

IN THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

PAUL R. DULBERG, INDIVIDUALLY)
AND THE PAUL R. DULBERG)
REVOCABLE TRUST)
Plaintiffs,)
vs.)
THOMAS W. GOOCH, SABINA SERSHON,)
EDWARD X. CLINTON, JULIA WILLIAMS,) CASE NO. 25LA360
ALPHONSE TALARICO, GEORGE FLYNN,)
THOMAS J. POPOVICH, HANS MAST, THE)
GOOCH FIRM, CLINTON LAW FIRM,)
LLC., LAW OFFICE OF ALPHONSE A.)
TALARICO)
Defendants,)

**PLAINTIFFS' COMBINED LIMITED AND CONDITIONAL RESPONSE TO
DEFENDANTS POPOVICH AND MAST'S MOTION FOR ENLARGEMENT
OF TIME AND CLINTON AND WILLIAMS' MOTION FOR EXTENSION
OF TIME; AND PLAINTIFFS' NOTICE OF JUDICIAL DISQUALIFICATION
AND FORMAL OBJECTION; AND PLAINTIFFS EXPRESSLY PRESERVE
MANDAMUS AND APPELLATE RIGHTS CONCERNING DISQUALIFICATION
OF JUDGE BERG; AND PLAINTIFFS' MOTION TO DECLARE DISPOSITIVE
ORDERS GIVEN BY JUDGE BERG IN CASE NO. 17LA377 VOID AB INITIO**

NOW COME Plaintiffs, Paul R. Dulberg and the Paul R. Dulberg Revocable Trust ("Plaintiffs"), pro se, and submit this consolidated Responses, Objections, Notice, and Motion. Plaintiffs expressly preserve all rights to supervisory mandamus, prohibition, interlocutory review, appeal, and collateral relief, and state as follows:

I. COMBINED LIMITED AND CONDITIONAL RESPONSE TO DEFENDANTS POPOVICH AND MAST'S MOTION FOR ENLARGEMENT OF TIME AND CLINTON AND WILLIAMS' MOTION FOR EXTENSION OF TIME (SUBJECT TO OBJECTION)

1. Plaintiffs acknowledge that Defendants Popovich, Mast, Clinton and Williams were all served on December 11, 2025, and that the original responsive pleading deadline is January 12, 2026.

2. Plaintiffs acknowledge that Popovich and Mast's defense counsel entered appearances on

December 31, 2025 and that Clinton and Williams' defense counsel entered appearances on January 7, 2026.

3. Subject to, and expressly conditioned upon, resolution of the judicial conflict and disqualification issues set forth below, Plaintiffs do not object to a single, final enlargement of time to a date not to exceed February 12, 2026 for defendants Popovich and Mast. Additionally, Plaintiffs do not object to a single, extension of time to a date not to exceed February 4, 2026 for defendants Clinton and Williams.

4. Plaintiffs note that Defendants Popovich and Mast's Motion is internally inconsistent as Defendants' Motion requests an enlargement of time until February 13, 2026 in Paragraph 7 while requesting relief only through February 12, 2026 in the WHEREFORE clause.

(Exhibit EJ)¹

5. Plaintiffs object to any rolling, informal, or open-ended extensions for any of the defendants Popovich, Mast, Clinton or Williams.

II. NOTICE OF JUDICIAL DISQUALIFICATION AND FORMAL OBJECTION

6. Plaintiffs hereby place on the record a formal, unequivocal objection to any Motion being heard, ruled upon, or any order being entered by Judge Joel D. Berg.

7. Judge Berg has a documented conflict of interest involving Defendant Thomas J. Popovich. Judge Berg has recused himself in other cases involving Thomas J. Popovich, as reflected in file-stamped recusal orders. **(Exhibit BI-8)¹**

8. In underlying legal malpractice case No. 17LA377, Judge Berg issued dispositive rulings and court orders granting Thomas J. Popovich's Motions for Summary Judgment, despite the existence of a disqualifying conflict of interest.

9. Judge Berg was an active participant in underlying legal malpractice case 17LA377 and may possibly be called as a material witness during case 25LA360 proceedings. Judge Berg is mentioned around 17 times in the 25LA360 Complaint filed on December 4, 2025 (in paragraphs 13, 189, 191, 192, 224, 225).

¹ All exhibits are attached as separate files to this document under the paperclip icon in Adobe PDF software.

10. Under the Illinois Code of Judicial Conduct RULE 2.11: DISQUALIFICATION “(A) A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including, but not limited to, the following circumstances:”

“(1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer or personal knowledge* of facts that are in dispute in the proceeding.”

“(2) The judge knows* that the judge, the judge’s spouse or domestic partner,* a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:”

“(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.”

