

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

AIB

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

**PLAINTIFF'S RESPONSE TO DEFENDANTS ALPHONSE TALARICO AND LAW
OFFICE OF ALPHONSE A. TALARICO'S MOTION TO DISMISS PLAINTIFF'S
COMPLAINT**

Plaintiff Paul R. Dulberg, appearing pro se, respectfully submits this response to Defendants Alphonse Talarico and Law Office of Alphonse A. Talarico's Motion to Dismiss. For the reasons below, Talarico's request for dismissal with prejudice should be denied. Alternatively, if the Court finds any pleading deficiency, Plaintiff requests leave to amend rather than dismissal with prejudice.

I. INTRODUCTION

Talarico's motion asks the Court to dismiss Count V and Count VI by describing the Complaint as vague, prolix, strategic-disagreement pleading, and time-barred. That characterization does not match the allegations that must be accepted as true at this stage.

Plaintiff alleges that Talarico was retained on or about October 20, 2020 to pursue 17LA377 and that he remained involved through the trial-court dismissal, appeal, Supreme Court petition process, resignation, later ARDC response, and related 22L010905 matters. Complaint Paragraphs 169-213 and Count V identify specific dates, documents, communications, omissions, and resulting harm.

The Complaint alleges, among other things, that Talarico: received conflict information concerning Judge Meyer and Popovich but did not raise it; subpoenaed court-reporter signatures and then did not use the resulting forensic-signature evidence in 17LA377; prepared a proposed third amended complaint that omitted key evidence; allowed F1 discovery to close without raising key issues; did not raise the document-suppression evidence provided to him in November 2022;

filed notices and extension motions in the appeal while Plaintiff was listed as self-represented; failed to preserve the appeal; gave instructions for a Supreme Court petition and then resigned; accepted a September 2023 retainer for fraud-on-the-court, civil-rights, and bankruptcy-related matters; and later made statements Plaintiff alleges were false or misleading to the ARDC, the Illinois Supreme Court, and the 22L010905 court.

Those allegations are not merely dissatisfaction with results. They plead a continuing chronology of conduct, concealment, omissions, and damages occurring in 2022, 2023, 2024, and 2025. At minimum, Talarico's arguments present factual disputes regarding breach, proximate cause, accrual, damages, fraudulent concealment, and whether amendment should be allowed.

II. APPLICABLE STANDARDS

Talarico moves under sections 2-615, 2-619, and 2-619.1. A section 2-615 motion attacks pleading sufficiency. It is not a vehicle to weigh facts, reject reasonable inferences, or decide whether Plaintiff will ultimately prove his case. A section 2-615 motion must identify the specific defects complained of and the Court accepts well-pleaded facts and reasonable inferences in Plaintiff's favor.

A section 2-619 motion raises an affirmative matter that defeats the claim. When the asserted grounds do not appear on the face of the pleading, the motion must be supported by affidavit. Dismissal is improper where material facts remain disputed, including facts regarding accrual, discovery, concealment, proximate cause, and damages.

A combined motion under section 2-619.1 must be divided into separate parts, and each part must specify whether it is brought under section 2-615, 2-619, or 2-1005. Talarico's motion blends pleading arguments, limitations arguments, and factual merits arguments. Plaintiff therefore responds by issue and requests that no factual inference be drawn against Plaintiff at the pleading stage.

To the extent Talarico relies on section 2-603(a), that argument concerns pleading organization and clarity, not dismissal with prejudice where the allegations can be made more concise by amendment.

III. THE COMPLAINT PLEADS SPECIFIC TALARICO CONDUCT; IT IS NOT MERELY A VAGUE OBJECTION TO LITIGATION STRATEGY

Talarico's motion states that he cannot determine what conduct Plaintiff challenges. The Complaint says otherwise. Paragraphs 169 through 213 and Count V identify specific conduct by date and exhibit, including:

