

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

PAUL R. DULBERG	)	
	)	
	)	
vs.	)	CASE NO. 25LA360
THOMAS W. GOOCH, <i>et al.</i> ,	)	
	)	
Defendants,	)	

**PLAINTIFF’S RESPONSE TO CLINTON DEFENDANTS’ MOTION TO DISMISS PURSUANT
TO 735 ILCS 5/2-619.1 AND 735 ILCS 5/2-603**

1. Defendants EDWARD X. CLINTON, JULIA WILLIAMS, and CLINTON LAW FIRM, LLC (collectively “Clinton Defendants”) seek dismissal under 735 ILCS 5/2-619.1, 735 ILCS 5/2-615 and 735 ILCS 5/2-603. The Clinton Defendants assert the following grounds:

735 ILCS 5/2-619 arguments:

Argument #1: “Plaintiff’s Claims Against the Clinton Defendants are Time-Barred”

Argument #2: “The Clinton Defendants were not the Proximate Cause of Plaintiff’s Alleged Damages”

Argument #3: “Clinton’s and William’s Discharge and Plaintiff’s Retention of Successor Counsel was a Superseding and Intervening Cause of Damages”

735 ILCS 5/2-615 arguments:

Argument #4: “Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Legal Malpractice.”

Argument #5: “Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Fraud”

Argument #6: “Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Civil Conspiracy”

735 ILCS 5/2-603 argument:

Argument #7: “Plaintiff Fails to Meet the Basic Pleading Requirements Under Sections 2-603”

2. The Motion should be denied. At the pleading stage, the Court must accept well-pleaded facts as true, draw reasonable inferences in Plaintiff’s favor, and may not resolve fact disputes regarding discovery, concealment, diligence, proximate cause, or alleged conspiratorial coordination. At minimum, if the Court believes any allegation requires clarification, Plaintiff requests leave to amend rather than dismissal with prejudice.

**PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #1:
“Plaintiff’s Claims Against the Clinton Defendants are Time-Barred”**

3. Accrual Is a Question of Fact Under the Discovery Rule. The Motion asserts that all alleged conduct occurred between November 2018 and July 27, 2020 and that the Complaint (filed December 8, 2025) is therefore untimely. That premise is incorrect and the argument fails because (i) the Motion relies on fixed “date math” that ignores Illinois accrual law for litigation malpractice

(actual damages) and Plaintiff's pleaded fraudulent concealment/tolling allegations, and (ii) the Motion's filing-date statement is wrong—the Complaint was FILED December 4, 2025 (file-stamped). In any event, the Motion's limitations argument fails because:

- a. Plaintiff pleads continuing concealment.
- b. Plaintiff pleads fraudulent suppression of evidence.
- c. Plaintiff pleads document manipulation and delayed production.
- d. Plaintiff pleads that key evidence (including Tilschner, bankruptcy records, forged certifications) was concealed until well after 2020.
- e. Plaintiff pleads systemic fraud affecting accrual.
- f. The appeal of 17LA377 did not come to rest until December 4, 2023 or later.
- g. The Motion separately cannot obtain dismissal on repose grounds because it acknowledges Clinton/Williams' representation ended July 27, 2020, and this action—filed December 4, 2025—was filed within six years of that date.

4. Under Illinois law (statutory framework and accrual rule): Accrual occurs when the plaintiff knew or reasonably should have known both: (i) of injury, and (ii) that it was wrongfully caused. This is the discovery-rule standard codified for legal malpractice in 735 ILCS 5/13-214.3(b) (two years from when plaintiff knew or reasonably should have known of the injury and that it was wrongfully caused).

- Repose: 735 ILCS 5/13-214.3(c) (six years from the act or omission). The Motion acknowledges Clinton/Williams' representation ended July 27, 2020; because Plaintiff filed on December 4, 2025, the claims are not barred by the six-year statute of repose.
- Fraudulent concealment tolling: 735 ILCS 5/13-215 (action may be commenced within five years after plaintiff discovers the cause of action where defendant fraudulently concealed it). In the fiduciary / attorney-client context, concealment may include silence where there is a duty to disclose material facts. *DeLuna v. Burciaga*, 223 Ill. 2d 49 (2006).

Where concealment or fraudulent suppression is alleged, accrual is a fact question not appropriate for dismissal.

5. Illinois Supreme Court authority makes clear that the “injury” in a legal-malpractice action is not the attorney's negligent act itself, but a pecuniary loss. *Northern Illinois Emergency Physicians v. Landau, Omahana & Kopka, Ltd.*, 216 Ill. 2d 294, 306-07 (2005). As Trial Handbook for Illinois Lawyers - Civil § 22:29 (**Exhibit 253**¹, underlined in blue) summarizes, a client is not injured “unless and until” a loss exists for which damages may be sought, and in the ordinary litigation-based “case within a case,” that loss generally arises upon the judgment, settlement, or dismissal of the underlying action. See *Tri-G, Inc. v. Burke, Bosselman & Weaver*, 222 Ill. 2d 218, 226 (2006); *Suburban Real Estate Servs., Inc. v. Carlson*, 2022 IL 126935, ¶¶ 17-19. Here, the underlying action, 17LA377, reached an adverse dispositive ruling in the circuit court on February 1, 2023, and Plaintiff pursued appellate remedies until appeal No. 2-23-0072 was dismissed on December 4, 2023. (**Exhibit DR-6**²). Thus, under Illinois accrual principles,

1. Exhibit 253 Docket No. 0295
2. Exhibit DR-6 Docket No. 0267

Plaintiff's claim cannot be pegged to mere awareness of alleged attorney error, but instead to the point at which the underlying litigation produced actual, compensable loss.

