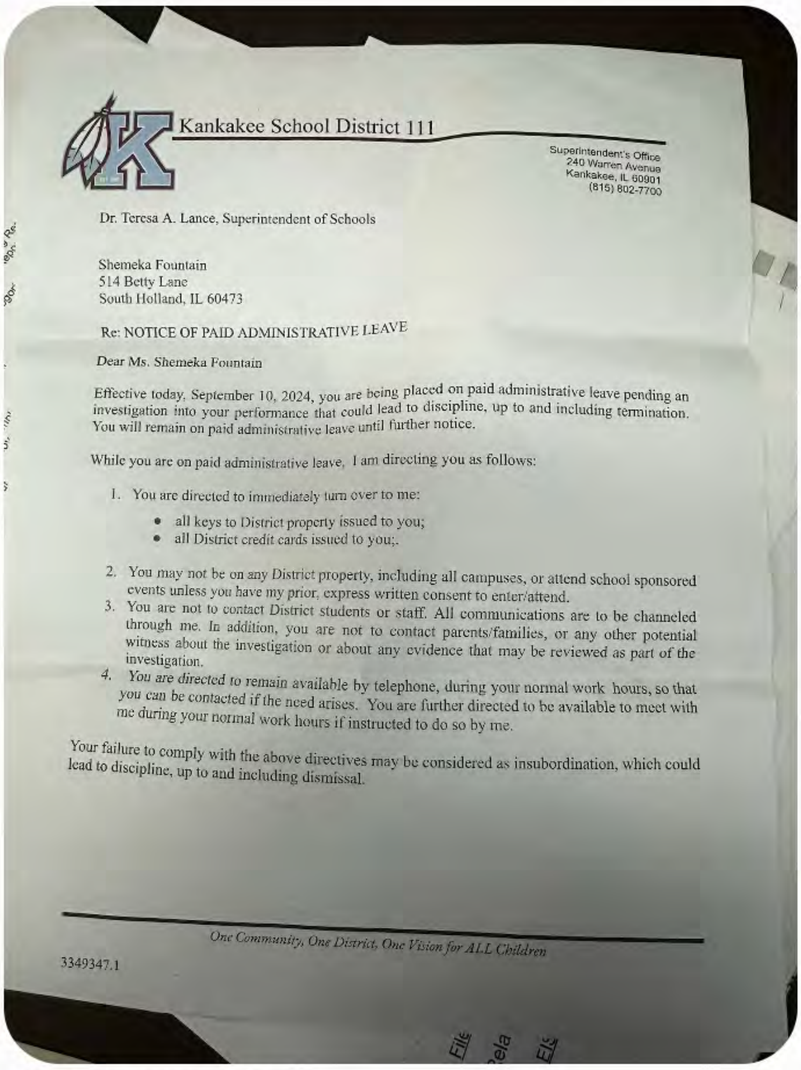
I am working on sending you a an email with everything. There are no timelines because they did not follow board policy.

Shemeka wants to speak at next board meeting. We want you



531KB

Genevra Walters
+17089320034



Kankakee School District 111

Superintendent's Office
240 Warren Avenue
Kankakee, IL 60901
(815) 802-7700

Dr. Teresa A. Lance, Superintendent of Schools

Shemeka Fountain
514 Betty Lane
South Holland, IL 60473

Re: NOTICE OF PAID ADMINISTRATIVE LEAVE

Dear Ms. Shemeka Fountain

Effective today, September 10, 2024, you are being placed on paid administrative leave pending an investigation into your performance that could lead to discipline, up to and including termination. You will remain on paid administrative leave until further notice.

While you are on paid administrative leave, I am directing you as follows:

1. You are directed to immediately turn over to me:
   - all keys to District property issued to you;
   - all District credit cards issued to you;.
2. You may not be on any District property, including all campuses, or attend school sponsored events unless you have my prior, express written consent to enter/attend.
3. You are not to contact District students or staff. All communications are to be channeled through me. In addition, you are not to contact parents/families, or any other potential witness about the investigation or about any evidence that may be reviewed as part of the investigation.
4. You are directed to remain available by telephone, during your normal work hours, so that you can be contacted if the need arises. You are further directed to be available to meet with me during your normal work hours if instructed to do so by me.

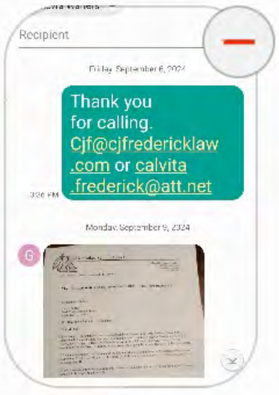
Your failure to comply with the above directives may be considered as insubordination, which could lead to discipline, up to and including dismissal.

One Community, One District, One Vision for ALL Children

3349347.1

MMS 11:51 AM

I'm at a funeral.
I can call in an



531KB

G

Perfect. We have three: Octavia, Shemeka and Menzies. I may also want to talk with you about whether or not I should join the group as well.

What time?

11:35 AM

What works for



531KB

What works for yous? 2 pm? I will check with Pastor Hunt. I must be done by 6 pm and I anticipate 2 hours or so.

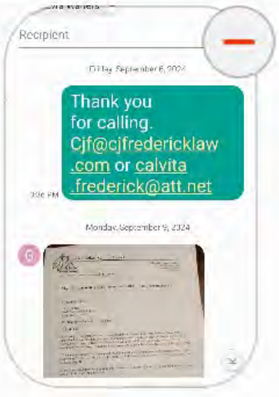
11:37 AM

G

2:30 pm would be ideal

11:38 AM

Ok I will check and confirm. Have all



531KB

Ok I will check and confirm. Have all information and time lines been sent to me via email so that I may be as ready as possible? Thank you.

11:42 AM

G

I am working on sending you a an email with everything. There are no timelines



531KB

G

I am working on sending you a an email with everything. There are no timelines because they did not follow board policy.

Shemeka wants to speak at next board meeting. We want you



531KB

Ringtone

We support Kankakee teachers
19h ·

Nothing says “we’re innocent” more than posting this right after SF was escorted out of the district and reported to the ringl... See more

5m ·

Look who showed up today ❣️ God is in control ❣️ ❣️



Like Comment Send

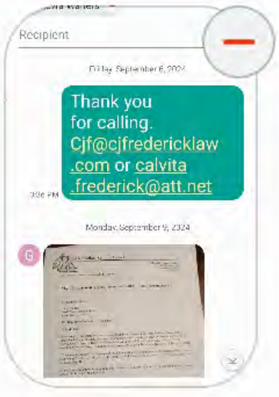
16 1 comment

Like Comment Send Share

MMS 12:57 PM

Saturday, September 14, 2024

Just advising that I



531KB

Genevra Walters
+17089320034



MMS

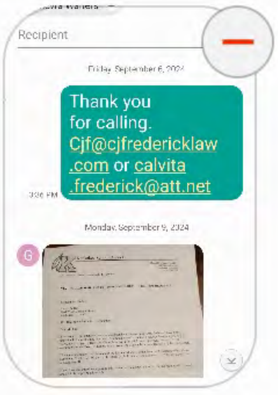
We support Kankakee teachers
19h ·

Nothing says “we’re innocent” more than posting this right after SF was escorted out of the district and reported to the ringl... See more

5m ·

Look who showed up today ❣️ God is in control ❣️ ❣️





531KB

6:50

Genevra Walters
+17089320034

Do we have enough for an OCR complaint?

8:44 AM

One second

9:34 AM

Shemeka will have $5000 by Tuesday. We will call Menzies as well.

11:33 AM

Wednesday, September 11, 2024

We support Kankakee teachers
Stories · 18h



531KB

6:50

Genevra Walters
+17089320034

MMS 2:44 PM

Menzies was fired and Octavia was not hired with no explanation.

Ms. Clark was never officially terminated through the board

10:22 PM

Tuesday, September 10, 2024

Do we have



531KB

6:50

Genevra Walters
2:44 PM, Sep 9

9:34 5G

Candidate for hire

Dr. Teresa Lance 9:19 AM
To: Me & 3 more

Dear Ms. Smith,
I am in receipt of your email forwarded to me by Ms. Fountain. I need to look into a few things and confer with my employer, the Board of Education. Once I do that, you will hear back from me or a designee. At this time, there is nothing further you need to do. Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

Thank you.

Received, thank you.

Got it.

Save

Share

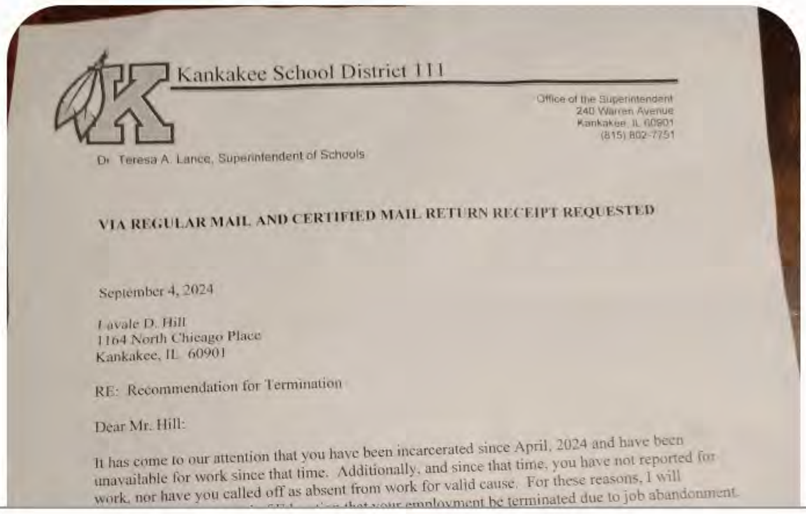
Friday, September 6, 2024

Thank you for calling. Cjf@cjfredericklaw.com or calvita.frederick@att.net

3:36 PM

Monday, September 9, 2024

G



Kankakee School District 111

Office of the Superintendent
240 Warren Avenue
Kankakee, IL 60901
(815) 802-7751

Dr. Teresa A. Lance, Superintendent of Schools

VIA REGULAR MAIL AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

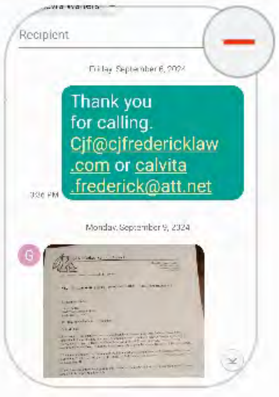
September 4, 2024

Lavale D. Hill
1164 North Chicago Place
Kankakee, IL 60901

RE: Recommendation for Termination

Dear Mr. Hill:

It has come to our attention that you have been incarcerated since April, 2024 and have been unavailable for work since that time. Additionally, and since that time, you have not reported for work, nor have you called off as absent from work for valid cause. For these reasons, I will



531KB

Me
4:56 PM, Sep 28

You are altering the agreement, but that is fine. I am working on the letter and expect a draft will be ready next week.
As we discussed, each of the cases strengthen each other. I am hoping Dr Walters will reconsider her withdrawal. Anything that you can do to make that happen is appreciated.
Thanks

now.

5:03 PM

S

I zelled you 1400.00. I will zelle you $600.00 Monday. I have a limit on my zelle. Can you let me know if you received it.

5:27 PM

Read
5:29 PM

Understood. I received the $1400. Thank you

S

Your welcome. Thank you

5:30 PM

Wednesday, October 2, 2024

Monday, October 7, 2024

S

Hello, I was checking on the status of the letter to the district

10:00 AM

GM I am working on the letter. I will send you a draft as soon as it is ready. Is there an update from your meeting?

Read
10:47 AM

S

No she still has me out. I believe they meet next week. I think the

S

No she still has me out. I believe they meet next week. I think the letter would put some pressure on them.

10:48 AM

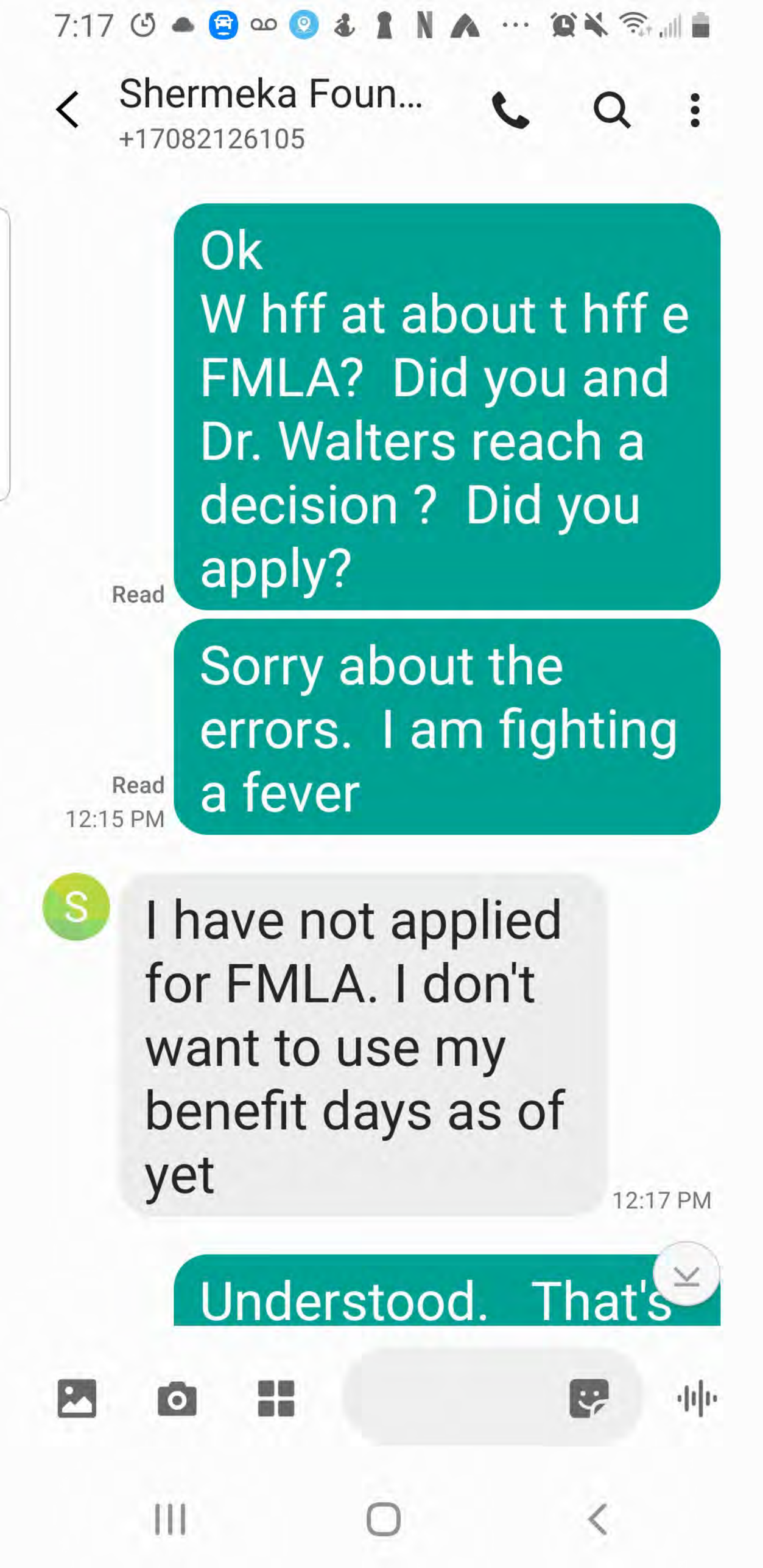
Did you meet with her?

Read
11:17 AM

S

Yes it was a 10 minute conversation with no outcomes or explanations

11:45 AM


7:17
Shermeka Foun...
+17082126105
Ok
W hff at about t hff e FMLA? Did you and Dr. Walters reach a decision ? Did you apply?
Read
Sorry about the errors. I am fighting a fever
Read
12:15 PM
S
I have not applied for FMLA. I don't want to use my benefit days as of yet
12:17 PM
Understood. That's

Understood. That's best as long as you are on paid leave.

Read
12:17 PM

Tuesday, October 8, 2024

S

Dr. Lance contacted me and would like to meet with me to go over her findings and next steps. I believe I need my attorney present.

9:24 AM

Wednesday, October 16, 2024

S

Hello can I call you

S

Good morning just wanted to check the status of the letter to the district and where we could meet for the remaining balance

8:56 AM

I am finishing my document due yesterday and expect to return to the letter around noon.
Do you have any plans to come to the city today?

Read
10:40 AM

Read
12:27 PM

Great

Monday, October 21, 2024

S

Good morning do you know approx-imately what time the letter will go to the district?

10:40 AM

Waiting on Dr Walters and Ms Smith to say Ok. Letter is ready. I am preparing the email now.
Can you rattle them?

Read
12:47 PM

S Ok 12:50 PM

Wednesday, October 30, 2024

S Hello, Have we heard anything from the district? If not what are the next steps. I think they think I'm just going to let it go. 9:37 AM

Thursday, October 31, 2024

Not yet. We need to give them a minute. No they know you hired a lawyer. They know that you are

Thursday, October 31, 2024

Not yet. We need to give them a minute. No they know you hired a lawyer. They know that you are serious. They are trying to figure out their next move. Be patient

Read
1:02 PM

Tuesday, November 12, 2024

S

Good morning what are the next steps for my law-suit against the school district?

10:57 AM

Friday, November 29, 2024

S Hello are you available to talk?

10:26 AM

Read
11:35 AM
Now

S Yes can you talk with Dr. Walters and I

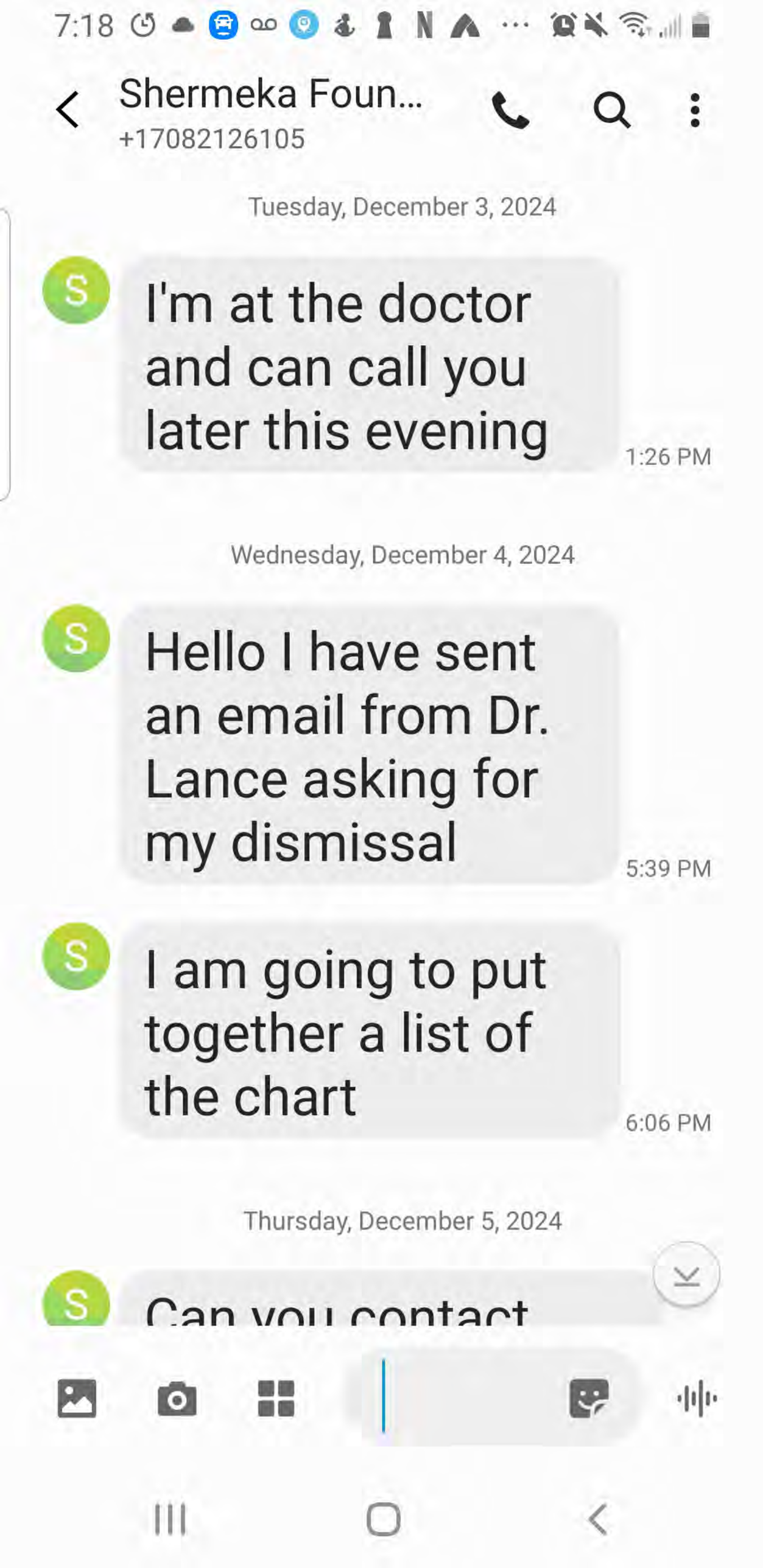
Or what would be a good time?

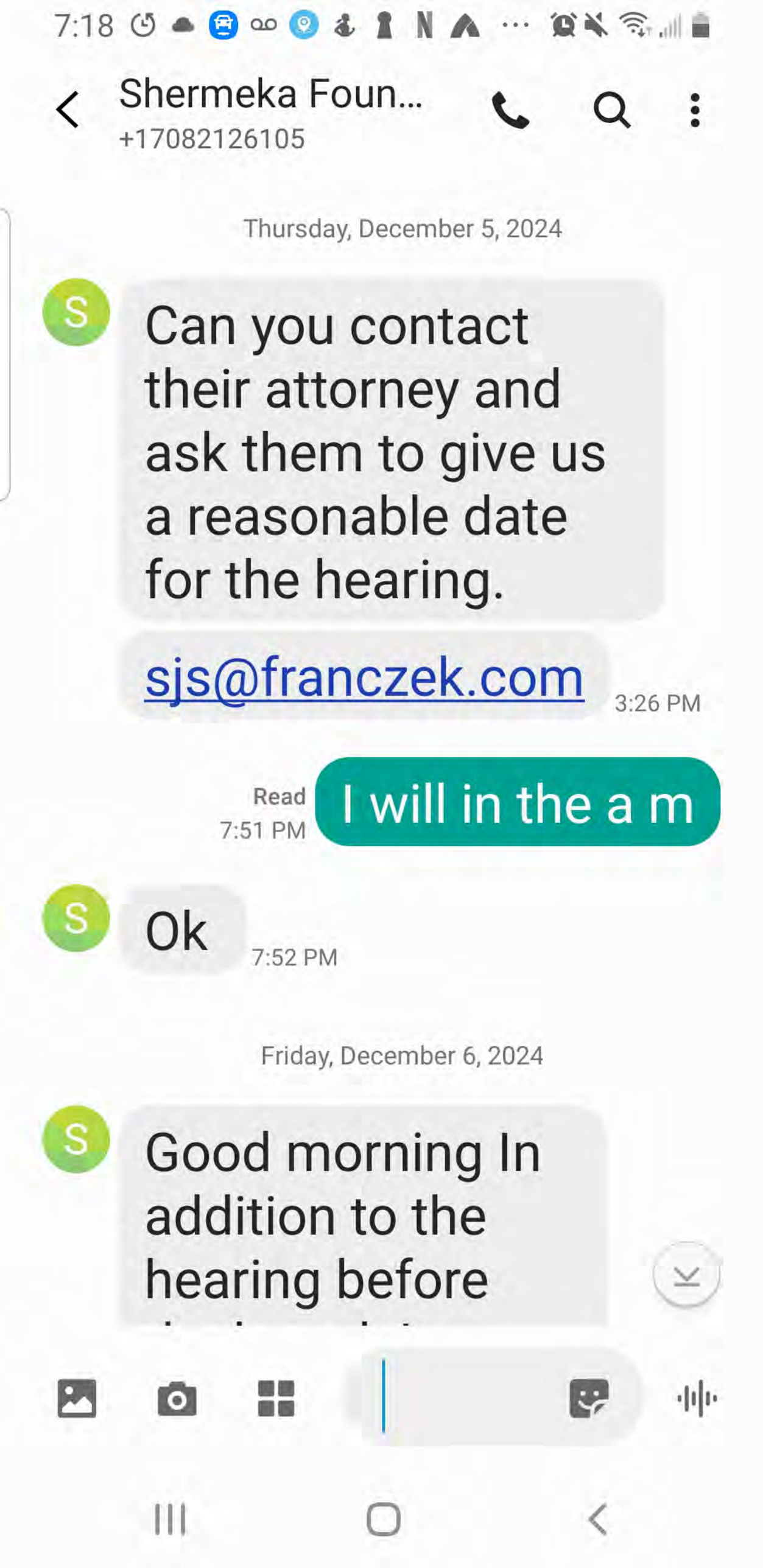
11:36 AM

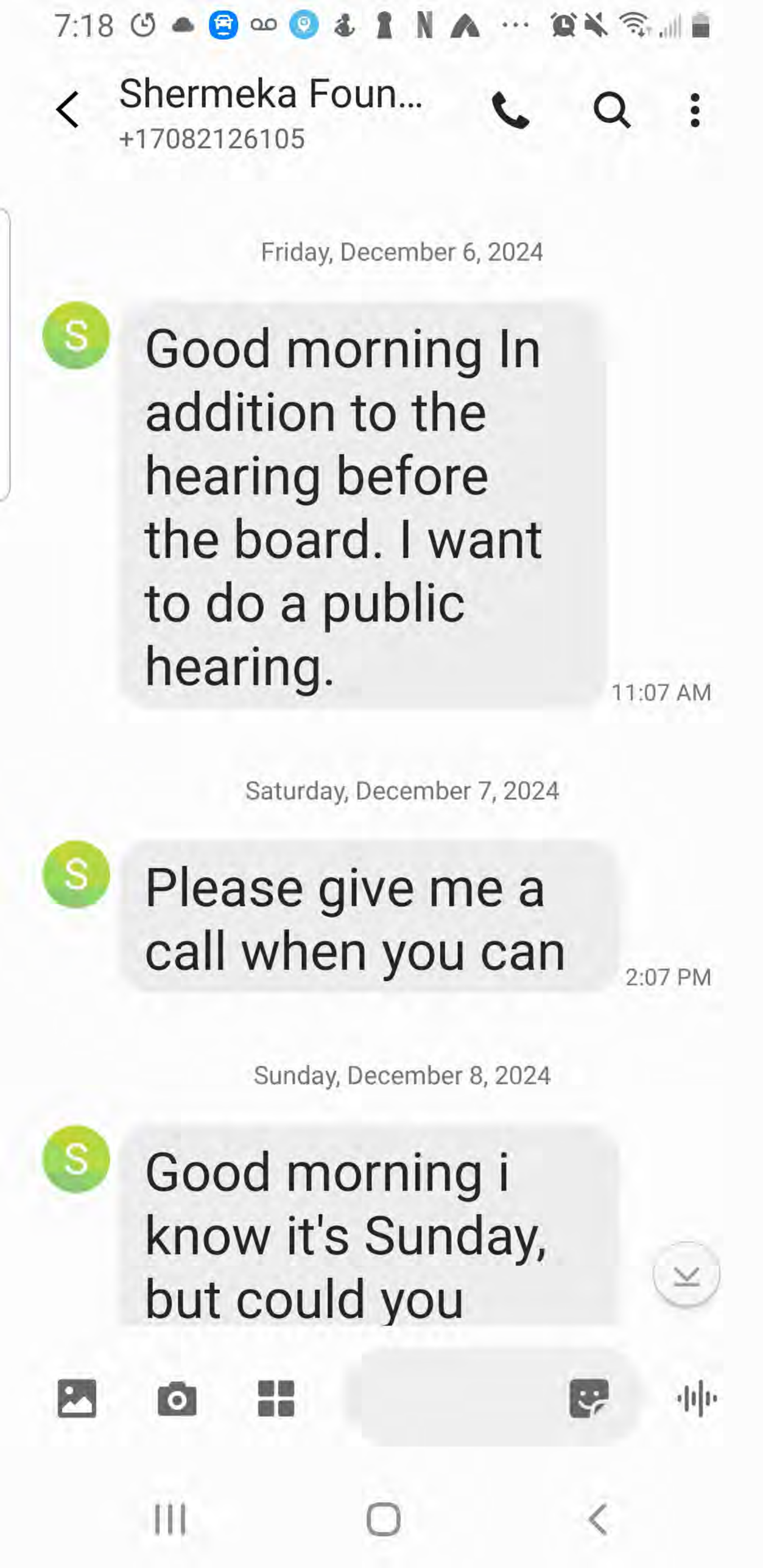
Read
11:36 AM
Now

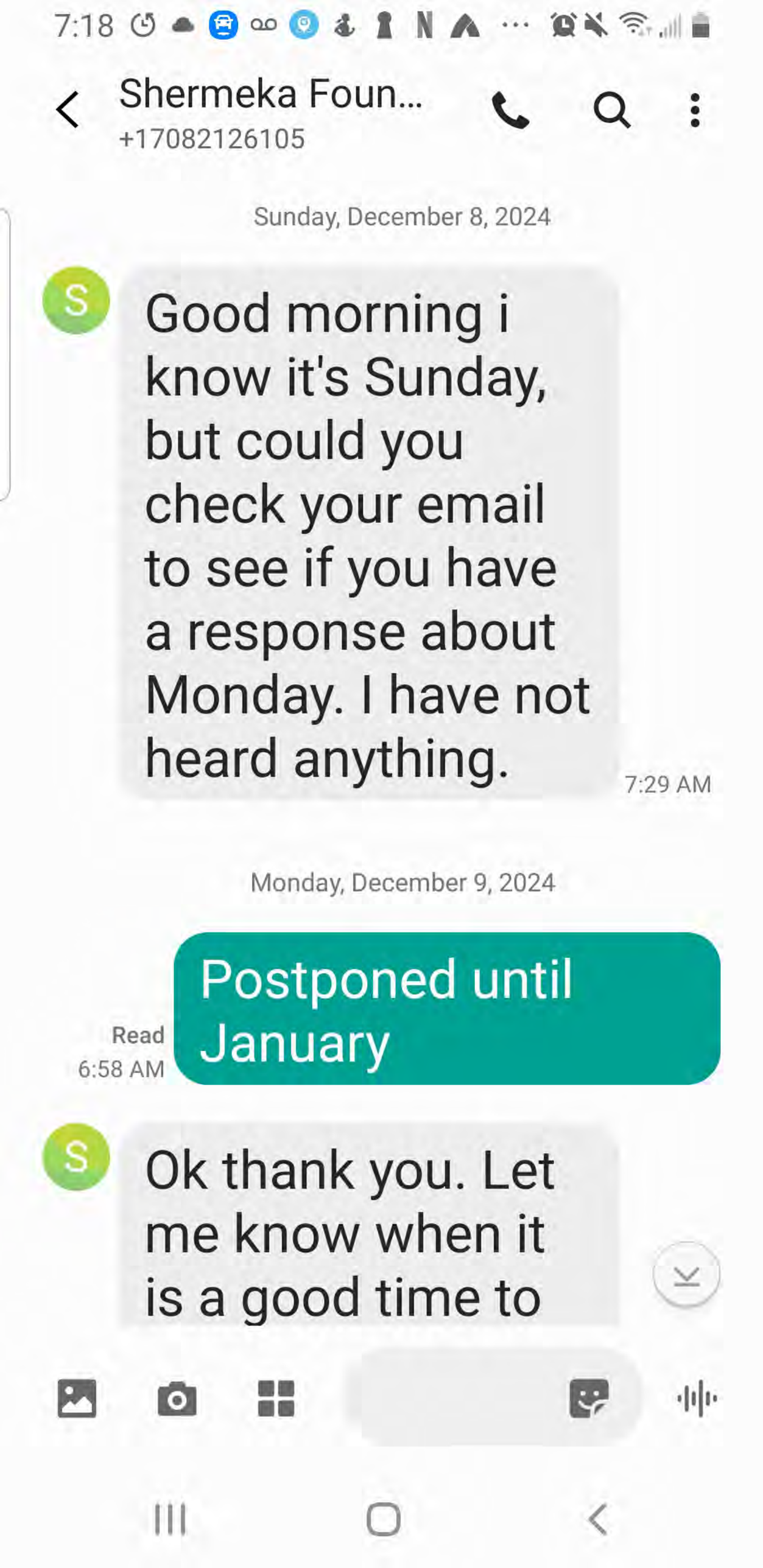
Tuesday, December 3, 2024

S I'm at the doctor


7:18
Shermeka Foun...
+17082126105
Tuesday, December 3, 2024
I'm at the doctor and can call you later this evening
1:26 PM
Wednesday, December 4, 2024
Hello I have sent an email from Dr. Lance asking for my dismissal
5:39 PM
I am going to put together a list of the chart
6:06 PM
Thursday, December 5, 2024
Can you contact


7:18
Shermeka Foun...
+17082126105
Thursday, December 5, 2024
Can you contact their attorney and ask them to give us a reasonable date for the hearing.
sjs@franczek.com
3:26 PM
Read
7:51 PM
I will in the a m
Ok
7:52 PM
Friday, December 6, 2024
Good morning In addition to the hearing before


7:18
Shermeka Foun...
+17082126105
Friday, December 6, 2024
S
Good morning In addition to the hearing before the board. I want to do a public hearing.
11:07 AM
Saturday, December 7, 2024
S
Please give me a call when you can
2:07 PM
Sunday, December 8, 2024
S
Good morning i know it's Sunday, but could you


7:18
Shermeka Foun...
+17082126105
Sunday, December 8, 2024
S
Good morning i know it's Sunday, but could you check your email to see if you have a response about Monday. I have not heard anything.
7:29 AM
Monday, December 9, 2024
Read
6:58 AM
Postponed until January
S
Ok thank you. Let me know when it is a good time to

S

Ok thank you. Let me know when it is a good time to talk today.

7:01 AM

Read
7:46 AM

11:30 please

S

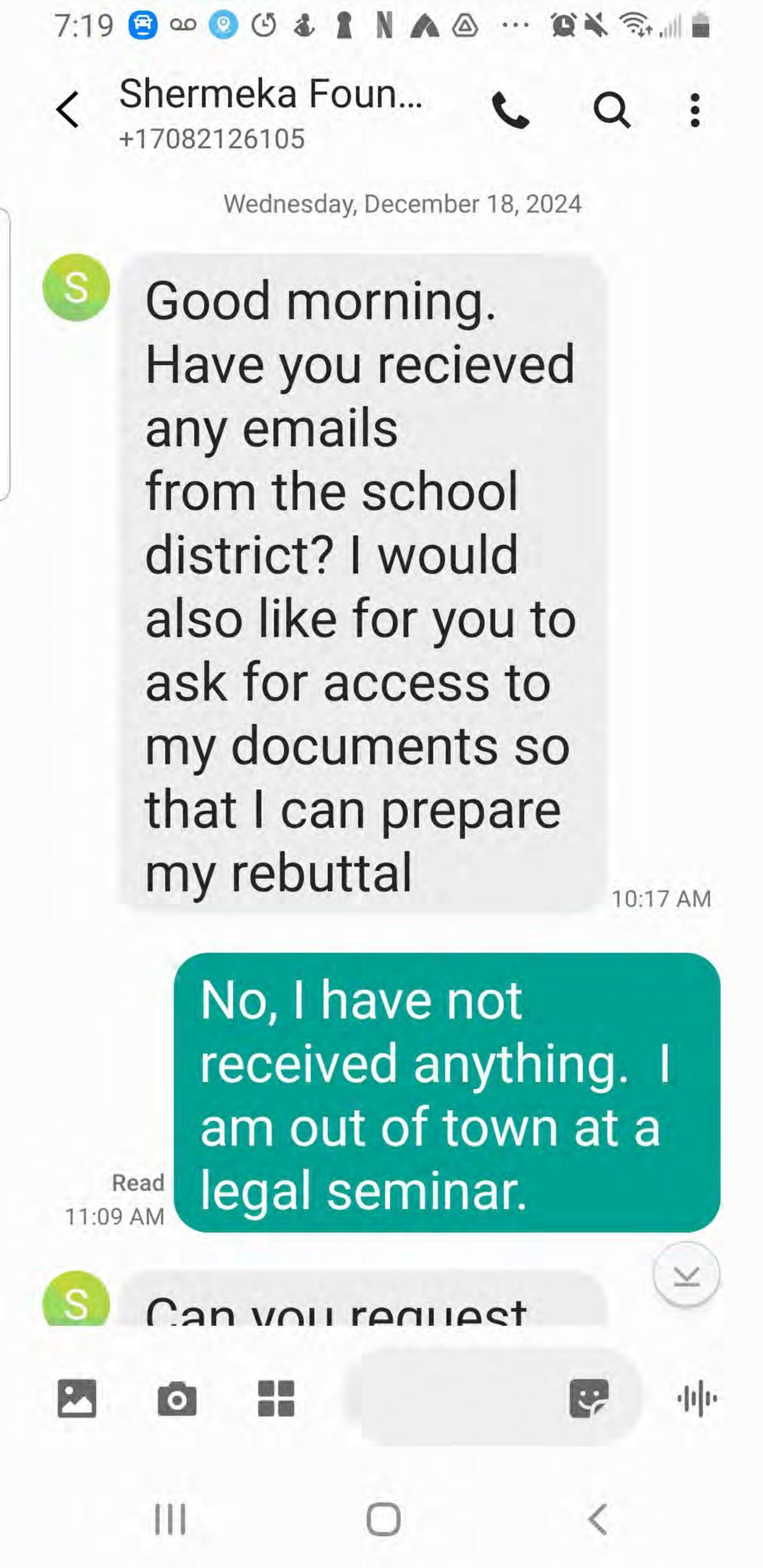
Ok

7:47 AM

Tuesday, December 17, 2024

S

Good morning. Have you recieved any emails from the school district? I would also like for you to ask for access to my documents so


7:19
Shermeka Foun...
+17082126105
Wednesday, December 18, 2024
S
Good morning. Have you recieved any emails from the school district? I would also like for you to ask for access to my documents so that I can prepare my rebuttal
10:17 AM
No, I have not received anything. I am out of town at a legal seminar.
Read
11:09 AM
S
Can you request

S

Can you request that I have access to my emails so I can prepare my rebuttal

11:12 AM

Monday, December 23, 2024

Ms Fountain
I am back in town. I will get an email out today.

Read
11:00 AM

S

Hello they are on Christmas Break now. They district is closed until January 6th.

S

Hello they are on Christmas Break now. They district is closed until January 6th. That's why I was hoping to get it done before now.

11:33 AM

Sorry
I was out of the office and out of town all week on a trial techniques intensive.
Attorneys are not closed until Jan 6

Me
1:17 PM, Dec 23

Sorry
I was out of the office and out of town all week on a trial techniques intensive.
Attorneys are not closed until Jan 6 and that's who I will be asking. We will see. Realistically I cannot always be available to you 24/7. You asked on Wednesday.
I got back to you as soon as I could and within a reasonable amount of time.

Shermeka Fountain (Kankak...

1:38 PM, Dec 23

I have not asked, or have you been available to me 24/7 . I know that I have knowledge of the school district that you may not have, and its timeliness is different from another business. The attorneys don't pull the information people who can give me access are on Winter Break until January 6th. It is important to understand that school district work on a different schedule than a typical business and in order for me to have sufficient representation that has to be understood. So that I am clear on the time you need to respond please let me know how many days in advance you need to respond to a request. In addition, what is the timeline to file my EEOC claim?

Copy text

Share

Me
3:13 PM, Dec 23

In all fairness, this request should have been made when we were discussing the continuance with the District's attorney between 12/05 - 12/09. That would have allowed the district a reasonable time to prepare the response to our request before shutting down for the holiday break. You left me with the impression that you were already drafting the response, knew what was needed to be said and you had what you needed. Only last Wednesday did you ask me to request documents needed to prepare your response. It is unlikely that giving me a day to respond to you and their attorney a day to respond to me that even if I were able to turn it around immediately, which I wasn't, that this matter would have been resolved before the break. The good news is that without the needed documents the hearing may well need to be postponed.
Please call me to ensure that I am making a correct and complete response.
Thank you

Copy text
Share

Me
3:18 PM, Dec 23

Not to argue, but you have requested responses on the weekend and after business hours.
There is no absolute in terms of response time as every day is different. It just so happens and it is rare, I was unavailable all of last week. Your case was not one that I was worried about because it was my impression that everything was under control . We obtained the continuance to mid January and you were working on the response.

Copy text
Share

Shermeka Fountain (Kankak...

3:38 PM, Dec 23

I can give you a call after Christmas. I thought when we spoke on the phone I stated that they cut off my email access. You told me to always make a copy of my emails. I thought since you knew that information you would automatically request access. That was an assumption on my part. Nevertheless I am preparing my response with what I have. So that there is no further miscommunication between us, I will make sure to put request in writing. That will eliminateany confusion. Have a blessed Christmas.

It will work out. It always does. I hope you enjoy your holiday, as well.

Read
5:56 PM

Thursday, December 26, 2024

S

Good morning when is the hearing for me in January? Are they trying to terminate me in January? Can you send me the email that their attorneys sent

11:52 AM

Friday, December 27, 2024

The email only said January. I cannot respond to what their intentions are. I do not know.
I will send you the email. I am still waiting to talk to you about what to request.
Thanks

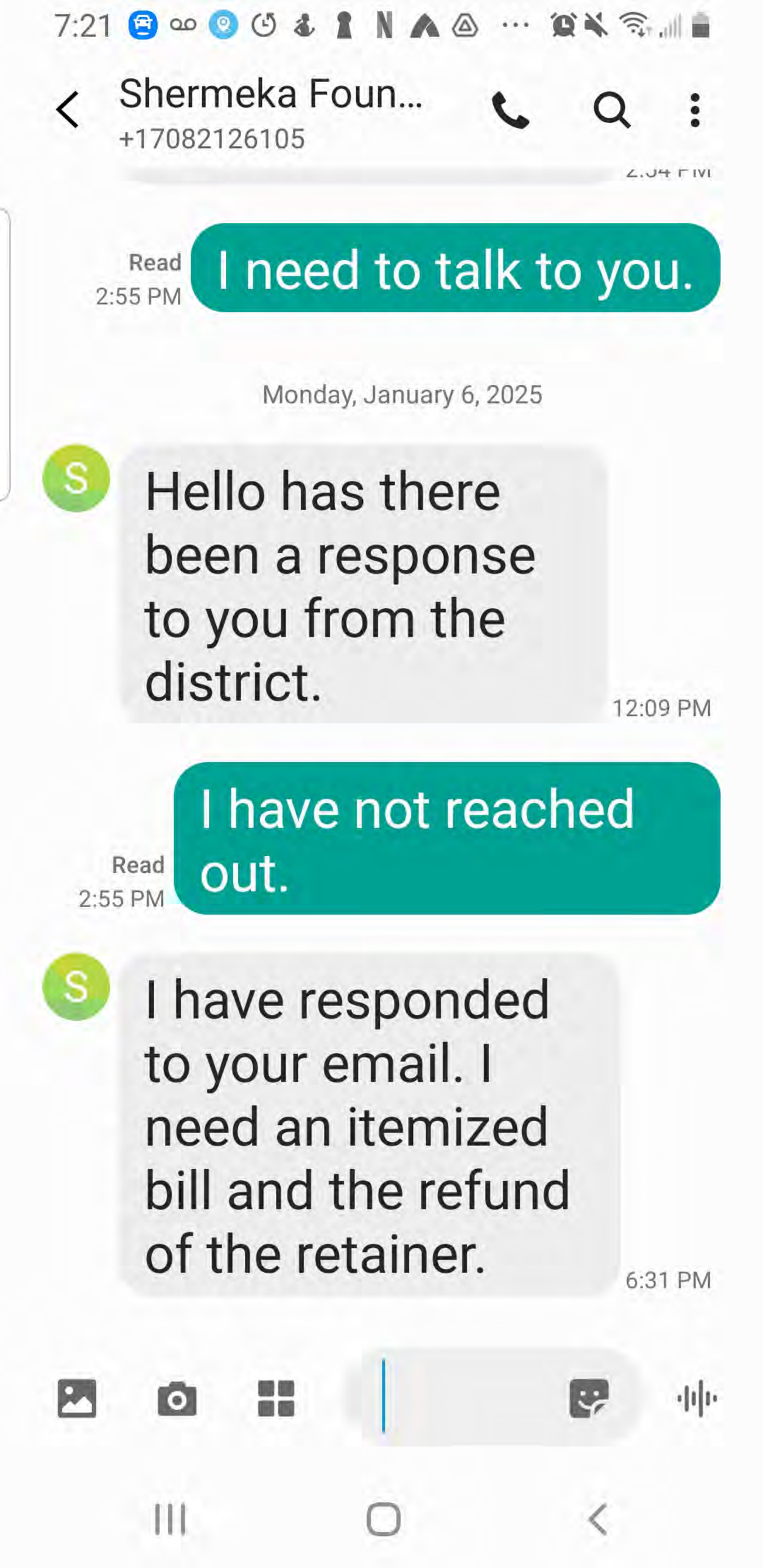
Read
2:53 PM

S

I need access to my Google drive and emails.

2:54 PM

Read


7:21
Shermeka Foun...
+17082126105
Read
2:55 PM
I need to talk to you.
Monday, January 6, 2025
S
Hello has there been a response to you from the district.
12:09 PM
Read
2:55 PM
I have not reached out.
S
I have responded to your email. I need an itemized bill and the refund of the retainer.
6:31 PM

PERFORMANCE BASED SUPERINTENDENT'S CONTRACT
(July 1, 2019 through June 30, 2024)
DR. GENEVRA WALTERS

This Agreement is between the Board of Education (the "Board") of Kankakee School District Number 111, Kankakee County, Illinois (the "School District") and Dr. Genevra Walters (the "Superintendent").

In consideration of the mutual promises herein contained, the Board and the Superintendent agree as follows:

1. **Employment.** In accordance with the provisions of Section 10-23.8 of the School Code of Illinois (105 ILCS 5/10-23.8), the Superintendent is hereby employed as Superintendent of Schools of the School District under this contract for the period beginning July 1, 2019, and extending through June 30, 2024. The contract year under this contract is July 1 through the succeeding June 30 of each year.

2. **Performance Goals And Indicators Of Student Academic Improvement.** This is a performance-based contract, the goals of which are set forth in the attached Exhibit 1. Accomplishment of the goals, as may be amended from time to time, will enhance student performance and achieve academic improvement. By October 1, 2019, the Board, in consultation with the Superintendent, shall review the goals set forth in Exhibit 1 and make such modifications as it determines appropriate given the Superintendent's greater understanding, by such time, of the needs of the School District and the vision of the Board. Along with the evaluation criteria set forth in paragraph 13, a primary measure of the performance and effectiveness of the Superintendent each contract year shall be whether the Superintendent has accomplished the goals for that contract year and has made adequate progress toward completion of the goals which are

to be accomplished in a later contract year, as such goals are set by the Board in consultation with the Superintendent.

By June 30 of each contract year in consultation with the Superintendent, the Board will review and revise, where appropriate, the goals to be accomplished during the remaining contract years. Any modified goals shall be incorporated into a document to be entitled "Superintendent's Performance Goals," which shall be signed and dated by the Board President and the Superintendent and considered a part of this contract.

3. **Duties.** The duties of the Superintendent shall be those duties prescribed by the laws and regulations of the State of Illinois and by the rules, regulations and directions of the Board, all of the foregoing as may be amended or modified from time to time, and those duties which are customarily or necessarily incidental to the position of Superintendent.

4. **Salary.** As compensation for the duties set forth in this contract, the Superintendent shall be paid an annual base salary for the contract year beginning July 1, 2019 equal to the Superintendent's annual base salary for the 2018-2019 contract year plus 4%. The salary shall be payable in equal installments in the same manner as the salaries of other twelve month administrators in the School District are paid.

Each subsequent contract year, the Superintendent's annual base salary shall increase by a minimum of 2% over the prior year's base salary up to a maximum of 5%, as determined by the Board in its sole discretion, without entering into a new contract or extending the term of this contract.

5. **TRS and THIS Contributions.** In addition to the salary provided for in this contract, the Board shall pick up and pay, on behalf of the Superintendent, all retirement contributions to the Illinois Teachers' Retirement System (TRS) and contributions to the Teachers'

Health Insurance (THIS) Fund paid to TRS, as those amounts may be amended from time to time Although designated by the Illinois Pension Code as employee contributions, the amounts herein required to be picked up by the Board shall be paid by the Board in lieu of contributions by the Superintendent. The Superintendent shall not have the option of choosing to receive directly the amounts contributed to TRS by the Board on the Superintendent's behalf, nor any right or claim to the contributions to TRS except as such may subsequently become available pursuant to the provisions of the Pension Code and TRS rules and regulations.

6. **Vacation.** The Superintendent shall receive twenty working days of vacation annually at full pay, exclusive of holidays. The Board of Education President shall be advised in advance of all vacations which are more than three consecutive working days in length. Unless otherwise approved by the Board, all vacation must be used in the contract year for which vacation is granted, except that the Superintendent may exchange up to ten unused days of vacation for pay at the Superintendent's then current per diem. Otherwise, vacation which is not used during the contract year earned shall not be compensated and any unused days shall be lost and not accumulated. If this contract is terminated during a contract year, vacation for that year which has not been used at the time of termination shall be compensated to the extent required by law and paid within thirty days after the later of the Superintendent's last regular paycheck or last day of work so as to avoid the payment by the Board of any penalties to TRS. Payment shall be at the Superintendent's then current base salary divided by 260.

7. **Personal Leave**. The Superintendent shall be granted up to three personal business leave days per contract year. Personal business leave days not used at the end of any contract year may not be accumulated as personal business leave, but up to two unused personal business days per year may be transferred to accumulated sick leave. The Superintendent shall also receive two

PTO days annually. PTO days not used at the end of any contract year will not carry over to the next contract year.

8. **Sick Leave And Disability.** The Superintendent shall be granted the same number of sick days of each contract year, and may accumulate unused sick days, on the same basis as are granted to, and accumulated by, teachers.

9. **Medical Examination.** The Superintendent shall submit to a comprehensive medical examination by no later than July 1 of each contract year. The examination shall be performed by doctor(s) approved by the Board. Any expenses in excess of the School District's existing coverage for medical examinations shall be paid for by the Board. A report generally describing the Superintendent's health and fitness to perform her duties shall be presented to the Board, filed separately from the Superintendent's personnel file, and treated as confidential information by the Board. The Superintendent shall further submit to, and furnish the Board with reports of, such health examinations as the Board may from time to time require at its expense. This contract is contingent on the initial health report demonstrating the Superintendent's fitness, with reasonable accommodation to the extent required by law, to perform fully under this contract.

10. **Health Benefits Program.** The Board shall pay the entire premium for the participation of the Superintendent in the Board's health insurance program Should the Superintendent elect employee plus spouse, employee plus child or family coverage, the Board shall provide coverage under the health insurance program, as may be amended from time to time, on the same basis as the Board provides for its twelve-month certified administrative employees. If the Superintendent chooses not to participate in the Board's health insurance program, then the Board shall pay to the Superintendent an amount equal to the Board's cost for employee plus child coverage.

11. **Life Insurance**. The Board, at its cost, shall provide the Superintendent with group term life insurance with a death benefit of five hundred thousand and no/100 ($500,000.00) dollars, provided the Superintendent meets the ordinary requirements of the insurer.

12. **Residency**. The Superintendent shall reside in the School District to permit the Superintendent to satisfy the Board's expectation of her active participation in the affairs of the schools and the school community.

13. **Automobile/Travel Expenses**. The Superintendent shall provide an automobile for use in the performance of the Superintendent's duties The Superintendent shall insure the automobile used in such performance with an insurer and in an amount and coverage reasonably satisfactory to the Board. The Board shall provide the Superintendent with a monthly automobile stipend of $600.00, in lieu of reimbursement on a mileage basis.

14. **Membership**. The Board shall pay the membership fee for the Superintendent's membership in a local service club, to the Illinois Association of School Administrators, the American Association of School Administrators, the Association for Supervision and Curriculum Development, and to such other professional organizations as are acceptable to the Board.

15. **Additional Coursework**. The Board shall reimburse the Superintendent for tuition and related fees for a single college course per contract year, provided the course relates to Dr. Walters' duties as Superintendent as determined by the Board. The amount reimbursed shall not exceed Two Thousand Dollars ($2,000.00) per contract year. Prior to reimbursement, the Superintendent shall provide the Board with a copy of the receipt for tuition paid, evidence of satisfactory completion of each course, and a written summary of the subject matter of each course.

16. **Certificate.** The Superintendent shall furnish to the Board, before beginning employment under this contract, a valid and appropriate certificate to act as Superintendent of Schools. Such certificate shall be maintained at all times during the term of this contract.

17. **Evaluation.** Annually, on or before June 1 of each contract year, the Board shall review with the Superintendent the Superintendent's progress toward meeting established goals and assess the working relationships among the Superintendent, the Board, the faculty, the staff, and the community; provided, however, in the last year of this contract, the review shall take place on or before January 31. The Board's obligations under this paragraph are contingent on the Superintendent providing notice of such obligations by April 1 of each contract year, except that in the last contract year notice shall be given by November 1. The Board may terminate, or not extend, the contract under any provision of this contract, even if the evaluations provided for in this paragraph have not occurred.

18. **Other Work.** The Superintendent shall devote her full time, attention, and energy to the business of the School District and related professional activities. With the prior permission of the Board, the Superintendent may teach university courses, seminars, or other professional growth activities; serve as a consultant to another district or educational agency for a short-term duration without loss of salary; lecture and engage in writing activities and speaking engagements. The Superintendent may not jeopardize the functioning of the School District by any lengthy and conspicuous absence for such professional activities.

19. **Professional Activities.** The Superintendent shall be expected to attend appropriate professional meetings at the local, state, and national levels. Within budget constraints as approved by the Board and with prior Board approval, the cost of attendance shall be paid by the Board.

20. **Tenure.** By accepting this contract, the Superintendent waives any rights pursuant to Section 24-11 through 24-16 of the Illinois School Code, as may be amended from time to time.

21. **Termination For Cause And Non-Renewal Without Cause.** In the event the Board intends to terminate this contract before its expiration for good cause, the Board shall give the Superintendent written notice of such intention, together with a statement of the reasons for termination. Within ten business days of receipt of such notice, the Superintendent may request in writing a hearing before the Board, which shall be in closed session. If no hearing is timely requested, the termination shall become effective on the date specified in the Board's notice. Pending any hearing requested by the Superintendent, the Board may suspend the Superintendent with pay. At the conclusion of any hearing, the Board shall determine whether or not to terminate this contract and the Superintendent's employment.

If the Board and the Superintendent enter into a severance agreement in resolution of a dispute, the salary and any benefits provided for in such agreement shall be limited to twenty (20) weeks from the date of termination in accordance with the Illinois Government Severance Pay Act (5 ILCS 415/1, *et seq.*, the "Act"). No such salary and benefits shall be provided by the Board if the termination is for misconduct as defined in the Act.

In the event the Board or the Superintendent decides not to renew this contract at the end of its term, notice of such intention and an opportunity for a closed session hearing shall be given in accordance with Section 10-21.4 of the Illinois School Code; provided, however, if the Superintendent notifies the Board in writing by no later than December 15 of the last year of this contract of the Board's obligations under Section 10-21.4 and requests notice by February 1 of the last year of this contract, then the date in the last year of this contract by which the Board shall give the Superintendent notice of such intention shall be February 1. Otherwise, the Superintendent

shall notify the Board of its obligations by March 1, and the Board shall give notice of intention not to renew this contract by April 1, of the last year of this contract. If the Superintendent timely gives notice of the Board's obligations and the Board then fails to give the Superintendent timely notice in accordance with this paragraph, this contract shall be automatically extended for one additional year as provided in Section 10-21.4; otherwise this contract shall terminate and not be extended

22. **Unilateral Termination By Board Of Education.** The Board may, at its option, and by a minimum of sixty days' notice to the Superintendent, unilaterally terminate this contract during its term without cause. In the event of such termination, the Board shall pay to the Superintendent, as severance pay, the lesser of the amount of the base annual salary set forth in paragraph 4 above or the amount the Superintendent would have earned under paragraph 4 of this contract from the actual date of termination to the termination date set forth in this contract. The Board shall also provide, at its expense through COBRA, insurance coverage as provided under paragraph 10 for the Superintendent and eligible dependents for the lesser of one year from the effective date of termination, or from the effective date of termination to the date of expiration of this contract, or such time as the Superintendent becomes eligible for insurance coverage for the Superintendent and eligible dependents from another employer.

23. **Unilateral Termination By The Superintendent.** The Superintendent may, at the Superintendent's option, and by a minimum of ninety days' notice to the Board, unilaterally terminate this contract during its term. In the event of unilateral termination with at least one-hundred-eighty days' notice to the Board and an effective date at the end of the school year, the Superintendent shall pay to the Board ten thousand dollars ($10,000.00), which relates to some of the aggregate costs to the Board of the search to obtain the Superintendent's successor and any

interim replacement. In the event of unilateral termination with less than one-hundred-eighty days' notice or an effective date not at the end of the school year, the Superintendent shall pay to the Board, as liquidated damages, fifteen thousand dollars ($15,000.00), which relates to much of the aggregate costs to the Board of the search to obtain the Superintendent's successor and any interim replacement. The payment of liquidated damages by the Superintendent under this paragraph shall be the Board's exclusive remedy for any claims of breach of this contract due to the Superintendent's unilateral termination. However, this paragraph does not apply in the event that the parties mutually agree to end this contract or to termination for disability which qualifies the Superintendent for temporary or permanent disability benefits from the Illinois Teachers' Retirement System.

24. **Notice.** Any notice or communication permitted or required under this contract shall be made in writing and shall become effective on the day of service thereof by personal service or by first class mail, registered or certified, return receipt, postage prepaid, sent to the parties at their respective addresses listed below, or at such other addresses as the parties may from time to time advise in writing. Service by mail, as provided above, shall be deemed made upon deposit in the mail.

If to the Board:	President, Board of Education Kankakee School District Number 111 240 Warren Avenue Kankakee, Illinois 60901-4319
With a copy to:	President, Board of Education [at his or her last known home address]
If to the Superintendent:	Dr. Genevra Walters [at the Superintendent's last known home address]

25. **Miscellaneous.**

A. If any provision of this contract is subsequently declared by the proper judicial authority to be unlawful or unenforceable, all other provision of the contract shall remain in full force and effect.

B. Paragraph headings and numbers have been inserted for convenience of reference only, and if there shall be any conflict between any such headings or numbers and the text of this contract, the text shall control.

C. This contract may be executed in one or more counterparts, each of which shall be considered an original, and all of which taken together shall be considered one and the same instrument.

26. **Complete Contract.** This contract sets forth all of the promises, agreements, conditions and understandings between the parties relative to the Superintendent's employment by the Board. No modifications of this contract shall be binding on the parties unless in writing and duly approved and signed by each party. This contract shall become effective as of the date the last of the parties signs this contract, as set forth below.

KANKAKEE SCHOOL DISTRICT # 111
BOARD OF EDUCATION

By: _____
President

Attest:

By: _____
Secretary

Dated: 4/30/19

SUPERINTENDENT

_____
Dr. Genevra Walters

Dated: 5/24/19

Superintendent Goals

District Goal #1 Student Achievement

The Superintendent will work towards increasing student achievement and closing the achievement gap.

Indicators – The Superintendent will:

1. Work with the administration on leading the implementation of strategies to aide in the effort of increasing the number of students performing at grade level in content areas.
2. Work towards maintaining high graduation rate. Current graduation rate is 92%.
3. Superintendent will provide more Professional Development that focuses on increasing administrators' capacity to provide instructional leadership.
4. Superintendent will work towards the implementation of secondary (grades 6-12) programming that provides differentiation for varied student needs around college/career/life readiness.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Superintendent will report out to the Board on a quarterly basis around student growth in academics and behavior.
2. Superintendent will provide on-track data by grade level and report to Board on a semi-annual basis.
3. Continuously monitor teachers on Professional Development needs: Quantity and Quality.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

District Goal #2 Public Perception

The Superintendent will work towards Improving the public perception of the district, by communicating all positive attributes of our school community.

Indicators – The Superintendent will:

1. Continue opportunities to provide input on district programming.
2. Continue relationships with the media to foster open and positive communication.
3. Continue to engage with community and educational stakeholders to communicate the vision for the district.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Examples of positive comments about the district (Facebook, Newspaper articles, YouTube videos). Report out to the Board on a quarterly basis.
2. Archive positive articles. Foster positive relationship with the press. Report out to the Board.
3. Increased outreach to real estate agents and business community around district and district programs. Report out to the Board.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 15th

Superintendent

District Goal #3 Funding/Finances

The Superintendent will work towards maintaining expenditures that lead to the district maintaining financial health.

Indicators – The Superintendent will:

1. Maintain a long-term financial plan.
2. Develop a plan to increase revenue in form of available grants.
3. Implement ongoing plan to increase bond balances over time to replenish funds borrowed through QSCB program.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Regular financial statements: Report out to the Board on a monthly basis.
2. Provide bond balances report: Report out to the Board on a semi-annual basis.
3. Support the increase of Board's knowledge and understanding of district financial data.

Adoption Date April 30, 2019

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 15th

Superintendent

District Goal #4 Consistent Leadership

The Superintendent will develop and align all staff leadership to the district's ongoing focus on high student achievement.

Indicators – The Superintendent will:

1. Strengthen induction process for new administrators and communicate the vision and mission of the district/schools.
2. Superintendent will continue to make all new employee final selection for recommendation to the Board of Education for cabinet and principal level hiring.
3. Revise and improve hiring procedures within all departments based on data from previous school year.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Report out to the Board of Education annually on retention of staff.
2. Provide evidence that superintendent participated in all new hires for cabinet and principal level hiring.
3. Collect data around hiring procedures in order to improve hiring practices.

Adoption Date April 30, 2019

Barbara T. Bell

President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

District Goal #5 Community Engagement

The Superintendent will increase community engagement to form partnerships for student success.

Indicators – The Superintendent will:

1. Continue partnerships with local business and higher education.
2. Expand mentoring programs for all staff within KSD 111.
3. Showcase district at community events.
4. Further develop an employability program/job readiness program.

Evidence needed to measure achievement and/or progress on indicators.
(BOE agrees with Superintendent on evidence needed to measure performance)

1. Report to the Board of Education quarterly a list of partners and events.
2. Report to the Board of Education semi-annually on mentoring initiatives.
3. Report to the Board of Education semi-annually on community events.
4. Report to the Board of Education at beginning and end of the year.

Adoption Date April 30 2019

Barbara A Falk
President, Board of Education

Proposed Evaluation Date (s) Yearly, on or before Apr. 1st

Superintendent

RESOLUTION AUTHORIZING PERFORMANCE BASED SUPERINTENDENT'S CONTRACT BETWEEN THE BOARD OF EDUCATION AND DR. GENEVRA WALTERS

BE IT RESOLVED, by the Board of Education of Kankakee School District No. 111, Kankakee County, Illinois, as follows:

1. The Board hereby finds that the Superintendent, Dr. Genevra Walters, has met the goals of the current July 1, 2017 - June 30, 2022 Performance Based Superintendent's Contract (the "Current Contract") between Dr. Walters and the Board and that the Board is, therefore, authorized by law to enter into a new multi-year Performance Based Superintendent's Contract with Dr. Walters.

2. The Board hereby approves, and authorizes the President and Secretary to sign, an agreement with Dr. Walters terminating the Current Contract, substantially in the form of the attached Exhibit 1, and establishing a new multi-year Performance Based Superintendent's Contract with Dr. Walters, substantially in the form of the attached Exhibit 2, for the period July 1, 2019, through June 30, 2024.

3. This Resolution shall be in full force and effect upon its adoption.

ADOPTED this 30 day of April, 2019, by a roll call vote, as follows:

YES: Gathing, Shea, Williams, Works, Archie, Bohlen, Wells

NO: None.

ABSENT: None.

President, Board of Education

ATTEST:

Secretary, Board of Education

AMENDMENT TO PERFORMANCE BASED SUPERINTENDENT'S CONTRACT
(July 1, 2019 through June 30, 2024)
DR. GENEVRA WALTERS

The Board of Education of Kankakee School District 111, Kankakee County, Illinois and Dr. Genevra Walters (the "Superintendent"), agree to modify the Performance Based Superintendent's Contract (July 1, 2019 through June 30, 2024) as follows:

1. The Superintendent's annual salary, as set forth in Section 4 (Salary) of the Contract, shall be set for the contract year beginning July 1, 2022 at an amount equal to the Superintendent's base salary for the 2021-2022 contract year plus 6%. The Superintendent's annual salary, as set forth in Section 4 (Salary) of the Contract, shall be set for the contract year beginning July 1, 2023 at an amount equal to the Superintendent's base salary for the 2022-2023 contract year plus 6%.

2. The Superintendent will receive a post-retirement incentive of $15,000 paid 30 days after the effective date of her retirement and after receipt of her final regular paycheck.

In all other respects, the terms of the Performance Based Superintendent's Contract are unchanged.

This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below:

KANKAKEE SCHOOL DISTRICT # 111
BOARD OF EDUCATION

By: _____
President

Attest:

By: _____
Secretary

Dated: June 27, 2022

SUPERINTENDENT

_____
Dr. Genevra Walters

Dated: June 27, 2022

SEPARATION AGREEMENT

This Agreement is made and entered into on the date of the last signature hereto, by and between **KANKAKEE SCHOOL DISTRICT 111, KANKAKEE COUNTY, ILLINOIS** (hereinafter referred to as the "Board" or "District"), and **DR. GENEVRA A. WALTERS** (hereinafter referred to as "Walters"), collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, Walters is currently employed by the Board as Superintendent; and

WHEREAS, the Parties desire to fully settle and resolve any and all outstanding issues related to Walter's employment.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are true and correct and are incorporated into this Paragraph by reference.

2. **Withdrawal of Complaint Against District.** Contemporaneous with the execution of this Agreement by all Parties, Walters withdraws the hostile work environment complaint that she filed against the District on March 18, 2022 and agrees that all matters alleged in said complaint are fully resolved. Walters agrees not to refile the complaint, or any part thereof, with the Board or any other entity, court, or tribunal.

3. **Settlement Terms.** The Board agrees to the following:

    a. The Essential Board Processes Agreement (see Exhibit A) shall be approved by the Board no later than the Board's regularly scheduled meeting in June of 2024.

    b. In order to assist Walters with the purchase of service credit from IMRF, the Board shall pay Walters the sum of Eight Thousand, Six Hundred and Ninety-Seven Dollars ($8,697). This payment shall be made five (5) business days after Walters' last day of employment or last regular paycheck, whichever occurs later. The purpose of structuring the settlement payment in this manner is to avoid the payment from constituting creditable earnings under the Rules of the Teachers' Retirement System of the State of Illinois. The District shall issue Walters an IRS form 1099 for this payment and Walters shall be responsible for any and all resulting taxes.

    c. The Board agrees to pay the full cost of Walters family health insurance until Walters, 60th birthday, as follows:

i. Upon retirement, Walters shall elect COBRA family coverage and shall maintain such coverage through the end of her COBRA eligibility period. Walters shall complete all necessary paperwork for COBRA coverage.

ii. After the expiration of Walters' COBRA coverage, and until Walters' 60th birthday, the District shall reimburse Walters for health insurance coverage. Reimbursement shall be limited to Walters' actual cost of family insurance through a recognized insurance provider of Walters' choosing and reimbursement shall not exceed the cost of premiums that the District would otherwise pay for family coverage under COBRA. Walters must submit in writing verification of the insurance premium in order to receive reimbursement. Reimbursement shall be made on a monthly basis.

d. The Board shall reimburse Walters up to $5,000 for legal fees related to Walters filing the March 18, 2022 complaint against the District. In order to obtain reimbursement, Walters shall present to the District an itemized billing statement from her attorney showing the specific amount of legal fees paid by Walters. The District shall issue Walters an IRS form 1099 for such payment.

4. **Terms of Underlying Employment Contract.** All terms and conditions of Walters employment contract with the Board remain in full force and effect, including all terms and conditions of Walters' employment contract in effect from July 1, 2019 through June 30, 2024 and the amendment to said contract executed on June 27, 2022.

5. **No Admission.** This Agreement shall not in any way be construed or used as an admission of any wrongdoing or liability of any kind or nature by either Party.

6. **Release of Claims by Walters & Older Workers Benefit Protection Act of 1990.** Except as otherwise provided in this Agreement, Walters does hereby release, remit, acquit, and forever discharge the Board and its respective members, individually and collectively, and its officers, representatives, agents, attorneys, insurers, employees, assignees, and successors, in their official and individual capacities, from any and all damages or liability as a result of any claims, damages, causes of action of every kind or nature, at law or in equity, demands, debts, costs or attorney fees that have arisen as a result of any event in connection with or occurring during Walters's employment by the Board through the date of execution of this Agreement, whether known or unknown, anticipated or unanticipated, including but not limited to:

a. Any claim, cause of action, or liability arising out of the hostile work environment complaint filed by Walters on March 18, 2022;

b. Any claim, action, cause of action, or liability arising under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*), the Illinois Human Rights Act (775 ILCS 5/1-101, *et seq.*) or any other federal, state or municipal employment discrimination statute, regulation, or ordinance (including but not limited to those claims based upon age, gender, race, religion, national origin, disability, or retaliation);

c. Any claim, action, cause of action, or liability arising under any other federal, state, or local statute, law, ordinance or regulation;

d. Any claim, action, cause of act, or liability arising out of breach of contract, retaliatory discharge or constructive discharge claims and/or unjust dismissal, mental and emotional distress, damage to reputation, detrimental reliance, and costs or attorneys' fees related to the employment relationship and Walters's resignation;

e. Walters also waives any and all claims and rights she may have under the Older Workers Benefit Protection Act (29 U.S.C. 626, *et seq.*), the Age Discrimination in Employment Act (29 U.S.C. 621, *et seq.*), the Family and Medical Leave Act of 1993, 29 U.S.C. §2601, *et seq,* and the Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*); and

f. In exchange for consideration that is in addition to anything of value to which Walters is otherwise entitled, she knowingly and voluntarily relinquishes and waives all legal and equitable remedies provided under the Older Workers Benefit Protection Act and the Age Discrimination in Employment Act. Walters acknowledges that she is aware of and understands all rights and claims pursuant to this Act, including without limitation, the following:

   i. That Walters has been afforded provided twenty-one (21) calendar days following the receipt of this Agreement to consider entering into and signing this Agreement and acknowledges that she may sign it sooner and that her decision to do so is knowing and voluntary and not induced by the Board through fraud, misrepresentation, or threat;

   ii. That, for a period of seven (7) calendar days following Walters's execution of this Agreement, she has the right to revoke this Agreement by delivering a written revocation to the Superintendent, by no later than 5:00 p.m. on the seventh calendar day following her execution of this Agreement;

   iii. The Board hereby notifies Blount that she has a right to consult with an attorney prior to executing this Agreement; and

   iv. That, by the release and waiver provisions contained in this Agreement, Walters does not waive rights or claims that may be brought before a court or administrative body pursuant to the Age Discrimination in Employment Act arising after the date this Agreement is executed.

7. **Illinois Workplace Transparency Act.** In accordance with the Illinois Workplace Transparency Act (820 ILCS 96/1-1, *et seq.*), Walters represents and warrants that she was afforded twenty-one (21) calendar days to consider this Agreement and was notified of the right to consult with an attorney or a representative of her choice prior to executing this Agreement. Walters further represents and warrants that she has been notified of, and

acknowledges her understanding of, certain rights afforded by the Act, including, without limitation, the following:

a. That by virtue of entering into this Agreement, Walters does not waive rights or claims that may arise after the date of execution of this Agreement except those expressly stated herein;

b. That Walters waives rights or claims under the Illinois Workplace Transparency Act only in exchange for consideration in addition to anything of value to which she already is entitled arising out of her employment relationship with the Board;

c. That Walters acknowledges and agrees that the Board does not herein include any unilateral clause that prohibits Walters from making truthful statements or disclosures regarding unlawful employment practices. However, by mutual agreement herein Walters acknowledges that she understands that the Board denies Walters's claims concerning alleged unlawful employment practices, if any, and Walters understands that by signing this Agreement she has waived any right to seek or obtain any remedies relating to any alleged unlawful employment practice claim that occurred before the date on which this Agreement is executed;

d. That Walters acknowledges and agrees that the Board does not herein include any requirement that Walters waive her right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged unlawful employment practices on the part of the other Party to the Agreement, if Walters were to be required or requested to attend a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature;

e. That Walters has been provided twenty-one (21) calendar days following the receipt of this Agreement to consider entering into and signing this Agreement; and,

f. That for a period of seven (7) days following Walters's execution of this Agreement, Walters shall have the right, which under the Illinois Workplace Transparency Act may be voluntarily waived, to revoke this Agreement.

In return for the monetary payments, promises, and other consideration provided herein, Walters has agreed to and hereby knowingly and voluntarily waives the aforesaid twenty-one (21) day consideration period, as set forth in Paragraph 11(e) above, and further knowingly and voluntarily waives the seven (7) day revocation period, as set forth in Paragraph 11(f) above, as allowed under the Workplace Transparency Act. Walters hereby declares that this waiver of the twenty-one (21) day consideration period, the waiver of the seven (7) day revocation period, and the waiver of other rights under the Illinois Workplace Transparency Act, are knowing and voluntary. Walters further agrees that any changes to this Agreement, whether material or immaterial, will not restart the running of the consideration period.

8. **Mutual Confidentiality.** The Parties agree to keep the facts and terms of this Agreement strictly confidential and shall not disclose the facts or terms of this Agreement to any third parties, except as may be required by law or to enforce the terms of this Agreement.

9. **Mutual Non-Disparagement.** Each Party shall refrain from making derogatory or disparaging comments about the other Party, either orally or in writing.

10. **Effect of Agreement.** This Agreement shall inure to the benefit of and bind the Board and its members, officers, agents, representatives, administrators, insurers, successors, and assignees, and each and every one of them, and Walters and her heirs, agents, representatives, successors, executors, and assignees.

11. **Complete Understanding.** This Agreement sets forth all of the promises, agreements, conditions, and understandings between the Parties relative to the subject matter hereof, and no other promises, agreements, or understandings, whether oral or written, expressed or implied, exist among the Parties.

12. **Advice of Counsel.** Each Party acknowledges that they have had the ability and opportunity to consult with legal counsel regarding the terms and requirements of this Agreement.

13. **Contractual Capacity.** The Parties acknowledge that each has entered into this Agreement voluntarily and knowingly and with the full and complete authority and contractual capacity to do so. The Parties acknowledge that each has been provided the opportunity to consult with an attorney prior to executing this Agreement and has had ample opportunity to review its terms.

14. **Amendments.** No subsequent alteration, amendment, change, addition, deletion, or modification to this Agreement shall be binding upon the Parties hereto unless reduced to writing and duly authorized and signed by each of them.

15. **Applicable Law.** This Agreement, and all claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement shall be governed by, and enforced in accordance with, the laws of the State of Illinois, including its statutes of limitations.

16. **Execution.** This Agreement may be executed in counterparts. A set of documents bearing the signatures of each Party hereto shall constitute a valid agreement as fully as if the Parties had signed a single document. Signatures provided by facsimile, email transmission, or third-party signatory verification service (such as DocuSign®), shall be deemed legal and binding for all purposes.

17. **Additional Documents to Effectuate Agreement.** The Parties shall execute any and all additional documents necessary to effectuate the intent and purposes of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement to take effect immediately upon execution of all Parties.

KANKAKEE SCHOOL DISTRICT 111

By: _____
Board President

May 13, 2024
Date

Attest: _____
Board Secretary

May 13, 2024
Date

DR. GENEVRA A. WALTERS

By: _____
Dr. Genevra A. Walters

May 13, 2024
Date

Exhibit A
Essential Board Processes Agreement

Kankakee SD 111 - Essential Board Process Agreement
March 2024

Placing items on the agenda:

- The Board President, the Board Vice President, and the Superintendent confer to generate an agenda for an upcoming board meeting **on the Tuesday immediately preceding a regularly scheduled board meeting** (where this agenda will be utilized).
- Any board member desiring to add an item considered for an upcoming board agenda should **contact the Board President prior to the timeframe of the "agenda generating meeting"** (which includes the Board President, the Board Vice President, and the Superintendent).
- If a concern about the agenda inclusion exists and involves a perceived lack of connection to Board goals and or "ends," the requesting board member should secure one other board member who concurs with the need for agenda placement based on belief that a connection to Board goals and or "ends" exist.
- The requesting board member should contact the Board President and confirm that another board member concurs with agenda placement prior to the "agenda generating meeting;"
    - Following contact with the Board President, the requested agenda item will be placed under the agenda under the heading, "New Business" (for discussion only).
    - (At the Board meeting when this agenda item is addressed) The requesting board member will explain the connection between the requested agenda topic and Board goals and/or "ends." The Board will determine, via consensus of the majority, if the requested topic relates to Board goals and/or "ends" and whether this item will advance to a subsequent agenda for board action.

Asking questions about upcoming agenda items:

- A board member who has a question regarding an upcoming agenda item should contact the Board President no later than noon on the Monday of the board meeting.

Communicating with members:

- Adhere to the Open Meetings Act (OMA) and board policy.

Communicating with staff:

- A board member desiring to contact a staff member should contact the Superintendent and the Superintendent will respond accordingly.
- Board will not communicate to staff to create work.

Responding to Concerns:
GENERAL CONCERNS

- If imminent threats are reported via any means (e.g., verbally, via email, via text message, via social media), Board members will convey those concerns to the Superintendent.
- Listen to the citizens.

- Acknowledge the concern(s) of the citizen.
- Refer the individual sharing concern(s) to established board policy such as the Chain of Command.
- (Based on the severity of the concern) Inform the Superintendent of the citizen concern along with the response offered by responding board member.
- Communicate.

EMAILED CONCERNS

- Acknowledge the email with a reply to the sender.
- Forward the email to the Superintendent.
- The Superintendent will reply to the sender, based on the issue.
- If the email topic addresses a concern involving the Superintendent, a board member should forward the email to the Board President (who will reply accordingly to the initial sender.

SOCIAL MEDIA CONCERNS

- Inform the Superintendent and Board President of the post and share the post with them.
- The Superintendent, in conjunction with the Board President, shall determine the appropriate response, if any.

Communicating with the media:

- The Board President, in consultation with the Superintendent, serves as the spokesperson of the Board with the media.
- (As needed) The Board President may delegate respondent duties to the Superintendent.
- The Superintendent, in consultation with the Board President, serves as the spokesperson of the District with the media.

Communicating with the public:

- The Board President, in consultation with the Superintendent, serves as the spokesperson of the Board with the public.
- (As needed) The Board President may delegate respondent duties to the Superintendent.
- The Superintendent, in consultation with the Board President, serves as the spokesperson of the District with the public.

Orienting new members:

- A conference will be conducted between each new board member, the Superintendent, and the Board President
- Mandated board training sessions and deadlines will be shared with each new board member.
- Board mentor-mentee relations will occur involving each new board member and a veteran school board member.

Closed Session:

- What's discussed/occurs in closed session stays in closed session.

Actions by individual board members:

- Board members recognize that they cannot speak on behalf of the Board or District or take any action on behalf of the Board or District unless such action is approved by the Board at a validly called Board meeting. Board members may not assume powers or duties belonging to the full Board and have only the same rights and powers as other citizens when the Board is not in session.
- Board members are free to visit and inspect schools only in accordance with the Board policies regulating public visitation of schools.

Participating during public forums:

- Adhere to board policy, ensuring that any statements regarding District policies and procedures are consistent with those outlined in the District's board polices.

Board member comments:

- Each board member will refrain from making negative comments about any district employee while in public.

Type text here

Kankakee SD 111
Board/Superintendent Communication Expectations
March 2024

The Superintendent expects:

1. The board will adhere to its board agreements/protocols regarding items for agenda placement before significant staff time is expended. The agreement protocols include the following:
   - The Board President, the Board Vice President, and the Superintendent confer to generate an agenda for an upcoming board meeting **on the Tuesday immediately preceding a regularly scheduled board meeting** (where this agenda will be utilized).
   - Any board member desiring to add an item considered for an upcoming board agenda should **contact the Board President prior to the timeframe of the "agenda generating meeting"** (which includes the Board President, the Board Vice President, and the Superintendent).
   - If a concern about the agenda inclusion exists and involves a perceived lack of connection to Board goals and or "ends," the requesting board member should secure one other board member who concurs with the need for agenda placement based on belief that a connection to Board goals and or "ends" exist.
   - The requesting board member should contact the Board President and confirm that another board member concurs with agenda placement prior to the "agenda generating meeting;"
     - Following contact with the Board President, the requested agenda item will be placed under the agenda under the heading, "New Business" (for discussion only).
     - (At the Board meeting when this agenda item is addressed) The requesting board member will explain the connection between the requested agenda topic and Board goals and/or "ends." The Board will determine, via consensus of the majority, if the requested topic relates to Board goals and/or "ends" and whether this item will advance to a subsequent agenda for board action.
2. That direction is only given at board meetings when a majority of the board votes to give direction. Anything brought to consensus in committee meetings will be brought to the Board for consideration and action.
3. The board members will be respectful toward staff and be respectful of staff's time.
4. The board members will read all supporting documentation before the board meeting.
5. That board members will contact the **Board President** with questions about agenda items or supporting materials **no later than noon on the Monday of the school board meeting**.
6. That there will be no surprises. No one gets surprised at any time-in the meeting or between meetings. The truth of no surprises is respect for all participants and the process.
7. That Board members will communicate with the appropriate committee chair(s) and/or the Administrative Assistant to the Superintendent regarding additional agenda items.
8. That Board members will follow the District's Chain of Command policy.

The Board expects:

1. A regular communication from the Superintendent **via email, as needed**.
2. To be notified via email as soon as possible for:
   a. School emergency (lock down, fire, etc.)
   b. Bus accident
   c. Student emergency (arrest, serious injury involving the presence of paramedics, death)
   d. Staff emergency (arrest, serious injury involving the presence of paramedics, death)
3. To receive board packets and supporting documentation that is available **four (4)** calendar days before the scheduled board meeting. Under no circumstances shall updates to the HR agenda occur after 12:00 pm on the day of the Board meeting, except in exceptional circumstances.
4. To receive regular monthly expenditure reports.
5. That all board members will receive the same information.
   a. One member's request for additional information results in all members receiving or having the same access to the information.
6. That board members will treat each other, the Superintendent, and staff with respect.
7. That the Superintendent and staff will treat all board members with respect.
8. That reasonable requests for additional information will be satisfied in a timely manner.
9. That there will be no surprises. No one gets surprised at any time- in the meeting or between meetings. The truth of no surprises in respect for all participants and the process.
10. The Administration will provide multiple copies of relevant documents (e.g., resumes) for review during closed session.

One knows/gets; all know/get

Professional Personnel

Suspension

Suspension Without Pay

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.

Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or

2. Remove the employee as recommended by DCFS, proceeding with:
   a. A suspension with pay; or
   b. A suspension without pay.

Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 105 ILCS 5/24-12.
5 ILCS 430/5-60(b), State Officials and Employee Ethics Act.
325 ILCS 5/7.4(c-10), Abused and Neglected Child Reporting Act.
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).
Barszcz v. Cmty College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill. 1975).
Massie v. East St. Louis Sch. Dist. No.189, 203 Ill.App.3d 965 (5th Dist. 1990).

CROSS REF.: 5:290 (Employment Termination and Suspensions)

Amended: July 2023

Kankakee School District 111

Superintendent's Office
240 Warren Avenue
Kankakee, IL 60901
(815) 802-7700

Dr. Teresa A. Lance, Superintendent of Schools

Shemeka Fountain
514 Betty Lane
South Holland, IL 60473

Re: NOTICE OF PAID ADMINISTRATIVE LEAVE

Dear Ms. Shemeka Fountain

Effective today, September 10, 2024, you are being placed on paid administrative leave pending an investigation into your performance that could lead to discipline, up to and including termination. You will remain on paid administrative leave until further notice.

While you are on paid administrative leave, I am directing you as follows:

1. You are directed to immediately turn over to me:
    - all keys to District property issued to you;
    - all District credit cards issued to you;.
2. You may not be on any District property, including all campuses, or attend school sponsored events unless you have my prior, express written consent to enter/attend.
3. You are not to contact District students or staff. All communications are to be channeled through me. In addition, you are not to contact parents/families, or any other potential witness about the investigation or about any evidence that may be reviewed as part of the investigation.
4. You are directed to remain available by telephone, during your normal work hours, so that you can be contacted if the need arises. You are further directed to be available to meet with me during your normal work hours if instructed to do so by me.

Your failure to comply with the above directives may be considered as insubordination, which could lead to discipline, up to and including dismissal.

Professional Personnel

Suspension

Suspension Without Pay

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure.

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed hearing examiner will conduct a pre-suspension hearing. The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.

Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or

2. Remove the employee as recommended by DCFS, proceeding with:
   a. A suspension with pay; or
   b. A suspension without pay.

Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 105 ILCS 5/24-12.
5 ILCS 430/5-60(b), State Officials and Employee Ethics Act.
325 ILCS 5/7.4(c-10), Abused and Neglected Child Reporting Act.
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).
Barszcz v. Cmty College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill. 1975).
Massie v. East St. Louis Sch. Dist. No.189, 203 Ill.App.3d 965 (5th Dist. 1990).

CROSS REF.: 5:290 (Employment Termination and Suspensions)

Amended: July 2023

Re: Legal Representation of Shermeka Fountain and Octavia Smith

From Dr. Teresa Lance <teresa-lance@ksd111.org>
To Calvita J. Frederick <cjf@cjfredericklaw.com>
Date 2024-10-21 14:23

Dear Ms. Frederick,
I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

On Mon, Oct 21, 2024 at 12:55 PM Calvita J. Frederick <cjf@cjfredericklaw.com> wrote:

> Good Afternoon All:
>
> Please see attached letter.
>
> Regards,
>
> --
> ***C J Frederick***
>
> Calvita J. Frederick & Associates
>
> Post Office Box 802976
>
> Chicago, Illinois 60680
>
> 312-421-5544 fax 312-277-7190
>
> cjf@cjfredericklaw.com

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
Post Office Box 802976
Chicago, Illinois 60680
(312) 421-5544 (312) 277-7190
cjf@cjfredericklaw.com Calvita.frederick@at.net

PERSONAL AND CONFIDENTIAL – FOR SETTLEMENT PURPOSES ONLY

October 20, 2024

Dr Teresa A. Lance
Superintendent of Schools
Kankakee School District 111
240 Warren Avenue
Kankakee, IL. 60901

Re: Shermeka Fountain, Octavia Smith, et al vs Dr. Teresa A. Lance, Kankakee School District 111, et al

Dear Dr. Lance:

You are hereby notified that Shermeka Fountain (Ms. Fountain), and others have retained our office- the undersigned -- as plaintiff's attorney to prosecute for collection by suit or settlement, a claim, demand, or cause of action against you individually, the Kankakee School District 111, ("District 111") and its individual board members. Ms. Fountain's claims are based upon allegations of retaliation for engaging in a protected activity, harassment, hostile work environment, and sexual harassment in violation of the Illinois Human Rights Act and Title VII of the Civil Rights Act of 1964, violation of the American with Disabilities Act, ("ADA") violation of her Constitutional Rights, in particular the 14th Amendment right to due process, and 42 U.S.C. §1981 and §1983.

As I understand the pertinent facts, Ms. Fountain has been employed by the District 111 since approximately 2017. Her current position is Assistant Superintendent of Human Resources. She has had no performance issues and has never been disciplined.

On September 10, 2024, Ms. Fountain was called into the ___ office and handed the attached letter advising that she was immediately placed on paid administrative leave, pending an investigation into her performance that could lead to discipline, up to and including termination. No performance issues or incidents were listed, and Ms. Fountain

has no idea why she has been placed on administrative leave. Ms. Fountain was then advised to turn over certain items, including her keys and computer, and was escorted out of the building by the head of security.

Since September 10, 2024, one meeting was held where Ms. Fountain was questioned about matters unrelated to the current disciplinary leave. Ms. Fountain's request for a Complaint Manager to attend that meeting was denied by you.

On October 8, 2024, Ms. Fountain received a telephone call from your office requiring her to attend a meeting scheduled for October 9, 2024. Within the next two hours Ms. Fountain received an email rescheduling that meeting for October 22, 2024, at 10:00 AM. For the reasons set forth below, Ms. Fountain cannot attend that scheduled meeting.

Suffice it to say, Ms. Fountain is very upset by these actions. No explanation has been provided detailing the basis for the discipline. Not knowing the nature and extent of the allegations against her, Ms. Fountain has, of course, been denied due process in the failure to know what she is charged with and provided a reasonable opportunity to defend herself. As a result of these erratic and unexplained actions taken against her, her stress level has greatly increased

As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

Ms. Fountain also believes that she is being set up for termination. Her anxiety related to the potential for termination appears to be well-grounded in fact. Upon

information and belief, an interim superintendent of Human Resources has been hired to temporarily fill her position at the Kankakee School District.

The manner in which you have chosen to issue discipline to Ms. Fountain appears to be intended to harass and humiliate her, along with producing extreme anxiety and stress. These actions not only violate state and federal statutes, but also appear to run afoul of the policies and procedures set forth to protect District 111 employees.

Ms. Fountain is not the only District 111 employee who has retained our office to pursue a claim against the District 111 and its Board members. Ms. Octavia Smith has also requested we represent her in a claim for harassment and violation of the ADA based upon matters surrounding her employment application. Ms. Smith suffers from Sickle Cell Anemia and the manner in which her application for employment was handled landed her in the emergency room for stress-related symptoms.

Please know that I am preparing to file charges with the Illinois Department of Human Rights, required to exhaust our administrative remedies, prior to filing our lawsuit.

In the short interim, we are open to settlement discussions. Should your organization and its board have any desire to seek an amicable resolution of Ms. Fountain and Ms. Smith's discrimination claims, you, or your legal counsel, should contact my office immediately.

Sincerely,

CJ Frederick

Calvita J. Frederick

Attachment

Cc: Teresa Lance teresa-lance@ksd111.org
Christopher Bohlen christopher-bohlen@ksd111.org
Jess Gathing jess-gathing@ksd111.org
Tracy Verrett tracy-verrett@ksd111.org
Mary Archie mary-archie@ksd111.org
Deb Johnston deb-johnston@ksd111.org
Darrell Williams darrell-williams@ksd111.org
Suzzana Berrones suzanna-berrones@ksd111.org

FW: Legal Representation of Shermeka Fountain and Octavia Smith

From Scott, Sally J. <sjs@franczek.com>
To cjf@cjfredericklaw.com <cjf@cjfredericklaw.com>
Date 2024-12-03 17:22

Ms. Frederick,

I represent Kankakee High School in this matter. As I understand, Ms. Fountain has never submitted the required FMLA documentation, so she is not on FMLA leave. Therefore, she should be able to meet with Dr. Lance.

Thank you,
Sally Scott

---------- Forwarded message ---------
From: **Calvita J. Frederick** <cjf@cjfredericklaw.com>
Date: Tue, Dec 3, 2024 at 3:21 PM
Subject: Re: Legal Representation of Shermeka Fountain and Octavia Smith
To: Dr. Teresa Lance <teresa-lance@ksd111.org>

Dr. Lance:

I am in receipt of your email from Friday November 29, 2024 to my client, Shemeka Fountain, requesting her attendance in a meeting relative to her employment on today at 3:30 pm. In accordance with my letter of October 20, 2024, Ms. Fountain has requested and submitted documentation for FMLA, her health requiring she not work at this time. Therefore, in accordance with her doctor's orders, Ms. Fountain cannot meet with you.

Upon information and belief, the FMLA application has not been approved by the HR office of the Kankakee School District. Please immediately advise if you require additional documentation.

In addition, in your email correspondence in response to my October 20, 2024 letter, you indicated that you were referring this matter to the district attorney. I have not heard from your attorneys at this time.

Please advise.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-10-22 15:02, Calvita J. Frederick wrote:

Thank you.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-10-21 14:23, Dr. Teresa Lance wrote:

> Dear Ms. Frederick,
> I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children

On Mon, Oct 21, 2024 at 12:55 PM Calvita J. Frederick <cjf@cjfredericklaw.com> wrote:

> Good Afternoon All:
>
> Please see attached letter.
>
> Regards,
>
> --
> ***C J Frederick***
>
> Calvita J. Frederick & Associates
>
> Post Office Box 802976
>
> Chicago, Illinois 60680
>
> 312-421-5544 fax 312-277-7190
>
> cjf@cjfredericklaw.com

Sally J. Scott | Partner | T. 312.786.6132 | F. 312.986.9192 | sjs@franczek.com
Franczek P.C. | 300 South Wacker Drive, Suite 3400 | Chicago, IL 60606 | www.franczek.com

30 YEARS | FRANCZEK

The information contained in this e-mail message and any attachments may be confidential or privileged and is intended only for the use of the named recipient. If you are not the named recipient, you are hereby notified that any dissemination or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please contact the sender and delete all copies and attachments.

RE: Legal Representation of Shermeka Fountain and Octavia Smith

From Scott, Sally J. <sjs@franczek.com>
To Calvita J. Frederick <cjf@cjfredericklaw.com>
Date 2024-12-06 18:12

Ms. Frederick,

The District has agreed to postpone the hearing and consideration of the notice of charges until January.

Thank you,
Sally

From: Calvita J. Frederick <cjf@cjfredericklaw.com>
Sent: Friday, December 6, 2024 12:43 PM
To: Scott, Sally J. <sjs@franczek.com>
Subject: Re: FW: Legal Representation of Shermeka Fountain and Octavia Smith

The November 4, receipt date was an error. The date received was December 4, 2024.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-12-06 12:39, Calvita J. Frederick wrote:

Ms. Scott:

Thank you for responding to my letter of October 20, 2024.

As I understand it, the FMLA documentation was submitted and receipt acknowledged via email by HR. Ms. Fountain's FMLA application should therefore have been approved since she had the time available and her doctor recommended the leave.

We received the Resolution Regarding the Dismissal of a Tenured Teacher (Shemeka Fountain) on November 4, 2024 at 5:00 PM. This document sets a Board Hearing for Monday, December 9, 2024 at 7:00 pm. We respectfully request reasonable time to prepare for both a Board hearing and a public hearing.

The Bill of Particulars attached to the Resolution is lengthy, including 10 single spaced pages. Although Ms. Fountain has been on administrative leave with pay since September 10, 2024, the reasons for her leave were not expressed and detailed until two days ago, for a meeting currently set for December 9, 2024.

Due process and the Illinois School Code require reasonable notice and an opportunity to be heard. Both Ms. Fountain and I require a reasonable amount of time to prepare to address these most serious charges, because many of the charges are false, do not accurately reflect duties assigned to Ms. Fountain, and are unsupported by documentation.

In order for a fair hearing to be conducted, we require at least 21 days to prepare. In that interim, we also request copies of the documentation Dr. Lance intends to use in support of her allegations, so that we may properly prepare to answer and/or rebut the allegations.

We will be preparing for both the closed Board hearing, as well as a public hearing which we hereby respectfully request.

Now that you have been informed of Ms. Fountain's intent to file a lawsuit against Dr. Lance, the Kankakee School District 111 and it's individual board members, you must keep anything that might be evidence related to her charge to be filed with the EEOC/ IDHR and her case to be filed in court. This includes all documents, communications, and electronic information that are potentially related to the EEOC/IDHR charge, including the harm caused by the discrimination, and all records of your communications with Ms. Fountain. Even if you are not sure whether the information is relevant to her various claims, please do not throw it away or delete it.

WHAT INFORMATION MUST YOU KEEP?

Paper documents, such as:

Employee manuals, pay stubs, work schedule, letters, memos, your notes, pictures, drawings, charts, whether or not they contain words.

Electronic information, such as:

E-mails, text messages, tweets, and social media posts and pictures, voice messages, video and sound recordings, word processing documents, electronic calendar entries, electronic memory on devices or the devices themselves, such as: Memory on computers, laptops, tablets, cell phones o Computers, laptops, tablets, cell phones,

Do not delete, replace, alter, "wipe," or "clear" your computer hard drive, electronic tablet, or cell phone, and do not change or remove Internet posts, without retaining an electronic copy. If you dispose of any old computers, phones or devices, make sure you make and keep an electronic copy of all potentially relevant information on the device. These are some examples and not a complete list.

Destruction of any evidence might subject you to additional claims for spoliation of evidence. If you have questions about what you should or should not do, please contact your attorney.

Because litigation is contemplated and we so notified Dr. Lance on October 10, 2024, we expect that all records have been preserved. In a federal lawsuit Ms. Fountain's entire Google drive will be the subject matter of discovery and we will not hesitate to have a forensic evaluation conducted to identify any documents that have bee erased or altered.

Please advise asap of a new hearing date.

Thank you.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-12-03 17:22, Scott, Sally J. wrote:

Ms. Frederick,

I represent Kankakee High School in this matter. As I understand, Ms. Fountain has never submitted the required FMLA documentation, so she is not on FMLA leave. Therefore, she should be able to meet with Dr. Lance.

Thank you,

Sally Scott

---------- Forwarded message ---------
From: **Calvita J. Frederick** <cjf@cjfredericklaw.com>
Date: Tue, Dec 3, 2024 at 3:21 PM
Subject: Re: Legal Representation of Shermeka Fountain and Octavia Smith
To: Dr. Teresa Lance <teresa-lance@ksd111.org>

Dr. Lance:

I am in receipt of your email from Friday November 29, 2024 to my client, Shemeka Fountain, requesting her attendance in a meeting relative to her employment on today at 3:30 pm. In accordance with my letter of October 20, 2024, Ms. Fountain has requested and submitted documentation for FMLA, her health requiring she not work at this time. Therefore, in accordance with her doctor's orders, Ms. Fountain cannot meet with you.

Upon information and belief, the FMLA application has not been approved by the HR office of the Kankakee School District. Please immediately advise if you require additional documentation.

In addition, in your email correspondence in response to my October 20, 2024 letter, you indicated that you were referring this matter to the district attorney. I have not heard from your attorneys at this time.

Please advise.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-10-22 15:02, Calvita J. Frederick wrote:

Thank you.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

cjf@cjfredericklaw.com

On 2024-10-21 14:23, Dr. Teresa Lance wrote:

> Dear Ms. Frederick,
>
> I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
>
> Thank you,
>
> Teresa A. Lance, Ed.D
>
> Superintendent of Kankakee School District
>
> ONE Community, ONE District, ONE vision for ALL children
>
> On Mon, Oct 21, 2024 at 12:55 PM Calvita J. Frederick <cjf@cjfredericklaw.com> wrote:
>
> > Good Afternoon All:
> >
> > Please see attached letter.
> >
> > Regards,
> >
> > --
> >
> > ***C J Frederick***
> >
> > Calvita J. Frederick & Associates
> >
> > Post Office Box 802976
> >
> > Chicago, Illinois 60680
> >
> > 312-421-5544 fax 312-277-7190
> >
> > cjf@cjfredericklaw.com

Sally J. Scott | Partner | T. 312.786.6132 | F. 312.986.9192 | sjs@franczek.com
Franczek P.C. | 300 South Wacker Drive, Suite 3400 | Chicago, IL 60606 | www.franczek.com



The information contained in this e-mail message and any attachments may be confidential or privileged and is intended only for the use of the named recipient. If you are not the named recipient, you are hereby notified that any dissemination or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please contact the sender and delete all copies and attachments.

Can we discuss letters to the people on this letter

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net; shemekamfountain@gmail.com

Date: Wednesday, September 18, 2024 at 09:55 AM CDT

Sent from my iPhone

Letter.pdf
400.8kB

image0.jpeg
130.1kB

image1.jpeg
203.5kB

image2.png
387.8kB

image3.jpeg
344.1kB

image4.jpeg
544.8kB

image5.jpeg
454.4kB

image6.jpeg
264.8kB

image7.jpeg
275kB

Demand letter to Kankakee School District

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com; committeetoelectgenevraw@gmail.com; smithoctavia913@yahoo.com

Date: Monday, October 21, 2024 at 12:40 PM CDT

Good afternoon ladies:

Please see attached letter being sent to the Kankakee School District today.
I apologize for not sending you the draft on Saturday.
Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190



INITIAL DEMAND LTR.pdf
157.7kB

Dr. Genevra Walters, Retired Superintendent of Kankakee

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net

Cc: shemekamfountain@gmail.com

Date: Friday, September 6, 2024 at 04:08 PM CDT

I copied my Assistant Superintendent who has also experienced discrimination. Monday I will know who else would like to be involved.

708-932-0034
1310 Oaktree Lane
Kankakee, IL 60901

Sent from my iPhone

November 30, 2022.pdf
3.5MB

Emails

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Friday, October 18, 2024 at 06:24 PM CDT

Attached are the email addresses.

Emails.docx
7.3kB

Fwd: Information

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Friday, December 27, 2024 at 04:35 PM CST

Ms. Frederick.

Can you also ask them for the date of the hearing and also request in addition a public hearing.

---------- Forwarded message ---------
From: **shemeka fountain** <shemekamfountain@gmail.com>
Date: Fri, Dec 27, 2024, 3:55 PM
Subject: Information
To: CALVITA Frederick Sowell <calvita.frederick@att.net>

I need access to my emails, my Google drive, job descriptions for the Assistant Superintendents of HR. Business and Instructional Programs and my personnel file.

In addition I need specifically:

- Retirement paperwork for teacher's retirement meeting located in the Human Resource Office.
- Emails between Shemeka Fountain, Beth Anderson, and Teresa Lance concerning teacher salary letters
- Information from the Google form created by Shemeka Fountain and shared with Beth Anderson and Teresa Lance concerning response to salary letters
- Email by Shemeka Fountain to Group Principals and Group Admin concerning teacher salary letters
- Emails from Shemeka Fountain to Beth Anderson concerning salary letters in the month of May
- Email to Group Admin or Group Principals concerning teacher salary letters in August
- Copy of the calendar invites sent to principals from Shemeka Fountain concerning Teacher Evaluations
- Email threads with Shemeka Fountain and Teresa Lance on August 19th and August 20th
- Emails from Dallas Ryan to Teresa Lance concerning vacancies
- All emails between Shemeka Fountain, Krystal Clifton, Kelly Gilbert, and Teresa Lance concerning New Teacher Orientation or NTO.
- Email between Shemeka Fountain and Kelly Gilbert concerning Teacher Evaluation Rubric
- Access to Cabinet meeting notes

Fwd: Meeting with Shemeka Fountain 12.3.24

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Friday, November 29, 2024 at 10:13 AM CST

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM
Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,
Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

Fwd: Notice of Charges/Bill of Particulars/Hearing S. Fountain

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Wednesday, December 4, 2024 at 05:37 PM CST

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Wed, Dec 4, 2024 at 4:56 PM
Subject: Notice of Charges/Bill of Particulars/Hearing S. Fountain
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>

Dear Ms. Fountain,
Please be advised that on Monday, December 9th, I will ask the Board of Education to act on my recommendation regarding your employment status with Kankakee School District.

If you and/or your legal representative would like to meet with the Board of Education during closed session on Monday, December 9th, please respond to this email letting me know.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

Fountain Notice of Charges and Bill of Particulars 12.4.24 (3357950.1).pdf
150.6kB

Genevra Walters

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net

Date: Tuesday, September 17, 2024 at 05:24 PM CDT

Sent from my iPhone

IMG_8574.PNG
387.8kB

IMG_8575.PNG
537.8kB

I will send more documents tomorrow

From: Genevra Walters (genevra.walters@yahoo.com)

To: calvita.frederick@att.net; Cjf@cjfredericklaw.com; shemekamfountain@gmail.com

Date: Thursday, September 12, 2024 at 07:31 PM CDT

https://www.ksd111.org/cms/lib/IL01904746/Centricity/Domain/68/5_240.23.pdf

Sent from my iPhone

5_240.23.pdf
57.3kB

Information

From: shemeka fountain (shemekamfountain@gmail.com)

To: committeetoelectgenevraw@gmail.com; Genevra1968@gmail.com; calvita.frederick@att.net

Date: Monday, September 16, 2024 at 12:11 PM CDT

Hello,

Attached are some documents for my case. When we talk tomorrow, I can give more context.


Admin Leave.pdf
31kB


Gmail - Violation of Board Policy.pdf
112kB


Close Session.pdf
32.9kB


Board Policy.pdf
57.1kB


Kenney Personnel Issues.pdf
449.4kB


Gmail - Meeting with Complaint Manager.pdf
680.3kB


Emails for rebuttal.pdf
330.3kB


Termination of Bradley.pdf
267.4kB


Rebuttal.pdf
1.3MB


Security emails.pdf
1.7MB


Holding Certificates.pdf
95.4kB

Information

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Friday, December 27, 2024 at 03:55 PM CST

I need access to my emails, my Google drive, job descriptions for the Assistant Superintendents of HR. Business and Instructional Programs and my personnel file.