- 1. October 20, 2020 retention for 17LA377.** Plaintiff alleges he retained Talarico to pursue 17LA377 and told Talarico he wanted to raise the overwhelming evidence of intentional tort first discovered in 2019. **Complaint Paragraph 169; Exhibits EI** (Docket No. 0140), **EG-1** (Docket No. 0146).
- 2. February 17, 2022 conflict information.** Plaintiff alleges Talarico informed him that Judge Meyer had a conflict involving Popovich and had self-recused in another case, but Talarico never raised that issue in 17LA377. **Complaint Paragraph 171; Exhibit CL** (Docket No. 0258).
- 3. March-May 2022 court-reporter certification and signature issues.** Plaintiff alleges Talarico subpoenaed signatures, Omni completed reports on May 24, 2022, and Talarico then possessed evidence that certification pages/signatures were not valid, but did not raise that evidence in 17LA377. **Complaint Paragraphs 173-181; Exhibits DM** (Docket No. 0283), **DN-1** (Docket No. 0282), **DN-2** (Docket No. 0281), **DN-3** (Docket No. 0280), **DN-4** (Docket No. 0279), **DN-5** (Docket No. 0278), **DN-6** (Docket No. 0277), **AJ1** (Docket No. 0224), **AJ2** (Docket No. 0223), **AJ3** (Docket No. 0222), **AJ4** (Docket No. 0221), **AJ5**, (Docket No. 0220) **AJ6** (Docket No. 0219).
- 4. June 2022 proposed third amended complaint.** Plaintiff alleges Talarico prepared a third amended complaint that omitted forged-certification issues, the Judge Meyer/Popovich conflict issue, and the October 22, 2013 / Tilschner "smoking gun" issue. Plaintiff refused to sign it, and Talarico never filed any third amended complaint. **Complaint Paragraph 182; Exhibit DT** (Docket No. 0174).
- 5. July 11, 2022 closure of F1 discovery.** Plaintiff alleges Talarico allowed F1

discovery to close without raising the court-reporter-signature issue, without seeking further signature discovery, without raising the Judge Meyer issue, and without objecting that discovery was closed on the Court's motion. **Complaint Paragraph 183; Exhibit DO** (Docket No. 0276).

6. **November 2022 document-suppression evidence.** Plaintiff alleges Talarico was provided evidence of a sophisticated document and information suppression system involving Clinton/Williams and collaboration with opposing counsel Flynn, but never raised it with the presiding judge. **Complaint Paragraph 188; Exhibits DW** (Docket No. 0168), **ED-2** (Docket No. 0155), **ED-3** (Docket No. 0154).
7. **February 1, 2023 dismissal of 17LA377.** Plaintiff alleges 17LA377 was dismissed based on an incorrect limitations/accrual theory and without the record being corrected on the bankruptcy, ADR, Tilschner, Gagnon, document-suppression, and conflict issues. **Complaint Paragraphs 189-191; Exhibits DQ-1** (Docket No. 0274), **DQ-2** (Docket No. 0273).
8. **Appeal and Supreme Court petition.** Plaintiff alleges that on March 3, 2023, Talarico listed Plaintiff as self-represented in the notice of appeal while continuing to act as attorney and charge fees; that Plaintiff notified Talarico of CLR and ROP record problems on May 22, 2023; that Talarico filed extensions without timely addressing the record problems; that the appeal was dismissed on December 4, 2023 for failure to file a brief; that Talarico gave Supreme Court-petition instructions in January 2024; and that Talarico resigned on January 14, 2024. **Complaint Paragraphs 195-202; Exhibits CN** (Docket No. 0256), **CO** (Docket No. 0255), **CP** (Docket No. 0254), **DR-1** (Docket No. 0272), **DR-2** (Docket No. 0271), **DR-3** (Docket No. 0270), **DR-4** (Docket No. 0269), **DR-5** (Docket No. 0268), **DR-6** (Docket No. 0267), **BJ** (Docket No. 0193), **AY** (Docket No. 0207).
9. **Later related conduct.** Plaintiff alleges Talarico accepted a September 26, 2023 retainer for fraud-on-the-court, civil-rights, bankruptcy-reopening, and related

matters, then later characterized the same matters as fantasy or conspiracy theories; made statements Plaintiff alleges were false or misleading to the ARDC, the Illinois Supreme Court, and the 22L010905 court; refused to provide files; and charged substantial fees. **Complaint Paragraphs 203-213, 218(i)-(l); Exhibits AT** (Docket No. 0208), **BY** (Docket No. 0184), **DD** (Docket No. 0250), **CM** (Docket No. 0257), **BN-7** (Docket No. 0192), **DS-1** (Docket No. 0290), **DS-2** (Docket No. 0293), **DS-3** (Docket No. 0292), **DS-4** (Docket No. 0291), **DS-5** (Docket No. 0147), **DS-6** (Docket No. 0175).