6. The Complaint specifically alleges the following tolling facts (among others): suppression of Tilschner evidence (Complaint ¶¶ 127–143); suppression/delayed production of thousands of documents through July 9, 2020 and related discovery manipulation (Complaint ¶¶ 146–160; and also ¶¶ 121–167); misrepresentation regarding bankruptcy relevance (Complaint ¶¶ 163–166); concealment of forged court reporter certifications and related irregularities (Complaint ¶¶ 173–181); and concealment of evidence of intentional tort committed by Popovich and Mast (Complaint ¶¶ 134–137). These allegations directly implicate tolling principles. Dismissal under §2-619 is improper where tolling and concealment are pled. Plaintiff also pleads that concealment continued and the “wrongful cause” of the adverse outcomes was intentionally obscured from Plaintiff and from the Court. Critically, on November 9, 2022, immediately after Clinton/Williams claimed in court they had “no memory” of Tilschner v. Spangler and related materials, Plaintiff received and forwarded to successor counsel evidence of a sophisticated document and information suppression system used in 17LA377. (**Exhibit DW¹**, **Exhibit ED-2²**, **Exhibit ED-3³**). This is pleaded at Complaint ¶ 188 and directly supports Plaintiff's tolling theory.

7. The Motion Misstates the Accrual Trigger in Legal Malpractice. The Motion attempts to tie accrual to:

- November 24, 2014 (bankruptcy filing), or
- February 1, 2023 (dismissal of 17LA377).

This framing ignores governing accrual principles in litigation malpractice (actual damages) and ignores Plaintiff's pleaded fraudulent concealment and tolling under 735 ILCS 5/13-215 and *DeLuna*. Even if the Court assumes (arguendo) that Plaintiff's injury and accrual could be pegged as early as February 1, 2023, dismissal still is improper because Plaintiff pleads fraudulent concealment and tolling, and because discovery and diligence are fact questions that cannot be resolved against Plaintiff on a motion to dismiss.

8. This ignores Plaintiff's central legal theory: The “injury” in a legal malpractice action is a pecuniary loss, not awareness of attorney error. The Complaint pleads that:

- The pecuniary injury (in underlying case 12LA178) materialized December 12, 2016 upon binding mediation award and loss realization.
- An intentional misinterpretation of the term “injury” infected 17LA377 and was perpetuated by Clinton and Williams.
- That this misinterpretation is itself part of the malpractice and fraud.

Because the statute-of-limitations calculation is itself a pleaded malpractice issue, it cannot be resolved on a 2-619 motion.

1. Exhibit **DW** Docket No. **0168**
2. Exhibit **ED-2** Docket No. **0155**
3. Exhibit **ED-3** Docket No. **0154**

9. The Motion’s time-bar argument fails. Plaintiff filed suit on December 4, 2025, within the six-year repose period measured from July 27, 2020, and the Complaint’s detailed allegations of fraudulent concealment, delayed production of material documents, suppression of key evidence, and fiduciary silence—including the November 9, 2022 concealment evidence and the December 4, 2023 termination of the 17LA377 appeal—foreclose dismissal at the pleading stage. Under Illinois law, the injury in a legal-malpractice action is a pecuniary loss, not mere awareness of attorney error, and in the ordinary case-within-a-case setting the limitations period ordinarily does not begin to run until an adverse judgment, settlement, or dismissal of the underlying action. Thus, even if the Court assumes an earlier accrual date than Plaintiff alleges, the face of the Complaint does not conclusively establish untimeliness, and the limitations, tolling, and diligence issues require factual development and cannot be resolved against Plaintiff on a section 2-619 motion.

**PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #2
“The Clinton Defendants were not the Proximate Cause of Plaintiff’s Alleged Damages”**

10. Clinton and Williams were succeeded by Talarico. Talarico participated in a systematic continuation of the scheme as documented in ¶ 169 to ¶ 213 of the Complaint including the following actions:

a. On February 17, 2022 Talarico informed Dulberg that Talarico discovered that presiding Judge Meyer has a conflict of interest with Popovich and that Judge Meyer self-recused in at least one previous case based on being friends with Popovich, yet Talarico never raised the issue in court during 17LA377. (Complaint ¶ 171 and **Exhibit CL**¹)

b. On May 24, 2022 document examination agency Omni completed their report on the 2 court reporter signatures which were subpoenaed (Paula Erickson and Margaret Orton) and found on 5 depositions in underlying case 12LA178. Omni found the signatures do not match known samples.(Complaint ¶ 181 and **Exhibits AJ1, AJ2, AJ3, AJ4, AJ5, AJ6, AJ7, AJ8, AJ9, AJ10, AJ11, AJ12, AJ13, AJ14, AJ15, AJ16**²). Talarico never raised these issues in court.

c. Talarico was informed in detail that Clinton and Williams deliberately suppressed key evidence of a certified slip ruling of Tilschner v Spangler that Dulberg provided to them and asked them to raise in court. Talarico was notified that Clinton and Williams and Gooch were all informed in writing on many occasions of the importance of this key evidence to Dulberg’s claims in 17LA377 (listed in Complaint ¶ 137 and Table 10).

d. On November 9, 2022, about one week after Clinton and Williams claimed in court that they had no memory of the case Tilschner v Spangler or the contents of “exhibit 12” of Mast’s deposition, Talarico was provided with evidence of a sophisticated system of document and information suppression used by Clinton-Williams against Dulberg and collaboration with opposing counsel Flynn in 17LA377 (**Exhibit DW**³, **Exhibit ED-2**⁴, **Exhibit ED-3**⁵) and described in ¶ 188 of the Complaint, but Talarico never raised the issue with the presiding Judge.

e. On March 3, 2023 Talarico deviously listed Dulberg as a Self Represented Litigant in the 17LA377 Notice of Appeal without Dulberg knowing it (**Exhibit CN**⁶). Talarico represented himself to Dulberg as if Talarico was Dulberg’s acting attorney