In addition I need specifically:

- Retirement paperwork for teacher's retirement meeting located in the Human Resource Office.
- Emails between Shemeka Fountain, Beth Anderson, and Teresa Lance concerning teacher salary letters
- Information from the Google form created by Shemeka Fountain and shared with Beth Anderson and Teresa Lance concerning response to salary letters
- Email by Shemeka Fountain to Group Principals and Group Admin concerning teacher salary letters
- Emails from Shemeka Fountain to Beth Anderson concerning salary letters in the month of May
- Email to Group Admin or Group Principals concerning teacher salary letters in August
- Copy of the calendar invites sent to principals from Shemeka Fountain concerning Teacher Evaluations
- Email threads with Shemeka Fountain and Teresa Lance on August 19th and August 20th
- Emails from Dallas Ryan to Teresa Lance concerning vacancies
- All emails between Shemeka Fountain, Krystal Clifton, Kelly Gilbert, and Teresa Lance concerning New Teacher Orientation or NTO.
- Email between Shemeka Fountain and Kelly Gilbert concerning Teacher Evaluation Rubric
- Access to Cabinet meeting notes

Kankakee - Genevra Walters

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net

Date: Tuesday, September 10, 2024 at 03:51 AM CDT

Sent from my iPhone

3760_001.pdf
1.5MB

Kankakee with Genevra Walters

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net

Cc: shemekamfountain@gmail.com; Smithoctavia913@yahoo.com

Date: Sunday, September 8, 2024 at 11:17 AM CDT

Octavia Smith was recommended for hire for a childcare position making $15 an hour for 3 or 4 days. Her recommendation was pulled by the superintendent. We think it was because she supported students who protested the end of a youth program, her relationship with me the previous superintendent or her sickle cell which is why she applied for a part-time position.

Sign the Petition
change.org

Lavalle smith. Applied for a leave in April. And applied for FMLA recently. Looking for the evidence that the board approved the leave.

Sent from my iPhone

favicon-114x114.png
2.9kB

IMG_20240908_104243878.heic
471.8kB

Re: Demand letter to Kankakee School District

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: calvita.frederick@att.net

Cc: shemekamfountain@gmail.com; Smithoctavia913@yahoo.com

Date: Tuesday, October 22, 2024 at 03:40 PM CDT

The only violation of opens meeting act is if they respond to the email.

Genevra

Sent from my iPhone

> On Oct 22, 2024, at 3:01 PM, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> I received the below response from Dr. Lance.
>
> Dear Ms. Frederick,
> I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE
> SCHOOL DISTRICT #111
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net>

wrote:

Good afternoon ladies:

Please see attached letter being sent to the Kankakee School District today.
I apologize for not sending you the draft on Saturday.
Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Demand letter to Kankakee School District

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com; committeetoelectgenevraw@gmail.com; smithoctavia913@yahoo.com

Date: Tuesday, October 22, 2024 at 03:01 PM CDT

I received the below response from Dr. Lance.

Dear Ms. Frederick,
I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Good afternoon ladies:
>
> Please see attached letter being sent to the Kankakee School District today.
> I apologize for not sending you the draft on Saturday.
> Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
> If that is incorrect, please call me right away.
>
> Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Demand letter to Kankakee School District

From: calvita.frederick (calvita.frederick@att.net)

To: committeetoelectgenevraw@gmail.com

Date: Wednesday, October 23, 2024 at 07:33 AM CDT

Ok, so she is running interference?

Sent from my T-Mobile 5G Device

-------- Original message --------
From: Genevra Walters <committeetoelectgenevraw@gmail.com>
Date: 10/22/24 3:40 PM (GMT-06:00)
To: CALVITA Frederick Sowell <calvita.frederick@att.net>
Cc: Shemeka Fountain <shemekamfountain@gmail.com>, Smithoctavia913@yahoo.com
Subject: Re: Demand letter to Kankakee School District

The only violation of opens meeting act is if they respond to the email.

Genevra

Sent from my iPhone

On Oct 22, 2024, at 3:01 PM, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

I received the below response from Dr. Lance.

Dear Ms. Frederick,
I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Good afternoon ladies:

Please see attached letter being sent to the Kankakee School District today.
I apologize for not sending you the draft on Saturday.
Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Demand letter to Kankakee School District

From: calvita.frederick (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Wednesday, October 23, 2024 at 07:32 AM CDT

What is OMA?

Sent from my T-Mobile 5G Device

-------- Original message --------
From: shemeka fountain <shemekamfountain@gmail.com>
Date: 10/22/24 4:18 PM (GMT-06:00)
To: CALVITA Frederick Sowell <calvita.frederick@att.net>
Cc: Genevra Walters <committeetoelectgenevraw@gmail.com>, smithoctavia913@yahoo.com
Subject: Re: Demand letter to Kankakee School District

Ok thank you.

On Tue, Oct 22, 2024, 3:01 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

> I received the below response from Dr. Lance.
>
> Dear Ms. Frederick,
> I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE
> SCHOOL DISTRICT #111
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190

On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Good afternoon ladies:

Please see attached letter being sent to the Kankakee School District today.
I apologize for not sending you the draft on Saturday.
Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Demand letter to Kankakee School District

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Cc: committeetoelectgenevraw@gmail.com; smithoctavia913@yahoo.com

Date: Tuesday, October 22, 2024 at 04:18 PM CDT

Ok thank you.

> On Tue, Oct 22, 2024, 3:01 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> I received the below response from Dr. Lance.
>
> Dear Ms. Frederick,
> I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE
> SCHOOL DISTRICT #111
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Good afternoon ladies:
>
> Please see attached letter being sent to the Kankakee School District today.
> I apologize for not sending you the draft on Saturday.

Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Demand letter to Kankakee School District

From: calvita.frederick (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Wednesday, October 23, 2024 at 09:46 AM CDT

Ok thanks

Sent from my T-Mobile 5G Device

> -------- Original message --------
> From: shemeka fountain <shemekamfountain@gmail.com>
> Date: 10/23/24 7:47 AM (GMT-06:00)
> To: "calvita.frederick" <calvita.frederick@att.net>
> Subject: Re: Demand letter to Kankakee School District
>
> Open meetings act. So if the board responds it can be considered a board meeting in which notification has to happen. She is using it out of context.
>
> On Wed, Oct 23, 2024, 7:32 AM calvita.frederick <calvita.frederick@att.net> wrote:
>
> > What is OMA?
> >
> > Sent from my T-Mobile 5G Device
> >
> > -------- Original message --------
> > From: shemeka fountain <shemekamfountain@gmail.com>
> > Date: 10/22/24 4:18 PM (GMT-06:00)
> > To: CALVITA Frederick Sowell <calvita.frederick@att.net>
> > Cc: Genevra Walters <committeetoelectgenevraw@gmail.com>, smithoctavia913@yahoo.com
> > Subject: Re: Demand letter to Kankakee School District
> >
> > Ok thank you.
> >
> > On Tue, Oct 22, 2024, 3:01 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
> >
> > > I received the below response from Dr. Lance.
> > >
> > > Dear Ms. Frederick,
> > > I am in receipt of your email and will forward it to our district attorney. As an FYI, I've moved the Board of Education to bcc'd to avoid violating OMA.
> > > Thank you,
> > >
> > > Teresa A. Lance, Ed.D
> > > Superintendent of Kankakee School District

ONE Community, ONE District, ONE vision for ALL children



Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, October 21, 2024 at 12:40:38 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Good afternoon ladies:

Please see attached letter being sent to the Kankakee School District today.
I apologize for not sending you the draft on Saturday.
Ms. Fountain assures me that you have seen the draft and have no opposition to the letter going out.
If that is incorrect, please call me right away.

Thank you for your confidence in my office for the handling of these matters.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Dr. Genevra Walters, Retired Superintendent of Kankakee

From: Genevra Walters (genevra.walters@yahoo.com)

To: Cjf@cjfredericklaw.com; calvita.frederick@att.net

Cc: shemekamfountain@gmail.com

Date: Saturday, September 7, 2024 at 07:33 PM CDT

Board President called me a hired hand.

Sent from my iPhone

> On Sep 6, 2024, at 4:07 PM, Genevra Walters <genevra.walters@yahoo.com> wrote:
>
> I copied my Assistant Superintendent who has also experienced discrimination. Monday I will know who else would like to be involved.
>
> 708-932-0034
> 1310 Oaktree Lane
> Kankakee, IL 60901
>
> Sent from my iPhone

RenderedVideo.mov
14MB

November 30, 2022.pdf
3.5MB

Re: Emails

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Sunday, October 20, 2024 at 07:30 AM CDT

Ok. There is a misspelling of my name in one section. Due to me being a tenured staff member she also violated school code.

It looks good.

> On Sat, Oct 19, 2024, 10:46 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Ms. Fountain:
>
> Please see attached draft.
> I will be unavailable tomorrow, but will get back on it early Monday morning.
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Friday, October 18, 2024 at 11:19:44 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> received
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Friday, October 18, 2024 at 06:24:46 PM CDT, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Attached are the email addresses.

Re: Emails

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Saturday, October 19, 2024 at 10:46 PM CDT

Ms. Fountain:

Please see attached draft.
I will be unavailable tomorrow, but will get back on it early Monday morning.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Friday, October 18, 2024 at 11:19:44 PM CDT, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> received
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Friday, October 18, 2024 at 06:24:46 PM CDT, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Attached are the email addresses.

INITIAL DEMAND LTR.pdf
156.8kB

Re: Emails

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Friday, October 18, 2024 at 11:19 PM CDT

received

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Friday, October 18, 2024 at 06:24:46 PM CDT, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Attached are the email addresses.

Re: Information

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: committeetoelectgenevraw@gmail.com; genevra1968@gmail.com; shemekamfountain@gmail.com

Date: Tuesday, September 17, 2024 at 12:26 PM CDT

Good afternoon:

I have received the attachments and skimmed in preparation for our meeting this afternoon.

I look forward to meeting with you.

Attached are the Attorney Retainer Agreement and Client Bill of Rights which we will discuss today and sign if you are in agreement and wish to retain me.

Thank you.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Monday, September 16, 2024 at 12:11:18 PM CDT, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Hello,
>
> Attached are some documents for my case. When we talk tomorrow, I can give more context.

CLIENT BILL OF RIGHTS.pdf
11.3kB

RETAINER CONTRACT FOR LEGAL SERVICES.pdf
181.3kB

Re: Meeting with Shemeka Fountain 12.3.24

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net; committeetoelectgenevraw@gmail.com

Date: Monday, January 6, 2025 at 06:34 PM CST

In addition I will have my attorney reach out to the district to indicate my representation.

> On Mon, Jan 6, 2025, 6:28 PM shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> > Hello,
> >
> > The signed contract was between myself and you. I need an itemized bill from you and the balance of the $15000 retainer I paid to you returned to me.
> >
> > ---------- Forwarded message ---------
> > From: **CALVITA Frederick Sowell** <calvita.frederick@att.net>
> > Date: Mon, Jan 6, 2025, 5:50 PM
> > Subject: Re: Meeting with Shemeka Fountain 12.3.24
> > To: shemeka fountain <shemekamfountain@gmail.com>, Genevra Walters <committeetoelectgenevraw@gmail.com>, Octavia Smith <smithoctavia913@yahoo.com>
> >
> > Good afternoon:
> >
> > Based upon our last telephone conversation, I am concerned about the following:
> >
> > 1 Your inability to understand my position as relates to the retainer fee paid and the additional work required.
> > Our agreement in place today provides for representation in preparing and filing an employment discrimination case. It is a retainer fee plus a contingency fee arrangement. The agreement contemplated me preparing and submitting a demand letter, the preparation and filing of a charge with either the EEOC or Illinois Department of Human Rights and the preparation and filing of the lawsuit, including responding to motions, participating in discovery and trial, should the case proceed to trial.
> >
> > 2. It has now become evident that additional representation is needed for you in the form of preparation and representation in several administrative hearings related to your possible termination of employment from District 111 as a tenured employee,including a hearing before the District 111 Board, a pubic hearing, and a hearing before the Illinois State Board of Education. This work will be based upon a separate hourly agreement with no contingency fee arrangement involved. This additional attorney time is substantial, was not contemplated in our initial agreement and is not covered by the retainer

agreement currently in place. Also since one agreement is a retainer plus contingency and the new retainer agreement for the hearings is a straight hourly agreement, I cannot combine this work under the original agreement. When I first discussed this matter with you I thought that you understood that the additional work required additional legal fees, as you asked me how much.

3. I believe a separate agreement is required for the new additional work that is being added. I advised that the additional retainer fee is $10,000.00. Based upon our last telephone conversation, you see my request for additional monies for the added work as a *money grab* and refuse to pay it. So be it.

4. Our conversations over the past several months causes me to believe you are not satisfied with my representation of your case and intend to seek new counsel, which is certainly your right.

5. There is also the problem of your submission of pro se responses either to District 111 representatives, the State Board of Education, or their attorney; responses that will most likely affect the outcome of your case. You have advised me several times that you are aware of the district policies, have worked with the Board's attorney before and know what is needed to defend yourself. This leads me to believe that you feel confident to represent yourself in these district hearings. Based upon what you told me about how you requested a hearing, I pointed out that the request for a hearing (which I have not seen) did not comply with the requirements to request a hearing before the State Board of Education, set forth in the Bill of Particulars. You responded that you should not have to read the legal requirements, essentially making it my fault that the request was not properly made, and the deadline had now passed.

You should recall that you sent the request for the State of Illinois hearing and your original response to the Resolution Regarding Dismissal of a Tenured Teacher, Notice of Charges, Bill of Particulars and Hearing, prior to ever forwarding the documents you received from Dr. Lance to me. Your rationale was that you had to get something on file immediately. Once I got the documents sent to you by the District, an email was prepared and sent by me to the District's attorney. An extension was granted. Further, you told me at that time that you had what you needed to prepare a response to the District's accusations against you, and demanded that you prepare the draft response. I required that you send the draft response to me for review, before you sent anything else out without my involvement and approval.

But over the holiday, you sent me a text asking if I had received anything from the District. It appears that you assumed that I knew that you needed additional documents to complete the response. I made no such assumption, because you clearly stated to me that you had what you needed.

I asked for a telephone conversation with you to ensure that my request for access to the necessary information was thorough, including all necessary types of documents. You advised me that the District was closed until after the New Year and refused to talk with me.

6. Your responses lead me to believe that there will be ongoing problems with you as a client, and I do not wish to place myself in harms' way for responsibility for errors I did not make.

7. You came to me through Dr. Walters who made the initial call for legal counsel, made many promises used to entice me to represent a group of dissatisfied current or former employees of District 111, including herself. As you know, because you were included on most of the telephone calls with Dr. Walters, Dr. Walters' promises included the promise to pay legal fees for several of the Plaintiffs. You will recall that the demand letter I sent to the District was reviewed and approved by you, Dr. Walters, and Ms. Smith. I did not think that it was time for a demand letter to be sent but the three of you insisted and I complied with your demands. Based upon Dr. Walters' failure to abide by the contract with me, after many promises made with supporting documentation of her intent and ability to pay, I believe the relationship is now toxic, and that there is an irretrievable breakdown in communications resulting in irreconcilable differences, along with unpaid bills.

8. You have indicated your dissatisfaction with my services and I accept your decision to seek new counsel.

I will so advise the District's attorney that I no longer represent you, Dr. Walters, Ms. Smith and others.

I wish you the best.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Tuesday, December 3, 2024 at 02:51:42 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

Yes. I have just left the doctors office.

On Tue, Dec 3, 2024, 2:49 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

May we talk, please?

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Tuesday, December 3, 2024 at 02:09:51 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

I have submitted FMLA paperwork and have not heard back from the district. I will not attend the meeting today. The school district is not taking my case seriously. They are acting as if no letter has been submitted. Can we move forward with contacting their attorney and filing the necessary legal paperwork.

On Tue, Dec 3, 2024, 7:42 AM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

> Ms. Fountain:
>
> I have not heard back from you relative to your meeting request for today. It is my understanding that you are currently on FMLA, although I have not received any documentation from you offering proof of same.
>
> My position with regard to your attending a meeting with Dr Lance has not changed since the last request.
>
> First, I have no authority to enter the school building, and will not subject myself to arrest or charges of trespass.
>
> Second, on your doctor's orders, you should not participate in any activities related to your employment.
> Please revisit my letter of October 20, 2024, addressed to Dr. Lance, which states:
>
> **As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that**

you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

I attach a copy for your reference.
I believe an email should be sent from my office to Dr. Lance.
Please advise me if you wish me to do so.

In short, I believe we should stick to the game plan now in place.
Please contact me with any questions you might have.
I will be unavailable until after 11:00 am this morning.

Be well...

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, December 2, 2024 at 02:59:36 PM CST, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM

Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,
Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

Re: Meeting with Shemeka Fountain 12.3.24

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: calvita.frederick@att.net

Cc: shemekamfountain@gmail.com; smithoctavia913@yahoo.com

Date: Monday, January 27, 2025 at 07:21 AM CST

Please provide an itemized bill and remaining retainer to Octavia Smith. 439 S. Lincoln, Kankakee, IL 60901.

Sent from my iPhone

> On Jan 6, 2025, at 5:50 PM, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Good afternoon:
>
> Based upon our last telephone conversation, I am concerned about the following:
>
> 1 Your inability to understand my position as relates to the retainer fee paid and the additional work required.
> Our agreement in place today provides for representation in preparing and filing an employment discrimination case. It is a retainer fee plus a contingency fee arrangement. The agreement contemplated me preparing and submitting a demand letter, the preparation and filing of a charge with either the EEOC or Illinois Department of Human Rights and the preparation and filing of the lawsuit, including responding to motions, participating in discovery and trial, should the case proceed to trial.
>
> 2. It has now become evident that additional representation is needed for you in the form of preparation and representation in several administrative hearings related to your possible termination of employment from District 111 as a tenured employee,including a hearing before the District 111 Board, a pubic hearing, and a hearing before the Illinois State Board of Education. This work will be based upon a separate hourly agreement with no contingency fee arrangement involved. This additional attorney time is substantial, was not contemplated in our initial agreement and is not covered by the retainer agreement currently in place. Also since one agreement is a retainer plus contingency and the new retainer agreement for the hearings is a straight hourly agreement, I cannot combine this work under the original agreement. When I first discussed this matter with you I thought that you understood that the additional work required additional legal fees, as you asked me how much.

3. I believe a separate agreement is required for the new additional work that is being added. I advised that the additional retainer fee is $10,000.00. Based upon our last telephone conversation, you see my request for additional monies for the added work as a *money grab* and refuse to pay it. So be it.

4. Our conversations over the past several months causes me to believe you are not satisfied with my representation of your case and intend to seek new counsel, which is certainly your right.

5. There is also the problem of your submission of pro se responses either to District 111 representatives, the State Board of Education, or their attorney; responses that will most likely affect the outcome of your case. You have advised me several times that you are aware of the district policies, have worked with the Board's attorney before and know what is needed to defend yourself. This leads me to believe that you feel confident to represent yourself in these district hearings. Based upon what you told me about how you requested a hearing, I pointed out that the request for a hearing (which I have not seen) did not comply with the requirements to request a hearing before the State Board of Education, set forth in the Bill of Particulars. You responded that you should not have to read the legal requirements, essentially making it my fault that the request was not properly made, and the deadline had now passed.

You should recall that you sent the request for the State of Illinois hearing and your original response to the Resolution Regarding Dismissal of a Tenured Teacher, Notice of Charges, Bill of Particulars and Hearing, prior to ever forwarding the documents you received from Dr. Lance to me. Your rationale was that you had to get something on file immediately. Once I got the documents sent to you by the District, an email was prepared and sent by me to the District's attorney. An extension was granted. Further, you told me at that time that you had what you needed to prepare a response to the District's accusations against you, and demanded that you prepare the draft response. I required that you send the draft response to me for review, before you sent anything else out without my involvement and approval.

But over the holiday, you sent me a text asking if I had received anything from the District. It appears that you assumed that I knew that you needed additional documents to complete the response. I made no such assumption, because you clearly stated to me that you had what you needed.

I asked for a telephone conversation with you to ensure that my request for access to the necessary information was thorough, including all necessary types of documents. You advised me that the District was closed until after the New Year and refused to talk with me.

6. Your responses lead me to believe that there will be ongoing problems with you as a client, and I do not wish to place myself in harms' way for responsibility for errors I did not make.

7. You came to me through Dr. Walters who made the initial call for legal counsel, made many promises used to entice me to represent a group of dissatisfied current or former employees of District 111, including herself. As you know, because you were included on most of the telephone calls with Dr. Walters, Dr. Walters' promises included the promise to pay legal fees for several of the Plaintiffs. You will recall that the demand letter I sent to the District was reviewed and approved by you, Dr. Walters, and Ms. Smith. I did not think that it was time for a demand letter to be sent but the three of you insisted and I complied with your demands. Based upon Dr. Walters' failure to abide by the contract with me, after many promises made with supporting documentation of her intent and ability to pay, I believe the relationship is now toxic, and that there is an irretrievable breakdown in communications resulting in irreconcilable differences, along with unpaid bills.

8. You have indicated your dissatisfaction with my services and I accept your decision to seek new counsel.

I will so advise the District's attorney that I no longer represent you, Dr. Walters, Ms. Smith and others.

I wish you the best.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Tuesday, December 3, 2024 at 02:51:42 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

Yes. I have just left the doctors office.

On Tue, Dec 3, 2024, 2:49 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

> May we talk, please?
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates

Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Tuesday, December 3, 2024 at 02:09:51 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

I have submitted FMLA paperwork and have not heard back from the district. I will not attend the meeting today. The school district is not taking my case seriously. They are acting as if no letter has been submitted. Can we move forward with contacting their attorney and filing the necessary legal paperwork.

On Tue, Dec 3, 2024, 7:42 AM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

> Ms. Fountain:
>
> I have not heard back from you relative to your meeting request for today. It is my understanding that you are currently on FMLA, although I have not received any documentation from you offering proof of same.
>
> My position with regard to your attending a meeting with Dr Lance has not changed since the last request.
>
> First, I have no authority to enter the school building, and will not subject myself to arrest or charges of trespass.
>
> Second, on your doctor's orders, you should not participate in any activities related to your employment.
> Please revisit my letter of October 20, 2024, addressed to Dr. Lance, which states:
>
> **As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.**
>
> I attach a copy for your reference.

I believe an email should be sent from my office to Dr. Lance.
Please advise me if you wish me to do so.

In short, I believe we should stick to the game plan now in place.
Please contact me with any questions you might have.
I will be unavailable until after 11:00 am this morning.

Be well...

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, December 2, 2024 at 02:59:36 PM CST, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM
Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,

Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

Re: Meeting with Shemeka Fountain 12.3.24

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: calvita.frederick@att.net

Cc: shemekamfountain@gmail.com; smithoctavia913@yahoo.com

Date: Friday, January 31, 2025 at 08:37 PM CST

Please provide an itemized bill an the remaining retainer.

Sent from my iPhone

> On Jan 27, 2025, at 7:21 AM, Genevra Walters <committeetoelectgenevraw@gmail.com> wrote:
>
> Please provide an itemized bill and remaining retainer to Octavia Smith. 439 S. Lincoln, Kankakee, IL 60901.
>
> Sent from my iPhone
>
> > On Jan 6, 2025, at 5:50 PM, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
> >
> > Good afternoon:
> >
> > Based upon our last telephone conversation, I am concerned about the following:
> >
> > 1 Your inability to understand my position as relates to the retainer fee paid and the additional work required.
> > Our agreement in place today provides for representation in preparing and filing an employment discrimination case. It is a retainer fee plus a contingency fee arrangement. The agreement contemplated me preparing and submitting a demand letter, the preparation and filing of a charge with either the EEOC or Illinois Department of Human Rights and the preparation and filing of the lawsuit, including responding to motions, participating in discovery and trial, should the case proceed to trial.
> >
> > 2. It has now become evident that additional representation is needed for you in the form of preparation and representation in several administrative hearings related to your possible termination of employment from District 111 as a tenured employee,including a hearing before the District 111 Board, a pubic hearing, and a hearing before the Illinois State Board of Education. This work

will be based upon a separate hourly agreement with no contingency fee arrangement involved. This additional attorney time is substantial, was not contemplated in our initial agreement and is not covered by the retainer agreement currently in place. Also since one agreement is a retainer plus contingency and the new retainer agreement for the hearings is a straight hourly agreement, I cannot combine this work under the original agreement. When I first discussed this matter with you I thought that you understood that the additional work required additional legal fees, as you asked me how much.

3. I believe a separate agreement is required for the new additional work that is being added. I advised that the additional retainer fee is $10,000.00. Based upon our last telephone conversation, you see my request for additional monies for the added work as a *money grab* and refuse to pay it. So be it.

4. Our conversations over the past several months causes me to believe you are not satisfied with my representation of your case and intend to seek new counsel, which is certainly your right.

5. There is also the problem of your submission of pro se responses either to District 111 representatives, the State Board of Education, or their attorney; responses that will most likely affect the outcome of your case. You have advised me several times that you are aware of the district policies, have worked with the Board's attorney before and know what is needed to defend yourself. This leads me to believe that you feel confident to represent yourself in these district hearings. Based upon what you told me about how you requested a hearing, I pointed out that the request for a hearing (which I have not seen) did not comply with the requirements to request a hearing before the State Board of Education, set forth in the Bill of Particulars. You responded that you should not have to read the legal requirements, essentially making it my fault that the request was not properly made, and the deadline had now passed.

You should recall that you sent the request for the State of Illinois hearing and your original response to the Resolution Regarding Dismissal of a Tenured Teacher, Notice of Charges, Bill of Particulars and Hearing, prior to ever forwarding the documents you received from Dr. Lance to me. Your rationale was that you had to get something on file immediately. Once I got the documents sent to you by the District, an email was prepared and sent by me to the District's attorney. An extension was granted. Further, you told me at that time that you had what you needed to prepare a response to the District's accusations against you, and demanded that you prepare the draft response. I required that you send the draft response to me for review, before you sent anything else out without my involvement and approval.

But over the holiday, you sent me a text asking if I had received anything from

the District. It appears that you assumed that I knew that you needed additional documents to complete the response. I made no such assumption, because you clearly stated to me that you had what you needed.

I asked for a telephone conversation with you to ensure that my request for access to the necessary information was thorough, including all necessary types of documents. You advised me that the District was closed until after the New Year and refused to talk with me.

6. Your responses lead me to believe that there will be ongoing problems with you as a client, and I do not wish to place myself in harms' way for responsibility for errors I did not make.

7. You came to me through Dr. Walters who made the initial call for legal counsel, made many promises used to entice me to represent a group of dissatisfied current or former employees of District 111, including herself. As you know, because you were included on most of the telephone calls with Dr. Walters, Dr. Walters' promises included the promise to pay legal fees for several of the Plaintiffs. You will recall that the demand letter I sent to the District was reviewed and approved by you, Dr. Walters, and Ms. Smith. I did not think that it was time for a demand letter to be sent but the three of you insisted and I complied with your demands. Based upon Dr. Walters' failure to abide by the contract with me, after many promises made with supporting documentation of her intent and ability to pay, I believe the relationship is now toxic, and that there is an irretrievable breakdown in communications resulting in irreconcilable differences, along with unpaid bills.

8. You have indicated your dissatisfaction with my services and I accept your decision to seek new counsel.

I will so advise the District's attorney that I no longer represent you, Dr. Walters, Ms. Smith and others.

I wish you the best.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Tuesday, December 3, 2024 at 02:51:42 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

Yes. I have just left the doctors office.

On Tue, Dec 3, 2024, 2:49 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

> May we talk, please?
>
> Cal
> Calvita J. Frederick
> Calvita J. Frederick & Associates
> Attorney at Law
> Post Office Box 802976
> Chicago, IL. 60680
> 312-421-5544
> Fax:312-277-7190
>
> On Tuesday, December 3, 2024 at 02:09:51 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> I have submitted FMLA paperwork and have not heard back from the district. I will not attend the meeting today. The school district is not taking my case seriously. They are acting as if no letter has been submitted. Can we move forward with contacting their attorney and filing the necessary legal paperwork.
>
> On Tue, Dec 3, 2024, 7:42 AM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> > Ms. Fountain:
> >
> > I have not heard back from you relative to your meeting request for today. It is my understanding that you are currently on FMLA, although I have not received any documentation from you offering proof of same.
> >
> > My position with regard to your attending a meeting with Dr Lance has not changed since the last request.
> >
> > First, I have no authority to enter the school building, and will not subject myself to arrest or charges of trespass.
> >
> > Second, on your doctor's orders, you should not participate in any activities related to your employment.
> > Please revisit my letter of October 20, 2024, addressed to Dr. Lance, which states:
> >
> > **As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are**

so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

I attach a copy for your reference.
I believe an email should be sent from my office to Dr. Lance.
Please advise me if you wish me to do so.

In short, I believe we should stick to the game plan now in place.
Please contact me with any questions you might have.
I will be unavailable until after 11:00 am this morning.

Be well...

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, December 2, 2024 at 02:59:36 PM CST, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM
Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,
Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

Re: Meeting with Shemeka Fountain 12.3.24

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Monday, December 2, 2024 at 02:59 PM CST

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> ---------- Forwarded message ---------
> From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
> Date: Fri, Nov 29, 2024, 7:06 AM
> Subject: Meeting with Shemeka Fountain 12.3.24
> To: shemeka fountain <shemekamfountain@gmail.com>
> Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>
>
> Dear Ms. Fountain,
> Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
> Thank you,
>
> Teresa A. Lance, Ed.D
> Superintendent of Kankakee School District
> ONE Community, ONE District, ONE vision for ALL children
>
> KANKAKEE
> SCHOOL DISTRICT #111

Re: Meeting with Shemeka Fountain 12.3.24

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com

Date: Tuesday, December 3, 2024 at 02:49 PM CST

May we talk, please?

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

> On Tuesday, December 3, 2024 at 02:09:51 PM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> I have submitted FMLA paperwork and have not heard back from the district. I will not attend the meeting today. The school district is not taking my case seriously. They are acting as if no letter has been submitted. Can we move forward with contacting their attorney and filing the necessary legal paperwork.
>
> On Tue, Dec 3, 2024, 7:42 AM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> > Ms. Fountain:
> >
> > I have not heard back from you relative to your meeting request for today.
> > It is my understanding that you are currently on FMLA, although I have not received any documentation from you offering proof of same.
> >
> > My position with regard to your attending a meeting with Dr Lance has not changed since the last request.
> >
> > First, I have no authority to enter the school building, and will not subject myself to arrest or charges of trespass.
> >
> > Second, on your doctor's orders, you should not participate in any activities related to your employment.
> > Please revisit my letter of October 20, 2024, addressed to Dr. Lance, which states:
> >
> > **As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and**

death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

I attach a copy for your reference.
I believe an email should be sent from my office to Dr. Lance.
Please advise me if you wish me to do so.

In short, I believe we should stick to the game plan now in place.
Please contact me with any questions you might have.
I will be unavailable until after 11:00 am this morning.

Be well...

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, December 2, 2024 at 02:59:36 PM CST, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM
Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,
Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

Re: Meeting with Shemeka Fountain 12.3.24

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: shemekamfountain@gmail.com; committeetoelectgenevraw@gmail.com

Date: Tuesday, December 3, 2024 at 07:42 AM CST

Ms. Fountain:

I have not heard back from you relative to your meeting request for today.
It is my understanding that you are currently on FMLA, although I have not received any documentation from you offering proof of same.

My position with regard to your attending a meeting with Dr Lance has not changed since the last request.

First, I have no authority to enter the school building, and will not subject myself to arrest or charges of trespass.

Second, on your doctor's orders, you should not participate in any activities related to your employment.
Please revisit my letter of October 20, 2024, addressed to Dr. Lance, which states:

As you know, Ms. Fountain is an insulin dependent diabetic. Increased stress levels are dangerous risk factors for diabetics and can result in serious and life-threatening responses, including stroke, heart attack and death. Within 2 days of receiving your letter and being placed on administrative leave, Ms. Fountain required medical attention. Her primary care physician referred her to an endocrinologist and a behavioral therapist. Ms. Fountain's vitals are so elevated as to require her doctors to request that she be placed on FMLA for the next 12 weeks. In accordance with the doctor's orders, the FMLA application has been submitted, and we trust that you will facilitate the speedy approval of her medically required leave. In the interim, she has been advised not to return to her employment, and she intends to follow her doctors' orders.

I attach a copy for your reference.
I believe an email should be sent from my office to Dr. Lance.
Please advise me if you wish me to do so.

In short, I believe we should stick to the game plan now in place.
Please contact me with any questions you might have.
I will be unavailable until after 11:00 am this morning.

Be well...

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Monday, December 2, 2024 at 02:59:36 PM CST, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Ms. Fountain:

I have reviewed your forwarded email relative to the meeting request from Dr. Lance, and left you a voice mail message.
I am awaiting your return call.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

On Friday, November 29, 2024 at 10:13:12 AM CST, shemeka fountain <shemekamfountain@gmail.com> wrote:

---------- Forwarded message ---------
From: **Dr. Teresa Lance** <teresa-lance@ksd111.org>
Date: Fri, Nov 29, 2024, 7:06 AM
Subject: Meeting with Shemeka Fountain 12.3.24
To: shemeka fountain <shemekamfountain@gmail.com>
Cc: Rachel Thornton <rachel-thornton@ksd111.org>, Dr. Teresa Lance <teresa-lance@ksd111.org>

Dear Ms. Fountain,
Please plan to meet with me on Tuesday, December 3rd at 3:30pm at LLC. During our meeting, I will share with you my high level findings and recommendation to the Board of Education.
Thank you,

Teresa A. Lance, Ed.D
Superintendent of Kankakee School District
ONE Community, ONE District, ONE vision for ALL children

KANKAKEE
SCHOOL DISTRICT #111

INITIAL DEMAND LTR.pdf
157.7kB

Re: Text messages

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: calvita.frederick@att.net

Cc: shemekamfountain@gmail.com

Date: Saturday, November 30, 2024 at 03:54 PM CST

I am waiting for my retirement to be settled. I can provide proof that it is not settled with IMRF. I have ALWAYS told you that I am paying you with my retirement.

Shemeka has two emails from her employer. She has paid you in full. I want to know if you are saying you will not address the emails that she has already received.

I live in a world where I am honest, compassionate and don't take advantage of people who are in distress.

I was upset because you refuse to honor your contact with Shemeka who has paid you in full.

Sent from my iPhone

> On Nov 30, 2024, at 3:30 PM, CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Dr. Walters:
>
> The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.
>
> I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.
>
> You agreed to pay by a certain date; at the latest, November 30, 2024. As of

today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Text messages

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Cc: committeetoelectgenevraw@gmail.com

Date: Saturday, November 30, 2024 at 04:04 PM CST

Hello,

So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.

> On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> Dr. Walters:
>
> The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.
>
> I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.
>
> You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544

Fax:312-277-7190

Re: Text messages

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: shemekamfountain@gmail.com

Cc: calvita.frederick@att.net

Date: Saturday, November 30, 2024 at 04:20 PM CST

I will pay you, Ms. Frederick, when my retirement has been finalized. I will provide evidence on Monday that it is not final.

I do keep my word! And I have always explained that the payment is tied to my retirement.

I am not privileged. But, you seem to be! Which is why I am willing to help people who are less fortunate.

I will not pay you without meeting face to face. I will come to your office. I will also contact IMRF or TRS for evidence that I am not lying.

Sent from my iPhone

> On Nov 30, 2024, at 4:04 PM, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Hello,
>
> So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.
>
> On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> > Dr. Walters:
> >
> > The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.

I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and

I have none.

It always amazes me how clients who don’t keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Text messages

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

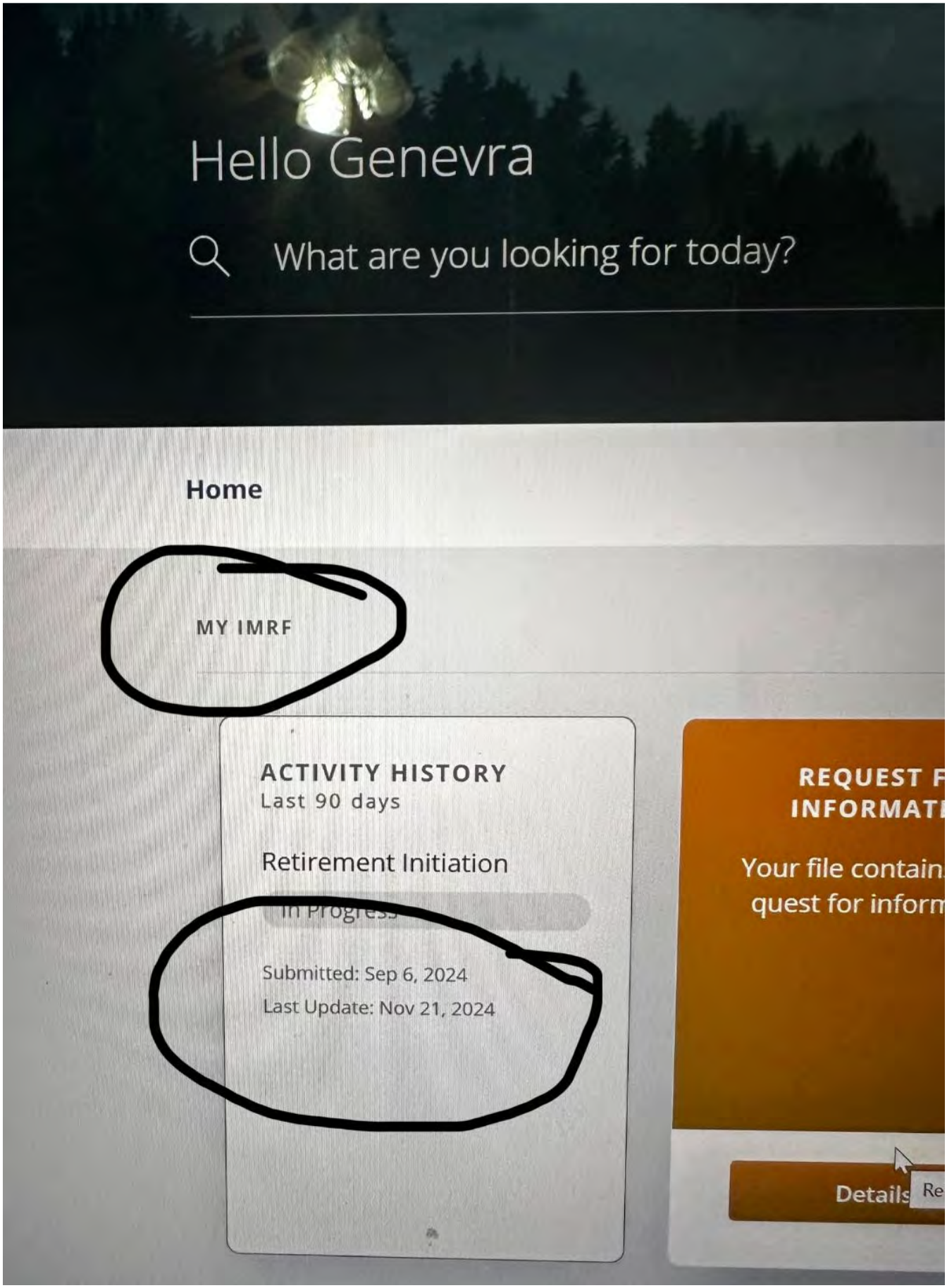
To: shemekamfountain@gmail.com

Cc: calvita.frederick@att.net

Date: Saturday, November 30, 2024 at 04:50 PM CST

Additional information that I am not a liar. The attached documents show the date that I paid IMRF (june) and the date they acknowledged it AFTER I stayed on the phone for hours to explain the importance of them finalizing my retirement account.

> On Sat, Nov 30, 2024 at 4:43 PM Genevra Walters <committeetoelectgenevraw@gmail.com> wrote:
>
> > Evidence:



Sent from my iPhone

On Nov 30, 2024, at 4:19 PM, shemeka fountain <shemekamfountain@gmail.com> wrote:

It's seems your issue is with Dr. Walters not with me and you are taking it out on me: the one who has met the deadline and paid you in full. You are holding representation of me hostage, when you have my full retainer. How is this ethical and even legal. Dr. Walters is not my guardian and I have spoken for myself since the initial meeting. Does the signed contract between you mean nothing.

On Sat, Nov 30, 2024, 4:03 PM shemeka fountain <shemekamfountain@gmail.com> wrote:

Hello,

So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.

On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Dr. Walters:

The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.

I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

IMG_9726.jpg
215.5kB

Payment Notification,dated November 26 for june payment.pdf
46.1kB

Re: Text messages

From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: shemekamfountain@gmail.com

Cc: calvita.frederick@att.net

Date: Saturday, November 30, 2024 at 04:20 PM CST

I will pay you, Ms. Frederick, when my retirement has been finalized. I will provide evidence on Monday that it is not final.

I do keep my word! And I have always explained that the payment is tied to my retirement.

I am not privileged. But, you seem to be! Which is why I am willing to help people who are less fortunate.

I will not pay you without meeting face to face. I will come to your office. I will also contact IMRF or TRS for evidence that I am not lying.

Sent from my iPhone

> On Nov 30, 2024, at 4:04 PM, shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> Hello,
>
> So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.
>
> On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
>
> > Dr. Walters:
> >
> > The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.

I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and

I have none.

It always amazes me how clients who don’t keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Text messages

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Cc: committeetoelectgenevraw@gmail.com

Date: Saturday, November 30, 2024 at 04:19 PM CST

It's seems your issue is with Dr. Walters not with me and you are taking it out on me: the one who has met the deadline and paid you in full. You are holding representation of me hostage, when you have my full retainer. How is this ethical and even legal. Dr. Walters is not my guardian and I have spoken for myself since the initial meeting. Does the signed contract between you mean nothing.

> On Sat, Nov 30, 2024, 4:03 PM shemeka fountain <shemekamfountain@gmail.com> wrote:
>
> > Hello,
> >
> > So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.
> >
> > On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:
> >
> > > Dr. Walters:
> > >
> > > The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.
> > >
> > > I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal
Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Re: Text messages

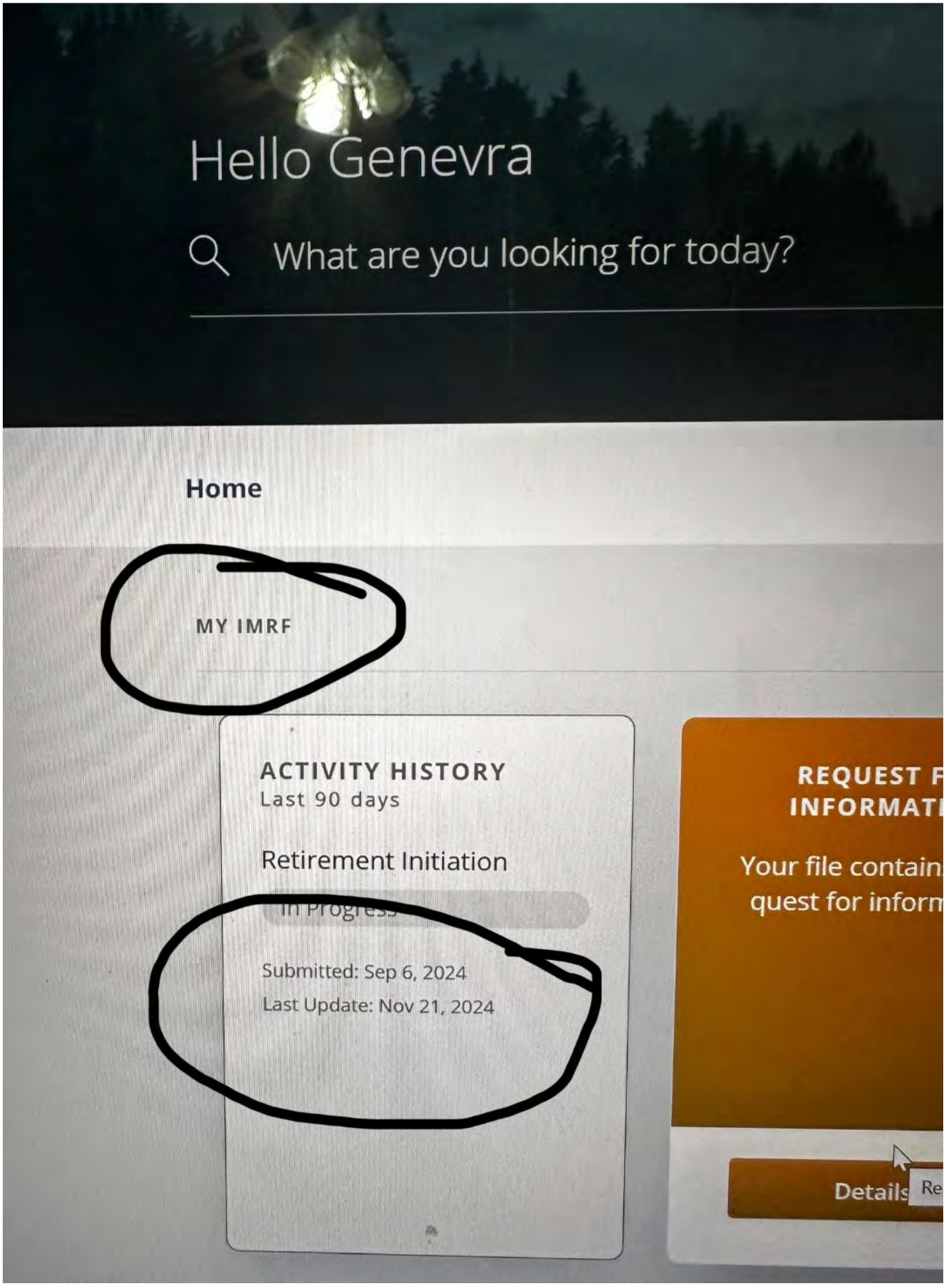
From: Genevra Walters (committeetoelectgenevraw@gmail.com)

To: shemekamfountain@gmail.com

Cc: calvita.frederick@att.net

Date: Saturday, November 30, 2024 at 04:43 PM CST

Evidence:


Hello Genevra
What are you looking for today?
Home
MY IMRF
ACTIVITY HISTORY
Last 90 days
Retirement Initiation
In Progress
Submitted: Sep 6, 2024
Last Update: Nov 21, 2024
REQUEST F
INFORMATI
Your file contain
quest for inform
Details
Re

Sent from my iPhone

On Nov 30, 2024, at 4:19 PM, shemeka fountain <shemekamfountain@gmail.com> wrote:

It's seems your issue is with Dr. Walters not with me and you are taking it out on me: the one who has met the deadline and paid you in full. You are holding representation of me hostage, when you have my full retainer. How is this ethical and even legal. Dr. Walters is not my guardian and I have spoken for myself since the initial meeting. Does the signed contract between you mean nothing.

On Sat, Nov 30, 2024, 4:03 PM shemeka fountain <shemekamfountain@gmail.com> wrote:

Hello,

So that I am clear. Although Octavia is not mentioned in the signed contract between you and I and I have complied with paying the full $15,000, you will not represent me as stated in the signed client contract. Dr. Walters has not taken the lead in my case. Since our initial meeting Dr. Walters has not been involved in my case. I have met and talked with you separately from Dr. Walters. Dr. Walters did not sign my contract you and I did. I have paid you in full. I'm the client and you won't represent me, though I have paid you. How is that fair a full represententation of me as per our written agreement.

On Sat, Nov 30, 2024, 3:30 PM CALVITA Frederick Sowell <calvita.frederick@att.net> wrote:

Dr. Walters:

The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.

I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976

Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Representation

From: shemeka fountain (shemekamfountain@gmail.com)

To: calvita.frederick@att.net

Date: Wednesday, December 18, 2024 at 06:13 AM CST

Hello,

Have you heard anything else from the district? Can you request that they give me access to my emails in order to prepare my response.

Request For A Hearing and Due Process Before the Board

From: shemeka fountain (shemekamfountain@gmail.com)

To: teresa-lance@ksd111.org

Cc: christopher-bohlen@ksd111.org; suzanna-berrones@ksd111.org; maryarchie22@gmail.com; darrell-williams@ksd111.org; tracy-verrett@ksd111.org; sjs@franczek.com; mds@franczek.com; smarkham@daily-journal.com; wls.desk@abc.com; ps@cbs.com; Kye.Martin@nbcuni.com; vernita-sims@ksd111.org; cale-kuester@ksd111.org; kendra-leftridge@ksd111.org; kim-starkey@ksd111.org; robert-ellingtonsnipes@ksd111.org; harrison-neal@ksd111.org; committeetoelectgenevraw@gmail.com; willie-hunt@ksd111.org; debra-hults@ksd111.org; dallas-ryan@ksd111.org; maria-chavez@ksd111.org; sharisse-christen@ksd111.org; NAACPCFSSB@gmail.com; naacp3035@aol.com; repjones.jones@gmail.com; jess-gathing@ksd111.org; calvita.frederick@att.net

Date: Thursday, December 5, 2024 at 09:21 AM CST

I am requesting a hearing before the Kankakee School District 111 Board of Education at its January Meeting. I received an email concerning a meeting on November 29th (Friday after Thanksgiving) to attend a meeting concerning my "high-level findings and recommendation to the board". At close of Business on yesterday, December 4th, I received a "Bill of Particulars" recommending my termination.

At NO POINT, have I received an opportunity for due process before the superintendent or a hearing before the board. Furthermore, I have never received a response concerning my request for FMLA dated October 17, 2024.

I am a tenured employee with no prior written discipline concerning any of these issues. These are my concerns as an employee and tenured staff member:

- I have never received a verbal or written warning about performance-related concerns related to the charges listed in the Bill of Particulars other than L.Hill which was verbal only and at no point was I allowed to explain.
- The current superintendent has failed to provide any documentation related to any charges in the Bill of Particulars. I have never received directives or redirection around performance issues. Many charges are not related to my job functions as the Assistant Superintendent of Human Resources.
- These false statements have affected my physical and mental health and has damaged my professional reputation.

I am copying all of the witnesses who will be requested to attend the hearing. I have only been afforded two working days to inform my attorney and plan to prepare and attend a hearing. Because of the limited opportunity to prepare, I would like a response by the close of Business, today December 6th.



Salary letter colloboration email.pdf
446.8kB

Arrest record.pdf
126.2kB

Intent.pdf
1.2MB

Negotiations 1.pdf
16.2kB


Overtime 1.jpg
351.9kB


Overtime 2.jpg
333.1kB


Overtime 3.jpg
330.8kB


March Teacher Audit letter.jpg
2.3MB


state call 1.jpg
454.5kB


State Call 3.jpg
327.6kB


State call 4.jpg
606.1kB


state call 5.jpg
462.8kB


July 23rd 1.jpg
558.9kB


July23rd 2.jpg
568.8kB


April 24th.jpg
497kB


April 242.jpg
514.7kB


April 243.jpg
392.2kB

Evidence.pdf
180.1kB

Request for A Public Hearing

From: shemeka fountain (shemekamfountain@gmail.com)

To: legalsearch@isbe.net; isberesponse@isbe.net; legaldepartment@isbe.net

Cc: calvita.frederick@att.net

Date: Friday, December 6, 2024 at 04:39 PM CST

Hello,

Please see the request that was sent to the attorney's office for Kankakee School District 111.

Ms. Scott:

Thank you for responding to my letter of October 20, 2024.

As I understand it, the FMLA documentation was submitted and receipt acknowledged via email by HR. Ms. Fountain's FMLA application should therefore have been approved since she had the time available and her doctor recommended the leave.

We received the Resolution Regarding the Dismissal of a Tenured Teacher (Shemeka Fountain) on December 4, 2024 at 5:00 PM. This document sets a Board Hearing for Monday, December 9, 2024 at 7:00 pm. We respectfully request reasonable time to prepare for both a Board hearing and a public hearing.

The Bill of Particulars attached to the Resolution is lengthy, including 10 single spaced pages. Although Ms. Fountain has been on administrative leave with pay since September 10, 2024, the reasons for her leave were not expressed and detailed until two days ago, for a meeting currently set for December 9, 2024.

Due process and the Illinois School Code require reasonable notice and an opportunity to be heard. Both Ms. Fountain and I require a reasonable amount of time to prepare to address these most serious charges, because many of the charges are false, do not accurately reflect duties assigned to Ms. Fountain, and are unsupported by documentation.

In order for a fair hearing to be conducted, we require at least 21 days to prepare. In that interim, we also request copies of the documentation Dr. Lance intends to use in support of her allegations, so that we may properly prepare to answer and/or rebut the allegations.

We will be preparing for both the closed Board hearing, as well as a public hearing which we hereby respectfully request.

Now that you have been informed of Ms. Fountain’s intent to file a lawsuit against Dr. Lance, the Kankakee School District 111 and it's individual board members, you must keep anything that might be evidence related to her charge to be filed with the EEOC/ IDHR and her case to be filed in court. This includes all documents, communications, and electronic information that are potentially related to the EEOC/ IDHR charge, including the harm caused by the discrimination, and all records of your communications with Ms. Fountain. Even if you are not sure whether the information is relevant to her various claims, please do not throw it away or delete it.

WHAT INFORMATION MUST YOU KEEP?

Paper documents, such as:

Employee manuals, pay stubs, work schedule, letters, memos, your notes, pictures, drawings,

charts, whether or not they contain words.

Electronic information, such as:

E-mails, text messages, tweets, and social media posts and pictures, voice messages, video and sound recordings, word processing documents, electronic calendar entries, electronic memory on devices or the devices themselves, such as: Memory on computers, laptops, tablets, cell phones o Computers, laptops, tablets, cell phones,

Do not delete, replace, alter, “wipe,” or “clear” your computer hard drive, electronic tablet, or cell phone, and do not change or remove Internet posts, without retaining an electronic copy. If you dispose of any old computers, phones or devices, make sure you make and keep an electronic copy of all potentially relevant information on the device. These are some examples and not a complete list.

Destruction of any evidence might subject you to additional claims for spoliation of evidence. If you have questions about what you should or should not do, please contact your attorney.

Because litigation is contemplated and we so notified Dr. Lance on October 10, 2024, we expect that all records have been preserved. In a federal lawsuit Ms. Fountain's entire Google drive will be the subject matter of discovery and we will not hesitate to have a forensic evaluation conducted to identify any documents that have bee erased or altered.

Please advise asap of a new hearing date.

Thank you.

C J Frederick

Calvita J. Frederick & Associates

Post Office Box 802976

Chicago, Illinois 60680

312-421-5544 fax 312-277-7190

Text messages

From: CALVITA Frederick Sowell (calvita.frederick@att.net)

To: committeetoelectgenevraw@gmail.com; shemekamfountain@gmail.com

Date: Saturday, November 30, 2024 at 03:25 PM CST

Dr. Walters:

The telephone conversation ended yesterday because although I gave you the courtesy of listening to your explanation without interruption, you refused to allow me the same courtesy. Therefore, I believe a face-to-face meeting with you would be futile, if not volatile. I refuse to meet with someone who only talks and is not willing to listen to the other side. That's a monologue, not a conversation. Further the last meeting I scheduled with you was cancelled *after I arrived at the location*: you did not have the courtesy to make sure I knew you were not coming.

I was hesitant to move forward without the full payment of my retainer fee which is paid upfront, to avoid situations like this. I agreed to a payment arrangement and allowed you to set the payment dates. We signed a contract. Several months ago, when I questioned the timely payment, you were highly offended and assured me that you *keep your word*. Now my fears are being realized. You have not kept your word and wish to change the payment terms and don't understand why I am not just OK with going along to get along, because that is what you want. Not only do you not understand my position, but as of yesterday's conversation, you are irate.

You agreed to pay by a certain date; at the latest, November 30, 2024. As of today, you have defaulted on that contract and wish to explain to me that your best efforts are enough and should excuse your non-performance, and that I should proceed with the representation, keeping my word, all the while wishing and hoping that one day you will keep your word.

You wish to dictate to me what is a breach of contract and what I should do as relates to Ms. Fountain.

You live in a world where you make the decisions, and I must fall in line and do things in the manner you deem appropriate.

I do not live in that world. I operate a business of providing legal services for payment. You have failed to pay and your efforts to explain away your failure are insufficient.

The last-ditch efforts you made last Thursday should have been made weeks (if not months) ago. Otherwise, you should have had a back-up plan to insure you could keep your word. Perhaps you can make a loan from someone who has a history

with you and trusts your word?

You want the cases to be connected (as they are and always were) for the purposes of you telling me what I should and must do about *Ms. Fountain's situation:* But you want to separate the cases when it comes to your keeping your word about payment. You can't have it both ways. The very fact that you are taking the lead on discussing Ms. Fountain's situation is proof positive that her case is not a stand alone.

The letter I sent out to the district dealt with several Plaintiffs as that is the way the lawsuit has been discussed and handled from the very beginning. That was the presentation you made and my requirement for going forward.

It is now a holiday weekend, and you are burning up my phone with text messages, expecting me to be available at your beckon call, paid or not.

Once again, I don't live in that world where you have excessive privilege, and I have none.

It always amazes me how clients who don't keep their word want to quote scripture to me, as if I am the problem.

As I previously indicated, I am not working on this holiday weekend, notwithstanding your hysteria. When I return to the office on Monday, I expect full payment to have been made at which time I will review Ms. Fountain's email and advise her on next steps.

Cal

Calvita J. Frederick
Calvita J. Frederick & Associates
Attorney at Law
Post Office Box 802976
Chicago, IL. 60680
312-421-5544
Fax:312-277-7190

Violation of Board Policy

From: shemeka fountain (shemekamfountain@gmail.com)

To: christopher-bohlen@ksd111.org; jess-gathing@ksd111.org; suzzane-berrones@ksd111.or; tracy-verrett@ksd111.org; mary-archie@ksd111.org; deb-johnston@ksd111.org; darrell-williams@ksd111.org

Cc: calvita.frederick@att.net; Cjf@cjfredericklaw.com; genevra.walters@yahoo.com; teresa-lance@ksd111.org

Date: Thursday, September 12, 2024 at 07:51 PM CDT

Board of Education,

Attached is the letter of administrative leave with pay. The superintendent has violated the attached board policy, specifically:

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed.

I have copied my attorney.

image.pdf
30.8kB

5_240.23.pdf
57.3kB

Request For A Hearing and Due Process Before the Board

From: shemeka fountain (shemekamfountain@gmail.com)

To: teresa-lance@ksd111.org

Cc: christopher-bohlen@ksd111.org; suzanna-berrones@ksd111.org; maryarchie22@gmail.com; darrell-williams@ksd111.org; tracy-verrett@ksd111.org; sjs@franczek.com; mds@franczek.com; smarkham@daily-journal.com; wls.desk@abc.com; ps@cbs.com; Kye.Martin@nbcuni.com; vernita-sims@ksd111.org; cale-kuester@ksd111.org; kendra-leftridge@ksd111.org; kim-starkey@ksd111.org; robert-ellingtonsnipes@ksd111.org; harrison-neal@ksd111.org; committeetoelectgenevraw@gmail.com; willie-hunt@ksd111.org; debra-hults@ksd111.org; dallas-ryan@ksd111.org; maria-chavez@ksd111.org; sharisse-christen@ksd111.org; NAACPCFSSB@gmail.com; naacp3035@aol.com; repjones.jones@gmail.com; jess-gathing@ksd111.org; calvita.frederick@att.net

Date: Thursday, December 5, 2024 at 09:21 AM CST

I am requesting a hearing before the Kankakee School District 111 Board of Education at its January Meeting. I received an email concerning a meeting on November 29th (Friday after Thanksgiving) to attend a meeting concerning my "high-level findings and recommendation to the board". At close of Business on yesterday, December 4th, I received a "Bill of Particulars" recommending my termination.

At NO POINT, have I received an opportunity for due process before the superintendent or a hearing before the board. Furthermore, I have never received a response concerning my request for FMLA dated October 17, 2024.

I am a tenured employee with no prior written discipline concerning any of these issues. These are my concerns as an employee and tenured staff member:

- I have never received a verbal or written warning about performance-related concerns related to the charges listed in the Bill of Particulars other than L.Hill which was verbal only and at no point was I allowed to explain.
- The current superintendent has failed to provide any documentation related to any charges in the Bill of Particulars. I have never received directives or redirection around performance issues. Many charges are not related to my job functions as the Assistant Superintendent of Human Resources.
- These false statements have affected my physical and mental health and has damaged my professional reputation.

I am copying all of the witnesses who will be requested to attend the hearing. I have only been afforded two working days to inform my attorney and plan to prepare and attend a hearing. Because of the limited opportunity to prepare, I would like a response by the close of Business, today December 6th.



Salary letter colloboration email.pdf
446.8kB

Arrest record.pdf
126.2kB

Intent.pdf
1.2MB

Negotiations 1.pdf
16.2kB


Overtime 1.jpg
351.9kB


Overtime 2.jpg
333.1kB


Overtime 3.jpg
330.8kB


March Teacher Audit letter.jpg
2.3MB


state call 1.jpg
454.5kB


State Call 3.jpg
327.6kB


State call 4.jpg
606.1kB


state call 5.jpg
462.8kB


July 23rd 1.jpg
558.9kB


July23rd 2.jpg
568.8kB


April 24th.jpg
497kB


April 242.jpg
514.7kB


April 243.jpg
392.2kB

Evidence.pdf
180.1kB

Teresa Lance	teresa-lance@ksd111.org
Christopher Bohlen	christopher-bohlen@ksd111.org
Jess Gathing	jess-gathing@ksd111.org
Tracy Verrett	tracy-verrett@ksd111.org
Mary Archie	mary-archie@ksd111.org
Deb Johnston	deb-johnston@ksd111.org
Darrell Williams	darrell-williams@ksd111.org
Suzzana Berrones	suzanna-berrones@ksd111.org

Ekl, Williams
& Provenzale LLC
Attorneys and Counselors at Law

Partners
Terry A. Ekl
Patrick J. Williams
Patrick L. Provenzale
Tracy L. Stanker

Kevin A. Halverson
Nemura G. Pencyla

901 Warrenville Rd., #175
Lisle, IL 60532
Ph: 630-654-0045
Fx: 630-654-8318

www.eklwilliams.com

November 30, 2022

Privileged Attorney-Client Communications

Via Email Transmission
Barbara Wells, President and
Members of the Board of Education
Board of Education of
Kankakee School District #111
240 Warren Avenue
Kankakee, IL 60901

Our File No.
4313.000

Writer's Direct Dial No.
(630) 654-9975

Writer's Email Address
pprovenzale@eklwilliams.com

RE: *Independent External Investigation*

Dear President Wells and Members of the Board of Education:

I am writing to provide you a pre-interview phase status report for my investigation, and also to bring matters to your attention that you should be aware of before this investigation moves into the respondent notice and interviews / fact finding phases.

First, by way of status and detailing otherwise the timeline to this point, I was retained by the Board on May 9, 2022, to conduct an independent investigation of an email communication from Dr. Walters dated March 18, 2022, to Barbara Wells and Darrell. Williams, copying Shemeka Fountain, forwarding an email from Chris Bohlen to Dr. Walters of the same day, in which forwarded message Dr. Walters advised Mrs. Wells and Mr. Williams "I am considering a hostile work environment."

Since being retained on May 9, 2022, to investigate Dr. Walters' allegation of a "hostile work environment," I have made multiple efforts to communicate with Dr. Walters and her counsel to gain an understanding of the factual bases of her "hostile work environment" claim and to understand the nature of her complaint. Due to her twice cancelling the initial interview on the eve of a scheduled interview this past June and August, and her unavailability otherwise, I did not conduct the initial interview of Dr. Walters until September 13, 2022. After my initial interview of Dr. Walters, I requested numerous items for follow-up / additional information from Dr. Walters for the sake of cataloging and documenting, where reasonably available, recorded activity of contemporaneous events (*i.e.,* newspaper articles, Board meeting minutes, audio or video recordings, etc.) corresponding to dates of her allegations. I allowed Dr. Walters, granting her requests for extensions of time, until the end of October to provide me the supplemental / additional information I sought, and for the most part, she has now provided me the information requested.

Now that I have completed my preliminary efforts to catalog the factual bases of Dr. Walters' allegations, and have an effective understanding of the nature of her complaint of a "hostile work environment," I need to bring several matters to the attention of the full Board of Education:

first, I need to advise the Board of the anticipated scope of the investigation, both in terms of anticipated cost and length of time to complete, so as to provide an opportunity for Board feedback and any dialogue the Board may request with me about the anticipated scope of the investigation; *second*, and relatedly, I need to notify the Board that current and former Board Members are implicated as either or both an accused and/or a witness to alleged misconduct. For your reference and as relates to the discussion, below, the summary of the formal allegations constituting Dr. Walters' complaint for "hostile work environment" is attached hereto.

Scope of the Investigation / Potential Conflicts

As you can see from the summary complaint catalog, the allegations registered by Dr. Walters accuse 4 (four) Board of Education members (3 current and 1 former) of improper conduct. Furthermore, the allegations that Dr. Walters claims form the basis of a hostile work environment involve events that occurred as far back as 2014, and as recent as last month. In general, Dr. Walters claims the incidents, individually and collectively, constitute hostile work environment discrimination based on her race and gender, as well as violations of various Board policies. While I have not yet given formal notice to the accused individuals to initiate due process for formal responses from each, to identify witnesses whom he or she wants me to interview or evidence he or she wants me to review in support of his or her formal response to the allegations, I anticipate that the total number of witnesses that I may have to interview will easily exceed 15. I expect some of these individuals will have been witness to multiple of the alleged events, so there will be some economy achieved by covering multiple topics during interviews of the same witness, but some interviews will likely last hours. I estimate that, once I initiate formal notice to the accused individuals to solicit responses, it will take my office approximately 120 days thereafter to complete the fact finding phase of the investigation.

Conservatively, I anticipate that the cost to complete the fact-finding phase of the investigation - interview each respondent / witness, summarize the interviews, review related documentary or recorded material, cross reference witness accounts in a rolling fashion to evaluate / re-evaluate investigative direction and materiality, and provide complainant an opportunity to reply to the accumulated investigatory record with additional information or witnesses - will exceed $50,000.

I am bringing this to the Board's attention now because the Board may perceive that some of the allegations in the attached, *taken individually* and even accepting them as true, may not constitute actionable misconduct or otherwise violate existing Board policies, Illinois law or federal or

constitutional law, and/or otherwise occurred so long ago, involving former Board members, that the allegations may be legally stale. However, as an independent investigator, I must make you aware that hostile work environment claims involve examinations of courses of conduct, or patterns and practices, looking at the totality of the circumstances such that even arguably *de minimis* individual incidents, if pervasive, widespread and/or persistent, can make out a claim for discrimination or harm. *See, e.g.*, Williams v. General Motors Corp., 187 F.3d 553, 562 (6thCir.1999) ("Thus, the issue is not whether each incident of harassment *standing alone* is sufficient to sustain the cause of action in a hostile environment case, but whether-taken together-the reported incidents make out such a case. . . . [T]he totality of the circumstances test mandates that district courts consider harassment by all perpetrators combined when analyzing whether a plaintiff has alleged the existence of a hostile work environment, . . ."). Moreover, incidents occurring outside of an applicable limitations period may be considered if the incidents are sufficiently related or part of the same actionable practice. Villar v. City of New York, 135 F.Supp.3d 105, 131-32 (S.D.N.Y.2015).

As the Board is the deliberative and acting agency for the District, it is well within the Board's purview to contour an independent investigation so as to avoid waste or excess of the District's resources - in other words, to advise me as the investigator what allegations to investigate and what not to investigate. Moreover, I do not believe any *per se* conflict of interest or ethical rule exists that prohibits any current member of the Board to recommend, vote for or against, and/or otherwise advocate about any particular position regarding the scope of the investigation (either to permit it as determined in the opinion of the investigator, or to limit the scope), just by virtue of his or her status as an accused or a witness (or both) related to the allegations. In point of fact, in my current assessment, voluntary recusal by current Board members on grounds of status as either respondent or witness, to avoid the appearance of conflict, self-interest or bias, could strip the Board of its ability to constitute a quorum to contour the investigation.

However, I feel it necessary to notify the Board that any decisions or directions that the Board gives me related to the scope of my investigation, while such might otherwise be facially reasonable, and purportedly based in non-biased, non-discriminatory and/or non-retaliatory rationale, may be construed by someone after-the-fact as effort to improperly influence and/or interfere with the investigation and / or to influence its outcome for personal or political benefit,

or otherwise to turn a blind eye. In other words, any action by the Board to instruct me on what to investigate or not investigate may expose the investigative outcome as either unreliable or rigged. Additionally, failure by the Board to authorize

Conclusion

As I mentioned, I am happy to meet with the Board to answer any questions the Board may have, or provide feedback to the Board regarding, the availability or propriety of contouring the scope of the investigation I will conduct. Furthermore, given my estimate for the cost of completing the fact-finding phase of the investigation of Dr. Walters' complaint, I wanted to make the Board aware of that, and to ensure that the Board is authorizing me to proceed with the investigation with full knowledge of what that currently involves. Thank you, and I look forward to hearing from you soon.

Sincerely,
Ekl, Williams & Provenzale LLC

Patrick L. Provenzale

PLP/mn
Enclosure

Summary Catalog of Dr. Walters' Allegations

Formal Complaint of Hostile Work Environment

Respondent - Jess Gathing

- #1: April, May or June (Spring) of 2014

In the spring of 2014 before Dr. Walters was formally hired as Superintendent, you were verbally aggressive and unprofessional toward Dr. Walters during a closed session of a regular Board meeting to discuss personnel matters, when you raised the volume of your voice with an emotional tone and stated to her and about her refusal to agree with you, "this is bullshit," when discussing the restoration of Tammy Williams' salary to the rate before her administrative reassignment.

- #2: 2018

At the Junior High School, you verbally confronted Dr. Walters about missing band uniforms in an aggressive and unprofessional manner, yelling and screaming at her.

- #3: December 19, 2019

While attending a public gathering to discuss the Jr. Kay's Football Club in the auditorium at the High School, you publicly confronted Dr. Walters in an unprofessional and aggressive manner by shouting at her and aggressively pointing your finger at her when she was on stage addressing the crowd in attendance with a microphone.

- #4: April 12, 2021

During a Board meeting discussing the appointment of Calvin Works as assistant principal of the High School, you exhibit aggressive behavior toward Dr. Walters through the volume and tone of your voice in disagreement, stating that she "must be in Mr. Works' pocket," and stating words to the effect of "what do I owe you," and "I could do anything I want to you." Later in the same meeting, you also exhibited verbal aggression toward Dr. Walters in the same demeanor in that you cursed at her, told her that the community harassment referenced in the cease-and-desist letter of March 31, 2021, was what Dr. Walters deserved and that she "brought it all upon herself," and that you and Board Member Bohlen did not want to hire an attorney for her to stop the harassment of her by the community members.

- #5: 2014 - present

During Board meetings, you have made unprofessional and discriminatory statements about or to Dr. Walters to the effect of "what do I owe you," and I could do whatever I want to you" and "we can tell her what to do" and "she has to do what we tell her" because of her gender.



- #6: 2021-22

That you have exhibited indifference to the wellbeing of Dr. Walters in connection with issues involving her safety and reputation in the community, specifically taking no action to address the circumstance of security breach at a D111 school building, not defending her against Facebook posts attacking her for the scheduling delays in 2021, and resisting efforts to secure her legal representation in her official capacity in response to harassment and intimidation from members of the D111 community in 2020 and 2021.

- October 20, 2022

At a Business / Finance meeting, you stated to Dr. Walters that she should pay back all of the money the District has paid her

Respondent - <u>Joe Lightfoot, Sr.</u>

- #1: May 10, 2015

After the hiring of Ron Wilcox in 2015, you were a finalist candidate for the position of Head Boys' Basketball Coach for Kankakee High School. That on May 10, 2015, you went to Dr. Walters' personal home to complain to her about her recommendation that the Board hire your son, Joe Lightfoot, Jr., in that position at the next night's Board meeting. That after your son was hired and you were not, you were mad at Dr. Walters for not hiring you, and that you told her that you remained mad at her about that in 2017 during a pastors' meeting with Dr. Walters. That after your son was hired, false rumors were floating in the D111 community that Dr. Walters was improperly or illicitly in a sexual relationship with her subordinate, Ron Wilcox, and that you initiated or spread these rumors to others in the D111 community up through 2018. That related to communications related to initiating or spreading these false rumors, you told Dr. Walters and Barbara Wells and others that Martin Whalen had Dr. Walters followed and that compromising pictures of her with Mr. Wilcox existed, and you told Chris Pickett that Dr. Walters could not be trusted and that Mr. Wilcox was hired in the position of Athletic Director because of his sexual relationship with Dr. Walters.

- #2: Late 2015 or early 2016

While in Tinley Park for attendance at a Superintendent's Commission on Demographics and Diversity, you engaged in unprofessional and discriminatory behavior toward Dr. Walters based on her race and gender when you stated "I would be upset if you dated a white man."

- #3: March 29, 2016

That days prior a regular Board meeting on March 29, 2016, during the spring break period, you texted an implied threat to Dr. Walters that if she terminated the employment of Lori Holmes, the then-principal at the Lafayette Primary School, at the upcoming meeting, "God would terminate" Dr. Walters. Then days later, during the closed session of a regular Board meeting to discuss personnel matters, you exhibited verbal and physical aggression toward Dr. Walters by speaking toward her with an elevated volume and tone accompanied by animated demeanor while arguing about her recommendation to terminate Lori Holmes, while you stood in such close proximity to where she was seated and leaned over her so as to intimidate and threaten her sense of physical safety.

- #4: June 13, 2016

That during a closed session of a regular Board meeting to discuss personnel matters on June 13, 2016, at either Edison or Mark Twain Elementary School, you exhibited verbal aggression toward Dr. Walters by speaking toward her in an elevated volume and tone during a discussion regarding Alicia Young's reassignment to a non-administrator position, and that after that closed session, you followed her down the hallway from the classroom toward the gym where the public meeting was to be resumed, and you exhibited verbal and physical aggression toward her ordering her "come back here, don't walk away from your boss," and "you don't always tell the truth" and "just because its on paper does not mean it happened," or words to those effects, while approaching and standing in such close proximity to Dr. Walters, while being physically animated and emotionally elevated, so as to intimidate and threaten Dr. Walters sense of physical safety, and cause another Board member, Darrell Williams, to physically intervene.

Further, that later in early 2017 during a reconciliation / mediation meeting with you, your Pastor Wills, Dr. Walters and her pastor, you denied being aggressive and denied confronting her in the hallway in any aggressive or intimidating way.

- #5: June 13, 2016

That during a board meeting, in connection with comments from Gloria Kennedy, you became verbally aggressive toward Dr. Walters related to Dr. Walters' decision, approved by the District's legal representative, to allow a transgender student to use her name on her diploma, angrily asking Dr. Walters if that decision "was the right thing to do," and during closed session, you brought up the earlier allegation from Gloria Kennedy about an alleged "black list" and threatened that "it was coming," and also in anger were verbally aggressive toward Dr. Walters because she declined your request to investigate the athletic director for allegedly having a sexual relationship with a teacher.

- May 187, 2017

You were visibly angry and verbally aggressive toward Dr. Walters during board discussions regarding hiring Bill Yohnka, a Community Engagement Specialist, and about the hiring of the girls' basketball coach resulting in the Board going into closed session twice due to your aggressive behavior.

- March 6, 2018

During closed session of a regular Board meeting at Mark Twain, you were verbally aggressive toward Dr. Walters, and after Dr. Walters left the room, you became more verbally aggressive in the hallway back to the open session, and continued your aggressive behavior into the open session, leading to a second closed session to address your aggressive behavior.

- 2014 – 2018

That you engaged in the above unprofessional, aggressive and discriminatory behavior, because of Dr. Walters' gender.

Respondent - <u>Chris Bohlen</u>

- #1: Year-end 2019

In a 2019 Board survey response regarding Dr. Walters' annual review, you communicated an unprofessional accusation toward Dr. Walters asserting that Dr. Walters had ruined her or the District's relationship with the D111 community without evidentiary support.

- #2: March 2022

During the closed session of a regular Board meeting to discuss personnel matters, after a presentation by Dr. Walters and Pamela Bell during open session regarding the issue of staffing the High School's media and information hubs / library, you exhibited verbally and physically aggressive behavior toward Dr. Walters in that you walked toward Dr. Walters to a distance of approximately three feet while in an elevated emotional state, red faced and threw something in the garbage forcefully, all in such a manner as to intimidate and threaten Dr. Walters safety.

- #3: General

That you have exhibited indifference to the wellbeing of Dr. Walters in connection with issues involving her safety and reputation in the community, specifically taking no action to address the circumstance of security breach at a D111 school building, not defending her against Facebook posts attacking her for the scheduling delays in 2021, and resisting efforts to secure her legal representation in her official capacity in response to harassment and intimidation from members of the D111

community in 2020 and 2021 because it would negatively affect her relationship with Mayor Chastity.

Respondent - Deb Johnston

- September 2021

That you communicated with members of the D111 community in an unprofessional manner about Dr. Walters in connection with leaked audio recording of D111 staff discussing the D111 schedule for 2021, which recording was evidence that a delay in the schedule which the community had blamed or criticized Dr. Walters about, while she was dealing with a diagnosis of colon cancer, was not Dr. Walters' fault.

- October 20, 2022

At a Business / Finance meeting, you discussed a matter not on the agenda disparaging of Dr. Walters, saying that the Community Center should not be named after Dr. Walters.

2211 York Road, Suite 500 Oak Brook, IL 60523-2337 www.imrf.org

November 26, 2024

Genevra Walters
1310 Oaktree Ln
Kankakee, IL 60901-8185

Subject: Confirmation of Payment

Dear Genevra Walters:

This letter is to notify you that we received your check payment of $9,326.85 on June 12, 2024.

We have processed your payment and applied an amount of $9,326.85 to your account.

Please keep this letter for your records.

We're here to help
If you have questions, you can contact IMRF through the Member Access secure message center (www.imrf.org). Or, call IMRF Member Services at 1-800-ASK-IMRF (275-4673), Monday through Friday, 7:30 a.m. to 5:30 p.m. Remember to have your IMRF Member ID ready when you call (it's 1380151).

Sincerely,

IMRF Member Services

kb kriha boucek
2 TransAm Plaza Dr., Suite 460, Oakbrook Terrace, IL 60181
3 Club Centre Ct., Suite D, Edwardsville, IL 62025
krihaboucek.com • 630.394.3790

Rob Swain
Partner
Direct 630.394.3788
Cell 630.864.0278
rob@krihaboucek.com

Sara Boucek
Partner
Direct 630.394.3792
Cell 217.781.4877
sara@krihaboucek.com

Kevin Gordon
Partner
Direct 630.394.3784
Cell 708.522.6712
kevin@krihaboucek.com

D. Shane Jones
Partner
Direct 618.207.4820
Cell 314.303.3605
shane@krihaboucek.com

Stephanie Jones
Partner
Direct 630.394.3786
Cell 314.503.1299
stephanie@krihaboucek.com

Laura Knittle
Partner
Direct 630.394.3783
Cell 502.599.7530
laura@krihaboucek.com

Darcy Kriha
Partner
Direct 630.394.3782
Cell 708.921.3410
darcy@krihaboucek.com

Mohammed Lakhani
Partner
Direct 630.394.3785
Cell 630.362.8115
mohammed@krihaboucek.com

Cassie Black
Associate
Direct 630.332.0469
Cell 312.848.0432
cassie@krihaboucek.com

Elizabeth Kelly
Associate
Direct 618.215.2659
Cell 217.825.7128
elizabeth@krihaboucek.com

Jennifer Sobocinski
Office Manager
Direct 630.394.3787
Cell 630.865.5928
jennifer@krihaboucek.com

March 31, 2021

Ms. Yaquantis Adams
978 Cobb Boulevard
Kankakee, IL 60901
Email: adams60901@sbcglobal.net

Ms. Monique Burrell
224 North Chicago Avenue
Kankakee, IL 60901
Email: info@mobothegreat.com

Ms. Caretta Campbell
518 South Rosewood Avenue
Kankakee, IL 60901

Mr. Avory L. Houston
Reflections of Beauty
358 West Broadway Street
Bradley, IL 60915
Email: avorylamarr@gmail.com

Mr. DeMario Kennedy
407 South Alma Avenue
Kankakee, Illinois 60901

RE: Kankakee School District No. 111
Notice to Preserve

Good evening,

We have been retained by the Board of Education of Kankakee School District 111 to investigate certain harassing, threatening, and defamatory actions against certain District officials. You are receiving this letter because you appear to be involved in a concerted action to advance, assist, or otherwise participate in these actions.

kb kriha boucek
2 TransAm Plaza Dr., Suite 450, Oakbrook Terrace, IL 60181
3 Club Centre Ct., Suite D, Edwardsville, IL 62025
krihaboucek.com • 630.594.5790

Both the Board and the District Administration welcome broad and robust political speech, in whatever forum made. Even when criticizing public officials, though, though, the law does not permit you to make threats, harassment, or statements that are made with actual malice – that is, with actual knowledge that they are false, or with reckless disregard for the truth. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). Based upon our review, several of your collective statements and actions appear to fall into these categories. For purposes of illustration, we note the following examples:

- "We talkin' about a bitch [that] has swallowed every nigger drug dealer's dick in the community. … You out here connected to every drug dealer in the city … with they dick in yo' mouth. … You wanna play with me? I'm gonna bring it to your ass, honey. You better get ready."
    - Mr. Kennedy, February 5, 2021, referring to Dr. Genevra Walters

- "Never did I say anything about harm or hurting, girl. I don't give a fuck about your life, let alone putting these precious-ass hands on you. No. The parents are going to do that, I don't need to. … I'm their wakeup. I'm letting them know what's going on. …. If I get a knock at my door, from a police officer about some bullshit, about my opinion, the way I was gonna drag that ass, I was gonna hit you all like personally. Do you hear me? I was gonna hit you personally, and go professionally, and I would have gone … once I got done, it would've been it. You would have been contemplating everything, okay?"
    - Mr. Houston, August 18, 2020, referring to Dr. Genevra Walters

- "The officers have been abusing the kids for a very long time, psychologically and sexually."
    - Ms. Campbell, June 9, 2020, referring to School Resource Officers

- "There are numerous reports about the officers putting their hands and fake charges on these kids. … How are they allowing police officers to abuse these kids in school?!"
    - Ms. Burrell, June 9, 2020, referring to School Resource Officers and District administrators

kb kriha boucek
2 TransAm Plaza Dr., Suite 450, Oakbrook Terrace, IL 60181
3 Club Centre Ct., Suite D, Edwardsville, IL 62025
krihaboucek.com • 630.594.5790

- "Need to be hit in her fucking mouth! …

  "'Cause, see, one thing about me, bitch, Im'ma bring the pain. I ain't going to beat around no bush. I ain't gonna be around no corner. I ain't going to no neighbor house, I'm gonna come straight to your front door. …

  "If you cause me to lose my job, you're gonna lose your job too. Or your motherfucking life. It's either or. …

  "Knock knock. Yaquantis gonna beat yo motherfuckin' ass bitch. Shout out to Yaquantis."

  - Mr. Kennedy and Mr. Houston, June 9, 2020, referring to Dr. Genevra Walters

- Ms. Adams confronted Dr. Genevra Walters at her car in a parking lot, late at night on June 8, 2020, after a Board meeting.

- Ms. Adams appeared at the personal residence of Barbara Wells on May 14, 2020; confronted Ms. Wells and Ms. Wells' grandchild on the front porch of their home; began a shouting match that drew the attention of family inside the home; and refused to leave the premises when asked.

Your collective conversations include specific threats of physical violence against District officials, and those threats of violence coincide and align with actual physical confrontations of District officials. Your collective statements also appear to include statements that District officials have committed crimes, adultery, and/or fornication, which are considered defamation *per se* under the law. Threats, harassment, and defamation are all grounds for monetary damages.

Further, when two or more persons engage in a concert of action such as this, then each of them may be held liable for the conduct of the others. *McClure v. Owens Corning Fiberglass Corp.*, 188 Ill.2d 102 (1999). If true, this means that any one of you (for example, Ms. Burrell) could be held financially liable for the others' statements (such as the statements by Mr. Kennedy) and actions (such as the actions by Ms. Adams).

kb kriha boucek
2 TransAm Plaza Dr., Suite 450, Oakbrook Terrace, IL 60181
3 Club Centre Ct., Suite D, Edwardsville, IL 62025
krihaboucek.com • 630.394.3790

For these reasons, we are writing to inform you of the following:

- You should cease and desist all statements and actions that are threatening, harassing, or made with actual malice towards any member of the Board or any employee of the School District.

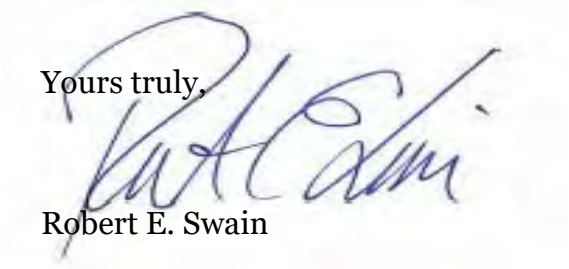
- The law requires you to preserve all evidence that might be relevant to any statements or actions taken against any member of the Board or any employee of the School District that were threatening, harassing, or made with actual malice. This includes, but is not limited to, preserving all electronic messages (such as social media posts, text messages, etc.) and preserving all devices on which such messages might be found (phones, computers, etc.). Any intentional destruction of evidence (including the failure to suspend any pre-existing destruction cycle) could subject you to civil damages.

- If you wish for future correspondence and/or service of process to be sent to any alternative or additional addresses in the future, please provide us with appropriate contact information.

- If you have an attorney, please forward this correspondence to your attorney's attention.

If you have any questions, please feel free to contact me at rob@krihaboucek.com.

Yours truly,



Robert E. Swain

cc: Barbara Wells
Jess Gathing
Angela Shea
Mary Archie
Christopher Bohlen
Darrell Williams
Deb Johnston
Dr. Genevra Walters
Mayor Chasity Wells-Armstrong
Chief Frank Kosman
State's Attorney Jim Rowe

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 fax (312) 277-7190

April 26, 2024

Scott Renfroe
Deputy Administrator, Appeals
Attorney Registration & Disciplinary Commission
Of the Supreme Court of Illinois
130 E. Randolph Drive Suite 1500
Chicago, Illinois 60601

Re: Calvita J. Frederick
In relation to
Carmelita Earls
No. 2024IN00690

Dear Mr. Renfroe:

Thank you for the opportunity to respond to the concerns of Ms. Earls. Ms. Earls has made several complaints about me which I will address as best I can and in as much detail as possible. Ms. Earls and I have met several times over the past two years. I recall the first time we met was shortly after my mother's passing in January of 2022. The last time we met was late last year, at which time I had a copy of our signed retainer agreement which I showed to Ms. Earls. Although generally I take notes when I meet with a potential client, sometimes I don't especially where the documents are to be tendered later. I do recall taking some notes as is my practice, at our various meetings and telephone conversations. However, those notes would only have been in outline form to be supplemented once I received her documents needed to support her allegations, since the information provided by Ms. Earls was sketchy, missing dates and names etc. Ms. Earl's file is nearly empty, containing only a one-page email sent from my website host transmitting a request for referral from Ms. Earls, dated January 28, 2022. I attach the email.

I have over the past several years had various part time employees who performed the tasks of filing. I can only surmise the retainer agreement and notes have been misfiled, mislaid, or lost, and may hopefully show up at some point. Perhaps the official file was never created

because the promised documents were never tendered to my office.

As near as I recall, the agreement entered with Ms. Earls was an “advance payment retainer”. I understood that type of retainer involves monies paid by the client to me in return for my commitment to provide legal services in the future. I explained this to the best of my ability to Ms. Earls and thought she understood as she agreed to have the check reissued directly to me. I understood and thought that Ms. Earls also understood that ownership of that type of retainer passes to the attorney immediately upon payment, and the funds are properly deposited into my general account, which is what I did. I also explained this to Ms. Earls in our text messages as our relationship neared an end, i.e. I didn’t believe she was entitled to a refund.

As you can see from our various text messages, Ms. Earls never provided me with any documentation related to her claims of discrimination, disparate treatment, forced resignation and retaliation which she claimed to have experienced during her employment as a high-ranking long-term employee with the Chicago Fire Department (“CFD”). We met and talked over the telephone several times for hours on end wherein she detailed her experiences and talked of many problems within the CFD, involving her and other employees. Ms. Earls discussed her belief that the CFD was not operating properly, which accounted for the deaths of her former co-workers both young and old. She shared how fatigued she was having to attend funeral after funeral of fallen firefighters who, in her opinion had died because standard operating procedures were not being followed. We also discussed many other issues not related to her case.

In our first meeting Ms. Earls explained that she had shopping bags full of documents that she had inadvertently left either at home or because at the last minute she chose to drive her husband’s car instead of her own and the documents were in her car. At that time, I had every reason to believe her.

Later, which may have been a telephone call, Ms. Earls explained she had or would scan everything to a flash drive. I located one document on my computer entitled note to file. It states as follows:

11/30/2022

T/C WITH CLIENT SHE IS recreating the documents and will get them to me soon
I told her we will pick it up when she sends them

In our subsequent meeting which was scheduled for the sole purpose of herb ringing the flash drive, Ms. Earls brought me many bottles of supplements (vitamins) she wished for me to try but indicated that she had created the flash drive with her work-related documents, but inadvertently left the flash drive at home. She promised to get it to me right away, but, once again, she never provided the flash drive containing the information about her discrimination claim,

Many of the follow-up calls were initiated by me inquiring as to the whereabouts of her documents and her desire to move forward with her case. I therefore began to believe that Ms. Earls had abandoned her case.

In a call in the fall of last year, wherein we discussed the statute of limitations, I advised that certain causes of action were no longer available. I also advised Ms. Earls that my retainer fee had increased since January 2022 and to go forward with her case, additional funds would have to be paid. It was at that time that Ms. Earls began to complain that no lawsuit had been filed, no depositions taken, etc. I questioned how I could possibly be expected to file a lawsuit without documentation related to discipline that Ms. Earls claimed was unwarranted, names of involved parties, dates of alleged discriminatory actions etc.

Late last fall, I informed Ms. Earls that I had an idea that might encourage a settlement without filing a lawsuit. I visited with a community organizer and without revealing Ms. Earls' name I talked about the case as I understood it. The organizer asked me if the person was Carmelita Earls and advised that unsuccessful efforts had been made to assist her some five years before. This information coupled with Ms. Earls' repeated failure to provide any documentation in support of her claims caused me to question the validity of what Ms. Earls had stated and was the basis for my unwillingness to proceed with the case.

I further explained my responsibility to thoroughly investigate a claim before I filed a lawsuit and so advised Ms. Earls thorough a text message which text is attached to her

complaint:

> We entered an agreement nearly 2 years ago and have met and or talked on the phone 6-9 times. As a licensed attorney any document I file in court carries with it my declaration that there is good cause in the underlying facts and the pertinent law to substantiate a valid cause of action. Although you have repeatedly promised to bring documentation in support of what you have said happened, you have yet to provide me with anything: no documents, emails, contracts, dates, or even the names of the alleged involved parties. I therefore have no bases upon which to file a lawsuit. Any filing I make under these missing facts subjects me to sanctions for filing a frivolous lawsuit. I cannot and will not do that. I hope this clarifies why I have been unable to move forward with your case and at this point I am unwilling to do so.

In our last meeting, I directly inquired about her intentions to obtain a refund and Ms. Earls assured me that that was not her goal. Later, Ms. Earls shared that when she paid the retainer fee, she had lots of money, having been paid what she described as "way more money than she deserved" but now her financial situation was different, and funds were tight as she had taken on the responsibility of paying for the education of her grandchildren.

Ms. Earls also seems to complain that I met with her at Panera Bread and not my office. Since COVID, (mid 202I) I closed my remote office and work from home. I have a relationship with an office facility to rent office space as needed for large-scale meetings and/or a deposition. Many of my clients I meet with via ZOOM or at other public facilities convenient to us both. Much of my business is handled over the telephone or via email. Since COVID, I have had several clients I have never seen in person.

Based upon the above, I do not believe Ms. Earls is entitled to a refund. However, I do understand that the rules related to retainer agreements changed last year. I do not know if the change related to retainer agreements is to be applied retroactively. Nevertheless, as I indicated to Ms. Earls, I would consider returning some portion of her retainer fee. Based upon my diminished income from my law practice at this time and work-related health restrictions, I am unable to provide any refund at this time. Please advise if you require anything more.

Very truly yours,

CJ Frederick

Calvita J. Frederick

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 fax (312) 277-7190

December 2, 2024

Scott Renfroe
Deputy Administrator, Appeals
Attorney Registration & Disciplinary Commission
Of the Supreme Court of Illinois
130 E. Randolph Drive Suite 1500
Chicago, Illinois 60601

Re: Calvita J. Frederick
In relation to
Carmelita Earls
No. 2024IN00690

Dear Mr. Renfroe:

Thank you for the opportunity to provide an additional response to Ms. Earls' inquiry. Unfortunately, I still have been unable to locate any documents from her file. Per your request, I attach text messages retrieved from my cell phone. However, my cell phone contains no history for telephone calls. I did not intentionally erase this information and don't know why it is not there.

I also cannot locate any notes from our meetings. Without the telephone history and any notes I may have taken from our in-person meetings, I am not comfortable trying to itemize my time spent with Mrs. Earls.

It is therefore my belief that it is best to return the $9,500,00 of Mrs. Earls' $10,000.00 retainer fee. The $500.00 deduction covers the costs of two consultations.

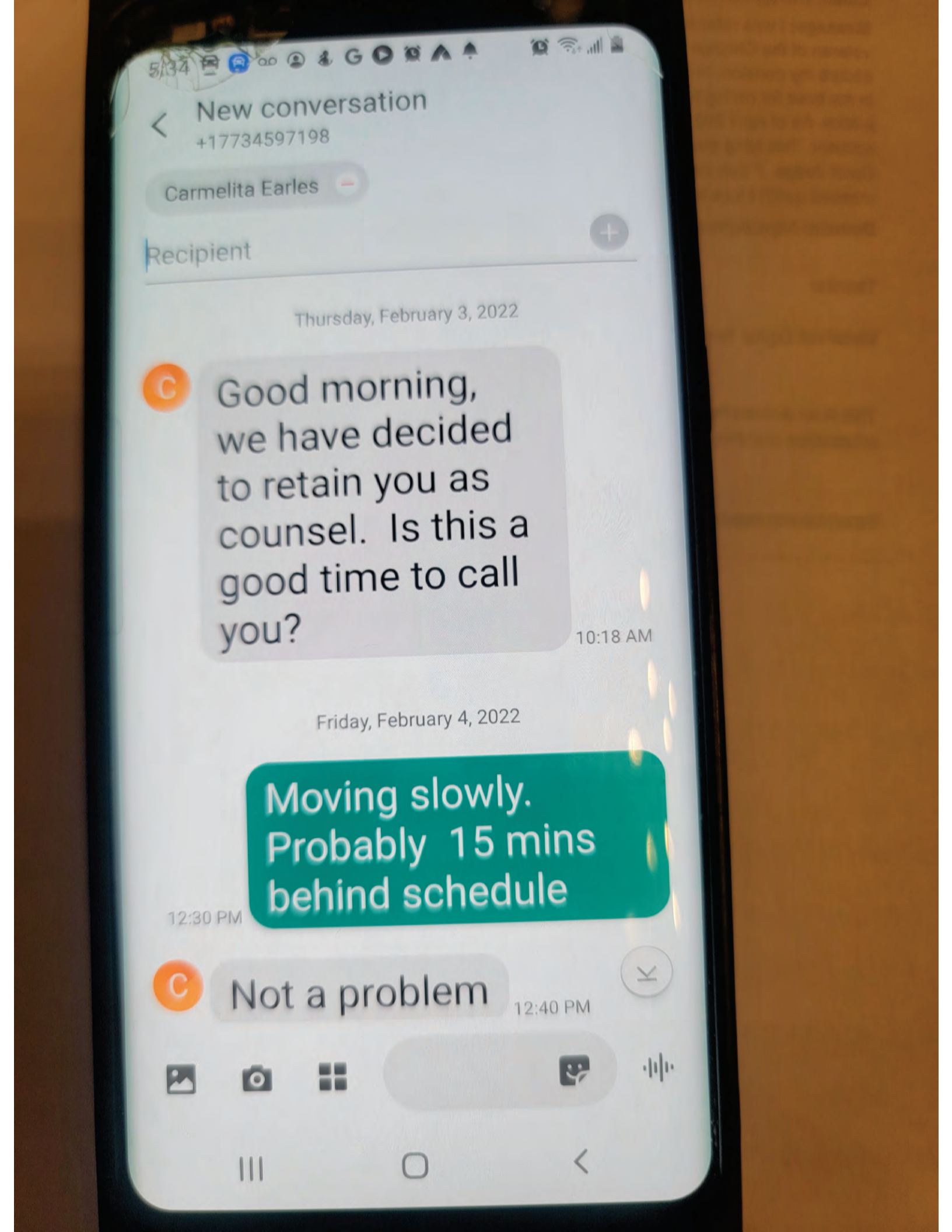
Due to illness and other matters restricting my ability to fully practice law, it will take me some time to repay the monies, I would ask for three-six months.

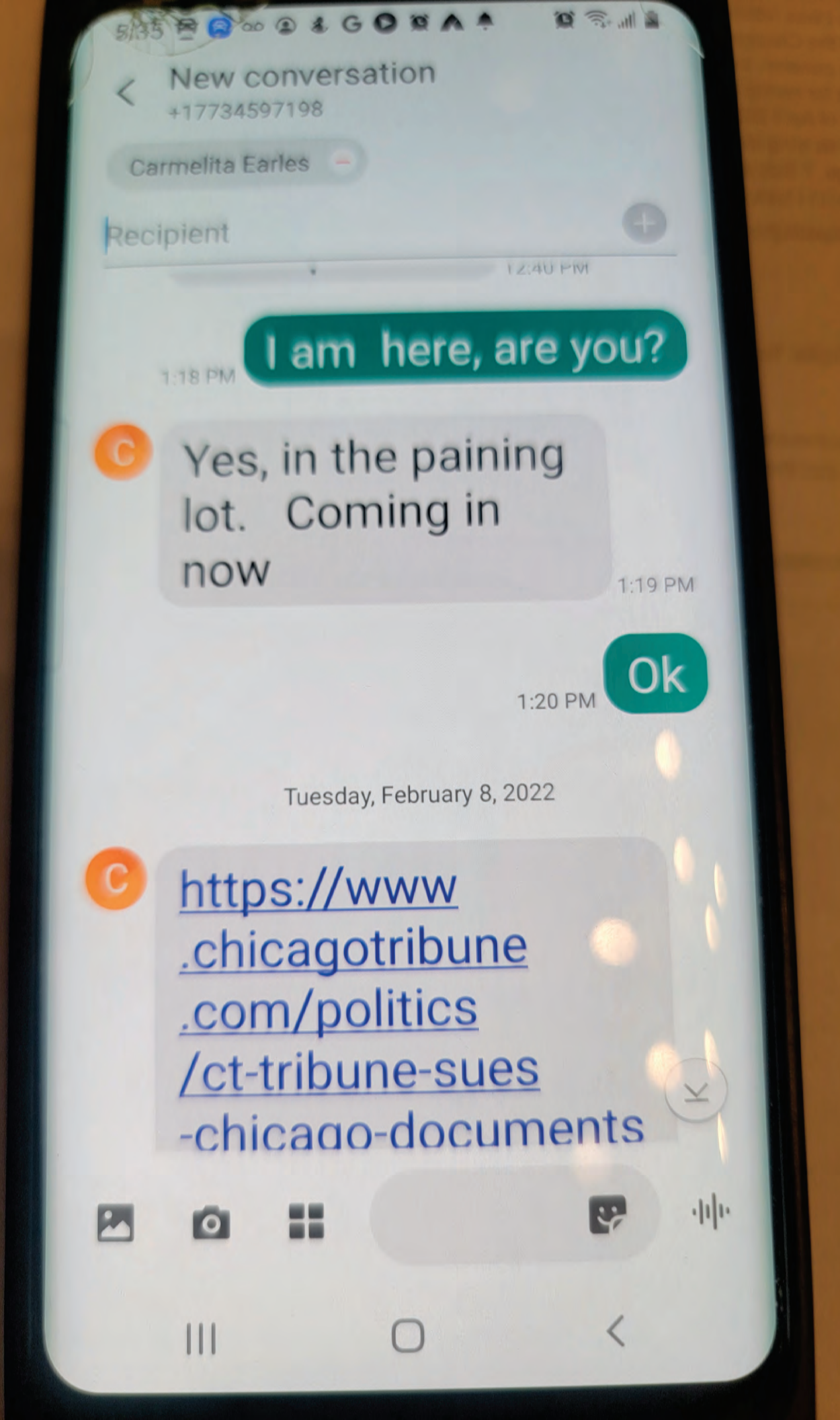
Please advise if you require anything more.