This is not a vague pleading. Talarico disputes the allegations and characterizes them as strategy, but that is a merits defense. The Court should not resolve those factual disputes on a motion to dismiss.

IV. COUNT V STATES A LEGAL-MALPRACTICE THEORY OR, AT MINIMUM, CAN BE AMENDED

Talarico argues that Plaintiff fails to plead legal malpractice because Plaintiff has not alleged duty, breach, proximate cause, damages, or a case within a case. The Complaint pleads those elements.

Duty is pleaded through the attorney-client relationship beginning October 20, 2020 and continuing through the trial-court and appeal-related events described in the Complaint.

Complaint Paragraphs 169, 195-202; Exhibits EI (Docket No. 0140), **CN** (Docket No. 0256), **CO** (Docket No. 0255), **CP** (Docket No. 0254), **DR-2** (Docket No. 0271), **DR-3** (Docket No. 0270), **DR-4** (Docket No. 0269), **DR-5** (Docket No. 0268), **DR-6** (Docket No. 0267), **BJ** (Docket No. 0193), **AY** (Docket No. 0207).

Breach is pleaded through specific acts and omissions, including failure to raise the Judge Meyer/Popovich conflict, failure to use the court-reporter-signature evidence, failure to file an adequate third amended complaint, failure to raise document-suppression evidence, failure to preserve the appeal, and failure to handle the Supreme Court petition process competently. **Complaint Paragraphs 171, 181-183, 188, 195-202, 218(a)-(h).**

Proximate cause is pleaded through the allegation that those acts and omissions prevented full

presentation of Plaintiff's 17LA377 theories, left the record distorted, permitted summary dismissal, caused the failed appeal, and damaged Plaintiff financially. Plaintiff alleges that Talarico's conduct did not cure earlier concealment; rather, it continued, failed to correct, or concealed the same damage mechanisms. **Complaint Paragraphs 169-213, 218, and Count VI.** Damages are pleaded through the loss or impairment of the 17LA377 claims, the failed appeal, the inability to obtain review, and fees/costs charged during the alleged misconduct. **Complaint Paragraphs 195-213; Exhibit BN-7** (Docket No. 0192).

Plaintiff is not required at the pleading stage to prove that he would have recovered a specific dollar amount at trial. Plaintiff must plead facts supporting a viable underlying theory and the causal connection between Talarico's conduct and the loss or impairment of that theory. The Complaint does so by pleading the underlying 12LA178, BK 14-83578, 17LA377, and appellate record issues, including the Gagnon cross-claim, McGuire liability/Tilschner theory, bankruptcy/ADR authority issues, document suppression, deposition certification issues, limitations/accrual issues, and the appeal dismissal.

If the Court believes the Complaint should separate the malpractice allegations from fraud, concealment, and conspiracy allegations more clearly, the proper remedy is leave to amend, not dismissal with prejudice.

V. THE LIMITATIONS ARGUMENT DOES NOT SUPPORT DISMISSAL WITH PREJUDICE

Talarico argues that Plaintiff's claims are time-barred because the alleged acts occurred more than two years before the December 4, 2025 Complaint. That argument fails on the face of the Complaint and, at minimum, raises factual issues unsuitable for dismissal.

First, the Complaint pleads Talarico-related conduct within two years of filing. Plaintiff filed this action on December 4, 2025. The Complaint alleges the December 4, 2023 appeal dismissal; January 2024 Supreme Court-petition instructions and resignation; May 2024 ARDC-related conduct; August 2025 statements and filings in 22L010905; refusal to provide files; and continuing harm. **Complaint Paragraphs 197-213; Exhibits DR-6** (Docket No. 0267), **BJ** (Docket No. 0193), **AY** (Docket No. 0207), **BY** (Docket No. 0184), **DD** (Docket No. 0250), **CM**

(Docket No. 0257), **DS-4** (Docket No. 0291), **DS-5** (Docket No. 0147), **DS-6** (Docket No. 0175).

