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2/20/2026 10:55 AM
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

WEISS, et al.,)
)
Plaintiffs,)
)
v.)
)
CHICAGO TEACHERS UNION,)
)
Defendant.)

Case No. 2024CH09334

Commercial 16

Judge David B. Atkins

**DEFENDANT’S REPLY TO PLAINTIFFS’ RESPONSE TO DEFENDANT’S
SUPPLEMENT IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

Introduction

Plaintiffs have received what they sued to get. But instead of accepting that, Plaintiffs continue to move the goal posts in this case, arguing against summary judgment by asking for new things they never sought before. Here is how it has gone:

Plaintiffs filed suit seeking “specific performance so that the Union [CTU] will produce an audited report.” (Complaint at 1.) Shortly thereafter, CTU published the audited reports and sought summary judgment because the case is now moot.

Plaintiffs then argued that the CTU should also publish its full, unabridged audit, though this is not what Plaintiffs’ Complaint sought. As detailed in CTU’s other filings, the audited report is a different document than the full, unabridged audit, and the documents are subject to different disclosure rules in CTU’s Bylaws. But nevertheless, CTU recently published the full, unabridged audit, even though the Bylaws do not require that.

Now that the CTU has additionally published its full, unabridged audit, even though the Bylaws do not require that, Plaintiffs misrepresent their Complaint to the Court, inaccurately claiming that they were seeking “forward-looking” relief (Plaintiffs’ Response to Defendant’s

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Supplement in Support of its Motion for Summary Judgment (“Response”) at 6) . The truth is that Plaintiffs’ Complaint seeks as remedy that CTU “specifically perform their contractual obligation to furnish audited financial reports of the Union in the Union’s publication,” speaking in the past tense. (Complaint at 7.)

Plaintiffs have received what they sued for and more. All case law either party has cited holds that a lawsuit seeking production of documents is moot once those documents are provided. Plaintiffs did not sue for prospective relief. Plaintiffs sued to get audit records from prior years and Plaintiffs now have those. Plaintiffs cannot continue this lawsuit on mere speculation that the issue will recur.

Argument

I. The Case Is Moot Because CTU Has Provided Plaintiffs with the Documents Their Complaint Seeks to Have Produced.

Plaintiffs’ Complaint is a lawsuit to compel production of audited reports for prior years.

The Complaint makes this clear on its face, in at least the following places:

- (a) On page 1 of the Complaint, Plaintiffs state that they “bring this lawsuit for breach of contract for failure to furnish an audited report, and for their remedy seek specific performance so that the Union will produce an audited report.”
- (b) On page 7 of the Complaint, Plaintiffs seek as relief a “declaratory judgment in Plaintiffs’ favor finding that Defendants failed to meet their contractual obligation to furnish a financial audit of the Union;”
- (c) Again on page 7, Plaintiffs further seek a directive that CTU “specifically perform their contractual obligation to furnish audited financial reports of the Union in the Union’s publication.”
- (d) In paragraph 35 on page 7, Plaintiffs say that what they want will “not require protracted court supervision.”

These are direct quotes from Plaintiffs' Complaint. Plaintiffs' latest statements to the Court that they "request relief that would clarify and enforce CTU's annual obligations going forward" (Response at 4) are just not true. Their Complaint does *not* seek ongoing court supervision over prospective actions by CTU. This can be ascertained simply by reading what it says on its face. Plaintiffs' Complaint asks only that CTU become up to date on publishing audited reports, which CTU has now done. Any arguments from Plaintiffs about publication of CTU's full annual audit are outside of the Complaint. The same is true for any arguments about the form of CTU's full annual audit. None of Plaintiffs' newly invented arguments outside of their Complaint can justify denying CTU summary judgment. *Abramson v. Marderosian*, 2018 IL App (1st) 180081, ¶ 55 ("Clearly, the trial court could not deny summary judgment upon unpleaded theories of legal malpractice that were raised, for the first time, in opposition to the motion for summary judgment."). Plaintiffs move the goal posts here, by seeking new forms of relief when faced with the mootness of the claim they actually pleaded in their Complaint. This is not allowed and summary judgment should be granted. *Id.*

