


From: Alphonse Talarico contact@lawofficeofalphonsetalarico.com 
Subject: Fw: Paul Dulberg v. Kelly Baudin, et al. - Appellate Docket No. 1-23-1142 [IWOV-Active.FID1734930]
Date: January 4, 2024 at 3:24 PM
To: Paul Dulberg Paul_Dulberg@comcast.net, Paul Dulberg pdulberg@icloud.com, T Kost tkost999@gmail.com

AT

From: Smith, Jackie <JYSmith@amundsendavislaw.com>
Sent: Thursday, January 4, 2024 2:33 PM
To: Alphonse Talarico <contact@lawofficeofalphonsetalarico.com>; 'jnboeder@tribler.com' <jnboeder@tribler.com>; 'docket@tribler.com' <docket@tribler.com>; 'George.Manos@lewisbrisbois.com' <George.Manos@lewisbrisbois.com>; 'Jason.Jochum@lewisbrisbois.com' <Jason.Jochum@lewisbrisbois.com>
Cc: Anto, Christine <CAnto@amundsendavislaw.com>; Resis, Michael <MResis@amundsendavislaw.com>
Subject: Paul Dulberg v. Kelly Baudin, et al. - Appellate Docket No. 1-23-1142 [IWOV-Active.FID1734930]

Attached please find a file stamped copy of Allstate's Response to Appellants' Motion to Consolidate Appeals filed in the First District Appellate Court on January 4, 2024. Thank you.

Jacqueline Y. Smith

AD Mentor and Legal Assistant to Michael Resis, Ellen L. Green, and Mari Ann Novy.

Jacqueline Y. Smith

Direct: 312.894.3301

jysmith@amundsendavislaw.com

150 North Michigan Avenue, Suite 3300, Chicago,
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2024-01-04
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Docket No. 1-23-1142

**IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

<p>PAUL R. DULBERG, Individually, and THE PAUL R. DULBERG REVOCABLE TRUST,</p> <p>Plaintiffs-Appellants,</p> <p>v.</p> <p>KELLY N. BAUDIN, <i>et al.</i>,</p> <p>Defendants-Appellees.</p>	<p>On Appeal From The Circuit Court of Cook County, Illinois County Department, Chancery Division</p> <p>Court No. 2022 L 10905</p> <p>The Honorable Michael F. Otto, Judge Presiding</p>
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**RESPONSE OF DEFENDANT-APPELLEE ALLSTATE PROPERTY & CASUALTY
COMPANY TO PLAINTIFFS-APPELLANTS' MOTION TO CONSOLIDATE APPEALS**

NOW COMES the defendant-appellee, ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY ("Allstate"), by and through the law firm of Amundsen Davis, LLC, and as and for its response and objection to the motion of the plaintiffs-appellants, PAUL R. DULBERG, individually and THE PAUL R. DULBERG REVOCABLE TRUST, to consolidate the appeals, states as follows:

1. The plaintiffs filed a five-count complaint against numerous defendants (R.C18-97). Counts I and II alleged legal malpractice against their former attorneys based on breach of fiduciary duty and fraudulent misrepresentation (R.C41-45). Count III named the bankruptcy trustee for the individual plaintiff's Chapter 7 Bankruptcy Estate, as well as the trustee's law firm and his law partner, alleging legal malpractice based on aiding and abetting a fraud (R.C45-47). Count IV was brought against ADR Systems of America, LLC ("ADR") for breach of contract in connection with the binding mediation of his claim for bodily injuries (R.C47-49). Finally, in count V the plaintiffs sued Allstate, which insured one of the defendants sued in the underlying action, for breach of contract

relating to the binding mediation (R.C49-50).