Plaintiff does not rely on the later 22L010905 conduct as the sole basis for timeliness; it is relevant to concealment, damages, and continuing misrepresentation. The core timeliness point is that the appeal-related injury and alleged concealment continued into December 2023 and January 2024, within two years of the December 4, 2025 filing.

Second, the malpractice injury from appeal-related misconduct was not complete merely because some information existed earlier. Plaintiff alleges that Talarico's conduct caused or contributed to the loss of the 17LA377 appeal and the failure to obtain review. Accrual, actual damages, and discovery are factual questions on this record. The Court should not decide as a matter of law that Plaintiff's claims accrued before the appeal-related harm occurred.

Third, Talarico's motion incorrectly treats knowledge of facts, suspicions, or alleged "smoking gun" evidence as identical to knowledge of a completed claim against Talarico. The Complaint alleges the opposite: that Plaintiff was relying on Talarico to use the evidence, correct the record, preserve the appeal, and pursue relief. Whether Plaintiff knew, reasonably should have known, or was fraudulently concealed from knowing that Talarico himself had caused compensable injury cannot be resolved from Talarico's motion alone.

Fourth, Plaintiff pleads fraudulent concealment and later misrepresentation facts. Section 13-215 provides that where a person liable to an action fraudulently conceals the cause of action from the knowledge of the person entitled to sue, the action may be commenced within five years after discovery. Plaintiff alleges concealment and statements by Talarico that were false or misleading regarding the appeal, ARDC issues, Supreme Court issues, disability status, retainer matters, and client files. **Complaint Paragraphs 203-213; Exhibits AT** (Docket No. 0208), **BY** (Docket No. 0184), **DD** (Docket No. 0250), **CM** (Docket No. 0257), **BN-7** (Docket No. 0192), **DS-1** (Docket No. 0290), **DS-2** (Docket No. 0293), **DS-3** (Docket No. 0292), **DS-4** (Docket No. 0291), **DS-5** (Docket No. 0147), **DS-6** (Docket No. 0175).

Talarico's limitations defense therefore does not conclusively defeat Count V or Count VI. If the Court believes Plaintiff must plead accrual, discovery, and concealment with more organization,

Plaintiff requests leave to amend.

VI. TALARICO'S "STRATEGY" ARGUMENT CANNOT BE DECIDED ON THE PLEADINGS

Talarico argues that Plaintiff merely disagrees with strategic choices. That argument asks the Court to weigh evidence and accept Talarico's explanation of his own conduct.

Plaintiff does not plead mere losing strategy. Plaintiff pleads that Talarico knew of specific material evidence and failed to use it; omitted key issues from a proposed amended complaint; failed to raise conflict issues; failed to preserve record issues; allowed the appeal to fail; and later made statements Plaintiff alleges were false or misleading to disciplinary or judicial bodies.

Whether those alleged acts were protected judgment, negligence, intentional concealment, fraud, or proximate causes of damage is a factual question. The attorney-judgment rule does not allow dismissal at the pleading stage where Plaintiff alleges that counsel failed to raise known material evidence, failed to preserve the appeal, concealed material facts, or acted in a manner inconsistent with the client's interests.

VII. PLAINTIFF PLEADS A CASE-WITHIN-A-CASE THEORY SUFFICIENT FOR THIS STAGE

Talarico argues that Plaintiff has not pleaded that he would have prevailed in the underlying Popovich/Mast or Baudin matters. At the pleading stage, Plaintiff does not need to prove the case within a case; he must plead facts showing a viable underlying claim and a causal connection.

The Complaint pleads the underlying theories in detail:

- 1. 12LA178 and Gagnon/McGuire liability.** Plaintiff alleges that Gagnon effectively admitted negligence through the unanswered cross-claim and that prior attorneys failed to use that fact. **Complaint Paragraphs 18, 112, 214(c), 218(d); Exhibit 112** (Docket No. 0113).
- 2. Tilschner and McGuire liability.** Plaintiff alleges Mast gave Tilschner as the explanation for why the McGuires were supposedly not liable, while a prior settlement offer to the McGuires had already been made. **Complaint Paragraphs 19-21, 135-136, 182, 218(c); Exhibits 65** (Docket No. 0096), **107** (Docket No.