“(5) The judge:”

“(e) was a material witness concerning the matter; or

(f) previously presided as a judge over the matter in another court.”

11. Judge Berg’s previous file stamped self-recusals (**Exhibit BI-8**)¹ in cases involving Popovich in addition to requirements in Illinois Code of Judicial Conduct Rule 2.11, Section A(1) and Sections A(2)(c) and A(2)(d) and Sections A(5)(e) and A(5)(f) quoted above constitute objective, record-based evidence that disqualification is required.

12. On February 21, 2024 Dulberg filed a “COMPLAINT AGAINST A JUDGE FORM” against Judge Berg (**Exhibit EK-1**)¹ based on Judge Berg’s previous file-stamped recusal orders in cases involving defendant Popovich (**Exhibit BI-8**)¹.

13. The Illinois Judicial Inquiry Board provided no reason for any decision they took regarding Judge Berg’s previous recusals stating,

“Please note that the Board is prohibited, pursuant to the confidentiality provisions contained in its Constitutional authority and Rules of Procedure, from disclosing specifics regarding its deliberations, findings, or decision concerning any matter.” (**Exhibit EK-2**)¹

III. PLAINTIFFS EXPRESSLY PRESERVE MANDAMUS AND APPELLATE RIGHTS CONCERNING DISQUALIFICATION OF JUDGE BERG

14. Plaintiffs expressly preserve Mandamus and Appellate rights concerning the

¹ All exhibits are attached as separate files to this document under the paperclip icon in Adobe PDF software.

disqualification of Judge Berg and state for the record that:

- a. Any order or ruling entered by Judge Joel D. Berg after notice of this disqualification that is placed on the record is void or voidable;
- b. Plaintiffs do not waive, and expressly preserve, their right to seek supervisory mandamus, prohibition, interlocutory appeal, or post-judgment appeal or collateral relief concerning the disqualification of Judge Berg;
- c. Plaintiffs object to any substantive or procedural orders or rulings entered prior to reassignment to a neutral and unconflicted judge.

15. Plaintiffs further state that continued judicial action after notice of disqualification would constitute clear error, structural defect, and abuse of discretion, causing irreparable harm not remediable on ordinary appeal.

16. This objection is raised at the earliest practicable opportunity and is not waived by Plaintiffs' conditional participation and limited response to Defendants' Motions.

IV. MOTION TO DECLARE DISPOSITIVE ORDERS GIVEN BY JUDGE BERG IN CASE NO. 17LA377 VOID AB INITIO

17. Plaintiffs hereby move this Court for an Order declaring all dispositive court orders entered by Judge Joel D. Berg in Case No. 17LA377 to be void ab initio.

18. Judge Berg issued dispositive rulings in Case No. 17LA377, including orders granting Thomas J. Popovich's Motions for Summary Judgment, while laboring under a known and disqualifying conflict of interest.

19. A judgment or dispositive order entered by a judge who is constitutionally and ethically disqualified is **a nullity**, lacking judicial authority from its inception.

20. Because Judge Berg lacked authority to act in a dispositive capacity in Case No. 17LA377, the resulting summary judgment orders are **void ab initio**, not merely voidable.

21. Void orders may be challenged **at any time**, directly or collaterally, and cannot be cured by waiver, consent, or harmless-error analysis.

22. Allowing such orders to stand would undermine due process, public confidence in the judiciary, and the integrity of the judicial system.

V. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- A.** Take judicial notice of Plaintiffs' objection and Notice of Judicial Disqualification;
- B.** Require Judge Joel D. Berg to immediately recuse himself from this matter;
- C.** Reassign this case, including the pending Motions for Enlargement of Time and Extension of Time, to a neutral and unconflicted judge;
- D.** Stay or decline to rule on Defendants' Motions unless and until reassignment occurs;
- E.** If heard by an unconflicted judge, limit any enlargement of time to a single, final extension through a date certain not to exceed February 12, 2026 for Popovich and Mast and limit any extension of time to a single, final extension through a date certain not to exceed February 4, 2026 for Clinton and Williams;
- F.** Declare all dispositive court orders entered by Judge Joel D. Berg in Case No. 17LA377 void ab initio; and
- G.** Grant such other and further relief as the Court deems just and proper.

Respectfully submitted Pro se for Plaintiffs: PAUL R. DULBERG, INDIVIDUALLY
AND THE PAUL R. DULBERG REVOCABLE TRUST,

by: /s/ Paul R. Dulberg

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VERIFICATION BY CERTIFICATION PURSUANT TO SECTION 1-109

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 he verily believes the same to be true.

/s/ Paul R. Dulberg

Paul R. Dulberg