1. Exhibit **CL** Docket No. **0258**
2. Exhibits **AJ1-AJ16** Docket No.’s **0209-0224**
3. Exhibit **DW** Docket No. **0168**
4. Exhibit **ED-2** Docket No. **0155**
5. Exhibit **ED-3** Docket No. **0154**
6. Exhibit **CN** Docket No. **0256**

during the 17LA377 appeal process (Reviewing Court No: 2-23-0072) (**Exhibit CO¹**, **Exhibit CP²**) and Talarico continued to charge and collect Dulberg's fees the entire time (**Exhibit BN-7³**). Talarico also intentionally destroyed Dulberg's Supreme Court Petition while also deviously posing as Dulberg's retained attorney. All fees were paid monthly. (Complaint ¶ 195)

f. Communications records between Talarico and Dulberg, together with the one-page appeal / Supreme Court PLA (Petition for Leave to Appeal) timeline, demonstrate that Talarico held himself out to Dulberg as Dulberg's retained attorney during the appeal process (Reviewing Court No. 2-23-0072), including during the final appeal / Supreme Court PLA phase arising from the Judge Berg ruling in 17LA377. (**Exhibits EQ-1⁴, EQ-2⁵, and EQ-5⁸**)

g. Communications records, the one-page January 2024 timeline, the January 9, 2024 filing-return notice, and the related Supreme Court record materials demonstrate that Talarico held himself out to Dulberg as Dulberg's retained attorney for purposes of preparing and attempting to file the Supreme Court Petition in case number 25884372, which stemmed directly from Second District Appellate case number 2-23-0072 and 22nd Judicial Circuit Court case number 17LA377. (**Exhibits EQ-1⁴, EQ-2⁵, EQ-3⁶, EQ-4⁷, and EQ-5⁸**)

h. On September 26, 2023 Talarico accepted a \$10,000 retainer to pursue claims against Clinton and Williams and Gooch for "Fraud on the court, Civil rights violations, Reopening the bankruptcy, Etc".... (Complaint ¶ 210 and **Exhibit AT⁹**)

i. On May 29, 2024 Talarico intentionally lied to the Illinois Supreme Court about ever being retained to pursue claims against Clinton and Williams. Talarico later called the same claims against Clinton and Williams (that Talarico was retained to pursue) a "fantasy" "conspiracy theory" by Dulberg and Thomas Kost. (Complaint ¶ 208 and **Exhibit BY¹⁰**)

11. In addition, on November 12, 2022 Talarico was given a copy of the original Walgreens Rx receipt that Dulberg obtained on the day (June 28, 2011) Dulberg was injured with the chainsaw and that Dulberg gave to Popovich and Mast on December 1, 2011. Dulberg discovered the receipt copy on an old hard drive. (**Exhibit EP-1¹¹**). The receipt has a timestamp which was key evidence in underlying case 12LA178 showing the exact time Dulberg was at the pharmacy on the day Dulberg was injured with the chainsaw. Dulberg then realized that Popovich and Mast had deliberately cut the timestamp off the Walgreens Rx receipt and deliberately helped defendant Gagnon and the McGuire defendants intentionally lie in their depositions about the sequence of events that took place the day Dulberg was injured by the chainsaw. Popovich and Mast had cut up the Walgreens Rx receipt and removed and hid the timestamp (**Exhibit EP-2¹², Exhibit EP-3¹³, Exhibit EP-4¹⁴**) to make their own client Dulberg look like he was lying about going straight to the pharmacy from the hospital the day of Dulberg's injury and not directly back to the McGuire house from the hospital as Gagnon and Carolyn McGuire had falsely stated in their depositions. Talarico never raised this information during

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1. Exhibit **CO** Docket No. **0255**
 2. Exhibit **CP** Docket No. **0254**
 3. Exhibit **BN-7** Docket No. **0192**
 4. **Attached as:** Exhibit **EQ-1**_CallLog_312-608-1410_only.pdf
 5. **Attached as:** Exhibit **EQ-2**_CallLog_AllowedNumbers_Extracted_From_MyBill_01.25.pdf
 6. **Attached as:** Exhibit **EQ-3**_GroupEx50_Part13_SupremeCourtHyperlinks_KeyPages.pdf
 7. **Attached as:** Exhibit **EQ-4**_Pages 8329-8332 extracted from Docket No 0332_Group Exhibit 50_Part 13 of 13_File-Stamped.pdf
 8. **Attached as:** Exhibit **EQ-5**_CallLog_Timeline_OnePage_Landscape.pdf
 9. Exhibit **AT** Docket No. **0208**
 10. Exhibit **BY** Docket No. **0184**
 11. **Attached as:** Exhibit **EP-1**_2022-11-12_1047_SENT_Talarico_Fwd Walgreens original_with Attachments.pdf
 12. **Attached as:** Exhibit **EP-2**_2012-11-27_cut-up Walgreens RX receipt_POP000724-POP000727.pdf
 13. **Attached as:** Exhibit **EP-3**_2012-11-27_Dulberg's note about needing timestamp_DUL006350-6351.pdf
 14. **Attached as:** Exhibit **EP-4**_2012-11-27_Walgreens purged data report_DUL006687.pdf

17LA377.

12. Proximate causation in this case raises the legal question: Can successive lawyers or law firms have the power to ‘cancel out’ acts of malpractice and fraud by previously retained law firms or lawyers by intentionally concealing deceptive actions of the former law firm and by committing fraud and legal malpractice themselves to the same parallel end?

13. Clinton and Williams claim they cannot be the proximate cause of Dulberg’s pecuniary injury because Dulberg retained Talarico after Clinton and Williams withdrew as Dulberg’s counsel. But Talarico intentionally concealed the actions of Clinton and Williams from Dulberg and Talarico acted as described in ¶ 10 sections “a” to “i” and in ¶ 11 of this Response and in ¶ 169 to ¶ 213 of the Complaint to deliberately destroy Dulberg’s claims in 17LA377 and Dulberg’s ability to appeal (Reviewing Court No: 2-23-0072) the only order given by Judge Berg in 17LA377. Talarico deliberately acted in parallel with Clinton and Williams to destroy Dulberg’s claims against Popovich and Mast in 17LA377 (and, as further pleaded, the underlying personal injury claim context (12LA178 and BK 14-83578) and how the monetary loss was realized; the malpractice claim against Popovich/Mast (17LA377); and the malpractice and fraud claims against Clinton/Williams (this case, 25LA360))

14. The Motion claims Plaintiff must plead a “case within a case within a case.” Plaintiff has done so. The Motion’s “case within a case within a case” framing and its viability attacks are improper at the pleading stage because they ask the Court to resolve disputed factual issues and competing inferences regarding the underlying claims on a motion to dismiss.