2. The plaintiffs have appealed from four separate orders disposing of all counts of the complaint. The first order dismissed count III in the defendants' favor on May 25, 2023, and further made the necessary Rule 304(a) findings (R.C668). The plaintiffs appealed this order within 30 days on June 26, 2023 (R.C932-37). The appeal is pending in this court under docket no. 1-23-1142. The record is 994 pages, including a report of proceedings from May 25, 2023, and ends with the request for preparation of the record, which the plaintiffs filed on July 10, 2023 (R.C953). The plaintiffs obtained leave to file the record on September 7, 2023.

3. The second order dismissed counts I and II in favor of the plaintiffs' former attorneys with prejudice based on statute of limitations grounds on August 29, 2023. The plaintiffs have not included this order as an exhibit to the motion to consolidate the appeals.

4. The third order granted summary judgment in favor of the defendant-appellee, Allstate, on count V of the complaint on September 21, 2023, and was stated to be final and appealable. The plaintiffs filed a notice of appeal from this order and the order of August 29, 2023 on October 19, 2023. This appeal was also apparently docketed under docket number 1-23-1142 on the basis that the plaintiffs were joining the prior appeal. Copies of the summary judgment order from September 21, 2023 and the notice of appeal filed on October 19, 2023 are not part of the record filed under docket number 1-23-1142, but are attached hereto as Group Exhibit A.

5. The fourth and last order, which dismissed count IV with prejudice, was entered in favor of the defendant, ADR, on October 31, 2023. The plaintiffs filed a notice of appeal from this order on November 27, 2023. This appeal was docketed in this court under docket number 1-23-2221. The plaintiffs-appellants have not provided this order or the notice of appeal with their motion to consolidate the appeals.

6. The plaintiffs' motion to consolidate is deficient on its face. Although the appeals may arise from the same case, the plaintiffs have not explained how a consolidation of the appeals will promote the efficient administration of justice. Their motion to consolidate, if granted, will achieve the opposite. The plaintiffs are using the second and third appeals to delay proceeding with briefing the first appeal since the record was filed on September 7, 2023, nearly four months ago, and to date they have not supplemented the record in order to pursue their second and third appeals.

7. The record as filed is incomplete for briefing and consolidation purposes. It ends with the request for preparation of the record on July 10, 2023, nearly six months ago. Allstate would not oppose the plaintiffs' motion if the plaintiffs demonstrated how consolidation promoted the efficient administration of justice and they had prepared, at their sole expense, a supplemental record that fully and fairly presented all questions involved in the three appeals pursuant to Illinois Supreme Court Rule 329. Their motion falls woefully short and demonstrates only unexcused delay.

8. The plaintiffs filed their motion to consolidate on December 11, 2023, and this court ordered the defendants to file a response on or before January 8, 2024.

9. Allstate objects to consolidation at this point as the plaintiffs have needlessly complicated and delayed the appeals by proceeding as they have above.

10. In further support of this response, the attorney's affidavit of Michael Resis is attached hereto.

WHEREFORE, the defendant-appellee, ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY, requests that the court deny the motion to consolidate the three appeals.

Respectfully submitted,

By: /s/Michael Resis
Attorney for Defendant-Appellee
ALLSTATE PROPERTY & CASUALTY
INSURANCE COMPANY

Michael Resis and Christine Anto
Amundsen Davis, LLC
150 North Michigan Avenue
Suite 3300
Chicago, Illinois 60601
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mresis@amundsendavislaw.com
canto@amundsendavislaw.com

GROUP EXHIBIT A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

PAUL R. DULBERG, Individually, and
THE PAUL R. DULBERG REVOCABLE
TRUST,

Plaintiffs,

v.