This case is a lawsuit to direct production of documents. All the cases cited by either party involving production of documents hold that the case is moot when the documents are produced. *Garlick v. Bloomingdale Twp.*, 2018 IL App (2d) 171013, ¶ 38, appeal denied 116 N.E.3d 943 (2019); *Turner v. Joliet Police Dept.*, 2019 IL App (3d) 170819, ¶ 13 ("Turner's claim is moot" after he "received all of the information that he requested"); *Duncan Publ'g v. City of Chicago*, 304 Ill. App. 3d 778, 782 (1st Dist. 1999) ("Once an agency produces all the records related to a plaintiff's request, the merits of a plaintiff's claim for relief, in the form of production of information, becomes moot.").

Plaintiffs received what they asked for in their original Complaint, when CTU published the audited reports. Plaintiffs moved the goal posts to say that CTU should publish the full annual audit as well, even though Plaintiffs' Complaint does not address the full annual audit. Nevertheless, CTU did publish the full annual audit. Plaintiffs are now moving the goal posts again, asking the Court to undertake an indefinite supervision of CTU's publication of financial records to its members. This latest goal post move comes despite Plaintiffs' assertion in paragraph 35 of their Complaint that their claims do "not require protracted court supervision." Plaintiffs cannot continue this lawsuit by asking for things they did not sue for. *Abramson*, 2018 IL App (1st) 180081, ¶ 55. Plaintiffs have what they sued for and the Complaint should be dismissed as moot.

II. Voluntary cessation doctrine does not allow plaintiffs to continue with their suit because there is no dispute that CTU must furnish financial records and CTU admits that it has simply been catching up in recent years.

Plaintiffs ask the Court to apply the "voluntary cessation" doctrine. But none of the cases they cite involving that doctrine involve a plaintiff seeking production of records. None of those cases apply here, because this case is a claim seeking production of records which Defendant then produced, mooting the claim.

Plaintiffs argue that their claim remains live because CTU supposedly "denies it ever had the duty being litigated." But CTU does not deny that it has an obligation under its Bylaws to annually "furnish an audited report of the Union which shall be printed in the Union's publication" (Complaint Exhibit A at 23). CTU had not done this as of the filing of the Complaint. But CTU did do this shortly after the filing of the Complaint. As Exhibit 4 in

support of its motion for summary judgment, CTU submitted the Supplemental Declaration of Kurt Hilgendorf which explained that “in recent years, CTU has been catching up on finalizing audits.” The declaration explained this was “due to the COVID pandemic, new reporting requirements from the Chicago Teachers Pension Fund (“CTPF”) that took time to implement, and turnover in CTU staff.”

Thus Plaintiffs are simply wrong that there is some ongoing dispute about the nature of CTU’s obligation to “furnish an audited report” which is the subject of the Complaint. The question is whether CTU has done that. Now, CTU has done that. CTU has finished “catching up” and Plaintiffs’ actually pleaded claim is moot. For this reason, this case is unlike Plaintiffs cited cases of *Payne v. Coates-Miller, Inc.*, 52 Ill. App. 3d 288 (1st Dist. 1977), or *Cohan v. Citicorp*, 266 Ill. App. 3d 626 (1st Dist. 1993), where the defendant merely agreed to waive a fee on a one-time basis. In contrast here, CTU does not argue that it has no obligation to publish audited reports. In fact, the Bylaws are clear on that. It is simply that CTU was “catching up,” a process that is now completed.

Plaintiffs’ argument that there is some sort of ongoing dispute is grounded not in their actual Complaint, but instead in Plaintiffs’ inappropriate moving of the goal posts during summary judgment briefing. The Court in deciding summary judgment should address the claims raised in the pleadings, not new claims Plaintiffs have invented during summary judgment briefing. *Abramson*, 2018 IL App (1st) 180081, ¶ 55.