15. The Complaint pleads (and pleads how the monetary loss was realized):

- Underlying negligence admission by Gagnon (Complaint ¶18)
- Suppression of that admission
- Bankruptcy jurisdictional misdirection
- Fraudulent binding mediation agreement
- Suppression of Tilschner legal theory
- Discovery manipulation

These are factual allegations supporting viability of:

- a. The personal injury claim. (12LA178, BK 14-83578)
- b. The malpractice claim against Popovich/Mast. (17LA377)
- c. The malpractice and fraud claims against Clinton/Williams. (25LA360)

16. At the pleading stage, Plaintiff is not required to prove ultimate success — only to plead sufficient facts. He has.

17. Illinois malpractice pleading requires (1) attorney-client relationship/duty, (2) breach, (3) proximate cause, and (4) damages.

Tri-G, Inc. v. Burke, Bosselman & Weaver, 222 Ill. 2d 218 (2006). Plaintiff has pleaded each element.

18. Plaintiff’s Complaint also pleads, with specificity and in chronological order, Clinton/Williams’ wrongful acts and omissions in 17LA377, including (among other items):

- Knowingly perpetuating an erroneous statute-of-limitations framing that was outcome-determinative (Complaint ¶116–118;

Exhibit 253¹

- Suppressing key evidence affecting viability (Tilschner v. Spangler and related “Exhibit 12” issues) (Complaint ¶¶127–143; ¶¶134–142).
- Delayed production / manipulation of discovery (Complaint ¶¶146–160; ¶¶121–167).
- Misrepresentation/avoidance of bankruptcy relevance and its effects on the litigation posture (Complaint ¶¶28–37; ¶¶163–166).
- Concealment of forged or irregular deposition certifications (Complaint ¶¶172–181).

19. Proximate cause and the “case within a case” inquiry cannot be resolved as a matter of law on the pleadings. Under Illinois law, proximate cause is ordinarily a question of fact, and a court may decide it as a matter of law only where the facts are undisputed and reasonable persons could draw only one inference. *Harrison v. Hardin Cnty. Cmty. Unit Sch. Dist. No. 1*, 197 Ill. 2d 466, 476 (2001); *Huang v. Brenson*, 2014 IL App (1st) 123231, ¶ 28. The Motion instead asks the Court to resolve disputed issues concerning the viability of the underlying claims, the effect of suppressed evidence, the consequences of delayed and manipulated discovery, and whether the record and litigation posture had already been materially compromised before Clinton and Williams withdrew. Those issues require factual development and are not proper grounds for dismissal under sections 2-615 or 2-619.

20. Plaintiff does not plead that successor counsel merely failed to fix an otherwise intact case. Plaintiff pleads that, before Clinton and Williams withdrew, they had already materially damaged the claim by perpetuating the accrual theory they now invoke, suppressing or mishandling key evidence, delaying and manipulating discovery, and shaping the record and litigation posture in ways successor counsel inherited. This is not a case where the face of the pleadings establishes, as in *Mitchell* and *Land*, that successor counsel indisputably received a fully viable claim with a clear opportunity to cure as a matter of law. See *Mitchell v. Schain, Fursel & Burney, Ltd.*, 332 Ill. App. 3d 618, 621-22 (2002); *Land v. Greenwood*, 133 Ill. App. 3d 537 (1985). Accepting the Complaint’s allegations as true, Plaintiff has adequately pleaded proximate cause, and the Motion’s contrary theory depends on factual determinations that cannot be made against Plaintiff at the motion-to-dismiss stage.

**PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #3:
“Clinton’s and William’s Discharge and Plaintiff’s Retention of Successor Counsel was a
Superseding and Intervening Cause of Damages”**

21. The Motion argues that Plaintiff’s retention of Talarico automatically breaks proximate causation. Illinois law recognizes no such automatic rule. Where there are successive actors, later conduct relieves the original actor of liability only if the later conduct was an independent and unforeseeable superseding cause as a matter of law; where varying inferences are possible, foreseeability and superseding cause remain factual questions. *Huang*, 2014 IL App (1st) 123231, ¶ 28; *Thomas v. Khoury*, 2021 IL 126074, ¶ 6. Here, Plaintiff pleads the opposite of severance: he pleads that successor counsel was given detailed notice of Clinton/Williams’

1. Exhibit 253..... Docket No. 0295

suppression and concealment, yet acted in ways consistent with continued concealment rather than cure, as described in ¶ 10(a)-(i), ¶ 11 of this Response, and Complaint ¶¶ 169-213. On those pleaded facts, whether the underlying claim remained fully viable when Clinton and Williams withdrew, and whether any later conduct was a superseding cause, cannot be resolved against Plaintiff on the pleadings.

22. The Complaint alleges Talarico's misconduct was itself part of a continuing coordinated scheme (Complaint Count VI). Thus, the superseding-cause argument depends on rejecting Plaintiff's conspiracy allegations — which cannot be done on a 2-619 motion.

23. Here, Plaintiff pleads that successor counsel (Talarico) did not “break the chain,” but continued and concealed the same damage mechanisms. Plaintiff pleads a continuing coordinated scheme and overt acts (Complaint ¶¶169–213; Count VI), which cannot be rejected at the pleading stage.