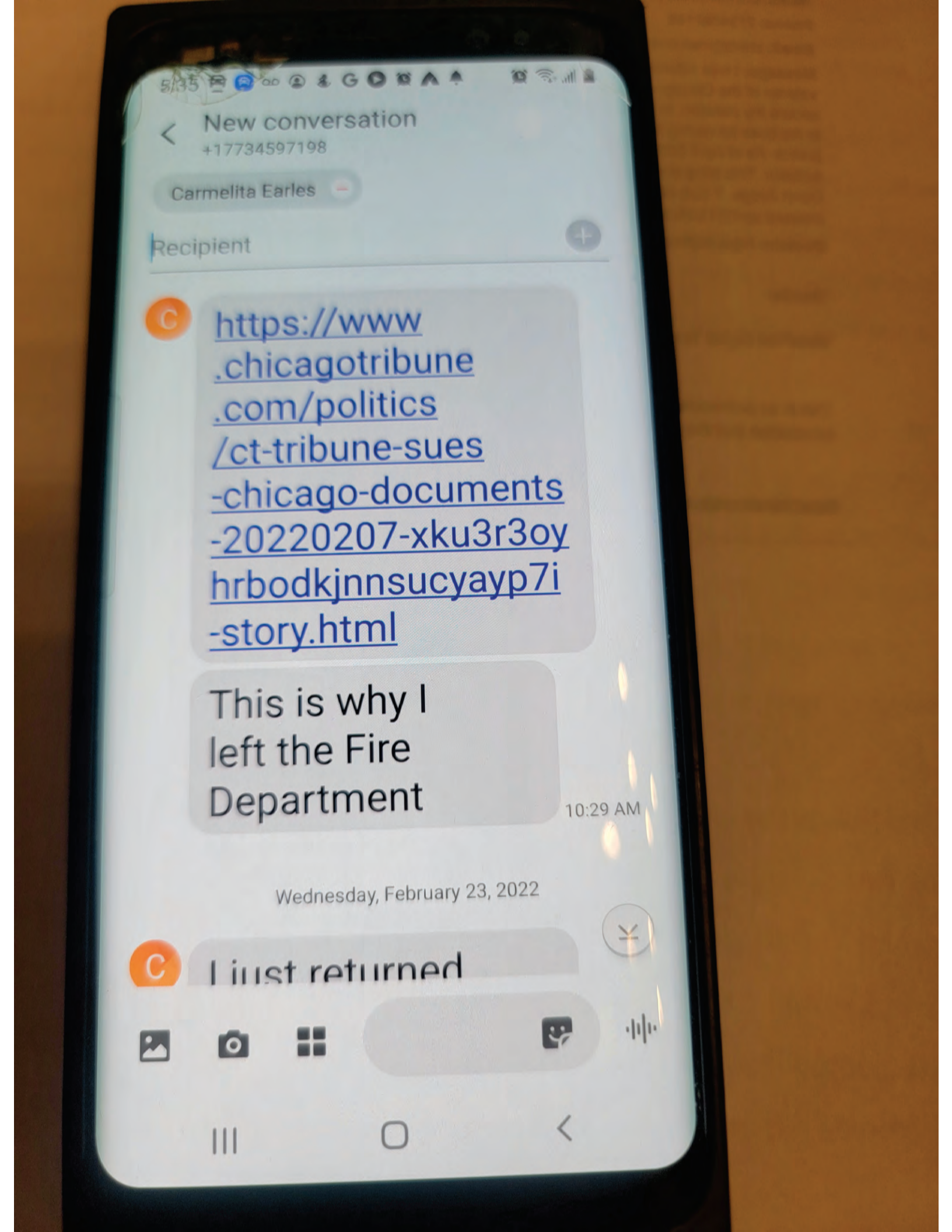
Very truly yours,

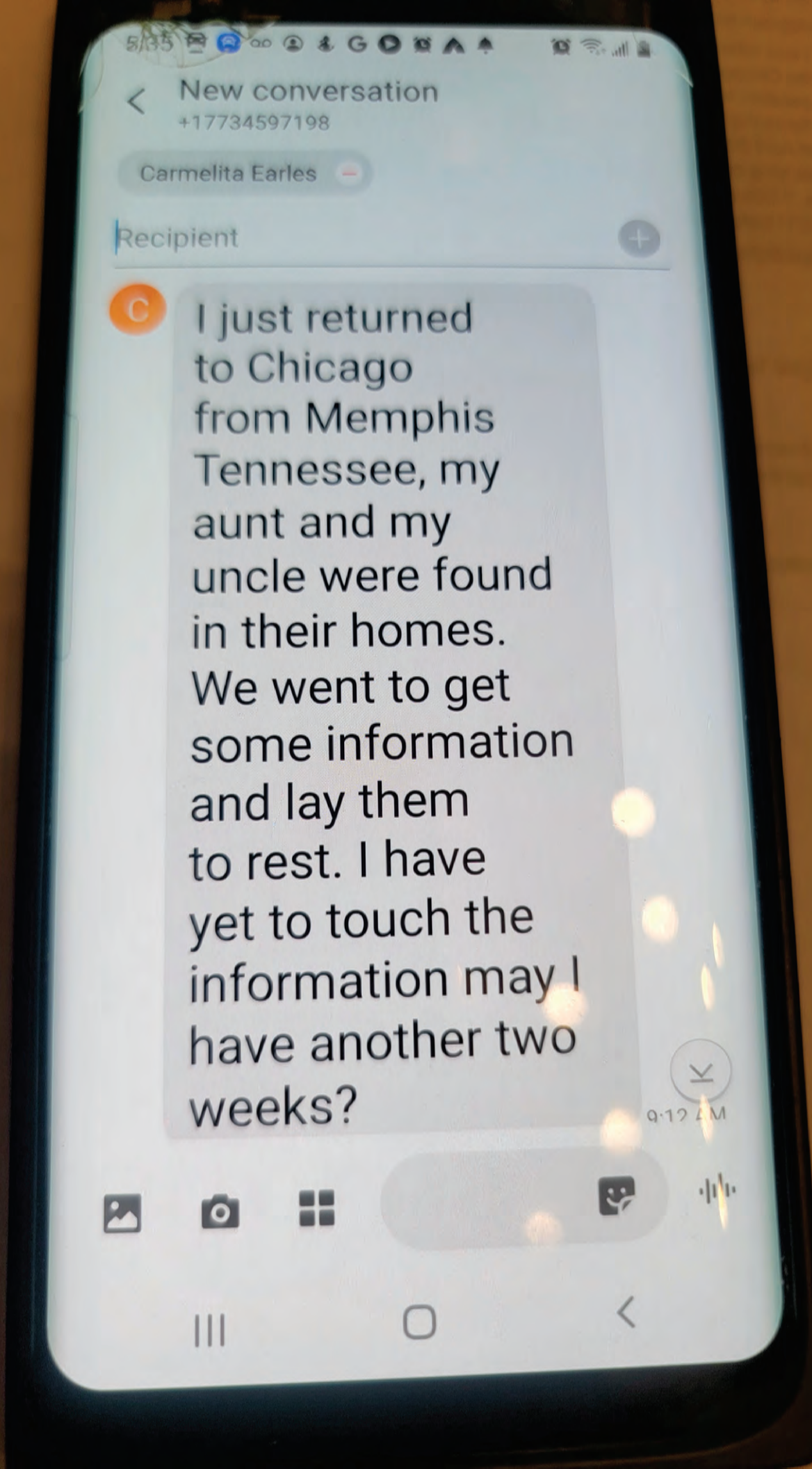
CJ Frederick

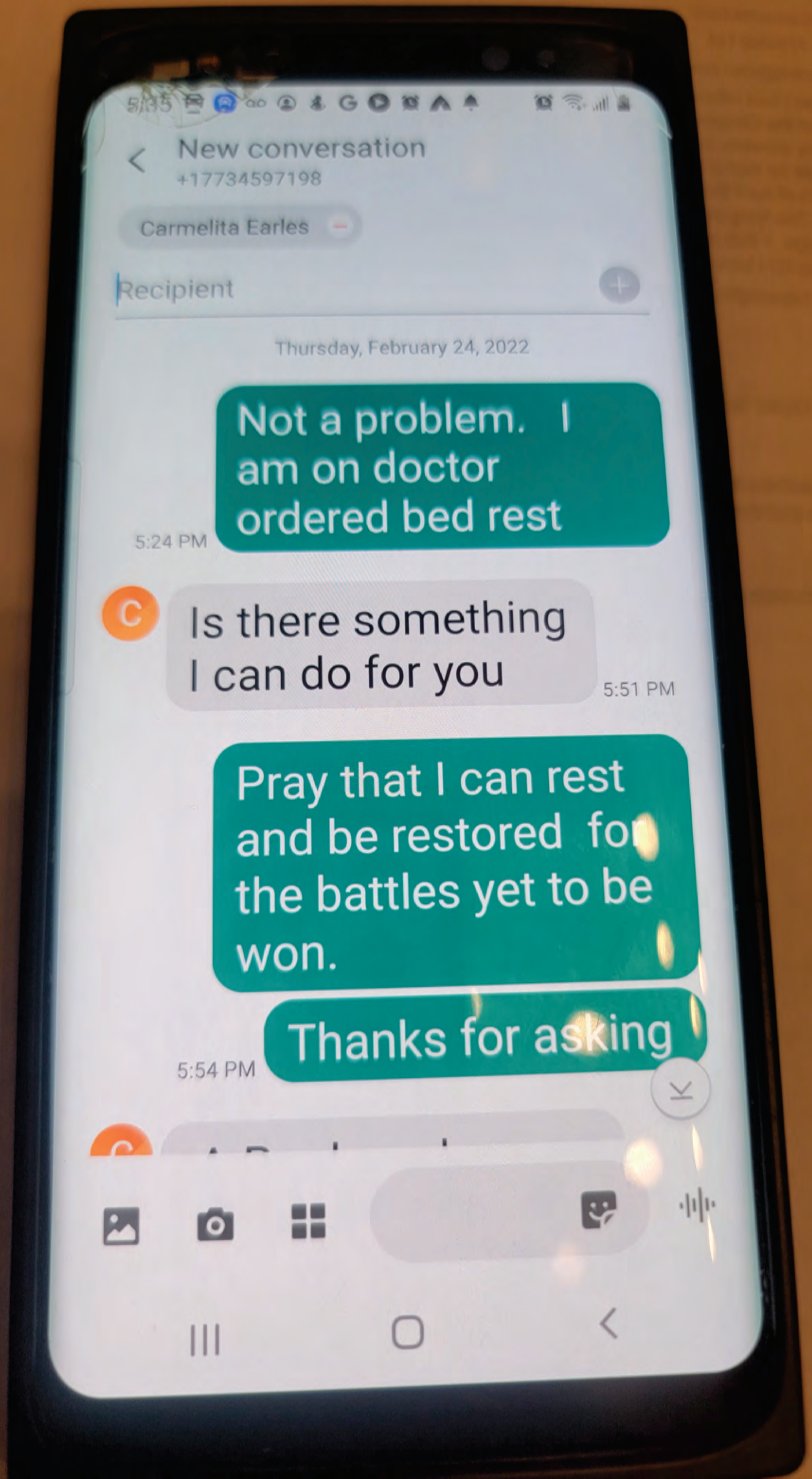
Calvita J. Frederick

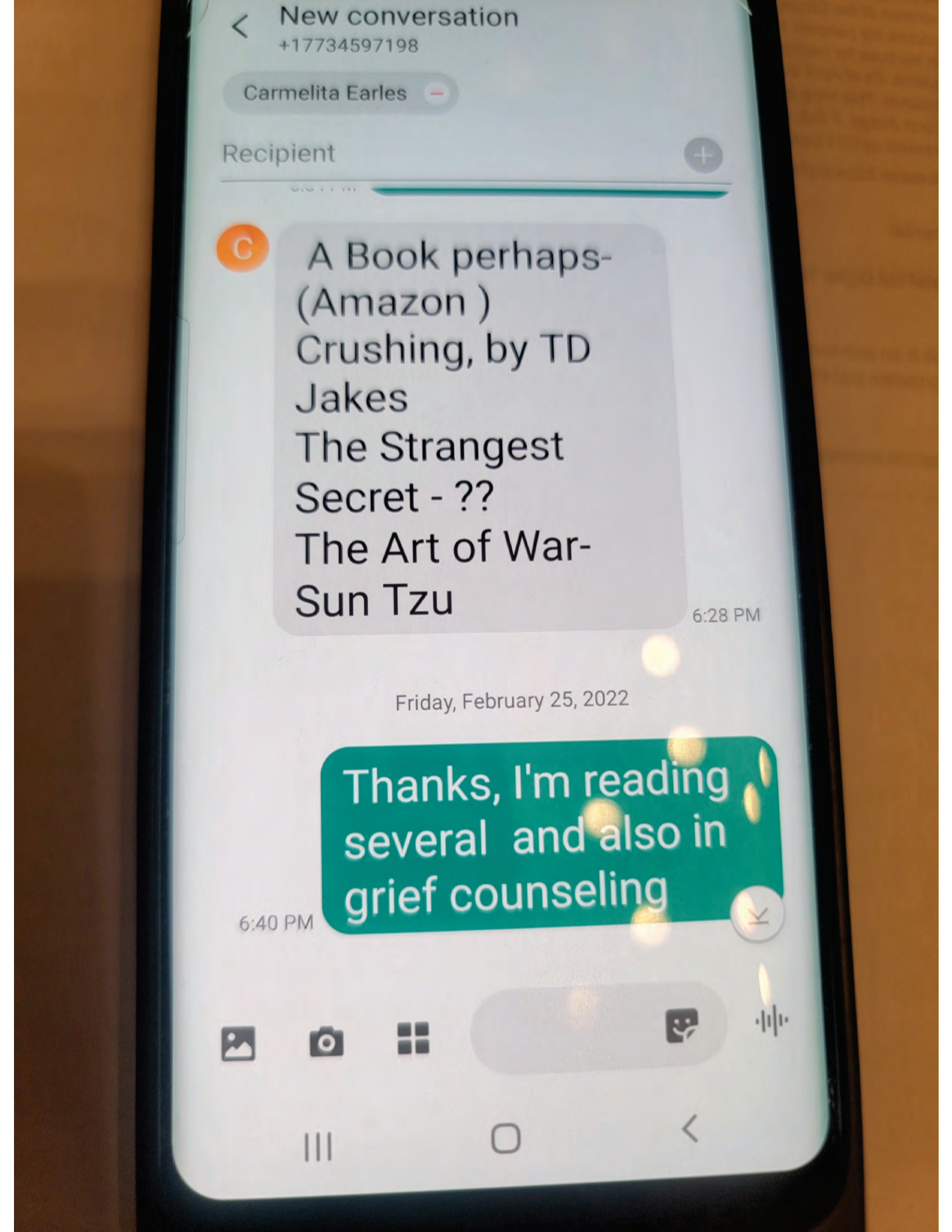

5:34
New conversation
+17734597198
Carmelita Earles
Recipient
Thursday, February 3, 2022
C
Good morning, we have decided to retain you as counsel. Is this a good time to call you?
10:18 AM
Friday, February 4, 2022
Moving slowly. Probably 15 mins behind schedule
12:30 PM
C
Not a problem
12:40 PM


New conversation
+17734597198
Carmelita Earles
Recipient
I am here, are you?
1:18 PM
Yes, in the paining lot. Coming in now
1:19 PM
Ok
1:20 PM
Tuesday, February 8, 2022
https://www.chicagotribune.com/politics/ct-tribune-sues-chicago-documents


5:35
New conversation
+17734597198
Carmelita Earles
Recipient
https://www.chicagotribune.com/politics/ct-tribune-sues-chicago-documents-20220207-xku3r3oyhrbodkjnnsucyayp7i-story.html
This is why I left the Fire Department
10:29 AM
Wednesday, February 23, 2022
I just returned


New conversation
+17734597198
Carmelita Earles
Recipient
I just returned to Chicago from Memphis Tennessee, my aunt and my uncle were found in their homes. We went to get some information and lay them to rest. I have yet to touch the information may I have another two weeks?
9:12 AM


New conversation
+17734597198
Carmelita Earles
Recipient
Thursday, February 24, 2022
Not a problem. I am on doctor ordered bed rest
5:24 PM
C
Is there something I can do for you
5:51 PM
Pray that I can rest and be restored for the battles yet to be won.
Thanks for asking
5:54 PM


New conversation
+17734597198
Carmelita Earles
Recipient
C
A Book perhaps- (Amazon) Crushing, by TD Jakes
The Strangest Secret - ??
The Art of War- Sun Tzu
6:28 PM
Friday, February 25, 2022
Thanks, I'm reading several and also in grief counseling
6:40 PM

5:36

New conversation
+17734597198

Carmelita Earles

Recipient

Sunday, March 20, 2022

C



Are you ready?

MMS
10:56 AM

On no work restriction Doctor

New conversation
+17734597198

Carmelita Earles

Recipient

On no work restriction. Doctor has me out until my BP stabalizes. Sorry

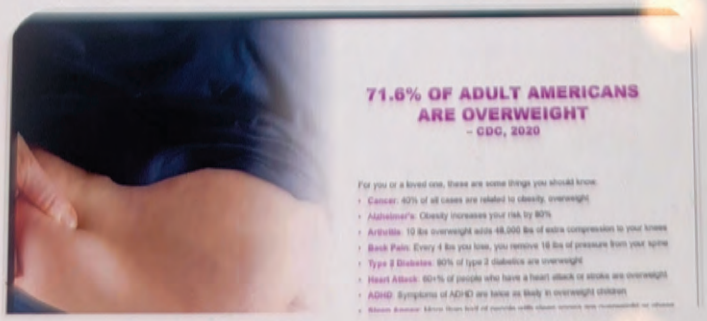
3:38 PM

Wednesday, April 27, 2022

Running 15 mins late
Sorry

12:57 PM

Thursday, April 28, 2022



5:36

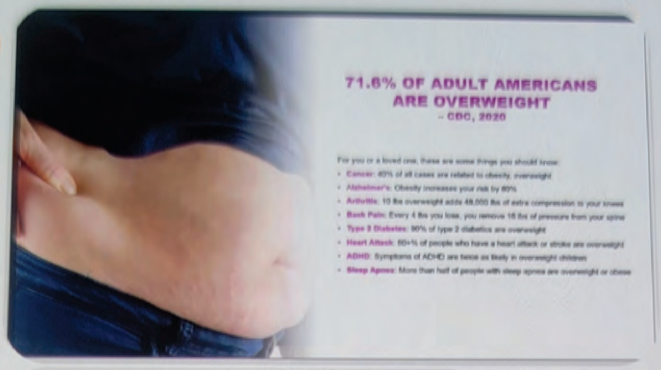
New conversation
+17734597198

Carmelita Earles

Recipient

Thursday, April 28, 2022

C



Rita McGuire MMS
5:47 PM

C



New conversation
+17734597198

Carmelita Earles

Recipient

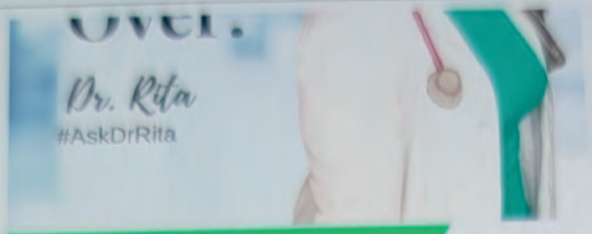




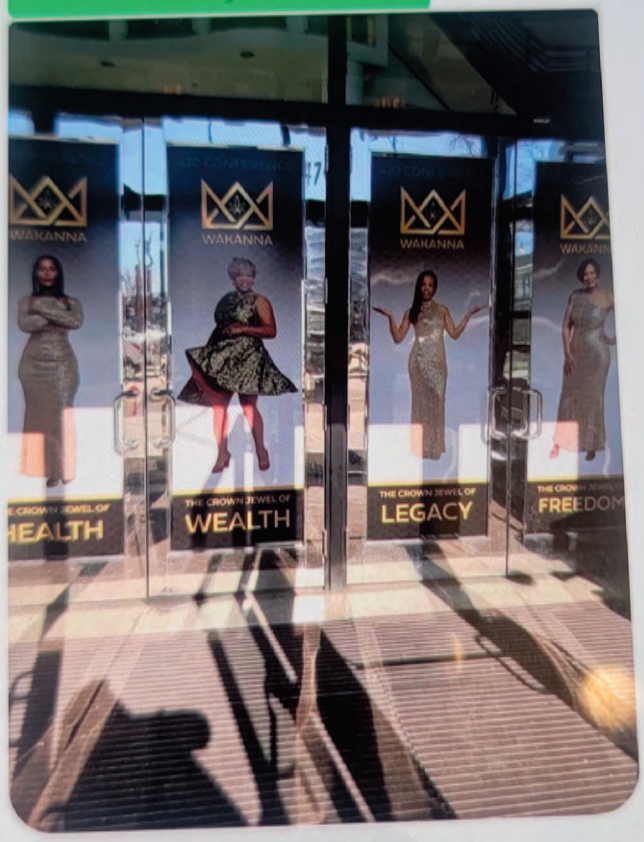
New conversation
+17734597198

Carmelita Earles

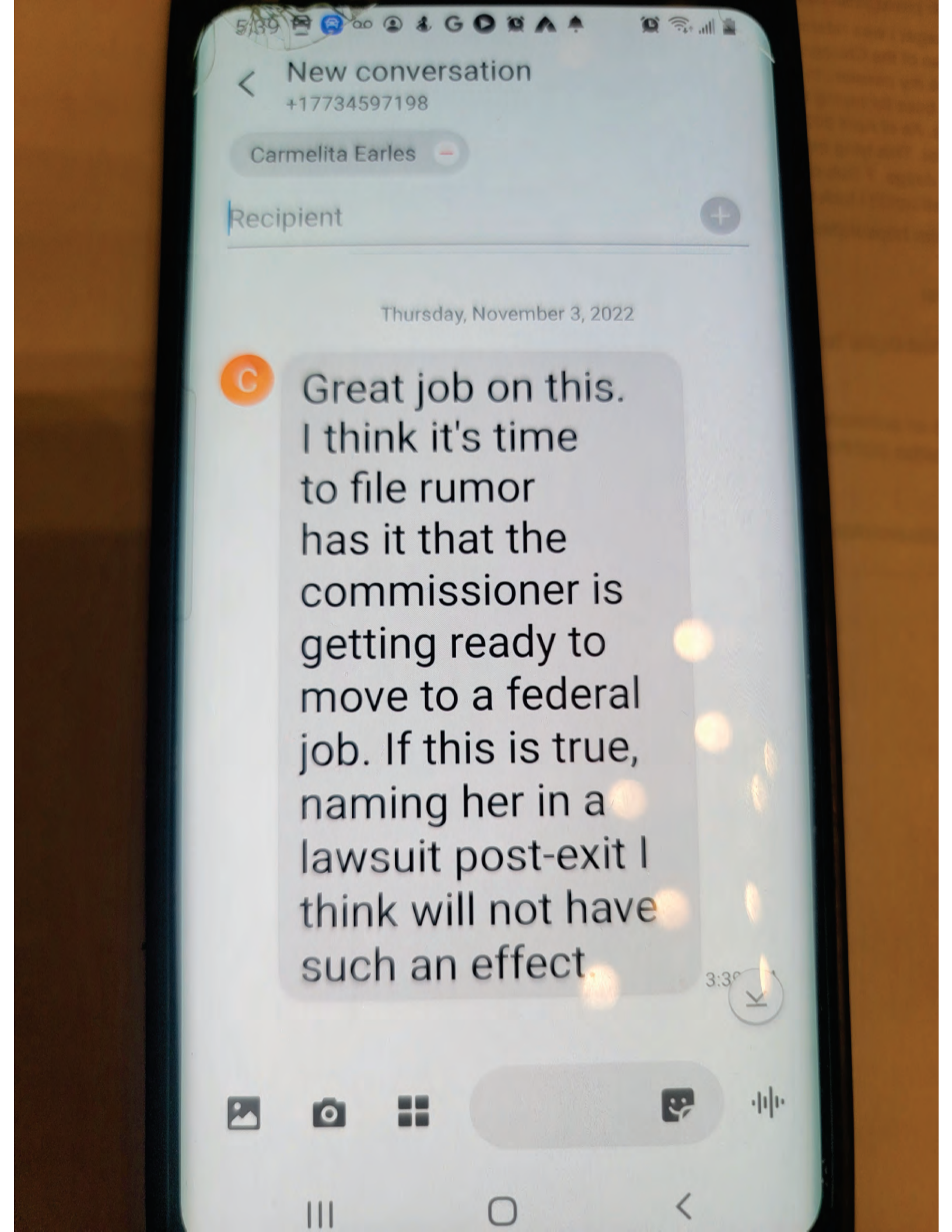
Recipient

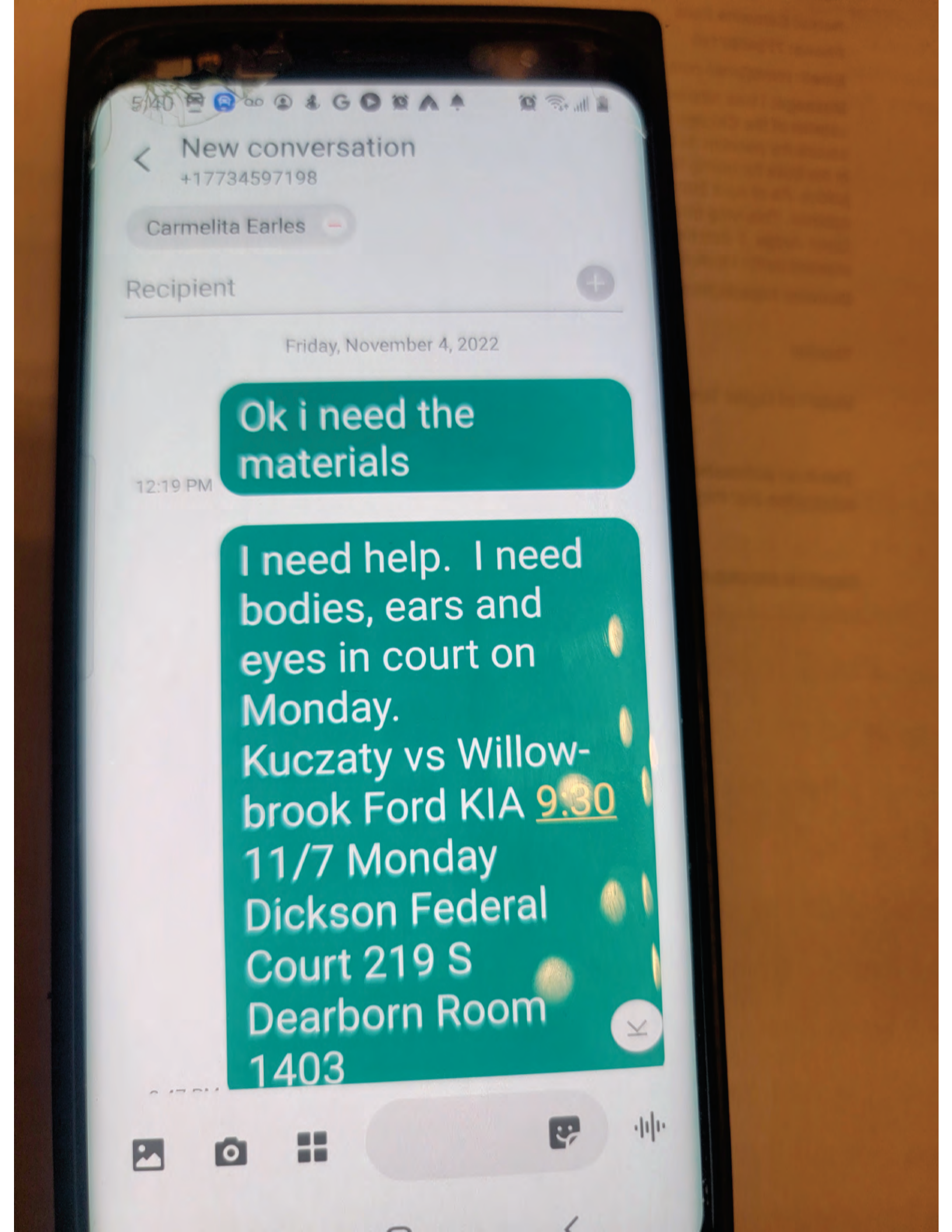


America's Leading Health Doctor Dr. Rita McGuire



Dr Rita, MD MMS 5:59 PM


New conversation
+17734597198
Carmelita Earles
Recipient
Thursday, November 3, 2022
C
Great job on this. I think it's time to file rumor has it that the commissioner is getting ready to move to a federal job. If this is true, naming her in a lawsuit post-exit I think will not have such an effect.


5:40
New conversation
+17734597198
Carmelita Earles
Recipient
Friday, November 4, 2022
Ok i need the materials
12:19 PM
I need help. I need bodies, ears and eyes in court on Monday.
Kuczaty vs Willow-brook Ford KIA 9:30
11/7 Monday
Dickson Federal Court 219 S Dearborn Room 1403

New conversation
+17734597198

Carmelita Earles

Recipient

1403

3:47 PM

Okay, let me see what I can do

8:28 PM

Thanks

9:37 PM

Monday, January 23, 2023



5:40

New conversation
+17734597198

Carmelita Earles

Recipient



New venture

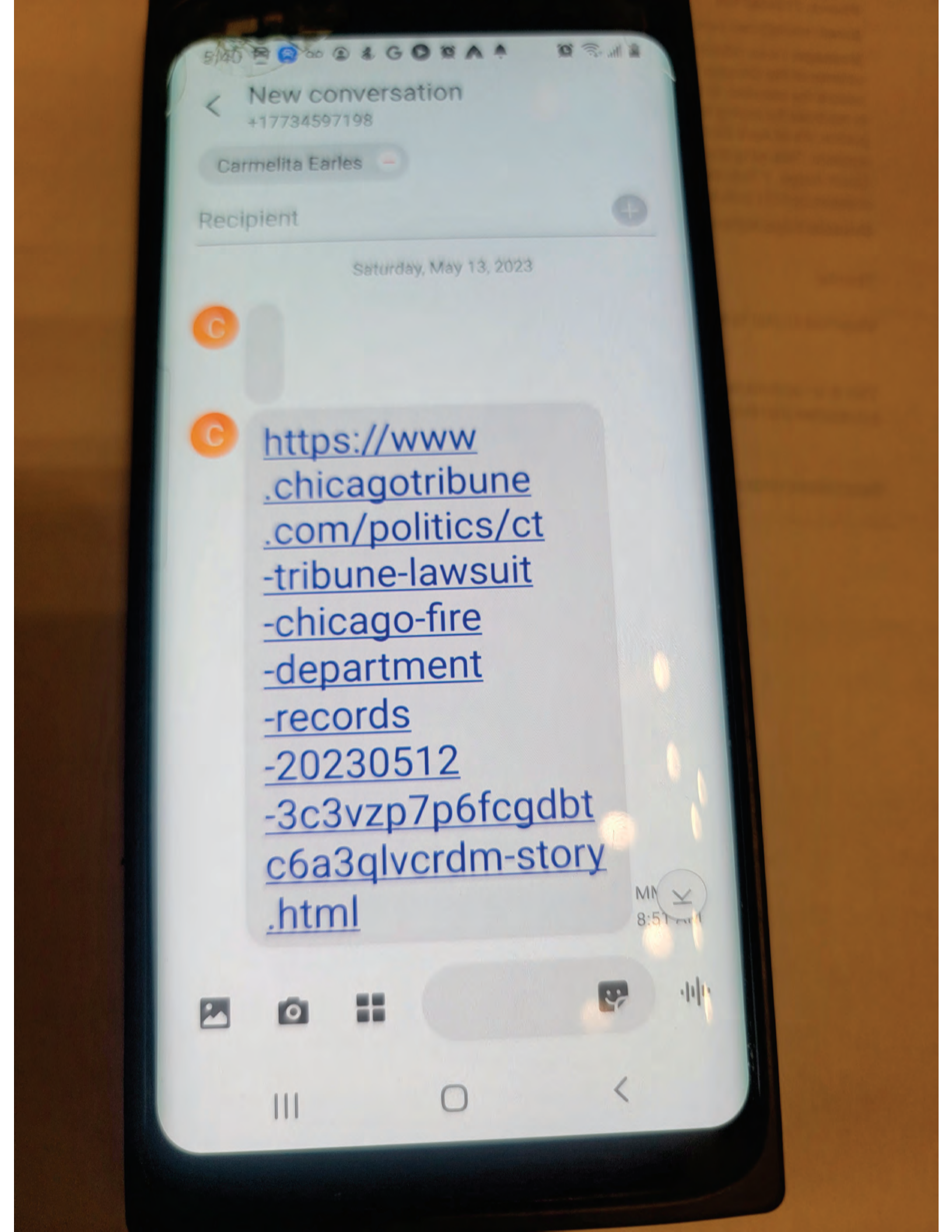
MMS
9:57 PM

Tuesday, January 24, 2023

Wow! Good for you!

11:07 AM

Saturday, May 13, 2023


New conversation
+17734597198
Carmelita Earles
Recipient
Saturday, May 13, 2023
https://www.chicagotribune.com/politics/ct-tribune-lawsuit-chicago-fire-department-records-20230512-3c3vzp7p6fcgdbtc6a3qlvcrdm-story.html

5:40

New conversation
+17734597198

Carmelita Earles

Recipient

Sunday, July 2, 2023



07.16.2023
3PM AT EPIPHANY CENTER FOR
THE ARTS
201 S ASHLAND AVE, CHICAGO IL.,
60607

DRESS CODE: SUMMER WHITES

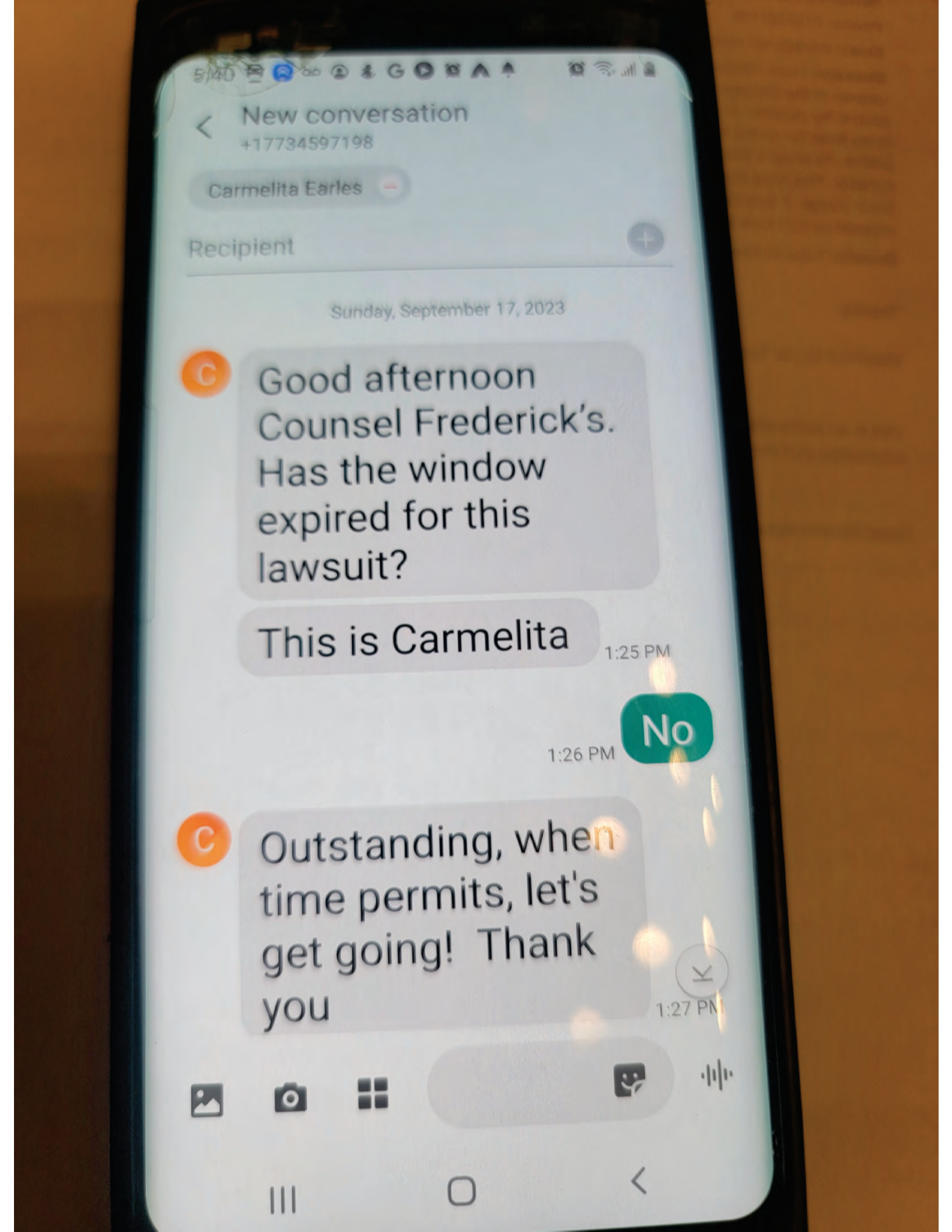
RSVP BY CALL OR TEXT
312-532-5205

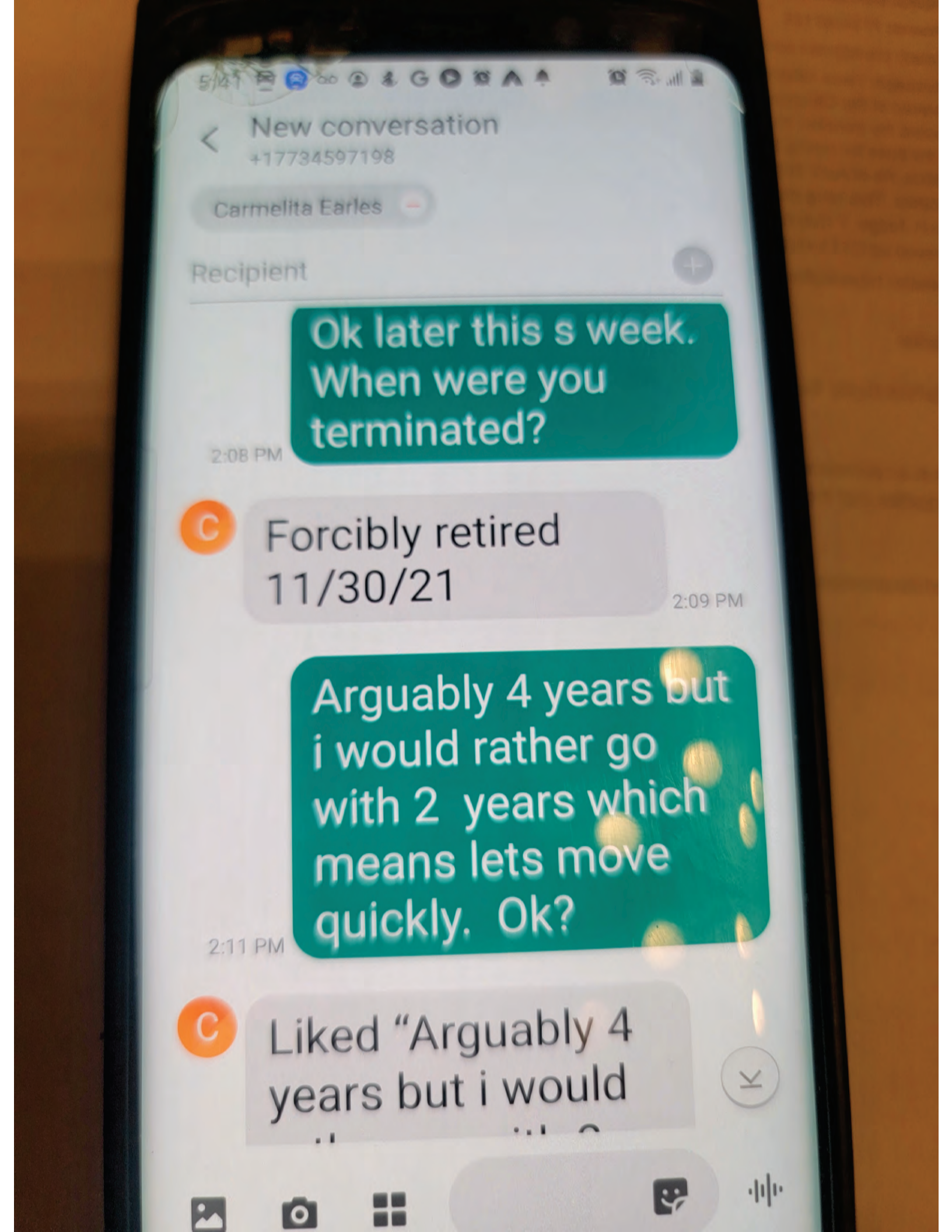
MMS 12:08 PM

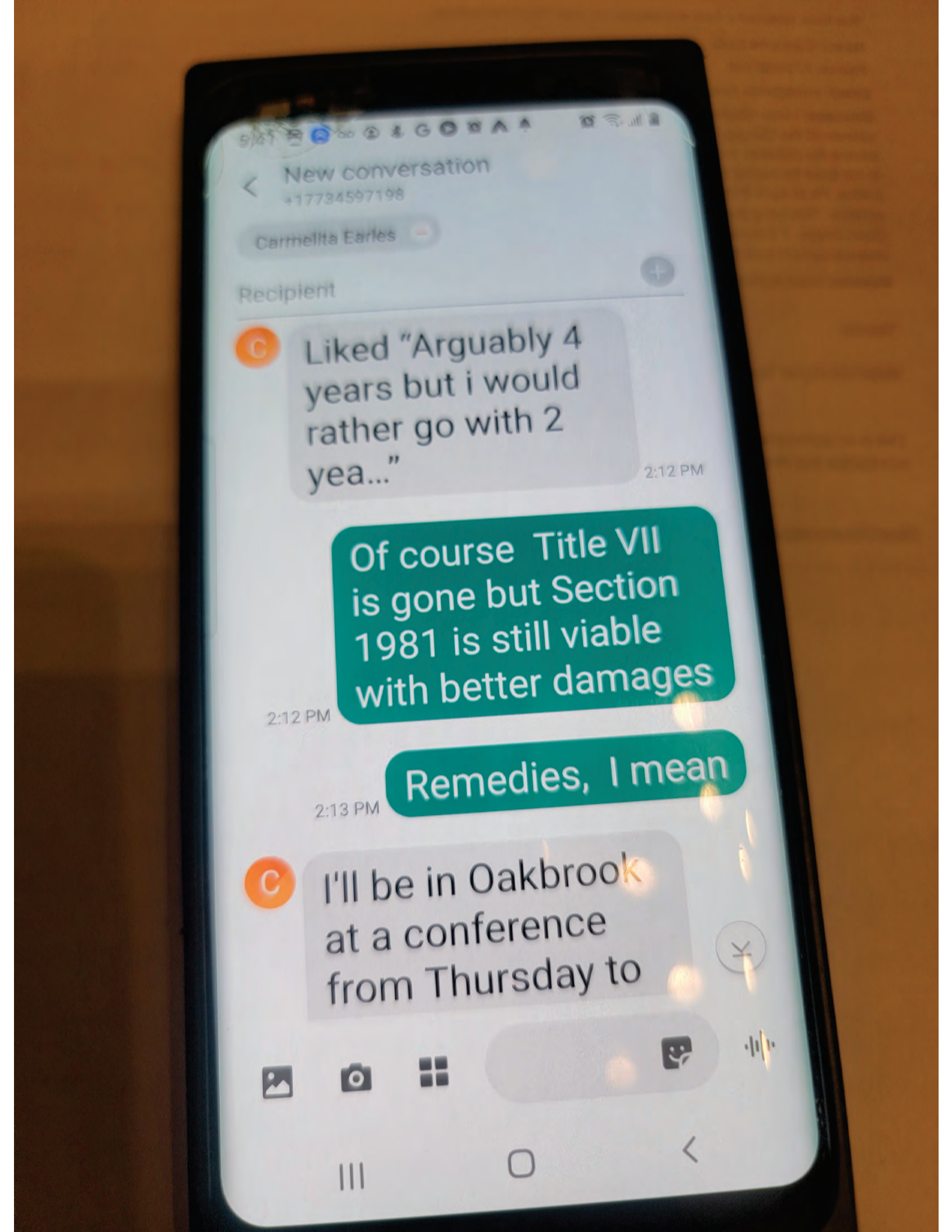
C Okay, I'm there! 12:09 PM

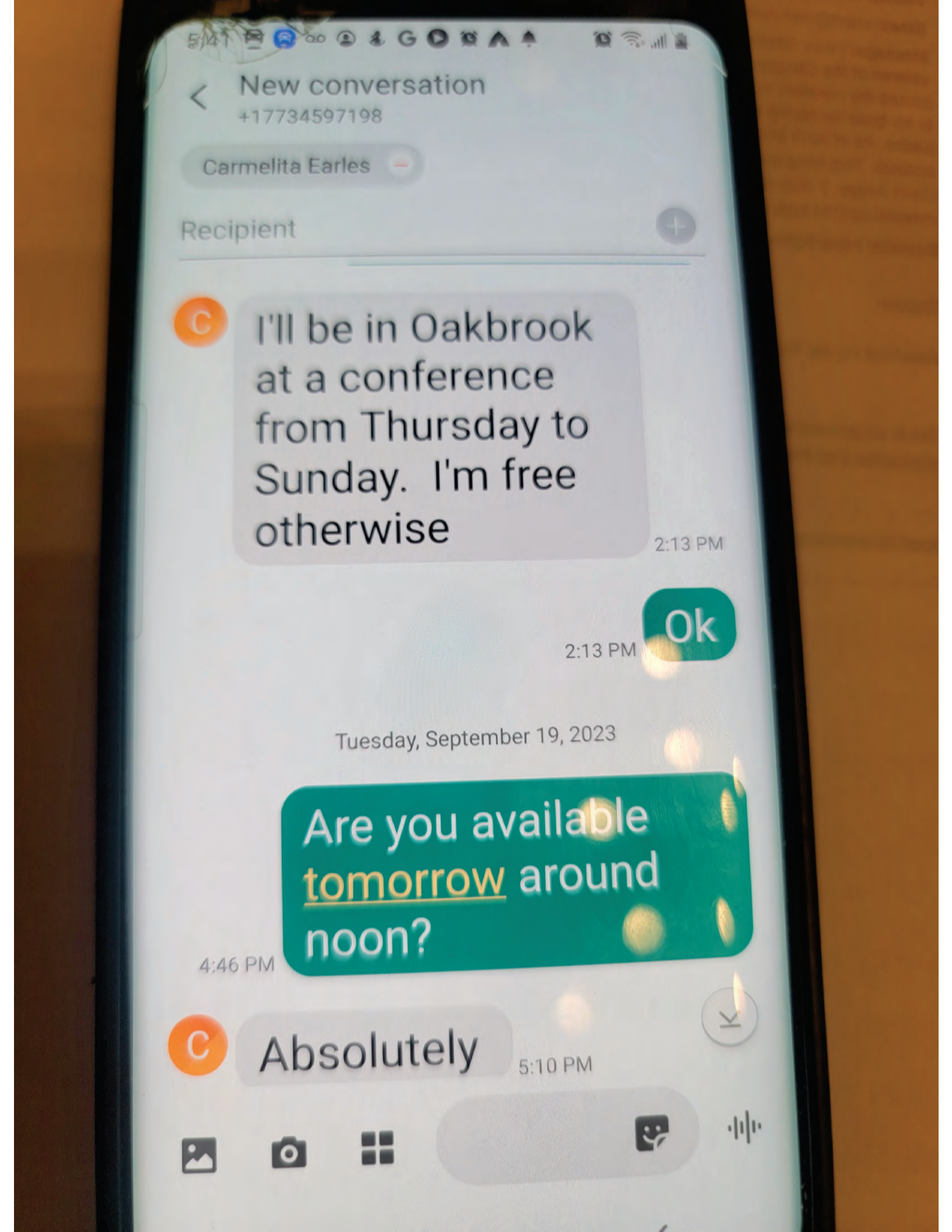
Sunday, September 17, 2023

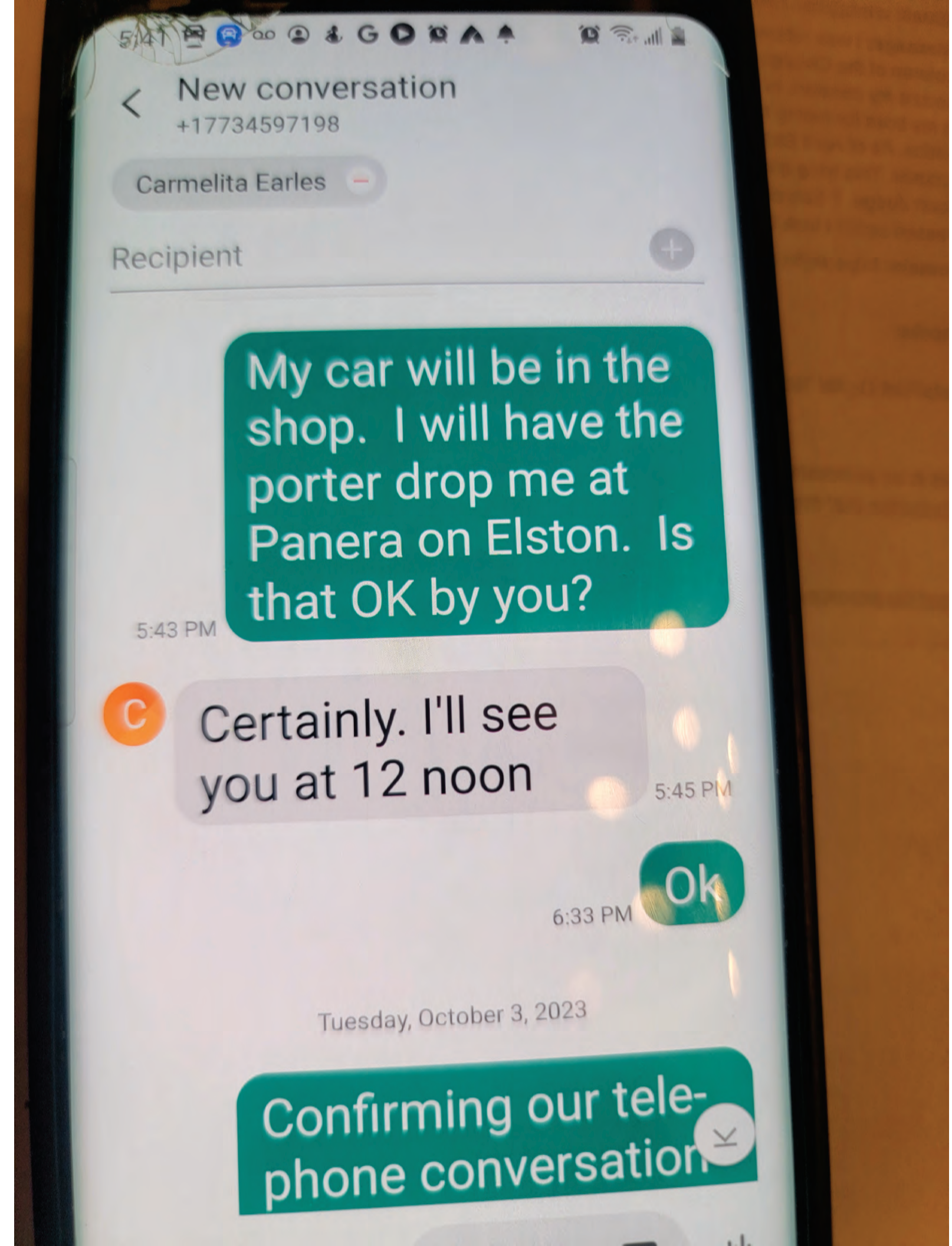
C Good afternoon

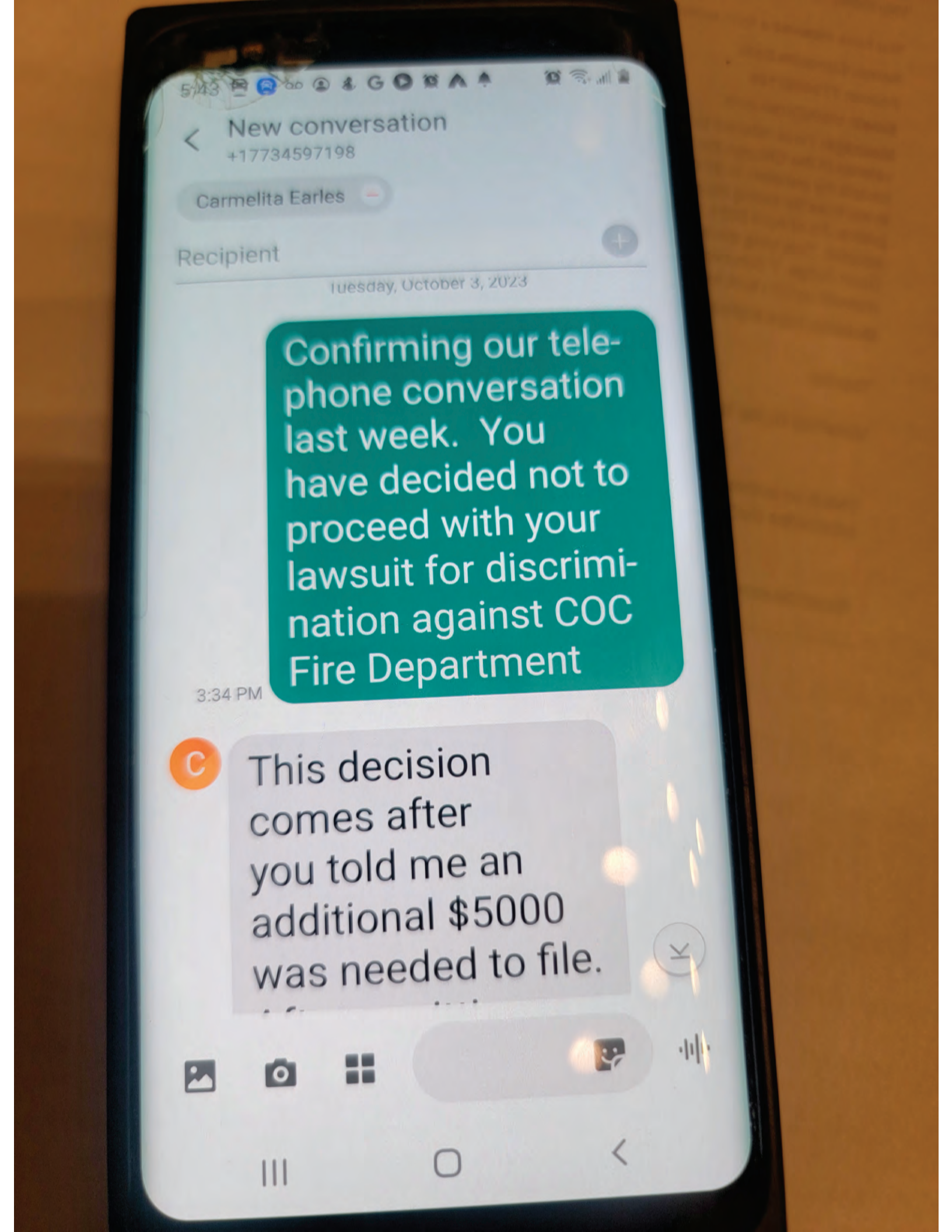

New conversation
+17734597198
Carmelita Earles
Recipient
Sunday, September 17, 2023
Good afternoon Counsel Frederick's. Has the window expired for this lawsuit?
This is Carmelita
1:25 PM
No
1:26 PM
Outstanding, when time permits, let's get going! Thank you
1:27 PM

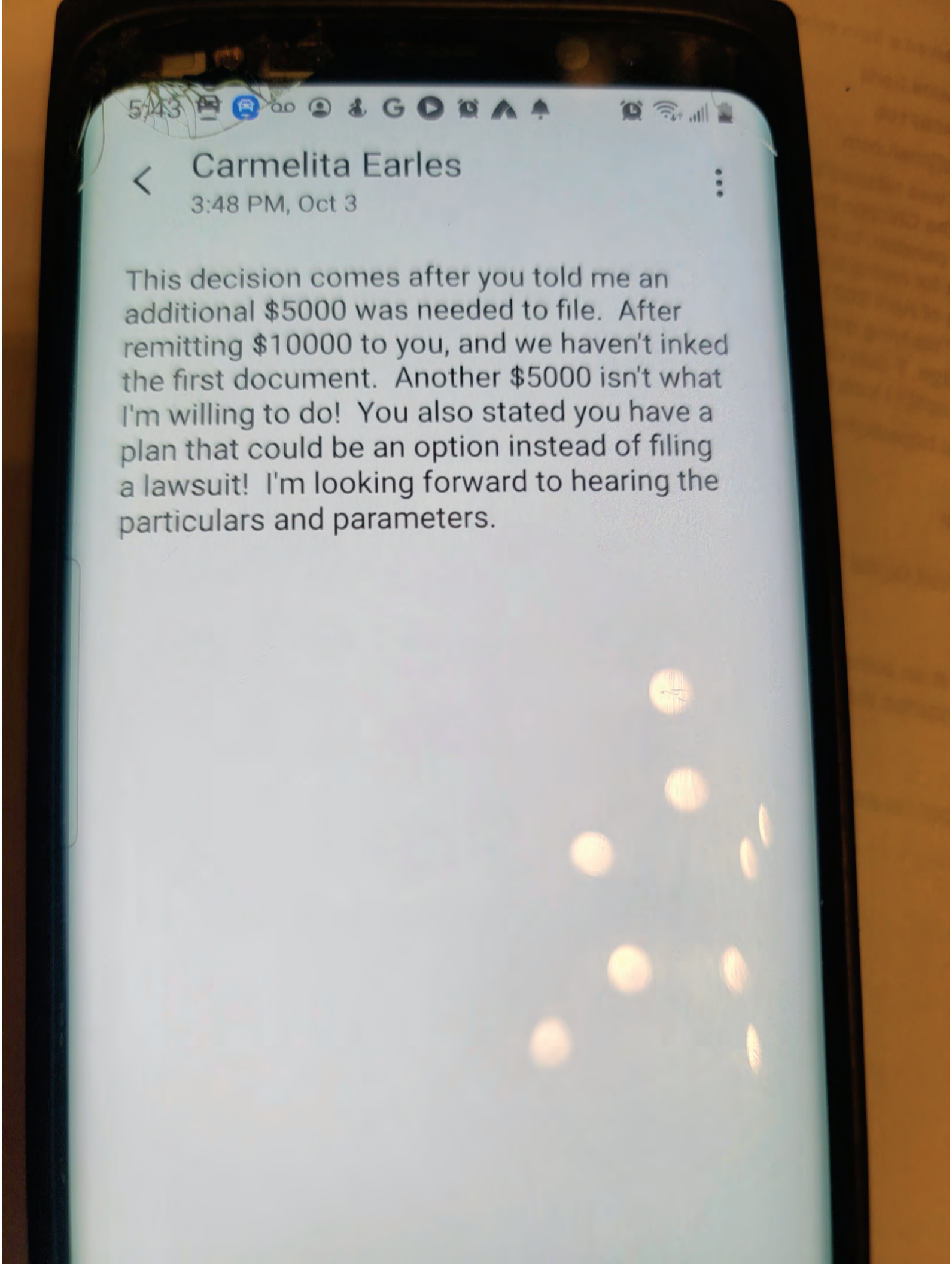

New conversation
+17734597198
Carmelita Earles
Recipient
Ok later this s week. When were you terminated?
2:08 PM
C
Forcibly retired 11/30/21
2:09 PM
Arguably 4 years but i would rather go with 2 years which means lets move quickly. Ok?
2:11 PM
C
Liked “Arguably 4 years but i would

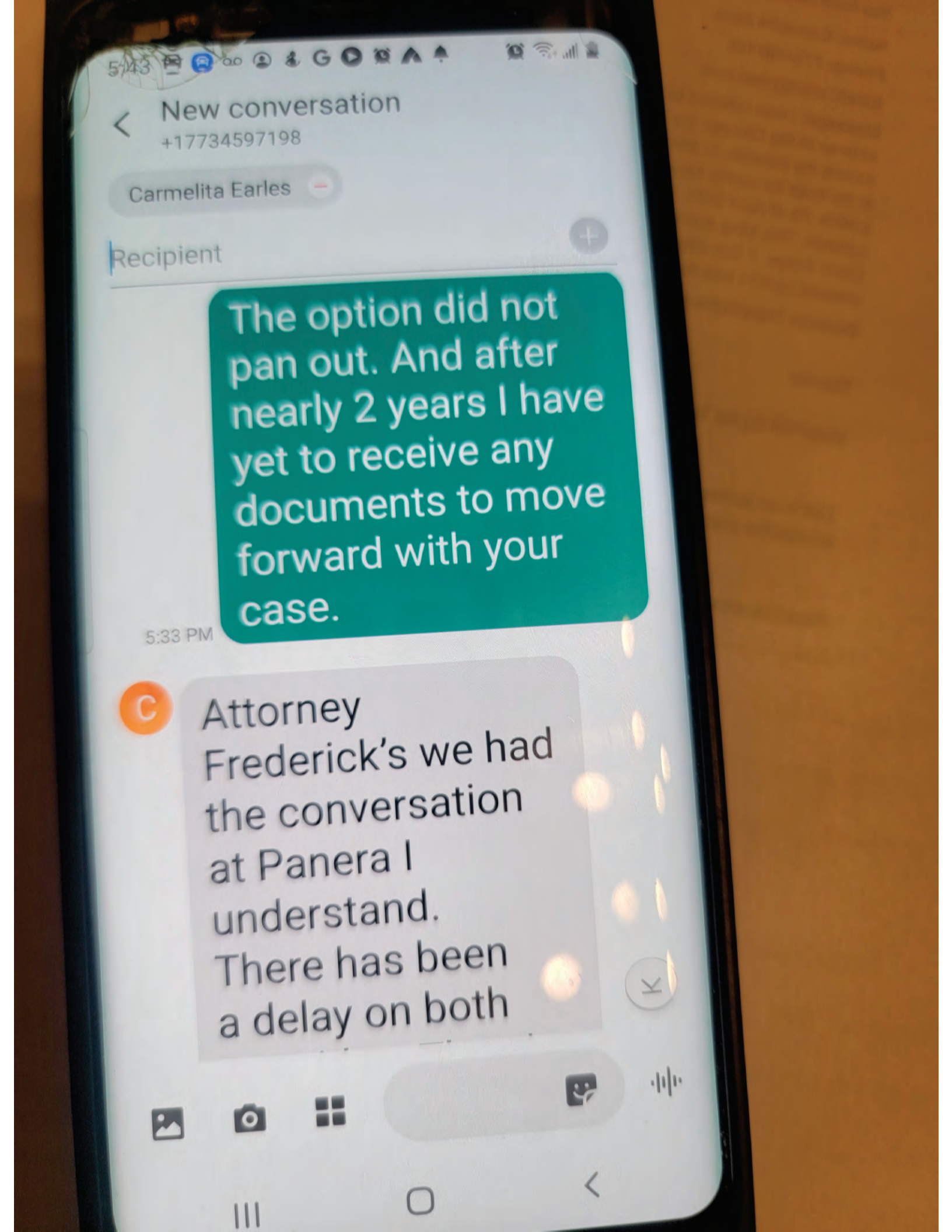

New conversation
+17734597198
Carmelita Earles
Recipient
Liked "Arguably 4 years but i would rather go with 2 yea..."
2:12 PM
Of course Title VII is gone but Section 1981 is still viable with better damages
2:12 PM
Remedies, I mean
2:13 PM
I'll be in Oakbrook at a conference from Thursday to

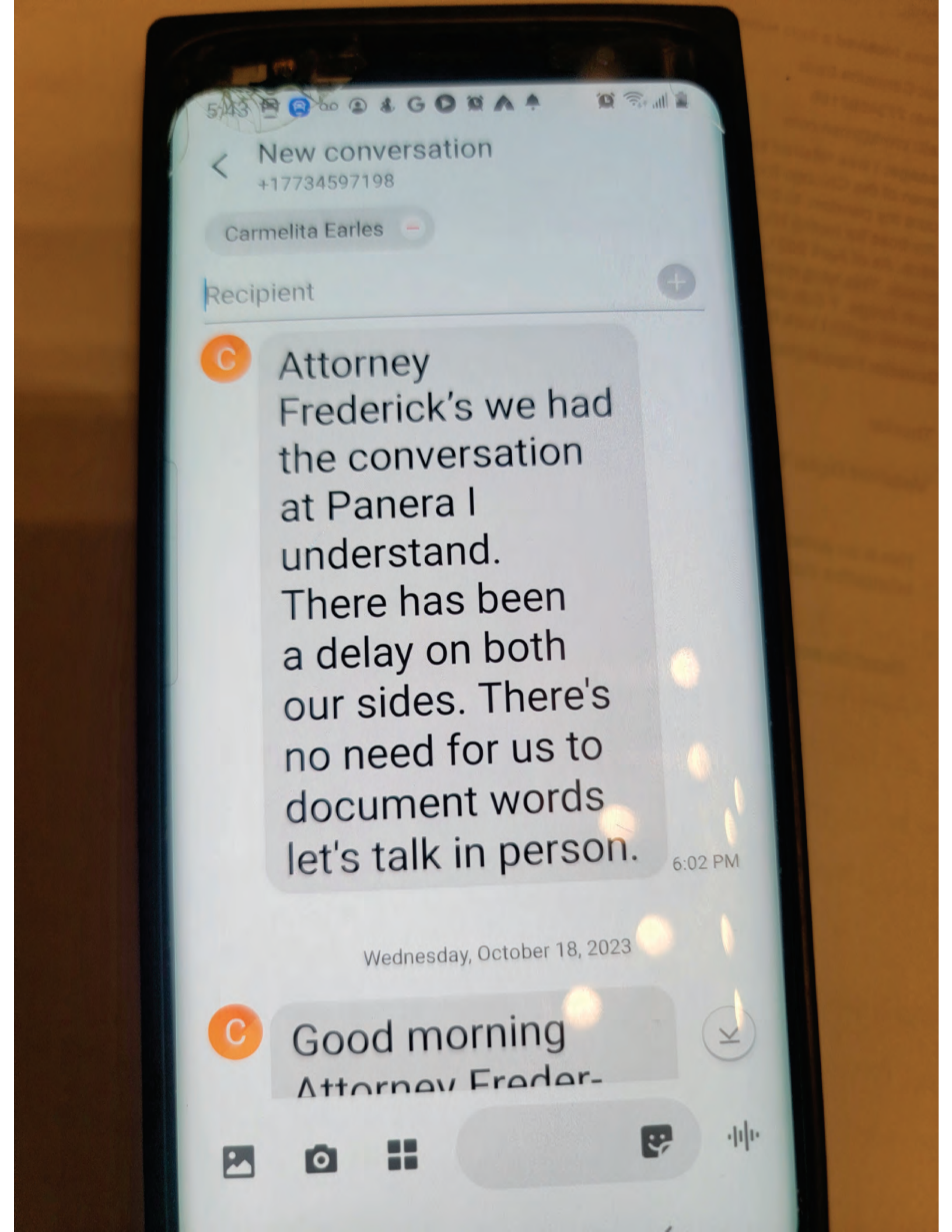

New conversation
+17734597198
Carmelita Earles
Recipient
I'll be in Oakbrook at a conference from Thursday to Sunday. I'm free otherwise
2:13 PM
Ok
2:13 PM
Tuesday, September 19, 2023
Are you available tomorrow around noon?
4:46 PM
Absolutely
5:10 PM

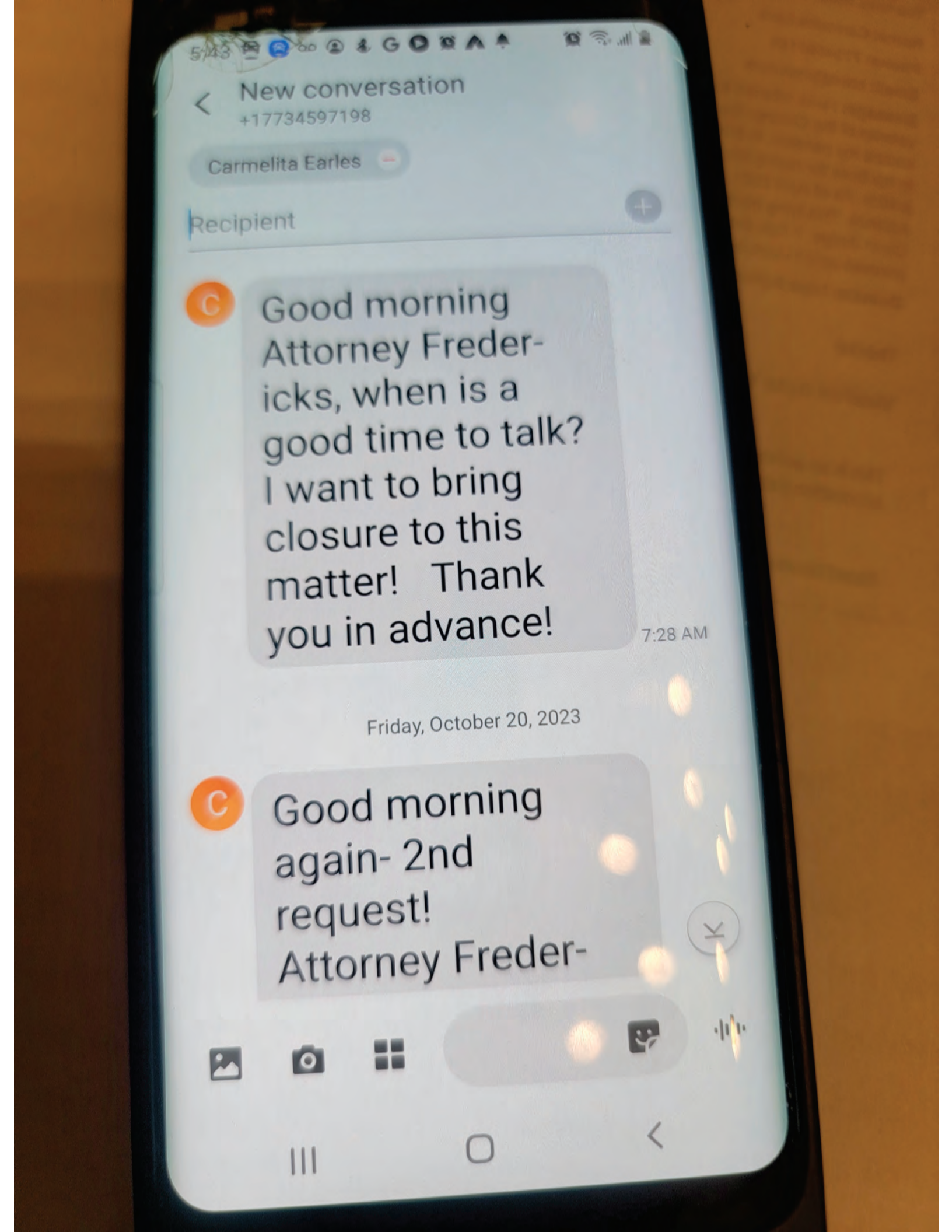

5:41
New conversation
+17734597198
Carmelita Earles
Recipient
My car will be in the shop. I will have the porter drop me at Panera on Elston. Is that OK by you?
5:43 PM
C
Certainly. I'll see you at 12 noon
5:45 PM
Ok
6:33 PM
Tuesday, October 3, 2023
Confirming our tele-phone conversation

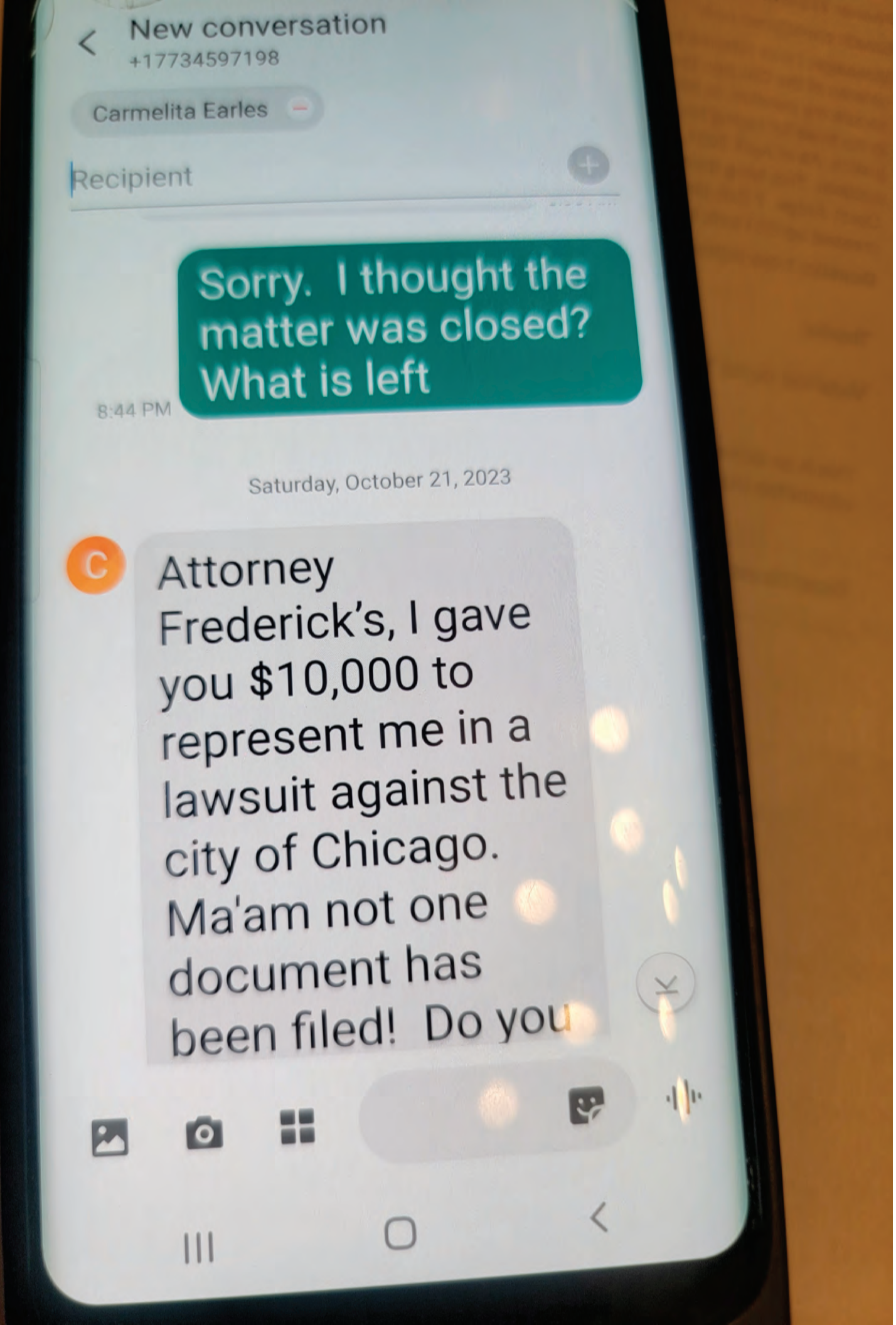

5:43
New conversation
+17734597198
Carmelita Earles
Recipient
Tuesday, October 3, 2023
Confirming our tele-
phone conversation
last week. You
have decided not to
proceed with your
lawsuit for discrimi-
nation against COC
Fire Department
3:34 PM
C
This decision
comes after
you told me an
additional $5000
was needed to file.

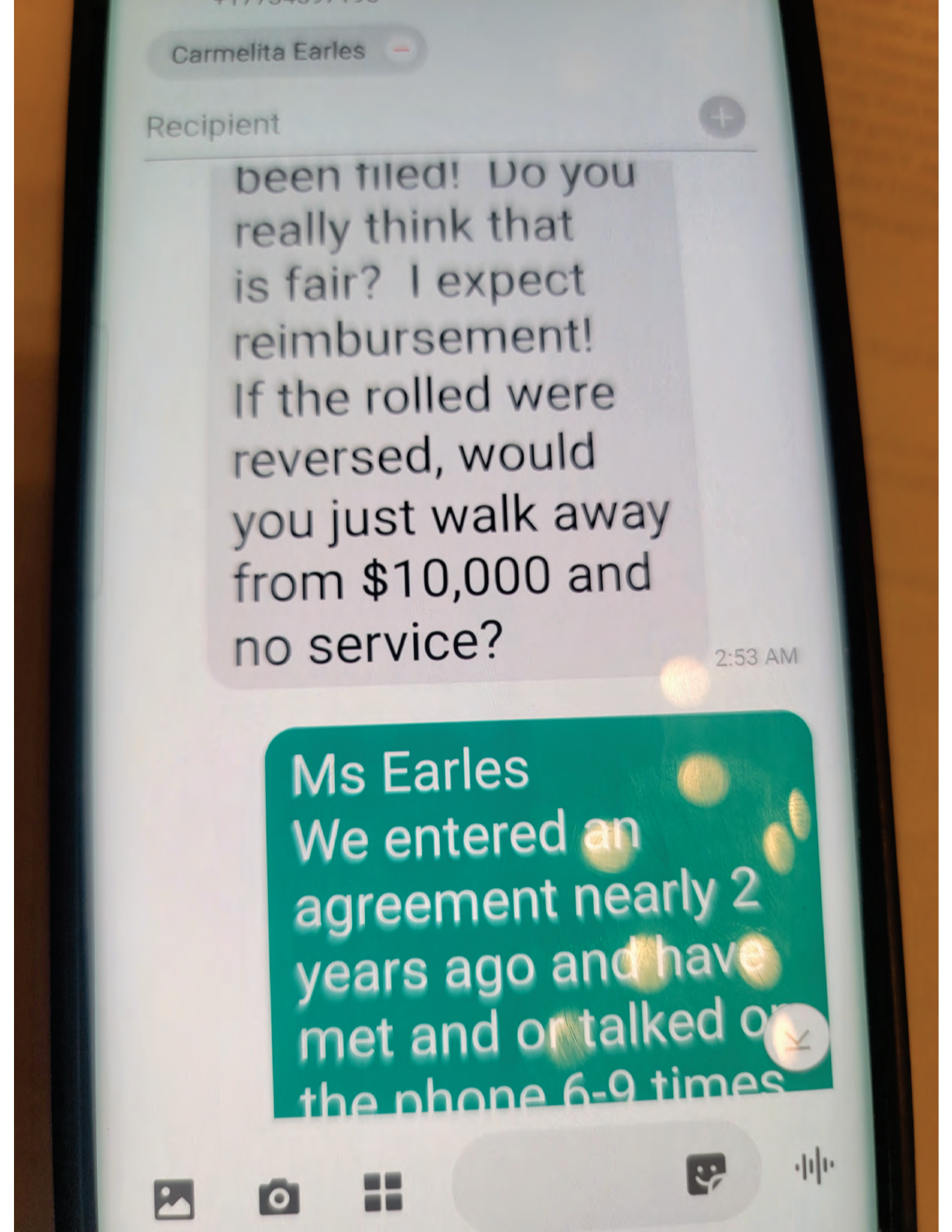

5:43
Carmelita Earles
3:48 PM, Oct 3
This decision comes after you told me an additional $5000 was needed to file. After remitting $10000 to you, and we haven't inked the first document. Another $5000 isn't what I'm willing to do! You also stated you have a plan that could be an option instead of filing a lawsuit! I'm looking forward to hearing the particulars and parameters.

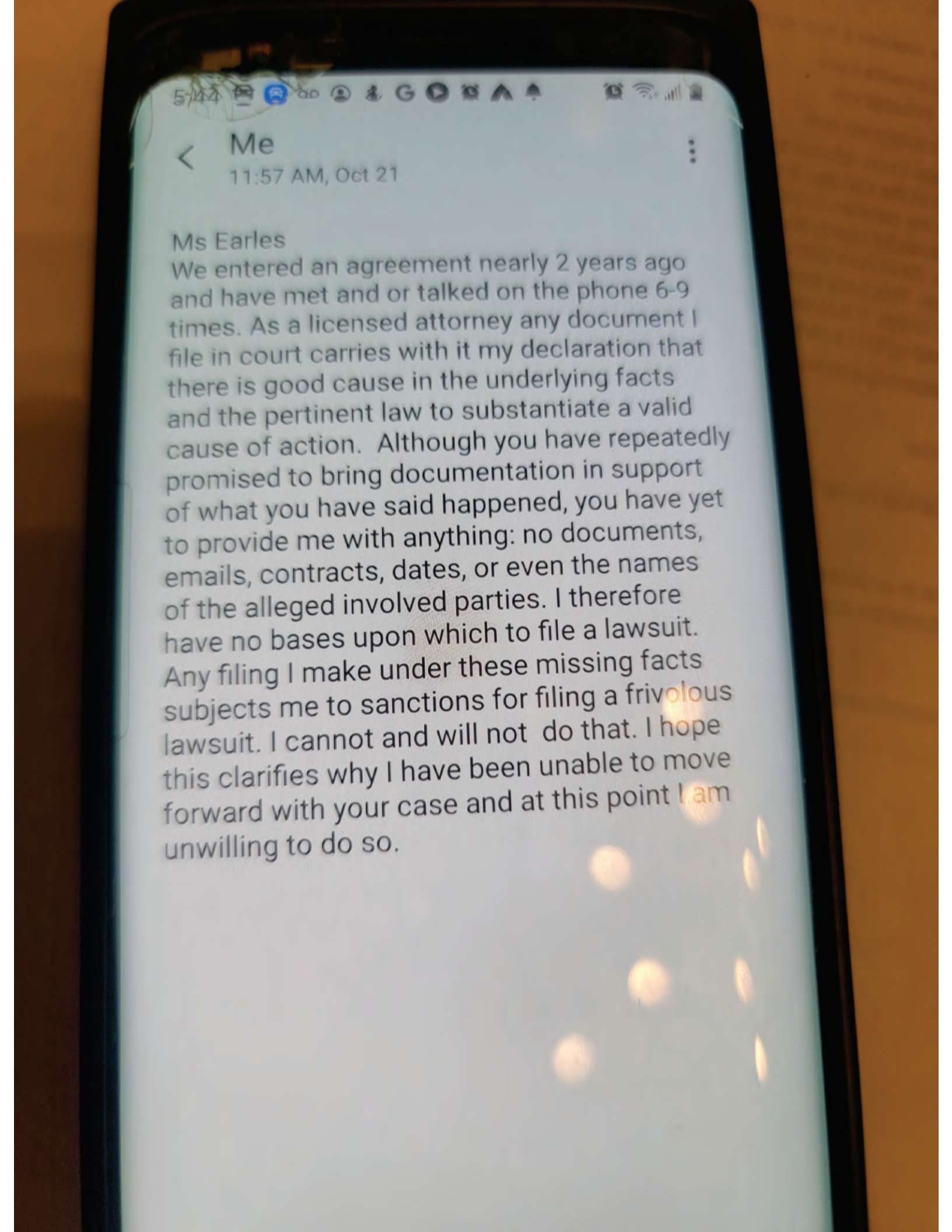

5:43
New conversation
+17734597198
Carmelita Earles
Recipient
The option did not pan out. And after nearly 2 years I have yet to receive any documents to move forward with your case.
5:33 PM
C
Attorney Frederick's we had the conversation at Panera I understand. There has been a delay on both

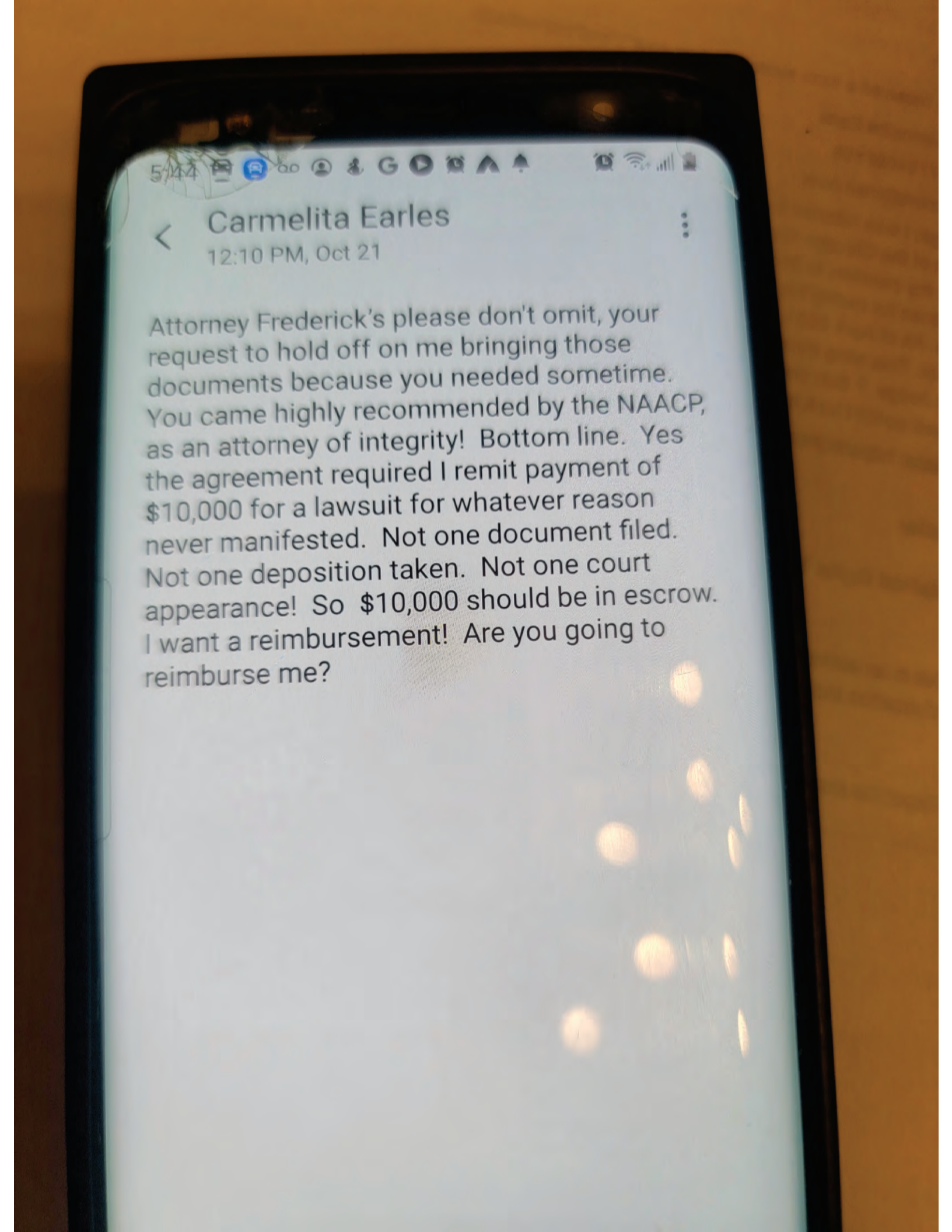

5:43
New conversation
+17734597198
Carmelita Earles
Recipient
C
Attorney Frederick's we had the conversation at Panera I understand. There has been a delay on both our sides. There's no need for us to document words let's talk in person.
6:02 PM
Wednesday, October 18, 2023
C
Good morning Attorney Freder-

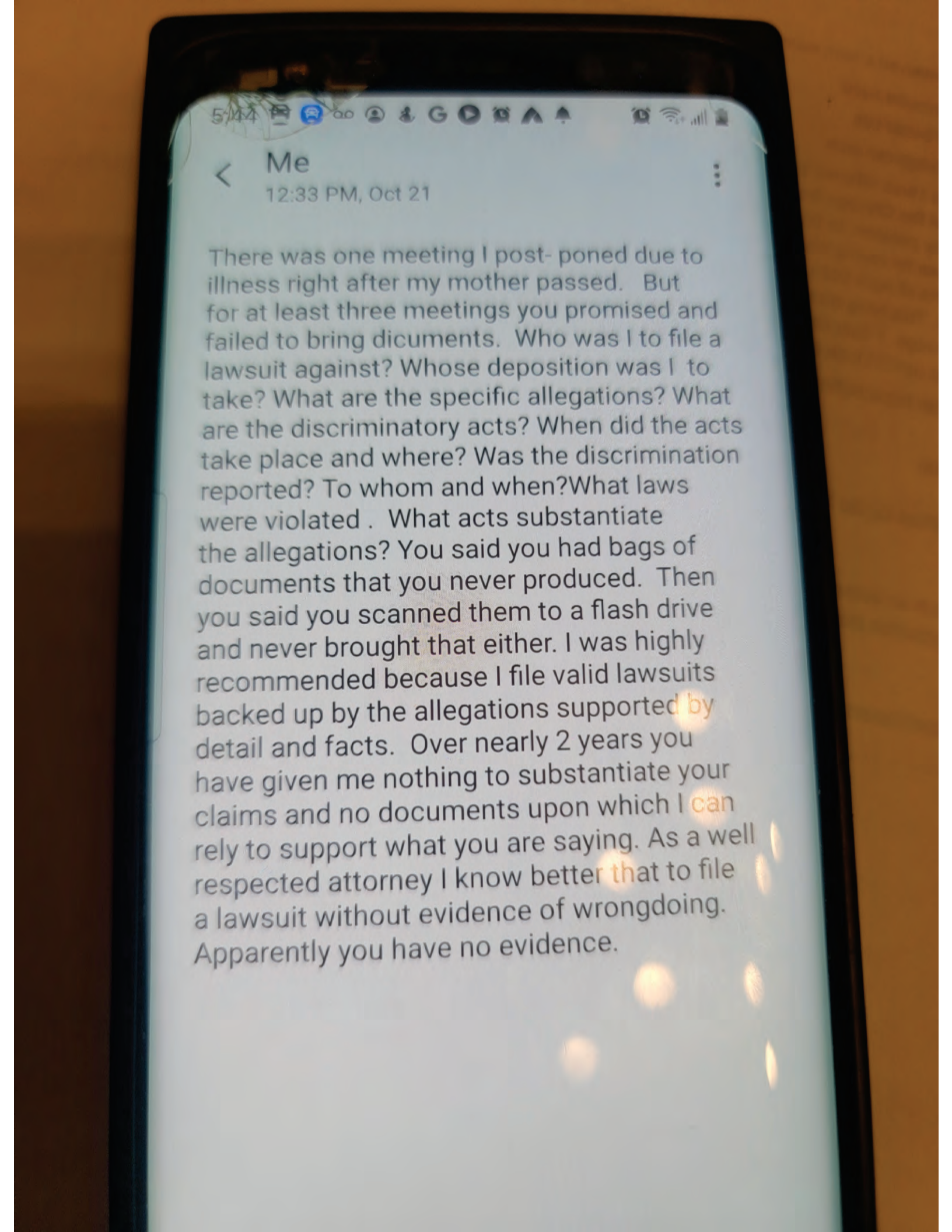

5:43
New conversation
+17734597198
Carmelita Earles
Recipient
C
Good morning Attorney Freder-icks, when is a good time to talk? I want to bring closure to this matter! Thank you in advance!
7:28 AM
Friday, October 20, 2023
C
Good morning again- 2nd request! Attorney Freder-

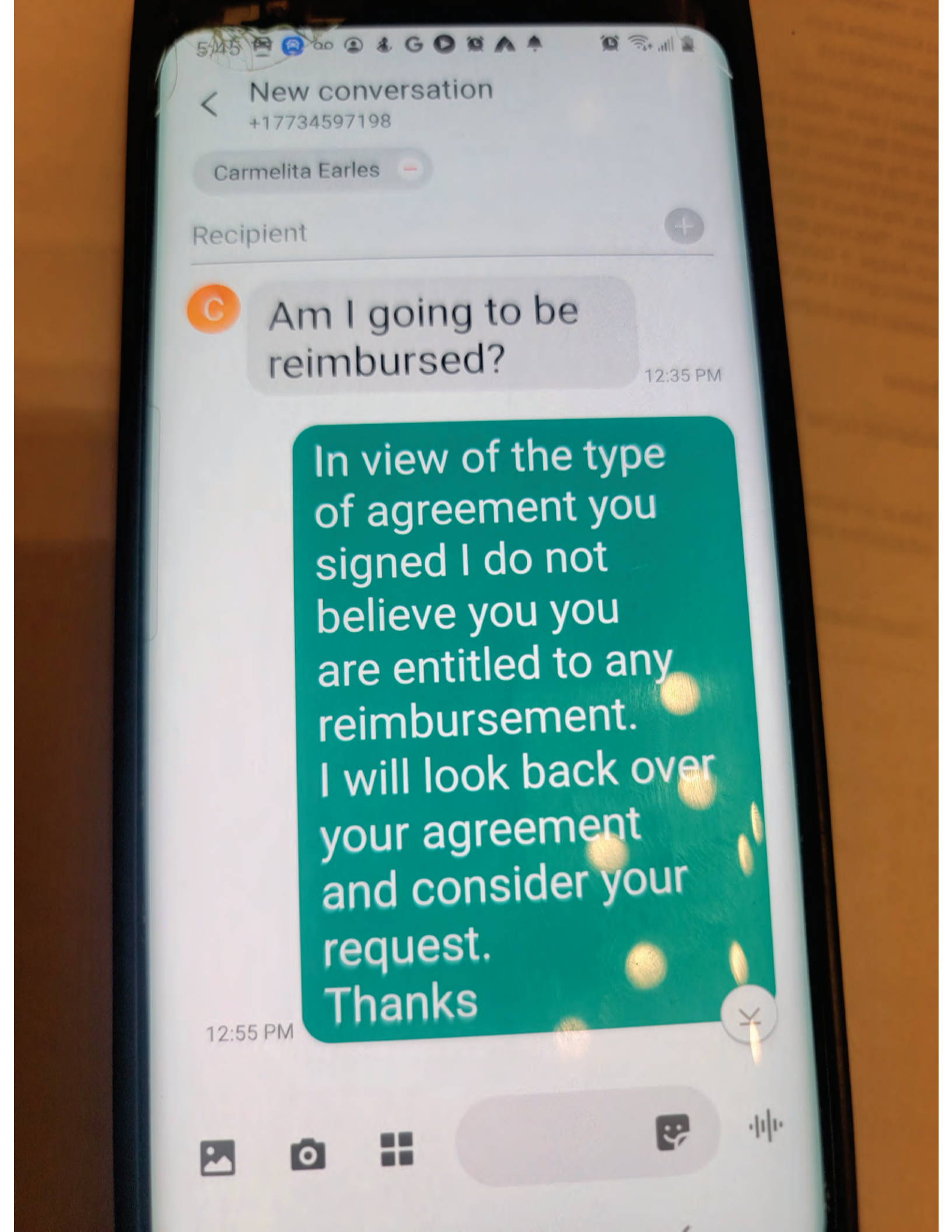

New conversation
+17734597198
Carmelita Earles
Recipient
Sorry. I thought the matter was closed? What is left
8:44 PM
Saturday, October 21, 2023
C
Attorney Frederick's, I gave you $10,000 to represent me in a lawsuit against the city of Chicago. Ma'am not one document has been filed! Do you

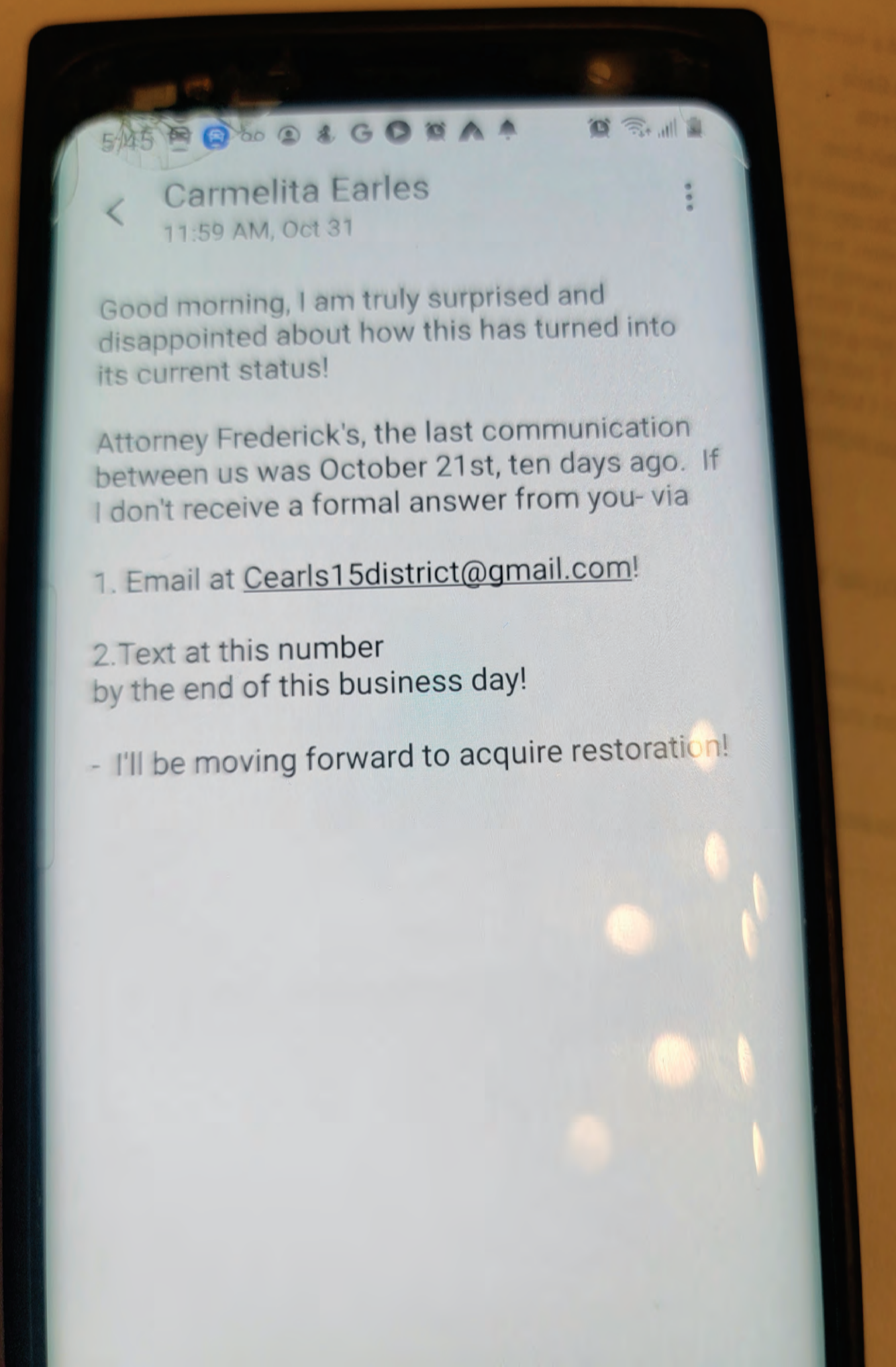

Carmelita Earles
Recipient
been filed! Do you really think that is fair? I expect reimbursement! If the rolled were reversed, would you just walk away from $10,000 and no service?
2:53 AM
Ms Earles
We entered an agreement nearly 2 years ago and have met and or talked on the phone 6-9 times


5:44
Me
11:57 AM, Oct 21
Ms Earles
We entered an agreement nearly 2 years ago and have met and or talked on the phone 6-9 times. As a licensed attorney any document I file in court carries with it my declaration that there is good cause in the underlying facts and the pertinent law to substantiate a valid cause of action. Although you have repeatedly promised to bring documentation in support of what you have said happened, you have yet to provide me with anything: no documents, emails, contracts, dates, or even the names of the alleged involved parties. I therefore have no bases upon which to file a lawsuit. Any filing I make under these missing facts subjects me to sanctions for filing a frivolous lawsuit. I cannot and will not do that. I hope this clarifies why I have been unable to move forward with your case and at this point I am unwilling to do so.


5:44
Carmelita Earles
12:10 PM, Oct 21
Attorney Frederick's please don't omit, your request to hold off on me bringing those documents because you needed sometime. You came highly recommended by the NAACP, as an attorney of integrity! Bottom line. Yes the agreement required I remit payment of $10,000 for a lawsuit for whatever reason never manifested. Not one document filed. Not one deposition taken. Not one court appearance! So $10,000 should be in escrow. I want a reimbursement! Are you going to reimburse me?


5:44
Me
12:33 PM, Oct 21
There was one meeting I post- poned due to illness right after my mother passed. But for at least three meetings you promised and failed to bring dicuments. Who was I to file a lawsuit against? Whose deposition was I to take? What are the specific allegations? What are the discriminatory acts? When did the acts take place and where? Was the discrimination reported? To whom and when?What laws were violated . What acts substantiate the allegations? You said you had bags of documents that you never produced. Then you said you scanned them to a flash drive and never brought that either. I was highly recommended because I file valid lawsuits backed up by the allegations supported by detail and facts. Over nearly 2 years you have given me nothing to substantiate your claims and no documents upon which I can rely to support what you are saying. As a well respected attorney I know better that to file a lawsuit without evidence of wrongdoing. Apparently you have no evidence.


5:45
New conversation
+17734597198
Carmelita Earles
Recipient
C
Am I going to be reimbursed?
12:35 PM
In view of the type of agreement you signed I do not believe you you are entitled to any reimbursement.
I will look back over your agreement and consider your request.
Thanks
12:55 PM


5:45
Carmelita Earles
11:59 AM, Oct 31
Good morning, I am truly surprised and disappointed about how this has turned into its current status!
Attorney Frederick's, the last communication between us was October 21st, ten days ago. If I don't receive a formal answer from you- via
1. Email at Cearls15district@gmail.com!
2.Text at this number
by the end of this business day!
- I'll be moving forward to acquire restoration!

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 fax (312) 277-7190

January 28, 2026

RECEIPT

I, Carmelita Earls received from Calvita J. Frederick Cashier's Check 4167233

In the amount of $9.500.00 refund of legal fees paid in the matter of Earls vs City of Chicago.

Carmelita Earls

Save this Copy
for your records.

FIFTH THIRD BANK

41167233

CASHIER'S CHECK - Customer Receipt

January 28, 2026

Pay to the
Order of: CARMELITA EARLS***

$********9,500.00

Amount: *NINE THOUSAND FIVE HUNDRED 00/100 US DOLLARS*

Memo: REFUND OF LEGAL FEES
Purchased by: CALVITA J FREDERICK
Transaction #: 916075241
Cost Center: 1173
Method of Purchase: Cash/Check

NON-NEGOTIABLE

The purchase of a Surety Bond may be required before any Cashier's Check on this bank will be replaced or refunded in the event it is lost, misplaced, or stolen.

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT. CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

73-119
421

41167233

FIFTH THIRD BANK

CASHIER'S CHECK

January 28, 2026

Pay to the
Order of: CARMELITA EARLS***

$********9,500.00

Amount: *NINE THOUSAND FIVE HUNDRED 00/100 US DOLLARS*

Drawn on: Fifth Third Bank
National Association

Transaction Number: 916075241
Cost Center: 1173

Memo: REFUND OF LEGAL FEES
Purchased by: CALVITA J FREDERICK

The purchase of a Surety Bond may be required before any Cashier's Check on this bank will be replaced or refunded in the event it is lost, misplaced, or stolen.

Fifth Third Bank
Authorized Signature

⑈41167233⑈ ⑆042101190⑆ 008264940⑈

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO SEE THE MARK WHEN CHECKING THE ENDORSEMENTS.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of Calvita Frederick, An attorney	No. 23 D 12 (Before the Executive Committee)

ANSWER TO RULE TO SHOW CAUSE

COMES Calvita Frederick, by her attorneys, Adrian Vuckovich and Kathryne Hayes, and for her Answer to Rule to Show Cause, states as follows:

I. All courts before which Calvita Frederick is admitted to practice.

Ms. Frederick was admitted to practice law in the State of Illinois on January 6, 1983. She is not admitted to practice law in any other state. She is also admitted to the Northern District of Illinois, the United States Supreme Court, and she was previously admitted on a *pro hac* basis to the Northern District of Indiana.

II. Background of Calvita Frederick.

Ms. Frederick has been a member of this Court's general bar since July 16, 2015. She was recently (September 16, 2022) admitted to this Court's trial bar.

Ms. Frederick's background is attached as **Exhibit 1** (https://cjfredericklaw.com/about accessed March 23, 2023).

As demonstrated by Ms. Frederick's background, she began her career with a position as a staff attorney for the Ford Motor Company. (See **Exhibit 1**.) She began her solo practice in 1982 and found early success. *Id*.

Ms. Frederick's career has not always been focused on practicing law. Ms. Frederick started and successfully ran her own beverage (tea) company for approximately ten years before returning to the practice of law in 2008. (**Exhibit 1**.)

Since 2008 and currently, Ms. Frederick focuses her practice on cases alleging discrimination in employment (based upon race, sex, age, and disability), nursing home abuse, probate, real estate, and family law. (**Exhibit 1**.)

Ms. Frederick enjoys the practice of law, and she is a passionate advocate.

Ms. Frederick has successfully handled difficult cases. See, for example, *Cooper v. Martin Luther King Jr. Boys & Girls Club of Chicago*, 2021 IL App (1st) 192618 attached as **Exhibit 2**.

Ms. Frederick began her career as a Black female lawyer at a time when there were very few Black female lawyers. Many women in Ms. Frederick's position were not treated correctly. Ms. Frederick persevered through undisputable adversity.

For decades, it was extremely difficult, if not impossible for many, to speak out against certain injustices.

Today it is generally accepted that implicit bias may still exists. See Illinois ARDC Statement on Racism attached as **Exhibit 3** (http://iardc.org/Files/Statement_on_Racism.pdf accessed March 23, 2023). Many respected organizations take steps to work toward greater equality including the recognition of implicit bias. See Illinois Supreme Court Commission on Professionalism printout attached as **Exhibit 4** providing resources (https://www.2civility.org/education-cle/free-online-cle/rebalance-the-scales-implicit-bias-diversity-and-the-legal-profession/ accessed March 23, 2023). Ms. Frederick is sensitive to these issues, and they are emotional and personal to her. She seeks to bring awareness to causes important to her.

Ms. Frederick regrets her statements regarding bias made with respect to the Court and her colleagues. She apologizes and retracts those statements.

We address *Outley v. City of Chicago, et al*, 17 C 8633 and Model Rules 1.3 (Comment 2); 1.1 (Comment 5) and 3.1 below.

III. Rule to Show Cause.

Paragraph 3 of the Rule to Show Cause states:

> "Specifically, Ms. Frederick shall show cause why her actions in *Outley v. City of Chicago et al*, 17 C 8633, do not violate: a) ABA Model Rule of Professional Conduct 1.3 (Comment 2)[;] b) ABA Model Rule of Professional Conduct 1.1, (Comment 5)[;] c) ABA Model Rule of Professional Conduct 3.1[.]" (Rule to Show Cause, ¶ 3.)

Paragraph 3 of the Rule to Show Cause appears to refer to the entire record in 17 C 8633 and does not appear to ask for an answer with respect to specific conduct in connection to the Model Rules.

Respectfully, the request made in the context of this disciplinary proceeding is too general. Ms. Frederick is entitled to notice of the specific charges against her including the specific conduct at issue. See *In re Ruffalo*, 390 U.S. 544, 550 (1968) ("Disbarment, designed to protect the public, is a punishment or penalty imposed on the lawyer. [Citation.] He is accordingly entitled to procedural due process, which includes fair notice of the charge. [Citation.]"); *In re Karavidas*, 2013 IL 115767, ¶ 103 ("As a matter of due process, an attorney who is charged with misconduct and faces potential discipline must be given adequate notice of the charges, including the rule or rules he is accused of violating."); *In re Doyle*, 144 Ill. 2d 451, 471 (1991) (Administrator's complaint did not contain any factual allegations that prelitigation activities constituted misconduct. Consequently, attorney could not be disciplined for misconduct not alleged in the complaint). The Rule to Show Cause does not provide sufficient notice. Additionally,

subparagraphs 3(a) and 3(b) refer to comments to the respective rules. It is unclear if Ms. Frederick is alleged to have violated a rule or comment or both.

Ms. Frederick seeks to address the Executive Committee's concerns and provide a complete and precise answer. Ms. Frederick will summarize relevant information with respect to 17 C 8633 and, without waiving a proper objection to the sufficiency of the notice, address paragraph 3 to the Rule to Show Cause.

IV. Summary of *Outley v. City of Chicago et al*, 17 C 8633.

Ms. Frederick acknowledges the Memorandum Opinion and Order entered on December 30, 2022 by the Honorable Judge Gary Feinerman ("Outley order"). (Doc. 344[1].)

The Outley order arose out of Ms. Frederick's representation of Mr. Michael Outley.

The original complaint in the Outley matter was filed by Ms. Frederick on November 29, 2017. (Doc. 1.) A copy of the electronic docket is attached as **Exhibit 5**. An amended complaint was filed (Doc. 55). A copy of the amended complaint is attached as **Exhibit 6**.

The parties completed fact discovery. (Doc 236.)

Ms. Frederick moved for partial summary judgment. (Docs. 215 – 217.) Ms. Frederick's motion for partial summary judgment was denied. (Doc. 264.)

Ms. Frederick also defended a motion for summary judgment brought by the Defendants. (Doc. 220 – 222.) Defendants' motion for summary judgment was denied in part and otherwise granted. (Doc. 264.)

On November 1, 2021, by agreement, a jury trial was set for May 5, 2022. (Doc. 270.) The 11/1/2021 order also set a trial schedule. (Doc. 270.) The trial date was reset at the parties' request and also due to the Court's schedule. (Docs. 278, 288.)

[1] This Answer cites to the docket entries in case 17-cv-8633; see **Exhibit 5**.