KELLY N. BAUDIN A/K/A BAUDIN &
BAUDIN, BAUDIN & BAUDIN AN
ASSOCIATION OF ATTORNEYS, LAW
OFFICES OF BAUDIN & BAUDIN,
BAUDIN & BAUDIN LAW OFFICES,
WILLIAM RANDAL BAUDIN II A/K/A
BAUDIN & BAUDIN, BAUDIN & BAUDIN
AN ASSOCIATION OF ATTORNEYS, LAW
OFFICES OF BAUDIN & BAUDIN,
BAUDIN & BAUDIN LAW OFFICES,
KELRAN, INC A/K/A THE BAUDIN LAW
GROUP, Ltd., JOSEPH DAVID OLSEN,
A/K/A YALDEN, OLSEN & WILLETTE
LAW OFFICES, CRAIG A WILLETTE,
A/K/A YALDEN, OLSEN & WILLETTE
LAW OFFICES, RAPHAEL E YALDEN II,
A/K/A YALDEN, OLSEN & WILLETTE
LAW OFFICES, ADR SYSTEMS OF
AMERICA, LLC., ASSUMED NAME ADR
COMMERCIAL SERVICES, ALLSTATE
PROPERTY AND CASUALTY INSURANCE
COMPANY,

Defendants.

No. 2022 L 10905

Calendar U

ORDER

This cause coming before the Court for hearing and ruling on Defendant Allstate Property and Casualty Insurance Company's Motion for Summary Judgment, Counsel for Plaintiff, Paul R. Dulberg, Individually, and The Paul R. Dulberg Revocable Trust ("Plaintiff"), Counsel for Defendant, Allstate Property and Casualty Insurance Company ("Allstate"), and Counsel for the "Olsen Defendants" all appearing before the Court, the Court having heard oral argument from Plaintiff and Defendant Allstate and having considered all briefs and exhibits, including Plaintiff's recently filed counter-affidavit, the Court being fully advised in the premises, IT IS HEREBY ORDERED:

1. Allstate's Motion for Summary Judgment is GRANTED for the reasons stated on the record. This is a final and appealable order.

Prepared by:

ENTERED:

Christine V. Anto
Michelle E. Tinajero
AMUNDSEN DAVIS, LLC (Firm ID. No. 42907)
150 North Michigan Avenue, Suite 3300
Chicago, Illinois 60601
T: (312) 894-3278
canto@amundsendavislaw.com
mtinajero@amundsendavislaw.com

Judge

Date

Judge Michael F. Otto

SEP 21 2023

Circuit Court – 2065

FILED DATE: 10/19/2023 8:36 PM 2022L010905

<p>Instructions ▼</p> <p>Check the box to the right if your case involves parental responsibility or parenting time (custody/visitation rights) or relocation of a child.</p> <p>Just below "Appeal to the Appellate Court of Illinois," enter the number of the appellate district that will hear the appeal and the county of the trial court.</p> <p>If the case name in the trial court began with "In re" (for example, "In re Marriage of Jones"), enter that name. Below that, enter the names of the parties in the trial court, and check the correct boxes to show which party is filing the appeal ("appellant") and which party is responding to the appeal ("appellee").</p> <p>To the far right, enter the trial court case number, the trial judge's name, and the Supreme Court Rule that allows the appellate court to hear the appeal.</p>	<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a). </div> <div style="text-align: right;"> FILED 10/19/2023 8:36 PM IRIS Y. MARTINEZ CIRCUIT CLERK COOK COUNTY, IL 2022L010905 24869576 </div> </div> <div style="text-align: center; margin: 20px 0;"> APPEAL TO THE APPELLATE COURT OF ILLINOIS </div> <div style="display: flex; justify-content: space-between; margin-bottom: 10px;"> <div style="width: 60%;"> FIRST <u>from the Circuit Court of</u> <u>Cook</u> </div> <div style="width: 35%; text-align: right;"> District County </div> </div> <div style="display: flex;"> <div style="flex: 1; padding-right: 10px;"> <p>In re _____</p> <p><u>Paul R. Dulberg and The Paul R. Dulberg Revocable</u> <u>Trust</u></p> <hr/> <p>Plaintiffs/Petitioners (<i>First, middle, last names</i>)</p> <p><input checked="" type="checkbox"/> Appellants <input type="checkbox"/> Appellees</p> <p>v.</p> <p><u>Kelly N. Baudin et al., Joseph David Olsen et al.,</u> <u>ADR Systems Of America L.L.C.</u> <u>Allstate Property and Casualty Insurance Company</u></p> <p>Defendants/Respondents (<i>First, middle, last names</i>)</p> <p><input type="checkbox"/> Appellants <input checked="" type="checkbox"/> Appellees</p> </div> <div style="flex: 1; padding-left: 10px; vertical-align: top;"> <p>Trial Court Case No.: <u>2022 L 010905</u></p> <p>Honorable <u>Michael F. Otto</u> Judge, Presiding</p> <p>Supreme Court Rule: <u>301</u></p> </div> </div>
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NOTICE OF APPEAL (CIVIL)