24. As alleged in the Complaint and consistent with ¶ 10 and ¶ 11 above, successor counsel was provided detailed notice of Clinton/Williams' suppression and concealment but did not cure it and instead acted in ways consistent with continued concealment (to this day):

a. February 17, 2022: conflict information regarding Judge Meyer and Popovich (Complaint ¶171; **Exhibit CL**).

b. May 24, 2022: Omni signature comparison findings regarding court reporter signatures (Complaint ¶181; **Exhibits AJ1, AJ2, AJ3, AJ4, AJ5, AJ6, AJ7, AJ8, AJ9, AJ10, AJ11, AJ12, AJ13, AJ14, AJ15, AJ16**).

c. November 9, 2022: successor counsel was provided “smoking gun” suppression evidence (Complaint ¶188; **Exhibit DW**³, **Exhibit ED-2**⁴, **Exhibit ED-3**⁵).

d. March 3, 2023 and thereafter: appeal-related conduct, representation posture, and downstream events (Complaint ¶195 and related exhibits), including the December 4, 2023 appeal dismissal (**Exhibit DR-6**⁶), the January 2024 Supreme Court PLA drafting / submission / filing-return / hyperlink-instruction / withdrawal sequence summarized in **Exhibit EQ-5**⁷, the January 9, 2024 transaction-rejected filing-return notice showing that the PLA in case number 25884372 had been submitted on January 8, 2024 by Alphonse Talarico as filing attorney and was returned with instructions to cure and resubmit by motion for leave to file instanter (**Exhibit EQ-4**⁸), and the related Supreme Court record materials attached in this Response (see **Exhibit EQ-3**⁹).

25. The Motion's superseding-cause argument depends on treating Talarico's conduct as independent and severing. Plaintiff pleads the opposite: Talarico's conduct is pleaded as concealment/continuation, not severance. Whether there was an independent superseding cause cannot be resolved against Plaintiff on a motion to dismiss when Plaintiff pleads coordinated conduct and conspiracy.

1. Exhibit **CL** Docket No. **0258**

2. Exhibits **AJ1-AJ16** Docket No.'s **0209-0224**

3. Exhibit **DW** Docket No. **0168**

4. Exhibit **ED-2** Docket No. **0155**

5. Exhibit **ED-3** Docket No. **0154**

6. Exhibit **DR-6** Docket No. **0267**

7. **Attached as:** Exhibit **EQ-5**_CallLog_Timeline_OnePage_Landscape.pdf

8. **Attached as:** Exhibit **EQ-4**_Pages 8329-8332 extracted from Docket No 0332_Group Exhibit 50_Part 13 of 13_File-Stamped.pdf

9. **Attached as:** Exhibit **EQ-3**_GroupEx50_Part13_SupremeCourtHyperlinks_KeyPages.pdf

**PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #4:
“Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Legal Malpractice.”**

26. The requirements for a legal malpractice claim in Illinois are (1) the existence of formal attorney client relationship, (2) proof of the breach of the attorney’s responsibility, (3) proximate causation, and (4) monetary damage due to the attorney’s breach. *Tri-G, Inc. v. Burke, Bosselman & Weaver, 222 Ill. 2d 218 (2006)*.

27. The existence of a formal attorney client relationship is not being questioned.

28. The Motion argues Plaintiff fails to plead “but for” causation. This is incorrect. The Complaint pleads that:

- Clinton/Williams perpetuated erroneous statute-of-limitations framing (Complaint ¶116–118)
- Suppressed evidence affecting viability (Complaint ¶127–143)
- Failed to produce discovery impacting litigation posture (Complaint ¶146–160)
- Misrepresented binding mediation origins (Complaint ¶119)

These are specific factual allegations, and Plaintiff also pleads causation and damages through the dismissal and loss of remedies in 17LA377 and its appellate chain.

29. Specific factual allegations concerning legal malpractice and fraud claims against Clinton and Williams actions in 17LA377 are described in ¶ 108 to ¶ 168 of the Complaint in chronological order, including:

- a. Clinton and Williams knowingly and intentionally misinformed Dulberg how to calculate the Statute of Limitations by deliberately misrepresenting statements underlined in blue in **Exhibit 253**¹ to Dulberg and to the court. Gooch and Sershon claimed the Statute of Limitations is calculated from the day Dulberg knew or should have known of any “injury” caused by Mast and/or Popovich. The Second Amended Complaint was intentionally crafted by Clinton and Williams with the same misrepresentation of the statements underlined in blue in **Exhibit 253**¹ (of how to calculate statute of limitations) that Gooch placed in the original Complaint and the First Amended Complaint. (Complaint ¶118)
- b. Clinton and Williams never informed Dulberg that the 12LA178 record contains an admission of negligence by Gagnon for Dulberg’s chainsaw injury as early as March, 2013 (more than 20 months before Dulberg declared bankruptcy, more than 41 months before Dulberg was forced into binding mediation with an ‘upper cap’ of \$300,000 placed on the value of the case). (Complaint ¶ 216 (b) and **Exhibit 112**²).
- c. Clinton and Williams did not mention anything about Dulberg’s bankruptcy in the Complaint or in any court record (Except once, see Complaint ¶ 165) even though BK 14-83578 was the underlying case of legal malpractice case 17LA377 and the case 12LA178 had become a protected asset of the bankruptcy estate from the time Dulberg declared bankruptcy. (Complaint ¶ 28 to ¶ 37)
- d. Clinton and Williams focused only on the settlement with the McGuire defendants in underlying personal injury case 12LA178 and ignored everything related to co-defendant Gagnon. (Complaint ¶ 111 to ¶ 114)
- e. Clinton and Williams intentionally and systematically suppressed key evidence of a certified slip opinion of the Appellate Court ruling Tilschner v Spangler and then acted as if neither Clinton or Williams have any memory of being informed repeatedly by Dulberg and Kost of the key evidence Tilschner v Spangler. (Complaint ¶ 137)