Motions in limine were filed by Defendants. (Doc. 286.) Ms. Frederick responded to Defendants' motions in limine 1- 19. (Doc. 289 attached as **Exhibit 7**.) Plaintiff's response to Defendants' motions in limine was appropriate and demonstrates an effective advocate. Ms. Frederick stated Plaintiff had no objection to many of the motions in limine (which was reasonable) and the argument in opposition of others was clearly stated.

On August 31, 2022, Defendants moved to dismiss for want of prosecution alleging that Plaintiff had failed to comply with pre-trial orders and prepare trial materials. (Doc. 292.)

Ms. Frederick had not initiated or been involved with the preparation of the final pretrial order. See Northern District Local Rule 16.1(6)(a). A proposed pretrial order was submitted by Defendants. (Doc. 291.)

Plaintiff's motions in limine were not timely filed. On August 31, 2022, Ms. Frederick filed a motion for leave to file Plaintiff's motions in limine, instanter (Doc. 294 attached as **Exhibit 8**.) Ms. Frederick stated, along with other explanations contained in her motion, that she had a "challenging year having had to take time off due to the death of her mother and various other family members and also experience several personal health challenges." (Doc. 294, ¶2.)

Ms. Frederick further stated: "In view of the life altering family matters she has experienced this year, along with personal health issues, in retrospect counsel probably should have asked to continue the trial date, as did defendants, earlier this year. Notwithstanding, counsel attempted to meet the deadlines, but has been unable to do so." (Doc. 294, ¶12.) Ms. Frederick also noted she had recently completed six appellate briefs. (Doc. 294, ¶3.) Defendants filed an objection and motion to strike Plaintiff's proposed motions in limine. (Doc. 296.)

Ms. Frederick's motion to file Plaintiff's motions in limine, instanter was denied. (Doc. 298.)

The Court held a final pretrial on September 7, 2022 (Doc. 302). Defendants' motion to dismiss for lack of want of prosecution was denied, with qualifications noted on the record. (See Doc. 302.) The order stated that Defendants' motions in limine would be resolved by written order. (Doc. 302.)

Thereafter, Ms. Frederick filed a motion for judicial notice (Doc. 305 – 306). (Doc. 305 attached as **Exhibit 9** (exhibits to Doc. 305 omitted from this submission).) Ms. Frederick believed that certain exhibits may potentially be utilized at trial if the Court could take judicial notice.

On September 16, 2022, the Court entered an order granting in part and denying in part Defendants' motions in limine. (Doc. 308 attached as **Exhibit 10** (order addressing additional matter).)

Ms. Frederick then filed a motion to stay proceedings (Doc. 309) which was denied, and the Court ordered Ms. Frederick to show cause why she should not be sanctioned in connection with her filing of Plaintiff's motion to stay (Doc. 315).

Ms. Frederick then filed a sealed "Emergency Injunction to Stay Proceedings". (Doc. 317.) Ms. Frederick also filed a motion in limine, motion to renew, and for clarification. (Doc. 319.)

Defendants filed another motion to dismiss for lack of prosecution. (Doc. 321).

The docket reflects various minute entries and a memorandum filed on 9/23/2022. Plaintiff's motion for the Court to take judicial notice was denied (Doc. 325); memorandum (Doc. 326); minute entry indicating jury trial began (Doc. 328); Plaintiff's "ex parte motion for emergency injunction to stay proceedings" and Plaintiff's "motion in limine, motion to renew, and for clarification" were denied and Defendants' motion to dismiss for lack of prosecution was entered and continued (Doc. 330).

A jury trial began. (Doc. 328.)

As stated in the Memorandum (Doc. 344), Judge Feinerman terminated Ms. Frederick's opening statement because he concluded that her remarks were not consistent with his rulings on motions in limine.

Ms. Frederick moved for a mistrial regarding subject matter introduced by the defense (Doc. 327) which was denied in part (as to mistrial) and denied without prejudice in part (as to the proposed introduction of the attached exhibits) (Doc. 331).

Ms. Frederick called Mr. Outley as a witness. Ms. Frederick asked Mr. Outley certain questions that were the subject of the Court's ruling on Defendants' motions in limine. The Defendant made an oral motion for a mistrial which was granted. (Doc. 332.) A show cause order was entered. (Doc. 333.) Ms. Frederick responded to the Rule to Show Cause (Doc. 334.) Defendants filed their reply (Doc. 335) and a hearing was held on October 25, 2022 (Doc. 336).

On December 30, 2022, the Memorandum at issue (Doc. 344) was entered and Defendant's motion to dismiss was denied in part (as to Local Rule 16.1) and granted in part (as to Civil Rule 41(b)), and, in the alternative, the court exercised its inherent authority to dismiss the case. (Doc. 343). The dismissal order was with prejudice. Ms. Frederick was publicly reprimanded and referred to the Executive Committee.

V. Paragraph 3 of the Rule to Show Cause states: "Specifically, Ms. Frederick shall show cause why her actions in *Outley v. City of Chicago et al*, 17 C 8633, do not violate: a) ABA Model Rule of Professional Conduct 1.3 (Comment 2)[;] b) ABA Model rule of Professional Conduct 1.1, (Comment 5)[;] c) ABA Model Rule of Professional Conduct 3.1.

Ms. Frederick denies that she violated the Rules cited. Ms. Frederick has already been disciplined in relation to 17-cv-8633 because the Court issued a public reprimand. (Doc. 343.)

(a) Rule 1.3

Rule 1.3 states: “A lawyer shall act with reasonable diligence and promptness in representing a client.”

Comment 2 states: “[2] A lawyer's work load must be controlled so that each matter can be handled competently.”

What is reasonable is typically a question of fact. See *Oettle v. Walmart, Inc.*, No. 3:20-cv-455-DWD, 2022 U.S. Dist. LEXIS 150464, at *6 (S.D. Ill. Aug. 22, 2022) (reasonable notice) citing *Malawy v. Richards Mfg. Co.*, 150 Ill. App. 3d 549 (Ill. App. Ct. 1986).

Ms. Frederick acted with reasonable diligence. The complaint was timely filed, written discovery was timely completed, and the parties moved for cross motions for summary judgment.

The electronic docket in case number 17-cv-8633 appears to demonstrate that both sides (Plaintiff and Defendants) requested and were allowed extensions of time to make filings. The table below is an example of the extensions requested by parties during 17 C 8633.

Extensions Requested			
Party	**Motion, Notice (Dkt #)**	**Order (Dkt #)**	**Extension**
Defendant	13,14	15	To File Answer to Complaint
Plaintiff	31,32	33	To File Response/Reply as to MTD
Plaintiff	36,37	38-40	To File Response/Reply as to MTD
Defendant	43,44	45	To File Response/Reply as to MTD
Plaintiff	52,53	54	To Amend Complaint
Defendant	57,58	59-60	To Answer or Otherwise Plead to Plaintiff’s Amended Complaint (Unopposed)
Defendant	61,62	63	To File Answer regarding Amended Document
Defendant	76,77	81	To Stay Discovery, or in the Alternative, Extend Discovery Deadline (Unopposed)
Plaintiff	95,96	97	To File Response/Reply as to MTD (stating in part: “No further extensions will be granted to either side.”)
		110	Deadline to complete fact discovery with respect to the discrimination count
Defendant	136,137	138	To complete discovery (Agreed)
Plaintiff	141,142	143	To File Response/Reply as to Motion to Stay
Plaintiff	148,149	150	To complete discovery (Unopposed)

Plaintiff		157	To provide Defendants with the outstanding written discovery responses (stating in part: "No further extensions will be considered.")
		174	Dispositive motion deadline
Plaintiff	184	185-187	To complete discovery
Plaintiff	189	190	To File MTC and Depose Mayor
Defendant	208	209	To File Dispositive Motion
Defendant	210	212	To File Dispositive Motion
Defendant	245	246	To File Response/Reply as to Motion for Summary Judgment
Plaintiff	249	251	To File Response/Reply to Summary Judgment Motions
Plaintiff	275	276	To File Response/Reply as to motion for reconsideration
Plaintiff	284	285	To File Motion in Limine
Plaintiff	293	298	Motion to re-set final pretrial conference

Ms. Frederick raises this matter to address any concern that she filed an unreasonable number of extensions in this matter.

The Court stated that it was not sanctioning Outley for seeking extensions of time. (Doc. 344 at page 26.) The Court stated that "[t]he timing of Outley's motion for judicial notice and two stay motions was completely inappropriate because the perceived need for the emergency relief sought by those motions arose from Attorney Frederick's earlier and severe dereliction of her trial preparation obligations." (Doc. 344, p. 27.) Ms. Frederick was concerned about preserving the record and states that she believed her filings were an appropriate way to preserve the record.

Ms. Frederick filed a Motion for Judicial Notice. (Doc. 305.) The motion asked the Court to take notice of a recent opinion, *Abreu v. City of Chicago*, No. 19 C 2161, 2022 U.S. Dist. LEXIS 85501 (N.D. Ill. May 10, 2022). (Doc. 305.) The decision set forth in *Abreu* was Ms. Frederick's basis for the Motion for Judicial Notice.

Ms. Frederick recognizes that she should have initiated the final pre-trial order. However, Ms. Frederick states that she prepared for trial. Ms. Frederick acted with reasonable diligence in

her representation of the plaintiff. A motion seeking a continuance or stay does not demonstrate a lack of diligence.

With respect to the late motions in limine, Ms. Frederick believed that although there was a trial schedule order, motions in limine could be brought closer to trial. Ms. Frederick is now aware that although a party may possibly seek to file a motion in limine prior to trial when circumstances may warrant (see *United States v. Edwards*, 26 F.4th 449, 453 (7th Cir. 2022)), she must comply with a scheduling order and bring all anticipated motions in limine by the Court's deadline. Ms. Frederick recognizes that she indicated to defense counsel that she would not file motions in limine. (See Doc. 308, p. 2.) This was Ms. Frederick's first federal jury trial, and she made an unintentional misstatement and later changed her mind.

(b) Rule 1.1.

Rule 1.1 states: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

Comment 5 states: "[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c)."

With respect to 17 C 8633, Ms. Frederick was competent to handle the litigation. The case was filed in November of 2017. Ms. Frederick was the sole attorney to file an appearance for the

Plaintiff. She filed an amended complaint, completed written discovery and participated in depositions and defended against a motion for summary judgment.

The trial ended because Judge Feinerman found that Ms. Frederick violated his ruling on motions in limine.

Ms. Frederick misunderstood the effect of Judge Feinerman's rulings with respect to what may be raised at trial and how Ms. Frederick's should seek to introduce a potential subject matter. (For example, see Doc. 308 pp. 3-4 stating in part: "The court will assess at trial any such potentially admissible evidence under Evidence Rules 401 and 403 and, if any such evidence is admitted, will instruct the jury (if asked) as to the purpose(s) for which it may and may not consider such evidence. Any issues regarding such evidence should be previewed with the court outside of the jury's presence.")

The misunderstanding of a ruling or set of rulings concerning motions in limine should not constitute a finding of incompetence. The record in 17 C 8633 demonstrates that Ms. Frederick was competent to handle the matter. She made a mistake with respect to rulings on motions in limine. She may have been wrong, but respectfully, she was not incompetent. This was also Ms. Fredericks' first federal jury trial.

Comment No. 1 to Rule 1.1 states:

> "[1] In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, **or associate or consult with, a lawyer of established competence in the field in question**. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances." (Emphasis added.)

Comment No. 2 to Rule 1.1 states:

> "[2] A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. **Competent representation can also be provided through the association of a lawyer of established competence in the field in question**." (Emphasis added.)

Ms. Frederick did attempt to associate with co-counsel. (See Doc. 294, ¶5; see also Doc. 308 p. 2.) She also consulted with an attorney she trusted. For example, Ms. Frederick states that it was her belief, based upon her discussions with another lawyer, that she could file motions in limine on the eve of trial.

(c) <u>Rule 3.1.</u>

Rule 3.1 states: "A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established."

As demonstrated above, the amended complaint brought by Ms. Frederick in *Outley* had merit. The case survived summary judgment and a trial began. The claim was not frivolous. The motions filed by Ms. Frederick were Ms. Frederick's attempt to preserve the record.

(d) <u>Illinois ARDC.</u>

Attorney Scott Michael Crouch has reported this matter to the Illinois ARDC and the investigation has been docketed as investigation no. 2023IN0045.

Ms. Frederick has also been publicly reprimanded in case 17-cv-8633. (Docs. 343, 344.) She should not be punished twice.

VI. Other cases referenced in the Outley Order and referenced in Rule to Show Cause.

The Rule to Show Cause referenced other cases at paragraph 4. Respectfully, those matters have already been resolved and, in certain cases, Ms. Frederick has been sanctioned.

VII. Civility and professionalism.

Ms. Frederick states that she appreciates and understands that she must conform to expected professional standards if she is going to retain the privilege of being a member of this Court's Bar.

Ms. Frederick is a busy lawyer and a fierce advocate. She recognizes that she must have sufficient time to devote to each matter and that she would benefit from more organization and structure, and perhaps fewer cases.

We are aware of other instances where conditions have been imposed on the lawyer, including requirements of co-counsel. Respectfully, we suggest the following requirements be placed on Ms. Frederick:

1. Enrollment in the ISBA's Fred Lane Trial Techniques program (taught by Scott Lane) for the next available semester or an equivalent program.
2. Complete the following e-learning ARDC CLEs: Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession within 90 days (https://pathlms.iardc.org/courses accessed March 23, 2023).
3. Complete an acceptable CLE or course of CLEs within the next 90 days regarding appellate procedure.

4. Be required to serve as second chair or co-counsel (present at all trial days) on at least five (5) matters which reach trial (are not settled or resolved prior to trial) before being permitted to act as first chair trial counsel. Ms. Frederick suggests she assist a lawyer appointed to serve as pro bono counsel.
5. Require Ms. Frederick to review, within 60 days, all her filed cases currently pending in this Court and determine if she expects to be able to meet upcoming deadlines. In the event Ms. Frederick determines that she does not expect to meet all upcoming deadlines in a case, file a motion for leave to withdraw, or in the alternative, a motion for extension.
6. Moving forward, require Ms. Frederick to file any and all motions for extension of time seven (7) days prior to the Court's deadline unless an actual emergency shall arise. In the event Ms. Frederick believes there is an actual emergency, she shall set forth the specific facts of the emergency.
7. Attend monthly LAP (Lawyers Assistance Programs) meetings for one year (in-person or virtually).

Ms. Frederick is someone who has faced great adversity and should be permitted another opportunity. Ms. Frederick states that she understands that her conduct must demonstrate civility and professionalism if she wishes to continue to practice before this Court.

WHEREFORE, Calvita Frederick respectfully requests that the Rule to Show Cause be dismissed, that Ms. Frederick be permitted to practice in the United States District Court for the Northern District of Illinois, or in the alternative, that she may be permitted to practice in the Northern District of Illinois under a period of probation and subject to such conditions as may be required.

By: /s/ Adrian Vuckovich

By: /s/ Kathryne Hayes

Adrian Vuckovich (av@cb-law.com)
ARDC No. 6207978
Kathryne Hayes (khayes@cb-law.com)
ARDC No. 6303489
Collins Bargione & Vuckovich
One North LaSalle Street, Suite 300
Chicago, Illinois 60602
Telephone: 312-372-7813

DECLARATION

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on March 24, 2023.

By: _____
Calvita Frederick

Exhibit 1

312-421-5544

312-277-7190

Calvita J. Frederick & Associates

Home About Services Contact News & Updates

COMMITTED TO SERVING THE POWERLESS, VOICELESS, AND MARGINALIZED

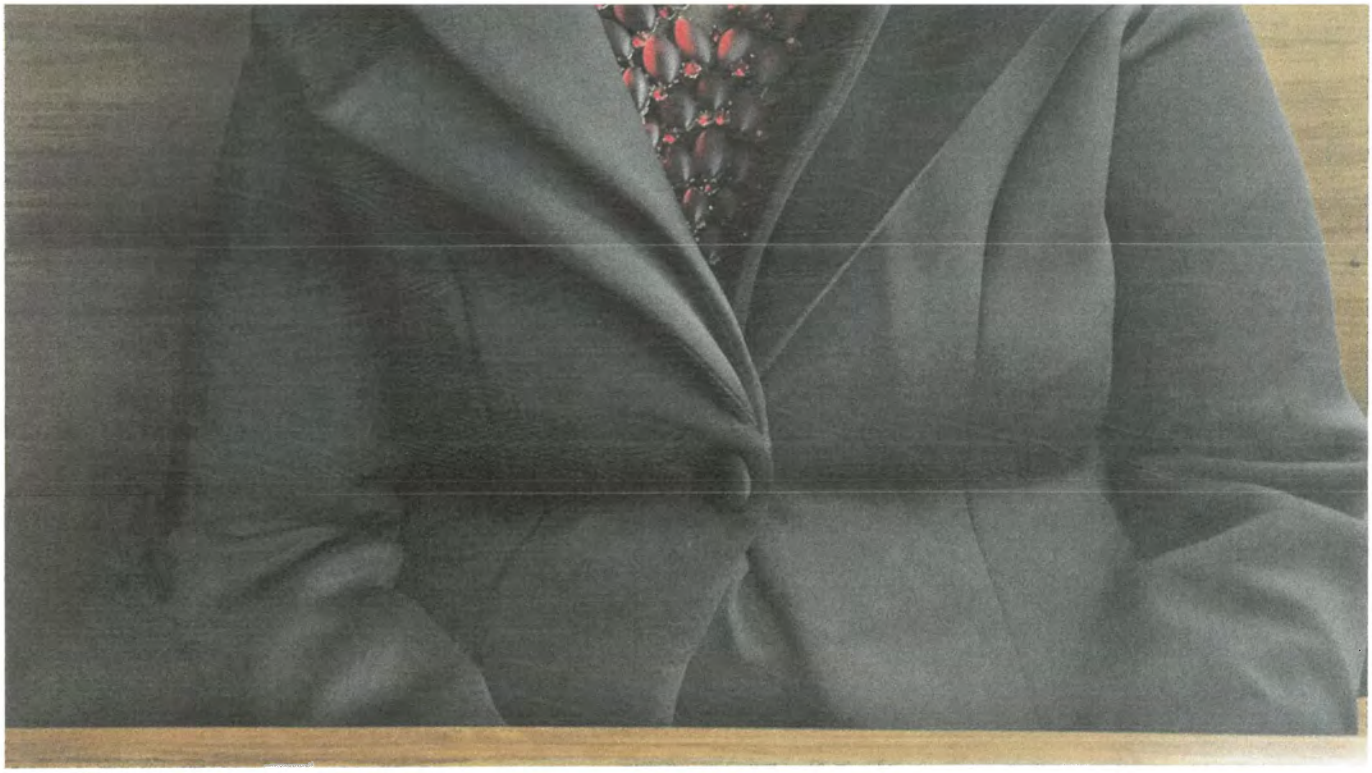
Contact Us

About Us

Calvita J. Frederick & Associates was established in 1982 by Calvita J. Frederick as a law practice assisting clients in the Chicago Metropolitan Area.

Biography of Calvita J. Frederick





Calvita J. Frederick is a native Chicagoan who attended Chicago public schools and graduated from John Marshall Harlan High School and Eureka College in Eureka, Illinois where she pledged Alpha Kappa Alpha and graduated Cum Laude.

While in high school and college, Calvita was the first visibly African American model on the Montgomery Wards' Pacesetter Teen Board and was also selected for the Marshall Field's College Board. In addition to appearing in fashion shows around the city, Calvita was chosen numerous times to appear as a teen model in The Chicago Tribune.

Calvita next attended Howard University School of Law where she graduated, Law Review, and received one of the highest paying jobs for law graduates in 1978: staff attorney for the Ford Motor Company in Dearborn, Michigan.

In 1982, she returned to Chicago and started Calvita J. Frederick & Associates, Attorneys at Law, a general civil practice law firm where she obtained her highest paying settlements in cases against Chrysler Corporation and Aon Corporation. In

1988, Calvita became a licensed real estate broker.

After more than 20 years as a practicing lawyer, Calvita decided to follow her faith and her heart by looking for a more calming and peaceful profession. She never dreamed that preparing her secret recipe teas for family and friends would turn into a full-time career, but that's exactly what happened.

After continually receiving encouragement to market her teas, Calvita took the plunge and launched Magnolia Spice Teas in 1998. Known for their distinctive homemade taste and all-natural ingredients, Magnolia's healthy beverages have received awards (e.g., 1st Place Best Ready-to-Drink Sweet Tea at the 2005 World Tea Expo in Las Vegas) and recognition and kudos from the beverage industry and trade and business publications alike, including BevNet, Beverage Aisle, Tea and Coffee, Black Enterprise and the Chicago Defender, Tribune, and Sun Times.

In 2008, Calvita returned full-time to the practice of law and currently focuses her law practice on cases alleging discrimination in employment (based upon race, sex, age, and disability), nursing home abuse, probate, real estate, and family law.

A few of her legal victories include cases against:

- Blue Cross/Blue Shield
- Sodexo Operations, LLC.
- Kaufman Hall
- Allstate Insurance Co.
- Chicago Transit Authority
- Renaissance Park South Nursing and Living Center
- Holy Cross Hospital
- E*Trade Bank

- Tishman Speyer

- US Bank
- PepsiCo
- Lake Forest Academy
- Jones Lang Lasalle
- Rock Valley College
- Fidelity National Information Services (a.k.a. Sunguard)

- Churchview Supportive Services
- Gardant Management Solutions
- Carson Pierre Scott
- Cintas
- Chrysler Corporation
- Garfield Park Conservation
- Illinois Paper

Calvita is the divorced mother of two adult daughters, Samantha and Simone, and an active member of the Apostolic Church of God. Her advice is to seek God first and fearlessly follow the dream He places in your heart.

Explore Our Services

Calvita J. Frederick & Associates

Recognized Member of the Cook County Bar Association and the National Bar Association

Phone: 312-421-5544 | **Fax:** 312-277-7190 | **Email:** cjf@cjfredericklaw.com

Exhibit 2

Neutral
As of: March 23, 2023 8:12 PM Z

Cooper v. Martin Luther King Jr. Boys & Girls Club of Chi.

Appellate Court of Illinois, First District, Third Division

September 30, 2021, Decided

No. 1-19-2618

Reporter
2021 IL App (1st) 192618 *; 193 N.E.3d 197 **; 2021 Ill. App. LEXIS 540 ***; 456 Ill. Dec. 229 ****

CLIFTON COOPER, Plaintiff-Appellant, v. DR. MARTIN LUTHER KING JR. BOYS AND GIRLS CLUB OF CHICAGO, an Illinois Not-for-Profit Corporation; and RIDGEWORTH ROOFING COMPANY, INC., Defendants, (Dr. Martin Luther King Jr. Boys and Girls Club of Chicago, Defendant-Appellee)

Prior History: [*1]** Appeal from the Circuit Court of Cook County. 18 CH 9485. Honorable Caroline K. Moreland, Judge Presiding.

Cooper v. Martin Luther King Boys & Girls Club of Chi., & Ridgeworth Roofing Co., 2020 Ill. Cir. LEXIS 6130 (Ill. Cir. Ct., Aug. 11, 2020)

Disposition: Affirmed in part and reversed in part; cause remanded.

Core Terms

roof, allegations, contractor, rubber, independent contractor, attaching, neighbor's, vicarious liability, in-concert, reasonable inference, details, drill, holes, hiring, agency relationship, amended complaint, encouragement, alteration, concert, pleaded, right to control, property owner, ultimate fact, principal-agent, replacement, conclusory, licensed, tortious, trespass, counts

Case Summary

Overview
HOLDINGS: [1]-In plaintiff's action against his neighbor and the neighbor's roofing contractor over damage to plaintiff's roof, as the complaint stated a cause of action for vicarious liability against the neighbor, dismissal of that count was inappropriate; regardless of whether the neighbor "controlled" every single detail of the work, the complaint alleged "control" with regard to the only detail that mattered—direction to attach a new rubber roof to plaintiff's roof, which resulted in damage; [2]-As the complaint sufficiently alleged in-concert liability against the neighbor, dismissal of that count was improper; the complaint adequately alleged that the neighbor "substantially encouraged" the roofing contractor to drill holes in plaintiff's roof, as part of a plan to connect a new rubber roof over the neighbor's roof and attach it to plaintiff's roof.

Outcome
Judgment affirmed in part and reversed in part; cause remanded.

LexisNexis® Headnotes

Civil Procedure > Appeals > Standards of Review > De Novo Review

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

HN1[] **Standards of Review, De Novo Review**

A 735 ILCS 5/2-615 motion challenges the sufficiency of a complaint on its face. Like the trial court, the appellate court accepts as true all well-pleaded facts and the inferences from those facts. The critical inquiry is whether the allegations state a claim upon which relief can be granted. The court should not grant a § 2-615 motion unless it is clearly apparent that no set of facts would entitle the plaintiff to relief. Review is de novo.

Torts > Public Entity
Liability > Liability > Vicarious Liability

HN2[] **Liability, Vicarious Liability**

The Supreme Court of Illinois has made clear that Restatement (Second) of Torts § 414 concerns one's direct liability for failing to adequately exercise control over another's actions; § 414 does not address vicarious liability.

Business & Corporate Law > Agency Relationships > Establishment > Agency Agreements

Business & Corporate Law > ... > Establishment > Proof of Agency > Burdens of Proof

Business & Corporate Law > ... > Establishment > Elements > Right to Control by Principal

Business & Corporate Law > Agency Relationships > Establishment > Consent

Business & Corporate Law > ... > Establishment > Elements > Application of Agency Law Principles

HN3[] **Establishment, Agency Agreements**

To plead a claim for agency liability, the complaint must allege more than the mere legal conclusion that an agency relationship existed; a complaint must plead facts which, if proved, could establish the existence of an agency relationship. The complaint must allege that a (1) principal-agent relationship existed between the defendant and actor, (2) the principal controlled or had the right to control the conduct of the actor, and (3) the conduct fell within the scope of the agency. The dispute usually centers on the second element—the degree of the principal's control. More specifically, the principal's right to control the manner in which the agent performs the work. The best indicator of retained control is a written contract.

Business & Corporate Law > ... > Agents Distinguished > Independent Contractors, Masters & Servants > Independent Contractors

Torts > Vicarious Liability > Independent Contractors > Collateral Negligence

Labor & Employment Law > Employment Relationships > Independent Contractors

Labor & Employment Law > Employer Liability > Contract Liability > Third Party Liability

Torts > Vicarious Liability > Independent Contractors > Owners & Possessors of Real Property

HN4[] **Independent Contractors, Masters & Servants, Independent Contractors**

In contrast to an agent, an independent contractor is one who undertakes to produce a given result but in the actual execution of the work is not under the orders or control of the person for whom he does the work but may use his own discretion in things not specified and without his being subject to the orders of the person for whom the work is done in respect to the details of the work. As such, one who employs an independent contractor is not liable for harm caused by the latter's acts or omissions. The law generally protects the hiring party from the negligent acts of independent contractors because

the hiring party does not have sufficient control over the details and methods of the independent contractor's work and is not in a position to prevent negligent performance.

Business & Corporate Law > ... > Agents Distinguished > Independent Contractors, Masters & Servants > Independent Contractors

HN5[] **Independent Contractors, Masters & Servants, Independent Contractors**

There is no precise formula for deciding whether someone is an agent or independent contractor, as that determination rests upon the facts and circumstances of each case. And sometimes an individual may be both an independent contractor and an agent.

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

Evidence > Inferences & Presumptions > Inferences

HN6[] **Motions to Dismiss, Failure to State Claim**

It is fundamental that at the dismissal stage, courts are required to draw all reasonable inferences from well-pleaded facts in the plaintiff's favor. This principle would mean nothing if those inferences had to be pleaded—making them allegations, not inferences.

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

Civil Procedure > ... > Pleadings > Complaints > Requirements for Complaint

HN7[] **Motions to Dismiss, Failure to State Claim**

The challenge to an allegation as "conclusory" is a familiar refrain in motions to dismiss. And though it is simple enough to recite the well-worn phrases about the requirements of factual specificity and not mere conclusory allegations, drawing those lines is not always as easy as it sounds. Start with the guiding principles. The purpose of pleadings is to present, define and narrow the issues and limit the proof needed at trial. They are not intended to erect barriers to a trial on the merits but rather to produce an issue asserted by one side and denied by the other so that a trial may determine the actual truth.

Civil Procedure > ... > Pleadings > Complaints > Requirements for Complaint

HN8[] **Complaints, Requirements for Complaint**

A complaint in Illinois must plead facts necessary for the plaintiff to recover. But the plaintiff need not set out his evidence. To the contrary, only the ultimate facts to be proved should be alleged and not the evidentiary facts tending to prove such ultimate facts. In the end, perhaps the best measure of a complaint's sufficiency is whether the defendant is able to answer the essential allegations. When reviewing a complaint's sufficiency under the unique circumstances of a given case, one factor to consider is the plaintiff's access to evidence (witnesses, for example) before the suit is filed.

Labor & Employment Law > Employment Relationships > Independent Contractors

HN9[] **Employment Relationships, Independent Contractors**

Ordinarily, the hallmark of an independent-contractor relationship is that the contractor is simply told to do the work, and the details of how to do it are left to the contractor. The hiring party is responsible for the what—the scope of the work—and the independent contractor is exclusively responsible for the how—the manner in which it is performed.

Business & Corporate Law > ... > Establishment > Elements > Right to Control by Principal

HN10[] **Elements, Right to Control by Principal**

In the context of agency liability, having the right to control the work is enough, even if that individual does not, in fact, exercise that control.

Torts > ... > Multiple Defendants > Concerted Action > Civil Aiding & Abetting

Torts > Vicarious Liability > Joint Ventures

HN11[] **Concerted Action, Civil Aiding & Abetting**

In-concert liability establishes a legal relationship between an individual who acts in concert with other individuals who commit a tort. The one who acts in concert with the tortfeasor becomes liable for that tortfeasor's conduct as if there were a joint enterprise or mutual agency, so that the act of one is the act of all, and liability for all that is done is visited upon each. Illinois has adopted the theory of in-concert liability found in Restatement (Second) of Torts § 876. Specifically, the Restatement provision imposes liability when a party: (a) does a tortious act in concert with the other or pursuant to a common design with him, or (b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself, or (c) gives substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constitutes a breach of duty to the third person.

Torts > ... > Multiple Defendants > Concerted Action > Civil Aiding & Abetting

HN12[] **Concerted Action, Civil Aiding & Abetting**

Restatement (Second) of Torts § 876(b) imposes liability on those persons who act in concert with another tortfeasor, giving substantial assistance or encouragement to another's tortious conduct. In determining substantial assistance or encouragement, courts consider (1) the nature of the act encouraged, (2) the amount of assistance given, (3) his presence or absence at the time of the tort, (4) his relation to the other, and (5) his state of mind.

Counsel: Calvita J. Frederick, of Chicago, for appellant.

Daniel R. Campbell and Timothy J. Farina, of McDermott Will & Emery LLP, of Chicago, for appellee.

Judges: JUSTICE ELLIS delivered the judgment of the court, with opinion. Justices McBride and Burke concurred in the judgment and opinion.

Opinion by: ELLIS

Opinion

[200]** **[****232]** JUSTICE ELLIS delivered the judgment of the court, with opinion.

Justices McBride and Burke concurred in the judgment and opinion.

[*P1] Plaintiff, Clifton Cooper, sued his neighbor and the neighbor's roofing contractor over damage to Cooper's roof. In short, the contractor was attempting to place a new roof on top of the

neighbor's existing roof and secure it to Cooper's roof, without Cooper's consent or even knowledge. The contractor drilled holes in and otherwise damaged Cooper's roof in the process. The circuit court dismissed the claims against the neighbor under *section 2-615* of the Code of Civil Procedure for failure to state a claim. Cooper claims he sufficiently pleaded vicarious and in-concert liability against the neighbor, based on the roofing contractor's actions. **[***2]** We agree. We reverse the circuit court's judgment on those claims and remand for further proceedings.

[*P2] BACKGROUND

[*P3] As we are at the pleading stage, we draw our facts from the well-pleaded allegations of the amended complaint, which we accept as true. *Marshall v. Burger King Corp., 222 Ill. 2d 422, 429, 856 N.E.2d 1048, 305 Ill. Dec. 897 (2006)*. The complaint alleges that Cooper owns a 3-story masonry brick home in Chicago that carries a "City of Chicago Historical Designation," which "limits what can be done to the exterior of the building." The building next to him is owned by defendant, Dr. Martin Luther King Jr. Boys and Girls Club of Chicago (the Club). The two buildings are very close to one another, separated by "at least 6-8 inches."

[*P4] At some point in March 2018, the Club hired defendant, Ridgeworth Roofing Company, Inc. (Ridgeworth), to repair the roof of its building. The building permit authorized a "total roof tear off and installation of a new roof." On March 19, Cooper was inside his home when he "heard the sounds of drilling coming from the roof and plaster falling between the buildings." He went outside and saw that a bracket had been drilled into the side of his house. Cooper was unable to get the attention of the workers on the roof, so he called the Club's corporate **[***3]** office.

[*P5] A few days later, Cooper spoke with Thomas Krueger, an employee of the Club who "was in charge of the roofing project." Krueger told Cooper that he was recovering from hip replacement surgery but "would have someone from [Ridgeworth] come to Plaintiff's house." The same day, **[**201]** **[****233]** Cooper spoke with Ridgeworth's foreman. When asked why the roofers had attached the bracket to the side of Cooper's roof, the "foreman indicated that he thought he was doing [Cooper] a favor by attaching [the Club's roof] to [Cooper's] roof to keep water from coming into [Cooper's] basement." Cooper claims the foreman "then said, 'I grant you we should have asked you first before attaching it.'"

[*P6] Cooper asked to have the attached roofing materials removed from his building. To try sating Cooper, the foreman offered to show him the work they had done. They went on the roof and "observed that Ridgeworth had wrapped the rubber roofing around the back portion of his house and they had wrapped white material on his house which had been tuck pointed in red." After viewing the work, Cooper still wanted the materials removed.

[*P7] At the beginning of April, Krueger called Cooper to discuss the matter. Krueger "attempted **[***4]** to apologize on behalf of the Club and the [*sic*] Ridgeworth and to reach an agreement between Ridgeworth and [Cooper], which [Cooper] refused to do."

[*P8] Cooper had his roofing company look at Ridgeworth's work. Upon inspection, Cooper's roofers said that the Club "has a problem, in that they cannot go up and over the existing gravel roof with a rubber roof, but must instead perform a total tear off of the existing roof." They also informed him that "for Ridgeworth to take that off your roof ... will require [Cooper] to tuck point again, remove the bricks because they have holes in them, but the stone portion (decorative portion) cannot be replaced so [Cooper] will have to live with holes being drilled into his building which holes are visible from the ground."

[*P9] Due to the damage to his home, Cooper filed a complaint with the Chicago Building

Department. The Department determined that Ridgeworth was required to remove the work done on Cooper's building and refrain from further work without his consent.

[*P10] Cooper filed this suit to recover for the damage caused to his home, asserting various tort theories against both the Club and Ridgeworth. The only claims relevant here are those against **[***5]** the Club for negligence (based on its vicarious liability for Ridgeworth's tortious acts) and "in-concert" liability (for the Club acting "in concert" with Ridgeworth in its tortious acts).

[*P11] The Club moved to dismiss, arguing that Cooper's allegations showed that Ridgeworth was an independent contractor for whom the Club could not be vicariously liable, and there were no facts pleaded to show an agency relationship or that the Club and Ridgeworth acted "in concert." It is unclear whether the court granted these initial motions, as Cooper sought leave to amend in lieu of responding. Ultimately, the court granted Cooper leave to amend his complaint.

[*P12] The amended complaint added a few paragraphs regarding agency, including more specificity as to Krueger, the Club's employee:

> "40. The Club and Ridgeworth entered into a principal/agency relationship.
>
> 41. A principal/agency relationship existed between the Club and Ridgeworth.
>
> 42. The Club controlled or had the right to control the conduct of Ridgeworth.
>
> 43. The conduct described above as related to the installation of roofing material, drilling holes into Plaintiff Premises and attaching retention stripes to [Cooper's building] is conduct on **[***6]** the part of Ridgeworth that fell within the scope of agency.
>
> **[**202]** **[****234]** 44. Krueger was or is an agent, servant and or employee of the Club.
>
> 45. Krueger had the right and/or authority to direct the activities of Ridgeworth.
>
> * * *
>
> 48. The Club retained the right to approve the work done on the roof ... through its agent, servant and or employee Krueger, and others.
>
> 49. The Club retained the right to supervise and or otherwise control the manner in which Ridgeworth performed the professional roofing services on the Club's building."

[*P13] Once again, the Club moved to dismiss, arguing that, "[a]lthough [Cooper] recites the legal elements of a principal-agent relationship, [he] fails to plead facts showing that Ridgeworth acted as the Club's agent." It further argued there were no facts giving rise to "in-concert" liability.

[*P14] Cooper responded that whether Ridgeworth was an independent contractor or an agent of the Club was a question of fact. He also claimed that it "is unrealistic to think that Ridgeworth decided to do an up and over rubber roof, instead of a total tear off and did not discuss and obtain the approval of the Club to make this drastic alteration to the plans for the roof of the Club's building." **[***7]** He thus concluded that the Club *must* have had control over the roofing project. Cooper also leaned heavily on the fact that the complaint alleged Krueger was "in charge" of the roofing project and attempted to help resolve Cooper's issue with Ridgeworth.

[*P15] The court determined that the allegations of a principal-agent relationship between the Club and Ridgeworth were "conclusory statements of fact. They are not factual allegations regarding or supporting the relationship." Further, the court noted that "Plaintiff did in their response argue the inference between the relationship; however, the factual inferences are not contained in the complaint, and because they're not in the complaint, but they are in the motion, I'm disregarding the motion allegations because they need to be in the complaint." The court concluded by saying that "all" of the allegations of damage were attributable to Ridgeworth and did not support the conclusion of a principal-agent relationship. The court likewise found insufficient allegations to support "in-

concert" liability against the Club.

[*P16] Within the time allowed by the court, Cooper sought leave to file a second amended complaint. The Club objected, claiming **[***8]** that Cooper failed to cure the defects and it would be "futile" to allow the amendment.

[*P17] On November 20, 2019, the court entered an order denying Cooper's motion to amend and dismissing the Club as a party-defendant "with prejudice." The order denying leave to amend and dismissing the Club contained the finding, pursuant to *Illinois Supreme Court Rule 304(a)* (eff. Mar. 8, 2016), that "there is no just reason to delay appeal of this order." (The claims against Ridgeworth remain pending in the circuit court, thus the *Rule 304(a)* language.)

[*P18] Within 30 days of the dismissal "with prejudice" of the Club from the lawsuit and the *304(a)* finding, Cooper filed his notice of appeal.

[*P19] ANALYSIS

[*P20] Cooper argues that the court erred in granting the Club's *section 2-615* motion to dismiss the vicarious liability and "in-concert" claims against the Club or, alternatively, erred by refusing to allow his second amended complaint.

[*P21] **[****235]** **[**203]** ***HN1***[⬆] A *section 2-615* motion challenges the sufficiency of a complaint on its face. *Chandler v. Illinois Central R.R. Co., 207 Ill. 2d 331, 348, 798 N.E.2d 724, 278 Ill. Dec. 340 (2003)*. Like the trial court, we accept as true all well-pleaded facts and the inferences from those facts. *Marshall, 222 Ill. 2d at 429*. The critical inquiry is whether the allegations state a claim upon which relief can be granted. *Thurman v. Champaign Park District, 2011 IL App (4th) 101024, ¶ 8, 960 N.E.2d 18, 355 Ill. Dec. 575*. The court should not grant a *section 2-615* motion unless it is clearly apparent that no set **[***9]** of facts would entitle the plaintiff to relief. *Reynolds v. Jimmy John's Enterprises, LLC, 2013 IL App (4th) 120139, ¶ 25, 988 N.E.2d 984, 370 Ill. Dec. 628*. Our review is *de novo*. *Berry v. City of Chicago, 2019 IL App (1st) 180871, ¶ 24, 433 Ill. Dec. 921, 133 N.E.3d 1201*.

[*P22] I

[*P23] We begin with Cooper's argument that the court erred in concluding that Cooper failed to allege an agency relationship between the Club and Ridgeworth.

[*P24] Cooper gets off to a rocky start by relying heavily on *section 414 of the Restatement (Second) of Torts* to argue agency liability. See *Restatement (Second) of Torts § 414* (1979). ***HN2***[⬆] Though we can understand how one could read *section 414* as imposing vicarious liability, our supreme court has made clear that *section 414* concerns one's *direct* liability for failing to adequately exercise control over another's actions; *section 414* does not address vicarious liability. *Carney v. Union Pacific R.R. Co., 2016 IL 118984, ¶ 38, 412 Ill. Dec. 833, 77 N.E.3d 1* ("Agency law, under which an employer may be vicariously liable for the torts of its employees, is distinct from the principles encompassed in *section 414*, under which an employer is directly liable for its own negligence. In short, '*section 414* takes over where agency law ends.'").

[*P25] In any event, it is undeniable that Cooper is asserting vicarious liability, notwithstanding the references to *section 414*. It is clear to us from the briefs, and it was clear to the Club, which directly addressed Cooper's vicarious-liability arguments (though noting that *section 414* was inapplicable). There is no issue of forfeiture here, just some misplaced argument.

[*P26] ***HN3***[⬆] To plead **[***10]** a claim for agency liability, the complaint must allege more than the mere legal conclusion that an agency relationship existed; a complaint "must plead facts which, if proved, could establish the existence of an agency relationship." *Connick v. Suzuki Motor Co.,*

Ltd., 174 Ill. 2d 482, 498, 675 N.E.2d 584, 221 Ill. Dec. 389 (1996); see *Bogenberger v. Pi Kappa Alpha Corp., 2018 IL 120951, ¶ 28, 423 Ill. Dec. 21, 104 N.E.3d 1110*. The complaint must allege that a (1) principal-agent relationship existed between the defendant and actor, (2) the principal controlled or had the right to control the conduct of the actor, and (3) the conduct fell within the scope of the agency. *Magnini v. Centegra Health System, 2015 IL App (1st) 133451, ¶ 25, 393 Ill. Dec. 587, 34 N.E.3d 1115*.

[*P27] The dispute usually centers, as it does here, on the second element—the degree of the principal's control. See *Knapp v. Hill, 276 Ill. App. 3d 376, 380, 657 N.E.2d 1068, 212 Ill. Dec. 723 (1995)*. More specifically, the principal's "right to control the manner in which the agent performs the work." *Magnini, 2015 IL App (1st) 133451, ¶ 25, 393 Ill. Dec. 587, 34 N.E.3d 1115*. The best indicator of retained control is a written contract. See *LePretre v. Lend Lease (US) Construction, **[**204]** **[****236]** Inc., 2017 IL App (1st) 162320, ¶ 30, 415 Ill. Dec. 229, 82 N.E.3d 174*.

[*P28] The Club says the complaint, at most, alleged that Ridgeworth was an independent contractor, not an agent. ***HN4***[↑] In contrast to an agent,

> "'An independent contractor is one who undertakes to produce a given result but in the actual execution of the work is not under the orders or control of the person for whom he does the work but may use his own discretion in things not specified *** [and] without his being subject to the orders **[***11]** of the [person for whom the work is done] in respect to the details of the work.'" (Internal quotation marks omitted.) *Lawlor v. North American Corp. of Illinois, 2012 IL 112530, ¶ 43, 983 N.E.2d 414, 368 Ill. Dec. 1* (quoting *Horwitz v. Holabird & Root, 212 Ill. 2d 1, 13, 816 N.E.2d 272, 287 Ill. Dec. 510 (2004)*).

[*P29] As such, "one who employs an independent contractor is not liable for harm caused by the latter's acts or omissions." *Carney, 2016 IL 118984, ¶ 31, 412 Ill. Dec. 833, 77 N.E.3d 1*. The law generally protects the hiring party from the negligent acts of independent contractors because the hiring party does not have sufficient control over the details and methods of the independent contractor's work and is not in a position to prevent negligent performance. *Id. ¶ 32*. Many laypeople hire experts to perform functions that require some level of expertise (roofing work being one example), and it would be impractical, inefficient, and sometimes dangerous for a layperson to micro-manage precisely how the independent contractor gets the job done—telling the contractor which kind of safety harness to use, which brand of epoxy to apply, or any number of other details better left to the expert contractor. See *id.*

[*P30] ***HN5***[↑] There is no precise formula for deciding whether someone is an agent or independent contractor, as that determination "rests upon the facts and circumstances of each case." *Lawlor, 2012 IL 112530, ¶ 44, 983 N.E.2d 414, 368 Ill. Dec. 1*. And sometimes, our supreme court has reminded us, **[***12]** an individual may be both an independent contractor and an agent. See *id. ¶ 43* (independent contractor status does not prohibit vicarious liability if it is determined independent contractor is also agent).

[*P31] Cooper claims his allegations are sufficient, and the circuit court failed to properly draw reasonable inferences in his favor. Again, in dismissing his claims, the court stated: "Plaintiff did in their response argue the inference between the relationship; however, the factual inferences are not contained in the complaint, and because they're not in the complaint, but they are in the motion, I'm disregarding the motion allegations because they need to be in the complaint."

[*P32] ***HN6***[↑] It is fundamental, however, that at the dismissal stage, we are required to draw all reasonable inferences from well-pleaded facts in the plaintiff's favor. See *Northbrook Bank & Trust Co. v. 2120 Division LLC, 2015 IL App (1st)*

133426, ¶ 26, 399 Ill. Dec. 464, 46 N.E.3d 783. This principle would mean nothing if those inferences had to be pleaded—making them allegations, not inferences. See Walker v. Rumer, 51 Ill. App. 3d 1005, 1006, 367 N.E.2d 158, 9 Ill. Dec. 724 (1977) ("The inference to be drawn from such allegations need not be pleaded.") So we will examine these allegations in detail.

[*P33] First, Cooper points to the allegations in the complaint that "[t]he Club controlled or had the right to control the conduct **[***13]** of Ridgeworth," that it "retained the right to supervise and or otherwise control the manner in which Ridgeworth **[**205]** **[****237]** performed the professional roofing services," that it "had the right to approve the work done *** by Ridgeworth," and that its employee, Krueger, "had the right and/or authority to direct the activities of Ridgeworth."

[*P34] The Club says those allegations are "conclusory," void of factual detail, and thus inadequate. The Club reminds us that a court does not draw reasonable inferences from "conclusory" allegations. See Northbrook Bank & Trust, 2015 IL App (1st) 133426, ¶ 26, 399 Ill. Dec. 464, 46 N.E.3d 783.

[*P35] HN7[↑] The challenge to an allegation as "conclusory" is a familiar refrain in motions to dismiss. And though it is simple enough to recite the well-worn phrases about the requirements of factual specificity and not mere conclusory allegations, drawing those lines is not always as easy as it sounds. See Borcia v. Hatyina, 2015 IL App (2d) 140559, ¶ 38, 391 Ill. Dec. 622, 31 N.E.3d 298 ("The degree of specificity required to sufficiently plead a cause of action in any case is difficult to determine and is dependent upon the individual circumstances of each case.").

[*P36] Start with the guiding principles. "The purpose of pleadings is to present, define and narrow the issues and limit the proof needed at trial." People ex rel. Fahner v. Carriage Way West, Inc., 88 Ill. 2d 300, 307, 430 N.E.2d 1005, 58 Ill. Dec. 754 (1981). They are not intended to erect barriers **[***14]** to a trial on the merits but rather to "produce an issue asserted by one side and denied by the other so that a trial may determine the actual truth." Id. at 308.

[*P37] HN8[↑] A complaint in Illinois must plead facts "necessary for the plaintiff to recover." *Id.* But the plaintiff need not "'set out his evidence. To the contrary, only the ultimate facts to be proved should be alleged and not the evidentiary facts tending to prove such ultimate facts.'" *Id.* (quoting Board of Education of the Kankakee School District No. III v. Kankakee Federation of Teachers Local No. 886, 46 Ill. 2d 439, 446-47, 264 N.E.2d 18 (1970)). In the end, "[p]erhaps the best measure of a complaint's sufficiency *** is whether the defendant is able to answer the essential allegations." *Id.*

[*P38] To that we would add that, when reviewing a complaint's sufficiency under the unique circumstances of a given case, one factor to consider is the plaintiff's access to evidence (witnesses, for example) before the suit is filed. See Borcia, 2015 IL App (2d) 140559, ¶ 38, 391 Ill. Dec. 622, 31 N.E.3d 298 (comparing its facts to those of comparable injury cases involving multiple witnesses and noting that, in considering sufficiency of Borcia's complaint, involving action with no surviving witnesses other than defendants, that plaintiff "should not be foreclosed from bringing a cause of action *** due to a lack of sensory witnesses other than [defendants]" and "[t]o hold **[***15]** otherwise would be contrary to justice and the purpose of section 2-615").

[*P39] Here, we are not sure how much more detailed the complaint's allegations could have been at this stage. There may be a written contract between the Club and Ridgeworth, which could go a long way to determining questions of agency, but presumably Cooper did not have it in his possession pre-suit (the complaint does not mention a contract). Nor would we expect Cooper to be privy, pre-suit, to the details of every conversation

between Ridgeworth and the Club.

[*P40] Robbed of any personal knowledge of any such oral or written interactions between defendants, it is hard to imagine how Cooper could be any more specific than to allege that the Club had the right **[**206]** **[****238]** to approve, direct, and control the manner of Ridgeworth's work. These are unquestionably "ultimate facts" that Cooper must prove under an agency theory (*Fahner, 88 Ill. 2d at 308*), and it would not be difficult at all for the Club to answer those allegations. Cooper should not have to lay out the evidence supporting these ultimate facts.

[*P41] In any event, for reasons we explain below, the amended complaint overall alleges more than these ultimate facts. Viewed in the light most favorable to Cooper and drawing **[***16]** all reasonable inferences in his favor, the complaint adequately alleges that Ridgeworth was not an independent contractor. Rather, it acted specifically at the Club's direction in altering Cooper's roof and was thus the Club's agent at least to *that* extent.

[*P42] The complaint alleged that the City issued a work permit for a "total roof tear off and installation of a new roof" and that the Club hired Ridgeworth as its roofing contractor. The complaint also alleged that Ridgeworth did *not* perform that total tear-off and replacement work: "Instead of performing the tear off and installation of a new roof, the Defendants chose to go over the existing roof with rubber roofing, drill holes into Cooper's masonry and brick and stone roof, and affix an anchor retention strip for the Club to Cooper's roof."

[*P43] It is perfectly reasonable to infer, from these facts, that Ridgeworth and the Club discussed this revised scope of work in advance. It is reasonable to infer that Ridgeworth would not have strayed so far from the city-permitted work (a total roof replacement), to the very different approach of laying down a rubber roof over the existing one and attaching it to a neighbor's roof, without the **[***17]** Club knowing about it and authorizing it.

[*P44] It would *not* be reasonably favorable to Cooper, on the other hand, to infer that the Club had no idea about this plan to lay down a rubber roof and attach it to Cooper's roof. It is, in fact, rather difficult to imagine that a contractor would *not* tell the property owner that the project would include trespassing onto a neighbor's property, altering the neighbor's roof, and permanently attaching the new rubber roof to the neighbor's roof. Those are, after all, pretty significant details a property owner would want and expect to know—if, for no other reason, because the neighbor might not be happy about it, as Cooper was not here.

[*P45] The proof may show otherwise. It may be the case that the Club just told Ridgeworth to fix the roof, full stop, and left the details to Ridgeworth. We may ultimately learn that Ridgeworth discussed the concept of a rubber roof with the Club generally but left out the significant detail that it would have to be physically attached to the neighbor's roof. Or maybe Ridgeworth only realized later that it would need to physically affix the rubber roof to Cooper's roof and did not discuss this revelation with the Club.

[*P46] But **[***18]** at this stage, we draw all reasonable inferences in Cooper's favor, not against him. And it is entirely reasonable to infer that the Club knew about and authorized Ridgeworth's plan to attach a new rubber roof to Cooper's existing roof, which by definition would involve at least *some* trespass onto Cooper's property and *some* method of affixing the two roofs together.

[*P47] In this regard, then, this case is somewhat different than many cases that discuss the differences between a principal-agent relationship versus one of hiring party-independent contractor. *HN9*[↑] Ordinarily, as noted above, the hallmark of an independent-contractor relationship is that the contractor is simply told to do the **[**207]** **[****239]** work, and the details of *how* to do it are left to the contractor. See *Carney, 2016 IL 118984, ¶ 31, 412 Ill. Dec. 833, 77 N.E.3d 1*. The hiring

party is responsible for the "what"—the scope of the work—and the independent contractor is exclusively responsible for the "how"—the manner in which it is performed.

[*P48] Here, however, the "what" and "how," for all relevant purposes, might be one and the same. If, as it is reasonable to infer, the Club and Ridgeworth discussed the fact that the rubber roof would have to be physically attached to Cooper's roof, then that was part **[***19]** of the intended scope of the work—the "what"—that the Club authorized and directed Ridgeworth to perform. The physical attachment of the rubber roof to Cooper's roof, and the obvious trespass and alteration of Cooper's property it would entail, would not qualify as "'things not specified,'" for which the contractor could "'use his own discretion'" as an independent contractor. (Internal quotation marks omitted.) *Lawlor, 2012 IL 112530, ¶ 43, 983 N.E.2d 414, 368 Ill. Dec. 1* (quoting *Horwitz, 212 Ill. 2d at 13*). They would instead qualify as things *explicitly* specified, for which the contractor was acting as an agent, following the direction and authorization of the property owner, its principal.

[*P49] Regardless of whether the Club "controlled" every single detail of the work, the complaint alleges "control" with regard to the only detail that matters here—direction to attach the new rubber roof to Cooper's roof, which resulted in the damage to Cooper's roof.

[*P50] The complaint thus adequately pleaded a claim for vicarious liability against the Club. We cannot agree with the Club's many attempts to argue otherwise.

[*P51] The Club claims that, in several ways, Cooper essentially pleaded himself out of a claim for vicarious liability. For one, the complaint alleges that a Ridgeworth employee **[***20]** told Cooper that "he thought he was doing [Cooper] a favor," that the affixing of the rubber roof would help Cooper avoid water accumulation in his basement. But that allegation speaks in no way to what the Club knew, controlled, or directed. Nor does it matter that the Ridgeworth employee allegedly told Cooper, "I grant you we should have asked you first before attaching it." It does not automatically follow that the "we" meant Ridgeworth exclusively and not the Club, as well. And even if that is exactly what the Ridgeworth employee meant, it again does not automatically follow that the Club did not authorize Ridgeworth to drill those holes and join the roofs.

[*P52] We likewise find the Club's arguments relating to its own employee, Krueger, to be red herrings. For one, the Club says Krueger could not have supervised or controlled the work because (according to the complaint) Krueger told Cooper he was on medical leave at the time due to hip-replacement surgery. ***HN10***[⬆] But having the *right* to control the work is enough, even if that individual does not, in fact, exercise that control. *Magnini, 2015 IL App (1st) 133451, ¶ 25, 393 Ill. Dec. 587, 34 N.E.3d 1115*. And if the decision to let Ridgeworth attach a new rubber roof to Cooper's roof was made in advance, we are **[***21]** not sure why Krueger's absence from the worksite would have any relevance.

[*P53] We know little about Krueger from this complaint; the complaint only relates what Krueger told Cooper over the phone. Krueger allegedly told Cooper that "he was in charge of the roofing project," though "he was on leave of absence for another week, recovering from hip replacement surgery." But that does not tell us **[**208]** **[****240]** who signed off on the scope of the work, which could have happened long before the work was actually performed. Maybe it was Krueger, before his surgery; maybe it was someone else from the Club. These are details that we need not resolve at the pleading stage. And they are not details for which we should leap to unsupported conclusions in the *defendant's* favor at this stage.

[*P54] Nor can we agree with the Club's claim that Krueger could not have controlled the work as a legal matter, because he is not a licensed roofing

contractor. The type of direction relevant here—to proceed with work that would involve trespassing onto neighboring property and permanently altering it—requires no license or even expertise. The *performance* of that work surely does, but we are talking here merely of a property owner giving **[***22]** the "ok" to a plan after a contractor has explained what it would entail and what it would cost. If a property owner in that instance were required to be a licensed roofing contractor before saying "yes," nearly every homeowner in this state, at some point in time or another, would have to apply for a roofing license just to tell (another) licensed roofer to fix their leaky roof.

[*P55] As the complaint stated a cause of action for vicarious liability against the Club, dismissal of that count was inappropriate.

[*P56] II

[*P57] The trial court also dismissed Cooper's claim of "in-concert" liability against the Club. ***HN11***[⬆] In-concert liability "establishes a legal relationship" between an individual who acts in concert with other individuals who commit a tort. *Woods v. Cole, 181 Ill. 2d 512, 519, 693 N.E.2d 333, 230 Ill. Dec. 204 (1998)*. The one who acts in concert with the tortfeasor becomes liable for that tortfeasor's conduct as if there were a "'joint enterprise'" or "'mutual agency, so that the act of one is the act of all, and liability for all that is done is visited upon each.'" *Id. at 519-520* (quoting Prosser and Keeton on the Law of Torts § 52, at 346 (W. Page Keeton *et al.* eds., 5th ed. 1984).

[*P58] Illinois has adopted the theory of in-concert liability found in *section 876 of the Restatement (Second) of Torts* (*Restatement (Second) of Torts § 876* (1979)). See *Simmons v. Homatas, 236 Ill. 2d 459, 476, 925 N.E.2d 1089, 338 Ill. Dec. 883 (2010)*. Specifically, **[***23]** the Restatement provision imposes liability when a party:

> "(a) does a tortious act in concert with the other or pursuant to a common design with him, or
>
> (b) knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other so to conduct himself, or
>
> (c) gives substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constitutes a breach of duty to the third person." *Restatement (Second) of Torts § 876*, at 315 (1979).

[*P59] Cooper relies only on prong (b)'s substantial-assistance-or-encouragement prong. ***HN12***[⬆] This portion of *section 876* "imposes liability on those persons who act in concert with another tortfeasor, giving substantial assistance or encouragement to another's tortious conduct." *Simmons, 236 Ill. 2d at 476*. In determining substantial assistance or encouragement, we consider (1) the nature of the act encouraged, (2) the amount of assistance given, (3) his presence or absence at the time of the tort, (4) his relation to the other, and (5) his state of mind. *Id. at 477*.

[*P60] **[****241]** **[**209]** In light of what we have already determined above, however, a detailed analysis of these five prongs is unnecessary. We already held that the complaint, along with reasonable inferences drawn in favor **[***24]** of Cooper, alleged that the Club signed off on a rubber-roofing project that would include physically attaching the rubber roof to Cooper's roof, which unavoidably would involve some trespass onto Cooper's property and some damage to and alteration of his property.

[*P61] In other words, the Club did not just encourage Ridgeworth to do it; it *paid* Ridgeworth to do it. It would defy all logic and reason to hold that literally paying someone to perform an act does not constitute, at the very least, "substantial encouragement" to perform that act.

[*P62] The complaint adequately alleges that the Club "substantially encouraged" Ridgeworth to drill those holes in Cooper's roof, as part of a plan to connect a new rubber roof over the Club's roof

and attach it to Cooper's roof. The complaint sufficiently alleged in-concert liability against the Club. Dismissal of that count was improper.

[*P63] III

[*P64] The trial court dismissed other counts against the Club, including claims for injunctive relief and punitive damages, but Cooper has raised no arguments in his brief for reversing those rulings by the court. Any such claim is thus forfeited. See *Ill. S. Ct. R. 341(h)(7)* (eff. May 25, 2018) (points not raised in brief are forfeited); *Vancura v. Katris, 238 Ill. 2d 352, 369, 939 N.E.2d 328, 345 Ill. Dec. 485 (2010)* (same). **[***25]** We thus uphold the dismissal of all other counts directed against the Club.

[*P65] CONCLUSION

[*P66] We reverse the dismissal of the counts in the amended complaint directed at the Club based on vicarious liability and in-concert liability. The cause is remanded for further proceedings on those counts. We affirm the dismissal of all other counts directed at the Club.

[*P67] Affirmed in part and reversed in part; cause remanded.

End of Document

Exhibit 3

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

One Prudential Plaza
130 East Randolph Drive, Suite 1500
Chicago, Illinois 60601-6219
(312) 565-2600 (800) 826-8625
Fax (312) 565-2320

3161 West White Oaks Drive, Suite
301 Springfield, IL 62704
(217) 546-3523 (800) 252-8048
Fax (217) 546-3785

Chicago
June 29, 2020

The Attorney Registration and Disciplinary Commission has a unique and significant responsibility for assuring that the legal system achieves its goal of equal justice for all citizens. Given the ARDC's role and responsibility in the legal system, it is important for us to reinforce our commitment to addressing injustice by actively combatting the evils of racism and social inequity. These times of racial and civil unrest have caused us to think deeply and differently about how we may more effectively meet our obligation to combat racism and support justice for all, which we publicly share with hope and commitment.

Illinois ARDC Statement on Racism

The killing of George Floyd by a Minneapolis police officer, along with recent killings of Ahmaud Arbery, Tony McDade, Breonna Taylor, Rayshard Brooks and other Black Americans by both law enforcement officers and others, brings into sharp focus the fears and injustices that continue to devastate people of color in our country. The ARDC, the regulator of the Illinois legal profession, joins with those seeking justice in denouncing the institutional racism that plagues our communities of color. These tragic deaths have compelled us to consider how the ARDC can play a meaningful role in addressing racism and promoting social equity.

The ARDC's first step must be to continue to examine its regulatory processes to identify and change any practices that allow bias to permeate our agency. In 2015, the ARDC appointed a Diversity and Inclusion leader, and since that time, we have addressed the equity of our internal processes and procedures. Through our D & I initiative, we have also provided continuing D & I education to our staff and volunteer board members, delivered D & I education to the profession, cultivated relationships with affinity bar associations, and increased representation of attorneys of color in upper levels of the organization. We will leverage our ongoing D & I initiatives in further identifying and addressing bias within our agency, and in all aspects of this agency's undertakings.

The ARDC also commits to use its regulatory authority to engage and educate members of the legal profession on addressing and eschewing racism, including implicit bias. Further, the ARDC commits to holding all in the legal profession accountable for protecting the rule of law and making the justice system available to and equitable for all members of our communities.

The special responsibilities of a largely self-governing profession require that lawyers aid other lawyers in observing the rules of professional conduct and assist others responsible for the

administration of the justice system in fulfilling their duties. In the preamble to those rules, the Supreme Court instructs that lawyers are public citizens who should seek to improve the administration of the system of justice and should further the public's understanding of and confidence in the rule of law and the justice system. Conduct rules provide specific requirements, including prohibiting lawyers from engaging in discriminatory conduct.

Simply put, there is no place in our profession for those who cannot practice without discrimination based upon a person's color. We recommit ourselves to creating and maintaining a disciplinary system that identifies and holds attorneys responsible for conduct that includes racial bias, inequity or intolerance.

Finally, the ARDC commits to an ongoing focus and action on this issue and to transparency on that commitment. We will provide regular reports of our efforts, focusing on our D & I, regulatory and educational initiatives and analysis of public data from our disciplinary caseload. Our annual reports will contain a comprehensive discussion of our yearly efforts. In these ways, we will provide information to the Supreme Court, the profession and the public to fairly gauge and hold the ARDC accountable for the success of our efforts.

The ARDC is hopeful about the possibility of change. History shows us that significant change is possible. In the past, lawyers have taken bold actions that have championed the rights of historically marginalized communities, led to the eradication of corrupt practices in the justice system and brought improvements in the fairness of that system. Currently, called to action by the brutal killings of Black Americans, the public is sending a clear message that racism must end. We join in that call and accept the responsibility of responding to that call in the work of our own agency.

Released on behalf of the ARDC Commission,

Jerome E. Larkin,
ARDC Administrator, and

Lea S. Gutierrez,
ARDC Director of Diversity and Inclusion

Exhibit 4

Rebalance the Scales

Implicit Bias, Diversity, and the Legal Profession

We live in a dramatically transforming world, where the demographics of our population are more diverse than ever before. Meanwhile, our legal profession has continually lagged behind the diversity of our country. As our nation permanently changes, we need to ask ourselves how our legal workplaces will change as well, and what challenges we face to having true inclusion in the workplace.

This interactive two-part course features a panel of experts accompanied by interactive scenarios focused on the meaning of diversity, how implicit bias results in a lack of diversity in our profession and strategies to counter implicit bias in our personal and professional lives.

Before you launch Part 1 of the course, be sure to read the navigation **instructions** and the **agenda**. You are also encouraged to review these course materials both before and after the course:

- The Implicit Association Test
- Neutralizing Implicit Biases
- Verna Myers TEDTalk on Implicit Bias
- NALP 2017 Diversity Report
- Strategies to Interrupt Bias
- Course faculty biographies
- 2Civility blog posts: Lawyer Diversity: The Future is Now ; What Kids Can Teach Lawyers about Diversity and Representation; To My Daughters 20 Years from Now: Your Diverse World
- Additional resources on promoting diversity, equity, and inclusion in workplaces

This course is approved for 1.0 hours of diversity and inclusion CLE credit in Illinois (Part 1 = 0.5 hours + Part 2 = 0.5).

For the most reliable experience, launch this course in Chrome, Firefox, Safari, or Edge. Course software is not supported by Internet Explorer.

Launch Course Part 1

Launch Course Part 2

Thank you to our expert panelists for contributing their time and perspectives to this course. Thank you also to those who helped us

with the design and review of the course, including the Illinois ARDC, the Women's Bar Association of Illinois, the Commission's Diversity and Inclusion Advisory Board and CLE Advisory Group, and the many lawyers who continue to work tirelessly to advance the cause of diversity and professionalism.

Exhibit 5

United States District Court
Northern District of Illinois - CM/ECF NextGen 1.6.3 (Chicago)
CIVIL DOCKET FOR CASE #: 1:17-cv-08633

Outley v. City Of Chicago et al
Assigned to: Honorable Sharon Johnson Coleman
Demand: $75,000
Cause: 28:1331 Fed. Question: Employment Discrimination

Date Filed: 11/29/2017
Date Terminated: 12/30/2022
Jury Demand: Both
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Michael Outley

represented by **Michael Outley**
1536 S. Kedvale Ave.
#1
Chicago, IL 60623
773-396-7482
PRO SE

Calvita J. Frederick
Calvita J. Frederick & Associates
P.o. Box 802976
Chicago, IL 60680
(312) 421-5544
Fax: Active
Email: cjf@cjfredericklaw.com
TERMINATED: 03/17/2023
LEAD ATTORNEY

V.

Defendant

City of Chicago
The

represented by **C. Esther Choi**
City of Chicago, Department of Law
Employment Litigation Division
30 North LaSalle St.
Suite 1020
Chicago, IL 60602
(312) 742-4045
Fax: Not a member
Email: echoi@littler.com
TERMINATED: 03/17/2021
LEAD ATTORNEY

Rebecca Miriam Gest
Cook County State's Attorney's Office
Labor and Employment Law

50 W. Washington St.
5th Floor
Chicago, IL 60602
(312) 603-7202
Fax: Active
Email: rebecca.gest@cookcountyil.gov
TERMINATED: 01/17/2019
LEAD ATTORNEY

Rena M. Honorow
City of Chicago, Law Department
Employment LItigation
30 N. LaSalle St.
Suite 1020
Chicago, IL 60602
(312) 744-6922
Fax: Active
Email: rena.honorow@cookcountyil.gov
TERMINATED: 04/15/2022
LEAD ATTORNEY

John Michael Catalano , Jr.
City of Chicago
2 North LaSalle Street
Suite 640
Chicago, IL 60602
312-742-4045
Fax: Active
Email: john.catalano2@cityofchicago.org
ATTORNEY TO BE NOTICED

Scott M. Crouch
City of Chicago Department of Law
Employment Litigation
2 N. LaSalle, Suite 640
Chicago, IL 60602
3127448369
Fax: Active
Email: scott.crouch@cityofchicago.org
ATTORNEY TO BE NOTICED

Susan Margaret O'Keefe
City of Chicago Law Department
2 N. La Salle Street
Suite 640
Chicago, IL 60602
312-742-9036
Fax: Active
Email: Susan.OKeefe@cityofchicago.org
ATTORNEY TO BE NOTICED

Defendant

Alan Stark
as Deputy Commissioner of the Department of Water and in his Inidividual and Official Capacity
TERMINATED: 10/12/2021

represented by **C. Esther Choi**
(See above for address)
TERMINATED: 03/17/2021
LEAD ATTORNEY

Rebecca Miriam Gest
(See above for address)
TERMINATED: 01/17/2019
LEAD ATTORNEY

Rena M. Honorow
(See above for address)
TERMINATED: 04/15/2022
LEAD ATTORNEY

Scott M. Crouch
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Randy Conner
Commissioner Department of Water in his Individual and Official Capacities
TERMINATED: 10/12/2021

represented by **C. Esther Choi**
(See above for address)
TERMINATED: 03/17/2021
LEAD ATTORNEY

Rebecca Miriam Gest
(See above for address)
TERMINATED: 01/17/2019
LEAD ATTORNEY

Rena M. Honorow
(See above for address)
TERMINATED: 04/15/2022
LEAD ATTORNEY

Scott M. Crouch
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Robert Mussen
Chief Operating Engineer in her Individual and Official Capacity

represented by **C. Esther Choi**
(See above for address)
TERMINATED: 03/17/2021
LEAD ATTORNEY

Rebecca Miriam Gest
(See above for address)
TERMINATED: 01/17/2019
LEAD ATTORNEY

Rena M. Honorow
(See above for address)
TERMINATED: 04/15/2022
LEAD ATTORNEY

John Michael Catalano , Jr.
(See above for address)
ATTORNEY TO BE NOTICED

Scott M. Crouch
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/29/2017	1	COMPLAINT filed by Michael D Outley; JURY DEMAND. Filing fee $ 400, receipt number 0752-13847801. (Attachments: # 1 Exhibit CHARGE AND RT TO SUE) (Frederick, Calvita) (Entered: 11/29/2017)
11/30/2017	2	CIVIL Cover Sheet (Frederick, Calvita) (Entered: 11/30/2017)
11/30/2017	3	ATTORNEY Appearance for Plaintiff Michael D Outley by Calvita J. Frederick (Frederick, Calvita) (Entered: 11/30/2017)
11/30/2017		CASE ASSIGNED to the Honorable Gary Feinerman. Designated as Magistrate Judge the Honorable Jeffrey Cole. (nsf,) (Entered: 11/30/2017)
11/30/2017	4	NOTICE TO THE PARTIES - The Court is participating in the Mandatory Initial Discovery Pilot (MIDP). The key features and deadlines are set forth in the attached Notice which includes the MIDP Standing Order. Also attached is a checklist for use by the parties. In cases subject to the pilot, all parties must respond to the mandatory initial discovery requests set forth in the Standing Order before initiating any further discovery in this case. Please note: The discovery obligations in the Standing Order supersede the disclosures required by Rule 26(a)(1). Any party seeking affirmative relief must serve a copy of the attached documents (Notice to Parties and the Standing Order) on each new party when the Complaint, Counterclaim, Crossclaim, or Third-Party Complaint is served. (jjr,) (Entered: 11/30/2017)
12/04/2017	5	MINUTE entry before the Honorable Gary Feinerman: Status hearing set for 1/8/2018 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 12/04/2017)
01/03/2018	6	MINUTE entry before the Honorable Gary Feinerman: Because the docket does not reflect that Defendants have been served, the status hearing set for 1/8/2018 5 is stricken and re-set for 2/8/2018 at 9:00 a.m. Plaintiff is cautioned regarding the deadline set forth in Civil Rule 4(m).Mailed notice. (jlj,) (Entered: 01/03/2018)
01/10/2018	7	SUMMONS Returned Executed by Michael Outley as to City Of Chicago on 1/5/2018, answer due 1/26/2018. (Frederick, Calvita) Modified on 1/10/2018 (jjr,). (Entered: 01/10/2018)
01/10/2018	8	SUMMONS Returned Executed by Michael Outley as to Randy Conner on 1/5/2018, answer due 1/26/2018. (Frederick, Calvita) (Entered: 01/10/2018)

01/10/2018	9	SUMMONS Returned Executed by Michael Outley as to Alan Stark on 1/5/2018, answer due 1/26/2018. (Frederick, Calvita) (Entered: 01/10/2018)
01/10/2018	10	SUMMONS Returned Executed by Michael Outley as to Robert Mussen on 1/5/2018, answer due 1/26/2018. (Frederick, Calvita) (Entered: 01/10/2018)
01/26/2018	11	ATTORNEY Appearance for Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark by Rena M. Honorow (Honorow, Rena) (Entered: 01/26/2018)
01/26/2018	12	ATTORNEY Appearance for Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark by Rebecca Miriam Gest (Gest, Rebecca) (Entered: 01/26/2018)
01/26/2018	13	MOTION by Defendant City Of Chicago for extension of time to file answer regarding complaint 1 *and Otherwise Plead (Agreed)* (Gest, Rebecca) (Entered: 01/26/2018)
01/26/2018	14	NOTICE of Motion by Rebecca Miriam Gest for presentment of motion for extension of time to file answer 13 before Honorable Gary Feinerman on 1/31/2018 at 09:00 AM. (Gest, Rebecca) (Entered: 01/26/2018)
01/26/2018	15	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time to answer 13 is granted. The time for Defendant City of Chicago to respond to the complaint is extended to 3/15/2018. Motion hearing set for 1/31/2018 14 is stricken. The parties shall serve their MIDP disclosures by 4/16/2018. Status hearing set for 2/8/2018 6 is stricken and re-set for 4/3/2018 at 9:00 a.m. The parties shall file status report by 3/27/2018.Mailed notice. (jlj,) (Entered: 01/26/2018)
01/29/2018	16	ATTORNEY Appearance for Defendant City Of Chicago by Susan Margaret O'Keefe (O'Keefe, Susan) (Entered: 01/29/2018)
03/12/2018	17	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file excess pages *(Oversized Brief)* (Honorow, Rena) (Entered: 03/12/2018)
03/12/2018	18	NOTICE of Motion by Rena M. Honorow for presentment of motion for leave to file excess pages 17 before Honorable Gary Feinerman on 3/15/2018 at 09:00 AM. (Honorow, Rena) (Entered: 03/12/2018)
03/14/2018	19	MINUTE entry before the Honorable Gary Feinerman:Motion for leave to file excess pages 17 is granted. Defendants may file an oversized memorandum of 22 pages. Motion hearing set for 3/15/2018 18 is stricken. Mailed notice. (jlj,) (Entered: 03/14/2018)
03/15/2018	20	ANSWER to Complaint with Jury Demand *with Affirmative Defenses* by City Of Chicago(Gest, Rebecca) (Entered: 03/15/2018)
03/15/2018	21	ANSWER to Complaint with Jury Demand *with Affirmative Defenses* by Randy Conner(Gest, Rebecca) (Entered: 03/15/2018)
03/15/2018	22	ANSWER to Complaint with Jury Demand *with Affirmative Defenses* by Robert Mussen(Gest, Rebecca) (Entered: 03/15/2018)
03/15/2018	23	ANSWER to Complaint with Jury Demand *with Affirmative Defenses* by Alan Stark(Gest, Rebecca) (Entered: 03/15/2018)
03/15/2018	24	MOTION by Defendants Randy Conner, Alan Stark, City Of Chicago, Robert Mussen

		to dismiss *Plaintiff's Complaint* (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit A, # 3 Exhibit B)(Honorow, Rena) (Entered: 03/15/2018)
03/15/2018	25	NOTICE of Motion by Rena M. Honorow for presentment of motion to dismiss 24 before Honorable Gary Feinerman on 3/22/2018 at 09:00 AM. (Honorow, Rena) (Entered: 03/15/2018)
03/20/2018	26	MINUTE entry before the Honorable Gary Feinerman: Defendants Randy Conner, Alan Stark, City Of Chicago, and Robert Mussen's motion to dismiss Plaintiff's Complaint 24 is entered and continued. Plaintiff shall respond by 4/12/2018; reply due by 4/26/2018. Defendants' noticed motion date of 3/22/2018 25 is stricken. Mailed notice (mw,) (Entered: 03/20/2018)
03/27/2018	27	Rule 26(f) Report for Mandatory Initial Discovery Pilot (MIDP) , filed by Plaintiff Michael Outley. (Frederick, Calvita) (Entered: 03/27/2018)
04/03/2018	28	MINUTE entry before the Honorable Gary Feinerman:Status hearing held and continued to 5/3/2018 at 9:00 a.m. MIDP disclosures shall be served by 4/16/2018. Initial written discovery shall be served by 5/30/2018. Fact discovery shall be completed by 11/21/2018. Dispositive motions shall be filed by 1/28/2019. Motions to amend the pleadings or add new parties shall be filed by 30 days after the ruling on the pending motion to dismiss. This case is referred to Magistrate Judge Cox for discovery supervision and a settlement conference. Mailed notice. (jlj,) (Entered: 04/03/2018)
04/03/2018	29	Pursuant to Local Rule 72.1, this case is hereby referred to the calendar of Honorable Jeffrey Cole for the purpose of holding proceedings related to: discovery supervision and settlement conference.Mailed notice.(jlj,) (Entered: 04/03/2018)
04/04/2018	30	MINUTE entry before the Honorable Jeffrey Cole: Status hearing is set for 6/12/2018 at 08:30 AM for a report on discovery progress.Mailed notice (jms,) (Entered: 04/04/2018)
04/11/2018	31	MOTION by Plaintiff Michael Outley for extension of time to file response/reply as to motion to dismiss 24 (Frederick, Calvita) (Entered: 04/11/2018)
04/11/2018	32	NOTICE of Motion by Calvita J. Frederick for presentment of motion to dismiss 24 , motion for extension of time to file response/reply 31 before Honorable Gary Feinerman on 4/17/2018 at 09:00 AM. (Frederick, Calvita) (Entered: 04/11/2018)
04/12/2018	33	MINUTE entry before the Honorable Gary Feinerman:Motion to extend briefing schedule 31 is granted. The time for Plaintiff to respond to the motion to dismiss 24 is extended to 5/3/2018; reply due by 5/17/2018. Motion hearing set for 4/17/2018 32 is stricken. Status hearing set for 5/3/2018 28 is stricken and re-set for 5/24/2018 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 04/12/2018)
04/16/2018	34	NOTICE of Service of Responses to Mandatory Initial Discovery (MIDP) , filed by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark. (Gest, Rebecca) (Entered: 04/16/2018)
04/16/2018	35	NOTICE of Service of Responses to Mandatory Initial Discovery (MIDP) , filed by Plaintiff Michael Outley. (Frederick, Calvita) (Entered: 04/16/2018)
05/02/2018	36	MOTION by Plaintiff Michael Outley for extension of time to file response/reply as to motion to dismiss 24 (Frederick, Calvita) (Entered: 05/02/2018)
05/02/2018	37	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of

		time to file response/reply 36 , motion to dismiss 24 before Honorable Gary Feinerman on 5/8/2018 at 09:00 AM. (Frederick, Calvita) (Entered: 05/02/2018)
05/03/2018	38	MINUTE entry before the Honorable Gary Feinerman:Hearing on Plaintiff's second motion to extend the briefing schedule on Defendants' partial motion to dismiss 36 and Defendants' motion to dismiss 24 set for 5/8/2018 at 9:00 a.m. is re-set for 11:00 a.m. TIME CHANGE ONLY.Mailed notice. (jlj,) (Entered: 05/03/2018)
05/03/2018	39	MINUTE entry before the Honorable Gary Feinerman:Order entered 5/3/2018 38 is corrected. Hearing on Plaintiff's second motion to extend the briefing schedule on Defendants' partial motion to dismiss 36 set for 5/8/2018 at 9:00 a.m. is re-set for 11:00 a.m. TIME CHANGE ONLY. Defendants' motion to dismiss 24 is entered and continued. Mailed notice. (jlj,) (Entered: 05/03/2018)
05/03/2018	40	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 36 is granted. The time for Plaintiff to respond to the motion to dismiss 24 is extended to 5/17/2018; reply due by 6/1/2018. Motion hearing set for 5/8/2018 39 is stricken. Status hearing set for 5/24/2018 33 is stricken and re-set for 6/13/2018 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 05/03/2018)
05/17/2018	41	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants Randy Conner, Alan Stark, City Of Chicago, Robert Mussen to dismiss *Plaintiff's Complaint* 24 (Attachments: # 1 Exhibit 2017 FILED COMPLAINT, # 2 Exhibit 2013 FILED FAC, # 3 Exhibit LEFKOW 03 15 ORDER, # 4 Exhibit 2013 MTD FAILURE TO PROSECUTE, # 5 Exhibit 05 13 SUN TIMES ART, # 6 Exhibit 06 02 17 TRIBUNE ART, # 7 Exhibit 07 17 NY POST ART, # 8 Exhibit SUN TIMES $100000 CLUB, # 9 Exhibit IRVING VS PUI TAK, # 10 Exhibit DKT 20 ANS AND AF DEF)(Frederick, Calvita) (Entered: 05/17/2018)
05/17/2018	42	NOTICE by Michael Outley re response in opposition to motion,, 41 *of Filing* (Frederick, Calvita) (Entered: 05/17/2018)
05/30/2018	43	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time to file response/reply as to motion to dismiss 24 *in Further Support (Unopposed)* (Gest, Rebecca) (Entered: 05/30/2018)
05/30/2018	44	NOTICE of Motion by Rebecca Miriam Gest for presentment of motion for extension of time to file response/reply 43 before Honorable Gary Feinerman on 6/4/2018 at 09:00 AM. (Gest, Rebecca) (Entered: 05/30/2018)
05/30/2018	45	MINUTE entry before the Honorable Gary Feinerman:Defendants' unopposed motion for extension of time 43 is granted. The time for Defendants to file their reply brief is extended to 7/20/2018. Motion hearing set for 6/4/2018 44 is stricken. Mailed notice. (jlj,) (Entered: 05/30/2018)
06/12/2018	46	MINUTE entry before the Honorable Jeffrey Cole: Status hearing held and continued to 9/12/2018 at 08:30 AM. Parties report discovery is proceeding. If any issues arise during depositions the parties are urged to call chambers at 312-435-5601.Mailed notice (jms,) (Entered: 06/12/2018)
06/13/2018	47	MINUTE entry before the Honorable Gary Feinerman:Status hearing held and continued to 7/30/2018 at 9:00 a.m. Any discovery motions, including those pertaining to scheduling, shall be presented to the Magistrate Judge as part of the referral.Mailed notice. (jlj,) (Entered: 06/13/2018)

07/20/2018	48	REPLY by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to motion to dismiss 24 *in Further Support* (Honorow, Rena) (Entered: 07/20/2018)
07/26/2018	49	MINUTE entry before the Honorable Gary Feinerman: Status hearing set for 7/30/2018 at 9:00 a.m. 47 is re-set for 9:15 a.m. TIME CHANGE ONLY.Mailed notice. (jlj,) (Entered: 07/26/2018)
07/30/2018	50	MINUTE entry before the Honorable Gary Feinerman:Status hearing held and continued to 9/20/2018 at 9:00 a.m. For the reasons stated on the record, Defendants' motion to dismiss 24 is denied without prejudice. Plaintiff is given leave to file an amended complaint. Plaintiff shall file the amended complaint on or before 8/29/2018. Discovery is stayed until 9/20/2018.Mailed notice. (jlj,) (Entered: 07/30/2018)
07/30/2018	51	MINUTE entry before the Honorable Jeffrey Cole: In light of Judge Feinerman's recent order 50 allowing the plaintiff to file an Amended Complaint and staying discovery until 9/29/18, the status hearing presently scheduled for 9/12/18 46 is canceled and the parties need not appear. A new status date is hereby scheduled for 11/27/2018 at 08:30 AM.Mailed notice (jms,) (Entered: 07/30/2018)
08/29/2018	52	MOTION by Plaintiff Michael Outley for extension of time to amend *Complaint* (Frederick, Calvita) (Entered: 08/29/2018)
08/29/2018	53	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of time to amend 52 before Honorable Gary Feinerman on 9/4/2018 at 09:00 AM. (Frederick, Calvita) (Entered: 08/29/2018)
08/30/2018	54	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time to amend complaint 52 is granted. The time for Plaintiff to file his amended complaint is extended to 9/5/2018. Motion hearing set for 9/4/2018 53 is stricken. Status hearing set for 9/20/2018 50 is stricken and re-set for 9/26/2018 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 08/30/2018)
09/05/2018	55	AMENDED *COMPLAINT* (Attachments: # 1 Exhibit A Charge of Discrimination, # 2 Exhibit B Right to Sue Letter)(Frederick, Calvita) (Entered: 09/05/2018)
09/05/2018	56	NOTICE by Michael Outley re amended document 55 *OF AMENDED COMPLAINT* (Frederick, Calvita) (Entered: 09/05/2018)
09/20/2018	57	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time *to Answer or Otherwise Plead to Plaintiff's Amended Complaint (Unopposed)* (Honorow, Rena) (Entered: 09/20/2018)
09/20/2018	58	NOTICE of Motion by Rena M. Honorow for presentment of extension of time 57 before Honorable Gary Feinerman on 9/26/2018 at 09:00 AM. (Honorow, Rena) (Entered: 09/20/2018)
09/21/2018	59	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 57 is granted. The time for Defendants to respond to the amended complaint is extended to 11/11/2018. Motion hearing set for 9/26/2018 58 is stricken. The time for Defendants to respond to the amended complaint is extended to 11/11/2018, the status hearing set for 9/26/2018 54 is stricken and re-set for 12/19/2018 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 09/21/2018)
09/24/2018	60	MINUTE entry before the Honorable Gary Feinerman:At the request of the

		defendants, the time to respond to the amended complaint is extended to 11/14/2018.Mailed notice. (jlj,) (Entered: 09/24/2018)
11/09/2018	61	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time to file answer regarding amended document 55 *or Otherwise Plead (Unopposed)* (Honorow, Rena) (Entered: 11/09/2018)
11/09/2018	62	NOTICE of Motion by Rena M. Honorow for presentment of motion for extension of time to file answer 61 before Honorable Gary Feinerman on 11/14/2018 at 09:00 AM. (Honorow, Rena) (Entered: 11/09/2018)
11/13/2018	63	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time to answer 61 is granted. The time for Defendant to respond to the operative complaint is extended to 12/28/2018 Motion hearing set for 11/14/2018 62 is stricken. Status hearing set for 12/19/2018 59 is stricken and re-set for 1/8/2019 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 11/13/2018)
11/27/2018	64	MINUTE entry before the Honorable Jeffrey Cole: Status hearing held and continued to 2/28/2019 at 08:30 AM. All fact discovery shall be completed by 2/28/2019. Mailed notice (jms,) (Entered: 11/27/2018)
11/29/2018	65	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 11/27/2018 order 64 , the status hearing set for 1/8/2019 63 is stricken and re-set for 3/6/2019 at 9:00 a.m. Dispositive motion deadline is extended to 4/4/2019.Mailed notice. (jlj,) (Entered: 11/29/2018)
12/20/2018	66	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *answer to portions of amended complaint subject to motion to dismiss* (Honorow, Rena) (Entered: 12/20/2018)
12/20/2018	67	NOTICE of Motion by Rena M. Honorow for presentment of motion to stay 66 before Honorable Gary Feinerman on 12/27/2018 at 09:00 AM. (Honorow, Rena) (Entered: 12/20/2018)
12/21/2018	68	MINUTE entry before the Honorable Gary Feinerman. Defendants' motion to stay 66 , which includes only the first page, is denied without prejudice. If Defendants re-file the motion, they should notice it for a date that District Judge Feinerman is holding court or before the emergency judge. The 12/27/2018 motion hearing 67 is stricken.Mailed notice (lk,) (Entered: 12/21/2018)
12/21/2018	69	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *Answer to Portions of Amended Complaint Subject to Motion to Dismiss* (Gest, Rebecca) (Entered: 12/21/2018)
12/21/2018	70	NOTICE of Motion by Rebecca Miriam Gest for presentment of motion to stay 69 before Honorable Gary Feinerman on 1/8/2019 at 09:00 AM. (Gest, Rebecca) (Entered: 12/21/2018)
12/28/2018	71	*Defendant City of Chicago's* ANSWER to Complaint with Jury Demand *and Affirmative Defenses* by City Of Chicago(Gest, Rebecca) (Entered: 12/28/2018)
12/28/2018	72	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file excess pages *Oversized Brief* (Attachments: # 1 Exhibit, # 2 Appendix to Exhibits, # 3 Exhibit A, # 4 Exhibit B)(Honorow, Rena) (Entered: 12/28/2018)
12/28/2018	73	*Defendants'* NOTICE of Motion by Rena M. Honorow for presentment of motion for

		leave to file excess pages 72 before Honorable Gary Feinerman on 1/8/2019 at 09:00 AM. (Honorow, Rena) (Entered: 12/28/2018)
01/02/2019	74	MINUTE entry before the Honorable Gary Feinerman: Defendants' motion for leave to file an oversized brief 72 is granted. Defendants shall file their brief as a separate docket entry. Defendants' motion to stay answer to portions of amended complaint subject to motion to dismiss 69 is granted. Pending resolution of the motion to dismiss, Defendants need not answer the portions of the amended complaint subject to the motion. The 1/8/2019 motion hearings 70 73 are stricken. Plaintiff shall respond to the motion to dismiss by 1/30/2019; reply due by 2/13/2019. Mailed notice. (jjr,) (Entered: 01/02/2019)
01/02/2019	75	MOTION by Defendants Randy Conner, Alan Stark, City Of Chicago, Robert Mussen to dismiss *(Partial Motion to Dismiss) Plaintiff's Amended Complaint* (Attachments: # 1 Appendix to Exhibits, # 2 Exhibit A, # 3 Exhibit B)(Honorow, Rena) (Entered: 01/02/2019)
01/14/2019	76	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *Discovery or, in the Alternative, Extend Discovery Deadline* (Honorow, Rena) (Entered: 01/14/2019)
01/14/2019	77	NOTICE of Motion by Rena M. Honorow for presentment of motion to stay 76 before Honorable Jeffrey Cole on 1/17/2019 at 08:30 AM. (Honorow, Rena) (Entered: 01/14/2019)
01/14/2019	78	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *Briefing Schedule on Defendants' Partial Motion to Dismiss Amended Complaint*, MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file *Amended Motion to Dismiss* (Honorow, Rena) (Entered: 01/14/2019)
01/14/2019	79	NOTICE of Motion by Rena M. Honorow for presentment of motion to stay,, motion for leave to file, 78 before Honorable Gary Feinerman on 1/17/2019 at 09:00 AM. (Honorow, Rena) (Entered: 01/14/2019)
01/15/2019	80	MINUTE entry before the Honorable Gary Feinerman:Defendants' motion to stay briefing schedule on Defendants' partial motion to dismiss amended complaint and for leave to file amended motion to dismiss 75 78 is granted. Given the entry of judgment in Case 13 C 1583, the court will permit Defendants to file a revised motion to dismiss. Defendants' partial motion to dismiss 75 is denied as moot. Defendants shall file their revised motion to dismiss by 2/8/2019. Status hearing set for 3/6/2019 65 is stricken and re-set for 2/13/2019 at 9:00 a.m. Motion hearing set for 1/17/2019 79 is stricken.Mailed notice. (jlj,) (Entered: 01/15/2019)
01/16/2019	81	MINUTE entry before the Honorable Jeffrey Cole: The plaintiff has represented that she does not object to the defendant's motion. Accordingly, defendant's motion to stay discovery [#76] is granted. Status hearing date of 2/28/2019 is reset to 5/30/2019 at 08:30 AM. No appearance is necessary on 1/17/2019.Mailed notice (jms,) (Entered: 01/16/2019)
01/17/2019	82	MOTION by Attorney Rebecca M. Gest to withdraw as attorney for City Of Chicago, Randy Conner, Robert Mussen, Alan Stark. No party information provided (Gest, Rebecca) (Entered: 01/17/2019)

01/17/2019	83	NOTICE of Motion by Rebecca Miriam Gest for presentment of motion to withdraw as attorney 82 before Honorable Gary Feinerman on 1/23/2019 at 09:00 AM. (Gest, Rebecca) (Entered: 01/17/2019)
01/17/2019	84	MINUTE entry before the Honorable Gary Feinerman:Motion to withdraw as attorney 82 is granted. Attorney Rebecca Miriam Gest terminated as counsel for the defendants. Motion hearing set for 1/23/2019 83 is stricken.Mailed notice. (jlj,) (Entered: 01/17/2019)
02/05/2019	85	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay (Honorow, Rena) (Entered: 02/05/2019)
02/05/2019	86	NOTICE of Motion by Rena M. Honorow for presentment of motion to stay 85 before Honorable Gary Feinerman on 2/11/2019 at 09:00 AM. (Honorow, Rena) (Entered: 02/05/2019)
02/07/2019	87	MINUTE entry before the Honorable Gary Feinerman:Defendants' motion to stay 85 is granted in part. The judgment in Case 13 C 1583 has been entered, and the motion to reconsider does not impact its preclusive effect, if any. The time for Defendants to file their revised motion to dismiss is extended to 2/22/2019. Motion hearing set for 2/11/2019 86 is stricken. Status hearing set for 2/13/2019 80 is stricken and re-set for 3/6/2019 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 02/07/2019)
02/22/2019	88	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file *Oversized Brief* (Attachments: # 1 Exhibit)(Honorow, Rena) (Entered: 02/22/2019)
02/22/2019	89	NOTICE of Motion by Rena M. Honorow for presentment of motion for leave to file 88 before Honorable Gary Feinerman on 2/28/2019 at 09:00 AM. (Honorow, Rena) (Entered: 02/22/2019)
02/25/2019	90	MINUTE entry before the Honorable Gary Feinerman:Motion for leave to file oversized brief 88 is granted. Defendants shall file their amended motion to dismiss as a separate docket entry. Motion hearing set for 2/28/2019 89 is stricken.Mailed notice. (jlj,) (Entered: 02/25/2019)
02/25/2019	91	MOTION by Defendants Randy Conner, Alan Stark, City Of Chicago, Robert Mussen to dismiss *Amended Partial Motion to Dismiss Plaintiff's Amended Complaint* (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit A-E)(Honorow, Rena) (Entered: 02/25/2019)
02/25/2019	92	NOTICE of Motion by Rena M. Honorow for presentment of motion to dismiss 91 before Honorable Gary Feinerman on 3/6/2019 at 09:00 AM. (Honorow, Rena) (Entered: 02/25/2019)
03/05/2019	93	MINUTE entry before the Honorable Gary Feinerman: Status and motion hearing set for 3/6/2019 at 9:00 a.m. is re-set for 9:15 a.m. TIME CHANGE ONLY. Mailed notice. (mma,) (Entered: 03/05/2019)
03/06/2019	94	MINUTE entry before the Honorable Gary Feinerman:Status hearing held and continued to 5/1/2019 at 9:00 a.m. Motion hearing held. Defendants' amended partial motion to dismiss 91 is entered and continued. Plaintiff shall respond to the motion by 4/3/2019; Defendant shall reply by 4/24/2019. Discovery and MIDP disclosures remain stayed, though deadlines may be set at the next status hearing.Mailed notice. (jlj,) (Entered: 03/06/2019)

