

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

PHILIP WEISS, BRIDGET CUEVAS, )  
ROSEMARY SWEARINGEN, )  
THEODORE KALAGERESIS, )  
and KENNETH MERACLE, )  
Plaintiffs, )  
vs. )  
CHICAGO TEACHERS UNION, )  
LOCAL 1, IFT-AFT, AFL-CIO; )  
STACY DAVIS GATES, President; )  
and MARIA T. MORENO, Financial )  
Secretary, )  
Defendants. )

Case No. 2024CH09334  
Judge David B. Atkins  
Calendar 16

DEFENDANTS’ REPLY IN SUPPORT OF THEIR MOTION TO STRIKE  
SCANDALOUS AND IMPERTINENT PORTIONS OF  
PLAINTIFFS’ RESPONSE IN OPPOSITION TO DEFENDANTS’ MOTION  
TO DISMISS AND THE SUPPORTING DECLARATION OF PHILIP WEISS

As set forth below, Plaintiffs’ allegations in their response to Defendants’ Motion to Dismiss (Plaintiffs’ Response in Opposition to Defendants’ Motion to Dismiss of February 27, 2025, “Response”), should be stricken as scandalous and impertinent. Plaintiffs are claim they are seeking only prospective relief and not damages for past conduct. Yet they fill their Response with allegations about CTU’s past conduct which have no relevance to a claim solely for prospective relief. Meanwhile, they tout their court filings for publicity purposes. Plaintiffs’ scandalous and impertinent allegations should be stricken.

This motion (Defendants’ Motion to Strike Scandalous and Impertinent Portions of Plaintiffs’ Response in Opposition to Defendants’ Motion to Dismiss and the Supporting Declaration of Philip Weiss, filed March 20, 2025 (“Motion to Strike”)) came about based on allegations and legal arguments Plaintiffs made in their Response. Relevantly, Plaintiffs’ Response

made two legal arguments to justify Plaintiffs' failure to plead any specifics about damages. First, they argued that they need not show any harm or damages, because they are only seeking that CTU publish the audit reports going forward, under the theory of specific performance. But second, Plaintiffs filled their Response (and the supporting declaration of Philip Weiss) with complaints about how the CTU supposedly treated them in the past: (a) Plaintiffs previously requested to view copies of the audit materials in the past without success; (b) Plaintiffs retained *pro bono* counsel to assist them; and (c) Defendants attacked Plaintiffs publicly as being "extreme right wing" and affiliated with "Project 2025." Plaintiffs establish these facts through a supporting declaration of Plaintiff Philip Weiss ("Weiss Declaration"). (*See*, Response at 4-5; Weiss Declaration ¶¶ 7-13.)

The Court should CTU's Motion to Strike these allegations as scandalous and impertinent. Because Plaintiffs argue that they are seeking only prospective action through a claim of specific performance, their relationship with CTU in the past is irrelevant. Detailing their past disputes with CTU has nothing to do with the obligations created by CTU's Bylaws. Raising these allegations in their Response, Plaintiffs are using the publicity of this lawsuit to air their unrelated grievances with CTU. (See, Plaintiffs' lawyers' social media posting about their response brief, attached as Exhibit 1.)

In response to the Motion to Strike, Plaintiffs argue that these factual allegations go to "Defendants' credibility" and whether "the Court should simply accept CTU's word that it has not provided sufficient information." (Plaintiffs' Response in Opposition to Defendants' Motion to Strike, filed April 11, 2025 ("Response to Motion to Strike").) This contention shows all the more that the allegations CTU seeks to strike are scandalous and impertinent, because it is well-established that a "ruling on a motion to dismiss does not require a court to weigh facts or determine credibility." *Vernon v. Schuster*, 179 Ill. 2d 338, 344 (1997). Evidence related to credibility has no place at this stage. *Id.*

Put simply, Plaintiff's only excuse for why they included this impertinent material is a legally invalid one: asking the Court to make a credibility determination at the motion to dismiss stage. Combined with Plaintiffs' use of this same material for publicity purposes (Ex. 1), it is clear that Plaintiffs' inclusion of this material is for impertinent and scandalous purposes. It should be stricken. *Biggs v. Cummins*, 16 Ill. 2d 424, 425 (1959); *Benitez v. KFC National Management Co.*, 305 Ill. App. 3d 1027, 1037 (2nd Dist. 1999), appeal denied 186 Ill. 2d 565 (1999).

Plaintiffs call CTU's audit reports "self-prepared" (Response to Motion to Strike at 3). Plaintiffs cite no record facts for this contention and they *cannot* cite any record facts for this contention, because this contention is not true. Plaintiffs' own filings make it clear that CTU's audit reports are *not* "self-prepared." Exhibit 1 to Weiss's affidavit is CTU's audit report from 2020, which states on its face that it is prepared by the independent auditors at Bansley & Kiener, LLP. The most recent audit reports attached as Exhibit 3 to Weiss's affidavit again state on their face that they are prepared by Legacy Professionals, LLP, a successor to Bansley & Kiener, LLP. Thus Plaintiffs have no basis to assert that CTU's audit reports are "self-prepared." The audit reports state on their face they show they are prepared by independent auditors.