1. Exhibit 253..... Docket No. 0295

2. Exhibit 112 Docket No. 0113

f. Clinton and Williams were first informed of “smoking gun” evidence of Popovich and Mast committing intentional tort (fraud) on July 8, 2019 due to the discovery of Mast and Popovich offering to settle the McGuire claim on behalf of Dulberg with McGuire’s attorney Barch for \$7,500 on October 22, 2013. Since Mast first explained to Dulberg that the McGuire defendants were not responsible for Dulberg’s chainsaw injury because the ruling *Tilschner v Spangler* demonstrates that the Restatement of Torts 318 is not applicable in Illinois on November 20, 2013, the fact that Popovich and Mast already offered to settle the claim with the McGuire defendants about 1 month earlier proves that Popovich and Mast made the October 22, 2013 offer without Dulberg’s knowledge or consent. By suppressing the document *Tilschner v Spangler* from the 17LA377 court record and by not bates-stamping the document and producing the document to opposing counsel and by excluding the document from “exhibit 12” of the Mast deposition, Clinton and Williams knowingly suppressed this “smoking gun” evidence of Popovich and Mast committing fraud against Dulberg. (Complaint ¶ 134 to ¶ 142)

g. Clinton and Williams used a sophisticated system of document and information suppression including: Suppression of key evidence *Tilschner v Spangler*, suppressing over 3,400 pages of documents from May 30, 2019 to July 9, 2020 and producing them to opposing counsel after taking 2 depositions and about 3 weeks before Clinton and Williams resigned as counsel, systematically suppressing large sections of emails before producing emails to opposing counsel, and more. (Complaint ¶ 121 to ¶ 167)

h. Since May 30, 2019 Clinton and Williams never informed Dulberg of or addressed issues around missing signatures on the certification pages in depositions purportedly created by VAHL REPORTING SERVICE LTD. (Complaint ¶ 173)(**Exhibit AJ17**)¹ Additionally Clinton and Williams never informed Dulberg of the 2019 dates found on depositions taken in 2013 with missing signatures of court reporters on the certification pages¹ in depositions purportedly created by URBANSKI REPORTING CO., INC. (Complaint ¶ 172) (**Exhibits EE-1, EE-2, EE-3, EE-4, EE-5**)²

i. Clinton and Williams deliberately placed factually incorrect statements on the record on Dulberg’s behalf concerning the origin of source of the \$300,000 “upper cap” placed on the value of personal injury case 12LA178. (Complaint ¶ 119)

j. Clinton and Williams informed Dulberg that Dulberg cannot issue a subpoena to bankruptcy trustee Megan Heeg because she already retired so subpoenaed documents are unavailable to Dulberg. (Complaint ¶ 167)

k. Clinton and Williams deliberately waited until hours after Dulberg’s deposition in legal malpractice case 17LA377 to provide Dulberg with documents from the subpoena of McGuire’s attorney Ron Barch even though Dulberg had been asking for the subpoenaed documents for months and Clinton and Williams provided many of the subpoenaed documents to opposing counsel Flynn months earlier. (Complaint ¶ 167)

30. The Motion’s argument improperly attempts to resolve contested legal and factual issues such as those listed as “a” to “k” in ¶ 29 of this Response and the actions of Clinton and Williams described in ¶ 108 to ¶ 168 of the Complaint.

31. The Motion seeks to litigate the “but for” case-within-a-case merits at the pleading stage. Plaintiff is not required to prove ultimate success in the underlying case at the motion-to-dismiss stage; Plaintiff is required to plead facts that, if proven, establish viability and causation. Plaintiff has done so.

32. These allegations are not conclusions; they are detailed factual assertions tied to dates, litigation steps, and exhibits. They are sufficient to state claims under 2-615.

PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #5: “Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Fraud”

1. Attached as: Exhibit **AJ17**_Pages 434_410-411_825-826_888-889_1158-1159_extracted from Docket Numbers 0359 and 0356.pdf
2. Exhibits **EE-1 to EE-5** Docket No.’s **0149-0153**

33. In Illinois, the plaintiff asserting a common law fraud claim (also called actual or legal fraud) must plead and prove that:

- The defendant made a false statement of material fact
- The defendant made the statement with the knowledge that it was false.
- The defendant intended the statement to induce the plaintiff to act.
- The plaintiff reasonably and justifiably relied on the false statement.
- The plaintiff suffered damages due to reliance on the false statement.

(See *Soules v. Gen. Motors Corp.*, 79 Ill. 2d 282, 286 (1980); *Abazari v. Rosalind Franklin Univ. of Med. & Sci.*, 2015 IL App (2d) 140952, ¶ 14 (noting intentional misrepresentation is another name for fraud); *Schrager v. N. Cmty. Bank*, 328 Ill. App. 3d 696, 703 (2002) (noting that fraudulent misrepresentation is a form of common law fraud in Illinois).) Fraud must be pleaded with sufficient particularity to put defendants on notice of the claim.

34. The Motion claims fraud is conclusory. The Complaint alleges:

- Specific false statements and omissions concerning the \$300,000 “upper cap” origin (Complaint ¶119);
- Specific document suppression. (including Tilschner suppression and “no memory”/disclosure representations). (Complaint ¶127–143; ¶137)
- Specific deposition manipulation and certification/forgery concealment. (Complaint ¶172–181)
- Specific manipulation/withholding of discovery and delayed production. (Complaint ¶146–160; ¶121–167)
- Specific concealment/avoidance of bankruptcy facts and litigation consequences. (Complaint ¶28–37; ¶163–166)
- Specific statements on record.
- Knowledge of falsity.
- Reliance.
- Injury.

35. Fraud must be pled with specificity. Specific factual allegations concerning fraud claims against Clinton and Williams actions in 17LA377 are described in ¶ 108 to ¶ 168 of the Complaint in chronological order, including actions labeled “a” to “k” in ¶ 29 of this Response. The Complaint spans 88 pages detailing dates, documents, exhibits, and conduct. This satisfies Rule 2-603 and Illinois fraud pleading standards.

36. The Motion’s characterization of the fraud allegations as conclusory is inconsistent with the Complaint’s detailed chronology, citations to exhibits, and identification of the specific litigation acts/omissions alleged to have been intentionally deceptive.