04/03/2019	95	MOTION by Plaintiff Michael Outley for extension of time to file response/reply as to motion to dismiss 91 *Amended Complaint* (Frederick, Calvita) (Entered: 04/03/2019)
04/03/2019	96	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of time to file response/reply 95 before Honorable Gary Feinerman on 4/9/2019 at 09:00 AM. (Frederick, Calvita) (Entered: 04/03/2019)
04/04/2019	97	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 95 is granted. The time for Plaintiff to respond to the motion to dismiss 95 is extended to 5/1/2019; Defendants shall reply by 6/7/2019. No further extensions will be granted to either side. Motion hearing set for 4/9/2019 96 is stricken. The status hearing set for 5/1/2019 94 is stricken and re-set for 6/11/2019 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 04/04/2019)
05/01/2019	98	MOTION by Plaintiff Michael Outley for leave to file excess pages (Attachments: # 1 Exhibit Response to Defendants Motion)(Frederick, Calvita) (Entered: 05/01/2019)
05/01/2019	99	NOTICE of Motion by Calvita J. Frederick for presentment of motion for leave to file excess pages 98 before Honorable Gary Feinerman on 5/7/2019 at 09:00 AM. (Frederick, Calvita) (Entered: 05/01/2019)
05/05/2019	100	MINUTE entry before the Honorable Gary Feinerman:Motion for leave to file excess pages 98 is granted. Plaintiff shall file his response as a separate docket entry. Motion hearing set for 5/7/2019 99 is stricken. Mailed notice. (jlj,) (Entered: 05/05/2019)
05/09/2019	101	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants Randy Conner, Alan Stark, City Of Chicago, Robert Mussen to dismiss *Amended Partial Motion to Dismiss Plaintiff's Amended Complaint* 91 (Attachments: # 1 Exhibit Table of Contents, # 2 Exhibit A Leftkow Order doc 71, # 3 Exhibit B Leftkow Ordere 01 2019, # 4 Exhibit C Leftkow 03 2019 Order, # 5 Exhibit D Finnae vs Pentel, # 6 Exhibit E Sun Times art 05 2017, # 7 Exhibit F Sun times $100000 club, # 8 Exhibit G Zagel Order on Title VI, # 9 Exhibit H OIG 3rd Quarter Rep, # 10 Exhibit H (a) 2nd Quarter OIG Rep, # 11 Exhibit I Tribune 04 2017 art, # 12 Exhibit J 06 Tribune article, # 13 Exhibit K NY Times Article, # 14 Exhibit L Notice of Ald Hearing) (Frederick, Calvita) (Entered: 05/09/2019)
05/30/2019	102	MINUTE entry before the Honorable Jeffrey Cole: Plaintiff fails to appear. Status hearing held and continued to 10/7/2019 at 08:30 AM. In light of the nature of the partial motion to dismiss discovery shall proceed. All fact discovery shall go forward on the discrimination count and shall be completed by 10/4/2019. Counsel for plaintiff is reminded that appearance at all court hearings is required. Mailed notice (jms,) (Entered: 05/30/2019)
05/31/2019	103	EXECUTIVE COMMITTEE ORDER: (General Order 19-0019) It appearing that Gabriel A. Fuentes has been appointed as a United States Magistrate Judge for the Northern District of Illinois with a duty station in Chicago, Illinois effective May 31, 2019; and It further appearing that Internal Operating Procedure 17 provides for the creation of an initial calendar for a newly-appointed magistrate judge; therefore It is hereby ordered that the attached list of civil consent cases and civil referrals are hereby reassigned to form the initial calendar of the Honorable Gabriel A. Fuentes; and It is further ordered that, unless otherwise ordered by Magistrate Judge Fuentes, all hearing dates, deadlines, and schedules set by the Magistrate Judges in the attached

		list of cases are to remain in effect. Case referred to the Honorable Gabriel A. Fuentes. Signed by Executive Committee on 5/31/2019.(sm,) (Entered: 05/31/2019)
06/04/2019	104	REPLY by City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to response in opposition to motion,,, 101 *in Further Support* (Honorow, Rena) (Entered: 06/04/2019)
06/04/2019	105	MINUTE entry before the Honorable Gary Feinerman: Status hearing set for 6/11/2019 at 9:00 a.m. 97 is re-set for 9:15 a.m. TIME CHANGE ONLY. The court will have questions regarding the partial motion to dismiss 91 .Mailed notice. (jlj,) (Entered: 06/04/2019)
06/11/2019	106	MINUTE entry before the Honorable Gary Feinerman:Status hearing held and continued to 8/5/2019 at 9:00 a.m. Oral argument held on Defendants' amended partial motion to dismiss amended complaint 91 . The motion is taken under advisement.Mailed notice. (jlj,) (Entered: 06/11/2019)
06/14/2019	107	MINUTE entry before the Honorable Gabriel A. Fuentes: Pursuant to the Executive Committee Order entered on 5/31/19 (doc. # 103), the case has been reassigned to Magistrate Judge Fuentes. An initial status report is required and shall be filed on or before 9/26/19. The status report should address the subjects referenced in Magistrate Judge Feuntes' Standing Order for Initial Status Report posted on the Court's website at www.ilnd.uscourts.gov/Judges as applicable to referral cases. The matter is set for an initial status hearing before Magistrate Judge Fuentes on 10/01/19 at 9:30 a.m. in Courtroom #1838. Mailed notice. (jj,) (Entered: 06/14/2019)
07/26/2019	108	MINUTE entry before the Honorable Gabriel A. Fuentes: Status conference set for 7/31/19 at 9:30 a.m. Mailed notice. (jj,) (Entered: 07/26/2019)
07/29/2019	109	ATTORNEY Appearance for Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark by C. Ester Choi (Choi, C.) (Entered: 07/29/2019)
07/31/2019	110	MINUTE entry before the Honorable Gabriel A. Fuentes: Status hearing held. The parties report on the status of discovery concerning the discrimination count. As stated on the record, all written discovery requests concerning the discrimination count shall be served by both parties by no later than 8/21/19. For the reasons stated on the record, the deadline to complete fact discovery with respect to the discrimination count is extended and to be completed by no later than 11/22/19. The previously set status hearing set for 10/01/19 at 9:30 a.m. remains as scheduled. Mailed notice. (jj,) (Entered: 07/31/2019)
08/01/2019	111	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 7/31/2019 order 110 , the status hearing set for 8/5/2019 106 is stricken and re-set for 9/12/2019 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 08/01/2019)
09/09/2019	112	MINUTE entry before the Honorable Gary Feinerman:For the reasons set forth in the accompanying Memorandum Opinion and Order, Defendants' motion to dismiss 91 is granted in part and denied in part. Plaintiff's claims under 42 U.S.C. § 1981, the CBA, the Shakman Accord, and Title VI are dismissed in their entirety. Plaintiff's 42 U.S.C. § 1983 claims against Defendant City of Chicago and Defendant Stark, and his Title VII claim except for its hostile work environment component, are dismissed to the extent that they arise from pre-2017 conduct. Plaintiff's ADEA claim is dismissed to the extent that it arises from pre-October 22, 2016 conduct, except for its hostile work environment component, which may proceed in its entirety. Plaintiff's § 1983 claims

		against Defendant Mussen are dismissed to the extent they are based on promotion decisions. Plaintiff's motions for leave to amend the CBA and Shakman Accord claims are denied. These claims remain: (1) the § 1983 claims against Defendant Conner; (2) the § 1983 claims against Defendant Mussen as to conduct unrelated to promotion decisions; (3) the Title VII claims as to hostile work environment generally and otherwise as to post-2017 conduct; (4) the ADEA claims as to hostile work environment and otherwise as to post-October 22, 2016 conduct; and (5) the constructive termination claim. Defendants shall answer the surviving portions of the amended complaint 55 by 9/23/2019.Mailed notice. (jlj,) (Entered: 09/09/2019)
09/09/2019	113	MEMORANDUM Opinion and Order written by the Honorable Gary Feinerman on 9/9/2019.Mailed notice.(jlj,) (Entered: 09/09/2019)
09/09/2019	114	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's forthcoming 10/1/2019 status hearing 110 , the status hearing set for 9/12/2019 111 is stricken and re-set for 10/17/2019 at 9:00 a.m. Mailed notice. (jlj,) (Entered: 09/09/2019)
09/09/2019	115	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to Require a Second Amended Complaint be Filed (Honorow, Rena) (Entered: 09/09/2019)
09/09/2019	116	NOTICE of Motion by Rena M. Honorow for presentment of motion for miscellaneous relief 115 before Honorable Gary Feinerman on 9/12/2019 at 09:00 AM. (Honorow, Rena) (Entered: 09/09/2019)
09/10/2019	117	MINUTE entry before the Honorable Gabriel A. Fuentes: The District Court having entered a ruling (doc. # 113) on the pending motion to dismiss, the Court notes at the next scheduled status hearing set for 10/1/19, the Magistrate Judge intends to lift the previously entered discovery stay and discuss remaining discovery issues with the parties. On or before 9/26/19, the parties shall confer per Rule 26(f) and file a Rule 26(f) discovery plan setting forth the discovery now expected in this matter and the parties' views as to the time needed to complete it. Mailed notice. (jj,) (Entered: 09/10/2019)
09/10/2019	118	MINUTE entry before the Honorable Gary Feinerman:Defendants' motion to require a second amended complaint be filed 115 is denied. The court suspects that Defendants' proposal will cause more problems and inefficiencies than it would solve. The scope of discovery of course is limited to matters pertinent to the surviving claims. Motion hearing set for 9/12/2019 116 is stricken.Mailed notice. (jlj,) (Entered: 09/10/2019)
09/23/2019	119	ANSWER to Complaint with Jury Demand *(Answer to Amended Complaint)* by City Of Chicago(Honorow, Rena) (Entered: 09/23/2019)
09/23/2019	120	ANSWER to Complaint with Jury Demand *(Answer to Amended Complaint)* by Randy Conner(Honorow, Rena) (Entered: 09/23/2019)
09/23/2019	121	ANSWER to Complaint with Jury Demand *(Answer to Amended Complaint)* by Robert Mussen(Honorow, Rena) (Entered: 09/23/2019)
09/23/2019	122	ANSWER to Complaint with Jury Demand *(Answer to Amended Complaint)* by Alan Stark(Honorow, Rena) (Entered: 09/23/2019)
10/01/2019	123	MINUTE entry before the Honorable Gabriel A. Fuentes: Status hearing held. The

		parties report on the status of the case. In light of the parties; report, the parties shall confer per Rule 26(f) and file a joint Rule 26(f) report by no later than 5:00 p.m. on or before 10/25/19. The matter is set for a status hearing before the magistrate judge on 10/30/19 at 9:30 a.m. Mailed notice. (jj,) (Entered: 10/01/2019)
10/02/2019	124	MINUTE entry before the Honorable Gary Feinerman: Given the Magistrate Judge's 10/1/2019 order 123 , the status hearing set for 10/17/2019 114 is stricken and re-set for 2/18/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 10/02/2019)
10/25/2019	125	Rule 26(f) Report for Mandatory Initial Discovery Pilot (MIDP) *(Joint)*, filed by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark. (Honorow, Rena) (Entered: 10/25/2019)
10/25/2019	126	Rule 26(f) Report for Mandatory Initial Discovery Pilot (MIDP) *Plaintiff's*, filed by Plaintiff Michael Outley. (Frederick, Calvita) (Entered: 10/25/2019)
10/30/2019	127	MINUTE entry before the Honorable Gabriel A. Fuentes: Status hearing held. The parties report on the status of discovery. The Court adopts the parties' discovery schedule as follows: The parties' Rule 26(a)(1) disclosures in accordance with MIDP are due by 12/3/19; all written discovery is to be served by 12/13/19; responses to written discovery are due by 1/13/20; and all depositions are to be completed by 4/13/20, which is the cutoff of fact discovery. The matter is set for a status hearing before the magistrate judge on 12/12/19 at 9:30 a.m. Mailed notice. (jj,) (Entered: 10/30/2019)
12/03/2019	128	NOTICE of Service of Responses to Mandatory Initial Discovery (MIDP) , filed by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark. (Honorow, Rena) (Entered: 12/03/2019)
12/12/2019	129	NOTICE of Service of Responses to Mandatory Initial Discovery (MIDP) , filed by Plaintiff Michael Outley. (Frederick, Calvita) (Entered: 12/12/2019)
12/12/2019	130	NOTICE of Service of Responses to Mandatory Initial Discovery (MIDP) *(Amended)*, filed by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark. (Honorow, Rena) (Entered: 12/12/2019)
12/12/2019	131	MINUTE entry before the Honorable Gabriel A. Fuentes: Status hearing held. The parties report on the status of discovery. As stated on the record, the parties are to submit their proposed protective order to Judge Fuentes' proposed order box as soon as practicable. The matter is set for a status hearing before the magistrate judge on 3/12/20 at 9:30 a.m. Mailed notice. (jj,) (Entered: 12/12/2019)
12/16/2019	132	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 10/30/2019 order 127 and 12/12/2019 order 131 , the status hearing set for 2/18/2020 124 is stricken and re-set for 4/8/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 12/16/2019)
12/27/2019	133	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *Litigation* (Honorow, Rena) (Entered: 12/27/2019)
12/27/2019	134	NOTICE of Motion by Rena M. Honorow for presentment of motion to stay 133 before Honorable Gary Feinerman on 1/8/2020 at 09:00 AM. (Honorow, Rena) (Entered: 12/27/2019)
01/06/2020	135	MINUTE entry before the Honorable Gary Feinerman:Defendants' motion to stay

		litigation 133 is entered and continued. Plaintiff shall respond by 1/16/2020; Defendants shall reply by 1/23/2020. Motion hearing set for 1/8/2020 134 is stricken and re-set for 1/30/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 01/06/2020)
01/07/2020	136	MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time to complete discovery *(Agreed)* (Honorow, Rena) (Entered: 01/07/2020)
01/07/2020	137	*Agreed* NOTICE of Motion by Rena M. Honorow for presentment of motion for extension of time to complete discovery 136 before Honorable Gabriel A. Fuentes on 1/14/2020 at 10:30 AM. (Honorow, Rena) (Entered: 01/07/2020)
01/08/2020	138	MINUTE entry before the Honorable Gabriel A. Fuentes: The defendants' agreed motion for extension of time to complete discovery (doc. # 136) is granted. No appearance is necessary. The parties may have until 1/31/20 to respond to outstanding written discovery requests, and the fact discovery cutoff for the completion of depositions is extended to 5/04/20. Status hearing remains scheduled for 3/12/20 at 9:30 a.m. Mailed notice. (jj,) (Entered: 01/08/2020)
01/09/2020	139	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 1/8/2020 order, the status hearing set for 4/8/2020 132 is stricken and re-set for 5/13/2020 at 9:00 a.m. The 1/30/2020 motion hearing 135 shall stand.Mailed notice. (jlj,) (Entered: 01/09/2020)
01/10/2020	140	MINUTE entry before the Honorable Gary Feinerman:Due to the schedule of this Court, the motion hearing set for 1/30/2020 135 is stricken and re-set for 1/28/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 01/10/2020)
01/16/2020	141	MOTION by Plaintiff Michael Outley for extension of time to file response/reply as to motion to stay 133 (Frederick, Calvita) (Entered: 01/16/2020)
01/16/2020	142	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of time to file response/reply 141 before Honorable Gary Feinerman on 1/22/2020 at 09:00 AM. (Frederick, Calvita) (Entered: 01/16/2020)
01/17/2020	143	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 141 is granted. The time for Plaintiff to respond to Defendants' motion to stay 133 is extended to 1/21/2020; reply due by 1/28/2020. Motion hearing set for 1/22/2020 142 is stricken. The motion hearing set for 1/28/2020 140 is stricken and re-set for 2/3/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 01/17/2020)
01/20/2020	144	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to stay *Litigation* 133 (Attachments: # 1 Exhibit EXHIBITS A-D)(Frederick, Calvita) (Entered: 01/20/2020)
01/20/2020	145	NOTICE by Michael Outley re response in opposition to motion 144 *to Stay Litigation* (Frederick, Calvita) (Entered: 01/20/2020)
01/28/2020	146	REPLY by Defendants City Of Chicago, Randy Conner, Robert Mussen, Alan Stark to response in opposition to motion 144 (Honorow, Rena) (Entered: 01/28/2020)
01/29/2020	147	MINUTE entry before the Honorable Gary Feinerman:Defendants' motion to stay litigation 133 is denied. The motion invokes Civil Rule 41(d), which, by its terms, applies only where "a plaintiff... previously dismissed" the earlier action. That means a voluntary dismissal. Plaintiff did not voluntarily dismiss Case 13 C 1583, so it would

		be improper to apply Rule 41(d) in this case. Motion hearing set for 2/3/2020 143 is stricken.Mailed notice. (jlj,) (Entered: 01/29/2020)
01/30/2020	148	MOTION by Plaintiff Michael Outley for extension of time to complete discovery (Frederick, Calvita) (Entered: 01/30/2020)
01/30/2020	149	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of time to complete discovery 148 before Honorable Gabriel A. Fuentes on 2/5/2020 at 10:30 AM. (Frederick, Calvita) (Entered: 01/30/2020)
01/30/2020	150	MINUTE entry before the Honorable Gabriel A. Fuentes: Plaintiff's unopposed motion for leave to extend the discovery cutoff date (doc. # 148), insofar as it requests a 14-day extension of the Court's 1/31/20 deadline for the parties to provide responses to each other's written discovery requests, is granted. No appearance on the motion is required. All parties have until 5:00 p.m. on 2/14/20 to respond to written discovery requests. All other discovery deadlines remain in place, including the 5/04/20 fact discovery cutoff. Status remains set for 3/12/20 at 9:30 a.m. for a report on discovery. Mailed notice. (jj,) (Entered: 01/30/2020)
02/04/2020	151	MOTION by Defendant City Of Chicago for protective order *of Confidentiality* (Attachments: # 1 Exhibit 1)(Honorow, Rena) (Entered: 02/04/2020)
02/04/2020	152	NOTICE of Motion by Rena M. Honorow for presentment of motion for protective order 151 before Honorable Gabriel A. Fuentes on 2/11/2020 at 10:30 AM. (Honorow, Rena) (Entered: 02/04/2020)
02/10/2020	153	EXECUTIVE COMMITTEE ORDER: It appearing that Beth W. Jantz has been appointed as a United States Magistrate Judge for the Northern District of Illinois with a duty station in Chicago, Illinois effective February 10, 2020; and It further appearing that Internal Operating Procedure 17 provides for the creation of an initial calendar for a newly appointed magistrate judge; therefore It is hereby ordered that the attached list of civil consent cases and civil referrals are hereby reassigned to form the initial calendar of the Honorable Beth W. Jantz; and It is further ordered that, unless otherwise ordered by Magistrate Judge Jantz, all hearing dates, deadlines, and schedules set by the Magistrate Judges in the attached list of cases are to remain in effect.. Case referred to the Honorable Beth W. Jantz. Signed by Honorable Rebecca R. Pallmeyer on 2/10/2020.(rp,) (Entered: 02/10/2020)
02/11/2020	154	MINUTE entry before the Honorable Gabriel A. Fuentes: In light of the Executive Committee order entered on 2/10/20 (doc. # 153) referring the case to Magistrate Judge Beth W. Jantz, the motion hearing regarding defendant City of Chicago's motion for a protective order of confidentiality (doc. #151) set for 2/11/20 and the status hearing set for 3/12/20 are hereby stricken. Mailed notice. (jj,) (Entered: 02/11/2020)
02/14/2020	155	MINUTE entry before the Honorable Beth W. Jantz:This case has been reassigned to the calendar of Magistrate Judge Beth W. Jantz. Counsel shall appear in-person for a reassignment status conference on 2/26/2020 at 09:15 a.m. before Judge Jantz in courtroom 1812. All previously set status hearings dates before the predecessor magistrate judge are stricken. All previously set discovery schedules remain intact. All previously set briefing schedules remain intact. All noticed motion dates before the predecessor magistrate judge are stricken. The Court will set a new presentment date for such motions at the initial status conference. To help the Court learn about the case, counsel is directed to confer, prepare and file a joint status report, not to exceed 5 pages by 2/21/2020. Courtesy copies of the status report are not required. Counsel

		shall review and comply with Judge Jantz's Standing Order on Initial Status Conferences and Initial Status Reports, which are available on Judge Jantz's web page located on the Court's website at www.ilnd.uscourts.gov. Mailed notice.(rbf,) (Entered: 02/14/2020)
02/21/2020	156	STATUS Report *Joint Initial Status Report* by City Of Chicago (Honorow, Rena) (Entered: 02/21/2020)
02/26/2020	157	MINUTE entry before the Honorable Beth W. Jantz: Status hearing held and continued to 04/16/2020 at 9:30 a.m. Defense counsel informed the Court that despite the order entered on 01/30/2020 150 , plaintiff has not yet provided defendants with her written discovery responses. Plaintiff is granted an additional two weeks, to and including 03/11/2020 to provide defendants with the outstanding written discovery responses. No further extensions will be considered. Plaintiff not having objected, defendant's motion for the entry of a protective order 151 is granted. As stated on the record, parties are to review the model confidentiality and HIPAA orders located on Magistrate Judge Jantz's website and meet and confer to fashion mutually-acceptable protective and HIPAA orders. The parties should submit both a redlined version and a clean version in Word format of the agreed protective and HIPAA orders to Magistrate Judge Jantz's proposed order inbox at: Proposed_Order_Jantz@ilnd.uscourts.gov by 02/28/2020. After 14 days of entry of the protective order by this Court, parties shall simultaneously begin document production. Additionally, within 14 days of the entry of the protective order, defendants shall provide plaintiff with their amended written discovery responses. Counsel shall work diligently to have plaintiff's deposition completed prior to 04/16/2020. The Court will address the 05/04/2020 fact discovery cut-off date at the next status hearing. Mailed notice. (rbf,) (Entered: 02/26/2020)
03/02/2020	158	MINUTE entry before the Honorable Beth W. Jantz: Parties have failed to comply with this Court's 2/26/20 order 157 regarding submission of agreed protective orders. Defense counsel has until 3/5/20 to submit both a redlined version and a clean version in Word format of its unopposed protective order and HIPAA order to Magistrate Judge Jantz's proposed order inbox at: Proposed_Order_Jantz@ilnd.uscourts.gov. (rbf,) (Entered: 03/02/2020)
03/06/2020	159	QUALIFIED PROTECTIVE Order Signed by the Honorable Beth W. Jantz on 3/6/2020.(rbf,) (Entered: 03/06/2020)
03/06/2020	160	AGREED Confidentiality Order Signed by the Honorable Beth W. Jantz on 3/6/2020. (rbf,) (Entered: 03/06/2020)
03/12/2020	161	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to compel *and Enforce Court Order* (Attachments: # 1 Exhibit A)(Honorow, Rena) (Entered: 03/12/2020)
03/12/2020	162	NOTICE of Motion by Rena M. Honorow for presentment of motion to compel 161 before Honorable Beth W. Jantz on 3/19/2020 at 09:30 AM. (Honorow, Rena) (Entered: 03/12/2020)
03/12/2020	163	CERTIFICATE of Service *Answers to Interrogatories* by Calvita J. Frederick on behalf of Michael Outley (Frederick, Calvita) (Entered: 03/12/2020)
03/13/2020	164	MINUTE entry before the Honorable Beth W. Jantz:Given the certificate of service of answers of interrogatories filed on 3/12/2020 163 , the Court denies as moot Defendant's motion to compel answers to interrogatories 161 . Motion hearing set for

		3/19/2020 is stricken; no appearance necessary. Status hearing set for 4/16/20 at 9:30 a.m. stands. Mailed notice. (rbf,) (Entered: 03/13/2020)
03/16/2020	165	ORDER Amended General Order 20-0012 IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY Signed by the Chief Judge Rebecca R. Pallmeyer on March 16, 2020. All open cases are impacted by this Amended General Order. See attached Order for guidance.Signed by the Honorable Rebecca R. Pallmeyer on 3/16/2020: Mailed notice. (pj,) (Entered: 03/17/2020)
03/30/2020	166	ORDER Seconded Amended General Order 20-0012 IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY Signed by the Chief Judge Rebecca R. Pallmeyer on March 30, 2020. All open cases are impacted by this Second Amended General Order. Amended General Order 20-0012, entered on March 17, 2020, and General Order 20-0014, entered on March 20, 2020, are vacated and superseded by this Second Amended General. See attached Order for guidance.Signed by the Honorable Rebecca R. Pallmeyer on 3/30/2020: Mailed notice. (docket1,) (Entered: 03/31/2020)
04/01/2020	167	MINUTE entry before the Honorable Beth W. Jantz: In accordance with the Second Amended General Order 20-0012, the status hearing set for 04/16/2020 is stricken and will be reset on or after 05/04/2020. In light of the current public health situation, this Court will accommodate reasonable requests for extensions in the coming weeks, and counsel and the parties should show flexibility and accommodate each other as well. (rbf,) (Entered: 04/01/2020)
04/24/2020	168	ORDER Third Amended General Order 20-0012 IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY Signed by the Chief Judge Rebecca R. Pallmeyer on April 24, 2020. All open cases are impacted by this Third Amended General Order. Parties are must carefully review all obligations under this Order, including the requirement listed in paragraph number 5 to file a joint written status report in most civil cases. See attached Order. Signed by the Honorable Rebecca R. Pallmeyer on 4/24/2020: Mailed notice. (docket3,) (Entered: 04/27/2020)
05/05/2020	169	MINUTE entry before the Honorable Beth W. Jantz: Pursuant to the Third Amended General Order 20-0012, the parties are hereby directed to file a joint status report by the close of business on 05/18/2020. Parties should refer to the Third Amended General Order 20-0012, specifically, paragraph 5, located on the Court's homepage for the particulars of what should be included in the joint status report. (rbf,) (Entered: 05/05/2020)
05/06/2020	170	MINUTE entry before the Honorable Gary Feinerman: The status hearing set for 5/13/2020 139 is stricken and re-set for 6/16/2020 at 9:00 a.m.Mailed notice. (jlj,) (Entered: 05/06/2020)
05/18/2020	171	STATUS Report *(Joint)* by City of Chicago, Randy Conner, Robert Mussen, Alan Stark (Honorow, Rena) (Entered: 05/18/2020)
05/26/2020	172	MINUTE entry before the Honorable Beth W. Jantz: The Court thanks the parties for their recently filed joint status report 171 . The Court understands that many parties would prefer to take depositions in person, but given the current public health situation, depositions should be planned in most instances to be taken by remote means for the foreseeable future in order to promote safety, unless agreed otherwise by all parties, counsel, and the deponent. Delay due to a desire to take in-person depositions at a later date generally will not be a basis for extending the deadline for fact discovery. The Court adopts the proposed deadlines as reflected in the parties'

		joint status report. Plaintiff agrees to provide written responses to requests for production and documents by electronic delivery by 07/08/2020; no further extensions will be granted. Fact discovery will now close on 10/31/2020. An updated joint status report shall be filed by 08/07/2020, and should include the status of defendants' response to plaintiff's current settlement demand. (rbf,) (Entered: 05/26/2020)
05/26/2020	173	ORDER ORDER Fourth Amended General Order 20-0012 IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY Signed by the Chief Judge Rebecca R. Pallmeyer on May 26, 2020. This Order does not extend or modify any deadlines set in civil cases. For non-emergency motions, no motion may be noticed for presentment on a date earlier than July 15, 2020. See attached Order. Signed by the Honorable Rebecca R. Pallmeyer on 5/26/2020: Mailed notice. (docket3,) (Entered: 05/26/2020)
05/27/2020	174	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 5/26/2020 order 172 , the status hearing set for 6/16/2020 170 is stricken and re-set for 11/3/2020 at 9:00 a.m. The dispositive motion deadline is extended to 12/5/2020.Mailed notice. (jlj,) (Entered: 05/27/2020)
07/10/2020	175	ORDER Fifth Amended General Order 20-0012 IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY Signed by the Chief Judge Rebecca R. Pallmeyer on July 10, 2020. This Order does not extend or modify any deadlines set in civil cases. No motions may be noticed for in-person presentment; the presiding judge will notify parties of the need, if any, for a hearing by electronic means or in-court proceeding. See attached Order. Signed by the Honorable Rebecca R. Pallmeyer on 7/10/2020: Mailed notice. (Clerk3, Docket) (Entered: 07/10/2020)
08/07/2020	176	STATUS Report by City of Chicago (Honorow, Rena) (Entered: 08/07/2020)
08/07/2020	177	STATUS Report *Plaintiff* by Michael Outley (Frederick, Calvita) (Entered: 08/07/2020)
08/07/2020	178	MINUTE entry before the Honorable Beth W. Jantz: On 05/26/2020 172 the Court ordered the parties to file a JOINT status report by 08/07/2020. The Court is in receipt of the status report 176 filed on 08/07/2020. The parties are directed to meet and confer either telephonically or by video conference and file a JOINT status report by 08/25/2020. By 08/13/2020, plaintiff shall serve a new settlement demand upon defendants and defendants shall respond to plaintiff's settlement demand by 08/20/2020. The Court notes that deposition notices have been sent out by the parties. Therefore, the JOINT status report shall include scheduled deposition dates. The Court understands that many parties would prefer to take depositions in person, but given the current public health situation, depositions should be planned in most instances to be taken by remote means for the foreseeable future in order to promote safety, unless agreed otherwise by all parties, counsel, and the deponent. Delay due to a desire to take in-person depositions at a later date generally will not be a basis for extending the deadline for fact discovery. (rbf,) (Entered: 08/07/2020)
08/07/2020	179	MINUTE entry before the Honorable Beth W. Jantz:The Court acknowledges receipt of Plaintiff's status report 177 that was filed almost simultaneously as this Court's order 178 . Court order 178 stands. (rbf,) (Entered: 08/07/2020)
08/27/2020	180	MINUTE entry before the Honorable Beth W. Jantz: On 08/07/2020, this Court ordered that the parties meet and confer either telephonically or by video conference and file a joint status report by 08/25/2020. Neither party filed anything by 08/25/2020. The parties are once again ordered to meet and confer and file a joint

		status report by 09/01/2020. (rbf,) (Entered: 08/27/2020)
09/01/2020	181	STATUS Report *Joint Status Report* by City of Chicago (Honorow, Rena) (Entered: 09/01/2020)
09/02/2020	182	MINUTE entry before the Honorable Beth W. Jantz: The Court has reviewed the parties' status report filed on 09/01/2020. The Court reminds the parties that the 10/31/2020 fact discovery cut-off is a final date and will not be extended. To assist the parties in meeting this deadline, any motions to compel regarding written discovery are due by 09/30/2020, and will not be considered by this Court unless they are preceded by a telephonic or video meet and confer between the parties; emails alone will be insufficient to meet this requirement. The parties are also directed to meet and confer by 09/11/2020, either by telephone or video, to schedule all remaining depositions. The Court understands that many parties would prefer to take depositions in person, but given the current public health situation, depositions should be planned to be taken by remote means in order to promote safety, unless agreed otherwise by all parties, counsel, and the deponent. Plaintiff is precluded from attempting to depose former City of Chicago Mayor Rahm Emanuel unless Plaintiff moves for leave to do so by 09/11/2020, setting out with particularity the basis for the request. A joint status report is due by 11/2/2020. The dispositive motion deadline stands at 12/05/2020, 174 . If the parties are interested in scheduling a settlement conference with this Court, they may do so at any time by jointly emailing this Court's courtroom deputy. (rbf,) (Entered: 09/02/2020)
09/06/2020	183	MINUTE entry before the Honorable Gary Feinerman: Given the Magistrate Judge's 9/2/2020 order 182 , the status hearing set for 11/3/2020 174 is stricken and re-set for 11/17/2020 at 9:00 a.m. By 11/12/2020, the parties shall file a joint status report: (1) confirming that fact discovery has been completed; and (2) indicating whether either side plans to move for summary judgment. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 09/06/2020)
10/29/2020	184	MOTION by Plaintiff Michael Outley for extension of time to complete discovery (Attachments: # 1 Declaration Exh A Dec of Jill May)(Frederick, Calvita) (Entered: 10/29/2020)
10/30/2020	185	MINUTE entry before the Honorable Beth W. Jantz:The Court is in receipt of plaintiff's motion for extension of time to complete discovery 184 . Telephonic motion hearing is set for 11/06/2020 at 11:15 a.m. To join the call, counsel shall dial 888-273-3658 and enter access code 2217918. The parties are directed to continue with discovery in advance of the motion hearing and be prepared to inform the Court of their progress on 11/06/2020. (rbf,) (Entered: 10/30/2020)
11/02/2020	186	RESPONSE by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan

		Stark to motion for extension of time to complete discovery 184 (Choi, C.) (Entered: 11/02/2020)
11/02/2020	187	MINUTE entry before the Honorable Beth W. Jantz: Plaintiff's motion to extend the fact discovery deadline 184 is granted. The 11/06/2020 motion hearing 185 is stricken and no party need call in. This Court previously warned that the deadline would not be extended, but it finds good cause to extend based on the circumstances Plaintiff describes in the motion, most notably the production of nearly 300 pages of documents to Plaintiff shortly before the current discovery deadline. The Court also appreciates that the parties have indeed moved discovery forward in the last couple of months. The Court notes, however, that it does not grant the motion lightly, and it reminds the parties that they must work together swiftly to meet the now extended discovery deadline of 12/30/2020. To that end, the City is given until 11/16/2020 to produce the documents Plaintiff requested in conjunction with the 10/08/2020 deposition of Jill May and the 10/15/2020 deposition of Randy Conner. If the parties are unable to reach a resolution as to the requested documents, Plaintiff is given until 11/20/2020 to file a motion to compel, following an appropriate meet and confer by either video or phone. Plaintiff remains precluded from attempting to depose former City of Chicago Mayor Rahm Emanuel, but he may seek leave to do so by 11/20/2020, if he can do so consistent with Rule 11 obligations and by setting out with particularity the basis for the request including how it is supported by recently discovered information. The 11/02/2020 deadline to submit a Joint Status Report to Magistrate Judge Jantz 182 is stricken and reset for 01/07/2021, including (1) confirming that fact discovery has been completed; (2) indicating whether either side plans to move for summary judgment, and (3) whether the parties have any interest in a settlement conference. In light of this, the 12/05/2020 dispositive motion deadline 154 is stricken, to be reset by the District Judge. (rbf,) (Entered: 11/02/2020)
11/12/2020	188	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 11/2/2020 order 187 , the status hearing set for 11/17/2020 183 is stricken and re-set for 1/19/2021 at 9:30 a.m. Attorneys/Parties should appear for the 1/19/2021 hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 11/12/2020)
11/20/2020	189	MOTION by Plaintiff Michael Outley for extension of time *to File MTC and Depose Mayor* (Frederick, Calvita) (Entered: 11/20/2020)
11/23/2020	190	MINUTE entry before the Honorable Beth W. Jantz: Plaintiff's motion for extension of time 189 is granted in part and denied in part. Plaintiff explains that in order to determine whether to bring a motion to compel, he needs additional time to compare inadvertently delayed deposition transcripts to supplemental productions requested as a result of those depositions. Accordingly, the motion is granted to the extent that Plaintiff is given an additional 14 days, or until 12/04/2020, to file any motion to compel related to the supplemental productions referenced in this Court's 11/02/2020 order 187 , which must be preceded by a meet and confer via phone or video. Final

		extension. Plaintiff does not explain, however, how delayed deposition transcripts support the additional extension he seeks in order to seek leave to depose the former City of Chicago Mayor Rahm Emanuel, and he provides no other basis to grant the request. Accordingly, the motion is denied in all other respects. The extended discovery deadline remains at 12/30/2020. (rbf,) (Entered: 11/23/2020)
12/04/2020	191	MOTION by Plaintiff Michael Outley to compel *Discovery Responses* (Frederick, Calvita) (Entered: 12/04/2020)
12/05/2020	192	Exhibit by Michael Outley *to Motion to Compel* (Frederick, Calvita) (Entered: 12/05/2020)
12/07/2020	193	MINUTE entry before the Honorable Beth W. Jantz:Plaintiff's motion to compel and for discovery sanctions 191 is taken under advisement. Defendants' response shall be filed by 12/14/2020, and a telephonic motion hearing is scheduled for 1:00 p.m. on 12/22/2020. To join the call, counsel shall dial 888-273-3658 and enter access code 2217918. (rbf,) (Entered: 12/07/2020)
12/14/2020	194	RESPONSE by City of Chicagoin Opposition to MOTION by Plaintiff Michael Outley to compel *Discovery Responses* 191 (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit A & B)(Honorow, Rena) (Entered: 12/14/2020)
12/14/2020	195	MOTION by Defendant City of Chicago for protective order (Honorow, Rena) (Entered: 12/14/2020)
12/14/2020	196	MOTION by Defendant City of Chicago to quash *Subpoenas* (Attachments: # 1 Exhibit Group A)(Honorow, Rena) (Entered: 12/14/2020)
12/15/2020	197	NOTICE by Susan Margaret O'Keefe of Change of Address (O'Keefe, Susan) (Entered: 12/15/2020)
12/16/2020	198	MINUTE entry before the Honorable Beth W. Jantz: Defendant City of Chicago's motion for protective order 195 and motion to quash subpoenas 196 are taken under advisement. Plaintiff is given until 12/21/2020 to respond to the motions. The telephonic motion hearing on Plaintiff's previously filed motion to compel 191 is stricken. Written rulings will follow. A Joint Status Report remains due 01/07/2021, addressing the status of fact discovery, proposing expert discovery deadlines if either side anticipates expert(s), indicating whether either side plans to move for summary judgment, and stating whether the parties have any interest in a settlement conference with the Court. (rbf,) (Entered: 12/16/2020)
12/17/2020	199	NOTICE by Rena M. Honorow of Change of Address (Honorow, Rena) (Entered: 12/17/2020)
12/21/2020	200	RESPONSE by Michael Outleyin Opposition to MOTION by Defendant City of Chicago to quash *Subpoenas* 196 *Issued to EPA* (Frederick, Calvita) (Entered: 12/21/2020)
12/21/2020	201	RESPONSE by Michael Outleyin Opposition to MOTION by Defendant City of Chicago for protective order 195 (Attachments: # 1 Exhibit MUSSEN DEP NOTICE, # 2 Exhibit WISE DEP NOTICE, # 3 Exhibit CT REP EMAILS, # 4 Exhibit EMAILS RE WISE DEP, # 5 Exhibit EMAILS RE MUSSEN DEP)(Frederick, Calvita) (Entered: 12/21/2020)
01/04/2021	202	MINUTE entry before the Honorable Beth W. Jantz: Both Plaintiff and the City of

		Chicago have discovery motions pending before the Court. [Dkt. 191, 195, and 196.] Accordingly, the City of Chicago's responses to Plaintiff's requests to admit [see dkt. 195] and the parties' joint status report [see dkt. 187] are stayed pending the Court's resolution of the motions. (rbf,) (Entered: 01/04/2021)
01/05/2021	203	ORDER signed by the Honorable Beth W. Jantz: For the reasons discussed below, Plaintiff's motion to compel and for discovery sanctions 191 is granted in part and denied in part, Defendant, City of Chicago's Motion for a Protective Order 195 is granted and its Motion to Quash Subpoenas 196 is denied as moot. (rbf,) (Entered: 01/05/2021)
01/13/2021	204	MINUTE entry before the Honorable Gary Feinerman:Given the Magistrate Judge's 1/12/2021 order 203 , the status hearing set for 1/19/2021 188 is stricken and re-set for 2/18/2021 at 9:15 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 01/13/2021)
02/03/2021	205	STATUS Report *(Joint)* by City of Chicago, Randy Conner, Robert Mussen, Alan Stark (Honorow, Rena) (Entered: 02/03/2021)
02/04/2021	206	MINUTE entry before the Honorable Beth W. Jantz: The Court has reviewed the parties' 02/03/2021 Joint Status Report 205 . Fact discovery is now completed, and the parties advise that Plaintiff has disclosed a damages expert but Defendants propose staying expert discovery pending resolution of anticipated dispositive motions. Given that the District Judge will set the dispositive motion schedule and rule on any such motion(s), any requested stay of expert discovery based on dispositive motion practice should be brought before the District Judge. Further deadlines if necessary will be set following the parties' 02/18/2021 telephonic status conference with the District Judge. (rbf,) (Entered: 02/04/2021)
02/05/2021	207	MINUTE entry before the Honorable Gary Feinerman:Given the 2/3/2021 status report 205 and the Magistrate Judge's 2/4/2021 order 206 , the dispositive motion deadline is 3/4/2021. The status hearing set for 2/18/2021 204 is stricken and re-set for 3/9/2021 at 9:30 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 02/05/2021)
02/19/2021	208	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time *to File Dispositive Motion* (Honorow, Rena) (Entered:

		02/19/2021)
02/22/2021	209	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 208 is granted in part and denied in part. The dispositive motion deadline is extended to 4/1/2021. The status hearing set for 3/9/2021 207 is stricken and re-set for 4/6/2021 at 9:30 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 02/22/2021)
03/16/2021	210	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file excess pages , MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time to file *Dispositive Motion* (Honorow, Rena) (Entered: 03/16/2021)
03/16/2021	211	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to withdraw attorney appearance 109 *of C. Ester Choi* (Honorow, Rena) (Entered: 03/16/2021)
03/17/2021	212	MINUTE entry before the Honorable Gary Feinerman: Motion to withdraw 211 is granted. Attorney C. Ester Choi is terminated as counsel for Defendants. Motion for leave to file excess pages and for extension of time 210 is granted. Defendants may file an oversized summary judgment brief of up to 25 pages, and the dispositive motion deadline is extended to 4/8/2021. The status hearing set for 4/6/2021 209 is stricken and re-set for 4/14/2021 at 9:00 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 03/17/2021)
03/29/2021	213	MOTION by Plaintiff Michael Outley to clarify *Dispositive Motion Deadline* (Frederick, Calvita) (Entered: 03/29/2021)
03/30/2021	214	MINUTE entry before the Honorable Gary Feinerman:Motion to clarify 213 is granted. The 4/8/2021 dispositive motion deadline 212 applies to all parties. If Plaintiff files a summary judgment motion, he may file an oversized initial brief of up to 25 pages.Mailed notice. (jlj,) (Entered: 03/30/2021)
04/07/2021	215	MOTION by Plaintiff Michael Outley for partial summary judgment (Frederick, Calvita) (Entered: 04/07/2021)
04/07/2021	216	56.1 STATEMENT by Michael Outley *Uncontested Facts* (Frederick, Calvita) (Entered: 04/07/2021)

04/07/2021	217	MEMORANDUM by Michael Outley in support of motion for partial summary judgment 215 (Attachments: # 1 Exhibit I Plaintiff's Discovery Docs, # 2 Exhibit Exh II Cover, # 3 Exhibit Amended Complaint, # 4 Exhibit Outley I 354 F Supp3d 847, # 5 Exhibit Ealy depsoition, # 6 Exhibit CONNER deposition, # 7 Exhibit SAWYER deposiition, # 8 Exhibit MUSSEN deposition, # 9 Exhibit OUTLEY dep excerpts) (Frederick, Calvita) (Entered: 04/07/2021)
04/07/2021	218	MOTION by Plaintiff Michael Outley to seal document memorandum in support of motion, 217 *Exhibit II* (Frederick, Calvita) (Entered: 04/07/2021)
04/08/2021	219	MINUTE entry before the Honorable Gary Feinerman: Motion to seal document 218 is granted. Plaintiff shall file under seal the unredacted exhibit, and shall publicly file a redacted version of the exhibit. Motion for partial summary judgment 215 is entered and continued. Defendants shall respond to the motion by 5/6/2021; Plaintiff shall respond by 5/20/2021. Motion hearing set for 5/27/2021 at 10:00 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 04/08/2021)
04/08/2021	220	MOTION by Defendants Randy Conner, Alan Stark, City of Chicago, Robert Mussen for summary judgment (Honorow, Rena) (Entered: 04/08/2021)
04/08/2021	221	MEMORANDUM by City of Chicago, Randy Conner, Robert Mussen, Alan Stark in support of motion for summary judgment 220 (Honorow, Rena) (Entered: 04/08/2021)
04/08/2021	222	RULE 56.1(a)(3) Statement by City of Chicago, Randy Conner, Robert Mussen, Alan Stark regarding motion for summary judgment 220 (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7-9, # 9 Exhibit 10, # 10 Exhibit 11, # 11 Exhibit 12, # 12 Exhibit 13, # 13 Exhibit 14, # 14 Exhibit 15-22)(Honorow, Rena) (Entered: 04/08/2021)
04/08/2021	223	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file *Certain Exhibits To It's Statement of Undisputed Facts under Seal* (Honorow, Rena) (Entered: 04/08/2021)
04/12/2021	224	MINUTE entry before the Honorable Gary Feinerman: Motion for leave to file 223 is granted. Defendants may file under seal the designated exhibits, so long as they publicly file a redacted version of those exhibits. Motion for summary judgment 220 is entered and continued. Plaintiff shall respond to the motion by 5/6/2021; Defendants shall reply by 5/20/2021.Mailed notice. (jlj,) (Entered: 04/12/2021)
04/12/2021	225	MINUTE entry before the Honorable Beth W. Jantz: A review of the docket indicates that the parties are currently briefing dispositive motions, following the completion of fact discovery. A Joint Status Report is due on 04/20/2021 advising on the parties' proposal for handling expert discovery, and whether the parties are interested in settlement conference with the Magistrate Judge. (rbf,) (Entered: 04/12/2021)

04/12/2021	226	SEALED DOCUMENT by Plaintiff Michael Outley (Attachments: # 1 Exhibit Exhibit II Sealed)(Frederick, Calvita) (Entered: 04/12/2021)
04/13/2021	227	MINUTE entry before the Honorable Gary Feinerman:The status hearing set for 4/14/2021 212 is stricken.Mailed notice. (jlj,) (Entered: 04/13/2021)
04/13/2021	228	SEALED DOCUMENT by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark (Attachments: # 1 Exhibit 2, 4, 10 & 14)(Honorow, Rena) (Entered: 04/13/2021)
04/14/2021	229	APPENDIX Rule 56 statement, 222 *of Redacted Exhibits* (Attachments: # 1 Exhibit 2, 4, 10 & 14)(Honorow, Rena) (Entered: 04/14/2021)
04/19/2021	230	MINUTE entry before the Honorable Gary Feinerman:The motion hearing set for 5/27/2021 219 is stricken and re-set for 5/26/2021 at 10:00 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 04/19/2021)
04/19/2021	231	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to amend/correct Rule 56 statement, 222 *File Corrected Exhibits* (Attachments: # 1 Appendix Corrected Appendix, # 2 Exhibit Corrected Ex. 9, # 3 Exhibit Corrected Ex. 14)(Honorow, Rena) (Entered: 04/19/2021)
04/20/2021	232	STATUS Report by City of Chicago (Honorow, Rena) (Entered: 04/20/2021)
04/20/2021	233	STATUS Report *by Plaintiff* by Michael Outley (Frederick, Calvita) (Entered: 04/20/2021)
04/21/2021	234	MINUTE entry before the Honorable Gary Feinerman:Motion to amend 231 is granted. Defendants may file corrected exhibits to their Statement of Facts, and shall do so as a separate docket entry.Mailed notice. (jlj,) (Entered: 04/21/2021)
04/21/2021	235	EXHIBIT by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark *(Corrected Exhibits)* regarding Rule 56 statement, 222 (Attachments: # 1 Appendix Corrected Appendix, # 2 Exhibit Corrected Ex. 9, # 3 Exhibit Corrected Ex. 14) (Honorow, Rena) (Entered: 04/21/2021)
04/26/2021	236	MINUTE entry before the Honorable Beth W. Jantz: The Court has reviewed the parties' recent Status Reports [232, 233], and notes that fact discovery has been completed 206 , and both Plaintiff and Defendants have moved for summary judgment before the District Judge [see dkt 215, 220]. Accordingly, expert discovery is stayed pending resolution of the summary judgment motions. All matters otherwise relating to the referral of this case having been completed, the referral is closed and the case is returned to the District Judge. This Court would be happy to assist the parties with further settlement negotiations should they request a referral for that in the future. Judge Beth W. Jantz no longer referred to the case. (rbf,) (Entered: 04/26/2021)
05/06/2021	237	MOTION by Plaintiff Michael Outley for leave to file excess pages *in Response to*

		Deft MSJ (Attachments: # 1 Exhibit Plaintiff's Res to Defendants MSJ, # 2 Exhibit Plaintiff's Res to Deft 56.1 SOF, # 3 Exhibit Plaintiff's Stataement of additional Facts, # 4 Exhibit Appendix)(Frederick, Calvita) (Entered: 05/06/2021)
05/06/2021	238	RESPONSE by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to memorandum in support of motion, 217 (Honorow, Rena) (Entered: 05/06/2021)
05/06/2021	239	RESPONSE by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to statement 216 *of Material Undisputed Facts* (Attachments: # 1 Exhibit 1) (Honorow, Rena) (Entered: 05/06/2021)
05/06/2021	240	RULE 56.1(b)(3) Statement *of Additional Material Facts* (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1, # 3 Exhibit 2)(Honorow, Rena) (Entered: 05/06/2021)
05/07/2021	241	RESPONSE by Michael Outley to Defendants' Memorandum in Support of their Motion for summary judgment 220 . (Frederick, Calvita) Docket Text Modified by Clerk's Office on 5/10/2021 (jh,). (Entered: 05/07/2021)
05/07/2021	242	RESPONSE by Plaintiff Michael Outley to Defendants' L.R. 56.1(a)(3) Statement of Undisputed Material Facts. (Frederick, Calvita) Docket Text Modified by Clerk's Office on 5/10/2021 (jh,). (Entered: 05/07/2021)
05/07/2021	243	RULE 56 56.1 Statement *of Additional Uncontested Facts* (Attachments: # 1 Appendix Res to SOF)(Frederick, Calvita) (Entered: 05/07/2021)
05/10/2021	244	MINUTE entry before the Honorable Gary Feinerman:Motion for leave to file excess pages 237 is granted. Plaintiff shall file his oversized papers, if he has not already done so.Mailed notice. (jlj,) (Entered: 05/10/2021)
05/11/2021	245	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for extension of time to file response/reply as to motion for summary judgment 220 *(Unopposed)* (Honorow, Rena) (Entered: 05/11/2021)
05/12/2021	246	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 245 is granted. The deadline for the parties to reply in support of their summary judgment motions 215 220 is extended to 6/3/2021. The motion hearing set for 5/26/2021 230 is stricken and re-set for 6/15/2021 at 9:00 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 05/12/2021)
05/28/2021	247	ATTORNEY Appearance for Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark by Scott M. Crouch (Crouch, Scott) (Entered: 05/28/2021)
05/28/2021	248	MOTION by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark for leave to file excess pages *UNOPPOSED* (Crouch, Scott) (Entered: 05/28/2021)
06/01/2021	249	MOTION by Plaintiff Michael Outley for extension of time to file response/reply *to*

		Summary Judgment Motions (Frederick, Calvita) (Entered: 06/01/2021)
06/01/2021	250	MINUTE entry before the Honorable Gary Feinerman:Motion for leave to file excess pages 248 is granted. Defendants may file an oversized summary judgment reply brief of up to 20 pages.Mailed notice. (jlj,) (Entered: 06/01/2021)
06/02/2021	251	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time 249 is granted. The deadline for filing summary judgment replies is extended to 6/17/2021. Motion hearing set for 6/15/2021 246 is stricken and re-set for 6/21/2021 at 10:00 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 06/02/2021)
06/04/2021	252	MINUTE entry before the Honorable Gary Feinerman:At the parties' request, the motion hearing set for 6/21/2021 251 is stricken and re-set for 6/24/2021 at 2:00 p.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) Modified on 6/7/2021 (jlj,). (Entered: 06/04/2021)
06/17/2021	253	REPLY by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to motion for summary judgment 220 *in Further Support* (Honorow, Rena) (Entered: 06/17/2021)
06/17/2021	254	RESPONSE by Defendants City of Chicago, Randy Conner, Robert Mussen, Alan Stark to Rule 56 statement 243 *of Additional Undisputed Material Facts* (Honorow, Rena) (Entered: 06/17/2021)
06/17/2021	255	REPLY by Michael Outley to Response 238 *to Summary Judgment Motion* (Attachments: # 1 Exhibit Redacted Sealed Exhibits)(Frederick, Calvita) (Entered: 06/17/2021)
06/17/2021	256	RESPONSE by Plaintiff Michael Outley *to Defendants' Additional Statement of Facts* (Frederick, Calvita) (Entered: 06/17/2021)
06/24/2021	257	MINUTE entry before the Honorable Gary Feinerman:Motion hearing held. Status hearing set for 8/16/2021 at 9:30 a.m. Plaintiff's motion for partial summary judgment 215 and Defendants' motion for summary judgment 220 are taken under advisement. Attorneys/Parties should appear for the 8/16/2021 hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote

		access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 06/25/2021)
08/13/2021	258	MINUTE entry before the Honorable Gary Feinerman:The status hearing set for 8/16/2021 257 is stricken and re-set for 9/30/2021 at 9:00 a.m. The summary judgment motions 215 220 remain under advisement. Attorneys/Parties should appear for the 9/30/2021 hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 08/13/2021)
09/28/2021	259	MINUTE entry before the Honorable Gary Feinerman:The status hearing set for 9/30/2021 258 is stricken and re-set for 10/25/2021 at 9:15 a.m. Attorneys/Parties should appear for the 10/25/2021 hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 09/28/2021)
09/28/2021	260	MINUTE entry before the Honorable Gary Feinerman:At the parties' request, the status hearing set for 10/25/2021 259 is stricken and re-set for 11/2/2021 at 9:00 a.m. Attorneys/Parties should appear for the 11/2/2021 hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 09/28/2021)
10/12/2021	261	MINUTE entry before the Honorable Gary Feinerman: For the reasons set forth in the accompanying Memorandum Opinion and Order, Plaintiff's motion for partial summary judgment 215 is denied, and Defendants' motion for summary judgment 220 is denied in part (as to Plaintiff's Title VII hostile work environment claim against Defendant City of Chicago and harassment-based § 1983 claim against Defendant Mussen) and otherwise is granted. Plaintiff's surviving claims will proceed to trial. This case is referred to Magistrate Judge Jantz for a settlement conference. By 10/26/2021, the parties shall provide the District Judge's Courtroom Deputy with three mutually agreeable two-week trial periods from March 2021 through July 2021.

		Although trial will not take more than one week, the court asks for two-week trial periods because, due to COVID-19 protocols, trial likely will commence on a Tuesday, Wednesday, Thursday, or Friday of the first week in the two-week period. The Clerk is directed to terminate Randy Conner and Alan Stark as party defendants.Mailed notice. (jlj,) (Entered: 10/12/2021)
10/12/2021	262	MEMORANDUM Opinion and Order written by the Honorable Gary Feinerman on 10/12/2021.Mailed notice.(jlj,) (Entered: 10/12/2021)
10/12/2021	263	Pursuant to Local Rule 72.1, this case is hereby referred to the calendar of Honorable Beth W. Jantz for the purpose of holding proceedings related to: settlement conference.Mailed notice.(jlj,) (Entered: 10/12/2021)
10/12/2021	264	MINUTE entry before the Honorable Gary Feinerman:Order 261 is amended. For the reasons set forth in the accompanying Memorandum Opinion and Order, Plaintiff's motion for partial summary judgment 215 is denied, and Defendants' motion for summary judgment 220 is denied in part (as to Plaintiff's Title VII hostile work environment claim against Defendant City of Chicago and harassment-based § 1983 claim against Defendant Mussen) and otherwise is granted. Plaintiff's surviving claims will proceed to trial. This case is referred to Magistrate Judge Jantz for a settlement conference. By 10/26/2021, the parties shall provide the District Judge's Courtroom Deputy with three mutually agreeable two-week trial periods from **March 2022 through July 2022**. Although trial will not take more than one week, the court asks for two-week trial periods because, due to COVID-19 protocols, trial likely will commence on a Tuesday, Wednesday, Thursday, or Friday of the first week in the two-week period. The Clerk is directed to terminate Randy Conner and Alan Stark as party defendants.Mailed notice. (jlj,) (Entered: 10/12/2021)
10/13/2021	265	MINUTE entry before the Honorable Beth W. Jantz: This case has been referred to the Magistrate Judge for proceedings related to a settlement conference 263 . The parties are directed to review and comply with Magistrate Judge Jantz's Standing order for Settlement Conferences. A telephonic pre-settlement conference call is scheduled for 10/18/21 at 2:15 p.m. To join the conference by phone, dial 888-273-3658 and enter access code 2217918. Mailed notice. (as,) (Entered: 10/13/2021)
10/18/2021	266	MINUTE entry before the Honorable Beth W. Jantz: Pre-settlement conference call held and continued to 11/9/21 at 11:30 a.m. The Court recognizes that this was a long-ish call of this sort, and appreciates everyone trying to work through the relevant issues. In advance of the continued call on 11/9, counsel for the parties are directed to confer with their respective clients regarding creative dispute resolution, as discussed on the call. To join the 11/9/21 pre-settlement conference call, dial 888-273-3658 and enter access code 2217918. Mailed notice. (as,) (Entered: 10/18/2021)
10/22/2021	267	MOTION by Plaintiff Michael Outley for reconsideration regarding memorandum opinion and order 262 (Frederick, Calvita) (Entered: 10/22/2021)
10/25/2021	268	MINUTE entry before the Honorable Gary Feinerman:Motion for reconsideration 267 is entered and continued. Defendants shall respond to the motion by 11/5/2021; Plaintiff shall reply by 11/12/2021. Motion hearing set for 11/19/2021 at 9:30 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to

		proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 10/25/2021)
10/25/2021	269	MINUTE entry before the Honorable Gary Feinerman:At the parties' request, Defendant shall respond to the motion for reconsideration 267 by 12/3/2021; Plaintiff shall reply by 12/17/2021. The motion hearing set for 11/19/2021 268 is stricken and re-set for 1/6/2022 at 9:30 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 10/25/2021)
11/01/2021	270	MINUTE entry before the Honorable Gary Feinerman:By agreement of the parties' jury trial set for 5/2/2022 at 9:30 a.m. for one week. Final pretrial conference set for 4/22/2022 at 1:30 p.m. The final pretrial order shall be filed by 4/15/2022. Motions in limine shall be filed by 3/11/2022; responses due by 3/25/2022; replies due by 4/8/2022. The status hearing set for 11/2/2021 260 is stricken.Mailed notice. (jlj,) (Entered: 11/01/2021)
11/01/2021	271	MINUTE entry before the Honorable Gary Feinerman:The parties are advised to leave a two-week window open for the start of trial in May 2022, as the trial may start any day of the scheduled week.Mailed notice. (jlj,) (Entered: 11/01/2021)
11/09/2021	272	MINUTE entry before the Honorable Beth W. Jantz: Pre-settlement conference call held on 11/9/21. As discussed on the record, the referral for settlement will be closed, but the Court would be happy to assist in the future if both parties are later interested in a settlement conference before trial. Mailed notice. (as,) (Entered: 11/10/2021)
12/03/2021	273	RESPONSE by City of Chicago, Robert Mussenin Opposition to MOTION by Plaintiff Michael Outley for reconsideration regarding memorandum opinion and order 262 267 (Honorow, Rena) (Entered: 12/03/2021)
01/06/2022	274	MINUTE entry before the Honorable Gary Feinerman:Motion hearing held. Plaintiff did not appear. Plaintiff's motion for reconsideration 267 is taken under advisement. The parties should anticipate that the motion will be denied.Mailed notice. (jlj,) (Entered: 01/07/2022)
01/13/2022	275	MOTION by Plaintiff Michael Outley for extension of time to file response/reply as to motion for reconsideration 267 (Attachments: # 1 Exhibit transcript 01 06 22) (Frederick, Calvita) (Entered: 01/13/2022)
01/14/2022	276	MINUTE entry before the Honorable Gary Feinerman: Plaintiff's motion for an extension 275 is granted. Plaintiff shall file his reply brief by 1/27/2022. Mailed notice. (kp,) (Entered: 01/14/2022)
01/27/2022	277	REPLY by Michael Outley to response in opposition to motion 273 *FOR*

		RECONSIDERATION (Frederick, Calvita) (Entered: 01/27/2022)
02/22/2022	278	MINUTE entry before the Honorable Gary Feinerman:At the parties' request, the jury trial set for 5/2/2022 270 is stricken and re-set for 8/15/2022 at 9:30 a.m. for one week. The video final pretrial conference set for 4/22/2022 270 is stricken and re-set for 7/25/2022 at 10:30 a.m. The final pretrial order shall be filed by 7/18/2022. Motions in limine shall be filed by 6/13/2022; responses due by 6/27/2022; replies due by 7/11/2022. If any party would like a status hearing before the final pretrial conference, that party should contact the Courtroom Deputy. The parties are advised to leave a two-week window open for the start of trial in August 2022, as the trial may start any day of the scheduled week. Members of the public and media will be able to call in to listen to the final pretrial conference hearing. The call-in number is 571-353-2301 and the access code is 874937250. Counsel of record will receive an email prior to the start of the video hearing with instructions to join the video. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 02/22/2022)
02/25/2022	279	MINUTE entry before the Honorable Gary Feinerman:At the parties' request, the jury trial set for 8/15/2022 278 is stricken and re-set for 9/19/2022 at 9:30 a.m. for one week. The video final pretrial conference set for 7/25/2022 278 is stricken and re-set for 9/7/2022 at 10:30 a.m. The final pretrial order shall be filed by 8/31/2022. Motions in limine shall be filed by 7/27/2022; responses due by 8/10/2022; replies due by 8/24/2022. If any party would like a status hearing before the final pretrial conference, that party should contact the Courtroom Deputy. The parties are advised to leave a two-week window open for the start of trial in Septemebr 2022, as the trial may start any day of the scheduled week. Members of the public and media will be able to call in to listen to the final pretrial conference hearing. The call-in number is 571-353-2301 and the access code is 874937250. Counsel of record will receive an email prior to the start of the video hearing with instructions to join the video. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 02/25/2022)
04/14/2022	280	MOTION by Defendants City of Chicago, Robert Mussen to substitute attorney (Catalano, John) (Entered: 04/14/2022)
04/15/2022	281	MINUTE entry before the Honorable Gary Feinerman:Motion to substitute attorney 280 is granted. Attorney Rena Honorow is terminated as counsel for Defendants. Substitute counsel may file his appearance.Mailed notice. (jlj,) (Entered: 04/15/2022)
04/20/2022	282	ATTORNEY Appearance for Defendants City of Chicago, Robert Mussen by John Michael Catalano, Jr (Catalano, John) (Entered: 04/20/2022)
06/22/2022	283	ORDER written by the Honorable Gary Feinerman on 6/22/2022: Plaintiff's motion for reconsideration 267 is denied for the reasons set forth below.Mailed notice.(jlj,) (Entered: 06/22/2022)

07/25/2022	284	MOTION by Plaintiff Michael Outley for extension of time to file *motion in limine* (Frederick, Calvita) (Entered: 07/25/2022)
07/26/2022	285	MINUTE entry before the Honorable Gary Feinerman:Motion for extension of time to file 284 is granted in part. The schedule is amended as follows. Motions in limine shall be filed by 8/3/2022; responses due by 8/17/2022; replies due by 8/29/2022.Mailed notice. (jlj,) (Entered: 07/26/2022)
08/03/2022	286	MOTION by Defendants City of Chicago, Robert Mussenin limine *1-19* (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1-6)(Crouch, Scott) (Entered: 08/03/2022)
08/12/2022	287	MINUTE entry before the Honorable Gary Feinerman:The jury trial set for 9/19/2022 279 is re-set and will start on 9/21/2022 at 9:00 a.m. Mailed notice. (jlj,) (Entered: 08/12/2022)
08/16/2022	288	MINUTE entry before the Honorable Gary Feinerman:Due to the trial schedule of the District Court, the jury trial set for 9/21/2022 287 is re-set for 9/23/2022 at 9:15 a.m. in Courtroom 1441.Mailed notice. (jlj,) (Entered: 08/16/2022)
08/17/2022	289	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants City of Chicago, Robert Mussenin limine *1-19* 286 (Frederick, Calvita) (Entered: 08/17/2022)
08/29/2022	290	REPLY by Defendants City of Chicago, Robert Mussen to motion in limine 286 *in Further Support* (Crouch, Scott) (Entered: 08/29/2022)
08/31/2022	291	PROPOSED Pretrial Order *by Defendants* (Crouch, Scott) (Entered: 08/31/2022)
08/31/2022	292	MOTION by Defendants City of Chicago, Robert Mussen to dismiss for lack of prosecution (Attachments: # 1 Exhibit 1)(Crouch, Scott) (Entered: 08/31/2022)
08/31/2022	293	MOTION by Plaintiff Michael OutleyStatus Hearing (Attachments: # 1 Exhibit Outley MIL)(Frederick, Calvita) (Entered: 08/31/2022)
08/31/2022	294	MOTION by Plaintiff Michael Outley to file instanter *Outley MILs* (Attachments: # 1 Exhibit Outley MIL)(Frederick, Calvita) (Entered: 08/31/2022)
09/01/2022	295	PROPOSED Pretrial Order *Plaintiff's* (Frederick, Calvita) (Entered: 09/01/2022)
09/01/2022	296	OBJECTIONS by City of Chicago, Robert Mussen to MOTION by Plaintiff Michael Outley to file instanter *Outley MILs* 294 *and Motion to Strike Plaintiff's Proposed Motions in Limine* (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1-4)(Crouch, Scott) (Entered: 09/01/2022)
09/06/2022	297	MINUTE entry before the Honorable Gary Feinerman:The video final pretrial conference set for 9/7/2022 at 10:30 a.m. 279 is re-set for 10:45 a.m. **TIME CHANGE ONLY**. Members of the public and media will be able to call in to listen to the final pretrial conference hearing. The call-in number is 571-353-2301 and the access code is 874937250. Counsel of record will receive an email prior to the start of the video hearing with instructions to join the video. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 09/06/2022)

09/06/2022	298	MINUTE entry before the Honorable Gary Feinerman:Motion to re-set final pretrial conference 293 is denied. The final pretrial conference 279 will proceed as scheduled on 9/7/2022. Motion to file instanter 294 is denied. At the final pretrial conference, the court will articulate the grounds for its ruling.Mailed notice. (jlj,) (Entered: 09/06/2022)
09/06/2022	299	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants City of Chicago, Robert Mussen to dismiss for lack of prosecution 292 (Attachments: # 1 Exhibit Email re: Mail)(Frederick, Calvita) (Entered: 09/06/2022)
09/07/2022	300	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants City of Chicago, Robert Mussenin limine *1-19* 286 *Objections and MTS* (Frederick, Calvita) (Entered: 09/07/2022)
09/07/2022	301	PROPOSED Pretrial Order (Frederick, Calvita) (Entered: 09/07/2022)
09/07/2022	302	MINUTE entry before the Honorable Gary Feinerman:Final pretrial conference held. For the reasons stated on the record, Defendants' motion to dismiss for want of prosecution 292 is denied, with the qualifications noted on the record. Defendants' motions in limine 286 will be resolved by written order. For the reasons stated on the record, Plaintiff's oral motion to bifurcate is denied, and Defendants' oral motion to bar Plaintiff from pursuing non-economic damages is denied. Mailed notice. (jlj,) (Entered: 09/09/2022)
09/09/2022	303	TRANSCRIPT OF PROCEEDINGS held on 9/7/22 before the Honorable Gary Feinerman. Order Number: 44081 44084. Court Reporter Contact Information: Charles R. Zandi, 312/435-5387, charles_zandi@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 9/30/2022. Redacted Transcript Deadline set for 10/10/2022. Release of Transcript Restriction set for 12/8/2022. (Zandi, Charles) (Entered: 09/09/2022)
09/14/2022	304	MINUTE entry before the Honorable Gary Feinerman:At the 9/7/2022 final pretrial conference 302 , Attorney Frederick, the only attorney to have entered an appearance for Plaintiff, acknowledged that she is not a member of this District's trial bar. Doc. 303 at 52. The court referred Attorney Frederick to Local Rule 83.12 and encouraged her "to review [the local rule] in its entirety and take whatever action she deems necessary in order to make sure that this isn't an issue come September 23rd." Id. at 52-53. The court added, with respect to Attorney Filomena, whom Attorney Frederick indicated might appear as counsel for Plaintiff, that if Attorney Filomena is "not admitted to the bar of this court if she wants to appear, she'll also need to take care of some paperwork." Attorney Frederick replied, "We are aware of that. Thank you." The 25-30 members of the venire are scheduled to be in the courthouse to take COVID tests and complete their written questionnaires on 9/21/2022. The court does not wish to impose on their time if this case will not be tried due to Plaintiff's non-compliance with Local Rule 83.12. By 9/16/2022, Plaintiff shall file a status report stating how he

		has complied with Local Rule 83.12. Mailed notice. (jlj,) (Entered: 09/14/2022)
09/15/2022	305	MOTION by Plaintiff Michael OutleyTake Judicial Notice (Frederick, Calvita) (Entered: 09/15/2022)
09/15/2022	306	NOTICE by Michael Outley re MOTION by Plaintiff Michael OutleyTake Judicial Notice 305 *of Filing Motion* (Attachments: # 1 Exhibit Abreu v CoC, # 2 Exhibit B-F, # 3 Exhibit OIG Report 2nd Quarter, # 4 Exhibit OIG Report 3rd Quarter, # 5 Exhibit 2012 RTS, # 6 Exhibit 2013 RTS, # 7 Exhibit 2014 RTS, # 8 Exhibit 2017 RTS, # 9 Exhibit COC EEO policy 2013, # 10 Exhibit COC EEO policy 2019, # 11 Exhibit Criminal Charge, # 12 Exhibit Exhibit P, # 13 Exhibit Exhibit Q, # 14 Exhibit R1, # 15 Exhibit R2, # 16 Exhibit R3, # 17 Exhibit R4, # 18 Exhibit R5, # 19 Exhibit Do not Drink the Water, # 20 Exhibit Lift Do not Drink the Water, # 21 Declaration CJF Declaration)(Frederick, Calvita) (Entered: 09/15/2022)
09/16/2022	307	STATUS Report *Plaintiff's Compliance with LR 83.12* by Michael Outley (Frederick, Calvita) (Entered: 09/16/2022)
09/16/2022	308	ORDER written by the Honorable Gary Feinerman on 9/16/2022. Defendants' motions in limine 286 are granted in part and denied in part for the reasons set forth below. The court also comments further on its denial 298 303 of Plaintiff's motion for leave to file instanter motions in limine 294 and its denial 302 303 of Defendants' motion to dismiss for want of prosecution 292 . The court does not at this time address Plaintiff's motion to take judicial notice 305 , which was filed at 9:39 p.m. last night, when this order and statement were in near-final draft.Mailed notice.(jlj,) (Entered: 09/16/2022)
09/19/2022	309	MOTION by Plaintiff Michael Outley to stay *Proceedings* (Frederick, Calvita) (Entered: 09/19/2022)
09/19/2022	310	MINUTE entry before the Honorable Gary Feinerman: Video motion hearing set for 9/20/2022 at 3:00 p.m. Counsel of record will receive an email invitation prior to the start of the video hearing with instructions to join the video conference. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 09/19/2022)
09/20/2022	311	RESPONSE by City of Chicago, Robert Mussenin Opposition to MOTION by Plaintiff Michael Outley to stay *Proceedings* 309 *and Motion to Dismiss with Prejudice* (Attachments: # 1 Exhibit 1)(Crouch, Scott) (Entered: 09/20/2022)
09/20/2022	312	RESPONSE by City of Chicago, Robert Mussenin Opposition to MOTION by Plaintiff Michael OutleyTake Judicial Notice 305 (Catalano, John) (Entered: 09/20/2022)
09/20/2022	313	REPLY by Michael Outley to response in opposition to motion 311 *to stay proceedings and dismiss w prejudice* (Frederick, Calvita) (Entered: 09/20/2022)
09/20/2022	314	REPLY by Michael Outley to response in opposition to motion 312 *fo Judicial Notices* (Frederick, Calvita) (Entered: 09/20/2022)
09/20/2022	315	MINUTE entry before the Honorable Gary Feinerman:Motion hearing held. Plaintiff's

		motion for judicial notice 305 , which became fully briefed 52 minutes before today's hearing, remains under advisement. For the reasons stated on the record, Plaintiff's motion to stay proceedings pending a ruling on complaint for declaratory judgment 309 is denied. Pursuant to Civil Rule 11(c)(3), Attorney Calvita Frederick is ordered to show cause in writing, by 10/20/2022, why she should not be sanctioned for violating Civil Rule 11(b)(1), (b)(2), and/or (b)(3) in connection with her filing Plaintiff's motion to stay 309 .Mailed notice. (jlj,) (Entered: 09/21/2022)
09/22/2022	316	TRANSCRIPT OF PROCEEDINGS held on 9/20/22 before the Honorable Gary Feinerman. Court Reporter Contact Information: Charles R. Zandi, 312/435-5387, charles_zandi@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 10/13/2022. Redacted Transcript Deadline set for 10/24/2022. Release of Transcript Restriction set for 12/21/2022. (Zandi, Charles) (Entered: 09/22/2022)
09/22/2022	317	EX PARTE MOTION by Plaintiff Michael Outley to *EMERGENCY INJUNCTION TO STAY PROCEEDINGS* (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit, # 17 Exhibit, # 18 Exhibit, # 19 Exhibit, # 20 Exhibit, # 21 Exhibit, # 22 Exhibit, # 23 Exhibit, # 24 Exhibit, # 25 Exhibit, # 26 Exhibit, # 27 Exhibit, # 28 Exhibit, # 29 Exhibit, # 30 Exhibit, # 31 Errata, # 32 Exhibit, # 33 Exhibit, # 34 Exhibit, # 35 Exhibit, # 36 Exhibit, # 37 Exhibit, # 38 Exhibit, # 39 Exhibit, # 40 Exhibit) (Frederick, Calvita) (Entered: 09/22/2022)
09/22/2022	318	MINUTE entry before the Honorable Gary Feinerman:Plaintiff's "ex parte motion for emergency injunction to stay proceedings" 317 was improperly filed as sealed. The Clerk is directed to unseal the filing, including the exhibits.Mailed notice. (jlj,) (Entered: 09/22/2022)
09/22/2022	319	MOTION by Plaintiff Michael Outleyin limine *for Clarification and Other Relief* (Frederick, Calvita) (Entered: 09/22/2022)
09/22/2022	320	MINUTE entry before the Honorable Gary Feinerman: Motion hearing set for 9/23/2022 at 8:45 a.m. in Courtroom 1441.Mailed notice. (jlj,) (Entered: 09/22/2022)
09/22/2022	321	MOTION by Defendants City of Chicago, Robert Mussen to dismiss for lack of prosecution (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1-4A)(Crouch, Scott) (Entered: 09/22/2022)
09/22/2022	322	RESPONSE by City of Chicago, Robert Mussenin Opposition to EX PARTE MOTION by Plaintiff Michael Outley to *EMERGENCY INJUNCTION TO STAY PROCEEDINGS* 317 (Crouch, Scott) (Entered: 09/22/2022)
09/22/2022	323	RESPONSE by City of Chicago, Robert Mussenin Opposition to MOTION by Plaintiff Michael Outleyin limine *for Clarification and Other Relief* 319 (Crouch,

		Scott) (Entered: 09/22/2022)
09/23/2022	324	RESPONSE by Michael Outleyin Opposition to MOTION by Defendants City of Chicago, Robert Mussen to dismiss for lack of prosecution 321 (Attachments: # 1 Exhibit, # 2 Declaration, # 3 Declaration, # 4 Exhibit, # 5 Declaration, # 6 Declaration, # 7 Declaration)(Frederick, Calvita) (Entered: 09/23/2022)
09/23/2022	325	MINUTE entry before the Honorable Gary Feinerman:For the reasons set forth in the memorandum opinion and order, Plaintiff's motion for the court to take judicial notice 305 is denied.Mailed notice. (jlj,) (Entered: 09/23/2022)
09/23/2022	326	MEMORANDUM Opinion and Order written by the Honorable Gary Feinerman on 9/23/2022.Mailed notice.(jlj,) (Entered: 09/23/2022)
09/23/2022	328	MINUTE entry before the Honorable Gary Feinerman:Jury trial begins. Jury trial held and continued to 9/26/2022 at 9:15 a.m. Mailed notice. (jlj,) (Entered: 09/26/2022)
09/23/2022	330	MINUTE entry before the Honorable Gary Feinerman:For the reasons stated on the record, Plaintiff's "ex parte motion for emergency injunction to stay proceedings" 317 and Plaintiff's "motion in limine, motion to renew, and for clarification" 319 are denied. While the grounds stated on the record are sufficient to warrant the denial of those motions, the court may articulate further grounds, or elaborate on those stated on the record, at a later juncture. Defendants' motion to dismiss for lack of prosecution 321 is entered and continued. Mailed notice. (jlj,) (Entered: 09/27/2022)
09/25/2022	327	MOTION by Plaintiff Michael Outley for new trial *MISTRIAL* (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Frederick, Calvita) (Entered: 09/25/2022)
09/26/2022	329	MINUTE entry before the Honorable Gary Feinerman:Jury trial held and continued to 9/27/2022 at 8:45 a.m. in Courtroom 1441. Mailed notice. (jlj,) (Entered: 09/27/2022)
09/26/2022	331	MINUTE entry before the Honorable Gary Feinerman:For the reasons stated on the record, Plaintiff's motion for mistrial 327 is denied in part (as to a mistrial) and denied without prejudice in part (as to the proposed introduction of the attached exhibits).Mailed notice. (jlj,) (Entered: 09/27/2022)
09/27/2022	332	MINUTE entry before the Honorable Gary Feinerman:Jury trial ends. Jury trial held and concluded. For the reasons stated on the record, Defendant's oral motion for mistrial is granted. A show cause order will be entered in the coming days. Mailed notice. (jlj,) (Entered: 09/27/2022)
09/29/2022	333	ORDER written by the Honorable Gary Feinerman on 9/29/2022. By 10/13/2022, Plaintiff shall show cause in writing why the court should not exercise its inherent authority to dismiss the case with prejudice. As part of his filing, Plaintiff may supplement his opposition 324 to Defendants' motion to dismiss for want of prosecution 321 , which has been entered and continued. Defendants shall reply by 10/20/2022. Also by 10/13/2022, Attorney Calvita Frederick shall show cause in writing why she should not be sanctioned for violating Civil Rule 11(b) and/or referred to the Executive Committee for potential discipline, including removal as a member of this District's trial bar and general bar given her frivolous filings, the disrespectful, intemperate, and contumacious conduct she displayed towards the court in writing and on the record, and her many derelictions of her duties as counsel in this case. The 9/20/2022 show cause order 315 is vacated as moot. Video show cause and

		motion hearing set for 10/25/2022 at 10:00 a.m. Counsel of record will receive an email invitation prior to the start of the video hearing with instructions to join the video conference. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court. Mailed notice. (jlj,) (Entered: 09/29/2022)
10/13/2022	334	RESPONSE by Plaintiff Michael Outley *Rule to Show Cause* (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Frederick, Calvita) (Entered: 10/13/2022)
10/20/2022	335	REPLY by Defendants City of Chicago, Robert Mussen to motion to dismiss/lack of prosecution 321 , response in opposition to motion, 324 , Response 334 , order,,,,,,, set/reset hearings,,,,,, 333 (Crouch, Scott) (Entered: 10/20/2022)
10/25/2022	336	MINUTE entry before the Honorable Gary Feinerman:Motion hearing held. Show cause hearing held. For the reasons stated on the record, Defendants' second motion to dismiss 321 is taken under advisement. Status hearing set for 12/5/2022 at 9:15 a.m. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 10/26/2022)
11/14/2022	337	TRANSCRIPT OF PROCEEDINGS held on 9/23/2022 (Trial Vol. 1) before the Honorable Gary Feinerman. Court Reporter Contact Information: Charles R. Zandi, 312/435-5387, charles_zandi@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 12/5/2022. Redacted Transcript Deadline set for 12/15/2022. Release of Transcript Restriction set for 2/13/2023. (Zandi, Charles) (Main Document 337 replaced on 11/14/2022) (jlj,). (Entered: 11/14/2022)
11/14/2022	338	TRANSCRIPT OF PROCEEDINGS held on 9/26/22 (Trial Vols. 2A/2B) before the Honorable Gary Feinerman. Court Reporter Contact Information: Charles R. Zandi, 312/435-5387, charles_zandi@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see

		the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 12/5/2022. Redacted Transcript Deadline set for 12/15/2022. Release of Transcript Restriction set for 2/13/2023. (Zandi, Charles) (Main Document 338 replaced on 11/14/2022) (jlj,). (Entered: 11/14/2022)
11/14/2022	339	TRANSCRIPT OF PROCEEDINGS held on 9/27/22 (Trial Vol. 3) before the Honorable Gary Feinerman. Court Reporter Contact Information: Charles R. Zandi, 312/435-5387, charles_zandi@ilnd.uscourts.gov. IMPORTANT: The transcript may be viewed at the court's public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter/Transcriber or PACER. For further information on the redaction process, see the Court's web site at www.ilnd.uscourts.gov under Quick Links select Policy Regarding the Availability of Transcripts of Court Proceedings. Redaction Request due 12/5/2022. Redacted Transcript Deadline set for 12/15/2022. Release of Transcript Restriction set for 2/13/2023. (Zandi, Charles) (Entered: 11/14/2022)
12/01/2022	340	MINUTE entry before the Honorable Gary Feinerman:The status hearing set for 12/5/2022 336 is stricken and re-set for 12/19/2022 at 10:00 a.m. A ruling on the pending matters will issue shortly. Attorneys/Parties should appear for the hearing by calling the Toll-Free Number: (877) 336-1828, Access Code: 4082461. Members of the public and media will be able to call in to listen to this hearing (use toll free number). Please, please be sure to keep your phone on mute when you are not speaking. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.Mailed notice. (jlj,) (Entered: 12/01/2022)
12/16/2022	341	MINUTE entry before the Honorable Gary Feinerman:The status hearing set for 12/19/2022 340 is stricken and re-set for 2/2/2023 at 9:30 a.m. Mailed notice. (jlj,) (Entered: 12/16/2022)
12/29/2022	342	ANNUAL REMINDER: Pursuant to Local Rule 3.2 (Notification of Affiliates), any nongovernmental party, other than an individual or sole proprietorship, must file a statement identifying all its affiliates known to the party after diligent review or, if the party has identified no affiliates, then a statement reflecting that fact must be filed. An affiliate is defined as follows: any entity or individual owning, directly or indirectly (through ownership of one or more other entities), 5% or more of a party. The statement is to be electronically filed as a PDF in conjunction with entering the affiliates in CM/ECF as prompted. As a reminder to counsel, parties must supplement their statements of affiliates within thirty (30) days of any change in the information previously reported. This minute order is being issued to all counsel of record to remind counsel of their obligation to provide updated information as to additional affiliates if such updating is necessary. If counsel has any questions regarding this process, this LINK will provide additional information. Signed by the Executive

		Committee on 12/29/2022: Mailed notice. (tg,) (Entered: 12/29/2022)
12/30/2022	343	MINUTE entry before the Honorable Gary Feinerman:For the reasons set forth in the accompanying Memorandum Opinion and Order, Defendants' motion to dismiss 321 is denied in part (as to Local Rule 16.1) and granted in part (as to Civil Rule 41(b)), and, in the alternative, the court exercises its inherent authority to dismiss this case. This case is dismissed with prejudice, and Attorney Calvita Frederick is publicly reprimanded for her improper conduct in this case and is referred to this District's Executive Committee for potential discipline. Enter judgment order. The status hearing set for 2/2/2023 341 is stricken. Civil case closed.Mailed notice. (jlj,) (Entered: 12/30/2022)
12/30/2022	344	MEMORANDUM Opinion and Order written by the Honorable Gary Feinerman on 12/30/2022. Civil case closed.Mailed notice.(jlj,) (Entered: 12/30/2022)
12/30/2022	345	ENTERED JUDGMENT on 12/30/2022.Mailed notice.(jlj,) (Entered: 12/30/2022)
01/27/2023	346	BILL of Costs (Catalano, John) (Entered: 01/27/2023)
01/27/2023	347	MEMORANDUM bill of costs 346 by City of Chicago, Robert Mussen *in Support* (Attachments: # 1 Exhibit A)(Catalano, John) (Entered: 01/27/2023)
01/27/2023	348	MOTION by Plaintiff Michael Outley for leave to file excess pages (Attachments: # 1 Exhibit Outley 59 e Motion)(Frederick, Calvita) (Entered: 01/27/2023)
01/27/2023	349	EXHIBIT by Plaintiff Michael Outley *59 3 Motion to Alter of Amend* (Attachments: # 1 Declaration, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Declaration, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit, # 17 Exhibit, # 18 Exhibit) (Frederick, Calvita) (Entered: 01/27/2023)
01/30/2023	350	EXECUTIVE COMMITTEE ORDER: Case reassigned to the Honorable Sharon Johnson Coleman for all further proceedings. Honorable Gary Feinerman no longer assigned to the case. Signed by Executive Committee on 1/30/23.(gcy,) (Entered: 01/30/2023)
02/01/2023	351	MINUTE entry before the Honorable Sharon Johnson Coleman: Plaintiff's motion for leave to file excess pages 348 is granted in part and denied in part. Considering the length of the Court's opinion in this matter 344 , the Court permits Plaintiff to file a motion to alter or amend the judgment up to fifty pages. No additional filings over the fifteen-page limit will be warranted in this case. Mailed notice. (ym,) (Entered: 02/01/2023)
02/15/2023	352	MOTION by Plaintiff Michael Outley to alter judgment (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit, # 17 Exhibit)(Frederick, Calvita) (Entered: 02/15/2023)
02/17/2023	353	MINUTE entry before the Honorable Sharon Johnson Coleman: The Court is in receipt of Plaintiff's motion to alter the judgment 352 . Defendant shall file a response by 3/9/2023. No reply necessary. Mailed notice. (ym,) (Entered: 02/17/2023)
02/17/2023	354	MINUTE entry before the Honorable Sharon Johnson Coleman: Oral argument as to plaintiff's motion to alter judgment 352 is set for 3/23/2023 at 1:30 PM as an in-person

		hearing in courtroom 1241. Mailed notice. (ym,) (Entered: 02/17/2023)
03/09/2023	355	RESPONSE by City of Chicago, Robert Mussenin Opposition to MOTION by Plaintiff Michael Outley to alter judgment 352 (Attachments: # 1 Appendix of Exhibits, # 2 Exhibit 1, # 3 Exhibit 2)(Crouch, Scott) (Entered: 03/09/2023)
03/13/2023	356	STATEMENT by Michael Outley (rp,) (Entered: 03/14/2023)
03/16/2023	357	MOTION by Attorney Calvita J. Frederick to withdraw as attorney for Michael Outley. No party information provided (Attachments: # 1 Exhibit, # 2 Exhibit) (Frederick, Calvita) (Entered: 03/16/2023)
03/17/2023	358	MINUTE entry before the Honorable Sharon Johnson Coleman: Based on the representations made in her motion, Attorney Frederick's motion to withdraw is granted 357 . The oral argument on 3/23/23 as to Plaintiff's motion to alter the judgment is converted to a status. The parties should be prepared to discuss how they wish to proceed in the case, if at all. Attorney Calvita J. Frederick terminated. Mailed notice. (ym,) (Entered: 03/17/2023)
03/17/2023	359	*to Withdraw as counsel for Plaintiff* NOTICE of Motion by Calvita J. Frederick for presentment of before Honorable Sharon Johnson Coleman on 3/22/2023 at 10:00 AM. (Frederick, Calvita) (Entered: 03/17/2023)
03/21/2023	360	MINUTE entry before the Honorable Sharon Johnson Coleman: The Court having already ruled on Attorney Calvita Frederick's motion to withdraw 358 , presentment hearing set for 3/22/2023 is stricken. Status hearing set for 3/23/2023 at 1:30 PM to stand and will proceed as an in-person hearing in courtroom 1241. Mailed notice. (ym,) (Entered: 03/21/2023)

PACER Service Center

Transaction Receipt

03/22/2023 13:30:22

PACER Login:	krhayes1	**Client Code:**	Frederick
Description:	Docket Report	**Search Criteria:**	1:17-cv-08633
Billable Pages:	30	**Cost:**	3.00

Exhibit 6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE THE MATTER OF:	)	
	)	
MICHAEL OUTLEY,	)	
	)	
Plaintiff,	)	**17 CV 8633**
	)	
	)	**Hon. Gary Feinerman**
vs.	)	
	)	
THE CITY OF CHICAGO, ALAN STARK, as Deputy Commissioner of the Department of Water Management) and in his Individual and Official Capacity, RANDY CONNER, Commissioner Department of Water Management, in his Individual and Official Capacities, and ROBERT MUSSEN, Chief Operating Engineer, Department of Water Management, in his Individual and Official Capacity,	)	
Defendants.	)	

AMENDED COMPLAINT

Plaintiff, MICHEAL OUTLEY, ("Outley" or "Plaintiff") by and through his attorneys, Calvita J. Frederick of Calvita J. Fredrick & Associates, hereby submits his Amended Complaint against Defendants, CITY OF CHICAGO, ("City" and/or "Defendant"), ALAN STARK, ("Stark" and or "Defendant(s)") Deputy Commissioner of the Department of Water Management, in his Individual and Official Capacity, RANDY CONNER ("Conner" and or "Defendant(s)") as Commissioner of the Department of Water Management, in his Individual and Official Capacity, and ROBERT MUSSEN, ("Mussen" and or "Defendant(s)") as Chief Operating Engineer of the Department of Water Management, ""DWM") and sued in his Individual Capacity and Official Capacity. In

support of his Amended Complaint against Defendants, states as follows:

NATURE OF THE ACTION

1. This is an action brought under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.,* which prohibits discrimination on the basis of race and further prohibits retaliation for opposing or making charges regarding discrimination, and 42 U.S.C. § 1981 and 42 U.S.C. § 1983 to redress violations of Plaintiffs' Equal Protection rights guaranteed under the Fourteenth Amendment of the United States Constitution.

2. Defendants engaged in deliberate and unlawful policies, patterns, and employment practices intended to and did create and proliferate a hostile and abusive work environment based on race that included violence, intimidation, retaliation, and constructive discharge.

3. Defendants have engaged in the age discriminatory acts including the failure to promote Plaintiff in favor of promoting younger employees with less experience and seniority over the Plaintiff, and the denial of overtime and opportunities to work up in grade, in favor of granting overtime and working up in grade opportunities to younger employees with less experience and seniority over the Plaintiff, in willful violation of the Age Discrimination in Employment Act of 1967. ("ADEA"), 29 U.S.C.A. §§621 et seq.

4. This is an action also brought under Title VI which prohibits discrimination under any program or activity receiving federal financial assistance.

5. The Defendants have also engaged in continuing violations of the Shakman Accord, the City of Chicago's own Personnel Rules related to affirmative action and employment discrimination and the Collective Bargaining Agreement. Plaintiff also alleges causes of action for violations of these protections.

JURISDICTION AND VENUE

6. This suit alleges violations of 42 U.S.C. §§ 2000e-2(a), 2000e-3(a), 42 U.S.C. § 1981 and 42 U.S.C. § 1983. This Court has jurisdiction of this action pursuant to 42 U.S.C. § 2000e-5(f)(3) and 28 U.S.C. §§ 1331 and 1343.

7. The employment practices herein alleged to be unlawful were committed within the Northern District of Illinois. Venue is appropriate in the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. § 1391 as Outley's residence, and Defendants' residence and business, as well as all events giving rise to this claim occurred within the counties served by this Court. Venue in this Court is proper pursuant to 42 U.S.C. §2000e-5(f)(3).

PARTIES

8. At all relevant times, Plaintiff Outley is or was:

   a. An African American man,

   b. A resident of Illinois within the jurisdiction of this Court,

   c. A protected individual as defined by Title VII of the Civil Rights Act of 1964 from discrimination because of race and retaliation due to of opposing or making charges regarding discrimination, pursuant to 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a),

   d. Currently 63 years of age; and

   e. Qualified for his job and performed his work in an exemplary manner.

9. At all relevant times, Defendant City was and is an "employer" engaged in commerce within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e(b), (g) and (h).

10. At all relevant times, Defendant City has employed more than 500 employees.

11. Defendant City is a local municipality within the geographic boundaries of this Court and is authorized, by and through its agents, to act and is acting under and pursuant to Illinois law at all times material herein.

12. Defendants Stark, Conner, and Mussen are individual citizens of the State of Illinois and should reside in the City of Chicago, County of Cook and in the geographic boundaries of this Court.

13. At all relevant times, Plaintiff was employed by Defendant City, and was an "employee" of Defendant City within the meaning of 42 U.S.C. § 2000e(f).

14. At all relevant times, Defendants Stark, Conner, and Mussen were employed by Defendant City, and were "employees" of Defendant City within in the meaning of 42 U.S.C. § 2000e(f).

HISTORY AND BACKGROUND

15. On or about August 1, 1987, Plaintiff began working for the City of Chicago as an operating engineer in the Department of Aviation.

16. Plaintiff's Resume shows that prior to working for the DWM that he was hired by the Chicago Housing Authority ("CHA") as a Chief Operating Engineer for Rockwell Gardens. At CHA, Plaintiff had a perfect safety record, and improved, modified and replaced equipment, ordered new boilers for Rockwell Gardens and managed the budgets.

17. Plaintiff also served as Acting Supervisor and Environmental Controls in the Department Building Equipment Maintenance1 where he was totally responsible for the heating

[1] In this position Outley supervised 360 air handlers and was responsible for building and equipment maintenance, including 63 elevators, 4 chillers (2 2200 ton, 1 1200 ton and 1 600 ton) 2 hydro stream boilers using 13,000 volts per leg and 750 amps per leg, 4 Scotch Marine boilers and 1500 pumps including supply, return, condensate,

and cooling in the United States Main Chicago Post Office, 433 W. Van Buren, a 2,700,500 sq. ft building, which at that time was the third largest building in the United States of America.

18. On or about March 1, 1993, Plaintiff transferred to the DWM in the position of Operating Engineer at the Lexington Pumping Station.

19. Soon after being transferred, Plaintiff became Acting Assistant Chief Operating Engineer ("ACOE") in the DWM.

20. The City DWM has approximately 11 pumping stations and 2 filtration plants. Certain of the pumping stations are unmanned and certain pumping stations are to be manned at all times, 24 hours a day, seven days a week.

21. Sometime in approximately 1985, City entered into a contract for the sale of water to the County of DuPage ("DuPage"). Upon information and belief DuPage Water Commission financed the costs required to build the Lexington Pumping Station.

22. From its inception Lexington Pumping Station, in accordance with the contract entered into by and between City and DuPage was always to be a manned pumping station.

23. Historically, each manned pumping station location operated with a Chief Operating Engineer "(COE").

24. Thomas Jefferson, Lakeview, Chicago Avenue, Cermack, and 68th St, were and/or are all unmanned pumping stations.

25. Remote control operations for the unmanned pumping stations are performed at the Jardine Pumping Station.

26. The unmanned pumping stations all came under the direct supervision of the COE located at the Chicago Avenue Pumping Station.

---

circulating, sump, and oil. Outley was also responsible for writing the budgets for operations, manpower, and maintenance records

27. For all times relevant to this Amended Complaint, the COE at the Chicago Avenue Pumping Station was Harvey "Skip" Hunker.

28. From 1989 when Eugene Sawyer was Mayor of Chicago, until 2015, all of the men promoted to the position of COE within the City DWM were Caucasian, although there were many Black men in the position of ACOE who applied and/or took the test for COE, during this time period.

29. For a period of 5-6 years, from approximately 2010 to 2015, Lexington Pumping Station, operated without an onsite COE, notwithstanding, upon information and belief, this COE position was included as a part of the DWM budget for the years 2010 to 2015.

30. For the years 2010 to the date of Plaintiff's constructive termination, Plaintiff was the ACOE with the most seniority within the City's DWM.

31. Job openings within the City are posted through the normal course of business.

32. During the years 2010 to 2015 job openings for the position of COE at the Lexington Pumping Station however, were not posted and/or filled, even though qualified Black employees including the Plaintiff, had sufficient seniority, experiences, and performance history to qualify for the position.

33. Instead, job openings, including the position of COE at Lexington Pumping Station, were deliberately left unfilled until a handpicked Caucasian candidate was chosen.

34. On several occasions during 2014, 2015, 2016 and 2017 Defendant City posted a bid announcement for the position of COE in the DWM.

35. The application process included participation in a three-part test process: a multiple-choice test concerning general personnel information; a technical portion; and an oral interview related to technical aspects of the position.

36. The designing, administration and grading of the test are totally within the control of the Defendant City, through its Department of Human Resources ("DHR") and/or certain employees, including Stark.

37. The test results can be maneuvered and/or manipulated by the City to support the selection of a certain candidate.

38. Part III of the test consist of an in-person subjective interview of the candidate for COE, by a panel.

39. During the period 2014 to 2017, that interview panel for Part III of the test taken by Plaintiff included Plaintiff's former co-workers who were promoted over him, and/or were the source of discriminatory contacts with the Plaintiff and/or persons who were named defendants in pending litigation brought by the Plaintiff against the City (i.e. Stark) and others who were entrenched within the upper level management of the "bastion of racism" known as the City's DWM, along with other people who may or may not have technical knowledge of the skills necessary for the position of COE.

40. Further, Part III of the test may elicit certain predetermined catch phrase answers rather than a correct answer to the technical question.

41. Applicants for the position of COE must be evaluated and a determination of "qualification for the position" reached by City's DHR and/or its personnel office, in order to be scheduled for and allowed to take the three-prong test for COE.

42. As an ACOE within the City's DWM, Plaintiff was a member of International Union of Operating Engineers, Local 399.

43. As an ACOE within the City's DWM, and a member of International Union of Operating Engineers, Local 399, Plaintiff was subject to and protected by a Collective

Bargaining Agreement covering members of Local 399.

44. Plaintiff was also an employee of City, subject to, covered and protected by the Shakman Accord.

COMMON ALLEGATIONS APPLI CABLE TO ALL COUNTS AGAINST DEFENDANT CITY OF CHICAGO DEPARTMENT OF WATER MANAGEMENT

FAILURE TO PROMOTE

45. The City has a deliberate and pervasive pattern and practice of systemic and continuing employment discrimination against Black employees, including the Plaintiff with respect to opportunities for advancement/leadership and promotions.

46. For each of the years 2014 to 2017, that the test for COE was offered, Plaintiff applied for the position of COE, was evaluated and determined qualified for the position by the City's DHR, sat for the test, passed each portion of the application process, was interviewed and satisfied all of the requirements for the promotion.

47. Any candidate sitting for the COE test, including the Plaintiff, has already been rendered "qualified for the position" of COE by the City's own DHR.

48. The application process and test for COE is utilized by the Defendants to ensure pre-selected candidates are promoted over others, including the Plaintiff.

49. In the above stated years, Plaintiff was denied the promotion to the position of COE, on the basis of his race.

50. In approximately 2015, Plaintiff applied to take the COE exam but was not scheduled for and was denied the opportunity to sit for the COE examination by the City's DHR.

51. Despite Plaintiff's superior experience and qualifications, his protection under the Shakman Accord and the CBA, and his seniority, Plaintiff was not promoted to the position of

COE by the City through its DHR and/or personnel office.

52. Rather than promote Plaintiff to position of COE at the Lexington Pumping Station, the position of COE for the Lexington Pumping station was left vacant for a number of years.

53. Since 2014, Defendant City through its Department of Human Resources, and/or it personnel office, promoted several Caucasians, less qualified and experienced than Plaintiff to the position of COE, including but not limited to Mark Henmuellen, promoted to COE in 2014, and Joseph Lynch promoted to COE in 2014.

54. In 2015, Mussen, who had less seniority and experience and whose test score were primarily the same as Plaintiff's, was promoted to the position of COE at the Lexington Pumping Station and became the COE over the Plaintiff.

55. In 2015, Andre Holland, who was trained by Plaintiff and ranked far below Plaintiff in seniority, education and experience was promoted over the Plaintiff to the promotion of COE by the City's DHR and/or its personnel office.

56. On August 30, 2016, Plaintiff filed a charge with the Equal Employment Opportunity Commission ("EEOC"), alleging he had been denied a promotion based on racial discrimination.

57. The City's failure to promote the Plaintiff between 2014 and 2015 were ongoing violations of the behavior Plaintiff complained of in the 2016 EEOC charge.

58. In 2017, Kathleen Ealy, who was younger than the age of 40 years and had less seniority, education and experience than Plaintiff, was promoted to the position of COE by the City's DHR and/or its personnel office, over the Plaintiff.

HOSTILE WORK ENVIRONMENT

59. The City through its DHR and/or its personnel office, maintains written or unwritten policies and/or practices that create, sustain, and proliferate a hostile and abusive work environment for Plaintiff, based on race, and especially within the Lexington Pumping Station.

60. This hostile and abusive work environment is perpetuated, sustained, and created by deliberate acts allowed, sanctioned, and encouraged by City's DHR.

61. Each of the following deliberate acts directed against the Plaintiff weave a tapestry of hostility that dominated every aspect of Plaintiff's existence while employed in the DWM. These acts include being:

a. assigned less desirable shifts;
b. assigned less desirable days off;
c. assigned less desirable work assignments;
d. denied promotions;
e. denied transfers;
f. denied overtime;
g. denied opportunities to work up in grade;
h. denied training opportunities;
i. denied fair compensation for work performed;
j. bullied and intimidated;
k. harassed based on race;
l. subjected to unwelcomed racially-charged conduct;
m. subjected to violence in the workplace;
n. subjected to harsh and undue discipline in retaliation; and
o. constructively discharged.

62. When Plaintiff attempted to question this treatment he was physically intimidated, threatened, verbally abused, mocked and/or ignored.

63. Plaintiff was also painfully aware of racially insensitive emails, screen savers, posters, cartoons, intimidating items, and graffiti, in various locations within the City's DWM pumping stations, all of which City and their management employees, including but not limited

to Mussen, Stark, and Conner, the City's DHR, and the City Council were aware.

64. The unwelcome and inappropriate conduct directed to Black people employed by the City's DWM such as: racial slurs; conduct of a racial nature; racially motivated jokes; racially insensitive communications including but not limited to e-mail, screen savers, posters, cartoons, intimidating items, and graffiti; and unwanted verbal and physical contact based on race was so severe or pervasive as to create a hostile or abusive work environment.

65. Defendant maintained written or unwritten policies and/or practices for excessive and unwarranted discipline that created or proliferated a hostile or abusive work environment for Plaintiff and other similarly situated Black ACOE's within the City's DWM.

66. Plaintiff was subjected to unfair, arbitrary, and capricious discipline in retaliation for speaking out against his hostile work environment, including but not limited to:

A. No wrongdoing was found on the part of Outley relative to an incident that occurred in 2013, but on April 26, 2017, the City's HR Department sent notice to Outley that the disciplinary charges remained open and required him to come in again for an investigative hearing.

B. The charges referenced on April 26, 2017 went back as far as 4 years.

C. In addition to this charge and other unfounded charges, including Charges #3848, #4761, #5072, #5183, #5184, and #5248 against Outley remained open until after he was constructively terminated in July of 2017.

67. Katherine Ealy was also subjected to racist and sexist treatment, including subjection to humiliation, profane name calling, including regularly referred to as a "bitch", and is well acquainted with the "culture of racism" within the DWM.

68. Violence in the Workplace ("VIW") actions against the Plaintiff were condoned and encouraged by the City, and also created and proliferated a hostile and abusive work environment for the Plaintiff, based on race.

69. Plaintiff was humiliated, harassed, and threatened daily by co-workers, supervisors, and DWM leadership, including Defendants Mussen and Stark.

70. The City applies workplace rules and regulations in a racially-biased manner.

71. In response to this hostile work environment, Plaintiff made repeated complaints to the City.

72. In response to the complaints, Defendant did nothing to remedy the hostile work environment.

73. Instead of taking steps to alleviate the hostile work environment, Defendants instituted a policy of retaliation against Plaintiff.

74. This retaliation against Plaintiff lead to reduced promotional, overtime and/or training opportunities.

75. Defendant has maintained an employment system that intentionally discriminates against or imposes disparate treatment upon a protected group based on race, including Plaintiff.

76. This employment system maintained by the Defendant is so pervasive that it has become the City of Chicago's standard operating procedure.

77. The Defendant's employment system has denied the Plaintiff tangible job benefits and therefore constitutes illegal discrimination.

78. This intentional and disparate treatment of discrimination represents a department-wide pattern and practice, rather than a series of isolated incidents.

79. Defendant's written and unwritten policies and practices regarding evaluation, compensation, and advancement in leadership and promotion subjected Plaintiff to ongoing disparate treatment based on race.

80. Defendants' actions constitute a continuing violation of the rights of the Plaintiff.

81. There are statistically significant disparities between the transfer, promotion, or placements awarded to Black employees and the transfer, promotion, or placement awarded to similarly situated non-Black employees sufficient to permit an inference of intentional discrimination.

82. Similarly-situated non-Black employees were not subjected to a hostile work environment and received more favorable treatment in the terms and conditions of their employment with the City's DWM, due to their race.

DENIAL OF OVERTIME AND WORKING UP IN GRADE OPPORTUNITIES

83. The City has a deliberate and pervasive pattern and practice of systemic and continuing employment discrimination against Black employees, including the Plaintiff with respect to opportunities for overtime and working up in grade.

84. Overtime is provided to City DWM employees based on seniority.

85. In 2015, Plaintiff filed a complaint with the City's DHR, alleging he had been denied overtime.

86. The denial of overtime to the Plaintiff was an ongoing violation.

87. Plaintiff's complaint specifically targeted overtime paid to Mussen, also an ACOE in the DWM at the time, who had less seniority in time and grade than did the Plaintiff, but had made over $100,000 in overtime pay, as reported in the Chicago Sun Times.

88. Defendant's refusal to allow Plaintiff to work overtime also violated the CBA and the Shakman Accord.

89. After Plaintiff filed his complaint with DHR, Plaintiff was denied the opportunity

to work up in grade including but not limited to the times when Harvey Hunker, the COE was off work due to illness.

90. The City deliberately overlooked the seniority of Plaintiff by failing to offer overtime to him at the same rate and under the same conditions that the City provides overtime opportunities to non-Black employees.

91. Mussen, a Caucasian male, who had less seniority in time and grade was allowed to work overtime and also allowed to work up in grade.

92. The City intentionally and deliberately overlooked the seniority of Plaintiff by failing to offer overtime to him at the rate required under the Shakman Accord, the CBA in place for members of Local 399, and the City of Chicago Personnel Rules and Regulations.

93. The City intentionally and deliberately overlooked the seniority of Plaintiff by failing to offer to him the opportunity to work up in grade as the COE, each time when Skip Hunker was off work due to illness, in violation of the City's Personnel Rules and Regulations, the CBA and the Shakman Accord.

94. The City engaged in continuing violations including violations of the Shakman Accord, the City of Chicago's own Personnel Rules related to affirmative action and employment discrimination, as described in detail in the allegations stated herein which constitute a pattern and practice of discrimination, including the denial of the promotion to COE, the denial of overtime and opportunities to work up in grade,

95. By limiting the opportunity for Plaintiff to earn overtime wages, the City created and proliferated an abusive and hostile work environment based on race.

96. Each opportunity to work up in grade and/or earn overtime within the City's DWM had to be signed off on and approved by a City employee, including but limited to Stark,

Conner, and/or another City employee at the level of Deputy Commissioner or Commissioner.

97. Defendant Mussen, as COE at Lexington Pumping Station had ultimate policy making authority over overtime and working up in grade opportunities at Lexington.

CONSTRUCTIVE TERMINATION

98. Plaintiff was also subjected to unwelcome, inappropriate conduct during his day-to-day activities at the City's DWM.

99. The unwelcome and inappropriate conduct included intimidation and violence in the work place, including but not limited to:

> On May 30, 2017 Robert Mussen followed Plaintiff into the parking lot at the Lexington Pumping station and snatched the passenger door of Plaintiff's vehicle open in an aggressive and threatening manner and got into Plaintiff's car.

100. Based upon Mussen's threatening demeanor and the fact that Mussen was mumbling things that Plaintiff could not hear, Plaintiff feared that Mussen was going to physically attack him and/or damage his vehicle.

101. Plaintiff also believed that Mussen actions were intended to bait him and force an altercation with the Plaintiff that would justify (a) further unwarranted disciplinary charges being filed against Plaintiff and/or (b) the intervention of the Chicago Police Department.2

102. Plaintiff's beliefs were based upon a previous encounter with another DWM employee which resulted in false criminal charges being filed against Plaintiff.

103. The May 30, 2017 incident was captured on the Lexington Pumping Station's security camera.

104. Plaintiff reported the above event and the conduct of Mussen as an act of

[2] Sometime in 2012, Plaintiff was accused of pulling a knife on Chris Houlihan. The police were called, Outley was arrested. Eventually, all charges were dropped against Outley.

Violence in the Workplace.

105. Mussen's actions were also witnessed by three other City employees, at the Lexington Pumping Station at the time.

106. Plaintiff filed a VIW Grievance and asked the City's DHR to take immediate action to preserve the security camera footage.

107. Plaintiff's request to preserve the video camera footage was ignored by the City and evidence of the encounter with Mussen was lost to the Plaintiff.

108. Further, Plaintiff's VIW Grievance was dismissed with a finding that the complaint and activities did not rise to the level of violence in the workplace.

109. In a previous incident the City came and retrieved the video footage when a VIW charge was filed against the Plaintiff.

110. The customary practice and procedure of City in response to VIW charges filed by one employee against another employee is to remove the "aggressor" from the workplace environment.

111. City chose to take no action against Mussen in response to the VIW charge filed by the Plaintiff, choosing instead to dismiss the VIW as unfounded.

112. Plaintiff was also precluded from filing a grievance against Mussen with the Union because Plaintiff believed that Union grievance procedures required that Mussen, as Plaintiff's COE supervisor would have to fill out and sign off on any grievance Plaintiff filed with the Union, which Mussen refused to do.

113. Once Mussen failed or refused to allow Plaintiff to file a grievance, Plaintiff called and talked to Mark O'Malley who also refused to allow Plaintiff to file a grievance with the Union.

114. Plaintiff believed his only other option would have been to ask Alan Stark to have the grievance filed which request Plaintiff believed was fruitless because Plaintiff knew Stark to be a defender and champion of Mussen and also because Stark was a defendant in the EEOC lawsuit filed by the Plaintiff and pending in the U.S. District Court at that time.

115. The pervasive harassment, intimidation, and violence in the workplace aimed at Plaintiff was meant to intimidate and force Plaintiff and other Black employees into accepting their status as a second-class citizen within the DWM, or to resign.

116. When the City refused to preserve the security video footage and to take any action against Mussen and when Plaintiff believed his ability to file a grievance against Mussen with the Union was obstructed and prevented, Plaintiff began to fear for his safety at the Lexington Pumping Station.

117. Defendant City created a negative workplace environment for Plaintiff through their actions and/or inactions, which conduct that constituted a Title VII violation against the Plaintiff and created intolerable working conditions.

118. The Defendants Mussen, Stark and Conner acted under color of state law.

119. In response to the hostile, abusive and negative work environment during his day-to-day activities, Plaintiff could only either continue to suffer or be constructively discharged.

120. Plaintiff involuntary resignation resulted from the intolerable working conditions

121. On or about July 31, 2017, Plaintiff was constructively discharged from his position as an ACOE with the Defendant City, within the DWM.

122. Defendants Stark, Deputy Commissioner of the DWM, and Conner, Commissioner of the DWM have ultimate policy making authority over promotions.

123. A reasonable person in Plaintiff's position would have found the working

conditions intolerable.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

124. On August 8, 2017, Plaintiff filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") (See attached Exhibit "A").

125. On August 30, 2017, the EEOC issued a Notice of Right to Sue Letter to Plaintiff. (See Notice of Right to Sue attached hereto as Exhibit" B").

ALLEGATIONS APPLI CABLE TO ALL COUNTS AGAINST DEFENDANT RANDY CONNER

126. Conner, Commissioner of the DWM, has ultimate policy making authority over promotions to COE, within the DWM.

127. As Commissioner, Conner was responsible for the improper conduct and knowingly, willfully, or at least recklessly caused the alleged deprivation of the Plaintiff's rights by his action or failure to act.

128. On several occasions Conner met with members of the community and employees of the DWM to discuss issues of racism, denial of promotions and overtime, disparate treatment and the culture of racism within the City's DWM.

129. Conner knew what was going on within the DWM in its systemic denial of promotions, overtime and working up in grade opportunities to Blacks in general and Outley in particular and failed and/or refused to act in any manner to stop the improper conduct.

130. Conner in his official and individual capacity, and others in the Department maintain written or unwritten policies and/or practices that create, sustain, and proliferate a hostile and abusive work environment for Plaintiff based on race especially within the Lexington pumping station.

131. This hostile and abusive work environment is perpetuated, sustained, and created by deliberate acts or allowed, sanctioned, and encouraged by Defendant Conner.

ALLEGATIONS APPLI CABLE TO ALL COUNTS AGAINST DEFENDANT ALAN STARK

132. Defendant Stark, Deputy Commissioner of the DWM, had ultimate policy making authority over promotions to COE, within the DWM.

133. As Deputy Commissioner, Stark was responsible for all facets of the DWM and in particular he was required to oversee and approve all opportunities for overtime and working up in grade.

134. In addition, Stark was required to approve promotions within the DWM.

135. As Deputy Commissioner, Stark was responsible for the denial of income opportunities to the Plaintiff, which amounted in some instances to more than $100,000 in overtime earned by certain employees occupying the position of ACOE and COE, including Mussen.

136. Stark, as Deputy Commissioner was responsible for the improper and discriminatory conduct and knowingly, willfully, or at least recklessly caused the alleged deprivation of the Plaintiff's rights by his inaction or failure to act.

137. Stark knew what was going on within the DWM in its systemic denial of promotions, overtime and working up in grade opportunities to Blacks in general and Outley in particular and failed and/or refused to act in any manner to stop the improper conduct.

138. Stark was ultimately responsible for retaliation against Plaintiff, the creation of the hostile work environment, denial of promotion, especially those which occurred in 2015 and 2017.

COUNT I: RACE DISCRIMINATION UNDER TITLE VII

139. Plaintiff realleges and incorporates by reference paragraphs 1 through 125 inclusive.

140. By reason of the foregoing, Plaintiff was denied a promotion to the position of Chief Operating Engineer in violation of 42 U.S.C. § 2000e-2(a).

141. Defendant City acted willfully and in bad faith when it failed to promote Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant City for a promotion to Chief Operating Engineer, compensatory damages, prejudgment interest, attorneys' fees, costs, and such other and further relief as the court deems proper.

COUNT II: RETALIATION

142. Plaintiff realleges and incorporates by reference paragraphs 1 through 125 inclusive.

143. Plaintiff was denied overtime, has been threatened, subjected to racial and intimidating and derogatory statements, denied opportunities to work up in grade and continuously faced open ended disciplinary investigations with the threat of other discipline in retaliation for opposing and making charges regarding conduct Plaintiff reasonably believed to be an unlawful employment practice under Title VII in violation of 42 U.S.C. § 2000e-3(a).