0117).

- 3. Bankruptcy and ADR.** Plaintiff alleges that BK 14-83578 and the binding-mediation/upper-cap record were central to damages, authority, and recovery, and that Talarico did not properly present or preserve those issues. **Complaint Paragraphs 185-191; Exhibits AB** (Docket No. 0225), **BD** (Docket No. 0204), **BF** (Docket No. 0203), **BG** (Docket No. 0202), **BH** (Docket No. 0201), **EF** (Docket No. 0095).
- 4. Document suppression.** Plaintiff alleges Talarico was provided document-suppression evidence on or about November 2022 but did not raise it with the presiding judge. **Complaint Paragraph 188; Exhibits DW** (Docket No. 0168), **ED-2** (Docket No. 0155), **ED-3** (Docket No. 0154).
- 5. Appeal impairment.** Plaintiff alleges the appeal was lost because Talarico filed notices and extension motions while Plaintiff was listed as self-represented, did not timely address the record defects, and did not preserve appellate review. **Complaint Paragraphs 195-202; Exhibits CN** (Docket No. 0256), **CO** (Docket No. 0255), **CP** (Docket No. 0254), **DR-1** (Docket No. 0272), **DR-2** (Docket No. 0271), **DR-3** (Docket No. 0270), **DR-4** (Docket No. 0269), **DR-5** (Docket No. 0268), **DR-6** (Docket No. 0267), **BJ** (Docket No. 0193), **AY** (Docket No. 0207).

Those allegations are enough to plead a case-within-a-case theory for purposes of resisting dismissal. Talarico may dispute the facts, but he has not established that no set of facts could entitle Plaintiff to relief.

VIII. FRAUD, FRAUD-ON-THE-COURT, AND CONSPIRACY ALLEGATIONS SHOULD NOT BE DISMISSED WITH PREJUDICE

Talarico argues that Plaintiff has not adequately pleaded any cause of action other than malpractice and that terms such as “fraud,” “professional misconduct,” “smoking gun,” and “forged documents” are conclusory. Plaintiff disagrees.

The Complaint pleads facts, not merely labels. It identifies the who, what, when, and how for Talarico’s alleged conduct: Talarico’s retention, the conflict evidence, subpoenas, certification-

page evidence, proposed third amended complaint, F1 discovery closure, document-suppression evidence, appeal notices and extension motions, Supreme Court petition instructions, resignation, ARDC statements, disability-status statements, retainer issues, and refusal to provide files.

Complaint Paragraphs 169-213 and Count V.

Plaintiff is not asking the Court to recognize a free-standing damages tort for every alleged act of litigation misconduct. Plaintiff pleads fraud-on-the-court and fraud allegations as part of the alleged malpractice, fraudulent concealment, civil conspiracy, accrual, proximate-cause, and leave-to-amend analysis.

If the Court finds that Count V or Count VI should be separated into more precise counts, Plaintiff requests leave to amend. Plaintiff can amend to separate: legal malpractice against Talarico; fraud/fraudulent concealment against Talarico; derivative/respondent-superior allegations against the Law Office of Alphonse A. Talarico; and conspiracy/fraud-on-court allegations involving Talarico and other defendants.

IX. THE LAW OFFICE OF ALPHONSE A. TALARICO SHOULD NOT BE DISMISSED WITH PREJUDICE

Talarico's motion seeks dismissal for both Alphonse Talarico and the Law Office of Alphonse A. Talarico. The Complaint alleges that Talarico owned and operated the Law Office of Alphonse A. Talarico and that the work at issue was performed through that office. **Complaint Paragraphs 7(g)-(h), 169-213.**

If the Court believes Plaintiff must plead additional facts regarding the Law Office's liability, agency, respondeat superior, or business-entity relationship, Plaintiff requests leave to amend rather than dismissal with prejudice.

X. THE TRUST-PLAINTIFF ISSUE IS MOOT OR, AT MOST, DOES NOT JUSTIFY DISMISSAL OF PLAINTIFF'S INDIVIDUAL CLAIMS

To the extent Talarico relies on any argument concerning The Paul R. Dulberg Revocable Trust, that issue does not support dismissal of Plaintiff Paul R. Dulberg's individual claims.