PLAINTIFF’S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS’ ARGUMENT #6:

“Plaintiff Failed to Plead Sufficient Predicate Facts to State a Claim for Civil Conspiracy”

37. Concert of action exists when two or more persons perform wrongful acts pursuant to a common design or one person gives substantial assistance to another knowing that the other’s conduct constitutes a breach of legal duty. Civil conspiracy involves two or more persons who combine for the purpose of accomplishing, by their concerted action, either a lawful purpose by unlawful means or an unlawful purpose by lawful means. *Smith v. Eli Lilly & Co.*, 137 Ill. 2d 222 (1990); *Vance v. Chandler*, 231 Ill. App. 3d 747 (1992). Illinois civil conspiracy requires (1) an agreement between two or more persons to accomplish an unlawful purpose or a lawful purpose by unlawful means, and (2) an overt act in furtherance of the agreement that causes damages. *Adcock*

v. Brakegate, Ltd., 164 Ill. 2d 54 (1994). The agreement element may be inferred from circumstantial evidence, including parallel conduct and coordinated acts.

38. A conspirator need not participate in all activities of a conspiracy, nor become a member at its inception. It is only necessary that he knowingly contribute his efforts in furtherance of it.

39. The basis of the legal theory of concert of action is found in Section 876 of the Restatement (Second) of Torts (1979). That section provides that a person can be legally liable for harm resulting to a third person from the tortious conduct of another if that person:

- a. does a tortious act in concert with the other or pursuant to a common design with him;
- b. knows that the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other to so conduct himself; or
- c. gives substantial assistance or encouragement to the other in accomplishing a tortious result, and his own conduct, separately considered, constitutes a breach of duty to the third person.

40. The Motion argues lack of specific agreement allegations. Illinois law allows conspiracy to be pled circumstantially. The Complaint pleads:

- Parallel conduct,
- Coordinated avoidance/misdirection regarding bankruptcy issues,
- Coordinated litigation positions,
- Coordinated misrepresentation of Tilschner.
- Coordinated accrual framing,
- Downstream continuation of concealment through successor counsel (as pleaded at Complaint ¶¶169–213).
- Coordinated suppression and concealment mechanisms,

41. The Complaint pleads coordinated acts from which an agreement may reasonably be inferred: Gooch first advanced the same erroneous accrual framing, and Clinton/Williams then carried that same framing into the amended pleadings and litigation positions in 17LA377; the same omission and avoidance of the bankruptcy issues and their effect on the underlying claims was maintained despite Plaintiff's repeated directions to include them; the same suppression of Tilschner and the "Exhibit 12" material continued despite direct notice; and the same pattern of discovery handling—late, segmented, and obscuring production of material documents—was preserved rather than corrected, and later continued by successor counsel after being informed of the prior concealment. Taken together, these are not isolated acts, but aligned acts supporting a reasonable inference of a common design or agreement to maintain the same defective narrative, suppress material facts, and protect prior counsel at Plaintiff's expense. (Complaint ¶¶ 116–118, 127–143, 146–160, 163–166, 188–189, 221, 225–226.)

42. Civil conspiracy rarely involves a direct written agreement; it is routinely proven through inference from coordinated acts. At pleading stage, circumstantial inference suffices. Plaintiff has pleaded sufficient facts to proceed beyond the pleadings.

PLAINTIFF'S RESPONSE TO DEFENDANTS CLINTON AND WILLIAMS' ARGUMENT #7:

“Plaintiff Fails to Meet the Basic Pleading Requirements Under Sections 2-603”

43. The Complaint is cleanly divided into the following sections:

- ¶ 1 to ¶ 5..... (pages 1, 2) NATURE OF THE CASE
- ¶ 6, ¶ 7..... (page 2 to 4) PARTIES
- ¶ 8, ¶ 9..... (pages 4, 5)..... JURISDICTION AND VENUE
- ¶ 11 to ¶ 14 (pages 5 to 8)..... SUMMARY OF UNDERLYING CASES¹
- ¶ 15 to ¶ 60..... (pages 8 to 18) RELEVANT FACTS OF UNDERLYING CASES 12LA178 and BK 14-83578²
- ¶ 61 to ¶ 213 (pages 18 to 76) .. RELEVANT FACTS OF UNDERLYING CASE 17LA377³
 - ¶ 61 to ¶ 106 (pages 18 to 23) .. Gooch-Sershon timeline
 - ¶ 108 to ¶ 168 (pages 32 to 59) .. Clinton-Williams timeline
 - ¶ 169 to ¶ 194 (pages 59 to 69) .. Talarico timeline
 - ¶ 195 to ¶ 213 (pages 69 to 76) .. Talarico timeline of intentionally destroying 17LA377 appeal (2-23-0072)⁴
- ¶ 214 to ¶ 226 ••• (pages 76 to 88) • COUNTS 1 THROUGH 6 LISTED IN ORDER

44. The specific table of contents in ¶ 43 (of this Response) allows us to see that the only sections that are noticeably large are the “RELEVANT FACTS” of underlying legal malpractice case 17LA377 (¶ 61 to ¶ 213, pages 18 to 76 of the Complaint). This section contains 58 pages and 152 paragraphs. The section on case 17LA377 “RELEVANT FACTS” consists of a chronological timeline of the relevant actions of Gooch and Sershon (¶ 61 to ¶ 106 of the Complaint) followed by a chronological timeline of the relevant actions of Clinton and Williams (¶ 108 to ¶ 168 of the Complaint) followed by a chronological timeline the relevant actions of Talarico during case 17LA377 (¶ 169 to ¶ 194 of the Complaint), followed by a timeline of the relevant actions of Talarico intentionally destroying any possibility for Dulberg to appeal (Reviewing Court No: 2-23-0072) Judge Berg’s only ruling of 17LA377 (¶ 195 to ¶ 213 of the Complaint).