<p>In 1, check the type of appeal.</p> <p>For more information on choosing a type of appeal, see <i>How to File a Notice of Appeal</i>.</p>	<p>1. Type of Appeal:</p> <p><input type="checkbox"/> Appeal</p> <p><input type="checkbox"/> Interlocutory Appeal</p> <p><input checked="" type="checkbox"/> Joining Prior Appeal</p> <p><input type="checkbox"/> Separate Appeal</p> <p><input type="checkbox"/> Cross Appeal</p>
<p>In 2, list the name of each person filing the appeal and check the proper box for each person.</p>	<p>2. Name of Each Person Appealing:</p> <p>Name: <u>Paul R. Dulberg</u></p> <div style="display: flex; justify-content: space-between; font-size: small; margin-bottom: 5px;"> <i>First</i> <i>Middle</i> <i>Last</i> </div> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Plaintiff-Appellant </div> <div style="width: 45%;"> <input type="checkbox"/> Petitioner-Appellant </div> </div> <p style="text-align: center; margin: 10px 0;">OR</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Defendant-Appellant </div> <div style="width: 45%;"> <input type="checkbox"/> Respondent-Appellant </div> </div>

Name: The Paul R. Dulberg Revocable TrustFirstMiddleLast☒ Plaintiff-Appellant☐ Petitioner-Appellant

OR

☐ Defendant-Appellant☐ Respondent-Appellant

In 3, identify every order or judgment you want to appeal by listing the date the trial court entered it.

3. List the date of every order or judgment you want to appeal:05/25/2023Date08/29/2023Date09/21/2023Date

In 4, state what you want the appellate court to do. You may check as many boxes as apply.

4. State your relief:

- ☒ reverse the trial court's judgment (*change the judgment in favor of the other party into a judgment in your favor*) and ☒ send the case back to the trial court for any hearings that are still required;
- ☒ vacate the trial court's judgment (*erase the judgment in favor of the other party*) and ☒ send the case back to the trial court for a new hearing and a new judgment;
- ☒ change the trial court's judgment to say: Transcript of 9/21/23 and order of May 25, 2023 are in opposite and trial court statement that the case is over regarding all Defendants is incorrect,
- ☒ order the trial court to: acknowledge that Fraud (and Fraud on the Court) is alleged, that the Statute of Limitations began to run on October 28, 2022 pursuant to the "Discovery Rule", that Dulberg was legally disabled at all times herein, the automatic BK stay was
- ☒ other: violated, allow Appellants to supplement Record on Appeal to include a bystanders report showing that the Baudin Defendants refused 304(a) language in the 8/2923 order ect and grant any other relief that the court finds appropriate.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign by hand and print your name. Fill in your address, telephone number, and email address, if you have one.

/s/ Paul R. Dulberg
Your Signature4606 Hayden Ct.
Street AddressPaul R. Dulberg
Your NameMcHenry, IL 60051
City, State, ZIPPaul R. dulberg@comcast.net
Email(847) 497-4250
TelephoneAttorney # (if any)**Additional Appellant Signature**/s/ Thomas W. Kost, Trustee
Signature423 Dempster St.
Street AddressThomas W. Kost
NameMt. Prospect, IL/ 60056
City, State, ZIPtkost999@gmail.com
Email(847) 439-2198
TelephoneAttorney # (if any)

All appellants must sign this form. Have each additional appellant sign the form here and enter their complete name, address, telephone number, and email address, if they have one.