Plaintiffs' cases cited in the Response to Motion to Strike are inapposite. *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006); *Doe-3 v. McLean County Unit Dist. No. 5 Bd. of Dirs.*, 2012 IL 112479, ¶ 16. They have nothing to do with whether a Court should strike impertinent and scandalous allegations. Moreover, the specific sections Plaintiffs cite involve motions to dismiss under Section 2-615, whereas Defendants' Motion to Dismiss here is brought under Section 2-619.1. That distinction is critical because the particular dispute here is entirely around the inclusion of facts outside the complaint as permitted under Section 2-619.1. In contrast, Section 2-615 does not allow submission of additional facts beyond what the complaint contains, making cases involving that type of motion to dismiss inapplicable here.

WHEREFORE, the Court should strike paragraphs 7 through 13 of the Weiss declaration and the corresponding sections of the Response that appear on pages 4 and 5.

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Respectfully submitted,

/s/ Josiah A. Groff

April 25, 2025

**CERTIFICATE OF SERVICE**

I, Josiah A. Groff, an attorney, hereby certify that, on April 25, 2025, I caused to be served the foregoing Defendants' Reply in Support of Their Motion to Strike Scandalous and Impertinent Portions of Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss and the Supporting Declaration of Philip Weiss to all attorneys of record by using the Odyssey eFileIL service, and to the following by email:

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Liberty Justice Center

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Austin, Texas 78735

/s/ Josiah A. Groff

# EXHIBIT 1

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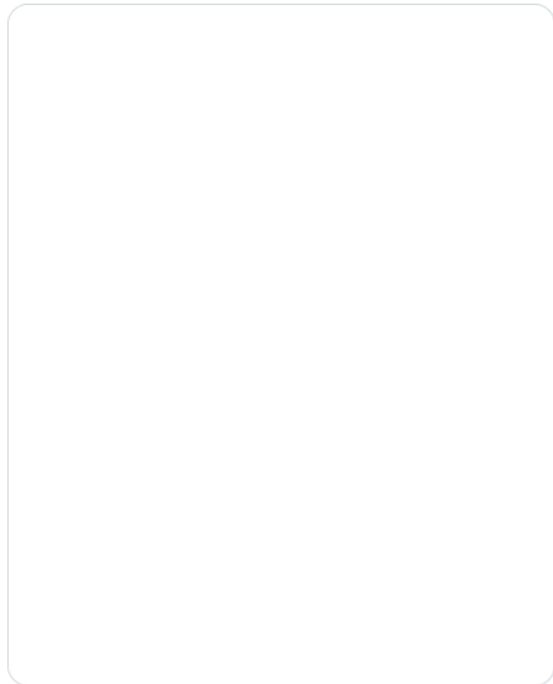
Reply



Liberty Justice Center @LJCenter · Feb 27



.@CTULocal1 asked the court to dismiss our lawsuit so they can continue to avoid providing FOUR YEARS of audits to their own members. Their arguments don't hold up. So today, we responded. [libertyjusticecenter.org/wp-content/upl...](https://libertyjusticecenter.org/wp-content/upl...)



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Liberty Justice Center @LJCenter



- ✗

CTU CLAIMS we can't sue its officers for violating its constitution.
- ➡

BUT officers are responsible for audits and they violated their duty.
- ✗

CTU CLAIMS we can't sue for breach of contract because we're not seeking monetary damages.
- ➡

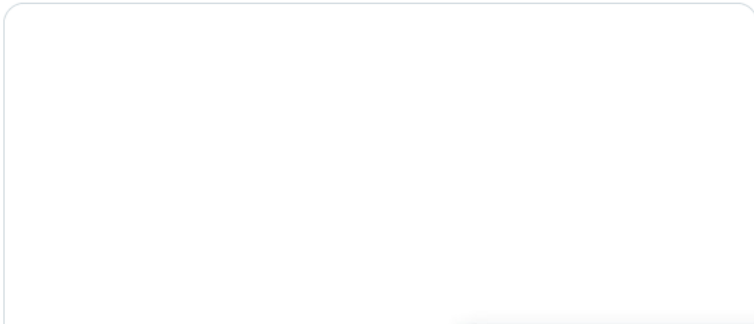
This isn't about money, it's about accountability—and the court can order CTU to follow its constitution.
- ✗

CTU CLAIMS our case is moot because it provided audits.
- ➡

BUT CTU only produced four-page summaries, not independent audits conducted by a certified auditor.
- ✗

CTU CLAIMS it has never had to release full audits
- ➡

Member records prove otherwise, like the 17-page audit CTU published in its 2020 magazine.



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Liberty Justice Center

🌟 @LJCenter · Feb 27

.@CTULocal1 leadership is doing everything possible to avoid simple, legally required audits required by their constitution. What are they hiding? We'll make sure CTU meets its obligations—so members get the answers they deserve.

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