

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

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

**PLAINTIFF'S RESPONSE TO DEFENDANTS THOMAS J. POPOVICH AND HANS
MAST'S MOTION TO TREAT THE REJECTED FILING AS TIMELY SUBMITTED
(2025LA000360--2026-02-17--MOT_0425)**

1. Plaintiff responds to Defendants Thomas J. Popovich and Hans Mast's filed Motion to Treat the Rejected Filing as Timely Submitted, identified as 2025LA000360--2026-02-17--MOT_0425.
2. According to MOT_0425, the Clerk accepted Defendants' Motion to Dismiss and Exhibits 1-20, but rejected Exhibits 21-29 because the dismissal filing was submitted as a single document attached as multiple PDFs.
3. Plaintiff does not oppose a purely ministerial order under Illinois Supreme Court Rule 9(f) deeming rejected Exhibits 21-29 filed as of the original submission date, provided the Court finds that Rule 9(f) is satisfied and provided the order is limited to filing-date relief.
4. Plaintiff does, however, object to any suggestion that granting MOT_0425 cures the independent procedural defects of the filed Motion to Dismiss now in the record. Rule 9 addresses filing date; it does not convert a noncompliant dismissal motion into a compliant one, does not add missing statutory parts or grounds to a motion, and does not transform exhibits into a memorandum of law.
5. Plaintiff does not ask the Court, on the present record, to make a bad-faith finding. But the defect in MOTDIM_0419 was not a clerk-created defect; it was a filer-created assembly defect for which Defendants are responsible. If Defendants contend the defect was inadvertent, they should be required to explain on the record how the filing was assembled such that the filed lead motion consisted of only one substantive page followed immediately by exhibits. Unless and until such an explanation is provided, the Court should not treat Rule 9 relief as silently curing or excusing

the independent insufficiency of MOTDIM_0419 as filed.

6. Even if Exhibits 21-29 are deemed filed as of February 13, 2026, those exhibits remain only additional historical case materials. They are not a substitute for a motion that specifically states defects under section 2-615, identifies affirmative matter under section 2-619, or complies with the separate-parts requirement of section 2-619.1.

7. Plaintiff therefore requests that if the Court grants MOT_0425, the Court make clear that such relief is limited to the filing date of Exhibits 21-29 and does not constitute any ruling that the filed Motion to Dismiss is procedurally sufficient or substantively meritorious.

8. Plaintiff further requests that, if the Court intends to consider Exhibits 21-29 in connection with any hearing on the dismissal motion, Plaintiff's response to MOTDIM_0419 be deemed to address those materials to the extent they concern 17LA377 history, and that Plaintiff be granted leave to supplement if the Court desires any additional exhibit-specific briefing.

WHEREFORE, Plaintiff respectfully requests that the Court either (a) grant only limited Rule 9 filing-date relief as to Exhibits 21-29 while expressly preserving Plaintiff's objections to the sufficiency of MOTDIM_0419, or (b) deny any broader request to use MOT_0425 as a vehicle to cure the deficiencies of the filed Motion to Dismiss, together with such other relief as is just and proper.

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: **3/16/2026**
Paul R. Dulberg

CERTIFICATE OF SERVICE

I certify that on **3/16/2026**, 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: **3/16/2026**