45. Clinton and Williams stated the following:

“the pleading requirements set out in Section 2-603(a) of the Code of Civil Procedure specifically state that “all pleadings shall contain a plain and concise statement of the pleader’s cause of action, counterclaim, defense, or reply.” Id.”

“The instant 226-paragraph, 88 page document is a convoluted saga of irrelevant and lengthy anecdotes that do nothing more than confuse the Defendants—inherently violating the ‘plain and concise’ standard under Section 2-603(a). Accordingly, Plaintiff’s Complaint should be dismissed as procedurally improper.”

46. Using the table of contents listed in ¶ 43 of this Response, Clinton and Williams can address specific concerns by answering

1. Titled “SUMMARY OF UNDERLYING LEGAL MALPRACTICE CASE 17LA377, RELATED LEGAL MALPRACTICE CASE 22L010905 AND THEIR UNDERLYING CASES 12LA178 AND BK 14-83578 COMMON TO ALL COUNTS”

2. Titled “RELEVANT FACTS OF UNDERLYING PERSONAL INJURY CASE 12LA178 AND BANKRUPTCY CASE 14-83578 COMMON TO ALL COUNTS”

3. Titled “RELEVANT FACTS OF LEGAL MALPRACTICE CASE 17LA377 COMMON TO ALL COUNTS”

4. Titled “HOW TALARICO INTENTIONALLY DESTROYED DULBERG’S ATTEMPT TO APPEAL THE FINAL DECISION IN 17LA377 WHICH IS UNMISTAKABLY AT VARIANCE WITH ILLINOIS LAW”

the following specific questions:

Question 1: Which specific sections of the Complaint are unnecessary to the Complaint?

Question 2: Within each section, which specific paragraphs are not relevant to the Complaint?

(concerning the largest single section of the Complaint titled “RELEVANT FACTS”):

Question 3: Which specific paragraphs in the Gooch-Sershon chronological timeline (§ 61 to § 106 of the Complaint) are not relevant to the Complaint or not supported by evidence?

Question 4: Which specific paragraphs in the Clinton-Williams chronological timeline (§ 108 to § 168 of the Complaint) are not relevant to the Complaint or not supported by evidence?

Question 5: Which specific paragraphs in the Talarico chronological timeline (§ 169 to § 194 of the Complaint) are not relevant to the Complaint or not supported by evidence?

Question 6: Which specific paragraphs in the Talarico timeline of destroying Dulberg’s ability to appeal (Reviewing Court No: 2-23-0072) the only Judge Berg ruling in the case 17LA377 (§ 195 to § 213 of the Complaint) are not relevant or not supported by evidence?

Any claim of Clinton and Willims concerning the current format of the Complaint should be argued using specific arguments concerning specific paragraphs or sections examined on a paragraph-by-paragraph basis.

47. After review of the concerns of Clinton and Williams concerning the Complaint’s format, Dulberg reaffirms that all sections and paragraphs in the Complaint are relevant, are necessary to the claims being raised by Dulberg in the Complaint and supported by evidence. All paragraphs are placed in specific sections in a specific (chronological) order according to the table of contents in § 43 of this Response. The largeness of the section “RELEVANT FACTS” can be explained by two factors:

- a. Timelines of the actions in case 17LA377 of Gooch and Sershon must be placed in succession with the timeline of the actions of Clinton and Williams and in succession with the timeline of the actions of Talarico to record facts relevant to Dulberg’s claims in the Complaint involving 3 law firms over a period of over 4 years.
- b. Each retained attorney successively engaged in many coordinated acts of intentional deception against Dulberg and it is necessary to record each act of intentional deception in the Complaint.

48. The Motion claims the Complaint is too long and narrative. Length is not a ground for dismissal.

<u>Section 2-603 requires:</u>	<u>The Complaint:</u>	<u>The factual detail is necessary because:</u>
• Separate counts,	• Separates Counts I–VI,	• Multiple underlying cases,
• Numbered paragraphs,	• Clearly identifies legal theories,	• Multiple counsel,
• Separate causes of action.	• Identifies defendants by count,	• Bankruptcy jurisdiction,
	• States specific relief requested.	• Appellate procedures,
		• ARDC proceedings,
		• Discovery manipulation,
		• Forged certifications.

This is a complex litigation history. Complex facts do not violate 2-603. Section 2-603 requires pleadings to contain a plain and concise statement. It does not impose a rigid page limit and does not authorize merits dismissal simply because a case involves complex facts. Plaintiff's Complaint is organized into numbered paragraphs, separate counts, and a structured chronology.

49. Clinton Defendants' "too long / narrative" objection is not a basis to dismiss viable causes of action with prejudice. If the Court believes any portion should be narrowed or clarified, the proper remedy is to order repleading, strike limited surplusage, or grant leave to amend—not dismissal with prejudice, particularly where Defendants plainly understand and have responded to the allegations in detail.

LEAVE TO AMEND

50. Even where defects exist, dismissal with prejudice is disfavored unless amendment would be futile. *Loyola Academy v. S & S Roof Maintenance*, 146 Ill. 2d 263, 273 (1992).

51. If the Court finds any pleading deficiency, amendment — not dismissal with prejudice — is appropriate.

RELIEF REQUESTED

WHEREFORE, Dulberg respectfully request that this Court:

1. DENY the Clinton Defendants' Motion to Dismiss; and
2. ORDER the Clinton Defendants to file an Answer or otherwise plead within a date certain set by the Court; and
3. Alternatively, if the Court finds any pleading deficiency, grant leave to amend rather than dismissal with prejudice; and
4. Grant such other and further relief as the Court deems just.

Submitted 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 and its exhibits 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 Date: **3/13/2026**
Paul R. Dulberg

CERTIFICATE OF SERVICE

I certify that on **3/13/2026**, I served this document on all counsel/parties of record via eFileIL/EFSP electronic service to the extent available, and by email to any party not on eFile service.

/s/ Paul R. Dulberg Date: **3/13/2026**