On February 17, 2026, Plaintiff filed a Notice of Voluntary Dismissal as to Co-Plaintiff The Paul R. Dulberg Revocable Trust Only (Docket No. 0422), pursuant to 735 ILCS 5/2-1009. That Notice

states that Plaintiff voluntarily dismissed, without prejudice, all claims asserted in this action by co-plaintiff The Paul R. Dulberg Revocable Trust. The Notice further states that the dismissal applies solely to the Trust and does not affect the claims asserted by Plaintiff Paul R. Dulberg, individually.

Accordingly, any Trust issue is moot or, at most, limited to the Trust only. It is not a basis to dismiss Count V or Count VI as to Plaintiff Paul R. Dulberg individually.

To the extent no separate order has yet been entered on Plaintiff's February 17, 2026 Notice, Plaintiff respectfully requests that the Court enter an order dismissing The Paul R. Dulberg Revocable Trust as a party plaintiff without prejudice and allow this matter to proceed with Paul R. Dulberg individually as the sole plaintiff.

XI. A RULE 304(a) FINDING WOULD BE INAPPROPRIATE

Talarico requests a finding under Illinois Supreme Court Rule 304(a). That request should be denied.

This case involves overlapping facts, parties, and issues across multiple defendant groups. The pending motions to dismiss raise common issues concerning 12LA178, BK 14-83578, 17LA377, the appeal, accrual, limitations, proximate cause, fraudulent concealment, document suppression, and civil conspiracy. A Rule 304(a) finding would risk piecemeal appellate review of issues that are intertwined with the claims against the remaining defendants.

Even if the Court dismisses or narrows any claim against Talarico, there is just reason to delay enforcement or appeal until the related claims and motions are resolved.

XII. LEAVE TO AMEND SHOULD BE GRANTED IF THE COURT FINDS ANY PLEADING DEFECT

Talarico seeks dismissal with prejudice. That relief is not warranted.

If the Court finds that Plaintiff's pleading is too lengthy, insufficiently organized, or insufficiently particularized, Plaintiff requests leave to amend. An amended complaint can clarify and separate the allegations as follows:

1. legal malpractice against Alphonse Talarico and the Law Office of Alphonse A. Talarico;

2. fraud and fraudulent concealment against Alphonse Talarico and the Law Office of Alphonse A. Talarico;
3. specific appeal-related malpractice and damages allegations;
4. specific allegations concerning 22L010905, if the Court finds those allegations should be separated or limited;
5. derivative or agency allegations against the Law Office of Alphonse A. Talarico; and
6. civil-conspiracy allegations identifying overt acts, actors, dates, exhibits, and damages.

Dismissal with prejudice would be especially improper where the alleged defects are organization, specificity, or separation of theories rather than a conclusive legal bar.

XIII. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court deny Defendants Alphonse Talarico and Law Office of Alphonse A. Talarico's Motion to Dismiss.

Alternatively, if the Court finds any portion of Count V or Count VI insufficiently pleaded, Plaintiff requests leave to amend rather than dismissal with prejudice.

Plaintiff further requests that the Court deny Talarico's request for a Rule 304(a) finding.

Plaintiff further requests that, to the extent no separate order has yet been entered on Plaintiff's February 17, 2026 Notice of Voluntary Dismissal as to Co-Plaintiff The Paul R. Dulberg Revocable Trust Only, the Court enter an order dismissing The Paul R. Dulberg Revocable Trust as a party plaintiff without prejudice and allow this matter to proceed with Paul R. Dulberg individually as the sole plaintiff.

Submitted by: /s/ Paul R. Dulberg - Paul R. Dulberg (pro se) 4606 Hayden Ct. McHenry, IL. 60051 • (847) 497-4250 • Paul_Dulberg@comcast.net

CERTIFICATE OF SERVICE

I certify that on **June 10, 2026**, I served a true and correct copy of the foregoing document upon all counsel and parties of record via eFileIL/EFSP electronic service to the extent available, and by email to any party not served through electronic service.

/s/ Paul R. Dulberg Date: **June 10, 2026**