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.

PROOF OF SERVICE (You must serve the other party and complete this section)

In **1a**, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

In **1b**, check the box to show how you sent the document, and fill in any other information required on the blank lines.

In **1b**, check the box to show how you are sending the document.

CAUTION: If you and the person you are sending the document to have an email address, you **must** use one of the first two options. Otherwise, you may use one of the other options.

In **c**, fill in the date and time that you sent the document.

In **2**, if you sent the document to more than 1 party or lawyer, fill in **a**, **b**, and **c**. Otherwise leave **2** blank.

1. I sent this document:

a. To:

Name: Jeremy N. Boeder*First**Middle**Last*Address: 225 W. Washington St. #2550 Chicago Illinois 60606*Street, Apt #**City**State**ZIP*Email address: jnboeder@tribler.com

b. By:

☒ An approved electronic filing service provider (EFSP)☐ Email (*not through an EFSP*)*Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.*☐ Personal hand delivery to:☐ The party☐ The party's family member who is 13 or older, at the party's residence☐ The party's lawyer☐ The party's lawyer's office☐ Mail or third-party carrierc. On: 10/19/2023*Date*At: 4:55☐

a.m.

☒

p.m.

Time

2. I sent this document:

a. To:

Name: Jason W. Jochum*First**Middle**Last*Address: 550 W. Adams St. #300 Chicago Illinois 60661*Street, Apt #**City**State**ZIP*Email address: Jason.Jochum@lewisbrisbois.com

b. By:

☒ An approved electronic filing service provider (EFSP)☐ Email (*not through an EFSP*)*Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.*☐ Personal hand delivery to:☐ The party☐ The party's family member who is 13 or older, at the party's residence☐ The party's lawyer☐ The party's lawyer's office☐ Mail or third-party carrierc. On: 10/19/2023*Date*At: 4:55☐

a.m.

☒

p.m.

Time

In 3, if you sent the document to more than 1 party or lawyer, fill in a, b, and c. Otherwise leave 2 blank.

3. I sent this document:

a. To:

Name: Robert A. Chapman

First

Middle

Last

Address: 190 S. LaSalle St.#3850 Chicago, Illinois 60603

Street, Apt #

City

State

ZIP

Email address: rchapman@chapmanspingola.com

b. By:

☒ An approved electronic filing service provider (EFSP)

☐ Email (not through an EFSP)

Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address.

☐ Personal hand delivery to:

☐ The party

☐ The party's family member who is 13 or older, at the party's residence

☐ The party's lawyer

☐ The party's lawyer's office

☐ Mail or third-party carrier

c. On: 10/19/2023

Date

At: 4:55

☐

a.m.

☒

p.m.

Time

Under the Code of Civil Procedure, [735 ILCS 5/1-109](#), making a statement on this form that you know to be false is perjury, a Class 3 Felony.

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign by hand and print your name.

I certify that everything in the Proof of Service is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).

/s/ Alphonse A. Talarico

Your Signature

Alphonse A. Talarico

Print Your Name

6184530

Attorney # (if any)

Docket No. 1-23-1142

**IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

<p>PAUL R. DULBERG, Individually, and THE PAUL R. DULBERG REVOCABLE TRUST,</p> <p>Plaintiffs-Appellants,</p> <p>v.</p> <p>KELLY N. BAUDIN, <i>et al.</i>,</p> <p>Defendants-Appellees.</p>	<p>On Appeal From The Circuit Court of Cook County, Illinois County Department, Chancery Division</p> <p>Court No. 2022 L 10905</p> <p>The Honorable Michael F. Otto, Judge Presiding</p>
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AFFIDAVIT OF MICHAEL RESIS

I, MICHAEL RESIS, being first duly sworn upon my oath, depose and state as follows:

1. That I am an attorney, member of the law firm of Amundsen Davis, LLC, and one of the attorneys of record for the defendant-appellee, Allstate Property & Casualty Company, in the above-entitled appeal.
2. This affidavit is made in support of the defendant-appellee's response to the motion of the plaintiffs-appellants to consolidate three appeals.
3. True and complete copies of the trial court's order entered on September 21, 2023 and the plaintiffs' notice of appeal filed on October 19, 2023 are attached as Group Exhibit A to this response.
4. That all matters set forth in the response relating to the procedural history of the appeals are true to the best of your affiant's knowledge and belief.
5. That granting the plaintiffs' motion to consolidate will only delay the disposition of the appeals without promoting the efficient administration of justice.