144. As alleged above, these actions began occurring shortly after 2014 when Plaintiff filed a complaint with the City's DHR and the EEOC and continued to the day when Plaintiff was constructively discharged.

145. Up to the date of Plaintiff's constructive discharge, Plaintiff continued to be

harassed and retaliated against by his supervisor Mussen, who continued to ignore Plaintiff's request for working up in grade and overtime.

146. A reasonable person in Plaintiff's position would find the Defendants' actions materially adverse.

147. Defendants acted willfully and in bad faith.

WHEREFORE, Plaintiff demands judgment against Defendant City of Chicago for a retroactive promotion, compensatory, prejudgment interest, attorneys' fees, costs, and such other and further relief as the court deems proper.

COUNT III: § 1981

148. Plaintiff realleges and incorporates by reference paragraphs 1 through 44, 98-106, 112-116, and 119-121, inclusive.

149. Plaintiff was discriminated against in violation of 42 U.S.C. § 1981.

150. Plaintiff is a member of a protected class as he is Black and over the age of 40 years.

151. As a City Department Water Management employee, Plaintiff was protected by the Shakman Accord and a Collective Bargaining Agreement as a member of Union Local 399.

152. Through the individual actions of Defendants Stark, Conner and Mussen, Plaintiff was denied a promotion based on his race, was denied opportunities for overtime and to work up in grade, was subjected to disparate treatment, was subjected to harassment, a hostile work environment, and constructively discharged.

153. Defendants Conner, Stark and Mussen, in their individual capacities had an intent to discriminate against Plaintiff on the basis of race.

154. The discrimination complained of by the Plaintiff concerned one or more of the activities enumerated in the statute includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

155. Defendants Stark, and Conner, and Mussen in their respective individual capacities, caused or participated in the deprivation of Plaintiff's rights under 42 U.S.C. § 1981.

WHEREFORE, Plaintiff demands judgment against Defendants Stark, Conner and Mussen, in their individual capacities. compensatory damages, prejudgment interest, attorneys' fees, costs, and such other and further relief as the court deems proper.

COUNT IV: § 1983

156. Plaintiff realleges and incorporates by reference paragraphs 1-60, 62-65, 67-72, 75-137.

157. Title 42 U.S.C. § 1983 provides in pertinent part:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding…"

158. At all times herein mentioned, Outley was a person protected by the provisions of 42 U.D.C. § 1983.

159. Outley was deprived of his Equal Protection Rights granted to him by the Constitution of the United States by Defendants City, Conner, Stark and Mussen, in their official capacities when they deliberately and intentionally discriminated against him based

upon his race and/or age.

160. Defendants City, Conner, Stark and Mussen maintain a widespread practice of treating Assistant Chief Operating Engineers who are black, especially Outley, differently, by subjecting them to disparate treatment resulting in failure to promote, denial of overtime, denial of working up in grade opportunities, and constructive discharge on the basis of their race and/or age.

161. Although the practice is not authorized by written law or express municipal policy, the practice of discrimination is so permanent and well-settled as to constitute a custom and/or usage with the force of law.

162. Evidence of systemic racism, within the City's DWM is supported by the City of Chicago's Office of Inspector General's Reports from 2017 and 2018, and the 2017 admissions of discrimination within the DWM by the Mayor Rahm Emanuel's office, coupled with a 26-year history of failure to promote Blacks in the DWM.

163. Defendants City, Conner, Stark and Mussen's practices represent a widespread practice of discrimination based upon race and age, especially towards blacks and older employees.

164. Outley has been treated less favorably than his Caucasian colleagues because he is black and over the age of 60, caused by an existing, unwritten, unconstitutional municipal policy which is directly attributable to final policymakers.

165. The final policy makers for Defendant City include City, the City of Chicago DHR, the City of Chicago City Council, Conner, Stark and Mussen.

166. Outley alleges a pattern of conduct that gives rise to a plausible claim that an unconstitutional custom, pattern or practice exists. Specifically, blacks and/or older men who

occupy the position of ACOE at various pumping stations within the City's DWM, are subjected to failure to promote, denial of overtime, refusal to allow working up in grade, false accusations, denial of protection under the VIW Policy, excessive discipline and other harassment. The disparate treatment is initiated, condoned and/or continued by Conner, Stark, Mussen, and or other City employees, the City's DHR, and the City of Chicago City Council.

167. Specifically, Defendants City, the City's DHR, the City of Chicago City Council, Conner, Stark and Mussen, through their agent, servants and employees, subject Outley to the following treatment:

a. Charged Outley with unfounded violations including conduct unbecoming, and violence in the workplace;

b. Refused to take action for unfounded allegations of misconduct against Outley, choosing instead to leave the unresolved violations open for years, with no resolution;

c. Reported fabricated complaints against Outley, which was outside of the normal disciplinary process;

d. Admonished and attempted to discipline Outley for following directions given by Outley's immediate supervisor;

e. Treated Outley differently from other similarly situated employees;

f. Refused to allow Outley the protection of the Violence in the Workplace Policy when Mussen exhibited threatening, aggressive and violent behavior toward Outley that was both witnessed by other City employees and caught on the security camera;

g. Failed and refused to preserve video footage that captured threatening, aggressive and hostile behavior exhibited by Mussen toward Outley, despite Outley's reporting of the incident and request that the video footage be preserved;

h. Refusal by the City Council to take any action to correct the discrimination based upon race when it has knowledge of the existence and scope of same and has at its disposal a means to rectify said discrimination;

i. Refusal by the City's DHR to effect a change in the City's employment policies, when they know or have reason to know of the discriminatory impact of same; and

j. Created a hostile work environment by the activities listed above.

168. At all times Outley met or exceeded the legitimate expectations of his employers.

169. As a result of the Defendant City's DHR, the City of Chicago City Council, Conner, Stark and Mussen's discrimination based upon race and age, Outley has suffered injury to his career, as well as emotional pain and suffering, inconvenience, mental anguish and loss of enjoyment of life, and other losses for which he is entitled to compensatory damages in accordance with 42 U.S.C. § 1983.

170. Defendants have express policies, including those related to promotion to the position of COE, the granting of overtime pay, the ability to work up in grade, enforcement of the Violence in the Workplace Policy, and selective and unwarranted discipline, all as related to Plaintiff and other Black employees, when enforced, causes a constitutional deprivation.

171. Plaintiff has a 14th amendment equal protection right to be free from racial discrimination as a factor in determining his qualification for a promotion pursuant to the U.S. Constitution and 42 U.S.C. § 1983.

172. Plaintiff was deprived of his 14th Amendment right to be free from racial discrimination as a result of the Defendant City's policy or custom of refusing promotions to African Americans who are Assistant Chief Operating Engineers seeking promotions to Chief Operating Engineer within the Department of Water, including:

a. Katherine Ealy, a City DWM employee, currently or formerly stationed at the Jardine Filtration Plant who, upon information and belief set for three or four COE examinations and successfully passed the examinations, applied for the position, was interviewed but was denied a promotion to the position of COE, based upon race, until 2017;

b. Richard Langston, a City DWM employee, currently or formerly stationed at the Lexington Pumping Station, who, upon information and belief set for last two COE examinations and successfully passed the examination, applied for the position, was interviewed but was denied a promotion to the position of COE, based upon race;

c. Bryant Simpson, a City DWM employee, currently or formerly stationed at the Jardine Filtration Plant Control Room, who, upon information and belief set for last COE examination and successfully passed the examination, applied for the position, was interviewed but was denied a promotion to the position of COE, based upon race;

d. Jimmy Fortune, a City DWM employee, currently or formerly stationed at the Roseland Pumping Station, who, upon information and belief, set for last three-four COE examinations and successfully passed the examination, applied for the position, was interviewed but was denied a promotion to the position of COE, based upon race; and

e. Curtis Young, a former City DWM employee, currently retired, who, upon information and belief set for last two COE examinations and successfully passed the examination, applied for the position, was interviewed but was denied a promotion to the position of COE, based upon race;

173. Plaintiff suffered damages in lost wages and emotional distress and Defendants' actions were a proximate cause of his injuries.

WHEREFORE, Plaintiff demands judgment against Defendant City, Mussen, Stark and Conner for a promotion to COE, compensatory damages, prejudgment interest, attorneys' fees, costs, and such other and further relief as the court deems proper.

COUNT V: VIOLATION OF TITLE VI

174. Plaintiffs restate and reallege each and every allegation contained in Paragraphs 1 through 44 above.

175. Jurisdiction is conferred on this Court by 28 USC Sec 1332 and 28 U.S.C.A. Sec. 1343 (a) (3).

Title VI of the 1964 Civil Rights Act provides in pertinent part:

> "Nondiscrimination in federally assisted Program. No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.SC. Sec 2000 et. seq.

176. Program as codified under 42 U.S.C. Sec. 2000d-4(a) (3)(A) (ii) includes all of the operations of the institution that conducted the program or activity.

177. Defendant City accepts and receives funding from the State of Illinois and other sources, including directly from the federal government for such projects as the Community Development Block Grant (CDBG), the Emergency Solutions Grant (ESG), the HOME Investment Partnerships Program (HOME), and the Housing Opportunities for People with AIDS (HOPWA) Program. Upon information and belief, the City of Chicago also receives funding at the federal level as drinking water quality and wastewater discharges are regulated by the United States Environmental Protection Agency, which also provides funding to utilities through State Revolving Funds. In addition, the City of Chicago also receives federal funding to assist in other areas of local government such as those associated with healthcare, income security, education, and transportation

178. Said funding includes federal and state funds through the U.S. Housing and Urban Development's (HUD) and other sources, and is a form of financial assistance, which the City of Chicago receives and accepts from the federal government.

179. As a recipient of federal funds, City has stipulated to comply with Title VI.

180. Plaintiff has been intentionally discriminated against based upon race by the City.

181. In 2014, 2015 and 2016, the Defendant City of Chicago posted a bid announcement for the position of Chief Operating Engineer in the Department of Water Management.

182. Each year Plaintiff participated in the application process, passed each portion of the test and was denied the promotion.

183. Since 2014, Defendant City promoted at least 4 less qualified and experienced Caucasians, with less seniority than Plaintiff to the position of COE.

184. Since 2014, Defendant City have failed and refused to promote the Plaintiff and other well qualified Black employees to the position of COE.

185. Despite Plaintiff s superior experience and qualifications, Plaintiff has not been offered the position of COE. The Plaintiff was also subjected to the following treatment:

a. Improperly denied numerous opportunities to work overtime and/or up in grade, resulting in lost wages, because Plaintiff is Black; and
b. Subjected to threatening, harassing and intimidating behavior by his White co-workers.

186. That Defendants treat similarly situated employees who are not Black differently.

187. Plaintiff repeatedly reported the incidents to the City's DHR to no avail.

188. That each time Plaintiff filed a complaint or reported an incident of discriminatory treatment he was further harassed and intimidated.

189. The treatment of Plaintiff and statements made to him in the presence of other employees and/or reported to the City were racially motivated and was an attempt to subject Plaintiff, a Black man, to discriminatory treatment.

190. In allowing Plaintiff to endure discriminatory treatment and derogatory statements City's actions were all based upon race, willful, malicious and in bad faith, with an improper motive of subjecting Plaintiff to abuse with a malicious intent of violating Plaintiff's civil rights.

191. As a proximate result of Mussen, Conner and Stark's racial discrimination toward Plaintiff, Plaintiff suffered damages in the disruption of employment, harm to his career,

emotional distress, embarrassment, psychological damage, and the deprivation of his civil rights.

192. Mussen, Conner and Stark's actions occurred while acting in their official capacity as COE, Commissioner of the DWM and Deputy Commissioner of the DWM and agents, servants and/or employees of the Water Department and the City of Chicago.

193. Mussen, Conner and Stark's actions and those of the other DWM employees are imputed to the City.

WHEREFORE, Plaintiff respectfully prays as follows against the Defendant City:

A. A declaratory judgment that Defendant City violated 42 USC Sec. 2000.

B. Permanent injunction-restraining Defendant City, from violating 42 USC Sec. 2000.

C. Compensatory damages in the sum total in excess of $75,000 for lost wages, emotional distress, psychological damage, embarrassment, deprivation of civil rights and out of pocket expenses.

D. Reasonable attorneys' fees and all costs of the proceeding.

COUNT VI
VIOLATION OF THE ADEA

194. Plaintiff incorporates by reference all of the allegations set forth in paragraphs 1 through 44 above.

195. Plaintiff brings this action pursuant to the Age Discrimination in Employment Act of 1967. ("ADEA"), 29 U.S.C.A. §§621 et seq.

196. Jurisdiction also arises pursuant to 28 U.S.C.A. §1343(4).

197. Plaintiff has filed this cause subsequent to a timely filing of a Charge of Discrimination based upon age with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission, a true and correct copy of which is attached to this complaint as Exhibit "A".

198. Plaintiff has filed this cause pursuant to a Right to Sue Letter issued by the Equal Employment Opportunity Commission within the statutory time requirement, a true and correct copy of which is attached to this complaint as Exhibit "B".

199. Plaintiff, at all times pertinent to this complaint, was a resident within the venue and jurisdiction of this judicial district and was within the protected age group as provided by the ADEA.

200. The Defendant at all times relevant to this complaint, operated and did business within the venue and jurisdiction of this judicial circuit.

201. Since 2014, Defendants promoted several less qualified and experienced employees who are much younger than Plaintiff, including Andre Holland and Katherine Ealy.

202. Plaintiff was employed by the Defendant City from November 1987 until he was wrongfully and constructively terminated on July 31, 2017. At the time of his termination he was 62 years of age. Plaintiff was replaced with an employee younger than 40 years of age.

203. In direct violation of the ADEA, Defendant City engaged in the age discriminatory acts described in the Charge of Discrimination, attached to the complaint and incorporated herein by reference. These acts are not limited to and include being:

a. assigned less desirable shifts;
b. assigned less desirable days off;
c. assigned less desirable work assignments;
d. denied promotions;

e. denied overtime;

g. denied training opportunities;

h. denied fair compensation for work performed;

i. intimidation;

j. harassed based on race;

k. subjected to unwelcomed racially-charged conduct;

l. subjected to violence in the workplace;

m. subjected to harsh and undue discipline in retaliation;

n. subjected to retaliatory transfers; and

o. constructively discharged.

204. As a result of Defendant's discriminatory conduct, Plaintiff has been damaged in his career and has otherwise suffered monetary damages.

WHEREFORE, Plaintiff demands judgment against the Defendant, City of Chicago as follows:

A. For damages in an amount in excess of $75,000, equal to Plaintiff's back pay and benefits from August 1, 2017 through the present pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (b);

B. For an award of compensatory damages for Plaintiff's injury to his career, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary damages and fringe benefits;

C. For reinstatement to his previous position, or in the alternative, for front pay, pursuant to Section 7 (e) of the ADEA, 29 U.S.C.A. §626 (b);

D. For Attorney's fees and costs of this suit, pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (c); and

E. For such other and further relief as is just and equitable.

COUNT VII
ADEA – WILFUL VIOLATION

205. Plaintiff incorporates by reference all of the allegations set forth in paragraphs 194 through 204 above.

206. Defendant's discriminatory conduct was intentional and/or in reckless disregard for Plaintiff's rights under the law and these acts constitute willful indifference to said rights.

WHEREFORE, Plaintiff demands judgment against the Defendant, City as follows:

A. For damages in an amount equal to Plaintiff's back pay and benefits from August 1, 2017 through the present pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (b);

B. For an award of compensatory damages for Plaintiff's injury to his career, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary damages and fringe benefits;

C. For reinstatement to his previous position, or in the alternative, for front pay, pursuant to Section 7 (e) of the ADEA, 29 U.S.C.A. §626 (b);

D. For Attorney's fees and costs of this suit, pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (c);

E. Punitive damages; and

F. For such other and further relief as is just and equitable

COUNT VIII
VIOLATION OF THE COLLECTIVE BARGANING AGREEMENT

207. Plaintiff incorporates by reference all of the allegations set forth in Paragraphs 1 through 123 and Paragraphs 126 through138 above.

208. At all material times Plaintiff was represented by the International Union of Operating Engineers, Local 399; ("the Union").

209. The Union is a party to a Collective Bargaining Agreements ("CBA") representing the employees of the City DWM.

210. The CBA specifies the protocol under which employees may request transfers within job classifications, seek promotions to new job classifications, and obtain overtime opportunities.

211. Under the operative CBA, promotions are granted based on experience and seniority.

212. Seniority is defined as an employee's continuous service in the employee's current job title.

213. The City consistent and deliberate improper conduct, based on race, failed to follow written policies governing promotions, transfers, and overtime, as related to the Plaintiff.

214. Plaintiff was denied the opportunity to file a grievance with the Union related to VIW and other matters because his supervisors who were participants in the improper conduct, refused to prepare and/or sign off on the grievance Plaintiff wished to file.

215. Plaintiff believed that Union protocol required Plaintiff's grievance to be approved and/or submitted by his supervisor and Mussen, O'Malley and Stark, Plaintiff's supervisors refused to cooperate in the filing of Plaintiff's grievance against Mussen.

216. The City deliberately overlooked the seniority of Plaintiff by utilizing the skewed testing process for COE to justify the failure to offer to Plaintiff a promotion to COE in violation of the City's Personnel Rules and Regulations, the CBA and the Shakman Accord.

217. The City deliberately overlooked the seniority of Plaintiff by refusing to grant him overtime opportunities based upon his seniority in violation of the City's Personnel Rules and Regulations, and the CBA and the Shakman Accord.

WHEREFORE, Plaintiff demands judgment against the Defendant, City as follows:

A. For damages in an amount equal to Plaintiff's back pay and benefits from August 1, 2017 through the present pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (b);

B. For an award of compensatory damages for Plaintiff's injury to his career, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary damages and fringe benefits;

C. For reinstatement to his previous position, or in the alternative, for front pay, pursuant to Section 7 (e) of the ADEA, 29 U.S.C.A. §626 (b);

D. For Attorney's fees and costs of this suit, pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (c); and

E. For such other and further relief as is just and equitable

COUNT IX
VIOLATION OF THE SHAKMAN ACCORD

218. Plaintiff restates and realleges the allegations contained in Paragraphs 1 through 123 and Paragraphs 126-138 above.

219. For all times pertinent hereto, Defendant City is/was under a Consent Judgment, pursuant to *Shakman vs Democratic Organizations of Cook County*, Case Number 69 CV 02145, as relates to hiring, and promotions and a Federal Monitor was appointed to oversee the City's compliance.

220. The Shakman Accord ("Shakman") was specifically designed to prevent political appointments and other types of favoritism and override or reduce the effect of the seniority system in place.

221. Shakman governs the process used to select and fill the COE positions for the years 2014, 2015, 2016 and 2017.

222. Plaintiff was an employee protected by the Shakman Accord.

223. Defendant City's process of using skewed test results to select which ACOE's will be promoted to the position of COE and to deny Plaintiff a promotion to the position of COE, violates the Shakman Accord.

224. The City deliberately overlooked the seniority of Plaintiff by failing to offer to him a promotion to COE in violation of the City's Personnel Rules and Regulations, and the Shakman Accord.

WHEREFORE, Plaintiff demands judgment against the Defendant, City as follows:

A. For damages in an amount equal to Plaintiff's back pay and benefits from August 1, 2017 through the present pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (b);

B. For an award of compensatory damages for Plaintiff's injury to his career, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary damages and fringe benefits;

C. For reinstatement to his previous position, or in the alternative, for front pay, pursuant to Section 7 © of the ADEA, 29 U.S.C.A. §626 (b);

D. For Attorney's fees and costs of this suit, pursuant to Section 7(b) of the ADEA, 29 U.S.C.A. §626 (c); and

E. For such other and further relief as is just and equitable

JURY TRIAL DEMANDED

Plaintiff demands a jury trial on all issues.

Respectfully submitted,

/s/ Calvita J. Frederick
Calvita J. Frederick

Attorneys for Plaintiff
Calvita J. Frederick& Associates
Post Office Box 802976
Chicago, Illinois 60680
(312) 421-5544
(312-277-7190 facsimile
ARDC # 6184001

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Micheal D. Outley**
1536 S.Kedvale
Chicago, IL 60623

From: **Chicago District Office**
500 West Madison St
Suite 2000
Chicago, IL 60661

☐ *On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.	EEOC Representative	Telephone No.
440-2017-05598	**Gregory T. Mucha, Investigator**	**(312) 869-8135**

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐ More than 180 days have passed since the filing of this charge.

☒ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒ The EEOC is terminating its processing of this charge.

☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

☒ The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Julianne Bowman

Julianne Bowman,
District Director

8/30/17
(Date Mailed)

Enclosures(s)

cc: **Eileen Geary, Esq.**
Chief Assist. Corporation Counsel
CITY OF CHICAGO DEPARTMENT OF WATER MANAGEMENT
30 North LaSalle St. - Rm 1040
City of Chicago Dept of Law
Chicago, IL 60602

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: ☐ FEPA ☒ EEOC

Agency(ies) Charge No(s): 440-2017-05598

Illinois Department Of Human Rights and EEOC
State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)	Home Phone (Incl. Area Code)	Date of Birth
Mr. Micheal D. Outley	(773) 396-7482	1955

Street Address: 1536 S. Kedvale, Chicago, IL 60623 — City, State and ZIP Code

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (*If more than two, list under PARTICULARS below.*)

Name	No. Employees, Members	Phone No. (Include Area Code)
CITY OF CHICAGO DEPARTMENT OF WATER MANAGEMENT	500 or More	(312) 747-7000

Street Address: 1000 E Ohio, Chicago, IL 60611 — City, State and ZIP Code

Name	No. Employees, Members	Phone No. (Include Area Code)

Street Address — City, State and ZIP Code

DISCRIMINATION BASED ON (*Check appropriate box(es).*)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☒ RETALIATION ☒ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (*Specify*)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest — Latest: 07-31-2017

☐ CONTINUING ACTION

THE PARTICULARS ARE (*If additional paper is needed, attach extra sheet(s)*):

I began my employment with Respondent on or about November 16, 1987. My most recent position was Assistant Chief Operating Engineer. I filed multiple charges with the EEOC against the Respondent. Subsequently, I was subjected to harassment, denied a promotion, and constructively discharged.

I believe that I have been discriminated against because of my race, Black, and in retaliation for engaging in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.

AUG 18 2017

I also believe that I have been discriminated against because of my age, 62 (Year of Birth: 1955), and in retaliation for engaging in protected activity, in violation of the Age Discrimination in Employment Act of 1967, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Aug 18, 2017 — Date

Michael D. Outley — Charging Party Signature

NOTARY – *When necessary for State and Local Agency Requirements*

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(*month, day, year*)

Exhibit 7

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MICHAEL OUTLEY,	)	
	)	
Plaintiff,	)	Case No.: 17 cv 8633
	)	
v.	)	Judge Gary Feinerman
	)	
CITY OF CHICAGO, a municipal corporation, and ROBERT MUSSEN,	)	Magistrate Judge Jeffrey Cole
	)	
Defendants.	)	

PLAINTIFF'S RESPONSE TO DEFENDANTS' LIST OF MOTIONS *IN LIMINE*

Plaintiff does not oppose Defendants' Motion *In Limine* No. 1: Bar testimony related to punitive damages against the City

Plaintiff does not oppose Defendants' Motion *In Limine* No. 2: Bar evidence and argument that jury should put itself in plaintiff's shoes.

Plaintiff has a limited objection to Defendants'Motion *In Limine* No. 3: Bar reference to specific dollar amounts in *voir dire*.

Plaintiff opposes Defendants' Motion *In Limine* No. 4: Bar evidence or argument regarding other alleged adverse actions which are not at issue in the case.

A. Alleged adverse acts that are precluded by final judgment in *Outley I.*

B. Alleged adverse acts that the Court held were not racially motivated

C. Alleged Constructive Discharge

Plaintiff opposes Defendants' Motion *In Limine* No. 5: Bar any evidence, argument or inference regarding unrelated allegations of Department of Water Management misconduct in the media.

Plaintiff opposes Defendants' Motion *In Limine* No. 6: Bar evidence, testimony or argument regarding new policies implemented by then-Commissioner Randy Conner.

Plaintiff opposes Defendants' Motion *In Limine* No. 7: Bar any evidence, testimony or argument by Plaintiff related to causation, diagnosis or prognosis of any medical or mental health condition by any health care professional suffered as a result of the alleged misconduct in this case.

Plaintiff opposes Defendants' Motion *In Limine* No. 8: Bar evidence, testimony or argument Concerning OIG reports regarding unrelated misconduct by DWM employees

Plaintiff opposes Defendant's Motion *in Limine* No. 9: Bar evidence, testimony or argument concerning alleged spoliation of video footage as it never existed

Plaintiff respectfully asks the Court to "provisionally" grant Defendants' Motion *in limine* No. 10: Bar evidence of indemnification.

Plaintiff, with a qualifier, does not oppose Defendants' Motion *in limine* No. 11: Bar Plaintiff from referencing Defendants' Motions *in limine*

Plaintiff does not oppose Defendants' Motion *in limine* No. 12: Bar evidence of settlement discussions or positions.

Plaintiff opposes Defendants' Motion *in limine* No. 13: Bar Plaintiff from offering evidence or testimony of other lawsuits involving Defendants.

Plaintiff does not oppose Defendants' Motion *in limine* No. 14: Bar non-party witnesses from the courtroom when they are not testifying.

Plaintiff does not oppose Defendants' Motion *in limine* No. 15: Bar any reference to punishing or sending a message to the City of Chicago

Plaintiff opposes Defendants' Motion *in limine* No. 16: Bar any implications or testimony that Department of Water Management personnel are being paid by the City to appear in court and testify and that they spent time with an attorney to prepare for trial

Plaintiff does not oppose Defendants' Motion *in limine* No. 17: Bar attorneys from speaking with any witnesses about their trial testimony while that witness is still under oath to provide sworn testimony

Plaintiff opposes Defendants' Motion *in limine* No. 18: Bar any argument or inference that Defendants allegedly failed to call any witnesses

Plaintiff, subject to clarification, does not oppose Defendants' Motion *in limine* No. 19: Bar any mention that defense counsel work for the City of Chicago

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

MICHAEL OUTLEY,	)	
	)	
Plaintiff,	)	Case No.: 17 cv 8633
	)	
v.	)	Judge Gary Feinerman
	)	
CITY OF CHICAGO, a municipal corporation, and ROBERT MUSSEN,	)	Magistrate Judge Jeffrey Cole
	)	
Defendants.	)	

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTIONS *IN LIMINE*

Plaintiff, by and trough undersigned counsel, responds to the Defendants' Motions *In Limine*, and in support thereof states as follows:

Plaintiff does not oppose Defendants' Motion *In Limine* No. 1: Bar testimony related to punitive damages against the City.

Plaintiff does not oppose Defendants' Motion *In Limine* no.1. The law on the topic is clear:

> "…. the court notes that plaintiff may not request punitive damages because punitive damages are not recoverable against a municipality for violations of Title VII or Sections 1981 and 1983. *Spanish Action Comm. v. City of Chicago,* 811 F.2d 1129, 1134 (7th Cir. 1987) (plaintiff cannot recover punitive damages against city in § 1983 claim) *(citing City of Newport v. Fact Concerts, Inc.,* 453 U.S. 247, 267 (1981)) *; Bell v. City of Chicago,* No. 03 C 2117, 2004 WL 609309, at *2 (N.D. Ill. Mar. 22, 2004) ("Defendant City of Chicago is a municipality and, as such, cannot be held liable for punitive damages under Title VII") (citations omitted); *White v. City of Chicago,* 96 C 3329, 1996 WL 648710, at *4 n. 6 (N.D.

Ill. Nov. 1, 1996) ("Municipalities are immune from damages under the civil rights laws") (citations omitted)."

King v. City of Chicago Dept. of Streets Sanitation, No. 04 C 7796, 4-5 (N.D. Ill. Aug. 11, 2005)

"A plaintiff is entitled to seek punitive damages under Title VII of the Civil Rights Act. See 42 U.S.C. § 1981a(b)(1). However, under the Act, a plaintiff can only recover punitive damages against "a respondent (other than a government, government agency, or political subdivision) . . . ." *Suarez v. Cook County Clerk's Office*, No. 01 C 5830 (N.D. Ill. Dec. 11, 2002)

Plaintiff does not oppose Defendants' Motion *In Limine* No. 2: Bar evidence and argument that jury should put itself in plaintiff's shoes.

Plaintiff does not oppose Defendants' Motion *In Limine* no. 2 but notes that the same rule applies to Defendants:

The "Golden Rule" argument precludes asking the jury to place themselves in the defendant's shoes. *See United States* v. *Roman,* 492 F.3d 803, 806 (7th Cir. 2007) (this argument "'is universally recognized as improper because it encourages the jury to depart from the neutrality and to decide the case on the basis of personal interest and bias rather than on the evidence.'" (quoting *United States* v. *Teslim,* 869 F.2d 316, 328 (7th Cir. 1989)).

United States v. Shalash, No. 11 CR 0627, 7 (N.D. Ill. Sep. 10, 2013)

Plaintiff has a limited objection to Defendants' Motion *In Limine* No. 3: Bar reference to specific dollar amounts in *voir dire*.

Plaintiff has a limited objection to Defendants' Motion *In Limine* no. 3. Plaintiff respectfully asks the Court to deny Defendants Motion in Limine no. 3 "to the extent that it seeks to bar questions designed to expose any latent prejudice by potential jurors against large verdicts, such as the questions in *Scully* including whether recovery of $600,000 would

be "too much money for anybody". See *Saad v. Shimano Am. Corp.*, No. 98 C 1204, 2000 U.S. Dist. LEXIS 10974, at *50 (N.D. Ill. July 21, 2000); *Scully v. Otis Elevator Co.*, 275 N.E.2d 905, 914 (1st Dist. 1971); *Kinsey v. Kolber*, 103 Ill. App. 3d 933, 947, 59 Ill. Dec. 559, 569 (1st Dist. 1982).

Plaintiff opposes Defendants' Motion *In Limine* No. 4: Bar evidence or argument regarding other alleged adverse actions which are not at issue in the case.

Plaintiff opposes Defendants' Motion *In Limine* no. 4 and asks the Court to deny it in its entirety for the reasons that follow:

a. The Summary Judgment Order includes temporal limits *on the claims*, it does not place an absolute bar *to any possible use* of the evidence that refers to events that occurred before August 24, 2016.

Defendants first argument is that "As a result of this Court's Memorandum and Opinion on Defendants' Motion for Summary Judgment dated October 12, 2021, Plaintiff's only remaining claims are Hostile Work Environment ("HWE") based on his race (African American) against the City (Title VII) and against Mussen (section 1983), which are limited to events that occurred *on or after August 24, 2016*. (Dkt. 262, pp. 3, 35)."

To the extent that Defendants try to use the Summary Judgment Order to limit the type or amount of evidence that Plaintiff can introduce to prove the two claims that survived Summary Judgment, Defendants are misconstruing the ruling. The Summary Judgment ruling limits ***the claims*** to events that occurred *on or after August 24, 2016.* But in its Opinion, the Court never limited Plaintiff's ability to prove the case in the manner Plaintiff sees fit, including the use of evidence that pre-dates the claims.

More specifically Defendants ask the court to exclude the following adverse acts:

A. Alleged adverse acts that are precluded by final judgment in *Outley I*.

The Court should bar evidence, argument or testimony about the following alleged adverse actions as they are precluded by final judgment in *Outley I*:

- Failed promotions to Chief Operating Engineer (COE) before 2017 were decided in *Outley I* and thus are barred by *res judicata*. (*Outley I*, Dkt. No. 204, pp. 4, 33);
- Alleged denial of training opportunities (Dkt. 262, p. 18 (finding claim preclusion from *Outley I* judgment applied));
- Allegedly false Violence in the Workplace complaint by Chris Houlihan in 2013, (*id,* (same));
- Discipline against Plaintiff between 2011 and 2013 (*id.* at p. 19 (same));

First, prior proceedings act as a bar under the doctrines of *res judicata* and collateral estoppel to protect litigants *from the burden of retrying an identical cause of action*. (*Spiller v. Continental Tube Co.* (1983), 95 Ill.2d 423, 69 Ill.Dec. 399, 447 N.E.2d 834.) Here Plaintiff is clearly not trying to re litigate those issues. Second, there is no law - and Defendants have cited to no authority - that bars Plaintiff from using the "Outley I" evidence for impeachment purposes under FRE 608(b) and/or as prior bad acts under FRE 404(b)(2).

Rule 608(b) states in relevant part:

Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of: (1) the witness; or (2) another witness whose character the witness being cross-examined has testified about.

The use of the evidence under 404(b)(2) is fully supported by the law. Plaintiff has not yet decided how to use evidence of prior bad acts available in this case but will file a 404(b)(2) Motion with the Court as soon as possible. For the purpose of this response, Plaintiff submits the dicta and holding of *Young v. City of Harvey*, No. 15 C 11596, 3-12 (N.D. Ill. Aug. 4, 2016) which offers an excellent analysis of the rule and its application:

> During the hearing, the Court noted that Federal Rule of Evidence 404(b) might, on the surface, pose a bar to discovery on other acts of retaliation allegedly committed by Eaves. Specifically, in *United States v. Gomez*, 763 F.3d 845 (7th Cir 2014) (*en banc*), the Seventh Circuit clarified and narrowed the scope of evidence allowed to be introduced at trial under this rule. Rule 404(b)(1) provides that "[e]vidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Put another way, other-acts evidence cannot be introduced to show that a person had a "character"—that is, a propensity to act in a certain way—in order to show that the person acted that way on a specific occasion. Rule 404(b)(2) goes on to say that other-acts evidence "may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." Fed. R. Evid. 404(b)(2). But Rule 404(b)(2)'s authorization to introduce other-acts evidence for another purpose is *not* an exception to Rule 404(b)(1)'s ban against proving an act via propensity. *Gomez*, 763 F.3d at 855 n.3. That is the upshot of *Gomez*: "Rule 404(b) excludes [other-acts] evidence if its relevance to

'another purpose' is established *only* through the forbidden propensity inference." *Gomez*, 763 F.3d at 856 (emphasis in original).

In an employment case like this one, the real question is motive: *why* did Eaves fire Young? Was it because of Young's alleged misconduct at the Sheriff's Office (or Young's failure to disclose it), or instead because of his speech and association? "Intent," properly understood, is *not* really the issue. The act of firing was of course not accidental (the act was done intentionally); the intent of the firing was to remove Young from his position; and there is no issue concerning an intent to commit a future act. To drive this point home, consider the analogous situation for Title VII employment-discrimination cases. The statute there describes the issue as one of motive, both by using the term "because of" to describe the mental state underlying the unlawful employment practice, § 2000e-2(a)(1), (2), and by explicitly referring to motive when defining mixed-motive employment decisions to be unlawful, § 2000e-2(m). On the latter point, Title VII says, generally, that an employment practice is unlawful if the employee shows that one of the forbidden grounds was a "*motivating* factor" for the practice, "even though other factors also *motivated* the practice." *Id.* (emphases added). Similarly, what Young is really arguing is that retaliation against other employees is relevant evidence to show the *motive* for his own firing.

With the focus properly on motive, it is time to answer whether Rule 404(b)(2) *ever* allows, under the *Gomez* bar against propensity-based inferences, a plaintiff to offer evidence that supervisors fired other employees for a forbidden reason as evidence that the supervisors fired the plaintiff for the same reason.

There is a short (relatively speaking) answer and a long answer. The short answer is that Seventh Circuit case law before *Gomez* did sometimes allow that sort of evidence under Rule 404(b)(2), and the case law remains binding on this Court. Indeed, years of Circuit precedent favor allowing this kind of evidence in employment discrimination cases. *Manuel v. City of Chicago*, 335 F.3d 592, 596 (7th Cir. 2003) ("Other-acts evidence may be relevant and admissible in a discrimination case to prove, for example, intent or pretext.") (citing Fed. R. Evid. 404(b)); *Molnar v. Booth*, 229 F.3d 593, 603-04 (7th Cir. 2000) (supervisor's sexual harassment directed at another employee admissible under Rule 404(b)); *Hunter v. Allis-Chalmers Corp., Engine Div.*, 797 F.2d 1417, 1423-24 (7th Cir. 1986) (affirming employment discrimination verdict in favor of employee over employer's objection to other-discriminatory-acts evidence); *Stumph v. Thomas & Skinner, Inc.*, 770 F.2d 93, 97 (7th Cir.1985) (reversing summary judgment for employer in reliance on the "statement of another co-employee who stated that she retired early because the [employer] made her 'feel unwelcome in [her] job because of [her] age.'"). To be sure, *Gomez* is an *en banc* opinion, but *Gomez* dropped no hints that it intended to overrule the settled case-law in employment-discrimination cases. And without more direct say-so from the Seventh Circuit, in a hierarchical judiciary, this Court must leave it up to the appellate court to overrule its own precedent.

Bolstering this view is that the Supreme Court itself has deemed evidence of discrimination against other employees as admissible in employment-discrimination cases. Going way back to *McDonnell Douglas Corp. v. Green*, 411

U.S. 792, 804-05 (1973), the Supreme Court explained that an employee might be able to show that an employer's proffered reason for decision might be pretextual by relying on the employer's "general policy and practice with respect to minority employment. On [this] point, statistics as to [the employer's] employment policy and practice may be helpful to a determination of whether [the employer's] refusal to rehire [the employee] in this case conformed to a general pattern of discrimination against blacks." *Id.* at 804-05. The very definition of a pattern of discrimination is that the employer discriminated against not just the plaintiff, but other employees as well, and that evidence of other unlawfully motivated decisions may be offered to prove the motivation behind the decision as to the plaintiff.

What's more, relevancy determinations (Rule 404(b) determinations are really just a special type of relevancy finding) "are generally not amenable to broad *per se* rules." *Sprint/United Mngmt. Co. v. Mendelsohn*, 552 U.S. 379, 387 (2008). In *Sprint*, the plaintiff proposed evidence of age discrimination committed by supervisors who did *not* supervise her. 552 U.S. at 382. The Supreme Court disapproved of any categorical bar against other-supervisors evidence, and remanded to allow the district court to consider the issue in the first instance (the Supreme Court thought it was unlikely that the district court had actually applied a categorical bar). *Id.* at 387. *Sprint* expressly described the relevancy determination as "fact based and depend[ent] on many factors, including how closely related the evidence is to the plaintiff's circumstances and theory of the case." *Id.* at 388.

On top of the pre-*Gomez* Seventh Circuit law and Supreme Court references to other-acts evidence, other Circuits also allow, in appropriate circumstances, evidence that the decision-maker discriminated against other employees. *Griffin v. Finkbeiner*, 689 F.3d 584, 598 (6th Cir. 2012); *Goldsmith v. Bagby Elevator Co.*, 513 F.3d 1261, 1286 (11th Cir. 2008) ("The 'me too' evidence was admissible, under Rule 404(b), to prove the intent of Bagby Elevator to discriminate and retaliate."); *Buckley v. Mukasey*, 538 F.3d 306, 319-20 (4th Cir. 2008) ("Moreover, such evidence of other wrongs or acts is admissible under Rule 404(b), which allows evidence of other wrongs for purposes such as proof of motive and intent."); *Hitt v. Connell*, 301 F.3d 240, 249-50 (5th Cir. 2002) (ruling that coworkers were properly "allowed to testify that they were discharged or otherwise discriminated against because of their participation in the union," because such evidence was admissible as proof of motive in case of plaintiff alleging retaliation for union participation); *Morris v. Wash. Metro. Area Transit Auth.*, 702 F.2d 1037, 1046 (D.C. Cir. 1983) (admitting for proof of motive "evidence showing that the employer followed a broad practice of retaliation and responded to any protected criticism with disciplinary action").

In light of all this, the bottom-line is that *Gomez* does not impose a categorical ban on evidence that supervisors discriminated or retaliated against other employees. That is the short answer. The long answer is that, even if this Court could take an entirely fresh look at the issue now that *Gomez* is on the books, the Court would conclude, generally speaking, that evidence of a decision-maker's treatment of other employees does not necessarily rely on a propensity inference.

To understand this, it helps to step back and examine the rationale behind Rule 404(b)(1). The primary concern underlying Rule 404(b)(1) is *not* that character evidence is always actually irrelevant; to the contrary, character sometimes does have a tendency to make more probable that a person acted in a certain way. *Michelson v. United States*, 335 U.S. 469, 475-76 (1948) (cited by Fed. R. Evid. 404(b), 2006 Advisory Committee Note). Instead, the concern is that juries will rely too heavily on character to decide the disputed issue, either because the jury will place an outsized emphasis on the character evidence when its true probative force is not as strong as the jury believes, or the jury will get confused over what actually is the specific issue on trial, or the jury will simply decide the case mostly on a character contest, out of a desire to punish bad character or to reward good character.

So, if the evidence does not really demonstrate a person's "character" "to show that on a particular occasion the person acted in accordance with the character," then the primary concern of the Rule is not undermined, Rule 404(b)(1) is not violated, and the jury is not being asked to draw a propensity-based inference. It is important to note the Rule's emphasis on *action* ("acted" in accordance with character), which is a classic example of propensity: if someone acted one way before, he likely acted the same way later. It is not surprising that *Gomez*, as well as other cases discussed by *Gomez*, involved the use of propensity to prove identity, that is, whether the defendant was the one who was dealing drugs. That raised the specter of propensity in whether the defendant had once again *acted* in a certain way: "Once a drug dealer, always a drug dealer." *Gomez*, 763 F.3d at

> 862-63. In contrast, remember that the issue here is what was the *motive* for Young's firing. For state of mind issues such as motive, the Supreme Court recognizes that other-acts evidence might be needed to prove a mental state: Extrinsic acts evidence may be critical to the establishment of the truth as to a disputed issue, especially when that issue involves the actor's state of mind and the only means of ascertaining that mental state is by drawing inferences from conduct.
>
> *Huddleston v. United States*, 485 U.S. 681, 685 (1988) (explaining that prior "similar" sale of stolen goods was relevant to show the defendant's knowledge, under Rule 404(b), of the stolen nature of the goods in the charged sale). Here, other acts of retaliation would not be introduced to solve a whodunit; they would be introduced to show Eaves's state of mind—*why* he fired Young. It does bear repeating, however, that this case is just at the discovery stage, so the Court is not making any final *trial* decisions on the admissibility of what is learned in discovery.

Young v. City of Harvey, No. 15 C 11596, 3-12 (N.D. Ill. Aug. 4, 2016)

Next, in their Motion in Limine no. 4, subsections B, and C, without citing to any authority in support of their request, Defendants ask the Court to exclude a significant amount of evidence simply because in the Summary Judgment phase the Court ruled that the evidence was insufficient to support specific claims. However, nowhere in its Summary Judgment Opinion did the Court rule that the same evidence could not be used to prove the two claims that survived, namely Hostile Work Environment under Title VII and Retaliation under USC 42, sec. 1983.

"Once a district judge issues a partial summary judgment order removing certain claims from a case, the parties have a right to rely on the ruling by forbearing from introducing any evidence or cross-examining witnesses ***in regard to those claims***" *Leddy v. Standard Drywall, Inc.*, 875 F.2d 383, 386-87 (2d Cir. 1989).(italicization, underscoring, and bold text added by Plaintiff).

"The denial of summary judgment is not a final judgment; rather, it is an interlocutory order. Thus, the denial of summary judgment has no res judicata effect . . . ." *Whitford v. Boglino*, 63 F.3d 527, 530 (7th Cir. 1995)

Also, "A denial of a summary judgment motion is not a decision on the merits; it simply is a decision that there is a material factual issue to be tried." 10 Wright, Miller and Kane, Federal Practice and Procedure, § 1712 at 587. "The denial of summary judgment does not preclude either party from raising at trial ***any of the issues dealt with on the motion***." *Id.*(italicization, underscoring, and bold text added by Plaintiff).

Finally, "[A]n argument that goes to the sufficiency of...evidence...might be a proper argument for summary judgment or for judgment as a matter of law, ***it is not a proper basis for a motion to exclude evidence prior to trial.***" *Martinez v. Garcia,* Case No. 08 C 2601 (N.D. Ill. Nov. 9, 2012).(italicization, underscoring, and bold text added by Plaintiff).

Wherefore, Plaintiff respectfully asks the Court to deny Defendants's Motion *In Limine* no. 4, in its entirety.

Plaintiff opposes Defendants' Motion *In Limine* No. 5: Bar any evidence, argument or inference regarding unrelated allegations of Department of Water Management misconduct in the media.

Plaintiff opposes Defendants' Motion *In Limine* No.5.

First, for clarity, the Motions seek to exclude the following articles:

- "Racial Tensions Boiling Over in City Water Department" (WTTW, August 7, 2019) (Grp. Ex. 1 at "OUT P. 005-07");
- "'Take a Water Hose and Clean Out' Department of Water Management, Mayor is Urged" (Chicago Sun Times, August 1, 2019)(*id.* at "OUT P. 008-12");
- "Emanuel Defends New Water Commissioner Amid Racist Culture Complaints" (CBS 2 Chicago, January 15, 2018)(*id.* at "OUT P. 013");
- "Alderman Alleges Racism in City Water Department" (ABC 7 Chicago, October 11, 2017)(*id.* at "OUT P. 014-15");
- "Allegations of Racism, Sexism and Gun Dealing in City Water Department" (WTTW, May 15, 2019)(*id.* at "OUT P. 016-18")
- "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017)(*id.* at "OUT P. 019-21"); and
- "Chicago Inspector General Uncovers City Worker Scandals" (WTTW, July 19, 2017) (*id.* at "OUT P. 022-24").

Defendants seek to exclude the articles on three grounds: 1) they are inadmissible hearsay; 2) the Court already adjudicated that these articles do not support Plaintiff's HWE claims; and 3) the articles would serve no probative purpose but would unfairly prejudice the Defendants.

As per the hearsay argument, Plaintiff can introduce the articles for purposes other than the truth of the matter asserted and, further, Plaintiff can always depose or call the reporters and/or their sources to testify at trial directly. As Defendants stressed in footnote n.1 of their Motions, they wrote the Motions in Limine before they even received the witness list by Plaintiff.

As per the Summary Judgment Order, one more time, Defendants misconstrue it. The Order discusses the press releases for the OIG reports and reads: "Outley's reply brief does not defend the admissibility of the OIG reports' contents with any legal argument, but merely urges the court to exercise its "discretion" to admit them …" (SJ Order page 14). Plaintiff is still finalizing the trial strategy. Should Plaintiff decide to use the newspaper articles, and OIG reports, as evidence in trial, Plaintiff will submit a proper motion to the Court citing to the relevant admissibility criteria.

Finally, Defendants' third argument that the "articles would serve no probative purpose but would unfairly prejudice the Defendants" is not dispositive because Plaintiff has not yet filed his Motions *In Limine* and the Court cannot engage in any meaningful 403 balancing analysis without the benefit of the arguments from both sides.

Plaintiff opposes Defendants' Motion *In Limine* No. 6: Bar evidence, testimony or argument regarding new policies implemented by then-Commissioner Randy Conner.

Plaintiff opposes Defendants' Motion *In Limine* no. 6. One more time, in support of Motion no. 6., Defendants reference the Summary Judgment Opinion and misconstrue it in an effort to exclude evidence. In fact, in juxtaposition, the Summary Judgement Opinion itself cites to the reason for the admissibility of the new policy: "Rule 407 provides: " when measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove culpable conduct … ***But the court may admit this evidence for another purpose, such as impeachment or … control*** …" … The fact that Conner implemented a new EEO policy is accordingly inadmissible to show that, before the new policy, the City engaged in unlawful acts of discrimination." (SJ Order, page 15, italicization, underscoring, and bold text added by Plaintiff). Plaintiff will argue the "other purpose" in his Motions in Limine.

Plaintiff opposes Defendants' Motion *in Limine* No. 7: Bar any evidence, testimony or argument by Plaintiff related to causation, diagnosis, or prognosis of any medical or mental health condition by any health care professional suffered as a result of the alleged misconduct in this case.

Plaintiff opposes Defendants' Motion *In Limine* no. 7, in part. "While Plaintiff and his lay witnesses may not testify as to any diagnosis or causation, Plaintiff may provide testimony regarding his condition following the incident based upon his recollection and subject to cross-examination." See *Hendrickson v. Cooper*, 589 F.3d 887, 893 (7th Cir. 2009); Haack v. Bongiorno, 2011 WL 862239, at *4 (N.D. Ill. 2011). *See*, also *McAllister v. Price*, 615 F.3d 877, 882 (7th Cir. 2010)(finding that a "plaintiff may rely on lay testimony when causation is within the understanding of a lay person.")" *Schmelzer v. Muncy*, Case No. 3:16-cv-290-GCS, 4 (S.D. Ill. Oct. 11, 2019).

Plaintiff opposes Defendants' Motion *in Limine* No. 8: Bar evidence, testimony or argument Concerning OIG reports regarding unrelated misconduct by DWM employees.

Plaintiff opposes Defendants' Motion *In Limine* no. 8. One more time, in support of Motion no. 8, Defendants reference the Summary Judgment Opinion and misconstrue it to exclude evidence. The Summary Judgment Order states: "The reports' contents are inadmissible hearsay, as Outley seeks to use them to prover that the events happened as described .." (SJ Order, page 14). Again, Plaintiff can use the reports for purposes other than the truth of matter asserted or call the authors of the reports to testify, or for impeachment purposes. Plaintiff will elaborate in his forthcoming Motions *In Limine*.

Plaintiff opposes Defendants' Motion *in Limine* No. 9: Bar evidence, testimony or argument concerning alleged spoliation of video footage as it never existed

Plaintiff opposes Defendants' Motion *In Limine* no. 9, in part. Plaintiff is free to testify that cameras were installed at the Lexington pumping station and that he does not know whether they were operational or not at the time of the incident, May 30, 2017. Plaintiff can also testify

that he requested the video and was told by Defendant Mussen that the video footage never existed (*See* FRE 801(d), Admission by Party Opponent).

Plaintiff asks the Court to grant Defendants' Motion no. 10 "provisionally", Motion *in limine* No. 10: Bar evidence of indemnification.

Based on the established practice, Plaintiff asks the Court to grant Defendants' Motion "provisionally" and cites to *Smith v. Garcia Case* No. 15-cv-10105 (N.D. Ill. Jan. 18, 2018) in support of his request:

> "Defendants move to bar Plaintiff from arguing that the City will indemnify the Defendant officers, arguing that any evidence as to indemnification is irrelevant and could lead to a higher award from the presumably "deep pockets" of the City. Plaintiffs argue that they are seeking punitive damages, and thus the jury should be informed that the City is obligated to indemnify Defendants for compensatory but not for punitive damages. Their concern is the converse of Defendants—namely, that the jury will make a lower award based on the presumably "shallow pockets" of the Defendant officers. The Court will follow the same path that it has in all of its prior Section 1983 cases in regard to this issue. "In the general case courts exclude evidence of indemnification out of a fear that it will encourage a jury to inflate its damages award because it knows the government—not the individual defendants—is footing the bill." *Lawson v. Trowbridge*, 153 F.3d 368, 379 (7th Cir. 1998); see also *Kemezy v. Peters*, 79 F.3d 33, 37 (7th Cir. 1996) ("When the defendant is to be fully indemnified, such evidence, far from being required, is inadmissible."). However, if a defendant who benefits from a right to indemnification nevertheless claims an inability to pay damages, the

> defendant is deemed to have "opened the door" to evidence of indemnification. See *Jones v. City of Chicago,* 2017 WL 413613, at *8 (N.D. Ill. Jan. 31, 2017) at *4 (explaining that in general, courts bar evidence of indemnification because it may encourage juries to inflate compensatory damages award, but allowing plaintiff to introduce evidence of the City's indemnification if Defendants open the door by presenting evidence of their financial condition); *Betts v. City of Chicago*, 784 F. Supp. 2d 1020, 1030–31 (N.D. Ill. 2011) same); *Gonzalez v. Olson,* 2015 WL 3671641, at *8 (N.D. Ill. June 12, 2015), at *7 (same). Thus, Defendants' motion is provisionally granted"

Smith v. Garcia Case No. 15-cv-10105 (N.D. Ill. Jan. 18, 2018)

Plaintiff, with a qualifier, does not oppose Defendants' Motion *in limine* No. 11: Bar Plaintiff from referencing Defendants' Motions *in limine*

Plaintiff does not object to a prohibition on referencing motions *in limine*, unless necessary to make a record (*See Cunningham v. Jenkins*, 3:17-cv-126-RJD (S.D. Ill. Jun. 30, 2021).

Plaintiff does not oppose Defendants' Motion *in limine* No. 12: Bar evidence of settlement discussions or positions.

Plaintiff does not oppose Defendants' Motion *In Limine* no. 12. Federal Rule 408 expressly excludes any evidence of settlement negotiations, settlement offers, or even evidence that such negotiations took place prior to trial. Fed.R.Evid. 408(a).

Plaintiff opposes Defendants' Motion *in limine* No. 13: Bar Plaintiff from offering evidence or testimony of other lawsuits involving Defendants.

Plaintiff opposes Defendants' Motion *In Limine* no. 13. Defendants ask the Court to exclude evidence and argument regarding other lawsuits and claims against them. They cite Rule of Evidence 404(b)(1), which states that "evidence of any other . . . wrong. . is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." However, there are other purposes for which Plaintiff could introduce such evidence. Fed. R. Evid. 404(b)(2). Plaintiff will file a 404(b)(2) Motion clarifying what other litigations he intends to present, how he intends to present them, and the nature of those claims. Further, evidence or testimony of other lawsuits is admissible for impeachment purposes under FRE 608(b).

Plaintiff does not oppose Defendants' Motion *in limine* No. 14: Bar non-party witnesses from the courtroom when they are not testifying.

Plaintiff does not oppose Defendants' Motion *In Limine* no. 14. In fact, Plaintiff will invoke the rule on the sequestration of witnesses himself, as soon as the Jury is seated.

Plaintiff, subject to clarification, does not oppose Defendants' Motion *in limine* No. 15: Bar any reference to punishing or sending a message to the City of Chicago

Plaintiff does not oppose Defendants' Motion *In Limine* no. 15 but respectfully asks the Court to clarify that "plaintiff is seeking punitive damages and the jury instruction for punitive damages includes language that such damages are for the purpose of punishing the individual defendants, not the City of Chicago. Seeking to punish and discourage only applies to individual defendants." *Amerson v. City of Chicago*, CASE NUMBER 10C 4630, 2 (N.D. Ill. May. 30, 2012)

Plaintiff opposes Defendants' Motion *in limine* No. 16: Bar any implications or testimony that Department of Water Management personnel are being paid by the City to appear in court and testify and that they spent time with an attorney to prepare for trial.

Plaintiff opposes Defendants' Motion *In Limine* no. 16 as the line of questioning that Defendants seek to preclude may be helpful in exposing bias.

Plaintiff does not oppose Defendants' Motion *in limine* No. 17: Bar attorneys from speaking with any witnesses about their trial testimony while that witness is still under oath to provide sworn testimony

Plaintiff has no objections to Defendants' Motion *In Limine* no. 17.

Plaintiff opposes Defendants' Motion *in limine* No. 18: Bar any argument or inference that Defendants allegedly failed to call any witnesses

Plaintiff opposes Defendants' Motion *In Limine* no. 18, in part, as it is accepted routine tactic to point to missing testimony and evidence of an opponent. Accordingly, Plaintiff respectfully asks the Court to grant Defendants' Motion *In Limine* no. 18 only in part, per customary Court practice:

> Defendants request that the Court bar Plaintiff from conveying to the jury that Defendants are hiding exculpatory evidence by choosing not to call a particular witness or present certain evidence. Plaintiff contends that it is an accepted routine tactic to point to missing testimony and evidence of an opponent. The Court agrees with Defendant that it would be improper for Plaintiff to insinuate without evidentiary support that Defendants are purposefully attempting to hide evidence, particularly since Plaintiff bears the burden of proving his case. Therefore, the Court grants in part Defendants' motion in limine. However, the Court is not barring Plaintiff from arguing that there are deficiencies in Defendants' case due to the absence of testimony by certain individuals or the absence of certain evidence. It is merely improper for Plaintiff to insinuate that Defendants are purposefully hiding evidence or to suggest that Defendants bear

the burden of proof. The Court will instruct the jury as to Plaintiff's burden of proof.

Ratliff v. City of Chi., CASE NUMBER 10 C 739, 4-5 (N.D. Ill. Nov. 19, 2012)

Plaintiff, subject to clarification, does not oppose Defendants' Motion *in limine* No. 19: Bar any mention that defense counsel work for the City of Chicago

Plaintiff does not oppose Defendants' Motion *In Limine* no. 19, subject to clarification. Plaintiff has no intention of referring to defense counsel as "city lawyers." However, Plaintiff contends that city employees' knowledge of free representation (including Mussen's) goes to their state of mind when they commit constitutional violations. Therefore, if defense counsel argues that the city employees - and Defendant Mussen in particular - had no motive or reason to violate his rights, Plaintiff should be able to rebut this argument with evidence that they bore no costs because the City of Chicago paid for their attorneys.

CONCLUSION

Pursuant to Federal Rules of Evidence 401 and 402, the evidence, arguments, exhibits, testimony of witnesses, direct or cross-examination, comments to the Court or counsel, closing arguments, preliminary statements, and opening statements, including *voir dire*, which defendants seek this Court to prelude or exclude by their motions *in limine* are highly relevant and admissible at trial.

Moreover, pursuant to Federal Rule of Evidence 403, the evidence, arguments, exhibits, testimony of witnesses, direct or cross-examination, comments to the Court or counsel, closing arguments, preliminary statements, and opening statements, including *voir dire,* which defendants seek this Court to preclude or exclude at trial by their motions *in limine* may not be precluded or excluded at trial because their probative value is not substantially outweighed by

the danger of unfair prejudice, confusion of the issues, or misleading of the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Respectfully submitted,

Dated: August 17, 2022

MICHEAL OUTLEY

By: /s/ Calvita J. Frederick
Attorney

Calvita J. Frederick
P.O. Box 802976
Chicago, IL 60680
(312) 421-5544
ARDC # 6184001
calvita.frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 17, 2022, the foregoing *Plaintiff's Response to Defendants' Motions in Limine* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

Exhibit 8

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

IN THE MATTER OF:

MICHAEL OUTLEY,

Plaintiff,

v.

CITY OF CHICAGO, a municipal corporation,
ALAN STARK, Managing Deputy Commissioner in his Individual and Official Capacity,
RANDY CONNER, Commissioner of the Department of Water Management in his Individuals and Official Capacity, and
ROBERT MUSSEN, Chief Operating Engineer in his Individuals and Official Capacity

Defendants.

Case No.: 17 cv 8633

Judge Gary Feinerman

Magistrate Judge Beth Jantz

PLAINTIFF'S MOTION FOR LEAVE TO FILE INSTANTER MIL

COMES NOW MICHAEL OUTLEY, by and through undersigned counsel, and moves this Honorable Court for leave to file Plaintiff's MIL, Instanter. In support of his request, Plaintiff states as follows:

1. This Court entered an Order on February 25, 2022, setting the trial schedule herein. [Dkt #279] In that Order this Court directed that Motions in Limine should be filed by July 27, 2022.

2. Plaintiff's counsel has had a challenging year having had to take time off due to the death of her mother and various other family members and also experiencing several personal health challenges.

3. In addition, counsel has completed 6 appellate briefs in the past three months, along with her regular work schedule.

4. As a result, counsel had fallen behind and requested 10 additional days to prepare Plaintiff's motions in limine. The new deadline was on or about August 6, 2022.

5. The prosecution team has been seeking and considering the addition of a new attorney to help with trial. Accordingly, the team needed additional time to sort out procedural and practical matters, including the filing of a Pro Hac Vice Motion with the Court, and the time the new attorney might need to familiarize herself with the case.

6. In addition, Ms. Frederick, leading counsel in the case, has been out of the United States since August 23, 2022, to attend family matters in Portugal. Further Plaintiff's counsel has been consumed with activities related to returning her youngest child to college in Europe. She is scheduled to be back in the United States by the end of this week.

7. Plaintiff filed a response to Defendants' MILs on August 17, 2022.

8. Thereafter Plaintiff has prepared his own MILs, a courtesy copy of which has previously been provided to the defense along with a request for a meet and confer on September 1, 2022. A copy is also attached hereto as Exhibit "A".

9. Plaintiff MILs, inter alia, ask this Court to admit the same exact critical evidence that the defense wants to keep out of the trial, highlighting the fact that, as trial approaches, the adversarial nature of the proceedings has entered a new phase and has become more pronounced.

10. Defendants response to Plaintiff's request for a meet and confer on the MILs was to file a motion to dismiss for want of prosecution.

11. Plaintiff's counsel admits that she has missed several deadlines leading up to the pre-trial conference.

12. In view of the life altering family matters she has experienced this year, along with personal health issues, in retrospect counsel probably should have asked to continue the trial date, as did defendants, earlier this year. Notwithstanding, counsel attempted to meet the deadlines, but has been unable to do so.

13. Counsel's failure to meet the Court ordered deadlines is not due to a disregard of this Court's orders, federal rules, nor local rules, but rather is a function of being overwhelmed at this time.

WHEREFORE, Plaintiff respectfully requests that this Court grants leave to Plaintiff to file his MILs, instanter.

Respectfully submitted,

Dated: August 31, 2022

MICHAEL OUTLEY

By: /s/ Calvita J. Frederick_____
Attorney

Calvita J. Frederick
P.O. Box 802976
Chicago, IL 60680
(312) 421-5544
ARDC #6184001
calvita.frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 31, 2022, the foregoing *Motion for Leave to file MIL,s Instanter* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

IN THE MATTER OF:

MICHAEL OUTLEY,

Plaintiff,

v.

CITY OF CHICAGO, a municipal corporation,
ALAN STARK, Managing Deputy Commissioner in his Individual and Official Capacity,
RANDY CONNER, Commissioner of the Department of Water Management in his Individuals and Official Capacity, and
ROBERT MUSSEN, Chief Operating Engineer in his Individuals and Official Capacity

Defendants.

Case No.: 17 cv 8633

Judge Gary Feinerman

Magistrate Judge Beth Jantz

PLAINTIFF'S MOTIONS IN LIMINE

COMES NOW MICHAEL OUTLEY, by and through undersigned counsel, and moves this Honorable Court for Orders in Limine instructing the Attorney for the Defendants to refrain from making any direct or indirect mention whatsoever at trial before the jury of the matters hereinafter set forth, without first obtaining permission from the Court outside the presence and/or hearing of the jury, on the grounds that the said matters are incompetent, irrelevant, or immaterial to the issues involved herein, and will serve only to unfairly prejudice the jurors against Plaintiff.

The Plaintiff respectfully asks the Court to bar admission of the following:

1. On the authority of *Lebrecht v. Tuli*, the Plaintiff moves for an order prohibiting the defense from commenting on the Plaintiff's failure to bring forth a witness who is not under Plaintiff's control or who is equally available to the defendant. 130 Ill. App.3d 457, 484, 473 N.E.2d 1322 (1985). The risk is that the jury may presume that the testimony would have been unfavorable to the party which failed to call the witness. *See Lebrecht*, 130 Ill. App.3d at 484, 473 N.E.2d. 1322. Pursuant to the same holding, no mention shall be made by the defense as to the witnesses that the expects the Plaintiff to call at trial.

2. The Defendants shall be prohibited from raising a Fed. Rule Civ. Proc. 8(c) affirmative defense:

> "An employer is subject to vicarious liability to a victimized employee for an actionable hostile environment created by a supervisor with immediate (or successively higher) authority over the employee. When no tangible employment action is taken, a defending employer may raise an affirmative defense to liability or damages, subject to proof by a preponderance of the evidence, see Fed. Rule Civ. Proc. 8(c). The defense comprises two necessary elements: (a) that the employer exercised reasonable care to prevent and correct promptly any […… harassing] behavior, and (b) that the plaintiff employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise." *Shaw v. Autozone, Inc.*, 180 F.3d 806, 810-11 (7th Cir. 1999).

In the case sub judice the defense is not available to Defendants because: 1) tangible employment actions were taken in the form of disciplinary reports which were

investigated and never resulted in disciplinary actions against Mr. Outley, 2) although the City did promulgate anti-discrimination policies with complaint procedures, Defendant failed to train its personnel and kept the EEO understaffed (see *Abreu v. City of Chicago*, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022), attached as Exhibit A), and 3) Plaintiff did take advantage of the corrective opportunities because he filed EEO complaints.

3. The defense shall be precluded from attempting to impeach a witness with unsworn statements not adopted by the witness, where counsel conducting the examination is the only witness to such statements. The law of evidence does not provide that a party may attack the credibility of a witness simply by insinuating through his questions that the witness in fact has made statements which are inconsistent with the witnesses' present testimony, and then treating the insinuating questions as if they were impeachment evidence. *See United States v. Webster,* 734 F.2d 1191, 1192 (7th Cir. 1984) (holding that impeachment should not be used "as a mere subterfuge to get before the jury evidence not otherwise admissible").

4. The defense shall be precluded from entering any self-serving hearsay statements. Self-serving hearsay statements include those statements made by the defendant that are intended to be offered by the defendant or any defense witness "The law is clear that a defendant may not introduce "his own exculpatory statements" without a recognized exception to the hearsay rule because such statements constitute inadmissible self-serving hearsay." See *People v. Kraybill*, 2014 IL App (1st) 120232.

5. If defense counsel should seek to elicit testimony concerning prior bad acts of the Plaintiff, the trial court shall first review such testimony outside of the presence of the jury to avoid undue influence on the jury and to determine if such evidence is admissible. It is well-established that "[e]vidence of specific prior bad acts unrelated to a material issue is prohibited." *Sharma v. Zollar,*265 Ill.App.3d 1022, 1025, n. 4 (1994); for the inadmissibility of character evidence *see* also *Plooy v. Paryani,*275 Ill.App.3d 1074, 1089 (1995) ("Evidence of misconduct other than that in issue is not properly admissible to establish a [party's] disposition to behave in a certain way.").

In addition, the Plaintiff makes the following affirmative requests:

6. Plaintiff respectfully requests that the Court takes judicial notice of *Abreu v. City of Chicago*, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022)**,** attached to this Motions as Exhibit A**,** pursuant to FRE 201. Federal Rule of Evidence 201 allows the Court to take judicial notice of a fact that is not subject to reasonable dispute because "(1) [it] is generally known within the trial court's territorial jurisdiction; or (2) [it] can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(2). Rule 201 contemplates judicial notice of facts indicated as trustworthy by sources such as "a public record or a well-established learned treatise like Gray's Anatomy." *General Elec. Capital Corp. v. Lease Resolution Corp.*, 128 F.3d 1074, 1084 (7th Cir. 1997) (citing cases taking judicial notice of census data and refusing to take judicial notice of facts published in a newspaper or in certain government reports). *Miller U.K. Ltd. v. Caterpillar, Inc.*, No. 10-cv-03770, 14-15 (N.D. Ill. Nov. 20, 2015)

7. The *Abrue* opinion is a public record. Plaintiff reserves the right to use a copy of it to prove its content pursuant to FRE 1005.

8. The *Abrue* opinion also contains numerous party opponent admission and statements against interest by Defendants/declarants. The Plaintiff reserves the right to offer into evidence any of those statements contained in the *Abrue* opinion, pursuant to FRE 801 and FRE 804(b)(3).

9. Plaintiff respectfully seeks admission of the OIG second quarter of 2017 and OIG third quarter of 2017 reports pursuant to FRE 803(8)(A)(iii). *See* footnote no. 5 in *Abreu v. City of Chicago*, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022):

> "Defendant objects to the OIG reports as inadmissible hearsay. (See, e.g., DSOFR ¶ 57.) But Defendant does not explain why the findings in these reports would not fall under the hearsay exception in civil cases for "factual findings from a legally authorized investigation." FED. R. CIV. P. 803(8)(A)(iii). Such findings are "presumed to be admissible, " and "[t]he burden to show untrustworthiness lies on the party seeking to exclude" them. *Daniel v. Cook County*, 833 F.3d 728, 740 (7th Cir. 2016). Defendant's objections to the OIG findings are overruled."

10. Plaintiff respectfully seeks admission of the December 2, 2012, August 13, 2013, and January 16, 2014, right to sue letters issued by the U.S. Department of Justice. The letters are factual findings from a legally authorized investigation and as such are admissible under FRE 803(8)(A)(iii). Furthermore, "A party is entitled to present evidence that is relevant to its theory of the case." *People ex rel. Department of Transportation v. Kotara*, L.L.C., 379 Ill. App. 3d 276, 286 (2008). Here Plaintiff must prove that the environment was *objectively* hostile. The right

to sue letters issued by a neutral investigative body, the U.S. Department of Justice, represent the best proof that the environment was *objectively* hostile. "Whether an environment is sufficiently objectively hostile or abusive must be judged by "`looking at all the circumstances,' including the `frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance.'" *Faragher*, 524 U.S. at 787-788 (quoting *Harris v. Forklift Systems*, 510 U.S. 17, 23 (1993)) (further internal quotations omitted); *accord Breeden*, 532 U.S. at 270-71; *Boumehdi*, 489 F.3d at 788; *Murray v. Chicago Transit Auth.*, 252 F.3d 880, 888-89 (7th Cir. 2001). The right to sue letters undoubtedly constitute part of "all the circumstances" the jury must be made aware of.

11. Plaintiff respectfully seeks admission of the City's Equal Employment Policies and Practices issued in 2013 and in 2019. Pursuant to FRE 407: "When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove: . . . culpable conduct . . . *But the court may admit this evidence for another purpose, such as . . . the feasibility of precautionary measures*.", subject to an FRE 403 analysis. Here, the policies (and inherent need for changes) have a strong probative value. They obviously prejudice the Defendants but the prejudice is not unfair and there is no risk that the policies could confuse or mislead the jury. To the contrary, the jury must be made aware of the changes in the policies and the circumstances that made those changes necessary in order to be able to reach its determinations regarding Plaintiff's claims. Furthermore, the policies are party opponent admission "by conduct" admissible under FRE 801.

12. Plaintiff respectfully seeks admission of the record and of Mr. Outley's testimony regarding the circumstances surrounding Cook County Criminal Case no. 13120440201 which was nolle prossed by the State. The record is admissible under FRE 803(8)(A)(iii) as public record and under FRE 404(b)(2) to prove plan, and absence of mistake or accident in Defendant's discriminatory and harassing conduct against Plaintiff. The record, as well as Mr. Outley's testimony regarding that case, will show the jury the extent of the harassment in the workplace where the Defendant/City planned a false incident, carried out the plan, did not hesitate to report a false crime to the police, and even violated the federal and state wiretapping statute to get Mr. Outley in troubles with the law.

13. Plaintiff respectfully seeks admission of the newspaper article "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017) (the article with a photo of a noose hanging in a DWM truck) under FRE 803(3) to prove Mr. Outley's then existing mental state which goes directly to the subjective prong of the hostile work environment analysis, as well as to the fourth and fifth element of the Title VII and section 1983 Hostile Work Environment claims (the plaintiff perceived the working environment to be abusive or hostile and a reasonable man in the plaintiff's circumstances would consider the working environment to be abusive or hostile). *See* related Federal Jury Instructions.

14. Plaintiff respectfully seeks admission of the following newspaper article:

- "Racial Tensions Boiling Over in City Water Department" (WTTW, August 7, 2019) (Grp. Ex. 1 at "OUT P. 005-07");

- "'Take a Water Hose and Clean Out' Department of Water Management, Mayor is Urged" (Chicago Sun Times, August 1, 2019)(*id.* at "OUT P. 008-12");
- "Emanuel Defends New Water Commissioner Amid Racist Culture Complaints" (CBS 2 Chicago, January 15, 2018)(*id.* at "OUT P. 013");
- "Alderman Alleges Racism in City Water Department" (ABC 7 Chicago, October 11, 2017)(*id.* at "OUT P. 014-15");
- "Allegations of Racism, Sexism and Gun Dealing in City Water Department" (WTTW, May 15, 2019)(*id.* at "OUT P. 016-18"), and
- "Chicago Inspector General Uncovers City Worker Scandals" (WTTW, July 19, 2017) (*id.* at "OUT P. 022-24").

All articles are admissible under FRE 803(3) to prove Mr. Outley's then existing mental state which goes directly to the subjective prong of the hostile work environment analysis, as well as to the fourth and fifth element of the Title VII and section 1983 Hostile Work Environment claims (the plaintiff perceived the working environment to be abusive or hostile and a reasonable man in the plaintiff's circumstances would consider the working environment to be abusive or hostile). *See* related Federal Jury Instructions.

15. Plaintiff respectfully seeks admission of his employment record, including disciplinary proceedings, promotions, and applications for promotions. Everything in the record is admissible under FRE 803(6) as record made at or near the time of an act by someone with knowledge and made and kept in the course of regularly conducted activity of the organization.

16. Plaintiff respectfully seeks admission of the Declaration of Jill May, dated November 7, 2017, regarding the City of Chicago hiring policies. The Declaration is admissible as party opponent admission under to FRE 801(d)(2) to prove elements of the Plaintiff's claims and/or to call into questions Defendants' credibility. Also, Defendants' testimonies at trial might render the material admissible for impeachment purposes. Mrs. Jill has been deposed in the case sub judice; her deposition raised doubts regarding the authenticity of her 2017 Declaration as well as the application and/or implementation of the City's rules and hiring policies prohibiting discrimination based on race. Both the Declaration and the deposition testimony are critically relevant to Plaintiff's claims of hostile work environment based on race discrimination. Plaintiff is the party with the burden of proof to prove hostile work environment based on race discrimination and will call Mrs. May to testify at trial. Defendant will have an opportunity to cross examine her during the presentation of Plaintiff's case in chief. The witness is equally available for the defense to call in the presentation of their case in chief.

17. Plaintiff respectfully seeks admission of the discovery material and witness testimonies related to the spillage of Glycol into the water system at the City of Chicago, Lexington Pumping Station, which resulted in the issuance of "Do Not Drink the Water" order on July 17, 2017. All the material is admissible as party opponent admission under to FRE 801(d)(2) to prove elements of the Plaintiff's claims and/or to call into questions Defendants' credibility. Defendant Mussen is the individual behind any supervisory decision that led to the spillage, including his specific decision to exclude Mr. Outley from the meeting during which he ordered the maintenance work that led to the spillage. In his capacity as ACOE, Mr. Outley was supposed to participate in the meeting. As this Court noted in his Summary Judgment

Order of October 12, 2021, "the other actions by Mussen lend further strength to Outley's hostile work environment claim, or at least a reasonable jury could find so." (*See* page 28 of the Court's Order.) As the Court noted, Mussen's actions against Mr. Outley "could be viewed as pertinent in light of Mussen's other conduct." *Id.* Here, Mr. Mussen deliberately deprived Mr. Outley's of the right to be present at a meeting that fully required his presence, expertise, and input. Even more outrageously, during the discovery phase, Defendants initially posited the spillage as improper action on the part of Mr. Outley thereby establishing a whole new level of attack against Mr. Outley in the context of the long litany of unsubstantiated accusations and/or disciplinary actions taken against Mr. Outley during the course of his employment. Furthermore, the discovery material and related testimonies reveal the City's deliberate cover up of the spillage of a cancer-causing agent into public water in an area which is primarily home to Black and Brown people. Any prejudice that could come to Defendants by the disclosure during trial of the information surrounding the spillage is fully deserved and clearly the probative value of the evidence does not outweigh its prejudicial effect on Defendants. Plaintiff's burden consists exactly of exposing the Defendants' culture of racism and disregard for the rights of Black and Brown people which in this case were treated as expandable by the City and DWM's officials who deliberately chose not to alert the specifically affected Black and Brown population about the spillage.

18. The Plaintiff hereby reserves the right to bring to the Court's attention any additional motions as may arise throughout the course of the trial.

19. The Plaintiff seeks leave to call any and all of its listed and unlisted witnesses as rebuttal witnesses, should the defense call any of its witnesses or introduce character evidence.

20. The Plaintiff seeks leave to use any evidence for proper impeachment purposes.

WHEREFORE, the Plaintiff respectfully requests this Court to grant the Plaintiff's Motion for Orders in Limine.

Respectfully submitted,

Dated: August 30, 2022

MICHAEL OUTLEY

By: /s/ Calvita J. Frederick_____
Attorney

Calvita J. Frederick
P.O. Box 802976
Chicago, IL 60680
(312) 421-5544
ARDC #6184001
calvita.frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 31, 2022, the foregoing *Plaintiff's Motions in Limine* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

Exhibit 9

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

IN THE MATTER OF:

MICHAEL OUTLEY,

Plaintiff,

v.

CITY OF CHICAGO, a municipal corporation,
ALAN STARK, Managing Deputy Commissioner in his Individual and Official Capacity,
RANDY CONNER, Commissioner of the Department of Water Management in his Individuals and Official Capacity, and
ROBERT MUSSEN, Chief Operating Engineer in his Individuals and Official Capacity

Defendants.

Case No.: 17 cv 8633

Judge Gary Feinerman

(1) MOTION FOR JUDICIAL NOTICE AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF;

Filed Under Separate Cover:
(2) NOTICE TO DEFENDANTS OF REQUEST FOR JUDICIAL NOTICE; and

(3) CERTIFICATE OF SERVICE;

Filed Under Separate Cover:
(4) DECLARATION OF CALVITA FREDERICK IN SUPPORT THEREOF.

MOTION FOR JUDICIAL NOTICE

Plaintiff, by and through the undersigned attorney, and pursuant to Federal Rules of Evidence 201(b)(2) and 201(C)(2), hereby respectfully requests that this Court take judicial notice of the following items:

1. **Exhibit A:** *Abreu v. City of Chicago*, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022).
2. **Exhibit B:** Excerpt from *Frey v. Coleman*, 141 F. Supp. 3d 873, 880 (N.D. Ill. 2015).

3. **Exhibit C:** Holding in *Vance v. Ball State Univ.*, 646 F.3d 461, 469 (7th Cir. 2011), aff'd, 570 U.S. 421 (2013).
4. **Exhibit D**: Excerpt from *Gates v. Bd. of Educ. of Chi.*, 916 F.3d 631, 638-39 (7th Cir. 2019)**:**
5. **Exhibit E:** holding in *Green v. Franklin Nat'l Bank of Minneapolis,* 459 F.3d 903, 911 (8th Cir. 2006).
6. **Exhibit F:** Pages 27, 28, and 29 of the October 21, 2021, Summary Judgment Opinion that the Court issued in the case sub judice, from "Drawing all reasonable inferences" on page 27, to "(giving rise to strict liability)…)" on page 29 included.
7. Exhibit **G:** City of Chicago Office of the Inspector General second quarter of 2017 report.
8. Exhibit **H:** City of Chicago Office of Inspector General third quarter of 2017 report.
9. Exhibit **I:**United State Department of Justice Right to Sue Letter dated December 2, 2012.
10. Exhibit **J:** United State Department of Justice Right to Sue Letter dated August 13, 2013.
11. Exhibit **K:** United State Department of Justice Right to Sue Letter dated January 16, 2014.
12. Exhibit **L:** United State Department of Justice Right to Sue Letter issued in the year 2017.
13. Exhibit **M:** City of Chicago's Equal Employment Policies and Practices issued in 2013.
14. Exhibit **N:** City of Chicago's Equal Employment Policies and Practices issued in 2019.
15. Exhibit **O:** Record of Cook County Criminal Case no. 13120440201.
16. Exhibit **P:** The newspaper article: "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017) (the article with a photo of a noose hanging in a DWM truck).

17. Exhibit **Q:** The Photo of a noose hanging in a DWM truck, published in the newspaper article "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017).

18. Exhibit **R: (composite):** The following newspaper articles:

- "Racial Tensions Boiling Over in City Water Department" (WTTW, August 7, 2019) (Grp. Ex. 1 at "OUT P. 005-07"); **Ex R1**
- "'Take a Water Hose and Clean Out' Department of Water Management, Mayor is Urged" (Chicago Sun Times, August 1, 2019)(*id.* at "OUT P. 008-12"); **Ex R2**
- "Emanuel Defends New Water Commissioner Amid Racist Culture Complaints" (CBS 2 Chicago, January 15, 2018)(*id.* at "OUT P. 013"); **Ex R3**
- "Alderman Alleges Racism in City Water Department" (ABC 7 Chicago, October 11, 2017)(*id.* at "OUT P. 014-15"); **Ex R4**
- "Allegations of Racism, Sexism and Gun Dealing in City Water Department" (WTTW, May 15, 2019)(*id.* at "OUT P. 016-18"), **Ex R5** and
- "Chicago Inspector General Uncovers City Worker Scandals" (WTTW, July 19, 2017) (*id.* at "OUT P. 022-24"). **Ex R6**

19. **Exhibit S:** Mr. Outley's employment record, including disciplinary proceedings, promotions, and applications for promotions.

20. **Exhibit T:** City of Chicago, Lexington Pumping Station, "Do Not Drink the Water" order on July 17, 2017.

Facts subject to judicial notice include those that "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(2). The Court "must take judicial notice if a party requests it and the court is supplied with the necessary information." Fed. R. Evid. 201(c)(2). see also *Hennessy v. Penril Datacomm Networks, Inc.,* 69 F.3d 1344, 1354 (7th Cir. 1995) ("In order for a fact to be judicially noticed, indisputability is a prerequisite."). "The most frequent use of judicial notice of ascertainable facts is in noticing the contents of court records." 21 Charles Alan Wright Kenneth W. Graham, Jr., Federal Practice Procedure: Evidence § 5106, at 505 (1st ed. 1977 Supp. 1997). Exhibits A through F are court records from the 7th and 8th United States Circuits.

"The court may take judicial notice of matters of public record, including records of administrative bodies such as the IDHR". *Anderson v. Ctrs. for New Horizons, Inc.*, 891 F. Supp. 2d 956, 959 (N.D. Ill. 2012). Exhibits G-H are public records of an administrative agency; exhibit T is a public notice issued by the City of Chicago DWM, exhibit S is a public record of the City of Chicago DWM. ("We hold that an employment contract is not the kind of record the General Assembly intended to keep from public view and does not fall within the exemption for personnel files in section 7(1)(b) of the Act. The superintendent's contract must be disclosed." *Stern v. Wheaton-Warrenville*, 233 Ill. 2d 396, 413 (Ill. 2009).

"The Court may take proper judicial notice of the right to sue letter." See *United States v. Wood*, 925 F.2d 1580 (7th Cir. 1991); see also *Drebing v. Provo Group, Inc.,* 494 F.Supp.2d 910, 912 (N.D. Ill. 2007) (considering the EEOC's right to sue letter in deciding a motion to dismiss when the letter was attached to the defendant's motion to dismiss and referenced in plaintiff's

complaint). *Mehrberg v. Dep't of Commerce,* Case No. 18-cv-02032 (N.D. Ill. Jun. 13, 2019). Exhibits I through L are right to sue letters.

"A court "may also take judicial notice of matters of public record." *Henson v. CSC Credit Services,*29 F.3d 280, 284 (7th Cir.1994). As such, I may consider plaintiff's IDHR and EEOC charges attached to defendants' motion as well as IDHR records submitted by the parties. *McGee v. United Parcel Serv., Inc.,* No. 01 C 9099, 2002 WL 449061, at *2 (N.D.Ill. March 22, 2002) (citations omitted) ("the court may take judicial notice of matters of public record, including records of administrative bodies such as the IDHR")". *Anderson v. Ctrs. for New Horizons, Inc.*, 891 F. Supp. 2d 956, 959 (N.D. Ill. 2012). Exhibits M-N are public records of the EEOC.

The Court is permitted to take judicial notice of Petitioner's criminal proceedings. *See Guaranty Bank v. Chubb Corp.*, 538 F.3d 587, 591 (7th Cir. 2008) ("[A] court is of course entitled to take judicial notice of judicial proceedings."); *Opoka v. I.N.S.*, 94 F.3d 392, 394 (7th Cir. 1996) (The Court "has the power, in fact the obligation, to take judicial notice" of relevant court proceedings). *Bradford v. United States*, Case No. 19-cv-1022-DWD (S.D. Ill. May. 5, 2021). Exhibit O is a relevant criminal record.

"Appellate court may take judicial notice of newspaper article in reviewing propriety of district court's dismissal of complaint alleging securities violations" *Ieradi v. Mylan Laboratories, Inc.,* 230 F.3d 594, 597-98 (3d Cir. 2000); *See* also *In re Sterling Foster Co. Inc. Securities Litigation*, 222 F. Supp.2d 312, 319-21 (E.D.N.Y. 2002) (taking judicial notice of

many articles reporting fraud charges against Sterling Foster Co.") (quoting *Dodds v. Cigna Securities, Inc.*, 12 F.3d 346, 350 (2d Cir. 1993)). Exhibits P through R, are newspaper articles.

In sum, the above items meet the requirements of Rule 201(b)(2) of the Federal Rules of Evidence, and therefore, the Court must take judicial notice of them pursuant to Rule 201(c)(2) of the Federal Rules of Evidence

Respectfully submitted,

Dated: September 13, 2022

MICHAEL OUTLEY

By: /s/ Calvita J. Frederick
Attorney

Calvita J. Frederick
P.O. Box 802976
Chicago, IL 60680
(312) 421-5544
ARDC #6184001
calvita.frederick@att.net

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

IN THE MATTER OF:

MICHAEL OUTLEY,

Plaintiff,

v.

CITY OF CHICAGO, a municipal corporation,
ALAN STARK, Managing Deputy Commissioner in his Individual and Official Capacity,
RANDY CONNER, Commissioner of the Department of Water Management in his Individuals and Official Capacity, and
ROBERT MUSSEN, Chief Operating Engineer in his Individuals and Official Capacity

Defendants.

Case No.: 17 cv 8633

Judge Gary Feinerman

21. MOTION FOR JUDICIAL NOTICE AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF;

Filed Under Separate Cover:
22. NOTICE TO DEFENDANTS OF REQUEST FOR JUDICIAL NOTICE; and

23. CERTIFICATE OF SERVICE;

Filed Under Separate Cover:
24. DECLARATION OF CALVITA FREDERICK IN SUPPORT THEREOF.

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR JUDICIAL NOTICE

A. FRE 201

Rule 201 of the Federal Rules of Evidence, Judicial Notice of Adjudicative Facts, in relevant parts states as follows:

....

(b) KINDS OF FACTS THAT MAY BE JUDICIALLY NOTICED. The court may judicially notice a fact that is not subject to reasonable dispute because it:

(1) is generally known within the trial court's territorial jurisdiction; or

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) TAKING NOTICE. The court:

(1) may take judicial notice on its own; or

(2) must take judicial notice if a party requests it and the court is supplied with the necessary information.

(d) TIMING. The court may take judicial notice at any stage of the proceeding.

(e) OPPORTUNITY TO BE HEARD. On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed. If the court takes judicial notice before notifying a party, the party, on request, is still entitled to be heard.

(f) INSTRUCTING THE JURY. In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. ….

Further, the commentary to the rule, in relevant parts, reads:

"The usual method of establishing adjudicative facts in through the introduction of evidence, ordinarily consisting of the testimony of witnesses. If particular facts are outside of reasonable controversy, this process is dispensed with as unnecessary. A high degree of indisputability is the essential prerequisite.

…. the regulation of judicial notice of facts by the present rule extends only to adjudicative facts.

What, then, are "adjudicative" facts? Davis refers to them as those "which relate to the parties," or more fully:

"When a court or an agency finds facts concerning the immediate parties—who did what, where, when, how, and with what motive or intent—the court or agency is performing an adjudicative function, and the facts are conveniently called adjudicative facts. * * *

"Stated in other terms, the adjudicative facts are those to which the law is applied in the process of adjudication. They are the facts that normally go to the jury in a jury case. They relate to the parties, their activities, their properties, their businesses." 2 Administrative Law Treatise 353.

Subdivision (b). With respect to judicial notice of adjudicative facts, the tradition has been one of caution in requiring that the matter be beyond reasonable controversy. This tradition of circumspection appears to be soundly based, and no reason to depart from it is apparent. As Professor Davis says:

"The reason we use trial-type procedure, I think, is that we make the practical judgement, on the basis of experience, that taking evidence, subject to cross-examination and rebuttal, is the best way to resolve controversies involving disputes of adjudicative facts, that is, facts pertaining to the parties. The reason we require a determination on the record is that we think fair procedure in resolving disputes of adjudicative facts calls for giving each party a chance to meet in the appropriate fashion the facts that come to the tribunal's attention, and the

appropriate fashion for meeting disputed adjudicative facts includes rebuttal evidence, cross-examination, usually confrontation, and argument (either written or oral or both). The key to a fair trial is opportunity to use the appropriate weapons (rebuttal evidence, cross-examination, and argument) to meet adverse materials that come to the tribunal's attention." A System of Judicial Notice Based on Fairness and Convenience, in Perspectives of Law 69, 93 (1964).

The rule proceeds upon the theory that these considerations call for dispensing with traditional methods of proof only in clear cases. Compare Professor Davis' conclusion that judicial notice should be a matter of convenience, subject to requirements of procedural fairness. *Id.*, 94.

This rule is consistent with Uniform Rule 9(1) and (2) which limit judicial notice of facts to those "so universally known that they cannot reasonably be the subject of dispute," those "so generally known or of such common notoriety within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute," and those "capable of immediate and accurate determination by resort to easily accessible sources of indisputable accuracy." The traditional textbook treatment has included these general categories (matters of common knowledge, facts capable of verification), McCormick §§324, 325, and then has passed on into detailed treatment of such specific topics as facts relating to the personnel and records of the court, *Id.* §327, and other governmental facts, *Id.* §328.

....

Subdivisions (c) and (d). Under subdivision (c) the judge has a discretionary authority to take judicial notice, regardless of whether he is so requested by a party. The taking of judicial notice is mandatory, under subdivision (d), only when a party requests it and the necessary information is supplied. This scheme is believed to reflect existing practice. It is simple and workable. It avoids troublesome distinctions in the many situations in which the process of taking judicial notice is not recognized as such.

Notes of Advisory Committee on Proposed Rules, current through 2022.

B. <u>The Standard cited in case law</u>

"A court may take judicial notice of an adjudicative fact that is both "not subject to reasonable dispute" and either 1) "generally known within the territorial jurisdiction of the trial court" or 2) "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed.R.Evid. 201(b); see also *Hennessy v. Penril Datacomm Networks, Inc.,* 69 F.3d 1344, 1354 (7th Cir. 1995) ("In order for a fact to be judicially noticed, indisputability is a prerequisite."). Judicial notice is premised on the concept that certain facts or propositions exist which a court may accept as true without requiring additional proof from the opposing parties. It is an adjudicative device that substitutes the acceptance of a universal truth for the conventional method of introducing evidence. *See York, 95 F.3d at 958; Wesly-*

Jessen Div. of Schering Corp. v. Bausch Lomb Inc., 698 F.2d 862, 865 (7th Cir. 1983). Judicial notice, therefore, merits the traditional caution it is given, and courts should strictly adhere to the criteria established by the Federal Rules of Evidence before taking judicial notice of pertinent facts. See Fed.R.Evid. 201(b) advisory committee's note.

At first glance, it seems appropriate for the district judge to take judicial notice of a finding he previously made. "The most frequent use of judicial notice of ascertainable facts is in noticing the contents of court records." 21 Charles Alan Wright Kenneth W. Graham, Jr., Federal Practice Procedure: Evidence § 5106, at 505 (1st ed. 1977 Supp. 1997). Like other court records, judicial approval of a class action settlement is an appropriate subject for judicial notice because it is a source "whose accuracy cannot reasonably be questioned." Fed.R.Evid. 201(b); *see also Opoka v. INS,* 94 F.3d 392, 394 (7th Cir. 1996) (recognizing that proceedings in other courts, both inside and outside the federal system, may be judicially noticed); *Scholes v. Lehmann*, 56 F.3d 750, 762 (7th Cir. 1995) (allowing judicial notice of facts recited in a plea agreement); *Hensen v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir. 1994) (confirming that court documents from state proceeding are noticeable); *Philips Med. Sys. Int'l v. Bruetman*, 982 F.2d 211, 215 (7th Cir. 1992) (approving judicial notice of a related default judgment); see also *Locicero v. Leslie,* 948 F. Supp. 10, 12 (D. Mass. 1996) (taking judicial notice of settlement hearing transcript*); Citizens for a*

Better Env't-Cal. v. Union Oil Co., 861 F. Supp. 889, 896 (N.D. Cal. 1994) (taking judicial notice of related consent decree), aff'd, 83 F.3d 1111 (9th Cir. 1996). Therefore, if the finding taken from the prior proceeding is "not subject to reasonable dispute," then the court has satisfied the evidentiary criteria for judicial notice. See Fed.R.Evid. 201(b)."

General Elect. Capital v. Lease Resolution, 128 F.3d 1074, 1081-82 (7th Cir. 1997)

"The application of a previous finding to a latter proceeding must be beyond reasonable dispute before a court may take judicial notice because "the effect of taking judicial notice under Rule 201 is to preclude a party from introducing contrary evidence and, in effect, directing a verdict against him as to the fact noticed." Jones, 29 F.3d at 1553. "`The key to a fair trial is opportunity to use the appropriate weapons (rebuttal evidence, cross-examination, and argument) to meet adverse materials that come to the tribunal's attention.'" Fed.R.Evid. 201(b) advisory committee's note (quoting Kenneth Culp Davis, A System of Judicial Notice Based on Fairness and Convenience, in Perspectives of Law 69, 93 (1964)). If a court takes judicial notice of a fact whose application is in dispute, the court removes these weapons from the parties and raises doubt as to whether the parties received a fair hearing."

General Elect. Capital v. Lease Resolution, 128 F.3d 1074, 1083 (7th Cir. 1997)

C. <u>Specific case law in support of each requested Judicial Notice</u>

1) **Judicial notice of *Abreu v. City of Chicago*, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022).**

Abreu, just like all the material that Plaintiff asks this Court to take Judicial Notice of is relevant.

Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. " Fed.R.Evid. 401. This definition of relevant evidence is an expansive one. To be relevant, evidence need not conclusively decide the ultimate issue in a case; it must simply tend to make a witness' testimony more or less credible. 1 J. Weinstein M. Berger, Weinstein's Evidence ¶ 401[05]. See *Sherrod v. Berry*, 856 F.2d 802 (7th Cir. 1988)

Rule 401 provides that evidence is relevant if "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Fed. R. Evid. 401. Rule 402 provides the corollary that, with certain exceptions, "[r]elevant evidence is admissible" and "[i]rrelevant evidence is not admissible." Fed. R. Evid. 402. "A party faces a significant obstacle in arguing that evidence should be barred because it is not relevant, given that the Supreme Court has stated that there is a 'low threshold' for establishing that evidence is relevant, " *United States v. Boros*, 668 F.3d 901, 907 (7th Cir. 2012) (quoting *Tennard v. Dretke*, 542 U.S. 274, 285 (2004)). "The question is not whether the evidence has great probative weight, but whether it has any, and whether it in some degree advances the inquiry." *Davis v. Duran*, 276 F.R.D. 227, 230 (N.D. Ill. 2011) (citing *Thompson v.*

City of Chi., 472 F.3d 444, 453 (7th Cir. 2006)). *City of Joliet v. Mid-City Nat'l Bank of Chi.*, 05 C 6746 (N.D. Ill. Nov. 5, 2012).

Abreu contains Defendants' admissions that confirms exactly what Mr. Outley will say on the stand. *Abreu* also references the EEOC procedures and the OIG reports which are exactly the documents that Plaintiff – the party with the burden of proof- needs and plans on using to prove the case. Hence, *Abreu* definitely advances the inquiry, has a tendency to make Plaintiff's claims more probable than they would be without the evidence, and is of consequence in determining the action. Not only it tends to make Mr. Outley's testimony more credible – which is particularly relevant in this case where Defendant Mussen will testify to the opposite of what Mr. Outley will testify but it might very well help the jury decide the ultimate issue in the case.

Abreu is a published opinion and a public record and as such it is subject to Judicial Notice under 201(b), it is an exception to the hearsay rule pursuant to FRE 803(8), and it is self-authenticating pursuant to FRE 902(1)-(4).

The Court may take judicial notice of public records. See, e.g. *Deicher v. City of Evansville, Wis.*, 545 F.3d 537, 541 (7th Cir. 2008), *United States v. Luce*, No. 11 C 05158 (N.D. Ill. Sep. 30, 2015), *United States ex rel. Santiago v. Hinsley*, 297 F. Supp. 2d 1065, 1068 n.4 (N.D. Ill. 2003) (involving summary dismissal of a § 2254 petition where the court took judicial notice of public records about the petitioner's prior litigation in state court),

Abreu is also a judicial decision and "Courts may take judicial notice of judicial decisions. *See Consolidation Coal Co. v. United Mine Workers of America, Dist. 12, Local*

Union 1545, 213 F.3d 404, 407 (7th Cir. 2000)." *Richmond v. Brookhart*, Cause No. 3:19-cv-00646-GCS, 5 n.1 (S.D. Ill. Jan. 15, 2021).

Furthermore, Plaintiff can use a copy of Abreu to prove content pursuant to FRE 1005 and some of the contents of the *Abreu* opinion that Plaintiff intends to use, namely statements made under oath by DWM employees and supervisors, City of Chicago EEOC and OIG reports, are Defendants' own statements which are admissions, not hearsay.

"Under Federal Rule of Evidence 801(d)(2), admissions by party opponents are not hearsay. A statement or document is an admission under the Federal Rules of Evidence if it is offered against a party and is the party's own statement in either an individual or a representative capacity or a statement by a person authorized by the party to make a statement concerning the subject. Statements under the Federal Rules of Evidence includes both oral and written assertions. F.R.Evid. 801(a). See *Architectural Iron Workers v. United Contractors*, 46 F. Supp. 2d 769 (N.D. Ill. 1999) .

Furthermore, for the purpose of admissibility under FRE 201, in the case sub judice, party opponent admissions are the quintessential form of adjudicative fact that a Court can judicially notice, as they are *beyond reasonable dispute.* Plaintiff does not doubt the veracity of Defendants' statements; they prove Mr. Outley's claims and case. Should Defendants unwisely decide to dispute the veracity of their own statements given under oath in prior judicial proceedings or make in this case statements that are inconsistent with their prior sworn testimonies, Plaintiff will impeach them. Pursuant to FRE 801(d)(1)(A), the prior sworn

statements will have to be accepted for the truth of the matter asserted, not simply for impeachment.

Finally, the same evidence is statements against interest by Defendants/declarants, admissible under FRE 804(b)(3).

2) **Judicial notices of: excerpt from *Frey v. Coleman*, 141 F. Supp. 3d 873, 880 (N.D. Ill. 2015), holding in *Vance v. Ball State Univ.*, 646 F.3d 461, 469 (7th Cir. 2011), aff'd, 570 U.S. 421 (2013), excerpt of *Gates v. Bd. of Educ. of Chi.*, 916 F.3d 631, 638-39 (7th Cir. 2019), holding in *Green v. Franklin Nat'l Bank of Minneapolis*, 459 F.3d 903, 911 (8th Cir. 2006).**

All the excerpts and holdings are relevant because they discuss facts and law directly applicable to Mr. Outley's case. They definitely advance the inquiry, have a tendency to make Plaintiff's claims more probable than they would be without the evidence, and are of consequence in determining the action.

Indeed, Plaintiff has tendered the same material for inclusion in the jury instructions. There is no question that the law dictates inclusion of Plaintiff's tendered instructions in the final charge to the jury:

> "A party is entitled to have his tendered instruction read to the jury only if the instruction is, first and foremost, supported by the evidence received at trial, and if: the instruction correctly states the law; it does not repeat material covered by other instructions; and the substantial rights of the party offering the instruction would be prejudiced if it were not given. *Underly*, 605 N.E.2d at 1191; *see also Superbird Farms, Inc. v. Perdue Farms, Inc.*, 970 F.2d 238, 244 (7th Cir. 1992) ("the trial court must give an instruction if the instruction is supported by the

> evidence"). "[P]rovided that the . . . requirements [above] are met, a trial court should not refuse an instruction covering the law applicable to the case." *Peak*, 578 N.E.2d at 362. See *Leon v. Caterpillar Indus., Inc.*, 69 F.3d 1326, 1344 (7th Cir. 1995)
>
> While it is true that the court enjoys broad discretion in determining an appropriate jury charge, a tendered instruction which is essential to the jury's understanding of the case and not adequately covered by other instructions should not be omitted. *Brandes v. Burbank*, 613 F.2d 658, 668 (7th Cir. 1980).
>
> Jury instructions "must be correct statements of the law that are supported by the evidence."

United States v. Perez, 43 F.3d 1131, 1137 (7th Cir. 1994).

Accordingly, Plaintiff can and will tender the same jury instructions in trial. However, given that another, additional route for the admission of the same material is available, FRE 201, Plaintiff has elicited to use such route. The advantage in using this route is that FRE 201 states that 1) a party can request that the Court takes judicial notices *at any time*, 2) the Court *must take judicial notice* if a party requests it and the court is supplied with the necessary information, 3) the court may take judicial notice *at any stage of the proceeding*, and 4) in a civil case, the court *must instruct the jury to accept the noticed fact as conclusive*. *Id.* Even more importantly, because a request for judicial notice can be made at any time and the Court may take judicial notice at any stage of the proceeding, the additional route does not leave any room for

Defendants to argue that they are prejudiced in their trial preparation by late submissions. FRE 201 makes it impossible to support such a claim.

All the cases are relevant, they are public records and judicial opinions; as such, and on all the authorities cited above, they are subject to Judicial Notice under 201(b), they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4), Plaintiff can use a copy of them to prove content pursuant to FRE 1005.

3) Judicial Notice of pages 27, 28, and 29 of the October 21, 2021, Summary Judgment Opinion that the Court issued in the case sub judice.

"A court can take judicial notice of its own records. *Shuttlesworth v. City of Birmingham, Ala.*, 394 U.S. 147, 157 (1969); *Freshman v. Atkins*, 269 U.S. 121 (1925)" *See Perrywatson v. United Airlines, Inc.*, 762 F. Supp. 2d 1107 (N.D. Ill. 2011)

The same reasoning that applies to the holdings in the preceding section also applies to the excerpt of this Court's Summary Judgement Opinion. Plaintiff hereby re-alleges and incorporates the legal arguments and analysis contained in subsection 2 above.

The excerpts are relevant, they are public records and judicial opinions; as such, and on all the authorities cited above, they are subject to Judicial Notice under 201(b), they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4), Plaintiff can use a copy of them to prove content pursuant to FRE 1005.

4) Judicial Notice of the City of Chicago Office of the Inspector General 2017 reports

The reports are extremely relevant. The third paragraph of the summary of the findings in the letter of July 15, 2017, to the Mayor, Members of the City Council, the City Clerk, the City

Treasurer, and the residents of the City of Chicago, signed by Joseph M. Ferguson, Inspector General of the City of Chicago is unequivocal and reads (underscoring added):

> " More specifically, an OIG investigation found egregious, offensive racist and sexist emails distributed by and among employees of the Department of Water Management (DWM) that extended to senior levels of department management and that suggested the existence of an unrestricted culture of overtly racist and sexist behavior and attitudes within the department." (OIG report, second quarter 2017).

Indeed, the findings are party opponent admissions and are public records. On the authorities cited above, they are subject to Judicial Notice under 201(b), they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4). The reports are party opponent admissions as they were issued by the "City of Chicago" OIG, admissible under 801(d)(2). The reports are also statements against interest by Defendants/declarants, admissible under FRE 804(b)(3). Finally, *Abreu* provided yet another basis for their admissibility:

> "Defendant objects to the OIG reports as inadmissible hearsay. (See, e.g., DSOFR ¶ 57.) But Defendant does not explain why the findings in these reports would not fall under the hearsay exception in civil cases for "factual findings from a legally authorized investigation." FED. R. CIV. P. 803(8)(A)(iii). Such findings are "presumed to be admissible, " and "[t]he burden to show untrustworthiness lies on the party seeking to exclude" them. *Daniel v. Cook County*, 833 F.3d 728, 740 (7th Cir. 2016). Defendant's objections to the OIG findings are overruled."

Abreu v. City of Chicago, No. 1:2019cv02161 - Document 196 (N.D. Ill. 2022).

Mr. Outley tried to introduce and use the OIG reports in a previous litigation:

> "Outley's evidence about the racist emails consists of two reports issued in 2017 by the Chicago Office of Inspector General ("OIG"). Doc. 216 at ¶¶ 24-28. (Outley placed in the record only press releases about the reports, not the reports themselves. Doc. 217-1 at 6-8. The court located the reports online. *See* Chi. Office of Inspector Gen., Quarterly Report of the Office of Inspector General: Second Quarter 2017 (July 2017), *https://igchicago.org/wp-content/uploads/2017/07/OIG-2nd-Quarter-2017-Report-3.pdf*; Chi. Office of Inspector Gen., Quarterly Report of the Office of Inspector General: Third Quarter 2017 (Oct. 2017), *https://igchicago.org/wp-content/uploads/2017/10/OIG-Third-Quarter-2017*-Report.pdf.) The reports state that two unnamed DWM employees-neither alleged to have any connection to this suit-sent racist emails to co-workers and were forced to resign.
>
> The reports' contents are inadmissible hearsay, as Outley seeks to use them to prove that the events happened as described. *See* Fed. R. Evid. 801(c) (defining hearsay as an out-of-court statement offered to prove the truth of the matter asserted therein). Outley asks the court to take judicial notice under Evidence Rule 201 of the reports' contents. Doc. 216 at ¶ 24 n.3. Defendants object, arguing that the reports' factual findings are subject to reasonable dispute. Doc. 238 at 13; Doc. 239 at ¶ 24 n.6; *see Ennenga v. Starns*, 677 F.3d 766, 773-74 (7th Cir. 2012)

> ("A court may take judicial notice of facts that are (1) not subject to reasonable dispute and (2) either generally known within the territorial jurisdiction or capable of accurate and ready determination through sources whose accuracy cannot be questioned."); *see also Daniel v. Cook Cnty.*, 833 F.3d 728, 742 (7th Cir. 2016) (holding that hearsay statements in court filings are usually not subject to judicial notice, which is "a powerful tool that must be used with caution"). Outley's reply brief does not defend the admissibility of the OIG reports' contents with any legal argument, but merely urges the court to exercise its "discretion" to admit them. Doc. 255 at 4. The court does not enjoy the discretion to admit inadmissible evidence, and Outley forfeited any other response to Defendants' reasoned argument for excluding the reports' contents."

Outley v. The City of Chicago, 17 C 8633, 12-13 (N.D. Ill. Oct. 12, 2021)

Unlike the filings in the previous litigation, the instant Request fully defends the admissibility of the OIG reports. Defendants are welcome to renew their old objection and make new objections if they can find any sound argument to defeat this Memorandum. In truth, there is no legal, legitimate, or plausible argument that can keep the OIG reports out.

5) Judicial Notice of the United State Department of Justice Right to Sue Letters.

"The Court may take proper judicial notice of the right to sue letter. See *United States v. Wood,* 925 F.2d 1580 (7th Cir. 1991); see also *Drebing v. Provo Group, Inc.,* 494 F.Supp.2d 910, 912 (N.D. Ill. 2007) (considering the EEOC's right to sue letter in deciding a motion to dismiss

when the letter was attached to the defendant's motion to dismiss and referenced in plaintiff's complaint)." *Mehrberg v. Dep't of Commerce*, Case No. 18-cv-02032 (N.D. Ill. Jun. 13, 2019)

The letters are relevant. "A party is entitled to present evidence that is relevant to its theory of the case." *People ex rel. Department of Transportation v. Kotara*, L.L.C., 379 Ill. App. 3d 276, 286 (2008). Here Plaintiff must prove that the environment was *objectively* hostile. The right to sue letters issued by a neutral investigative body, the U.S. Department of Justice, represent the best proof that the environment was *objectively* hostile. "Whether an environment is sufficiently objectively hostile or abusive must be judged by "`looking at all the circumstances,' including the `frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance.'" *Faragher*, 524 U.S. at 787-788 (quoting *Harris v. Forklift Systems*, 510 U.S. 17, 23 (1993)) (further internal quotations omitted); *accord Breeden*, 532 U.S. at 270-71; *Boumehdi*, 489 F.3d at 788; *Murray v. Chicago Transit Auth.*, 252 F.3d 880, 888-89 (7th Cir. 2001). The right to sue letters undoubtedly constitute part of "all the circumstances" the jury must be made aware of.

The letters also go to Mr. Outley's then existing state of mind under FRE 803(3).

The letters are public records.

"In this instance, the Court takes judicial notice of the right to sue letter as a public record." See *Ratliff v. Conagra, Inc.,* IP 01-0129-C H/K., 2001 WL 1397298, *2 (S.D. Ind. Oct. 31, 2001); *Robinson v. Honeywell Microswitch Div.*, 98 C 50277, 2001 WL 13257, *5 (N.D. Ill. Jan. 3, 2001) (citing *Perkins v. Silverstein*, 939 F.2d 463, 471 (7th Cir. 1991)) *GIWA v. COPMEA, AFSCME LOCAL 3464*, Case No. 09-cv-1312 (C.D. Ill. Jun. 25, 2010)

"The Court may take proper judicial notice of the right to sue letter." See *United States v. Wood*, 925 F.2d 1580 (7th Cir. 1991); see also *Drebing v. Provo Group, Inc.,* 494 F.Supp.2d 910, 912 (N.D. Ill. 2007) (considering the EEOC's right to sue letter in deciding a motion to dismiss when the letter was attached to the defendant's motion to dismiss and referenced in plaintiff's complaint). *Mehrberg v. Dep't of Commerce,* Case No. 18-cv-02032 (N.D. Ill. Jun. 13, 2019).

On the authorities cited above, the letters are subject to Judicial Notice under 201(b), being public record, they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4).

6) City of Chicago's Equal Employment Policies and Practices

The policies are public record, more exactly they are records of an administrative agency. The law governing the records of administrative agencies instructs:

> … a court "may also take judicial notice of matters of public record." *Henson v. CSC Credit Services,*29 F.3d 280, 284 (7th Cir.1994). As such, I may consider plaintiff's IDHR and EEOC charges attached to defendants' motion as well as IDHR records submitted by the parties. *McGee v. United Parcel Serv., Inc.,* No. 01 C 9099, 2002 WL 449061, at *2 (N.D.Ill. March 22, 2002) (citations

omitted) ("the court may take judicial notice of matters of public record, including records of administrative bodies such as the IDHR")". *Anderson v. Ctrs. for New Horizons, Inc.*, 891 F. Supp. 2d 956, 959 (N.D. Ill. 2012).

There is no question that the policies, and even more so the changes in the policies that the City of Chicago EEOC considered necessary to address the rampant discrimination problems that affected the city employees at or about the same time that Mr. Outley was being subjected to discrimination, are relevant. They advance the inquiry, have a tendency to make Plaintiff's claims more probable than they would be without the evidence, and are of consequence in determining the action.

Also, Plaintiff would use the policies to submit to the jury the EEO's conduct in reference to the feasibility of precautionary measures which makes the polices admissible pursuant to FRE 407: "When measures are taken that would have made an earlier injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove: . . . culpable conduct . . . *But the court may admit this evidence for another purpose, such as . . . the feasibility of precautionary measures*.", subject to an FRE 403 analysis. Furthermore, the policies are party opponent admission "by conduct" admissible under FRE 801.

On the authorities cited above, the letters are subject to Judicial Notice under 201(b), being public records, they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4).

7) Judicial Notice of Record of Cook County Criminal Case no. 13120440201

The record of the false criminal charges pressed against Mr. Outley by one of his supervisors at the DWM, as well as the fact that the Defendant City did not take any action to discipline the supervisor for the false report, are direct evidence of hostile work environment. Hence, they are relevant. They advance the inquiry, have a tendency to make Plaintiff's claims more probable than they would be without the evidence, and are of consequence in determining the action.

The record is obviously also public, and the Court can certainly take judicial notice of a criminal record. "The Court further may take judicial notice of matters of public record, such as the court files of state criminal proceedings." *Palay v. United States*, 349 F.3d 418, 425, n. 1 (7th Cir. 2003). The Court takes judicial notice of the records of proceedings in that criminal case. See *Henson v. CSC Credit Servs.*, 29 F.3d 280, 284 (7th Cir. 1994) (court can take judicial notice of court documents, which are public records). The Court has therefore turned to the filings in the underlying criminal case, of which it can take judicial notice. *White v. Keely*, 814 F.3d 883, 885 n.2 (7th Cir. 2016).

The Court is permitted to take judicial notice of Petitioner's criminal proceedings. *See Guaranty Bank v. Chubb Corp.*, 538 F.3d 587, 591 (7th Cir. 2008) ("[A] court is of course entitled to take judicial notice of judicial proceedings."); *Opoka v. I.N.S.*, 94 F.3d 392, 394 (7th Cir. 1996) (The Court "has the power, in fact the obligation, to take judicial notice" of relevant court proceedings). *Bradford v. United States*, Case No. 19-cv-1022-DWD (S.D. Ill. May. 5, 2021)

"The court records from Ingram's criminal proceeding are public records of which this Court can take judicial notice. See *Henson v. CSC Credit Servs*., 29 F.3d 280, 284 (7th Cir. 1994); *Bova v. U.S. Bank, N.A*., 446 F.Supp.2d 926, 930 n.2 (S.D. Ill. 2006).

The Court documents from Nance's criminal proceeding and litigation history are public records of which this Court can take judicial notice. *Nance v. Werlich*, Case No. 19-cv-00968-SMY (S.D. Ill. Nov. 18, 2019)

On the authorities cited above, the record is subject to Judicial Notice under 201(b), being public record, it is an exception to the hearsay rule pursuant to FRE 803(8), and it is self-authenticating pursuant to FRE 902(1)-(4).

8) Judicial Notice of the Photo of a noose hanging in a DWM truck, published in the newspaper article "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017).

Plaintiff requests this Honorable Court to take judicial notice of the fact that the photo was published in the newspaper article "Controversial Photo Prompts Demand for Water Department Hearings" (WTTW, October 11, 2017). The authenticity of the photo is not an issue the Court needs to concern itself with, as Plaintiff intends to use the photo pursuant to FRE 803(3) to prove Mr. Outley's then existing mental state which goes directly to the subjective prong of the hostile work environment analysis, as well as to the fourth and fifth element of the Title VII and section 1983 Hostile Work Environment claims (the plaintiff perceived the working environment to be abusive or hostile and a reasonable man in the plaintiff's circumstances would consider the working environment to be abusive or hostile). *See* related Federal Jury Instructions.

For the foregoing reasons – and purpose - the photo is relevant. It advances the inquiry, has a tendency to make Plaintiff's claims more probable than they would be without the evidence, and is of consequence in determining the action.

The photo is part of a newspaper article, and it is a self-authenticating public record under Rule 902(6). *See Copper and Price*, infra.

On the authorities cited above, the record is subject to Judicial Notice under 201(b), being public record, it is an exception to the hearsay rule pursuant to FRE 803(8), and it is self-authenticating pursuant to FRE 902(6).

9) Judicial Notice of Newspaper Articles

Plaintiff requests this Honorable Court to take judicial notice of all the Newspaper articles listed in page 2 of this Request. Specifically, Plaintiff requests that 1) the Court take judicial notice of the fact that the articles were published and that they contained information about Defendants and 2) give a concurrent limiting instruction that the jurors are to consider the articles for the purpose of determining whether the articles would have given a reader reason to make further inquiry into defendants' liability for (race) discrimination in the work-place.

Judicial notices of newspaper articles in this fashion and for said purpose have been taken before in the 7th Circuit:

> For the purpose of deciding this motion, I am relying on the relevant factual allegations in plaintiffs' first amended complaint, the newspaper articles defendants have submitted to show the existence of news articles about

defendants' actions in connection with Sumitomo's copper market manipulations and additional articles available on Lexis-Nexis. "A court may consider judicially noticed documents without converting a motion to dismiss into a motion for summary judgment." Menominee Indian Tribe of Wisconsin v. Thompson, 161 F.3d 449, 456 (7th Cir. 1998); see also Ieradi v. Mylan Laboratories, Inc., 230 F.3d 594, 597-98 (3d Cir. 2000) (appellate court may take judicial notice of newspaper article in reviewing propriety of district court's dismissal of complaint alleging securities violations);In re Sterling Foster Co. Inc. Securities Litigation, 222 F. Supp.2d 312, 319-21 (E.D.N.Y. 2002) (taking judicial notice of many articles reporting fraud charges against Sterling Foster Co. in granting defendant's motion to dismiss based on running of statute of limitations; court found from articles that plaintiffs had had timely notice of "`circumstances that would suggest to an investor of ordinary intelligence the possibility that he has been defrauded'") (quoting Dodds v. Cigna Securities, Inc., 12 F.3d 346, 350 (2d Cir. 1993)). Fed.R.Evid. 201 allows a fact to be judicially noticed if it is "one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

Although it would be improper to take judicial notice of the contents of the articles for their truth because the truthfulness of the reports is not something

> "capable of accurate and ready determination," I can take judicial notice of the fact that the articles were published and that they contained information about defendants, solely for the purpose of determining whether the articles would have given a reader reason to make further inquiry into defendants' liability for antitrust violations.

Copper Market Antitrust Litigation v. J.P. Morgan Chase, MDL DOCKET No. 1303, 02-C-0707-C, 2-4 (W.D. Wis. Aug. 20, 2003)

Also " [n]ewspaper articles are generally self-authenticating" under Rule 902(6)). *Price v. Rochford*, 947 F.2d 829, 833 (7th Cir.1991).

The articles are relevant because they advance the inquiry, have a tendency to make Plaintiff's claims more probable than they would be without the evidence, and are of consequence in determining the action.

Furthermore, although – generally – the truth of the content of the newspaper articles is not something "capable of accurate and ready determination", such is not the case with these particular newspaper articles which basically discuss or illustrate what the City of Chicago OIG confirmed in its 2017 reports, the very same problems the City of Chicago EEO agency tried to address with changes to its policies, the party opponent admissions, under oath, reported in the *Abreu* case, some of the depositions taken in the instant case, and the rampant race based discrimination Mr. Outley will tell the jury he suffered. Therefore, all the newspaper articles are admissible for the truth of the matter asserted as well as to prove Mr. Outley's state of mind.

Given the highly reliable and undisputed evidence that supports and, in some instances, matches the content of the newspaper articles, the burden to disprove the truthfulness of that

content is on the Defendants who – again - cannot disprove anything unless they want to be impeached with their own admissions, prior statements they gave under oath.

On the authorities cited above, the articles are subject to Judicial Notice under 201(b), being public records, they are an exception to the hearsay rule pursuant to FRE 803(8), and they are self-authenticating pursuant to FRE 902(1)-(4).

10) Judicial Notice of Mr. Outley's employment record

Mr. Outley's employment record, including disciplinary proceedings, promotions, and applications for promotions is admissible under FRE 803(6) as record made at or near the time of an act by someone with knowledge and made and kept in the course of regularly conducted activity of the organization.

Because the record was prepared and maintained by the Defendant City of Chicago and Mr. Outley does not dispute the authenticity or the validity of the content of the record, said content is not subject to reasonable dispute. In other words, the record and its content can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned, unless the Defendants want to claim that they recorded falsities in the report, which would not be reasonable.

The record is relevant because it documents Mr. Outley's employment record with the Defendant City. It advances the inquiry, has a tendency to make Plaintiff's claims more probable than they would be without the evidence, and is of consequence in determining the action.

Furthermore, at all relevant times, Mr. Outley was a public employee and as such his employment record is not exempt from disclosure. "We hold that an employment contract is not

the kind of record the General Assembly intended to keep from public view and does not fall within the exemption for personnel files in section 7(1)(b) of the Act. The superintendent's contract must be disclosed." *Stern v. Wheaton-Warrenville*, 233 Ill. 2d 396, 413 (Ill. 2009).

On the authorities cited above, the record is subject to Judicial Notice under 201(b), is an exception to the hearsay rule pursuant to FRE 803(6)) and can readily be authenticated by the City custodian of records already included in Defendants' witness list which this Court has admitted in its entirety.

Plaintiff reserves the right to redact information in the record such as family history and social security number which have nothing to do with the case.

11) Judicial Notice of City of Chicago, Lexington Pumping Station, "Do Not Drink the Water" order on July 17, 2017.

The Notice is an admission by party opponent that Defendants have never disputed. In fact, they provided it in discovery to Plaintiff. Plaintiff can authenticate the Notice by asking Defendant Mussen to confirm the authenticity of the Notice and impeach him with it and other relevant evidence if he denies the authenticity of the Notice. In the alternative, Plaintiff can call the City custodian of records already included in Defendants' witness list which this Court has admitted in its entirety during the pre-trial hearing held on September 7, 2022.

The Notice is relevant because it was generated in consequence of an incident that Defendant Mussen was responsible for; Defendant Mussen excluded Mr. Outley from the meeting called to give the work order, when Mr. Outley. by virtue of his title and work responsibilities, was supposed to participate in the meeting; Mr. Outley did not receive the

Notice and was exposed - by the City - to the risk of drinking water contaminated with a cancer causing agent; in addition the Black and Brown populations that might have been affected by the spillage was not notified.

The record is subject to Judicial Notice under FRE 201.

D. The 403 Analysis

Plaintiff begins with the legal standards that inform the analysis and its prongs:

> " Rule 403 provides a district court with discretion to exclude evidence where "its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury." This court has explained that "`[e]vidence is considered unfairly prejudicial, not merely because it damages the opposing party's case, but also because its admission makes it likely that the jury will be induced to decide the case on an improper basis, commonly an emotional one, rather than on the evidence presented. . . .'" *United States v. Connelly*, 874 F.2d 412, 418 (7th Cir.1989) (quoting *Young v. Rabideau*, 821 F.2d 373, 377 (7th Cir.1987))."

Thompson v. City of Chicago, 472 F.3d 444, 456-57 (7th Cir. 2006)

Under both Title VII (hostile work environment against Defendant the City of Chicago) and sec. 1983 (hostile work environment against Defendant Mussen), Plaintiff must prove: 1) the plaintiff was subjected to slurs, insults, jokes or other verbal comments or physical contact or intimidation of a racial nature, 2) the conduct was unwelcome, 3) the conduct was sufficiently

severe or pervasive to alter the conditions of the plaintiff's employment and create a racially abusive or hostile work environment, 4) the plaintiff perceived the working environment to be abusive or hostile, and 5) a reasonable man in the plaintiff's circumstances would consider the working environment to be abusive or hostile.

None of the adjudicative facts that Plaintiff wants judicially noticed can confuse the issue or mislead the jury because those are exactly the facts that Plaintiff has to submit to the jury to prove its case. The facts are not cumulative, they certainly are germane and very much so to Mr. Outley's claims of hostile work environment.

Accordingly, the prong of the 403 analysis that merits a more focused discussion here is whether the probative value of the adjudicative facts in the requested Judicial Notices is substantially outweighed by the danger of unfair prejudice to the Defendants.

Given Defendants' penchant for advancing claims of prejudice in the preparation for trial that strain credulity and defy logic, [1] Plaintiff wishes to clarify that:

---

[1] *See* Defendants' claims that they were prejudiced in their preparation for trial when 1) they received the response to their MILs on time, 2) they received late MILs from Plaintiff which included the very same exact evidence that can be judicially noticed ***at any time*** pursuant to FRE 201, ***which means this is evidence they should have been prepared to deal with from day one of the litigation***, 3) the evidence is the same evidence ***THEY*** provided in discovery to Plaintiff and/or evidence that has always been in their possession and control, 4) a large portion of the evidence consists of Defendants' own admissions which, by its nature, cannot be excluded from trial because this is a civil case, the Plaintiff will call Defendants on the stand and impeach Defendants if they deny their own admissions, 5) this is the very same evidence that Defendants have dealt with in prior litigations with Mr. Outley and in other hostile work environment suits brought against Defendants by similarly situated Plaintiffs, and 6) Defendants' MILs and timely Plaintiff's Response to Defendants' MILs made very clear that, while the Defendants have the audacity to believe and sustain that "they" decide what Plaintiff goes to trial with, Plaintiff will never suffer such deprivation of due process rights and additional injustice, which means a timely Meet and Confer would have been a mere formality and would have changed nothing, consequently missing that conference could have not and did not prejudice the Defendants.

A) The type of prejudice contemplated in the 403 balancing test *has nothing to do with the ability to prepare for trial.*

B) Under FRE 403 the exclusion of evidence must be based on *unfair prejudice*, consequently

C) *mere prejudice is inconsequential; in fact, prejudice is exactly what any defendants in any trial - civil or criminal - must suffer because they are the party on trial, charged with either a crime or a tort.*

See United States v. Hamzeh, 986 F.3d 1048 (7th Cir. 2021):

> "We remind the court only exclusions of that evidence which violates Rule 403 should be made, and prejudice should be unfair to justify exclusion. See *United States v. Buckner* , 91 F.3d 34, 36 (7th Cir. 1996) (clarifying exclusion of evidence must be based on unfair prejudice, not mere prejudice); see generally Fed. R. Evid. 403 advisory committee's notes (defining unfair prejudice as having "an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one"). The district court should reweigh the evidence with the correct evidentiary standards, and with recognition the evidence is relevant and probative of whether Hamzeh was entrapped. See *Gomez* , 763 F.3d at 857 (noting an important issue in Rule 403 analysis is "the extent to which the non-propensity factual proposition actually is contested in the case"). When evidence is relevant and otherwise admissible, exclusions should be narrowly tailored to only the phrases or statements violative of Rule 403."

See also the following excerpt from *Nathan Kooker**, 103 IOWA L. REV. 1753 (2018).

II. FEDERAL RULE 403

Federal Rule 403 provides that "[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." (Fed. R. Evid. 403).

Whereas the Federal Rules of Evidence deem relevant evidence generally admissible, (*See id.* R. 402) Rule 403 permits the exclusion of concededly relevant evidence when the prejudicial, confusing, or time-wasting nature of that evidence outweighs its probative value. *(Id.* R. 403 advisory committee's note to 1972 proposed rules ("[C]ertain circumstances call for the exclusion of evidence which is of unquestioned relevance."). The rule prescribes a balancing test for determining whether relevant evidence ought to be excluded on account of its adverse potential. However, the scale is not an even one: The risks posed by the evidence in question must "substantially" outweigh its relevance. *(Id.* R. 403.)

Whether the risks rise to this level is an evaluation left to the discretion of the trial judge. (Janet Boeth Jones, Annotation, *Evidence Offered by Defendant at Federal Criminal Trial As Inadmissible, Under Rule 403 of Federal Rules of Evidence, on Ground That Probative Value Is Substantially Outweighed by Danger of Unfair Prejudice, Confusion of Issues, or Misleading the Jury*, 76 A.L.R. Fed. 700, § 2 (1986) (noting further that, while it is typically

understood that such discretion may only be checked by abuse-of-discretion review, an alternative "view has been expressed that this discretion must be applied evenhandedly, not excluding evidence by a defendant while permitting similar evidence by the prosecution"); *see also* 1 Christopher B. Mueller & Laird C. Kirkpatrick, Federal Evidence § 4:12 (4th ed. 2017) ("It is said that the trial court must have latitude to perform the weighing function, that her decision should be upheld even where the reviewing court would have weighed the factors differently, and that in this area a decision either way would pass muster on review." (footnotes omitted)).)

This balancing act requires the judge to assess the probativeness of the objectionable evidence—that is, the ability of the evidence to make the proposition for which it is offered "more or less probable than it would be" in the absence of the evidence. (Fed. R. Evid. 401; *see also id.* R. 401 advisory committee's note to 1972 proposed rules (discussing the two conditions of relevance—probativeness and materiality—and the difference therein)).

In requiring the trial judge to evaluate probativeness, the rule's balancing test ascribes to the bench a proof-weighing role otherwise reserved for the jury. *See* U.S. Const. amends. VI, VII; John Henry Wigmore, Wigmore's Code of the Rules of Evidence in Trials at Law 527 (3d ed. 1942) ("When an issue has been submitted to the jury ... the jury alone determines the weight, or total persuasive effect, of the evidence ... .").

Of course, the very aim of the rule is to protect this traditional jury function from the polluting forces of emotion, misinterpretation, and confusion. *See* Westfield Ins. Co. v. Harris, 134 F.3d 608, 615 (4th Cir. 1998) (explaining that Rule 403 provides for exclusion due to risk of prejudice when "there is a genuine risk that the emotions of the jury will be excited to irrational behavior" (quoting Morgan v. Foretich, 846 F.2d 941, 945 (4th Cir. 1988))); 1

> Mueller & Kirkpatrick, *supra* note 11, § 4:13–14 (explaining that the rule is designed to prevent admission of evidence "[w]here it is likely ... that the jury will mistakenly consider the evidence on a particular issue or against a particular party, even when properly instructed not to do so," as well as to "set boundaries to trials in order to avoid unnecessary complexities and distortion").

Here, with the adjudicative facts of the requested judicial notices no risk of polluting the jury with the forces of emotion, misinterpretation, and confusion exists as *United States v. Adkins*, 743 F.3d 176 (7th Cir. 2014), below, an appellate opinion in a criminal/constitutional law/due process case shows. Plaintiff has chosen to cite this particular case because the application of FRE 403 is the same in criminal and civil and this particular opinion illustrates how Plaintiff's argument plays out in "real life" (underscoring added):

> "Adkins next argues that the district court's Rule 403 analysis was "perfunctory." It is true that the judge's reasoning could have been more extensive. In some cases, a "bare bones" recitation of Rule 403 has led to a reversal. See, e.g., *United States v. Ciesiolka*, 614 F.3d 347, 357 (7th Cir.2010). But in this case, the district court provided a sufficiently thorough analysis because it appears, in context, that the district court was relying upon the reasons articulated in its 404(b) analysis. In other words, the district court found the Canada-trip evidence more probative than prejudicial for the same reasons that it found the evidence to be direct evidence of criminality: the evidence went to Adkins' knowledge, preparation, and intent.

> Moreover, the trip-related evidence was prejudicial to Adkins only because it helped prove his alleged crime. See *United States v. Thompson*, 359 F.3d 470, 479 (7th Cir.2004) ("[A]ll probative evidence is prejudicial to the party against whom it is offered.").

United States v. Adkins, 743 F.3d 176 (7th Cir. 2014)

Adkins illustrates the exact fundamental principle that applies to all the evidence that Plaintiff is seeking admission of and plans on introducing at trial, via judicial notices, direct and cross-examination and impeachment: the evidence *is direct evidence of hostile work environment, mostly the evidence is party opponent admissions, evidence that proves Plaintiff's claims 100% and cannot be excluded.*

One more time: although the evidence is extremely damaging (read prejudicial) for the Defendants, *it is not unfairly prejudicial* because it is Defendants' admissions by words or conduct and, for as unnerving their words or conduct can be, that is the exact conduct they are liable for and will be tried for. The jury must evaluate the evidence for what it is. There is no rule of law that shields Defendants from their own unnerving words or conduct. Plus, the instant case does not involve any bloody gruesome photo of a crime scene. The only photo that Plaintiff seeks admission of is the photo of a noose in the DWM truck and that is public record already.

To illustrate the concept differently, by way of example, excluding the evidence that Plaintiff has submitted for Judicial Notice would be the equivalent of preventing a prosecutor to argue and show to a jury that a defendant on trial for murder stabbed the victim 17 times and

admitted to the stabbing by posting comments and a video of the crime on social media as he was stabbing the victim, for everyone to see! How in the world would the prosecutor prove the case if all the direct, relevant evidence of the crime was excluded on the basis of an alleged prejudice to the Defendant that is not even supported by the facts and the law?

This Motion is being filed concurrently with a Notice of Request for Judicial Notices to the Defendants.

FRE 201 makes it mandatory for the Court to take judicial notice of the material because, pursuant to the Rule, Plaintiff has made the requests and has supplied the Court with all the relevant information and, pursuant to the extensive Memorandum of Law submitted in support of the Request, there is no plausible legal basis for excluding the evidence.

WHEREFORE, Plaintiff, respectfully requests that this Court enter an Order judicially noticing the above-described matters.

In addition, Plaintiff respectfully requests that this Court issue a Final Written Order on this Motion for Judicial Notice as soon as practicable but not later that Tuesday, September 20, 2022. Plaintiff understands that the Court is busy but the necessity for this Motion arose out of the adverse to Plaintiff rulings of September 7, 2022. Certainly, and very respectfully, the Court cannot expect Plaintiff to sit idle while his due process right to a fair and impartial trial is systematically, slowly, irreparably, and pragmatically being eroded to advance the Defendants' goal that Plaintiff goes to trial with the case that the Defendants have envisioned and want.

Respectfully submitted,

Dated: September 15, 2022

MICHAEL OUTLEY

By: /s/ Calvita J. Frederick
Attorney

Calvita J. Frederick
P.O. Box 802976
Chicago, IL 60680
(312) 421-5544
ARDC #6184001
calvita.frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 15 2022, the foregoing *PLAINTIFF'S MOTION FOR MANDATORY JUDICIAL NOTICE PURSUANT TO FEDERAL RULES OF*

EVIDENCE 201(b)(2) and 201(2)(d) AND MEMORANDUM OF POINT AND AUTHORITIES IN SUPPORT THEREOF were filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

Exhibit 10

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL OUTLEY,	)	
	)	
Plaintiff,	)	17 C 8633
	)	
vs.	)	Judge Gary Feinerman
	)	
THE CITY OF CHICAGO and ROBERT MUSSEN,	)	
	)	
Defendants.	)	

ORDER

Defendants' motions *in limine* [286] are granted in part and denied in part for the reasons set forth below. The court also comments further on its denial [298][303] of Plaintiff's motion for leave to file instanter motions in limine [294] and its denial [302][303] of Defendants' motion to dismiss for want of prosecution [292]. The court does not at this time address Plaintiff's motion to take judicial notice [305], which was filed at 9:39 p.m. last night, when this order and statement were in near-final draft.

STATEMENT

In February 2022, the court scheduled a jury trial for the week of September 19, 2022, and set a motion *in limine* deadline of July 27, 2022. Doc. 279. On July 25, on Plaintiff's motion, the court extended the motion *in limine* deadline to August 3. Docs. 284-285. Defendants timely filed nineteen motions *in limine*. Doc. 286. Plaintiff filed none. Defendants represent that, consistent with the undersigned's procedures, the parties met and conferred prior to Defendants filing their motions, and that during the meet-and-confer Plaintiff's counsel indicated that Plaintiff did not intend to file motions *in limine*. Doc. 296 at 2. Defendants support their representations with a contemporaneous email. Doc. 296-2 at 2-3.

On August 31, 2022—thirty-seven minutes before midnight, contrary to his counsel's representation during the parties' meet-and-confer, four weeks after the motion *in limine* deadline, and three business days before the final pretrial conference—Plaintiff moved for leave to file *instanter* twenty motions *in limine*. Doc. 294. The court denied the motion in a minute order, Doc. 298, and articulated its grounds on the record at last week's final pretrial conference, Docs. 302-303. The court here adds two observations to the grounds it articulated on the record.

First: At the final pretrial conference, Plaintiff's counsel appeared to express surprise that the court would not allow her to file motions *in limine* four weeks late and three business days before the final pretrial conference. There is no reasonable basis for any surprise. As the Seventh Circuit has observed: "[C]ase management depends on enforceable deadlines … . In managing their caseloads, district courts are entitled to—indeed they must—enforce deadlines." *Flint v. City of Belvidere*, 791 F.3d 764, 768 (7th Cir. 2015) (citations and internal quotation

marks omitted). The undersigned judge regularly enforces deadlines, regardless of party. *See, e.g.*, *Gravitt v. Mentor Worldwide LLC*, __ F.R.D. __, 2022 WL 3584620, at *1-2 (N.D. Ill. Aug. 22, 2022); *Cooper v. Retrieval-Masters Creditors Bureau, Inc.*, 2017 WL 2404952, at *1 (N.D. Ill. June 2, 2017); *Knapp v. Evgeros, Inc.*, 205 F. Supp. 3d 946, 949-53 (N.D. Ill. 2016); *Sebesta v. Davis*, 2016 WL 232380, at *1-4 (N.D. Ill. Jan. 20, 2016). And in her own practice, Plaintiff's counsel recently was personally and pointedly reminded of the importance of meeting deadlines, and of the severe consequences of failing to do so. *See Mallory v. Rush Univ. Med. Ctr.*, 2021 WL 458547 (N.D. Ill. Feb. 9, 2021); *id.* at *17-18 (discussing two additional cases involving Plaintiff's counsel). The fact that Plaintiff's counsel has never tried a case is no excuse for her conduct here, as it should be self-evident to any attorney that an important part of the process for getting a case ready for trial is resolving motions *in limine* before trial—at or shortly after the final pretrial conference—which necessarily requires that there be time for such motions to be briefed before the final pretrial conference.

Second: Plaintiff's counsel did not dispute at the final pretrial conference that she stated at the parties' meet-and-confer regarding Defendants' motions *in limine* that Plaintiff would not be filing motions *in limine*. Doc. 303 at 33. Counsel evidently changed her mind when she brought on an attorney (who listened in to the final pretrial conference, but who has yet to file an appearance) with some trial experience. *Ibid.* That is no excuse for going back on her representation that she would not be filing motions *in limine*, and it certainly is no excuse for filing motions *in limine* four weeks late and three business days before the final pretrial conference. And when a September trial is set several months in advance, the time to bring on a lawyer with trial experience to provide advice about motions *in limine* and other trial-related matters is well before August.

Next, a word about Defendants' motion to dismiss for want of prosecution and the court's denial thereof. Docs. 292, 302. The court's February 2022 order gave the parties until August 31 to file the final pretrial order. Doc. 279. Pursuant to Local Rule 16.1(6), counsel are required to collaborate in preparing a final pretrial order. At their meet-and-confer regarding Defendants' motions *in limine*, the parties agreed that Plaintiff's counsel, by August 24, would provide Defendants' counsel with Plaintiff's materials for the final pretrial order. Doc. 292-1 at 3-4. On August 23, having heard nothing from Plaintiff's counsel, Defendants' counsel sent Plaintiff's counsel a reminder email. *Id.* at 2. On August 24, the date she was supposed to provide Defendants' counsel with her materials, Plaintiff's counsel emailed Defendants' counsel to say, without elaboration or any expression of regret, that she would "need a few more days to submit our materials." *Id.* at 1. *A few more days*? The final pretrial order was due on August 31, and the local rules make clear that part of the process for preparing a final pretrial order is for the parties to meet and confer regarding any disputes over witnesses, exhibits, and jury instructions. *See* L.R. 16.1(6)(a), (e), 16.1(10)(b). The local rule further warns that "[i]t is essential that parties adhere to the scheduled dates for the [final pretrial] Order and [final pretrial] Conference," and that "no extension of the Order and Conference dates will be granted without good cause, and no request for an extension should be made less than 14 days before the scheduled Conference." L.R. 16.1(8).

Plaintiff's counsel's inattention to this litigation and cavalier attitude towards deadlines made impossible the August 31 filing of a jointly prepared final pretrial order in advance of the September 7 final pretrial conference. Defendants' counsel was left to file a unilateral final

pretrial order on August 31. Doc. 291. And Plaintiff's counsel's filing of Plaintiff's own unilateral final pretrial order on the morning of September 1, Doc. 295, was too little and way too late. That is not even remotely how things are supposed to work. And yet despite Plaintiff's counsel's inexcusable failure to fulfill her most basic obligations, the court bent over backwards in Plaintiff's favor to deny Defendants' motion to dismiss for want of prosecution, though it did take the lesser step of limiting the witnesses that Plaintiff could call, the exhibits he could introduce, and the jury instructions he could propose, at trial. Doc. 292; Doc. 303 at 6-12.

On to Defendants' motions *in limine*. Plaintiff does not oppose Defendants' motions *in limine* 1, 2, 12, 14, and 17, Doc. 289 at 1-2, so they are granted.

Motion *in Limine* No. 3. Defendants move to bar Plaintiff from mentioning any specific dollar amount during *voir dire*. Doc. 286 at 4. Plaintiff opposes this motion to the extent it would preclude questions designed to expose potential jurors' disposition against large verdicts. Doc. 289 at 4-5. The motion is granted. The court will conduct *voir dire* of the prospective jurors. To the extent counsel are permitted to ask their own questions during *voir dire*, they may not discuss specific dollar amounts. *See Simmons v. City of Chicago*, 2017 WL 3704844, at *5 (N.D. Ill. Aug. 28, 2017).

Motion *in Limine* No. 4. Defendants move to bar evidence or argument regarding other alleged adverse actions that do not underlie the surviving claims in this case. Doc. 286 at 2-5. More specifically, Defendants seek to bar evidence or argument about "acts that are precluded by final judgment" in *Outley v. City of Chicago*, 354 F. Supp. 3d 847 (N.D. Ill. 2019) (*Outley I*); acts that the court determined at summary judgment were not discriminatory; and Plaintiff's alleged constructive discharge—that is, allegations and claims that the court disposed of at summary judgment. Docs. 261-262; *see also* Doc. 283 (denying Plaintiff's motion for reconsideration). Plaintiff opposes the motion. Doc. 289 at 5-14. The court grants in part and denies in part the motion.

Motions *in limine* "permit[] the trial judge to eliminate from further consideration evidentiary submissions that clearly ought not be presented to the jury because they clearly would be inadmissable for any purpose." *Jonasson v. Lutheran Child & Fam. Servs.*, 115 F.3d 436, 440 (7th Cir. 1997). As needed, a judge may defer ruling on a motion *in limine* until trial, "when the trial judge can better estimate [an evidentiary submission's] impact on the jury." *Ibid.* Moreover, "[a]s a trial progresses, the presiding judge remains free to alter earlier rulings" on motions *in limine*. *Perry v. City of Chicago*, 733 F.3d 248, 252 (7th Cir. 2013) (citing *Luce v. United States*, 469 U.S. 38, 41-42 (1984)).

The court grants Defendants' motion insofar as the motion seeks to preclude Plaintiff from pressing a claim, or recovering damages, based on alleged facts that cannot themselves support a claim due to being precluded by *Outley I* or time-barred. The motion is denied insofar as it seeks to prevent Plaintiff from relying on such alleged facts for impeachment purposes (assuming impeachment is appropriate) or as "relevant background" for his surviving claims. *See Mathewson v. Nat'l Automatic Tool Co.*, 807 F.2d 87, 91 (7th Cir. 1986) ("[I]t is well settled that evidence of earlier discriminatory conduct by an employer that is time-barred is nevertheless entirely appropriate evidence to help prove a timely claim based on subsequent discriminatory conduct by the employer."). The court will assess at trial any such potentially admissible

evidence under Evidence Rules 401 and 403 and, if any such evidence is admitted, will instruct the jury (if asked) as to the purpose(s) for which it may and may not consider such evidence. Any issues regarding such evidence should be previewed with the court outside of the jury's presence.

The court also grants Defendants' motion insofar as the motion seeks to prevent Plaintiff from re-litigating the court's summary judgment ruling that the record could not support a finding of discrimination as to certain actions. In particular, Plaintiff may not present evidence or argument regarding (1) the denial of his time-off requests; (2) the City's failure to promote him in 2017; (3) the disparity in overtime hours; (4) alleged denials of acting up opportunities before October 2016; and (5) alleged lack of compensation for administrative work.

Finally, the court denies the motion insofar as it seeks to bar testimony, argument, or evidence that Plaintiff resigned because he found his employment unbearable. Although the summary judgment record could not support Plaintiff's constructive discharge claim, his subjective feelings about his workplace bear directly on his hostile work environment claim, which requires showing (among other things) that his "work environment was both subjectively and objectively offensive"—which is to say an environment "that a reasonable person would find hostile or abusive, and one that the victim in fact did perceive to be so." *Smith v. Ne. Ill. Univ.*, 388 F.3d 559, 566 (7th Cir. 2004) (internal quotation marks omitted).

Motion *in Limine* No. 5. Defendants move to bar evidence, argument, or inference regarding "unrelated allegations of Department of Water Management misconduct in the media." Doc. 286 at 8. Defendants identify seven news articles that Plaintiff produced during discovery. *Ibid.* Given the court's ruling at the final pretrial conference that Plaintiff may seek to introduce only those exhibits appearing on Defendants' exhibit list or that were subject to Defendants' motions *in limine*, Doc. 303 at 10-11, the court confines its analysis to those seven articles.

The motion is granted insofar as it seeks to prevent Plaintiff from using the articles to establish the truth of the allegations or occurrences described therein. *See* Fed. R. Evid. 801(c). However, the articles could *potentially* be relevant and admissible for non-hearsay purposes, such as whether the City had notice of alleged discrimination or racially hostile work conduct by Defendant Mussen. Defendants argue that "[t]here is no evidence that Mussen was involved in any of the conduct described in the articles that Plaintiff produced." Doc. 286 at 10. On the court's review, none of the seven articles mentions Mussen by name. If, however, Plaintiff can show that any article in fact discusses allegations of misconduct by Mussen without naming him, Plaintiff would not necessarily be precluded from using the article to argue that the City was on notice of discriminatory or racially hostile conduct by Mussen. Plaintiff also remains free to argue some other non-hearsay use of the articles at trial. Any such argument should be previewed with the court outside of the jury's presence.

Motion *in Limine* No. 6. Defendants move to bar evidence, testimony, or argument regarding new policies implemented by then-Commissioner Randy Conner to address racism within the Department of Water Management. Doc. 286 at 10-11. The motion is granted insofar as Plaintiff may not use those policies to prove negligence or culpable conduct. *See* Fed. R. Evid. 407; Doc. 262 at 16. This ruling does not preclude Plaintiff from arguing at trial that such

policies are admissible for some other, permissible purpose. Any such argument should be previewed with the court outside of the jury's presence.

Motion *in Limine* No. 7. Defendants move to bar evidence, testimony, or argument "by Plaintiff related to causation, diagnosis or prognosis of any medical or mental health condition by any health care professional suffered as a result of the alleged misconduct in this case." Doc. 286 at 11-12. The motion is granted insofar as Plaintiff may not introduce lay testimony suggesting that his experience at work caused or exacerbated complex medical conditions like high blood pressure or diabetes. *See Goffman v. Gross*, 59 F.3d 668, 672 (7th Cir. 1995) ("[T]he medical effects of secondhand smoke are not within the ken of the ordinary person, so … lay testimony by itself cannot establish the showing of medical causation necessary to sustain Goffman's claim."). Plaintiff may, however, testify about the impact of his employment environment on his stress level and mood insofar as that testimony does not cross into territory reserved for experts. *See Scott v. Wallace*, 846 F. Supp. 2d 952, 955 (N.D. Ill. 2012) ("[L]ay testimony … is perfectly permissible as to observations of emotional distress on the part of a plaintiff."); *cf. Merriweather v. Fam. Dollar Stores of Ind., Inc.*, 103 F.3d 576, 580 (7th Cir. 1996) ("Merriweather took the stand and testified to the emotional and physical distress … she endured as a result of her discharge. A plaintiff's testimony about emotional distress may, in certain instances, of itself suffice to support an award for nonpecuniary loss."); *Bruso v. United Airlines, Inc.*, 239 F.3d 848, 857 (7th Cir. 2001) ("It is within the jury's province to evaluate the credibility of witnesses who testify to emotional distress.").

Motion *in Limine* No. 8. Defendants move to bar evidence, testimony, or argument concerning reports by the City's Office of Inspector General ("OIG") or press releases about the same. Doc. 286 at 12-13. Defendants are correct that, absent any hearsay exception, the reports and press releases are not admissible to prove the truth of their contents. *See* Fed. R. Evid. 801(c); Doc. 262 at 13-14. However, as with the news articles discussed above, the OIG reports and corresponding press releases could *potentially* be relevant and admissible for non-hearsay purposes, including establishing that the City had notice of alleged discrimination or racially hostile work conduct by Mussen. On that point, Defendants represent that "[t]here is no evidence that Mussen or any of Plaintiff's supervisors were subjects of the OIG investigation." Doc. 286 at 13. If, however, Plaintiff can demonstrate that the reports or press releases in fact discuss allegations of misconduct by Mussen, Plaintiff would not necessarily be precluded from using such documents to argue that the City was on notice of discriminatory or racially hostile conduct by Mussen. Plaintiff also remains free to argue some other non-hearsay use of the reports and press releases at trial. Any such argument should be previewed with the court outside of the jury's presence.

Motion *in Limine* No. 9. Defendants move to bar evidence, testimony, argument, or an adverse inference jury instruction concerning the alleged spoliation of video footage of the May 30, 2017 interaction between Plaintiff and Mussen in the parking lot of the Lexington Pumping Station. Doc. 286 at 13-14. The motion is granted insofar as it prevents Plaintiff from suggesting—explicitly or implicitly—that any spoliation occurred. However, the court will permit Plaintiff to testify that there were cameras at the scene; that he does not know whether they were operational; that he asked for video footage; and that he was told no such footage ever existed. Doc. 289 at 17-18. Such testimony would be relevant insofar as it tends to show

Plaintiff's confidence that video footage would corroborate his—rather than Mussen's—version of the encounter.

Motion *in Limine* No. 10. Defendants move to bar evidence of Mussen's likely indemnification by the City. Doc. 286 at 14-15. Plaintiff asks the court to provisionally grant this motion, with the caveat that Defendants might open the door to such testimony by placing Mussen's financial condition at issue (such as by claiming an inability to pay compensatory damages). Doc. 289 at 18-19; *see Smith v. Garcia*, 2018 WL 461230, at *7 (N.D. Ill. Jan. 18, 2018). Defendants are amenable to a provisional grant. Doc. 290 at 8. The court therefore provisionally grants the motion.

Motion *in Limine* No. 11. Defendants move to bar Plaintiff from referencing Defendants' motions *in limine* and the court's rulings thereon. Doc. 286 at 15. The motion is granted insofar as it precludes such references in the jury's presence. The parties may, however, reference Defendants' motions *in limine*, attempts to exclude evidence, and the court's associated rulings at sidebar and otherwise outside of the jury's presence.

Motion *in Limine* No. 13. Defendants move to bar Plaintiff from offering evidence or testimony about other lawsuits involving Defendants. Doc. 286 at 15-16. The motion is granted, though the court will entertain argument (outside of the jury's presence) from Plaintiff that such evidence could permissibly be used for appropriate impeachment purposes, to demonstrate that (during the relevant period) the City was on notice of alleged racial discrimination or race-based harassment by Mussen, or for some other relevant and permissible reason.

Motion *in Limine* No. 15. Defendants move to bar any reference to punishing or sending a message to the City. Doc. 286 at 16-17. Plaintiff may not recover punitive damages against the City under Title VII. *See Passananti v. Cook Cnty.*, 689 F.3d 655, 677 (7th Cir. 2012). Accordingly, the motion is granted.

Motion *in Limine* No. 16. Defendants move to bar any statements or testimony that City employees are being paid by the City to appear and testify in court and that they spent time with an attorney to prepare for trial. Doc. 286 at 17-18. The motion is granted on the payment issue, as witnesses being paid their ordinary wages for doing something that their employment requires them to do is not relevant under Evidence Rule 401, and any marginal relevance would be substantially outweighed by unfair prejudice under Rule 403. The motion is denied insofar as it would bar reference to City personnel having met with counsel in preparation for trial. As Defendants requested in their pretrial order, Doc. 291 at 24, the court will instruct the jury that it is proper for a lawyer to meet with a witness in preparation for trial.

Motion *in Limine* No. 18. Defendants move to bar Plaintiff from arguing that Defendants failed to call any particular witness at trial, given Plaintiff's burden of proving his case. Doc. 286 at 18. Plaintiff responds that "it is accepted routine tactic to point to missing testimony and evidence of an opponent." Doc. 289 at 21. The parties are both amenable to a ruling consistent with the one made in *Ratliff v. City of Chicago*, 2012 WL 5845551, at *4-5 (N.D. Ill. Nov. 19, 2012). Doc. 289 at 21-22; Doc. 290 at 9-10. To that end, the court rules as follows: "[I]t would be improper for Plaintiff to insinuate without evidentiary support that Defendants are purposefully attempting to hide evidence [including by failing to call a particular witness],

particularly since Plaintiff bears the burden of proving his case. ... However, the Court is not barring Plaintiff from arguing that there are deficiencies in Defendants' case due to the absence of testimony by certain individuals or the absence of certain evidence. It is merely improper for Plaintiff to insinuate [without evidentiary support] that Defendants are purposefully hiding evidence or to suggest that Defendants bear the burden of proof. The Court will instruct the jury as to Plaintiff's burden of proof." *Ratliff*, 2012 WL 5845551, at *5.

Motion *in Limine* No. 19. Defendants move to bar Plaintiff from mentioning that defense counsel work for the City, including by referring to defense counsel as "Corporation Counsel," "Assistant Corporation Counsel," "The City lawyers," "The City," or similar terms. Doc. 286 at 19. Plaintiff disclaims any "intention of referring to defense counsel as 'city lawyers.'" Doc. 289 at 22. Be that as it may, the motion is denied, as the court is unpersuaded by Defendants' argument that they would be prejudiced if the jury knew that defense counsel works for the City. There will be one set of counsel for the City and Mussen, so the jury of course will know that Defendants' lawyers work for the City, either as in-house or retained counsel.

September 16, 2022

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of Calvita Frederick, An attorney	)))	No. 23 D 12 (Before the Executive Committee)

PETITION FOR READMISSION TO THE GENERAL BAR OF THE NORTHERN DISTRICT OF ILLINOIS

NOW COMES PETITIONER, Calvita J. Frederick, attorney, and in support of her Petition for Readmission to the General Bar of the Northern District of Illinois, states as follows:

1. On November 20, 2023, the Executive Committee issued an Order suspending the petitioner from practice in the Northern District of Illinois pending further Order of this Court.

2. The Executive Committee acknowledged and approved the proposals Ms. Frederick made for remediation and directed that she completes those proposed steps before seeking readmission.

3. Ms. Frederick has now completed the following proposed steps:

1. Complete the Illinois State Bar Association's ("ISBA") Fred Lane Trial Techniques or an equivalent program.

> Ms. Frederick was ill during the Spring session of the ISBA's Fred Lane Trial Techniques, and the fall session of this program was cancelled. Ms. Frederick has completed the National Institute for Trial Advocacy's ("NITA") intensive professional training program in the art of Building Trial Skills at NITA's Building Trial Skills Atlanta Program (a program worth approximately 30 CLE hours) and also completed an intensive professional training program in the art of Deposition Skills at NITA's Deposition Skills Atlanta Program (a program worth approximately 15 CLE hours) (Diplomas are attached hereto as Exhibits "A" and "B")

2. Complete an e-learning course offered by the Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois ("ARDC") entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession.

Ms. Frederick has completed the ARDC e-learning courses entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession. (Certificates are attached hereto as Exhibits "C", "D", and "E")

3. Complete a Continuing Legal Education course regarding appellate procedure.

Ms. Frederick has completed the Quimbee course entitled Appellate Arguments: Tips from the Trenches, a course approved for general credit in Illinois (See Certificate of Completion attached hereto as Exhibit "F") and also the course, From the Finer Points of Procedure to Persuading the Panel: How to Succeed on Appeal, a Quimbee course that is not approved for CLE credit in Illinois.(See proof of completion attached hereto as Exhibit "G")

4. Serve as second chair or co-counsel (present at all trial days) on at least five (5) matters which reach trial (are not settled or resolved prior to trial) before being permitted to act as first chair trial counsel.

Ms. Frederick has completed two trials and is co-counsel on a trial that must go on April 1, 2025. Ms. Frederick is not currently seeking readmission to the Northern District of Illinois Trial Bar.

Ms. Frederick further states that she has not participated in 5 trials in her 43 years of practicing law in this jurisdiction, and that she does not consider herself a trial lawyer in the sense that she regularly takes a case to trial.

Ms. Frederick understands that until she gains readmission to the Trial Bar of the U.S. District Court for the Norther District of Illinois that she cannot take a matter to trial by herself. She does have some opportunities to sit as second chair on an upcoming case in this federal court but believes she cannot do so because the suspension of her attorney's credentials precludes her from filing an Appearance.

Ms. Frederick also believes that she may have an opportunity to serve on a trial in another jurisdiction within the next 6 months.

Ms. Frederick respectfully requests that this requirement be waived (or in the alternative that the time for completion of this requirement be extended for another year) and that she be allowed to resume her federal court work in the Northern District of Illinois.

5. Attend monthly Lawyers Assistance Programs meetings for one year (in-person or virtually).

Ms. Frederick has attended at least one Lawyers Assistance Program ("LAP") meeting for each month from November 2023 to date. Tony Pacione, head of the LAP program, has asked Ms. Frederick to inquire as to what proof the Committee requires.

6. Within twenty-one (21) days of the docketing of the Executive Committee Order, Ms. Frederick was required to notify by certified mail, return receipt requested, all clients to whom she is responsible for pending matters before this Court of the fact that the attorney cannot continue to represent them.

Ms. Frederick notified her clients as required.

7. Within thirty-five (35) days of the entry of the Executive Committee Order, Ms. Frederick was required to email (ILNDAttorneyDiscipline@ilnd.uscourts.gov) a declaration stating that the attorney has so notified any clients and indicating the address to which subsequent communications may be addressed; and shall keep and maintain records evidencing compliance with this order so that proof of compliance will be available if needed for any subsequent proceeding instituted by or against the attorney.

Ms. Frederick emailed the required declaration and has kept and maintained records evidencing compliance with this Order. (A copy of the Declaration is attached hereto as Exhibit "H")

8. Ms. Frederick has prepared an Affidavit related to the above compliance which Affidavit is attached hereto as Exhibit "I")

9. In the fifteen months since my suspension began, I have spent much time thinking about my business, the practice of law, my clients who trust and depend upon me to stand and fight for them at a time when they face dire challenges in their life, and the difficulties this suspension has caused for both me and my clients. I have also spent time thinking about the job of the judges that I must appear before. I greatly value my law license and understand that the ability to practice law and appear in any court is a privilege, not to be taken lightly. I have gotten much needed rest, adjusted my attitude, and hope that I will be able to resume the practice of law in the Northern District of Illinois soon.

WHEREFORE, Petitioner respectfully prays that this Honorable Court reinstates her to active status in the General Bar of the Northern District of Illinois, enables her password for access to the electronic filing system, and grants such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Calvita J. Frederick
Calvita J. Frederick

Calvita J. Frederick
Attorney at Law
Post Office Box 802976
Chicago, Illinois 60680
(312) 421-5544

National Institute for Trial Advocacy

Building Trial Skills: Atlanta

Upon the recommendation of the faculty, the Board of Trustees of the National Institute for Trial Advocacy hereby awards this diploma to

Calvita Frederick

For having completed an intensive professional training program in the art of Building Trial Skills at NITA's Building Trial Skills: Atlanta Program.

Awarded this 20th day of December 2024

Wendy McCormack
Executive Director

NATIONAL INSTITUTE FOR TRIAL ADVOCACY CORPORATE SEAL NON-PROFIT DISTRICT OF COLUMBIA 1971

Edwin John U
Chair, Board of Trustees

EXHIBIT A

National Institute for Trial Advocacy

Deposition Skills: Atlanta

Upon the recommendation of the faculty, the Board of Trustees of the National Institute for Trial Advocacy hereby awards this diploma to

Calvita Frederick

For having completed an intensive professional training program in the art of Deposition Skills at NITA's Deposition Skills: Atlanta Program.

Awarded this 15th day of December 2024

Wendy McCormack
Executive Director

NATIONAL INSTITUTE FOR TRIAL ADVOCACY CORPORATE SEAL NON-PROFIT DISTRICT OF COLUMBIA 1971

Edwin John U
Chair, Board of Trustees

EXHIBIT B

Illinois Attorney Registration & Disciplinary Commission
of the Supreme Court of Illinois

Certificate of Completion

Calvita J. Frederick

6184001

has successfully completed the program:

Civility

(Originally released PMBR (2020-2021) - Civility)

Completion Certified on: 12/31/24 using Streaming Technology

Total General Credit:	0.5 Hours
Total Professional Responsibility Credit:	0.5 Hours
Diversity & Inclusion:	0.0 Hours
Mental Health/Substance Abuse:	0.0 Hours
All Other Professional Responsibility Areas:	0.5 Hours
Total MCLE Credit Earned, *Including* Professional Responsibility Credit:	0.5 Hours

If you have previously viewed this program as a standalone program or as a PMBR (2020-2021) module and received a Certificate of Completion, you may only claim MCLE credit once for the same program within a 12-month period.

EXHIBIT C

Illinois Attorney Registration & Disciplinary Commission
of the Supreme Court of Illinois

Certificate of Completion

Calvita J. Frederick

6184001

has successfully completed the program:

Civility & Professionalism

(Originally released as PMBR (2018-2019) – Module 7: Civility & Professionalism)

Completion Certified on: 12/28/24 using Streaming Technology

Total General Credit:	0.25 Hours
Total Professional Responsibility Credit:	0.25 Hours
Diversity & Inclusion:	0.0 Hours
Mental Health/Substance Abuse:	0.0 Hours
All Other Professional Responsibility Areas:	0.25 Hours
Total MCLE Credit Earned, *Including* Professional Responsibility Credit:	0.25 Hours

If you have previously viewed this program as a standalone program or as a PMBR (2018-2019) module and received a Certificate of Completion, you may only claim MCLE credit once for the same program within a 12-month period.

EXHIBIT D

Illinois Attorney Registration & Disciplinary Commission
of the Supreme Court of Illinois

Certificate of Completion

Calvita J. Frederick

6184001

has successfully completed the program:

Learning the Art of Mindfulness: A Wellness Approach for the Legal Profession

Completion Certified on: 12/28/24 using Streaming Technology

Total General Credit:	1.0 Hours
Total Professional Responsibility Credit:	1.0 Hours
Diversity & Inclusion:	0.0 Hours
Mental Health/Substance Abuse:	1.0 Hours
All Other Professional Responsibility Areas:	0.0 Hours
Total MCLE Credit Earned, *Including* Professional Responsibility Credit:	1.0 Hours

If you have previously viewed this program and received a Certificate of Completion, you may only claim MCLE credit once within a 12-month period.

EXHIBIT E

Quimbee

Certificate of Completion



Course Title
Appellate Arguments: Tips from the Trenches

Date of Completion
Dec 31, 2024

Jurisdiction
Illinois

Accreditation Status
Approved

Course Type
On-demand

Provider Number
QUI0002

Course Number
542342

Original Production Date
Aug 10, 2021

Run Time
01:02:16

Credit Info

Credit Type(s): General Hour(s): 1.0
Credit Type(s): Hour(s):
Credit Type(s): Hour(s):
Credit Type(s): Hour(s):

Instructions

Jurisdiction Reporting Information	Self-apply instructions
Quimbee reports the previous week's attendance to the Illinois MCLE Board each Monday. Please retain your certificate as proof of your attendance. You may also access your certificates from our website at any time.	

Attorney Name
Calvita Frederick

Bar Number
6184001

EXHIBIT F

Quimbee®

DMCA PROTECTED

Recent activity

December 31, 2024

10:07 PM
Claimed a course certificate Appellate Arguments: Tips from the Trenches

07:46 PM
Viewed a CLE Course: Appellate Arguments: Tips from the Trenches

04:53 PM
Viewed a CLE Course: From the Finer Points of Procedure to Persuading the Panel: How to Succeed on Appeal

December 28, 2024

12:08 PM
Viewed a key term: Federal Rules of Appellate Procedure

12:07 PM
Viewed a key term: Appellate Jurisdiction

12:07 PM
Viewed a key term: Appellate

Show more

Hey, Calvita Frederick. You've got $0.00 in Quimbee Bar Review credits!

Each dollar you spend on Quimbee Study Aids earns you credit toward Quimbee Bar Review—up to $300.00. So far, you've earned **$0.00** in credit. Your credit will automatically apply at checkout.

EXHIBIT G

Buy Bar Review

Get a free consultation

Get MPRE for FREE >

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of

Calvita Frederick, **No. 23 D 12**

An attorney **(Before the Executive Committee)**

DECLARATION OF CALVITA FREDERICK WITH RESPECT TO ORDER OF THE EXECUTIVE COMMITTEE NOVEMBER 20, 2023

The Executive Committee ordered Calvita J. Frederick to notify by certified mail, return receipt requested, all clients to whom Ms. Frederick was representing in matters pending before this Court of the fact that Ms. Frederick cannot continue to represent them in their pending matters.

Accordingly, Ms. Frederick, under oath, states as follows:

1. On December 11, 2023, and pursuant to the Executive Committee's order, I sent a letter notifying all of my clients with matters pending in the United States District Court for the Northern District of Illinois that because of the Order entered by the Executive Committee that I can no longer represent them in their cases pending before the United States District Court for the Northern District of Illinois.
2. Each of the above-described letters was sent via Certified Mail, Return Receipt requested.
3. In order to report full compliance with the Order of the Executive Committee and because of the difficulty in receiving confirmation that a communication sent by certified mail was actually received, I waited until I had received all green cards from the United States Post Office confirming receipt of the letters sent to clients.

EXHIBIT H

4. The green cards were received by me at various times and as of this week, all green cards have been received, confirming that all clients have received notice as required by the Executive Committee's order.

Respectfully submitted,

By: s/ Calvita J. Frederick

Calvita J. Frederick
Post Office Box 802976
Chicago, Illinois 60680-2976
312-421-5544
ARDC # 6184001
Calvita.Frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on Februaty 6, 2024, the foregoing *Declaration of Compliance with Executive Committee Order of November 20, 2023,* was transmitted as directed via email to: ILNDAttorneyDiscipline@ilnd.uscourts.gov.

s/ Calvita J. Frederick
Calvita J. Frederick

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In the Matter of	)	No. 23 D 12
Calvita Frederick,	)	
An attorney	)	(Before the Executive Committee)

AFFIDAVIT OF CALVITA J. FREDERICK

CALVITA J. FREDERICK, being first duly sworn on oath states as follows:

1. I am an Attorney licensed to practice law within the State of Illinois, since 1982.

2. I am familiar with the issues presented in this cause of action including the activities undertaken in compliance with the Order of the Executive Committee.

3. In compliance with the requirement that I complete the Illinois State Bar Association's ("ISBA") Fred Lane Trial Techniques or an equivalent program:

4. I was ill during the Spring session of the ISBA's Fred Lane Trial Techniques, and the fall session of this program was cancelled.

5. I have completed the National Institute for Trial Advocacy's ("NITA") intensive professional training program in the art of Building Trial Skills at NITA's Building Trial Skills Atlanta Program (a program that lasted 5 days and is worth approximately 30 CLE hours).

6. I also completed an intensive professional training program in the art of Deposition Skills at NITA's Deposition Skills Atlanta Program (a program that lasts 2 days and is worth approximately 15 CLE hours) (Diplomas are attached hereto as Exhibits "A" and "B")

7. In compliance with the requirements that I complete an e-learning course offered by the Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois ("ARDC") entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession:

8. I have completed the ARDC e-learning courses entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession. (Certificates are attached hereto as Exhibits "C", "D", and "E")

9. In compliance with the requirement that I complete a Continuing Legal Education course regarding appellate procedure:

10. I have completed the Quimbee course entitled Appellate Arguments: Tips from the Trenches, a course approved for general credit in Illinois (See Certificate of Completion attached hereto as Exhibit "F").

11. I also completed the course, From the Finer Points of Procedure to Persuading the Panel: How to Succeed on Appeal, a Quimbee course that is not approved for CLE credit in Illinois. (See proof of completion attached hereto as Exhibit "G").

12. In compliance with the requirement that I serve as second chair or co-counsel (present at all trial days) on at least five (5) matters which reach trial (are not settled or resolved prior to trial) before being permitted to act as first chair trial counsel:

13. I have completed two trials, I am co-counsel for a trial set to begin April 1, 2025, and a trial in another jurisdiction within the next six months. I am not currently seeking readmission to the Northern District of Illinois Trial Bar.

14. As I understand the Executive Committee Order this requirement is necessary for readmission to the Northern District of Illinois Trial Bar, which I am not currently seeking.

15. In compliance with the requirement that I attend monthly Lawyers Assistance Programs meetings for one year (in-person or virtually).

16. I have attended at least one Lawyers Assistance Program ("LAP") meeting for each month from November 2023 to date. Many months I attended 2-3 Lap meetings.

17. Tony Pacione, head of the LAP program, has asked me to inquire as to what proof the Committee requires.

18. In compliance with the requirement that within twenty-one (21) days of the docketing of the Executive Committee Order, I notified, by certified mail, return receipt requested, all clients to whom I was responsible for pending matters before this Court of the fact that I could not continue to represent them.

19. Upon receipt of all certified receipts from my clients and within a reasonable time of the entry of the Executive Committee Order, I sent via email a declaration stating that I had notified any clients and indicating the address to which subsequent communications may be addressed; and shall keep and maintain records

20. The email declaration was sent to (ILNDAttorneyDiscipline@ilnd.uscourts.gov).

21. The required declaration and records evidencing compliance with this Order has been kept and maintained, so that proof of compliance will be available if needed for any subsequent proceeding instituted by or against me.

(A copy of the Declaration is attached hereto as Exhibit "H"

Further Affiant sayeth naught.

CALVITA J. FREDERICK

By: /s/ Calvita J. Frederick

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN THE MATTER OF	)	
	)	**No. 23 D 12**
Calvita Frederick	)	
	)	**(Before the Executive Committee)**
An Attorney	)	

O R D E R

Upon consideration of the petition of Calvita Frederick for reinstatement to the general bar of this Court and it appearing that there is good cause shown, and the Executive Committee being fully advised in the premises;

IT IS ORDERED that Ms. Frederick's petition for reinstatement to the general bar of this Court is granted.

IT IS FURTHER ORDERED THAT any password issued to Ms. Frederick for access to the electronic filing system shall be enabled and her account shall be reinstated to active status with this District.

IT IS FURTHER ORDERED that the Clerk of the Court shall post this Order on the docket in every pending case which the attorney has filed an attorney appearance.

IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of this Order to be emailed to cjf@cjfredericklaw.com, the email address in the attorney record in CM/ECF, delivery receipt requested.

ENTER:

FOR THE EXECUTIVE COMMITTEE

Hon. Virginia M. Kendall, Chief Judge

Dated in Chicago, IL this 30th day of April 2025

COLLINS BARGIONE & VUCKOVICH
COUNSELLORS AT LAW
ONE NORTH LA SALLE STREET, SUITE 300
CHICAGO, ILLINOIS 60602

GEORGE B. COLLINS (1931-2016)
CHRISTOPHER BARGIONE
chris@cb-law.com
ADRIAN M. VUCKOVICH
av@cb-law.com
KATHRYNE R. HAYES
khayes@cb-law.com

T (312) 372-7813
F (312) 372-7840
CollinsBargioneVuckovich.com

June 9, 2023

By email
Mr. Scott Renfroe, Deputy Administrator, Appeals
Attorney Registration & Disciplinary Commission
130 East Randolph Drive, #1500
Chicago, Illinois 60601-6219

Re: Calvita J. Frederick
No. 2023IN01152

Dear Mr. Renfroe,

We represent Calvita Frederick and respond on her behalf to your letter dated April 4, 2023.

Ms. Frederick intends to respond fully and cooperate in your investigation. To address your concerns, we focus our response on the statements set forth in the first paragraph of your letter dated April 4, 2023:

> "More specifically, Judge Seeger noted that your filing accused him[1] of deliberately choosing to disregard evidence in the record, of signing an order he had not read, of attacking your client for following the law, of lacking a 'working knowledge' of the relevant law [Opinion, at p. 3], of making 'baseless attacks' on your client (*Id*.), and of entering an order that bore only a 'minimum appearance of legality.' (*Id*.)"

We attach a copy of the motion at issue as **Exhibit A**. **Exhibit A** includes highlight emphasis. The highlight emphasis is intended to track the statements raised above.

1. ***Porch v. University of Illinois at Chicago, School of Medicine.***

Ms. Frederick represents the plaintiff in case number 21-cv-03848. A copy of the docket printout is attached as **Exhibit B**. On August 3, 2022, the defendant's motion to dismiss was granted. Plaintiff was permitted to file a motion for leave to file an amended complaint consistent with the Court's (Honorable Robert M. Dow) Memorandum Opinion and Order entered on August 3, 2022.

[1] The motion does not address Judge Seeger individually with the exception of the caption and a reference to "Your Honor" at page 12.

On September 1, 2022, Ms. Frederick filed a motion for leave to file an amended complaint. The Court (Judge Dow) took the motion under advisement. Judge Dow was then appointed Counselor to the Chief Justice of United States and the Honorable Judge Seeger was assigned to 21-cv-3848.

On November 2, 2022, Judge Seeger requested a redlined version of the proposed amendment be filed (Ms. Frederick does not believe the prior Judge had such a requirement). Ms. Frederick had some difficulty preparing the redlined version, but a redlined version was filed.

On December 20, 2022, plaintiff's motion for leave to file an amended complaint was denied. (**Exhibit C**.) On December 21, 2022, judgment entered against plaintiff. (**Exhibit D**.)

Ms. Frederick filed the at-issue motion pursuant to Rule 59(e).

2. Rule 59(e) permits a party to file a motion to amend or alter.

Litigants are permitted to question the correctness of orders. For example, our state rules have established methods for addressing an order perceived to be incorrect by the losing party. See for example, motion to reconsider (735 ILCS 5/2-1203), appeal (Ill. Sup. Ct. Rules 301 – 307), petition for rehearing in reviewing courts (Ill. Sup. Ct. R. 367), motion for leave to appeal to the supreme court (Ill. Sup. Ct. R. 315), etc. The rules permit litigants to challenge a decision. There is no inherent penalty for unsuccessfully challenging the correctness of an order.

Rule 59(e) of the Federal Rules of Civil Procedure allows a litigant to file a motion asking to alter or amend a judgment. USCS Fed Rules Civ Proc R 59. (Similar to a motion to reconsider.)

A Rule 59(e) motion will be granted in the case of a **manifest error of law or fact**, or newly discovered evidence. *Bordelon v. Chicago Sch. Reform Bd. of Trs*., 233 F.3d 524, 529 (7th Cir. 2000) (emphasis added).

In the underlying case, the Court entered judgment against plaintiff following plaintiff's motion for leave to file an amended complaint. (**Exhibit C** and **Exhibit D**.) Ms. Frederick filed a Rule 59(e) motion in an attempt to correct what she viewed as the incorrect legal result (judgment against plaintiff following a motion for leave to file a first amended complaint).

Pursuant to Rule 59(e), Ms. Frederick was required to argue that a manifest error of law or fact had occurred.

One of the statements identified in your April 4, 2023 letter is the argument regarding deliberate disregard of evidence in the record. (See Motion at p. 5.) "More specifically, Judge Seeger noted that your filing accused him of deliberately choosing to disregard evidence in the record…"

"A motion to alter or amend a judgment is only proper when 'the movant presents newly discovered evidence that was not available at the time of trial or if the movant **points to evidence in the record that clearly establishes a manifest error of law or fact**.' *Burritt v. Ditlefsen*, 807 F.3d 239, 252 - 253 (7th Cir. 2015) quoting *In re Prince*, 85 F.3d 314 (7th Cir. 1996) (emphasis added).

"A 'manifest error' occurs when the district court commits a "wholesale disregard, misapplication, or failure to recognize controlling precedent." *Burritt*, 807 F.3d at 253 quoting *Oto v. Metro. Life Ins. Co*., 224 F.3d 601, 606 (7th Cir. 2000) (emphasis added) ("In his motion to alter or amend, Burritt did not present any newly discovered evidence. Neither did he establish a manifest error of law or fact. Based upon our review of the district court's deliberate and detailed rulings, we find that the district court did not commit any manifest error of law or fact in granting Ditlefsen's and Polk County's motion for summary judgment. **Specifically, the district court did not disregard or misapply controlling precedent**. Thus, the district court did not abuse its discretion in denying Burritt's Rule 59(e) motion." (Emphasis added.))

Manifest error is the "wholesale disregard, misapplication, or failure to recognize controlling precedent." *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) quoting *Sedrak v. Callahan,* 987 F. Supp. 1063, 1069 (N.D. Ill. 1997).

Therefore, to argue the appropriate standard, "manifest error", a litigant is required to make an argument similar to the standard set forth in *Burritt v. Ditlefsen* which means arguing the court engaged in a "wholesale disregard, misapplication, or failure to recognize controlling precedent." The argument in the motion at issue that the Court disregarded evidence or legal authority was an attempt to adhere to the correct and applicable standard. Respectfully, "disregard" is an appropriate argument in a Rule 59(e) motion.

The motion further states (and appears to be the primary source of the statements contained in your April 4, 2023 letter):

> "This Court presides over cases of such complexity. Any litigant, including Plaintiff, is entitled to a presiding officer who knows the law that governs the proceedings before the Court. It goes without saying that the problem of a Court that lacks working knowledge of the law that governs the cases the Court presides over is even more acute when that Court denies with prejudice a Plaintiff's Motion for Leave to File an Amended Complaint while at the same time the Order denying the Leave shows a disconcerting lack of familiarity with the governing law as well as disregard for the Court's need to educate itself in the law before launching in baseless attacks against a litigant.
>
> If this Court had just even taken the time to carefully read Judge Dow's Order, or the Amended Complaint and the footnotes, for that matter, the reason for the inclusion of the individual defendants would have become apparent.

> But apparently for whatever reason, the Court did not. Instead, the record shows that this Court summarily skimmed through the filings of the case to cherry pick – in the shortest time possible -whatever would have been useful to put together an Order against Plaintiff with a minimum appearance of legality. The manifest errors of facts and law disseminated in the Order indicate as much." (Motion, p. 22 (highlight emphasis added).)

Ms. Frederick's motion, overall, did not contain language that is not regularly used in the legal system. For example, a court may conclude that lawyers "cherry pick" facts. See *800 South Wells Commercial LLC v. Cadden*, 2018 IL App (1st) 162882, ¶¶ 39, 49 ("However, when defendant's deposition is read as a whole, plaintiff's presentation of his testimony becomes a prime example of evidentiary cherry-picking[]"); see also *Kenese v. Catholic Charities of the Archdiocese of Chicago*, No. 18-cv-08272, 2021 U.S. Dist. LEXIS 60850, at *10 (N.D. Ill. Mar. 30, 2021) (court finding "undeveloped argument unavailing".)

In an unpublished order, the Seventh Circuit determined that a trial court disregarded the instructions of the appellate court. See *Okaw Drainage District v. National Distillers & Chemical Corp.*, No. 93-2083, 1993 U.S. App. LEXIS 30565, at *2 (7th Cir. Nov. 18, 1993) ("For reasons not made clear in its decision, the trial court disregarded the directions of the appellate court order *(Okaw III),* and issued an opinion denying any damages to the plaintiff.") The case was remanded for a third time for reassignment "before a judge other than the judge who heard the prior trial". *Id*. at *3 citing Circuit Rule 36.

Ms. Frederick intended for her argument to fall within the standard set forth above. The standard necessary to succeed on a Rule 59(e) motion is difficult to achieve and requires manifest error in reaching the decision (or new evidence). The basis for Ms. Frederick's argument is the applicable standard for a motion filed pursuant to Rule 59(e).

3. The standard on appeal is "abuse of discretion".

The motion at issue related to the Court's denial of Ms. Frederick's motion for leave to file an amended complaint. Denial of motion for leave to amend is subject to an **abuse of discretion standard of review**. *Access Living of Metropolitan Chicago v. Uber Technologies, Inc.*, 958 F.3d 604, 609 - 610 (7th Cir. 2020) ("We review denials of leave to amend for abuse of discretion but evaluate the underlying legal basis for futility *de novo"*) (emphasis added); see also *Runnion v. Girl Scouts of Greater Chicago & Northwest Indiana*, 786 F.3d 510, 518 (7th Cir. 2015) ("In light of the presumption in favor of giving plaintiffs at least one opportunity to amend, see, e.g., *Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1024 (7th Cir. 2013), denying a plaintiff that opportunity carries a high risk of being deemed an abuse of discretion. The district court supported its decision with a finding that amendment would be futile, but that conclusion was based on a novel interpretation of the Rehabilitation Act and a preliminary view of the facts that could prove mistaken following amendment.")

A district court's denial of leave to amend the complaint is reviewed for abuse of discretion and is reversed "only if **no reasonable person could agree** with that decision." *Carroll v. Stryker Corp.*, 658 F.3d 675, 684 (7th Cir. 2011) quoting *Schor v. City of Chicago*, 576 F.3d 775, 780 (7th Cir. 2009) (emphasis added).

A court abuses its discretion if its conclusions "**cannot be rationally supported** by the record." *Access Living of Metropolitan*, 958 F.3d at 616 citing *Taubenfeld v. AON Corp.*, 415 F.3d 597, 600 (7th Cir. 2005) (emphasis added).

The basis for Ms. Frederick's argument is the standard of review which is abuse of discretion and requires that Ms. Frederick argue on appeal that the conclusion of the trial court could not be rationally supported by the record and/or that no reasonable person could agree.

4. **The overall tone of the motion was intended to be respectful.**

The overall tone of the motion to alter or amend judgment demonstrates an intent to convey respect to the Court, while at the same time arguing "manifest error". Some form of the word "respectfully" is used approximately 10 times in the motion. (Motion, pages 1, 4 (¶¶ 13, 16), 18 ("Very respectfully"), 21 ("Very respectfully"), 23 ("With all due and maximum respect"), 24, 28.) The overall tone of the motion is not disrespectful.

Ms. Frederick did not mean to offend the Court. It appears that Ms. Frederick's attempt not to offend the Court had the opposite effect. For example, Ms. Frederick offered, by way of explanation as to why she was not permitted leave to amend, that possibly a staff member drafted the order. (See Motion at p. 12.)

Your letter requests a "factual basis for the statements contained in" the motion. We attach as **Group Exhibit E** printouts which establish that it is within the scope of employment of a clerk to, among other tasks, assist the court in drafting opinions. (See https://oscar.uscourts.gov/duties_of_federal_law_clerks; https://oscar.uscourts.gov/about; https://www.ilnd.uscourts.gov/Pages.aspx?zfbBBqlXnCPHRg++pUA8RwkRSzuUe7YW accessed May 25, 2023 (highlight emphasis added).)

Ms. Frederick did not mean to offend the Court. Ms. Frederick intended to suggest that the error in law she argued was inadvertent.

5. **Ms. Frederick filed a motion for leave to file corrected amended 59(e) motion, *instanter*.**

Judge Seeger's order permitted plaintiff leave to file an amended motion within one week. (3/9/23 order at page 4.) On 3/20/2023, Ms. Frederick filed a motion for an extension of time. See **Exhibit B**. On information and belief, there has been no ruling. On June 8, 2023, Ms. Frederick filed a Motion for Leave to File Corrected Amended 59(e) Motion, *Instanter*. A copy is attached as **Exhibit F**.

Exhibit F states at paragraph 4: "Plaintiff's counsel would appreciate the opportunity to amend the motion. Plaintiff's counsel did not mean to offend the Court and offers her apology. Plaintiff's counsel apologizes to this Court. Plaintiff's counsel appreciates the patience, graciousness, and kindness of this Court." (**Exhibit F**, p. 2, ¶ 4.)

Conclusion:

Respectfully, the Motion does not contain statements in violation of Rule 8.2(a).

Ms. Frederick's conduct is not like the conduct of other lawyers who have been disciplined for statements concerning a judge. Ms. Frederick's statements were confined to a properly filed motion pursuant to Rule 59(e) and sought to argue the correct and applicable standard.

Ms. Frederick did not intend any disrespect to the Court or to Judge Seeger and she has taken steps to attempt to file a corrected amended motion.

Ms. Frederick has studied the 3/9/2023 order and will keep Judge Seeger's order in mind when she attempts to argue the applicable standard in future proceedings.

In the future, Ms. Frederick will refrain from statements which may be viewed as personal. Ms. Frederick intends to comply with Rule 8.2(a).

We assure you of our cooperation in this matter.

Respectfully,

/s/ Kathryne Hayes

Exhibit A

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21 CV 3848
v.	)	
	)	Judge Steven C. Seeger
UNIVERSITY OF ILLINOIS at CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
Defendants.	)	

MOTION TO ALTER OR AMEND JUDGMENT
TABLE OF CONTENTS

FACTUAL AND PROCEDURAL BACKGROUND …… p. 1

ARGUMENT ……..p. 5

I. The Standard for Rule 59(e) motions ……p.5

Hew v. Gen. Med., PC, Case No. 18-cv-2177-RJD, 3-4 (S.D. Ill. Sep. 21, 2020)……p. 6

II. The redline of the Amended Complaint does not reflect the changes made to the original Complaint ……p. 6

III. Plaintiff's case and the facts in the Complaint …… p. 8

Wilburn v. Indiana, Case No. 3:17-cv-059 JD, 7-8 (N.D. Ind. Jun. 9, 2020) ……. p.10

IV. The inclusion of individual defendants was necessary and required by law …… p. 18

Doe v. Board of Trustees of University of Illinois, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)

……p. 19 and 20

V. The standard for Motions for Leave to File an Amended Complaint ……. p. 23

Soltys v. Costello, 520 F.3d 737, 743 (7th Cir. 2008) ……...p. 23

In re Kmart Corp., 381 F.3d 709, 713 (7th Cir. 2004) …… p. 24

VI. The reference to Plaintiff's Reply in the Court's Order of December 20, 2022, shows that this Court was aware of the exact and true allegations brought forth by Plaintiff. The decision to ignore them was deliberate …….. p. 25

Johnson v. Sales Consultants, Inc., 61 F.R.D. 369, 371 (N.D. Ill. 1973). ……...p. 27

McMahan v. Deutsche Bank AG, 892 F.3d 926, 931 (7th Cir. 2018). …….p. 27

Murphy v. White Hen Pantry Co., 691 F.2d 350, 353 (7th Cir. 1982)…….. p. 27

CONCLUSION…….p. 28

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21 CV
v.	)	
	)	Judge Steven C. Seeger
UNIVERSITY OF ILLINOIS at CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
Defendants.	)	

MOTION TO ALTER OR AMEND JUDGMENT

Plaintiff, by and trough the undersigned attorney, pursuant to Federal Rule of Civil Procedure 59(e), brings this Motion and respectfully asks this Court to alter or amend its final Judgement of December 21, 2022, and to grant Plaintiff's Motion for Leave to File an Amended Complaint, because the final Judgment is grounded in manifest errors of both facts and law.

In support thereof, Plaintiff states as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1. Originally, this action was presided by Honorable Judge Robert M. Dow Jr. who left this District Court to serve as Counselor to the Chief Justice of the United States.
2. Thereafter, the case was assigned to this Honorable Court.

3. On August 3, 2022, Honorable Judge Dow dismissed Plaintiff's original ADA and Rehabilitation claims without prejudice with leave to File a Motion for Leave to File an Amended Complaint.
4. Plaintiff filed a Motion for Leave to File an Amended Complaint with accompanying Amended Complaint on September 1, 2022.
5. Before this Court issued a ruling on Plaintiff's Motion for Leave to File an Amended Complaint, Defendant filed a Response to Plaintiff's Motion to Dismiss the Amended Complaint on September 22, 2022.
6. On October 7, 2022, in accordance with the Court's Order, Plaintiff promptly filed her Reply showing how and why Defendant's premature Motion to Dismiss should have been denied in its entirety.
7. This Court's Standing Order requires a redline whenever a party seeks to amend a complaint. (Standing Order at Amended Complaint). The rationale for the Standing Order is that "a redline promotes transparency and makes it easy for the parties and the Court to *spot any changes*." [Dkt. # 27 Nov 7, 2022]
8. Plaintiff did file a redline on November 9, 2022, after counsel for Plaintiff exchanged a few communications with the Court notifying the Court that she was having difficulties with the redline because she is not tech-savy.
9. As Plaintiff shows in the ARGUMENT below, due to the ***technical*** difficulties that counsel encountered in the implementation of the redline Order, the filed redline did not capture any

and all changes and, more importantly, it did not capture the critically relevant changes in the Amended Complaint.

10. On December 20, 2022, this Honorable Court issued an Order denying Plaintiff's Motion to File an Amended Complaint.

11. As a rationale for the ruling, this Court stated that Plaintiff had sued the wrong Defendant, that the NBME is the right Defendant in this action and in her Amended Complaint Plaintiff did not add the NMBE as a Defendant and did not plausibly allege any facts to support the theory that UIC, instead of the NBME, failed to accommodate her. [DKT' # 29, Dec. 20, 2022].

12. In addition, this Court added three comments in its Order that are of particular relevance to this Motion, (*see* ARGUMENT below):

    a) "The case is about accommodations when taking a medical exam. Porch sued Defendant University of Illinois at Chicago School of Medicine ("UIC"), her former medical school, alleging that it failed to provide her with the medical accommodations she needed to sit for Step 1 of the United States Medical Licensing Exam (USMLE). *Id.* at 2." [This Court Order of Dec. 20, 2022, at p. 1, where "*Id. at 2"* refers to Judge Dow's Memorandum and Order of August 3, 2022, and Judge Dow's reading and/or interpretation of the Original Complaint, not Plaintiff's Amended Complaint];

    b) "Adding UIC officials as defendants couldn't solve the problem. UIC is already here, so adding individuals from UIC in their official capacities does not change anything.

UIC is the wrong entity. And suing officials from the wrong entity is still wrong." (*Id.* at p. 6); and

c) "Finally, Porch asserts in her reply brief (which isn't a fertile ground for new arguments, so the argument is waived) that UIC: "instructs and requires the students with disabilities to go through [it] when they apply for the USMLE accommodations." *See* Pl.'s Reply to Mtn. for Leave to File Am. Cplt., at 3 (Dkt. No. [21]) (emphasis removed). However, this allegation is noticeably absent from the proposed amended complaint. The proposed pleading is what matters, not the gloss in a brief. And in any event, the amended complaint does not allege UIC had the authority to grant a disability accommodation." (*Id.* at p. 7).

13. Respectfully, the Court is greatly mistaken on both the facts and the law that applies to Plaintiff's Amended Complaint.

14. In the paragraphs that follow, Plaintiff illustrates *how and why* the Court is mistaken on the facts of this action and *how* the Court misapplied the law in this case.

15. *Ipso facto,* in turn, that process highlights all the reasons why this Court could and should be reversed on appeal.

16. Before Plaintiff's Counsel is accused of disrespectful conduct towards the Court, Plaintiff and the undersigned would like to stress that neither this Plaintiff nor her counsel have any animosity towards this Court. However, Plaintiff has the right to discuss and bring to the attention of this Court the confusion, misunderstanding, and/or errors that led to this Court's Order of Dec. 20, 2022, so that the Court will have an opportunity to correct its ruling. In the

alternative, and in addition, the Court must understand that Plaintiff must preserve the record for the appeal as any argument not raised at this stage might be considered waived for purpose of appeal and the only correct manner to preserve the record is to state clearly where and how this Court was mistaken and/or deliberately chose to disregard the evidence in the record.

ARGUMENT

I. The Standard for Rule 59(e) motions.

Fed. R. Civ. P. 59(e) reads: "**(e)** MOTION TO ALTER OR AMEND A JUDGMENT. A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment." (28 APPENDIX U.S.C. § 59" Fed. R. Civ. P. 59.)

> "A motion for reconsideration filed within 28 days of the final judgment is considered under Federal Rule of Civil Procedure 59(e). *Carter v. City of Alton*, 922 F.3d 824, 826, n. 1 (7th Cir. 2019). A motion to alter or amend judgment pursuant to Rule 59(e) may be granted if there is newly discovered evidence, or if the Court made a manifest error of law or fact. *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1992) (*citing Russell v. Delco Remy Div. of General Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995)).
>
> ….
>
> Rule 59(e) allows the Court to correct errors in order to avoid unnecessary appellate procedures. *Id.* However, "the rule...certainly does not allow a party to introduce new evidence or advance arguments that could and should have been

> presented to the district court prior to the judgment. *Id*. (*citing LB Credit Corp*. *v*. *Resolution Trust Corp*., 49 F.3d 1263, 1267 (7th Cir. 1995). Litigants should not consider the district court's opinions to be "first drafts" that can be revised without good cause. *A&C Construction & Installation*. *Co*. *WLL v*. *Zurich American Ins*. *Co*., *et al*., 963 F.3d 705, 710 (7th Cir. 2020) (*citing Quaker Alloy Casting Co*. *v*. *Gulfco Indus*., *Inc*., 123 F.R.D. 282, 288 (N.D. Ill. 1988).

Hew v. Gen. Med., PC, Case No. 18-cv-2177-RJD, 3-4 (S.D. Ill. Sep. 21, 2020).

Here, Plaintiff brings this Motion within the 28 days of the final judgment and does not introduce any new evidence or advances any new arguments. She simply shows all the relevant changes that Plaintiff did include in her Amended Complaint that – due to technical difficulties - were not necessarily reflected in the redline, and/or all the evidence that this Court did not mention in its Order of Dec. 20, 2022, or inadvertently overlooked. Plaintiff also illustrates two critical principles of law – very clearly included in the Amended Complaint by way of footnotes - that this Court missed in reference to the individual defendants added in the Amended Complaint. Finally, Plaintiff discusses the exact portion of the Order that unquestionably shows that this Court disregarded Plaintiff's legal theory of the case and allegations or was merely confused by an inaccurate redline and/or a cursory reading of the material before the Court.

II. The redline of the Amended Complaint does not reflect the changes made to the original Complaint.

The undersigned followed the instructions she received from the Court regarding the redline - to the letter - but the redline ended up capturing only very few changes and certainly not all the

relevant changes from the original Complaint to the Amended Complaint, for the following reasons:

a) The undersigned has several associates that work with her.

b) The original Complaint was written by one associate.

c) The Amended Complaint was written by another associate, not the same attorney that wrote the original Complaint.

d) Whenever this second attorney gets assignments that require modifying the work done by others, she finds it easier to start the assignment de novo. She does not work on the old file because she finds it confusing to work on the old file. Consequently, a redline applied to her work only reflects the edits this second associate makes to her own initial drafts, not the old, original file.

e) In addition, at the time this second attorney worked on the Amended Complaint, the case was assigned to Honorable Judge Dow who did not have a Standing Order requiring redlines for Amended Complaints. Therefore, the second associate did not know it was important to keep track of the differences or changes between the original Complaint and the Amended Complaint.

f) When the undersigned prepared the redline of the Amended Complaint, she did not realize that the second associate had written the Amended Complaint from scratch using a file that had no electronic connection to the file of the original Complaint and therefore a redline of the Amended Complaint would have only reflected the very latest changes

the second attorney made to her own draft of the Amended Complaint as opposed to the redline capturing the changes from the original Complaint to the Amended Complaint.

g) And, again, all of this happened because nobody in the undersigned's office is particularly tech-savvy.

Therefore, to the extent this Court based its decision on the redline of the Amended Complaint, this Court inevitably and unintentionally missed the relevant changes made to the original Complaint.

However, as Plaintiff illustrates in the paragraphs that follow, a redline that did not capture the changes from the original Complaint to the Amended Complaint is only part of the several problems that afflict this Court's Order of December 20, 2022.

III. Plaintiff's case and the facts in the Complaint.

This Court's Order of Dec. 20, 2022, is based on the false assumption that this "case is about accommodations when taking a medical exam. Porch sued Defendant University of Illinois at Chicago School of medicine ("UIC"), her former medical school, alleging that it failed to provide her with the medical accommodations she needed to sit for Step 1 of the United States Medical Licensing Exam (USMLE)." (This Court's Order of Dec 20, 2022, at p. 1, *see also* paragraph 11(a) supra).

This case is not about UIC failing to provide Ms. Porch with the accommodations she needed to sit for Step 1 of the USMLE. UIC does not have the power to grant and/or provide those accommodations because UIC does not administer the test.

What UIC administers, however, and has full autonomous control of, is:

a) the processing of the UIC students' requests for accommodations for the STEP exams which must pass through the UIC Office of Access and Equity ("OAE") before such requests are submitted to the NMBE for evaluation;

b) the process to maintain a student enrolled in its medical program or terminate a student from its medical program;

c) the power to impose non-negotiable conditions that a student must satisfy to continue her enrollment in the medical program at UIC; and

d) the timing of UIC Board's decisions and the timing of UIC's communications to the students.

All of those are facts implied in UIC's very existence, role, and functions as a university, a school. Incidentally, Plaintiff was never under any legal obligation to plead in her Amended Complaint what UIC's specific role and functions are because those roles and functions are not an element of any of the two Causes of Actions brought forth by Plaintiff (Title II of the ADA and Rehab. Act).

> "To establish a violation of Title II of the ADA, 'the plaintiff must prove that he is a qualified individual with a disability, that he was denied the benefits of the services, programs, or activities of a public entity or otherwise subjected to discrimination by such an entity, and that the denial or discrimination was by reason of his disability.'" *Wagoner v. Lemmon*, 778 F.3d 586, 592 (7th Cir. 2015) (quoting *Love v. Westville Corr. Ctr.*, 103 F.3d 558, 560 (7th Cir. 1996)); *see also*42 U.S.C. § 12132. To establish a violation of the Rehabilitation Act, the

> Plaintiff must demonstrate "that (1) he is a qualified person (2) with a disability and (3) the [Indiana] Department of Corrections denied him access to a program or activity because of his disability." *Jaros v. Ill. Dep't of Corr.*, 684 F.3d 667, 672 (7th Cir. 2012) (citing 29 U.S.C. § 705(2)(B); *Wis. Cmty. Servs., Inc. v. City of Milwaukee*, 465 F.3d 737, 476 (7th Cir. 2006); *Foley v. City of Lafayette*, 359 F.3d 925, 928 (7th Cir. 2004); *Grzan v. Charter Hosp. of Nw. Ind.*, 104 F.3d 116, 119 (7th Cir. 1997)). Footnote 3. Under the Rehabilitation Act, refusing to make a reasonable accommodation is tantamount to denying access. *Id.*
>
> (citing *Wis. Cmty. Servs. Inc.*, 465 F.3d at 747; *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985)).
>
> Footnote 3: "It is not in dispute that the Indiana Department of Corrections receives federal funds. *See Wagoner*, 778 F.3d at 592 (citing *Jaros*, 684 F.3d at 671)." *Wilburn v. Indiana*, Case No. 3:17-cv-059 JD, 8 n.3 (N.D. Ind. Jun. 9, 2020)

Wilburn v. Indiana, Case No. 3:17-cv-059 JD, 7-8 (N.D. Ind. Jun. 9, 2020)

Therefore, this case is about UIC reaching the decision to reinstate Ms. Porch into the medical program with the non-negotiable condition that she take and pass Step 1 of the USMLE by April 6 of 2019. However, UIC - who was perfectly aware that Ms. Porch required accommodations for the exam and that the process to request accommodations takes a full six-months - communicated its decision as well as the non-negotiable STEP 1 exam condition to Ms. Porch only on ***October 4, 2018***. Which already made it impossible for Ms. Porch to meet the 6 months requirement for requesting accommodations. In addition, when Ms. Porch requested assistance with the process of requesting accommodations, UIC did not dignify her with an

answer until ***early November of 2018***, causing Ms. Porch to waste additional precious time she could have used to prepare to try to take the exam without the accommodations.

To state this in other words, concisely: this case is about UIC ***negligent and/or intentionally tardy communications*** which made it impossible for Ms. Porch ***to meet the 6 months requirement for processing her request for accommodation.***

To clarify this even more: there is never any guarantee that once a request for accommodation is processed by UIC, that request is eventually granted by the NMBE. This last clarification is necessary to underscore the difference between liabilities imputable to UIC and liabilities imputable to the NMBE. There is nothing that Plaintiff can hold NMBE responsible for because NMBE never had anything to do with UIC tardy communications.

The tardy communications have nothing to do with the NMBE and have everything to do with UIC. It is axiomatic that UIC and UIC only had control over those tardy communications and over the timing of those communications. This is the reason why Plaintiff never named NMBE as a defendant. Plaintiff never named the NMBE as a defendant because the torts Plaintiff suffered have nothing to do with the NMBE. *UIC's acts and omissions constitute the torts Plaintiff complains about.*

Plaintiff admits that the original Complaint was confusing in this respect and therefore Honorable Judge Dow's confusion was understandable, but the Amended Complaint corrected the confusion, very clearly, so it was error for this Court to adopt Honorable Judge Dow's characterization of the case and import that characterization into its Order of December 20, 2022.

That is because the Amended Complaint and not the original Complaint is the subject matter of the Motion for Leave to File an Amended Complaint.

Furthermore, the Amended Complaint, not the original Complaint, not the redline, and not the titles of Plaintiff's Reply to Defendant's Response to the Motion for Leave to File the Amended Complaint- which the Court quoted in its Order - is what this Court should have read and ruled upon when reaching a decision on Plaintiff's Motion for Leave to File an Amended Complaint.

Instead, a careful analysis of this Court's Order reveals that whoever wrote it, possibly not Your Honor who, being as busy as he is, may have simply signed the Order:

a) completely ignored the one, solid pleading that was the subject matter of the Motion for Leave to File an Amended Complaint, - the Amended Complaint itself - ; and

b) cherry-picked bits and bytes from non-essential and/or secondary pleadings, with the specific intent to put together an order that only had the appearance of a legal order - without having the substance of a legal order - and an order that matched the alternative view created ab initio by the Defendant that NMBE and not UIC is responsible for the torts suffered by Plaintiff.

Therefore, to the extent that this very busy Court might have relied on a clerk to write the Order or used a Proposed Order written by counsel for the Defendant as a basis for its ruling, Plaintiff, by means of this Motion, notifies the Court that the Order is saturated with manifest errors of facts and law and will may well be reversed on appeal.

Plaintiff starts the analysis from the very basics: does the Amended Complaint correctly and sufficiently allege the necessary facts? Yes, it does. The Amended Complaint alleges both the facts necessary to explain what UIC's tortious conduct consisted of – *and* – the facts necessary to meet the elements of the COAs. (*See Wilburn, supra,* a 7th circuit case).

Paragraph 8 of the Amended Complaint reads: "At all relevant times, Plaintiff was a student at University of Illinois at Chicago School of Medicine registered with the University to receive accommodations under the ADA." Therefore, paragraph 8 establishes the first element of the COAs: that Ms. Porch is/was a qualified individual with disability.

Indirectly, paragraph 8 also establishes that UIC had either direct or constructive knowledge that Ms. Porch required accommodations but that is a 'bonus" because the COAs contemplate no scienter.

The accommodations boil down to additional time Ms. Porch needed to take an exam - any exam - both those exams she took in her program at UIC and the STEP exams. Paragraphs 10 and 11 of the Amended Complaint very clearly state the nature of Ms. Porch's disability and the type of accommodations she requires:

> "10. Plaintiff suffers from multiple disabilities, including but not limited to, Attention-Deficit/Hyperactivity Disorder, learning disabilities and generalized anxiety disorder."
>
> 11. Plaintiff has been evaluated by clinicians and has, at the recommendation of her clinicians, needed extended time testing accommodations while in school."

It is axiomatic that if UIC had Ms. Porch registered as an ADA student, UIC was also aware of the nature of the accommodations she required. This is so because, if nothing else, UIC had already granted those accommodations to Ms. Porch during the exams she took in her medical program at UIC. Incidentally, and to restate, such "awareness" is not a "necessary" fact that Plaintiff had to plead in the Amended Complaint because such "awareness" is not an element of the COAs. The discrimination Plaintiff complains of stands on its own simply because it happened. The elements of the COAs do not include any scienter. (*See Wilburn, supra,* a 7th circuit case).

Paragraph 13 through 19 of the Amended Complaint read:

13. On October 4, 2018, School of the Medicine/University officials sent a letter to Plaintiff notifying her that she was required to take and pass United States Medical Licensing Examination ("USMLE") Step 1 by April 6, 2019.
14. The exam was actually scheduled for March 2019, but the letter did not inform Plaintiff that the Exam was scheduled for March 2019.
15. In addition, neither the letter, nor any University officials, had informed Plaintiff that the request for accommodations during the exam required six full months to be processed.
16. Plaintiff tendered a letter to begin the request for accommodations on October 5, 2018, asking for instructions on beginning the process to apply for accommodations.

17. Having received no response from the University and its officials, Plaintiff inquired again for the instructions on October 9, 2018.
18. Having received no response from the University and its officials, Plaintiff then inquired a third time for the instructions on October 23, 2018.
19. Finally, Plaintiff was allowed to submit the Medical Student Disability and Accommodations documentation on November 2, 2018.

Paragraph 13 through 19 very clearly establish what the violations – and discrimination – consisted of: the request for USMLE's accommodations takes 6 months to process - (Plaintiff even included the UIC's policy as exhibit to the Amended Complaint) - but UIC informed Ms. Porch of the non-negotiable condition to take and pass the March 2019 STEP 1 exam **on October 4, 2018.** UIC's letter did not include the date of the exam and did not clarify that Ms. Porch was already out of time to apply for accommodations. Plaintiff would have argued to a jury that the omissions were deliberate and a clear indication of bad faith.

Paragraph 13 through 19 satisfy the second and third elements of the COAs already: that UIC, not NMBE, denied Plaintiff access "to a program or activity on account of her disability". *Wilburn, supra*, clarifies that "Under the Rehabilitation Act, refusing to make a reasonable accommodation is tantamount to denying access." The accommodation that Ms. Porch was denied is not the additional time to take the exam (that is just a consequence of UIC's tortious conduct). The accommodation that Ms. Porch was denied is the accommodation that UIC was supposed to provide her with: ***timely assistance with the request for accommodation***. That is squarely a type of assistance that only UIC and not NMBE can and was supposed to provide to

Ms. Porch but the UIC's tardy letter of October 4, 2018, made it impossible for Ms. Porch to obtain that timely assistance. The dates in paragraph 13 through 19 make this case. Those tardy communications are the subject matter of this litigation and the basis of UIC's liability. There is nothing missing from the Amended Complaint in terms of facts that support the COAs.

In fact, the Amended Complaint elaborates even more and includes more detailed facts on the violations, in paragraphs 20 through 30, which read (italics and bold font added):

20. The documentation submitted in support of Plaintiff's request for accommodations included the following: Letters from Porch's psychologist, psychiatrist and her family practitioner, all detailing her medical condition and advising that she required extra time to complete the examination due to her medical condition.
21. Said documentation substantially complies *with the Defendants' written policy regarding requests for disability testing accommodations*.
22. By way of letter addressed to the *UIC Office of Access and Equity ("OAE")* dated November 2, 2018, Plaintiff requested testing accommodations for the USMLE Step 1 to be administered in March of 2019.
23. *The OAE never issued a response to Plaintiff's request for accommodations*.
24. Plaintiff then contacted Mr. Urosev, Dean of Academic Affairs, and Dr. Marth Halsey, Academic Specialist, requesting assistance with the NBME Medical Testing Accommodations.

25. *It was only then that Defendants Urosev and Defendant Halsey, notified Plaintiff that the request for accommodations requires six full months to be processed and,* ***since the college had only granted Plaintiff five months to take the exam, there was not enough time to pursue the accommodations that Plaintiff required to succeed on the examination.***

26. Plaintiff was then advised to study hard and do the best she could on the NBME Medical test.

27. The College of Medicine through Dean Curry was aware of Plaintiff's need for accommodations and had advised Plaintiff that she could and would receive assistance in requesting the accommodations.

28. The College of Medicine and its officials was also aware that the accommodations process required six full months for the completion and granting of the accommodations.

29. *Nevertheless,* ***the College of Medicine and its officials granted Plaintiff only five months to take and pass the test.***

30. Subsequent to the Defendant's second refusal to accommodate Plaintiff's disabilities, Plaintiff's medical school informed her that she could not advance in its M.D. degree program without taking and passing USMLE Step 1.

Obviously, "to accommodate Plaintiff's disabilities", in the context of the whole Amended Complaint, means granting her the 6 months required to apply for the disability accommodations with the USMLE and assisting her with the application.

Therefore, the Amended Complaint clearly states what tortious conduct UIC stands accused of and satisfies all the elements of the COAs.

The NMBE is not responsible for the discrimination committed by Defendant UIC and Plaintiff correctly omitted to name the NMBE as a Defendant.

IV. The inclusion of individual defendants was necessary and required by law.

At the bottom of page 6 of its Order, this Court wrote: "Adding UIC officials as defendants couldn't solve the problem. UIC is already here, so adding individuals from UIC in their official capacities does not change anything. UIC is the wrong entity. And suing officials from the wrong entity is still wrong." (*Id.* at p. 6).

Very respectfully, the implications of this comment are chilling. The very comment alone underscores the magnitude of the Court's mistake as well as the grave disservice this Court has done to Plaintiff.

The Amended Complaint contains two footnote citations to seminal cases that address fundamental topics in this specific area of litigation, violations of Title II ADA and Rehabilitation Act. These two topics are: 1) immunity under the 11th Amendment of the United States Constitution and 2) the defense of Statute of Limitations which is unavailable and defeated when the violations of federal rights are ongoing.

Plaintiff inserted footnote 2 in the title of Count I, right next to the sentence: "(**Against University Officials in their official capacities)".** The note reads (italics and bold font added):

> "Doe also seeks injunctive relief against the individual defendants in their official capacities, including reinstatement to the College of Medicine and the Medical Scholars Program, transfer to the College of Medicine's Chicago campus, an opportunity to retake his Clinical Laboratory Studies course, and a prohibition on future violations of his rights under the ADA. Compl. pp. 139-40. Under the rule announced in *Ex Parte Young,* 209 U.S. 123 (1908), ***plaintiffs may sue state officials in their official capacities for prospective relief to enjoin ongoing violations of their federal rights, notwithstanding the state's Eleventh Amendment immunity.*** *See, e.g., Bruggeman,* 324 F.3d at 912. *See Doe v. Board of Trustees of University of Illinois*, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)"

Plaintiff inserted footnote 3 in the title of the Count II, right next to the sentence: "(**Against the University of Illinois at Chicago and School of Medicine)".** The note reads:

> "***It is at least conceivable that Doe may be able to advance a claim against the University under section 504 of the Rehabilitation Act. 29 U.S.C. § 704(a). Because Congress enacted that statute pursuant to the Constitution's Spending Clause, it could and did require states to waive their Eleventh Amendment immunity as a condition of receiving federal financial assistance***. *See* 42 U.S.C.