I, Michael Resis, an attorney, certify under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, that I am an authorized member of the law firm of Amundsen Davis, LLC, and certify the statements set forth in this instrument are true and correct.

/s/ Michael Resis

Docket No. 1-23-1142

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<p>PAUL R. DULBERG, Individually, and THE PAUL R. DULBERG REVOCABLE TRUST,</p> <p>Plaintiffs-Appellants,</p> <p>v.</p> <p>KELLY N. BAUDIN, <i>et al.</i>,</p> <p>Defendants-Appellees.</p>	<p>On Appeal From The Circuit Court of Cook County, Illinois County Department, Chancery Division</p> <p>Court No. 2022 L 10905</p> <p>The Honorable Michael F. Otto, Judge Presiding</p>
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PROPOSED ORDER

THIS CAUSE having come to be heard on motion of the plaintiffs-appellants to consolidate three appeals, the defendant-appellee, Allstate Property & Casualty Company, having filed a response supported by attorney's affidavit, pursuant to notice and the Court being fully advised in the premises:

IT IS HEREBY ORDERED THAT: the plaintiffs-appellants' motion to consolidate the appeals is GRANTED/DENIED.

DATED: _____, 2024 _____
Justice

Michael Resis
Amundsen Davis, LLC
150 North Michigan Avenue, Suite 3300
Chicago, Illinois 60601
(312) 894-3200
mresis@amundsendavislaw.com

Docket No. 1-23-1142

**IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT**

<p>PAUL R. DULBERG, Individually, and THE PAUL R. DULBERG REVOCABLE TRUST,</p> <p>Plaintiffs-Appellants,</p> <p>v.</p> <p>KELLY N. BAUDIN, <i>et al.</i>,</p> <p>Defendants-Appellees.</p>	<p>On Appeal From The Circuit Court of Cook County, Illinois County Department, Chancery Division</p> <p>Court No. 2022 L 10905</p> <p>The Honorable Michael F. Otto, Judge Presiding</p>
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NOTICE OF FILING

TO: See Attached Service List

PLEASE BE ADVISED that on this 4th day of January 2024, we caused to be electronically filed with the Clerk of the Appellate Court of Illinois, First Judicial District, the attached response of the defendant-appellee, Allstate Property & Casualty Insurance Company, to the plaintiff-appellants' motion to consolidate, a copy of which, along with this notice of filing with proof of service, is served upon all attorneys of record.

Amundsen Davis, LLC

By: /s/Michael Resis
Attorney for Defendant-Appellee
ALLSTATE PROPERTY & CASUALTY
INSURANCE COMPANY

Michael Resis and Christine Anto
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mresis@amundsendavislaw.com
canto@amundsendavislaw.com

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT OF SERVICE

The undersigned, Jacqueline Y. Smith, a non-attorney, pursuant to the provisions of Section 1-109 of the Illinois Code of Civil Procedure, and Ill. S. Ct. R. 12, certifies that the statements set forth in this instrument are true and correct, and that I caused the foregoing notice of filing and response of defendant-appellee, Allstate Property & Casualty Insurance Company, to the plaintiffs-appellants' motion to consolidate to be sent to the parties listed below on this 4th day of January, 2024, by electronic mail and electronically through the Odyssey Electronic Service, from the offices of SmithAmundsen LLC.

/s/ Jacqueline Y. Smith

Alphonse A. Talarico
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