§ 2000d-7(a)(1). As a result, the Eleventh Amendment does not immunize the states from lawsuits under the Rehabilitation Act. *See Stanley v. Litscher,* 213 F.3d 340, 344 (7th Cir. 2000). Because, however, Doe has not alleged that the University receives federal financial assistance for the College of Medicine, the Court cannot assess at this juncture whether he can assert a Rehabilitation Act claim in this case. *Doe v. Board of Trustees of University of Illinois*, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)"

Plaintiff included footnotes 2 and 3 in the Amended Complaint not only to clarify why Count I is brought against the individual defendants and Count II is brought against UIC but to also address concerns that Honorable Judge Dow had raised in his Order of August 3, 2022, and to indicate to the Defendant that raising the immunity defense, again, would have been futile because there are ways a Plaintiff can plead around the immunity and Plaintiff had done just that in her Amended Complaint.

Pursuant to the case law cited above, bringing the Title II ADA claim against the individual defendants is how Ms. Porch defeats the immunity defense for Title II, and pleading the fact that UIC receives federal funds – which Plaintiff did in paragraph 9 of the Amended Complaint, underscored in the original and with Ex A. University Financial Report in support of the assertion - is how Ms. Porch defeats the immunity defense to the Rehab. Act Claim. The argument about SOL and ongoing violations is self-explanatory, hopefully.

Therefore, the Amended Complaint not only corrects all the errors in the original Complaint, it also addresses the concerns raised by Honorable Judge Dow in his Order of August

3, 2022, and – furthermore – the Amended Complaint shows the right way to sue State Universities and defeat their immunity defenses, an easy model to follow for every Plaintiff who does not know how to plead around the immunity defense (a good policy reason to grant the Leave to File such Complaint, if anything).

However, the comment at the bottom of page 6 of this Court's Order not only proves without the shadow of a doubt that the Court based its ruling on an inaccurate review of the facts of the case but – very unfortunately and very sadly- it also proves that this Court misread the case law that governs Title II ADA and Rehabilitation Act violation claims.

This particular mistake of law that the Court made, where the Court so evidently missed the legal reason for including individual defendants in the Amended Complaint, has nothing to do with a redline that did not capture the notes or the salient portions of the Amended Complaint.

As a Court sitting in judgment on a case that involves violations of Title II ADA and of the Rehabilitation Act, this Court should have recognized the reason why Plaintiff included individual defendants independently, without even reading the Amended Complaint. But this Court did not albeit, perhaps unintentionally, recognize that legal reason. In fact, the Court went even further than just failing to recognize the legal reason for naming individual defendants in the Amended Complaint: the Order wildly twists Plaintiff's legally sound choice to name individual defendants into yet another baseless accusation for denying the Leave to File the Amended Complaint.

Very respectfully, it is already extremely serious that this Court did not recognize the legally valid reason for including individual defendants in the Amended Complaint but - beyond

that - the fact that this Court did not even recognize the need for IT to do adequate research on the topic before issuing a ruling - and - the even more astonishing fact that the Court launched into an underserved attack against Plaintiff for simply following the law in the matters at hand, is disconcerting to say the least.

This Court presides over cases of such complexity. Any litigant, including Plaintiff, is entitled to a presiding officer who knows the law that governs the proceedings before the Court. It goes without saying that the problem of a Court that lacks working knowledge of the law that governs the cases the Court presides over is even more acute when that Court denies with prejudice a Plaintiff's Motion for Leave to File an Amended Complaint while at the same time the Order denying the Leave shows a disconcerting lack of familiarity with the governing law as well as disregard for the Court's need to educate itself in the law before launching in baseless attacks against a litigant.

If this Court had just even taken the time to carefully read Judge Dow's Order, or the Amended Complaint and the footnotes, for that matter, the reason for the inclusion of the individual defendants would have become apparent.

But apparently for whatever reason, the Court did not. Instead, the record shows that this Court summarily skimmed through the filings of the case to cherry pick – in the shortest time possible - whatever would have been useful to put together an Order against Plaintiff with a minimum appearance of legality. The manifest errors of facts and law disseminated in the Order indicate as much.

With all due and maximum respect, - irrespective of whether this Court or someone else on behalf of this busy Court wrote the Order - this is unacceptable, and unfair, and this is the main reason why an honest Court of Appeal should not have a second of hesitation in reversing this Court's ruling.

V. The standard for Motions for Leave to File an Amended Complaint.

> "[T]he decision to grant or deny a motion to file an amended pleading is a matter purely within the sound discretion of the district court." *Brunt v. Serv. Employees Int'l Union*, 284 F.3d 715, 720 (7th Cir. 2002). We will overturn a denial of a motion for leave to amend a complaint only if the district court "abused its discretion by refusing to grant the leave without any justifying reason." *Id.; see also J.D. Marshall Int'l Inc. v. Redstart, Inc.*, 935 F.2d 815, 819 (7th Cir. 1991). Federal Rule of Civil Procedure 15(a) provides that if a party is not entitled to amend a pleading as a matter of course, it may amend "with the opposing party's written consent or the court's leave." The court "should freely give leave when justice so requires." Fed.R.Civ.P. 15(a)(2). "Although the rule reflects a liberal attitude towards the amendment of pleadings, courts in their sound discretion may deny a proposed amendment if the moving party has unduly delayed in filing the motion, if the opposing party would suffer undue prejudice, or if the pleading is futile." *Campania Mgmt. Co. v. Rooks, Pitts Poust*, 290 F.3d 843, 848-49 (7th Cir. 2002).

Soltys v. Costello, 520 F.3d 737, 743 (7th Cir. 2008)

With its order of December 20, 2022, this Court has denied Plaintiff Leave to File the Amended Complaint because the Court held the amendments futile.

However, this Motion proves that the amendments were not futile at all and instead they cured the shortcomings of the original Complaint. This Motion also provides an accurate explanation of how and why the Court made manifest errors of both facts and law in its Order.

"In general terms, a court abuses its discretion when its decision is premised on an incorrect legal principle or a clearly erroneous factual finding, or when the record contains no evidence on which the court rationally could have relied. *Corporate Assets,* 368 F.3d at 767 (citing *United States v. Jain,* 174 F.3d 892, 899 (7th Cir. 1999); *Salgado by Salgado v. General Motors Corp.,* 150 F.3d 735, 739 n. 4 (7th Cir. 1998))." *In re Kmart Corp.*, 381 F.3d 709, 713 (7th Cir. 2004).

Here, Plaintiff has shown that the Court's Order of December 20, 2022, is premised on incorrect legal principles and clearly erroneous legal findings. Furthermore, the record, the actual pleadings, contain no evidence on which the Court rationally could have relied. Ipso facto, by operation of the law, this Court abused its discretion when it denied Plaintiff's Motion for Leave to File an Amended Complaint.

The decision of this Court cannot stand; an honest Court of Appeal would reverse it; but before appealing the decision, Plaintiff respectfully asks this Court to alter or amend its judgment pursuant to Rule 59(e) and the evidence this Motion refers to and to grant Plaintiff leave to file her Amended Complaint.

VI. The reference to Plaintiff's Reply in the Court's Order of December 20, 2022, shows that this Court was aware of the exact and true allegations brought forth by Plaintiff. The decision to ignore them was deliberate.

In its Order of December 20, 2022, this Court specifically discussed a passage included in Plaintiff's Reply to Defendant's premature Motion to Dismiss. In fact, this Court even quoted that passage in its Order of Dec. 20, 2022.

Specifically, the Court wrote:

> "Finally, Porch asserts in her reply brief (which isn't a fertile ground for new arguments, so the argument is waived) that UIC : "instructs and requires the students with disabilities to go through [it] when they apply for the USMLE accommodations." *See* Pl.'s Reply to Mtn. for Leave to File Am. Cplt., at 3 (Dockt. No. [21]) (emphasis removed). However, this allegation is noticeably absent from the proposed amended complaint. The proposed pleading is what matters, not the gloss in a brief. And in any event, the amended complaint does not allege UIC had the authority to grant a disability accommodation." (*Id.* at p. 7).

First, as Plaintiff already discussed in prong II of this Motion, the allegation the Court cherry-picked is nowhere part of the elements of the COAs. (*See Wilburn, supra,* a 7th circuit case). Therefore, contrary to this Court's comment, Plaintiff had no need to and was under no obligation to include the specific allegations in the Complaint.

Second, the passage is a sentence extrapolated from the title of one of the sections of Plaintiff's Reply. The whole title reads (bold fonts in original):

> **"Plaintiff alleges that Defendant UIC and its employees violated her rights under the ADA and the Rehabilitation Act when they failed to assist her in the process to apply for USMLE accommodations. UIC instructs and requires the students with disabilities to go through them when they apply for the USMLE accommodations. UIC made it a condition for reinstatement that Plaintiff pass the March 2019 USMLE STEP 1 test. Furthermore, the USMLE program requires any university to assist USMLE for verification purposes."**

The first sentence of the title makes Plaintiff's theory of the case and allegations extremely clear. Therefore, even if the Court incorrectly decided to limit itself to the reading of the inaccurate redline, as opposed to reading the whole Amended Complaint, it is unclear how the Court could have remained confused about the exact allegations Plaintiff brought against UIC when the Court left proof in its own Order that the Court, at the very least, read this particular title of Plaintiff's Reply, the first sentence of which reflects the very core of Plaintiff's case.

To reiterate again, the first sentence reads:" **Plaintiff alleges that Defendant UIC and its employees violated her rights under the ADA and the Rehabilitation Act when they failed to assist her in the process to apply for USMLE accommodations."** This sentence is a summary of the facts pleaded in the Amended Complaint, therefore there is no fact relevant to the elements of the COAs that Plaintiff has omitted or is "noticeably absent" from the Complaint.

This selective comment the Court included in its Order and the evidence on the record contradict the assumption that an incorrect redline may have caused the Court's confusion and, instead, support the inference that the Court deliberately ignored very relevant portions of the record directly in front of the Court.

"A motion for leave to file an amended complaint is addressed to the sound discretion of the Court and *must be decided upon the facts and circumstances of each particular case*." *Zenith Radio Corp. v. Hazeltine Research, Inc.,*401 U.S. 321, 91 S.Ct. 795, 28 L.Ed.2d 77 (1971); *Forman v. Davis,*371 U.S. 178, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962); *Ricciuti v. Voltare Tubes, Inc.,*277 F.2d 809 (2nd Cir. 1960); *Hall v. National Supply Co.,*270 F.2d 379 (5th Cir. 1959).*Johnson v. Sales Consultants, Inc.*, 61 F.R.D. 369, 371 (N.D. Ill. 1973). (Emphasis and underscoring added).

"The sanction of dismissal is the most severe sanction that a court may apply, and its use must be tempered by a *careful* exercise of judicial discretion." *Webber* , 721 F.2d at 1069 (quoting *Durgin v. Graham* , 372 F.2d 130, 131 (5th Cir. 1967))." *McMahan v. Deutsche Bank AG*, 892 F.3d 926, 931 (7th Cir. 2018). (Emphasis in original).

"The liberal pleading policy in the [federal rules] prevents dismissal of a meritorious action for purely formal or technical reasons." *Murphy v. White Hen Pantry Co*., 691 F.2d 350, 353 (7th Cir. 1982).

Here, this Motion shows that ultimately this Court denied Plaintiff's Motion for Leave to File an Amended Complaint for non-existing reasons rather than purely formal or technical reasons. In conclusion the Order is not only ridden with manifest errors of facts and of law. The content

of the Order itself shows deliberate indifference to the relevant record and evidence before the Court, record and evidence which clearly indicate the reasons why UIC and not NMBE is the correct defendant in this case.

CONCLUSION

WHEREFORE, for all the reasons discussed above, Plaintiff respectfully requests that this Court alters and or amends its ruling of December 20, 2022, and grants Plaintiff's Leave to File the Amended Complaint.

Respectfully submitted,

EBONE PORCH

By: s/ Calvita J. Frederick
Attorney for Plaintiff

Calvita J. Frederick
Post Office Box 802976
Chicago, Illinois 60680-2976
312-421-5544
ARDC # 6184001
Calvita.Frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 14, 2023, the foregoing *Rule 59(e) Motion* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21-CV-03848
v.	)	
	)	Judge Robert M. Dow, Jr.
BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS, Mr. Urosev, Dean of Academic Affairs, Dr. Marth Halsey, Academic Specialist, Dean Curry, Dean of the School of Medicine, and John Does 1-5, University and/or School of Medicine officials, all in their official capacities	)	
	)	
Defendants.	)	

AMENDED COMPLAINT

Plaintiff, EBONE PORCH, by and through her attorneys, Calvita J. Frederick & Associates, files this action against the BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS (the "University" "Defendants"), and/or University Officials (Ursey, Halsey, Curry, and John Does 1-5, "Defendants"), to enforce her rights under Americans with Disabilities Act of 1990, as amended ("Title II" and "ADA"), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R Part 35, and under section 504 of the Rehabilitation Act of 1973 (29 U.S.C.S. 794) and 34 C.F.R. § 104.44.[1]

[1] Courts use the same analysis for claims under the Rehabilitation Act and Title II of the ADA. *Foley v. City of Lafayette*, 359 F.3d 925, 928 (7th Cir. 2004); *Crosby v. Reg'l Transp. Auth.*, No. 07 C 6235, 2010 WL 2350707, at *2 (N.D. Ill. June 11, 2010).

JURISDICTION

1. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 12133.
2. This Court has the authority to grant the relief sought under 42 U.S.C. § 12133, and 28 U.S.C. §§ 2201 and 2202, and under 29 U.S.C. § 794.
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial portion of the events or omissions giving rise to this cause of action took place within this district, and it is proper in this Division because the University of Illinois at Chicago's principal place of business is located in it.

PARTIES

4. Ebone Porch is the Plaintiff and is a former medical student at University of Illinois at Chicago, School of Medicine.
5. Defendant, Board of Trustees of the University of Illinois, at Chicago, School of Medicine, is an instrumentality of the State of Illinois. The University is established and governed by the laws of, and funded by, the State of Illinois. It is a public entity pursuant to 42 U.S.C. § 12131(1)(B) and 28 C.F.R. § 35.104. The University's main campus is located in Chicago.
6. Defendants Urosev, Halsey, Curry, and John Does 1-5, are University employees and School of the Medicine officials.

FACTUAL ALLEGATION

7. At all relevant times, Plaintiff was a student at University of Illinois at Chicago, School of Medicine.

8. At all relevant times, Plaintiff was a student at University of Illinois at Chicago School of Medicine registered with the University to receive accommodations under the ADA.
9. During the relevant period, academic year 2018-2019, the University of Illinois at Chicago and the School of Medicine received federal financial grants (EX. A, University's financial report) and federal financial assistance.
10. Plaintiff suffers from multiple disabilities, including but not limited to, Attention-Deficit/Hyperactivity Disorder, learning disabilities and generalized anxiety disorder.
11. Plaintiff has been evaluated by clinicians and has, at the recommendation of her clinicians, needed extended time testing accommodations while in school.
12. Plaintiff commenced her medical education at University of Illinois College of Medicine in August 2009.
13. On October 4, 2018, School of the Medicine/University officials sent a letter to Plaintiff notifying her that she was required to take and pass United States Medical Licensing Examination ("USMLE") Step 1 by April 6, 2019.
14. The exam was actually scheduled for March 2019, but the letter did not inform Plaintiff that the Exam was scheduled for March 2019.
15. In addition, neither the letter, nor any University officials, had informed Plaintiff that the request for accommodations during the exam required six full months to be processed.
16. Plaintiff tendered a letter to begin the request for accommodations on October 5, 2018, asking for instructions on beginning the process to apply for accommodations.
17. Having received no response from the University and its officials, Plaintiff inquired again for the instructions on October 9, 2018.

18. Having received no response from the University and its officials, Plaintiff then inquired a third time for the instructions on October 23, 2018.
19. Finally, Plaintiff was allowed to submit the Medical Student Disability and Accommodations documentation on November 2, 2018.
20. The documentation submitted in support of Plaintiff's request for accommodations included the following: Letters from Porch's psychologist, psychiatrist and her family practitioner, all detailing her medical condition and advising that she required extra time to complete the examination due to her medical condition.
21. Said documentation substantially complies with the Defendants' written policy regarding requests for disability testing accommodations.
22. By way of letter addressed to the UIC Office of Access and Equity ("OAE") dated November 2, 2018, Plaintiff requested testing accommodations for the USMLE Step 1 to be administered in March of 2019.
23. The OAE never issued a response to Plaintiff's request for accommodations.
24. Plaintiff then contacted Mr. Urosev, Dean of Academic Affairs, and Dr. Marth Halsey, Academic Specialist, requesting assistance with the NBME Medical Testing Accommodations.
25. It was only then that Defendants Urosev and Defendant Halsey, notified Plaintiff that the request for accommodations requires six full months to be processed and, since the college had only granted Plaintiff five months to take the exam, there was not enough time to pursue the accommodations that Plaintiff required to succeed on the examination.
26. Plaintiff was then advised to study hard and do the best she could on the NBME Medical test.

27. The College of Medicine through Dean Curry was aware of Plaintiff's need for accommodations and had advised Plaintiff that she could and would receive assistance in requesting the accommodations.
28. The College of Medicine and its officials was also aware that the accommodations process required six full months for the completion and granting of the accommodations.
29. Nevertheless, the College of Medicine and its officials granted Plaintiff only five months to take and pass the test.
30. Subsequent to the Defendant's second refusal to accommodate Plaintiff's disabilities, Plaintiff's medical school informed her that she could not advance in its M.D. degree program without taking and passing USMLE Step 1.
31. Plaintiff sat for USMLE Step 1, in March of 2019, without accommodations, and, as foreseen by her, she was unable to pass the exam because she did not have sufficient time to accurately read, comprehend, and complete the exam. Plaintiff also experienced significant anxiety that exacerbated the impacts of her cognitive impairments. Before even walking into the examination room, Plaintiff knew from experience that she would be unable to complete the USMLE. Plaintiff found it very difficult to focus and comprehend what she was reading. She had to reread questions and responses multiple times in order to comprehend them. Plaintiff skipped over questions that would take her longer to read, but, in contrast to her experience on other exams where she had extended time, she did not have enough time on the USMLE to return to, read, and answer these skipped questions. As a consequence, Plaintiff rushed through test questions and failed the test.

32. Because she had not passed USMLE Step 1, Plaintiff was dismissed from her medical degree program by way of letter dated April 26, 2019.

33. Plaintiff filed a Grievance of the College of Medicine's decision to dismiss her.

34. A final decision to deny Plaintiff's grievance was reached on October 4, 2019.

35. In pertinent parts, ADA regulations state:

> "The term "substantially limits" shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. "Substantially limits" is not meant to be a demanding standard." 29 C.F.R. § 1630.2(j)(1)(i).
> "An impairment is a disability within the meaning of this section if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting." 29 C.F.R. § 1630.2(j)(1)(ii).
>
> "The primary object of attention in cases brought under the ADA should be whether covered entities have complied with their obligations and whether discrimination has occurred, not whether an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment "substantially limits" a major life activity should not demand extensive analysis." 29 C.F.R. § 1630.2(j)(1)(iii).
>
> The determination of whether an impairment substantially limits a major life activity requires an individualized assessment. However, in making this assessment, the term "substantially limits" shall be interpreted and applied to require a degree of functional limitation that is lower than the standard for "substantially limits" applied prior to the ADAAA." 29 C.F.R. § 1630.2(j)(1)(iv).
>
> "The comparison of an individual's performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical analysis. Nothing in this paragraph is intended, however, to prohibit the presentation of scientific, medical, or statistical evidence to make such a comparison where appropriate." 29 C.F.R. § 1630.2(j)(1)(v).

"The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures." 29 C.F.R. § 1630.2(j)(1)(vi).

"An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active." 29 C.F.R. § 1630.2(j)(1)(vii).

"An impairment that substantially limits one major life activity need not substantially limit other major life activities in order to be considered a substantially limiting impairment." 29 C.F.R. § 1630.2(j)(1)(viii).
"[I]n determining whether an individual is substantially limited in a major life activity, it may be useful in appropriate cases to consider, as compared to most people in the general population, the condition under which the individual performs the major life activity; the manner in which the individual performs the major life activity; and/or the duration of time it takes the individual to perform the major life activity, or for which the individual can perform the major life activity." 29 C.F.R. § 1630.2(j)(4)(i).

"Consideration of facts such as condition, manner, or duration may include, among other things, consideration of the difficulty, effort, or time required to perform a major life activity; pain experienced when performing a major life activity; the length of time a major life activity can be performed; and/or the way an impairment affects the operation of a major bodily function. In addition, the non-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an individual's impairment substantially limits a major life activity." 29 C.F.R. § 1630.2(j)(4)(ii).

"In determining whether an individual has a disability under the "actual disability" or "record of" prongs of the definition of disability, the focus is on how a major life activity is substantially limited, and not on what outcomes an individual can achieve. For example, someone with a learning disability may achieve a high level of academic success but may nevertheless be substantially limited in the major life activity of learning because of the additional time or effort he or she must spend to read, write, or learn compared to most people in the general population." 29 C.F.R. § 1630.2(j)(4)(iii)

"[A]ny private entity offering an examination covered by this section must assure that - (i) The examination is selected and administered so as to best ensure that, when the examination is administered to an individual with a disability… the

examination results accurately reflect the individual's aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual's [impairment]." 28 C.F.R. § 36.309(b)(1)(i).

COUNT I
VIOLATION OF TITLE II OF THE ADA
(42 U.S.C. §§ 12131-12134; 28 C.F.R Part 35)
(against University Officials in their official capacities)[2]

36. The allegations contained in the preceding paragraphs are incorporated by reference.

37. The University, the School of Medicine and its officials (individual Defendants) have, by reason of qualifying disabilities of Plaintiff, excluded Plaintiff from participation in, and denied her the benefits of, the University's services, programs, and activities, and further subjected Plaintiff to discrimination in violation of 42 U.S.C. § 12132 and the Title II implementing regulation, 28 C.F.R. pt. 35, by:

a. Denying Plaintiff, a qualified individual with disabilities, the opportunity to participate in or benefit from aids, benefits, or services, *see* 28 C.F.R. § 35.130(b)(1)(i);

b. Affording Plaintiff, a qualified individual with disabilities, an unequal opportunity to benefit from the aids, benefits, and services that are provided to others, *see* 28 C.F.R. § 35.130(b)(1)(ii);

c. Providing Plaintiff, a qualified individual with disabilities, with aids, benefits, and services that do not afford her an equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided to others, *see* 28 C.F.R. § 35.130(b)(1)(iii);

[2] Doe also seeks injunctive relief against the individual defendants in their official capacities, including reinstatement to the College of Medicine and the Medical Scholars Program, transfer to the College of Medicine's Chicago campus, an opportunity to retake his Clinical Laboratory Studies course, and a prohibition on future violations of his rights under the ADA. Compl. pp. 139-40. Under the rule announced in *Ex Parte Young,* 209 U.S. 123 (1908), plaintiffs may sue state officials in their official capacities for prospective relief to enjoin ongoing violations of their federal rights, notwithstanding the state's Eleventh Amendment immunity. *See, e.g., Bruggeman,* 324 F.3d at 912.

d. Utilizing criteria or methods of administration, including insufficient and inconsistent policies, practices, and procedures, that have the effect of subjecting Plaintiff, a qualified individuals with disabilities, to discrimination on the basis of disability, *see* 28 C.F.R. § 35.130(b)(3);

e. Failing to take appropriate steps to ensure that the communications of the University, the School or Medicine, and all the individual Defendants named in this lawsuit, with Plaintiff, a qualified applicants, participant, and member of the public with disabilities are as effective as communications with others, including through the provision of appropriate auxiliary aids and services, *see* 28 C.F.R. § 35.160(a)(1), (b)(1);

f. Failing to give primary consideration to Plaintiff's requests, an individual with disabilities, when determining the types of auxiliary aids and services necessary to ensure effective communication, *see* 28 C.F.R. § 35.160(b)(2);

g. Failing to provide Plaintiff, an individual with disabilities, with auxiliary aids and services in accessible formats, in a timely manner, and in such a way as to protect the independence of such individual, *see* 28 C.F.R. § 35.160(b)(2);

h. Failing to make reasonable modifications in the University's policies, practices, or procedures to avoid discrimination on the basis of disability, *see* 28 C.F.R. § 35.130(b)(7);

38. The University, the School of Medicine, and all the University officials, individual Defendants named in this action, acted intentionally and with deliberate indifference and knew or should have known of the barriers experienced by Plaintiff, a qualified individual with disabilities, including through emails, complaints, and contacts with administrators, instructors, personnel, and assistants. The University, the School of

Medicine, and all the University officials, individual Defendants named in this action knew, or should have known, that Plaintiff is a student with disabilities and required accommodations because they registered Plaintiff as a student to receive accommodations.

39. As a result of the University, the School of Medicine, and all the University officials, individual Defendants named in this action's discrimination, Plaintiff, a qualified individual with disabilities, has suffered and continue to suffer violations of the ADA (so long as her dismissal from the medical program continues), and she has also suffered damages and injuries, including humiliation, frustration, and distress.

COUNT II
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973
(29. U.S.C. 794; 34 C.F.R. § 104.44)
(Against the University of Illinois at Chicago and School of Medicine)[3]

40. The allegations contained in the preceding paragraphs are incorporated by reference.

41. By reason of the foregoing, Defendants discriminated against Plaintiff on account of her disability by denying Plaintiff testing accommodations and by failing to conduct an individualized assessment of whether Plaintiff could perform the essential functions of a medical student with or without a reasonable accommodation, all in violation of Section 504 of the Rehabilitation Act.

[3] It is at least conceivable that Doe may be able to advance a claim against the University under section 504 of the Rehabilitation Act. 29 U.S.C. § 704(a). Because Congress enacted that statute pursuant to the Constitution's Spending Clause, it could and did require states to waive their Eleventh Amendment immunity as a condition of receiving federal financial assistance. *See* 42 U.S.C. § 2000d-7(a)(1). As a result, the Eleventh Amendment does not immunize the states from lawsuits under the Rehabilitation Act. *See Stanley v. Litscher,*213 F.3d 340, 344 (7th Cir. 2000). Because, however, Doe has not alleged that the University receives federal financial assistance for the College of Medicine, the Court cannot assess at this juncture whether he can assert a Rehabilitation Act claim in this case. *Doe v. Board of Trustees of University of Illinois*, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)

42. Section 504 provides that: "No otherwise qualified individual with handicaps in the United States . . . shall, solely by reason of her or his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...."
43. Defendant receives federal financial assistance including grants, loans and scholarships.
44. Section 504 require post-secondary educational institutions to provide academic adjustments or accommodations for qualified students with disabilities to ensure that an institution's educational requirements "do not discriminate or have the effect of discriminating" against a qualified student. Under the regulations, an institution must provide "methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills to ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills," 34 C.F.R. § 104.44 (c) and provide auxiliary aids, such as "taped texts, interpreters . . . readers . . . and other similar services" for students with impaired sensory, manual, or speaking skills. 34 C.F.R. § 104.44(d)(2).
45. Defendants unlawfully discriminated against Plaintiff on the basis of a disability when they failed to provide Plaintiff with testing accommodations when they were aware that accommodations were necessary for Plaintiff to perform at her potential.
46. Plaintiff requested accommodations several times for extended time to take the USMLE Step 1 test.
47. As a result of Defendants' willful, knowing, and intentional discrimination, Plaintiff sustained substantial losses in earnings, future pecuniary losses and benefits, and has suffered and continues to suffer humiliation, mental and physical distress, and anguish.

WHEREFORE, Plaintiff prays for judgment as follows:

(a) An order granting such other injunctive relief as may be appropriate;

(e) Enter judgment against the Defendant awarding Plaintiff such compensatory damages as may be proven by Plaintiff and to which he is entitled;

(d) Enter judgment against the Defendant awarding Plaintiff recovery of reasonable attorney's fees, costs and expenses incurred in pursuing her rights;

(f) Award for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

EBONE PORCH

By: s/ Calvita J. Frederick
Attorney for Plaintiff

Calvita J. Frederick
Post Office Box 802976
Chicago, Illinois 60680-2976
312-421-5544
ARDC # 6184001
Calvita.Frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 1, 2022, the foregoing *Amended Complaint,* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

Exhibit B

United States District Court
Northern District of Illinois - CM/ECF NextGen 1.7.1.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:21-cv-03848

Porch v. University of Illinois College of Medicine
Assigned to: Honorable Steven C. Seeger
Demand: $300,000
Cause: 42:12101 Americans with Disabilities Act

Date Filed: 07/20/2021
Date Terminated: 12/21/2022
Jury Demand: None
Nature of Suit: 446 Civil Rights: Americans with Disabilities - Other
Jurisdiction: Federal Question

Plaintiff

Ebone Porch

represented by **Calvita J. Frederick**
Calvita J. Frederick & Associates
P.o. Box 802976
Chicago, IL 60680
(312) 421-5544
Fax: Active
Email: cjf@cjfredericklaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

University of Illinois at Chicago, School of Medicine

represented by **Nancy L. DePodesta**
Saul Ewing Arnstein & Lehr LLP
161 North Clark Street
Suite 4200
Chicago, IL 60601
(312) 876-7100
Fax: Active
Email: nancy.depodesta@saul.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William Tobias Eveland
Saul Ewing Arnstein & Lehr LLP
161 North Clark Street, Suite 4200
Chicago, IL 60601
(312)876-7100
Fax: Active
Email: toby.eveland@saul.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/20/2021	1	COMPLAINT filed by EBONE PORCH; Filing fee $ 402, receipt number 0752-18474077.(Frederick, Calvita) (Entered: 07/20/2021)
07/21/2021		CASE ASSIGNED to the Honorable Robert M. Dow, Jr. Designated as Magistrate Judge the Honorable Susan E. Cox. Case assignment: Random assignment. (lxk,) (Entered: 07/21/2021)
07/21/2021	2	CIVIL Cover Sheet (Frederick, Calvita) (Entered: 07/21/2021)
07/21/2021	3	ATTORNEY Appearance for Plaintiff EBONE PORCH by Calvita J. Frederick (Frederick, Calvita) (Entered: 07/21/2021)
07/29/2021	4	MINUTE entry before the Honorable Robert M. Dow, Jr: Joint status report due by 9/10/2021. Initial telephone conference is set for 9/16/2021 at 9:00 a.m. and parties are to report the following: (1) Possibility of settlement in the case; (2) If no possibility of settlement exists, the nature and length of discovery necessary to get the case ready for trial; (3) The report should include a proposed case management schedule reflecting any disputes between the parties as to the proposed schedule. Plaintiff is to advise all other parties of the Courts action herein. The parties are requested to file a joint status report at least THREE business days prior to the initial status and ALL further status hearings. For further details see the Court's website available at www.ilnd.uscourts.gov. Participants should use the Court's toll-free call-in number 877-336-1829, conference access code is 6963747. Emailed notice (cdh,) (Entered: 07/29/2021)
08/12/2021	5	ATTORNEY Appearance for Defendant University of Illinois at Chicago, School of Medicine by William Tobias Eveland (Eveland, William) (Entered: 08/12/2021)
08/25/2021	6	ATTORNEY Appearance for Defendant University of Illinois at Chicago, School of Medicine by Nancy L. DePodesta (DePodesta, Nancy) (Entered: 08/25/2021)
09/10/2021	7	STATUS Report *INITIAL JOINT* by Ebone Porch (Frederick, Calvita) (Entered: 09/10/2021)
09/13/2021	8	MINUTE entry before the Honorable Robert M. Dow, Jr: Upon review of the joint status report 7 , the Court enters the following case management order: initial disclosures under FRCP 26(a)(1) are to be completed by 11/23/2021; all further discovery is stayed by agreement of the parties until the Court rules on the anticipated motion to dismiss. Briefing on the motion to dismiss will proceed as follows: motion is due by 9/27/2021; response is due by 11/1/2021; reply is due by 11/22/2021. The Court will issue a ruling by mail and then set the matter for a status hearing. In view of the foregoing, the initial telephone status hearing set for 9/16/2021 is stricken and no appearances are necessary on that date. Emailed notice (cdh,) (Entered: 09/13/2021)
09/27/2021	9	MOTION by Defendant University of Illinois at Chicago, School of Medicine to dismiss *Motion to Dismiss Complaint With Prejudice* (Eveland, William) (Entered: 09/27/2021)
09/27/2021	10	MEMORANDUM by University of Illinois at Chicago, School of Medicine in support of motion to dismiss 9 *Memorandum of Law In Support of Motion to Dismiss* (Eveland, William) (Entered: 09/27/2021)
10/28/2021	11	MOTION by Plaintiff Ebone Porch for extension of time to file response/reply as to motion to dismiss 9 , memorandum in support of motion 10 (Frederick, Calvita)

		(Entered: 10/28/2021)
10/28/2021	12	NOTICE of Motion by Calvita J. Frederick for presentment of motion for extension of time to file response/reply 11 before Honorable Robert M. Dow Jr. on 11/5/2021 at 09:15 AM. (Frederick, Calvita) (Entered: 10/28/2021)
10/29/2021	13	MINUTE entry before the Honorable Robert M. Dow, Jr: Plaintiff's agreed motion to extend the briefing schedule 11 is granted. Briefing schedule is as follows: Plaintiff's response brief is due November 19, 2021 and Defendant's reply is due December 10, 2021. Emailed notice (cdh,) (Entered: 10/29/2021)
11/19/2021	14	MEMORANDUM by Ebone Porch in Opposition to motion to dismiss 9 *AND RESPONSE* (Frederick, Calvita) (Entered: 11/19/2021)
12/10/2021	15	REPLY by Defendant University of Illinois at Chicago, School of Medicine to motion to dismiss 9 , memorandum in support of motion 10 *In Support of Motion to Dismiss* (Eveland, William) (Entered: 12/10/2021)
08/03/2022	16	MEMORANDUM OPINION AND ORDER. Signed by the Honorable Robert M. Dow, Jr on 8/3/2022. For the reasons stated above, Defendant's motion to dismiss 9 is granted. Count III is dismissed with prejudice based on Plaintiff's concession that sovereign immunity bars a Section 1983 suit against Defendant. Count V also is dismissed with prejudice as a declaratory judgment is unnecessary and redundant in view of Counts I and II, which provide an adequate vehicle to pronounce any rights Plaintiff may have under the ADA and Rehabilitation Act vis- -vis the named Defendant. In an abundance of caution and to provide Plaintiff an avenue for relief should she discern a viable federal claim, Counts I and II are dismissed without prejudice and with leave to file a motion for leave to file an amended complaint no later than September 1, 2022, if Plaintiff believes an amended complaint can be maintained consistent with this opinion and Federal Rule of Civil Procedure 11. If no motion for leave to amend is filed by that date, or if any such motion is denied, the dismissal of Counts I and II will convert to with prejudice. In view of the dismissal of all of Plaintiff's federal claims, the Court is inclined to decline supplemental jurisdiction over the state law claim set out in Count IV but will not formally dismiss that claim without prejudice until it can rule on a motion for leave to amend the federal claims. In the event that Plaintiff has no viable federal claim against Defendant, Count IV will be dismissed without prejudice. See 735 ILCS 5/13-217. Emailed notice(cdh,) (Entered: 08/03/2022)
09/01/2022	17	MOTION by Plaintiff Ebone Porch for leave to file *Amended Complaint* (Attachments: # 1 Exhibit Amended Complaint)(Frederick, Calvita) (Entered: 09/01/2022)
09/01/2022	18	MEMORANDUM by Ebone Porch in support of motion for leave to file 17 *Amended Complaint* (Frederick, Calvita) (Entered: 09/01/2022)
09/08/2022	19	MINUTE entry before the Honorable Robert M. Dow, Jr: Plaintiff's motion for leave to file amended complaint 17 is taken under advisement; response is due by 9/22/2022; reply is due by 10/7/2022. If Defendant does not oppose the motion, it may so advise the Courtroom Deputy so that a case management order and discovery plan can be entered. Emailed notice (cdh,) (Entered: 09/08/2022)
09/22/2022	20	RESPONSE by University of Illinois at Chicago, School of Medicine to MOTION by Plaintiff Ebone Porch for leave to file *Amended Complaint* 17 (Eveland, William) (Entered: 09/22/2022)

10/07/2022	21	REPLY by Ebone Porch to response to motion 20 *For Leave to File Amended Complaint* (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit)(Frederick, Calvita) (Entered: 10/07/2022)
10/11/2022	22	EXECUTIVE COMMITTEE ORDER: The Honorable Robert M. Dow Jr. has been appointed Counselor to the Chief Justice of the United States. As he takes on these responsibilities, the court will at this time reassign a portion of his civil and criminal cases. IT IS HEREBY ORDERED That the cases on the attached list are to be reassigned to the other judges of this Court as indicated, pursuant to Local Rule 40.1(f). Case reassigned to the Honorable Steven C. Seeger for all further proceedings. Honorable Robert M. Dow, Jr no longer assigned to the case. Signed by Honorable Steven C. Seeger on 10/11/2022. (daj,) (Entered: 10/11/2022)
10/11/2022	23	MINUTE entry before the Honorable Steven C. Seeger: The Executive Committee recently reassigned this case to Judge Seeger, in light of the appointment of Judge Dow to serve as Counselor to the Chief Justice of the United States. To help the Court get up to speed, the Court requires the parties to file a joint statement that provides an overview of the case. Basically, put some thought into what the Court needs to know to climb the learning curve. Tell the Court where you have gone, where you are, and where you are headed. The statement must address the following topics (please address each topic under a separate heading, to make it user friendly): (1) Provide an overview of the case as a whole. What is the case about, in general terms? Who are the parties? (2) What are the pending claims? (3) What are the defenses? (4) What are the key factual and legal issues? (5) Where do things stand on discovery? If the parties are in middle of discovery, when is the discovery deadline? (6) How long do the parties expect trial to take? Please provide a realistic estimate. When do the parties expect that they will be ready for trial? (7) What relief is the Plaintiff seeking? (8) What are the key rulings in the case? What are the most important things on the docket for the Court to read? (9) Where do things stand on the settlement front? When was the last offer by the Plaintiff? When was the last offer by the Defendants? Do the parties seek a settlement conference? The parties must confer about settlement before filing the report. (10) What else do the parties want the Court to know? The Court expects a non-argumentative statement, and directs the parties to work together cooperatively. The joint statement is due by October 28, 2022. Mailed notice (jjr,) (Entered: 10/11/2022)
10/28/2022	24	Joint STATEMENT by University of Illinois at Chicago, School of Medicine (Eveland, William) (Entered: 10/28/2022)
11/02/2022	25	MINUTE entry before the Honorable Steven C. Seeger: The Court reviewed Plaintiff's motion for leave to file an amended complaint. (Dckt. No. 17) Plaintiff attached a proposed amended complaint, but not a redline. Now that this case has been transferred from Judge Dow, this Court's procedures apply. And this Court's Standing Order requires a redline. So, by November 4, 2022, Plaintiff must file on the docket a redline showing any changes between the last complaint and the proposed amended complaint. After receiving that submission, the Court will consider the motion to amend. Defendant argues that not much has changed, but time will tell. Mailed notice (jjr,) (Entered: 11/02/2022)
11/04/2022	26	MOTION by Plaintiff Ebone Porch for extension of time *to file red-lined version of amended complaint* (Frederick, Calvita) (Entered: 11/04/2022)
11/07/2022	27	MINUTE entry before the Honorable Steven C. Seeger: Plaintiff's motion for an

		extension of time (Dckt. No. 26) is hereby granted in part. Plaintiff filed a motion for leave to amend the complaint, which Defendant opposed. (Dckt. No. 17) On November 2, 2022, this Court ordered Plaintiff to file a redlined version, as required by this Court's Standing Order. (Dckt. No. 25) This Court requires redlines for amended complaints in all of its cases (hence the Standing Order on its webpage). It promotes transparency, and makes it a lot easier for counsel and the Court to spot any changes. That's especially helpful when, as here, the question is whether an amended complaint fixed the problems identified in an order (like the opinion by Judge Dow in this case). In the motion, Plaintiff's counsel asked for an additional week. She states that she "is not proficient with those editing tools," and is "totally unaware of how to retroactively create a redlined version." Id. It's easy. Go to Microsoft Word. In the menu bar, go to "Review." Then go to "Compare." At that point, all you have to do is select the original document, and then select the revised document, and then hit "OK." Microsoft Word will make the redline for you. If Plaintiff's counsel wants an additional tutorial, googling "how to make a redline" will yield lots of help. Plaintiff "believes this project is time consuming," and she says that she does not have the time in light of "counsel's work schedule already in place." In this Court's experience, preparing a redline takes about 60 seconds. Maybe it will take a couple minutes if someone has never done it before. But not much more. The Court extends the deadline to November 9, 2022. If Plaintiff does not file on the docket a redline of the amended complaint by November 9, 2022, the motion for leave to file an amended complaint will be denied. Mailed notice. (jjr,) (Entered: 11/07/2022)
11/09/2022	28	REDLINED VERSION OF AMENDED COMPLAINT by Ebone Porch (Frederick, Calvita) (Entered: 11/09/2022)
12/20/2022	29	ORDER Signed by the Honorable Steven C. Seeger on 12/20/2022. Mailed notice. (jjr,) (Entered: 12/20/2022)
12/21/2022	30	ENTERED JUDGMENT on 12/21/2022. Civil case terminated. Mailed notice. (jjr,) (Entered: 12/21/2022)
01/10/2023	31	MOTION by Plaintiff Ebone Porch for reconsideration regarding order on motion for leave to file, 29 *of December 21, 2022*, MOTION by Plaintiff Ebone Porch for leave to file *oversized brief* (Attachments: # 1 Exhibit Table of contents, # 2 Exhibit Motion to Alter or Amend Judgment)(Frederick, Calvita) (Entered: 01/10/2023)
01/11/2023	32	MINUTE entry before the Honorable Steven C. Seeger: Plaintiff filed a motion for leave to file in excess of 15 pages (Dckt. No. 31), which is hereby granted. Plaintiff then attached a separate motion to alter or amend the judgment. (Dckt. No. 31 -1) That's a different motion, and different motions should have different docket entries. Motions should not be embedded within motions. Keeping them separate avoids confusion, and prevents buried motions from getting lost in the cracks. Plaintiff must refile the motion to alter or amend the judgment as a freestanding docket entry, and must do so by January 18, 2023 (that is, no later than 28 days after the entry of judgment on December 21, 2022). In the meantime, the motion to alter or amend the judgment (Dckt. No. 31 -1) is denied without prejudice (to the extent that it could be deemed to be a pending motion at all). Mailed notice (jjr,) (Entered: 01/11/2023)
01/14/2023	33	MOTION by Plaintiff Ebone Porch to alter judgment (Attachments: # 1 Exhibit) (Frederick, Calvita) (Entered: 01/14/2023)
03/09/2023	34	MEMORANDUM Opinion and Order Signed by the Honorable Steven C. Seeger on

		3/9/2023. Mailed notice. (jjr,) (Entered: 03/09/2023)
03/20/2023	35	MOTION by Plaintiff Ebone Porch for extension of time to amend motion to alter judgment 33 (Frederick, Calvita) (Entered: 03/20/2023)
06/07/2023	36	MOTION by Plaintiff Ebone Porch for leave to file *Amended 59 (e) motion* (Attachments: # 1 Exhibit Email correspondence, # 2 Exhibit Amended 59 (e) motion) (Frederick, Calvita) (Entered: 06/07/2023)
06/07/2023	37	MOTION by Plaintiff Ebone Porch to strike MOTION by Plaintiff Ebone Porch for leave to file *Amended 59 (e) motion* 36 *Filed in Error* (Frederick, Calvita) (Entered: 06/07/2023)
06/08/2023	38	MOTION by Plaintiff Ebone Porch for leave to file *Corrected Amended 59 (e) Motion, Instanter* (Attachments: # 1 Exhibit EMAILS, # 2 Exhibit CORRECTED AMENDED 59 (e) Mot)(Frederick, Calvita) (Entered: 06/08/2023)

PACER Service Center

Transaction Receipt

06/08/2023 12:46:17

PACER Login:	krhayes1	**Client Code:**	Calvita Frederick
Description:	Docket Report	**Search Criteria:**	1:21-cv-03848
Billable Pages:	5	**Cost:**	0.50

Exhibit C

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	Case No. 21-cv-3848
	)	
v.	)	Hon. Steven C. Seeger
	)	
UNIVERSITY OF ILLINOIS AT CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
Defendant.	)	

ORDER

Plaintiff Ebone Porch's motion for leave to file an amended complaint (Dckt. No. [17]) is hereby denied. The Court dismisses Plaintiff's ADA and Rehabilitation Act claims with prejudice. The Court also declines to exercise supplemental jurisdiction over Plaintiff's state-law claim under the Illinois Human Rights Act because no federal claim remains in the case. Plaintiff's Illinois Human Rights Act claim is therefore dismissed without prejudice.

By way of background, Judge Dow presided over this case before his appointment to serve as Counselor to the Chief Justice of the United States. *See* 10/11/12 Executive Committee Order (Dckt. No. [22]). On August 3, 2022, Judge Dow issued an Order dismissing Porch's complaint. *See* 8/3/22 Mem. Op. and Order (Dckt. No. [16]).

The case is about accommodations when taking a medical exam. Porch sued Defendant University of Illinois at Chicago School of Medicine ("UIC"), her former medical school, alleging that it failed to provide her with the medical accommodations she needed to sit for Step 1 of the United States Medical Licensing Exam ("USMLE"). *Id.* at 2. The USMLE is a three-step national licensing examination developed and administered by the National Board of

Medical Examiners ("NBME"). *Id.* at 2–3. Passing all three steps of the exam is required to obtain a medical license and stay enrolled in medical school. *Id.* at 2–3, 10.

In October 2018, UIC informed Porch that she needed to take and pass Step 1 of the USMLE by April 6, 2019. *Id.* at 3. Porch then requested testing accommodations for her disabilities, including ADHD, generalized anxiety disorder, and other learning disabilities. *Id.* at 2. Specifically, Porch requested that UIC provide her with instructions on applying for and obtaining testing accommodations for Step 1. *Id.*

Porch ultimately submitted documentation of her disabilities on November 2, 2018, but no one from UIC responded. *Id.* at 3–4. Porch later contacted UIC's Dean of Academic Affairs and an academic specialist, asking for assistance obtaining an accommodation for Step 1. *Id.* at 4. This time, Porch received a response, but it wasn't what she wanted to hear.

UIC informed her that requests for accommodations require six months to process, and that there was not enough time to pursue an accommodations request because the exam was scheduled for March 2019. *Id.* UIC advised Porch "to study hard and do the best she could on the examination." *Id.* (cleaned up). Porch then took the Step 1 examination in March 2019 without any accommodations. *Id.* She did not pass. *Id.*

Porch responded by filing a complaint against UIC with five claims: (1) discrimination under Title III of the Americans with Disabilities Act ("ADA"); (2) discrimination under the Rehabilitation Act, 29 U.S.C. § 794; (3) a section 1983 claim; (4) a state-law claim under the Illinois Human Rights Act; and (5) a claim for declaratory relief. *See* Cplt., at 9–18 (Dckt. No. [1]).

Judge Dow dismissed the ADA and Rehabilitation Act claims without prejudice with leave to file a motion for leave to file an amended complaint. *See* 8/3/22 Mem. Op. and Order, at

13 (Dckt. No. [16]). Starting with the ADA claim, Judge Dow determined that it "suffers from two fatal defects." *Id.* at 7. First, Plaintiff brought her ADA claim under Title III of the Act, but Title III applies only to discrimination by private entities, not public entities. *Id.* at 8. Public entities may be sued under Title II of the ADA. *Id.* Because UIC is a state agency, "Plaintiff must either (a) assert a Title II claim against the University, or (b) pursue her Title III claim against a *private* entity." *Id.* (citation omitted, emphasis in original).

Second, Porch sued the wrong party. Instead of suing her medical school, she should have sued the NBME. The complaint alleged that the NBME "sponsor[s]," "develops," and "administers" the exam. *See* Cplt., at ¶¶ 30, 32, 43 (Dckt. No. [1]).

Only the NBME, as the administrator of the USMLE, could grant disability accommodations. Though "the University predicates continued enrollment on the USMLE exams, which are run by the NBME," it does not grant or deny disability accommodations for those exams. *See* 8/3/22 Mem. Op. and Order, at 10 (Dckt. No. [16]).

Therefore, "Plaintiff has not plausibly alleged that *Defendant* was responsible for failing to accommodate her disabilities." *Id.* at 9 (emphasis in original). As a result, the complaint failed to state a claim under the ADA. Simply put, Porch sued the wrong party, and didn't sue the right party.

Next, Judge Dow dismissed Plaintiff's Rehabilitation Act claim "for the same reason as her ADA claim: She has not alleged any facts that suggest that Defendant is responsible for the injury she asserts." *Id.* at 10. The same substantive standards apply to both the Rehabilitation Act and the ADA. *Id.* (citing *Bowers v. Dart*, 1 F.4th 513, 519 (7th Cir. 2021)). So, although Porch alleged that Defendant discriminated against her on the basis of her disability, "the complaint does not plausibly allege any facts to support her theory that the University—rather

than the NBME—failed to accommodate her." *Id.* at 11. Once again, there was a mismatch between Porch's allegations and the defendant that she had chosen to sue.

But Judge Dow left the door open. "In an abundance of caution and to provide Plaintiff an avenue for relief should she discern a viable federal claim," Judge Dow dismissed the ADA and Rehabilitation Act claims without prejudice. *Id.* at 13.

Judge Dow made a different ruling on the section 1983 and declaratory judgment claims, dismissing them with prejudice. Porch conceded that her section 1983 claim failed as a matter of law because a state university, as an alter ego of the state, may not be sued under the statute. *Id.* at 12–13. And "a declaratory judgment is unnecessary and redundant in view of [Plaintiff's ADA and Rehabilitation Act claims], which provide an adequate vehicle to pronounce any rights Plaintiff may have." *Id.* at 13.

At that point, after the dismissal of the federal claims, the last remaining claim was the state-law claim under the Illinois Human Rights Act. Judge Dow "decline[d] supplemental jurisdiction over the state law [Illinois Human Rights Act] claim." *Id.* Judge Dow did not "formally dismiss that claim without prejudice." *Id.* But it hung by a thread. "In the event that Plaintiff has no viable federal claim against Defendant," then Plaintiff's state-law claim "will be dismissed without prejudice." *Id.*

Porch responded by filing a motion for leave to file an amended complaint, and that motion is now before this Court (after reassignment from Judge Dow). She seeks to revive her ADA and Rehabilitation Act claims. *See* Mtn. for Leave to File Am. Cplt., at 10–13 (Dckt. No. [17]).

This Court's Standing Order requires a redline whenever a party seeks to amend a complaint. A redline promotes transparency, and makes it easy for the parties and the Court to

spot any changes. This Court directed Porch to file a redline, and after some back and forth, Plaintiff did so. *See* 11/2/22 Order (Dckt. No. [25]); 11/7/22 Order (Dckt. No. [27]); Redlined Cplt. (Dckt. No. [28]).

With that background, the Court turns to the applicable standard. Under the Federal Rules, district courts should "freely give leave [to amend] when justice so requires." *See* Fed. R. Civ. P. 15(a)(2). When granting leave to amend, "a plaintiff should ordinarily be given one opportunity to amend his complaint." *Fosnight v. Jones*, 41 F.4th 916, 924 (7th Cir. 2022).

But leave to amend is not automatic, as the text of Rule 15(a)(2) makes clear. "[I]t is well settled that a district court may refuse leave to amend where amendment would be futile." *Indep. Tr. Corp. v. Stewart Info. Servs. Corp.*, 665 F.3d 930, 943 (7th Cir. 2012). "Granting leave to amend is pointless when the plaintiff fails to 'suggest to the court the ways in which [he] might cure the defects.'" *Fosnight*, 41 F.4th at 924–25 (alteration in original) (quoting *Haywood v. Massage Envy Franchising, LLC*, 887 F.3d 329, 335 (7th Cir. 2018)). Amending the complaint does not make sense if the cure would not cure anything.

That's the case here. Plaintiff's proposed amended complaint would be futile. Starting with the ADA claim, the amended complaint corrects the first fatal defect identified by Judge Dow. The amended complaint includes a claim under Title II of the ADA, not Title III. *See* Mtn. for Leave to File Am. Cplt., at 10, ¶ 36 (Dckt. No. [17]). So unlike the first time, Porch invokes the right statute.

But the second fatal flaw continues to stand in the way. Judge Dow ruled that Porch had sued the wrong defendant, because the NBME is responsible for making decisions about accommodations. That is, the NBME handles accommodations for the NBME's exam. The amended complaint did not fix that problem.

Porch did not add the NBME as a defendant. The amended complaint also does not plausibly allege any facts to support the theory that UIC, instead of the NBME, failed to accommodate her.

In fact, the redline shows that the proposed amended complaint is short on amendments. *See* Redlined Cplt. (Dckt. No. [28]). In the amended complaint, Porch alleges that she was "registered with the University to receive accommodations under the ADA" as a student. *See* Mtn. for Leave to File Am. Cplt., at 5, ¶ 8 (Dckt. No. [17]).

That allegation is not enough. It does not connect UIC with the USMLE, a test that the university does not design or administer. None of the other proposed changes to the complaint address how UIC is responsible for failing to grant accommodations for an exam run by the NBME. There is no allegation that UIC had the authority to grant accommodations on a test administered by a non-party.

This fundamental flaw also dooms her discrimination claim under the Rehabilitation Act. Porch must allege facts suggesting that UIC is responsible for her claimed injury. *See* 8/3/22 Mem. Op. and Order, at 10 (Dckt. No. [16]). The proposed amended complaint does not do so.

Porch also proposes to amend the complaint to add as defendants a host of UIC officials in their official capacities. *See* Mtn. for Leave to File Am. Cplt., at 3 (Dckt. No. [17]). But suing a state official in his official capacity is equivalent to suing the entity itself. *See Felton v. Bd. of Comm'rs*, 5 F.3d 198, 201 (7th Cir. 1993) ("It is well established that an official capacity suit is synonymous with a suit against the entity itself.").

Adding UIC officials as defendants couldn't solve the problem. UIC is already here, so adding individuals from UIC in their official capacities does not change anything. UIC is the wrong entity. And suing officials from the wrong entity is still wrong.

Finally, Porch asserts in her reply brief (which isn't a fertile ground for new arguments, so the argument is waived) that UIC "instructs and requires the students with disabilities to go through [it] when they apply for the USMLE accommodations." *See* Pl.'s Reply to Mtn. for Leave to File Am. Cplt., at 3 (Dckt. No. [21]) (emphasis removed). However, this allegation is noticeably absent from the proposed amended complaint. The proposed pleading is what matters, not the gloss in a brief. And in any event, the amended complaint does not allege UIC had the authority to grant a disability accommodation.

In sum, the proposed amended complaint does not plug all of the holes spotted by Judge Dow. The amended complaint does not allege facts plausibly suggesting that UIC is responsible for Porch's alleged injuries under the ADA or the Rehabilitation Act. As a result, the Court denies Porch's motion for leave to file an amended complaint as futile.

Conclusion

For the foregoing reasons, Porch's motion for leave to file an amended complaint is denied. As contemplated by Judge Dow, Plaintiff's ADA and Rehabilitation Act claims are dismissed with prejudice. *See* 8/3/22 Mem. Op. and Order, at 13 (Dckt. No. [16]) ("If no motion for leave to amend is filed by that date, or if any such motion is denied, the dismissal of Counts I and II will convert to with prejudice."). As previously ordered by Judge Dow, the section 1983 claim (Count III) and the declaratory judgment claim (Count V) are dismissed with prejudice. *Id.*

Consistent with Judge Dow's Order dismissing the original complaint, the Court also declines to exercise supplemental jurisdiction over Plaintiff's state-law claim under the Illinois Human Rights Act (Count IV) because no federal claims remain in the case. The Court dismisses Plaintiff's Illinois Human Rights Act claim without prejudice. *Id.* ("In the event that

Plaintiff has no viable federal claim against Defendant, Count IV will be dismissed without prejudice."); *see also Redwood v. Dobson*, 476 F.3d 462, 467(7th Cir. 2007) ("A court that resolves all federal claims before trial normally should dismiss supplemental claims without prejudice."); 28 U.S.C. § 1367(c)(3).

Date: December 20, 2022

Steven C. Seeger
United States District Judge

Exhibit D

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Ebone Porch,

Plaintiff(s),

v.

University of Illinois at Chicago, School of Medicine.

Defendant(s).

Case No. 1:21-cv-3848
Judge Steven C. Seeger

JUDGMENT IN A CIVIL CASE

Judgment is hereby entered (check appropriate box):

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $,

which ☐ includes pre–judgment interest.
☐ does not include pre–judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

☐ in favor of defendant(s)
and against plaintiff(s)

☒ other: Judgment is entered against plaintiff Ebone Porch and in favor of defendant University of Illinois at Chicago, School of Medicine. Counts I, II, III and V (*i.e.*, the federal claims) are dismissed with prejudice. The Court dismisses Count IV (*i.e.*, the state law claim) without prejudice because the Court declines to exercise supplemental jurisdiction over that claim. Civil case terminated.

This action was *(check one)*:

☐ tried by a jury with Judge presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
☒ decided by Judge Steven C. Seeger on plaintiff's motion for leave to file amended complaint. (Dckt. No. [17])

Date: 12/21/2022

Thomas G. Bruton, Clerk of Court

Jessica J. Ramos , Deputy Clerk

Exhibit E

Duties of Federal Law Clerks

The duties and functions of a federal judicial law clerk are determined by the employing judge. In most chambers, law clerks concentrate on legal research and writing. Typically, the broad range of duties assigned to a law clerk includes conducting legal research, preparing bench memos, drafting orders and opinions, proofreading the judge's orders and opinions, verifying citations, communicating with counsel regarding case management and procedural requirements, and assisting the judge during courtroom proceedings. Some judges also may assign maintaining the chambers library, and other administrative duties to the law clerk. Because there are a myriad of tasks that may be assigned to a law clerk, the Online System for Clerkship Application and Review (OSCAR) permits a judge to identify any particular duties that are required in the position announcement.

Judicial law clerks also are expected to work cooperatively with chambers staff and court personnel. The employing judge must be confident in the law clerk's professionalism in interacting with counsel, litigants and the public. A law clerk is bound by the ethical standards established by the judge and the Code of Conduct for Judicial Employees. The Federal Judicial Center published pamphlet, Maintaining the Public Trust: Ethics for Federal Judicial Law Clerks, also discusses ethical issues and applying appropriate ethical standards.

Additional Career Resources

- Citizenship Requirements
- Background Checks and Suitability Requirements
- Qualifications, Salary, and Benefits
- Explore Your Legal Career
- Duties of Federal Law Clerks
- Understanding the Federal Courts
- Is This Career For You? (Video)
- Judicial Employees Code of Conduct
- Workplace Conduct Resources

OSCAR Working Group

- Membership

OSCAR FAQs

- Applicant FAQs
- Recommender FAQs

OSCAR Glossary

- Glossary

Get to Know OSCAR

About OSCAR
OSCAR Glossary
Terms of Use
Rules of Behavior
Privacy

OSCAR Resources

Help Center
Qualifications, Salary, and Benefits
Duties of Federal Law Clerks
Resource Pages
Frequently Asked Questions

Customer Support

Email Support: oscar-support@ao.uscourts.gov
Telephone: 866-666-2120 (toll-free)
Hours: 8 AM - 5 PM (Eastern Time)
Monday - Friday

Follow OSCAR on LinkedIn
View our Training Videos on YouTube

This site is maintained by the Administrative Office of the United States Courts on behalf of the Federal Judiciary.

About OSCAR



OSCAR, the Online System for Clerkship Application and Review, is a web-based system for federal law clerk and appellate staff attorney recruitment. OSCAR's extensive set of features allows users to easily manage every aspect of the hiring process. Using OSCAR, applicants can easily apply to federal clerkships (chambers, pro se, death penalty, and bankruptcy appellate panel) and staff attorney positions; law school administrators and recommenders can help students, graduates, and law professionals advance their careers; and judges, chambers staff, and staff attorney offices can find the candidates most suited to their needs.

OSCAR also serves as an informational portal for applicants and law schools to research judges and staff attorney offices hiring practices, preferences, and timelines.

The Administrative Office of the United States Courts (AO) manages the OSCAR program. The AO established the OSCAR Working Group of federal judges and law school representatives who provide recommendations to the AO on OSCAR program policies, system enhancements, and law clerk hiring best practices.

For more information on using OSCAR, download the OSCAR brochure.

Using OSCAR

The OSCAR Program Office creates and provides accounts to federal judges, staff attorney offices, court staff, law schools, and recommenders. If you need help accessing your account, contact the Program Office.

Law school graduates or students with two years of law school grades who want to search and apply for federal clerkships and staff attorney positions can register for an OSCAR account.

Learn more about the various uses for OSCAR below.

Employment Information

- Understanding the Federal Courts
- Duties of Federal Law Clerks
- Qualifications, Salary and Benefits
- Citizenship Requirements
- Background Checks and Suitability Requirements
- Judicial Employees Code of Conduct
- Federal Law Clerk Hiring Best Practices
- Is This Career For You? (Video)

Workplace Conduct Resources

- Workplace Conduct Resources Home
- People
- Protections and Policies
- Processes

Judges

Judges maintain a profile that informs applicants of hiring practices and schedules, post positions online to find law clerks who fit their exact needs, accept online applications, and communicate with applicants and law schools to advertise clerkship vacancies.

Staff Attorney Offices

Staff attorney offices maintain a profile that informs applicants of hiring practices and schedules, post positions online to find staff attorneys who fit their exact needs, accept online applications, and communicate with applicants and law schools to advertise available vacancies.

Law Schools

Law schools stay informed of current law clerk and staff attorney openings and recruitment practices; assist applicants and faculty recommenders on law clerk and staff attorney recruitment; upload letters of recommendation on behalf of faculty to expedite the application process; and utilize unique reports to track and manage applicants, recommenders, and hiring data.

Applicants

Applicants search for clerkship and staff attorney positions that fit their specific career goals, research judges, hiring practices and schedules, create and submit applications all in one location, and easily generate electronic requests for recommendations letters with each application.

Court Unit Administrators

Court unit administrators manage the application process for judges and run reports to track and manage law clerk hiring.

This site is maintained by the Administrative Office of the United States Courts on behalf of the Federal Judiciary.

Law Clerk Hiring Standards

Qualifications

1. To qualify for the position of law clerk on the personal staff of a federal judge, a person must be a law school graduate (or be certified as having completed all law school studies and requirements and merely awaiting conferment of degree) from a law school of recognized standing, and have one or more of the following attributes:

- Standing within the upper third of the law school class from a law school on the approved list of either the American Bar Association or the Association of American Law Schools;
- Experience on the editorial board of a law review of such a school;
- Graduation from such a school with an LLM degree; or
- Demonstrated proficiency in legal studies which in the opinion of the judge is the equivalent of one of the above.

Some examples of criteria which are considered to be acceptable as equivalent include:

- Publication of a noteworthy article in a law school student publication or other scholarly publication;
- Special high-level honors for academic excellence in law school, such as election to the Order of the Coif;
- Winning of a moot court competition or membership on a moot court team that represents the law school in competition with other law schools;
- Participation in the legal aid or other law school clinical program sanctioned by the law school;* or
- Summer experience as a law clerk to a state or local judge or law clerk experience on a continuing basis in a private firm while attending school (i.e., working one's way through college).*

* In order to receive credit, participation and experience could not have been for academic credit.

This list is not all-inclusive; the determination of an acceptable equivalence rests with the appointing judge. 1 The table below shows the number of years of legal work experience required to qualify for appointment as a law clerk at the applicable Judiciary Salary Plan (JSP) grade levels. Please note that appointment to JSP-12 or above requires that the candidate be a member of the bar of a state, territory, or federal court of general jurisdiction.

JSP Grade Level	Years of Legal Work Experience	Bar Membership Required
11	0	No
12	1	Yes
13	2	Yes
14**	3	Yes

**** Two years of federal chambers law clerk, staff attorney, pro se law clerk, bankruptcy appellate panel law clerk, or death penalty law clerk experience is required in order to be appointed at or promoted to JSP-14. Note: only one JSP 14 law clerk is permitted for each Judge's chambers.**

Legal Work Experience

Legal work experience is progressively responsible experience in the practice of law, in legal research, legal administration, or equivalent experience received after graduation from law school. Major or substantial legal activities while on military duty may be credited, on a month-for-month basis whether before or after graduation, but not to exceed one year if before graduation from law school.

Due to the nature of the work of the Court of Appeals for the Federal Circuit, other professional work experience in a field of the court's jurisdiction such as engineering, science, or technology, may be substituted for the required legal work experience (whether pre- or post-Juris Doctor) on a year-for-year basis, at the appointing judge's discretion. This experience may not, however, be substituted for the prior federal clerkship experience required for appointment or promotion to the JSP-14.

Law Clerk Vacancies Information

To apply: applicants should apply online thru (http://oscar.uscourts.gov).

District

Judge Jorge L. Alonso
Judge Marvin E. Aspen
Judge John Robert Blakey
Judge Elaine E. Bucklo
Judge Edmond E. Chang
Judge Sharon Johnson Coleman
Judge Robert M. Dow Jr.
Judge Thomas M. Durkin
Judge Sara L. Ellis
Judge Robert W. Gettleman
Judge Joan B. Gottschall
Judge Ronald A. Guzman
Judge Lindsay C. Jenkins
Judge Iain D. Johnston
Judge Virginia M. Kendall
Judge Matthew F. Kennelly
Judge John F. Kness
Judge Charles P. Kocoras
Judge Joan Humphrey Lefkow
Judge Harry D. Leinenweber
Judge Nancy L. Maldonado
Judge Martha M. Pacold
Judge Rebecca R. Pallmeyer
Judge Philip G. Reinhard
Judge Mary M. Rowland
Judge Steven C. Seeger
Judge Manish S. Shah
Judge John J. Tharp Jr.
Judge Franklin U. Valderrama
Judge Andrea R. Wood

QUICK LINKS

RECORD LOOKUP & LISTINGS ›
E-FILING (CM/ECF) ›
DOWNLOADABLE FORMS
JUDICIAL REFERENCES ›
MORE USEFUL LINKS ›
BUILDING INFORMATION
OTHER COURT WEBSITES ›
JOB INFORMATION ›

Click Here

EASTERN DIVISION
Everett McKinley Dirksen United States Courthouse
219 South Dearborn Street
Chicago, IL 60604 (View Map)

Tel.No. (312) 435-5670
Office Hours: 8:30 am to 4:30 pm

WESTERN DIVISION
Stanley J. Roszkowski United States Courthouse
327 South Church Street
Rockford, IL 61101 (View Map)

Tel.No. (815) 987-4354
Telephone Inquiries: 8:30 am to 5:00 pm

Notice: This is a Restricted Web Site for Official U.S. Court Business only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS

Exhibit F

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21 CV 3848
v.	)	
	)	Judge Steven C. Seeger
UNIVERSITY OF ILLINOIS at CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
	)	
Defendants.	)	

MOTION FOR LEAVE TO FILE PLAINTIFF'S CORRECTED AMENDED MOTION TO ALTER OR AMEND JUDGMENT, *INSTANTER*

Plaintiff, by and through the undersigned attorney, pursuant to Federal Rule of Civil Procedure 59(e), brings this Motion and respectfully asks this Court to grant Plaintiff leave to file a corrected amended motion to alter or amend its final judgement of December 21, 2022, *instanter*. In support thereof, Plaintiff states as follows:

1. Plaintiff filed a Motion to Alter or Amend Judgment on or about January 14, 2023 [Dkt. 33].
2. On March 9, 2023, this Honorable Court entered a Memorandum and Order which stated the following:

   "The Court offers the following modest suggestion. The Court invites counsel to reread the draft, with the benefit of the passage of time, and maybe a good night's sleep. And more specifically, this Court invites counsel to have a moment of quiet reflection and revisit the tone of the filing. Counsel should ponder whether she would say it differently, on a second. go-around. If so, counsel has leave to file an amended motion by one week from the date of this Order." [Dkt. # 34]

3. Plaintiff's counsel did not see the March 9, 2023, Memorandum and Order of this Court until March 20, 2023 when she received a call from a reporter asking about the March 9, 2023, Order.
4. Plaintiff's counsel would appreciate the opportunity to amend the motion. Plaintiff's counsel did not mean to offend the Court and offers her apology. Plaintiff's counsel apologizes to this Court. Plaintiff's counsel appreciates the patience, graciousness, and kindness of this Court.
5. On March 20, 2023, Plaintiff filed a motion for additional time file an Amended Motion to alter or Amend the Judgment. [Dkt. #35]
6. To date this Honorable Court has taken no action on the Motion for Additional time.
7. On or about May 10, 2023. Counsel for Plaintiff contacted the Courtroom deputy and inquired about the matter, as directed by this Court's Home Page. Although the response from the Courtroom deputy sent on May 11, 2023, indicated some action would be forthcoming, to date no action has taken place. (See email attached as Exhibit "A").
8. Plaintiff has prepared the Corrected Amended Motion to Alter or Amend and wishes leave to file same, instanter. (See Exhibit "B")

WHEREFORE, Plaintiff respectfully requests that this Court grant her leave to file *instanter,* the corrected amended motion to alter and or amend its ruling of December 20, 2022.

Respectfully submitted,

EBONE PORCH

By: s/ Calvita J. Frederick
Attorney for Plaintiff

Calvita J. Frederick
Post Office Box 802976
Chicago, Illinois 60680-2976

312-421-5544
ARDC # 6184001
Calvita.Frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 8, 2023, 2023, the foregoing Motion for Leave to File the Corrected Amended Rule 59(e) Motion, *Instanter* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

RE: Porch vs University of Illinois at Chicago 21cv3848

From: calvita.frederick (calvita.frederick@att.net)

To: jessica_j_ramos@ilnd.uscourts.gov; toby.eveland@saul.com; nancy.depodesta@saul.com

Date: Thursday, May 11, 2023 at 10:54 AM CDT

Thanks

Sent from my T-Mobile 5G Device

-------- Original message --------
From: Jessica J Ramos <Jessica_J_Ramos@ilnd.uscourts.gov>
Date: 5/11/23 9:52 AM (GMT-06:00)
To: CALVITA Frederick Sowell <calvita.frederick@att.net>, Toby Eveland <toby.eveland@saul.com>, Nancy DePodesta <nancy.depodesta@saul.com>
Subject: RE: Porch vs University of Illinois at Chicago 21cv3848

Hello,

Thank you for the email. I will follow up with the Judge and have something for you shortly.

Jessica J. Ramos

Courtroom Deputy to the Honorable Steven C. Seeger

United States District Court

Northern District of Illinois

219 South Dearborn Street

Chicago, IL 60604

Office: (312) 818-6594

Your opinion is important to us click HERE to take our customer service survey

From: CALVITA Frederick Sowell <calvita.frederick@att.net>
Sent: Wednesday, May 10, 2023 6:03 PM
To: Jessica J Ramos <Jessica_J_Ramos@ilnd.uscourts.gov>; Toby Eveland <toby.eveland@saul.com>; Nancy DePodesta <nancy.depodesta@saul.com>
Subject: Porch vs University of Illinois at Chicago 21cv3848

CAUTION - EXTERNAL:

Good Evening Ms. Ramos:

On March 9. 2023 Judge Seeger entered an Order and Memorandum Opinion [Dkt. # 34] which suggested I revisit my previous filing, a Motion for Reconsideration and amend same within 7 days if I thought differently. I did not see the Order until March 20, 2023 at which time I filed a motion requesting additional time to amend the previous filing.[Dkt. # 35]. In accordance with the Court's standing Order said motions are not to be noticed but rather send a notice to the courtroom deputy if no action is taken within a reasonable time.

No action has been taken on our Motion for Additional Time to Amend Motion to Alter or Amend Judgment.

What would you suggest I do, please.

Thank you.

Cal

Calvita J. Frederick

Calvita J. Frederick & Associates

Attorney at Law

Post Office Box 802976

Chicago, IL. 60680

312-421-5544

Fax:312-277-7190

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21 CV 3848
v.	)	
	)	Judge Steven C. Seeger
UNIVERSITY OF ILLINOIS at CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
	)	
Defendants.	)	

TABLE OF CONTENTS

FACTUAL AND PROCEDURAL BACKGROUND ..... p. 1

ARGUMENT .....p. 6

I. The Standard for Rule 59(e) motions p.6

Hew v. Gen. Med., PC, Case No. 18-cv-2177-RJD, 3-4 (S.D. Ill. Sep. 21, 2020).....p. 6

II. The redline of the Amended Complaint does not reflect the changes made to the original Complaint .....p. 6

III. Plaintiff's case and the facts in the Complaint ..... p. 6

Wilburn v. Indiana, Case No. 3:17-cv-059 JD, 7-8 (N.D. Ind. Jun. 9, 2020) ..... **p.8, 10, and 11**

IV. The inclusion of individual defendants was necessary and required by law ..... p. 14

Doe v. Board of Trustees of University of Illinois, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006) .....**p. 14 and 15**

V. The standard for Motions for Leave to File an Amended Complaint ..... p. 16

Soltys v. Costello, 520 F.3d 737, 743 (7th Cir. 2008) .....p. 16

Murphy v. White Hen Pantry Co., 691 F.2d 350, 353 (7th Cir. 1982)..... p. 18

UNITED STATES DISTRICT COURT
IN THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

EBONE PORCH,	)	
	)	
Plaintiff,	)	
	)	Case No. 21 CV
v.	)	
	)	Judge Steven C. Seeger
UNIVERSITY OF ILLINOIS at CHICAGO, SCHOOL OF MEDICINE,	)	
	)	
Defendants.	)	

CORRECTED AMENDED MOTION TO ALTER OR AMEND JUDGMENT

Plaintiff, by and through the undersigned attorney, pursuant to Federal Rule of Civil Procedure 59(e), brings this Corrected Amended Motion and respectfully asks this Court to alter or amend its final Judgement of December 21, 2022, and to grant Plaintiff's Motion for Leave to File an Amended Complaint. In support thereof, Plaintiff states as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1. Originally, this action was presided by Honorable Judge Robert M. Dow Jr. who subsequently left this District Court to serve as Counselor to the Chief Justice of the United States.

2. On August 3, 2022, Honorable Judge Dow dismissed Plaintiff's original ADA and Rehabilitation claims without prejudice with leave to File a Motion for Leave to File an Amended Complaint. [Dkt. # 16].

3. Plaintiff filed a Motion for Leave to File an Amended Complaint with accompanying Amended Complaint on September 1, 2022. [Dkt. # 17-18].

4. Before this Court issued a ruling on Plaintiff's Motion for Leave to File an Amended Complaint, Defendant filed a Response to Plaintiff's Motion for Leave to File an Amended Complaint on September 22, 2022. [Dkt. # 20]

5. On October 7, 2022, in accordance with the Court's Order, Plaintiff filed her Reply demonstrating why Defendant's request in their Response to the Motion for Leave to File Amended Complaint should be denied. [Dkt. # 21].

6. Thereafter, on October 11, 2022, the case was assigned to this Honorable Court. [Dkt. # 22].

7. This Court's Standing Order requires a redline whenever a party seeks to amend a complaint. (Standing Order at Amended Complaint). The rationale for the Standing Order is that "a redline promotes transparency and makes it easy for the parties and the Court to *spot any changes*." [Dkt. # 27 Nov 7, 2022]

8. Plaintiff had some technical difficulty preparing a redlined version but filed a redline version on November 9, 2022.

9. Due to the technical difficulties that counsel encountered in the implementation of the redline, the filed redline did not capture any and all changes and, more importantly, it did not capture the critically relevant changes in the Amended Complaint.

10. On December 20, 2022, this Honorable Court issued an Order denying Plaintiff's Motion to File an Amended Complaint. [Dkt. # 29]

11. The Court found that Plaintiff had sued the wrong Defendant (UIC), that the NBME is the right Defendant in this action and in her Amended Complaint Plaintiff did not add the NMBE as a Defendant and did not plausibly allege any facts to support the theory that UIC, instead of the NBME, failed to accommodate her. [DKT # 29, Dec. 20, 2022].

12. The Order stated in relevant part as follows:

    a) "The case is about accommodations when taking a medical exam. Porch sued Defendant University of Illinois at Chicago School of Medicine ("UIC"), her former medical school, alleging that it failed to provide her with the medical accommodations she needed to sit for Step 1 of the United States Medical Licensing Exam (USMLE). *Id.* at 2." [This Court Order of Dec. 20, 2022, at p. 1, where "*Id. at 2"* refers to Judge Dow's Memorandum and Order of August 3, 2022;

    b) "Adding UIC officials as defendants couldn't solve the problem. UIC is already here, so adding individuals from UIC in their official capacities does not change anything. UIC is the wrong entity. And suing officials from the wrong entity is still wrong." (*Id.* at p. 6); and

    c) "Finally, Porch asserts in her reply brief (which isn't a fertile ground for new arguments, so the argument is waived) that UIC: "instructs and requires the students with disabilities to go through [it] when they apply for the USMLE accommodations." *See* Pl.'s Reply to Mtn. for Leave to File Am. Cplt., at 3 (Dkt. No. [21]) (emphasis removed). However, this allegation is noticeably absent from the

proposed amended complaint. The proposed pleading is what matters, not the gloss in a brief. And in any event, the amended complaint does not allege UIC had the authority to grant a disability accommodation." (*Id.* at p. 7).

13. Respectfully, the Court is mistaken on both the facts and the law that applies to Plaintiff's Amended Complaint.

ARGUMENT

I. The Standard for Rule 59(e) motions.

14. A motion to alter or amend judgment pursuant to Rule 59(e) may be granted if there is newly discovered evidence, or if the Court made a manifest error of law or fact. *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1992) (*citing Russell v. Delco Remy Div. of General Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995)). *Hew v. Gen. Med., PC*, Case No. 18-cv-2177-RJD, 3-4 (S.D. Ill. Sep. 21, 2020).

15. Plaintiff brought her original Motion within 28 days of the final judgment [Dkt. # 33] and thereafter sought an extension of time for leave to file an amended motion [Dkt. # 35] as per the Court's suggestion [Dkt. # 34].

16. Plaintiff brings this Motion to demonstrate the relevant amendments that Plaintiff included in her (proposed) Amended Complaint that, due to technical difficulties, were not necessarily reflected in the redline version filed with the Court, or inadvertently overlooked.

17. As set forth below, the amended complaint named the correct defendants. Respectfully, the Court erred in entering judgment against Plaintiff.

II. The Amended Complaint stated viable claims against the correct Defendants.

18. The redline filed by Plaintiff captured very few changes and not all the relevant changes from the original Complaint to the Amended Complaint. As set forth below, the amendment stated viable claims.

III. Plaintiff's case and the facts in the Complaint.

19. This case is not about UIC failing to provide Ms. Porch with the accommodation she needed to sit for Step 1 of the USMLE. UIC does not have the power to grant and/or provide those accommodations because UIC does not administer the test.

20. What UIC administers, however, and has full autonomous control of, is:

a) the processing of the UIC students' requests for accommodations for the STEP exams which must pass through the UIC Office of Access and Equity ("OAE") before such requests are submitted to the NMBE for evaluation;

b) the process to maintain a student enrolled in its medical program or terminate a student from its medical program;

c) the power to impose non-negotiable conditions that a student must satisfy to continue her enrollment in the medical program at UIC; and

d) the timing of UIC Board's decisions and the timing of UIC's communications to the students.

21. All of those are facts implied in UIC's very existence, role, and functions as a university, a school. Plaintiff was not required to plead UIC's specific role and functions because those roles and functions are not an element of any of the two Causes of Actions brought forth by Plaintiff (Title II of the ADA and Rehab. Act).

22. "To establish a violation of Title II of the ADA, 'the plaintiff must prove that he is a qualified individual with a disability, that he was denied the benefits of the services, programs, or activities of a public entity or otherwise subjected to discrimination by such an entity, and that the denial or discrimination was by reason of his disability.'" *Wagoner v. Lemmon*, 778 F.3d 586, 592 (7th Cir. 2015) (quoting *Love v. Westville Corr. Ctr.*, 103 F.3d 558, 560 (7th Cir. 1996)); *see also*42 U.S.C. § 12132.

23. To establish a violation of the Rehabilitation Act, the Plaintiff must demonstrate "that (1) he is a qualified person (2) with a disability and (3) he was denied access to a program or activity because of his disability." *Jaros v. Ill. Dep't of Corr.*, 684 F.3d 667, 672 (7th Cir. 2012) (citing 29 U.S.C. § 705(2)(B); *Wis. Cmty. Servs., Inc. v. City of Milwaukee*, 465 F.3d 737, 476 (7th Cir. 2006); *Foley v. City of Lafayette*, 359 F.3d 925, 928 (7th Cir. 2004); *Grzan v. Charter Hosp. of Nw. Ind.*, 104 F.3d 116, 119 (7th Cir. 1997)). Footnote 3. Under the Rehabilitation Act, refusing to make reasonable accommodation is tantamount to denying access. *Id.* (citing *Wis. Cmty. Servs. Inc.*, 465 F.3d at 747; *Alexander v. Choate*, 469 U.S. 287, 300-01 (1985)).

24. Therefore, this case is about UIC reaching the decision to reinstate Ms. Porch into the medical program with the non-negotiable condition that she take and pass Step 1 of the USMLE by April 6 of 2019. However, UIC (aware that Ms. Porch required accommodations for the exam and that the process to request accommodations takes a full six-months) communicated its decision as well as the non-negotiable STEP 1 exam condition to Ms. Porch only on ***October 4, 2018***. This made it impossible for Ms. Porch to meet the 6 months' requirement for requesting

accommodations. In addition, when Ms. Porch requested assistance with the process of requesting accommodations, UIC did not answer until ***early November of 2018***.

25. To state this in other words, concisely: this case is about UIC's ***negligent and/or intentionally tardy communications*** which made it impossible for Ms. Porch ***to meet the 6 months requirement for processing her request for accommodation.*** There is nothing that Plaintiff can hold NMBE responsible for because NMBE never had anything to do with UIC tardy communications.

26. The tardy communications have nothing to do with the NMBE and have everything to do with UIC. It is axiomatic that UIC and UIC only had control over those tardy communications and over the timing of those communications. This is the reason Plaintiff never named NMBE as a defendant. *UIC's acts and omissions constitute the torts Plaintiff complains about.*

27. Plaintiff admits that the original Complaint was confusing in this respect and therefore Honorable Judge Dow's confusion was understandable, but the Amended Complaint corrected the confusion. Respectfully, it was error for this Court to adopt Honorable Judge Dow's characterization of the case and import that characterization into its Order of December 20, 2022.

28. Plaintiff starts the analysis from the very basics: does the Amended sufficiently allege claim(s)? The Amended Complaint alleges both the facts necessary to explain what UIC's tortious conduct consisted of *and* the facts necessary to meet the elements of the claims. (*See Wilburn v. Indiana*, Case No. 3:17-cv-059 JD, 7-8 (N.D. Ind. Jun. 9, 2020)).

29. Paragraph 8 of the Amended Complaint states: "At all relevant times, Plaintiff was a student at University of Illinois at Chicago School of Medicine registered with the University to

receive accommodations under the ADA." Therefore, paragraph 8 alleges the first element of the claims: that Ms. Porch is/was a qualified individual with disability.

30. Indirectly, paragraph 8 also alleges that UIC had either direct or constructive knowledge that Ms. Porch required accommodations.

31. The accommodations consisted of additional time Ms. Porch needed to take an exam. Paragraphs 10 and 11 of the Amended Complaint allege the nature of Ms. Porch's disability and the type of accommodations she requires:

> "10. Plaintiff suffers from multiple disabilities, including but not limited to, Attention-Deficit/Hyperactivity Disorder, learning disabilities and generalized anxiety disorder."
>
> 11. Plaintiff has been evaluated by clinicians and has, at the recommendation of her clinicians, needed extended time testing accommodations while in school."

32. It is axiomatic that if UIC had Ms. Porch registered as an ADA student, UIC was also aware of the nature of the accommodations she required. This is so because, if nothing else, UIC had already granted those accommodations to Ms. Porch during the exams she took in her medical program at UIC. Incidentally, and to restate, such "awareness" is not a "necessary" fact that Plaintiff had to plead in the Amended Complaint because such "awareness" is not an element of the COAs. The elements of the COAs do not include any scienter. (*See Wilburn, supra,* a 7th circuit case).

Paragraph 13 through 19 of the Amended Complaint read:

13. On October 4, 2018, School of the Medicine/University officials sent a letter to Plaintiff notifying her that she was required to take and pass United States Medical Licensing Examination ("USMLE") Step 1 by April 6, 2019.
14. The exam was actually scheduled for March 2019, but the letter did not inform Plaintiff that the Exam was scheduled for March 2019.
15. In addition, neither the letter, nor any University officials, had informed Plaintiff that the request for accommodations during the exam required six full months to be processed.
16. Plaintiff tendered a letter to begin the request for accommodations on October 5, 2018, asking for instructions on beginning the process to apply for accommodations.
17. Having received no response from the University and its officials, Plaintiff inquired again for the instructions on October 9, 2018.
18. Having received no response from the University and its officials, Plaintiff then inquired a third time for the instructions on October 23, 2018.
19. Finally, Plaintiff was allowed to submit the Medical Student Disability and Accommodations documentation on November 2, 2018.

33. Paragraphs 13 through 19 sufficiently allege what the violations and discrimination consisted of: the request for USMLE's accommodations takes 6 months to process - (Plaintiff even included the UIC's policy as exhibit to the Amended Complaint) - but UIC informed Ms. Porch of the non-negotiable condition to take and pass the March 2019 STEP 1 exam **on October 4, 2018.** UIC's letter did not include the date of the exam and did not state that Ms.

Porch was already out of time to apply for accommodations. Plaintiff would have argued to a jury that the omissions were deliberate and a clear indication of bad faith.

34. Paragraph 13 through 19 satisfy the second and third elements of the claims already: that UIC, not NMBE, denied Plaintiff access "to a program or activity on account of her disability".

35. *Wilburn, supra*, clarifies that "Under the Rehabilitation Act, refusing to make a reasonable accommodation is tantamount to denying access." The accommodation that Ms. Porch was denied is not the additional time to take the exam (that is just a consequence of UIC's tortious conduct). The accommodation that Ms. Porch was denied is the accommodation that UIC was supposed to provide her with: ***timely assistance with the request for accommodation***. This is squarely a type of assistance that only UIC and not NMBE can and was supposed to provide to Ms. Porch but the UIC's tardy letter of October 4, 2018, made it impossible for Ms. Porch to obtain that timely assistance.

36. UIC's tardy communications are the subject matter of this litigation and the basis of UIC's liability.

Respectfully, it was an error for the Court to enter judgment against Plaintiff.

The Amended Complaint further alleged (italics and bold font added):

20. The documentation submitted in support of Plaintiff's request for accommodations included the following: Letters from Porch's psychologist, psychiatrist and her family practitioner, all detailing her medical condition and advising that she required extra time to complete the examination due to her medical condition.

21. Said documentation substantially complies *with the Defendants' written policy regarding requests for disability testing accommodations*.

22. By way of letter addressed to the *UIC Office of Access and Equity ("OAE")* dated November 2, 2018, Plaintiff requested testing accommodations for the USMLE Step 1 to be administered in March of 2019.

23. *The OAE never issued a response to Plaintiff's request for accommodations*.

24. Plaintiff then contacted Mr. Urosev, Dean of Academic Affairs, and Dr. Marth Halsey, Academic Specialist, requesting assistance with the NBME Medical Testing Accommodations.

25. *It was only then that Defendants Urosev and Defendant Halsey, notified Plaintiff that the request for accommodations requires six full months to be processed and,* ***since the college had only granted Plaintiff five months to take the exam, there was not enough time to pursue the accommodations that Plaintiff required to succeed on the examination.***

26. Plaintiff was then advised to study hard and do the best she could on the NBME Medical test.

27. The College of Medicine through Dean Curry was aware of Plaintiff's need for accommodations and had advised Plaintiff that she could and would receive assistance in requesting the accommodations.

28. The College of Medicine and its officials was also aware that the accommodations process required six full months for the completion and granting of the accommodations.

29. *Nevertheless,* ***the College of Medicine and its officials granted Plaintiff only five months to take and pass the test.***

30. Subsequent to the Defendant's second refusal to accommodate Plaintiff's disabilities, Plaintiff's medical school informed her that she could not advance in its M.D. degree program without taking and passing USMLE Step 1.

37. In order to "to accommodate Plaintiff's disabilities", in the context of the whole Amended Complaint, means granting her the 6 months required to apply for the disability accommodations with the USMLE and assisting her with the application.

38. The NMBE is not responsible for the discrimination committed by Defendant UIC and Plaintiff correctly omitted to name the NMBE as a Defendant. The Amended Complaint clearly states what tortious conduct UIC stands accused of and satisfies all the elements of the COAs.

IV. The inclusion of individual defendants was necessary and required by law.

39. The order states at the bottom of page 6: "Adding UIC officials as defendants couldn't solve the problem. UIC is already here, so adding individuals from UIC in their official capacities does not change anything. UIC is the wrong entity. And suing officials from the wrong entity is still wrong." (Order at p. 6).

40. Plaintiff inserted footnote 2 in the title of Count I, right next to the sentence: "**(Against University Officials in their official capacities)".** The note reads (italics and bold font added):

"Doe also seeks injunctive relief against the individual defendants in their official capacities, including reinstatement to the College of Medicine and the

> Medical Scholars Program, transfer to the College of Medicine's Chicago campus, an opportunity to retake his Clinical Laboratory Studies course, and a prohibition on future violations of his rights under the ADA. Compl. pp. 139-40. Under the rule announced in *Ex Parte Young,* 209 U.S. 123 (1908), ***plaintiffs may sue state officials in their official capacities for prospective relief to enjoin ongoing violations of their federal rights, notwithstanding the state's Eleventh Amendment immunity.*** *See, e.g., Bruggeman,* 324 F.3d at 912. *See Doe v. Board of Trustees of University of Illinois*, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)"

41. Plaintiff inserted footnote 3 in the title of Count II, right next to the sentence: "**(Against the University of Illinois at Chicago and School of Medicine)".** The note reads:

> "***It is at least conceivable that Doe may be able to advance a claim against the University under section 504 of the Rehabilitation Act. 29 U.S.C. § 704(a). Because Congress enacted that statute pursuant to the Constitution's Spending Clause, it could and did require states to waive their Eleventh Amendment immunity as a condition of receiving federal financial assistance***. *See* 42 U.S.C. § 2000d-7(a)(1). As a result, the Eleventh Amendment does not immunize the states from lawsuits under the Rehabilitation Act. *See Stanley v. Litscher,* 213 F.3d 340, 344 (7th Cir. 2000). Because, however, Doe has not alleged that the University receives federal financial assistance for the College of Medicine, the Court cannot assess at this juncture whether he can assert a Rehabilitation Act

claim in this case. *Doe v. Board of Trustees of University of Illinois*, 429 F. Supp. 2d 930, 940 n.2 (N.D. Ill. 2006)"

42. Plaintiff included footnotes 2 and 3 in the Amended Complaint not only to clarify why Count I is brought against the individual defendants and Count II is brought against UIC but to also address concerns that Honorable Judge Dow had raised in his Order of August 3, 2022.

43. Pursuant to the case law cited above, bringing the Title II ADA claim against the individual defendants is how Ms. Porch defeats the immunity defense for Title II, and pleading the fact that UIC receives federal funds – which Plaintiff did in paragraph 9 of the Amended Complaint, underscored in the original and with Ex B. Excerpts from University Financial Report EX B in support of the assertion - is how Ms. Porch defeats the immunity defense to the Rehab. Act Claim.

V. The standard for Motions for Leave to File an Amended Complaint.

44. "[T]he decision to grant or deny a motion to file an amended pleading is a matter purely within the sound discretion of the district court." *Brunt v. Serv. Employees Int'l Union*, 284 F.3d 715, 720 (7th Cir. 2002). We will overturn a denial of a motion for leave to amend a complaint only if the district court "abused its discretion by refusing to grant the leave without any justifying reason." *Id.; see also J.D. Marshall Int'l Inc. v. Redstart, Inc.*, 935 F.2d 815, 819 (7th Cir. 1991).

45. Federal Rule of Civil Procedure 15(a) provides that if a party is not entitled to amend a pleading as a matter of course, it may amend "with the opposing party's written consent or the court's leave." The court "should freely give leave when justice so requires." Fed.R.Civ.P. 15(a)(2). "Although the rule reflects a liberal attitude towards the

amendment of pleadings, courts in their sound discretion may deny a proposed amendment if the moving party has unduly delayed in filing the motion, if the opposing party would suffer undue prejudice, or if the pleading is futile." *Campania Mgmt. Co. v. Rooks, Pitts Poust*, 290 F.3d 843, 848-49 (7th Cir. 2002). *Soltys v. Costello*, 520 F.3d 737, 743 (7th Cir. 2008)

46. With its order of December 20, 2022, this Court has denied Plaintiff Leave to File the Amended Complaint because the Court held the amendments futile. However, this Motion establishes that the amendments were not.

47. In its Order of December 20, 2022, this Court addressed a passage included in Plaintiff's Reply to Defendant's Motion to Dismiss. Specifically, the Court wrote:

> "Finally, Porch asserts in her reply brief (which isn't a fertile ground for new arguments, so the argument is waived) that UIC : "instructs and requires the students with disabilities to go through [it] when they apply for the USMLE accommodations." *See* Pl.'s Reply to Mtn. for Leave to File Am. Cplt., at 3 (Dockt. No. [21]) (emphasis removed). However, this allegation is noticeably absent from the proposed amended complaint. The proposed pleading is what matters, not the gloss in a brief. And in any event, the amended complaint does not allege UIC had the authority to grant a disability accommodation." (*Id.* at p. 7).

48. The comment demonstrates that if the Court determined that the proposed amendment did not state claims, further amendment should have been permitted because the reply demonstrated a claim could be stated.

49. "The liberal pleading policy in the [federal rules] prevents dismissal of a meritorious action for purely formal or technical reasons." *Murphy v. White Hen Pantry Co.*, 691 F.2d 350, 353 (7th Cir. 1982).

50. Based upon the liberal pleading policy, judgment should not have been entered and Plaintiff should have been granted an opportunity to further amend the complaint.

CONCLUSION

WHEREFORE, for all the reasons discussed above, Plaintiff respectfully requests that this Court alters and or amends its ruling of December 20, 2022, and grants Plaintiff's Leave to File the Amended Complaint.

Respectfully submitted,

EBONE PORCH

By: s/ Calvita J. Frederick
Attorney for Plaintiff

Calvita J. Frederick
Post Office Box 802976
Chicago, Illinois 60680-2976
312-421-5544
ARDC # 6184001
Calvita.Frederick@att.net

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 8, 2023, the foregoing Corrected Amended *Rule 59(e) Motion* was filed as a n Exhibit through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/ Calvita J. Frederick
Attorney for Plaintiff
Calvita J. Frederick

CALVITA J. FREDERICK & ASSOCIATES
Attorneys at Law
PO Box 802976
Chicago, Illinois 60680
(312) 421-5544 fax (312) 277-7190

January 28, 2026

Scott Renfroe
Deputy Administrator, Appeals
Attorney Registration & Disciplinary Commission
Of the Supreme Court of Illinois
130 E. Randolph Drive Suite 1500
Chicago, Illinois 60601

Re: Request for Reconsideration
Commission Nos. 2022IN01349, 2023IN00045, 2023IN01152, 2024IN00690, 2024IN03739, 2024IN04521, 2025IN01225 and 2025IN01753

Dear Mr. Renfroe:

Thank you for your response to my request to submit additional information. You have informed me that the Panel C members met earlier this week and voted to file a complaint against me in the various matters referenced above. Ms. Andrzejewski has sent a letter notifying me of their decision.

Thank you for your kind offer to hold off on filing the complaint, to allow me to submit additional information within that time frame, which you agreed to forward to the Panel members and ask them to treat it as my request that they reconsider their vote. Please accept this correspondence as my Request for Reconsideration.

Since several of the Complaints are interrelated, I hope that it is OK to discuss them as such in groups.

2023IN00045 Administrator and 2024IN 4521 Michael Outley

Both of these complaints relate to my representation of Mr. Michael Outey in *Outley vs City of Chicago*, et al case numbers 17CV8633, 13 CV1583 and 21-2476, the Appeal of 13 CV1583.

The Federal Court Susupension and Requirements for Readmission

As a result of the Administrator's Complaint, I was suspended by the U.S. District Court for the Northern District of Illinois on November 20, 2023. I was required to take certain classes and complete certain steps in order to petition for admission to the 7th Circuit. I attach a copy of the Suspension Notice as Exhibit "A'. On March 6, 2025, I submitted a Petition for Readmission. A Copy of the Petition with Exhibits is attached hereto as Exhibit "B". The Petition was granted and I was readmitted on or about April 30, 2025. (See Order of Reinstatement attached hereto as Exhibit "C").

I took all of the required classes which included the following requirements, taken from the Petition for Readmission:

1. Complete the Illinois State Bar Association's ("ISBA") Fred Lane Trial Techniques or an equivalent program.

> Ms. Frederick was ill during the 2024 Spring session of the ISBA's Fred Lane Trial Techniques, and the fall session of this program was cancelled. Ms. Frederick has completed the National Institute for Trial Advocacy's ("NITA") intensive professional training program in the Art of Building Trial Skills at NITA's Building Trial Skills Atlanta Program (a program worth approximately 30 CLE hours) and also completed an intensive professional training program in the Art of Deposition Skills at NITA's Deposition Skills Atlanta Program (a program worth approximately 15 CLE hours) (Diplomas are attached hereto as Exhibits "A" and "B")

2. Complete an e-learning course offered by the Attorney Registration & Disciplinary Commission of the Supreme Court of Illinois ("ARDC") entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession.

> Ms. Frederick has completed the ARDC e-learning courses entitled Civility; Civility and Professionalism; Learning the Art of Mindfulness: A Wellness Approach to the Legal Profession. (Certificates are attached hereto as Exhibits "C", "D", and "E")

3. Complete a Continuing Legal Education course regarding appellate procedure.

> Ms. Frederick has completed the Quimbee course entitled Appellate Arguments: Tips from the Trenches, a course approved for general credit in Illinois (See Certificate of Completion attached hereto as Exhibit "F") and also the course, From the Finer Points of Procedure to Persuading the Panel: How to Succeed on Appeal, a Quimbee course that is not approved for CLE credit in Illinois.(See proof of completion attached hereto as Exhibit "G")

These CLE classes improved my skills and self-esteem as a practicing attorney. It is my goal to make sure that the performance that the Honorable Judge Feinerman saw in the *Outley* case will never be seen again. I recognize that it was poor performance. Judge Feinerman thought that my performance was bad. And I agree. I own my mistakes and have grown from this experience. Taking these CLE classes has greatly increased my skills, my understanding of what is expected of lawyers, and my confidence. I assure you that there will be no repeat of the poor performance exhibited in the *Outley* trial.

I was greatly surprised when several of the NITA Instructors came up to me during the class evaluations and commended me on my skills as a trial attorney during the week I spent in Atlanta taking the NITA courses.

It is also interesting to note that during the time of my suspension from the 7th Circuit, I received an email from the Chief Judge of the U.S. District Court for the Northern District of Indiana requesting that I accept an assignment to represent a pro bono prisoner in a civil action, entitled *Taylor vs Sheriff of Allen County Indiana* for violation of constitutional rights. Initially, I was asked to represent Mr. Taylor in a settlement conference, the Screening Order having determined that Mr. Taylor's 4th and 8th Amendment rights had been violated by the conditions in the Allen County Jail, and that he was entitled to compensatory and punitive damages.[1] When we were unable to reach a settlement, the Chief Judge asked me to stay on and handle the trial, which I agreed to do. Days before the trial date, we were able to reach a settlement.

Within twenty-one (21) days of the docketing of the Executive Committee Order, I was required to notify by certified mail, return receipt requested, all clients to whom I was responsible for pending matters before the 7th Circuit Court of the fact that I could not continue

[1] You should note that in filing my Appearance in the US District Court for the Northern District of Indiana, I notified the Chief Judge of my then suspension from the 7th Circuit for the Northern District of Illinois, as required by the local rules in Indiana. The Chief Judge determined that my suspension did not preclude my assignment in the Indiana Federal District Court.

to represent them. I notified my clients, as required and assisted my clients in finding substitute counsel to take over their federal court cases during my suspension.

7. Within thirty-five (35) days of the entry of the Executive Committee Order, I was required to email (ILNDAttorneyDiscipline@ilnd.uscourts.gov) a declaration stating that the attorney has so notified any clients and indicating the address to which subsequent communications may be addressed; and shall keep and maintain records evidencing compliance with this order so that proof of compliance will be available if needed for any subsequent proceeding instituted by or against the attorney.

I emailed the required declaration and have kept and maintained records evidencing compliance with this Order. (A copy of the Declaration is attached hereto as Exhibit "H")

8. I prepared an Affidavit related to the above compliance which Affidavit is attached hereto as Exhibit "I")

Successes Since Suspension and Other Changes

I would also like you to know that several of my cases reached settlement while I was on suspension, based upon work that I had performed previously. They included:

Tennin vs College of Lake County 22 CV 5663;

Pryszcz vs Willowbrook Ford/Kia 21 CV 2538; and

Hundley vs University of Illinois 22 CV 2698.

Shortly after my suspension was lifted, I was able to participate in the settlement of another of my cases, *Sims vs Midway Broadcasting*, 22 CV3743.

To the extent that I have been able to since the filing of these ARDC complaints, I have increased my office support in several ways:

I regularly consult with James D. Montgomery, Sr., my long-time mentor and friend, and I have begun to work with him and his son on several large PI cases that have been brought into my office.

If I believe a case is more complicated that I can handle I co-counsel with other firms including the Montgomery's and Victor Henderson and Melvin Brooks of the Cochran Firm, Chicago. I am pleased to report that the Cochran firm and I successfully worked together on a refiling of a case in my office in *Barbara Johnson vs City of Chicago and Tai Plumbing,* 2024 L 007751. This case was settled days before trial for which we were fully prepared. Further, the Cochran Firm regularly refers to my office all inquiries that they receive related to employment matters.

I continue to co-counsel with Attorney Terri Blanchard who stepped in and entered a Memorandum of Agreement to represent my clients in my federal court discrimination cases pending at the time of my suspension (11 cases in total)

And, I now have on staff a Roosevelt University Certified Paralegal who assists me with scheduling, filing and docketing court appearances.

Underlying Personal and Health Reasons Contributing to Poor Performance

Some of the underlying reasons for my poor performance were the result of serious personal and health issues. In January of 2022, I lost my mother to a short bout with COVID. She was 95 years old and despite some well-maintained underlying conditions (my mother was a Registered Nurse) she had no dementia or mobility issues and lived alone. My sister was able to see her a week before her death when she was released to a nursing home for one day and her condition was devastating to us all. She was severely neglected, dirty and had bed sores. She passed away a week later. We struggled over the next two years with whether to file a lawsuit over the neglect she suffered at the end of her life.

In February of 2024, I lost my father to pneumonia. He was 96 years old, had no dementia or mobility issues and had been a neck breather (due to a laryngectomy) since 1975.

For the first time in my adult life, I began to have some health challenges beginning before my mother's death and culminating with a hospitalization with life threatening conditions shortly after my return from my father's funeral. My vitals were highly elevated, and I had more blood clots that could be counted in both legs and lungs. I am 72 years old and have been practicing law since 1982, having graduated law school in 1978 from Howard University School of Law. My children are 25 and 28years of age and still require my help financially.

Since the hospitalization I have changed my diet and lost approximately 40 pounds, I exercise 4-5 days a week and I am pleased to report that I am currently in extremely good health, with all of my vitals within normal range and no heart or lung issues.

I am no longer carrying around a lot of the challenges that I have faced over the past 4-5 years.

As a part of my suspension the Executive Committee required me to attend monthly

Lawyers Assistance Programs meetings for one year (in-person or virtually).

I am happy to report that I attended at least one and in several months as many as three Lawyers Assistance Program ("LAP") meetings for each month from November 2023 to March of 2025. Tony Pacione, head of the LAP program, has asked me to inquire as to what proof of LAP attendance the Committee requires.

Suffice it to say, during 2022-2025 I had a lot on my plate including many things that I could not control. Participating in the LAP sessions has helped me manage my life a lot better.

2022IN1349 and 2024IN3739 Francisco Arteaga

A combination of things, including personal and health challenges, having more cases that I could handle and not having the necessary support staff, contributed to my poor performance in *Outley* and also in Mr. Arteaga's case.

It should be noted that although my performance was far from what it should have been, both Mr. Outley and Mr. Arteaga turned down at least 3 offers for settlement on their cases.

I have taken the steps necessary to ensure that I do not ever face the problems detailed in these complaints.

2025 IN 01225 Shermeka Fountain and 2025IN1753 Geneva Walters and Octavia Smith

As indicated in my detailed responses to the above complaints, I simply do not owe these clients any refund.

2024IN00690 Carmelita Earles

As promised, I have refunded Mrs. Earles $9,500.00 of the $10,000.00 Retainer fee. Please see attached a copy of the Cashier's Check and receipt signed by Mrs. Earls, attached hereto as Exhibit "D".

Thank you for the opportunity to provide additional details on these most troubling complaints. I have been punished, learned from mistakes and suffered greatly, including financially as a result of the 17-month suspension. I have learned and grown from my mistakes and hope that I will be given the opportunity to continue to work in the practice of law, as I have for the past 43 years.

Sincerely and respectfully,

/s/ Calvita J. Frederick

Calvita J. Frederick

enclosures