None of Plaintiffs' cited cases justify continuing with this lawsuit. *Fisch v. Loews Cineplex Theatres Inc.*, 365 Ill. App. 3d 537 (1st Dist. 2005), actually finds mootness, because the plaintiffs there could not offer evidence making a “clear showing that the circumstances of

which they complain are likely to recur in the future.” *Id.* at 543. The same is true here. CTU has submitted Hilgendorf’s declaration that CTU’s audited reports were delayed due to the COVID pandemic and changed reporting requirements. Plaintiffs here have not shown that these things will recur and cause future delays.

Lakewood Nursing & Rehab. Ctr. LLC v. Dep’t of Pub. Health, 15 IL App 3d 140899, is likewise unavailing, because that case involved an agency order with a 30-day duration. *Id.* ¶ 35. Since such an order could issue again against the plaintiff and since plaintiff would be unable to obtain relief within the 30 days, the Court did not find mootness. *Id.* ¶¶ 35-36. But here, Plaintiffs have only speculation that this situation will occur again. The actual evidence from Hilgendorf shows that it will not, since Hilgendorf confirms the past delays were based on the COVID pandemic and new directives from CTPF. The more applicable precedent is *Duncan Publ’g*, 304 Ill. App. 3d at 783, where the Appellate Court dismissed a claim for mootness. The Appellate Court held that the plaintiff’s request that the Court admonish defendant about its obligations was simply a request for an impermissible advisory opinion. *Id.*

Indeed, Plaintiffs’ request for “relief that would clarify and enforce CTU’s annual reporting obligations going forward” (Response at 7) shows clearly that Plaintiffs are seeking exactly the sort of relief that Illinois courts do not provide. Plaintiffs are “merely seeking an advisory decision based upon a hypothetical dispute.” *People ex rel. Ulrich v. Stukel*, 294 Ill. App. 3d 193, 199 (1st Dist. 1997), appeal denied 178 Ill. 2d 595 (1998). Rather than giving an advisory opinion, this Court should “refrain from deciding this issue until it occurs in the context of an active controversy.” *Id.* After all, if CTU again falls behind on financial reporting, Plaintiffs can file a lawsuit at that time when there is an “active controversy.” *Id.* Plaintiffs’

suggestion that CTU could “revok[e] its members’ access” in the future (Response at 6) is just a “hypothetical dispute.” *Stukel*, 294 Ill. App. 3d at 199. Illinois courts do not entertain hypothetical disputes. *Id.*

Even Plaintiffs’ own cited case law holds that “anticipat[ing] future wrongs and contemplated violations” does not avoid mootness where the plaintiff has the documents he sued to get. *Duncan Publ’g*, 304 Ill. App. 3d at 783. Plaintiffs here ask the Court for some ruling governing the parties’ rights for “future years” (Response at 8), but the Appellate Court in *Duncan Publishing* rejected that sort of request. “Illinois courts are foreclosed from issuing advisory opinions and can not indulge in rendering opinions simply for the sake of creating precedents to govern future cases.” *Id.*

Plaintiffs argue that CTU’s decision to publish the full annual audit was motivated not by their request, but by a demand from a Congressional committee. But Plaintiffs’ own cited case law shows that the reason for production of the requested documents is of no importance to the question of mootness. In *Turner v. Joliet Police Dept.*, 2019 IL App (3d) 170819, the defendant withheld records based on the plaintiff’s pending criminal case, but then produced the records once the case was closed, by attaching the records to an appellate brief. *Id.* ¶ 13. The court described that approach as “unorthodox” but the relevant fact was that “Turner received all the information he requested.” *Id.* Likewise here, Plaintiffs’ demand that CTU publish the full annual audit has been satisfied and that demand is moot, regardless of how that came about. *Id.*

Plaintiffs’ citation to *Drury v. Vill. of Barrington Hills*, 2018 IL App 1st 173042, has no application here whatsoever. That case involved a challenge to an ordinance as invalid *ab initio*. The Court held that a challenge to the ordinance’s original legitimacy raised a claim that was not

mooted by the ordinance’s later repeal. That case has little value compared to cases that involve demands for production of documents, like Plaintiffs’ Complaint here. Cases involving suits to produce documents are moot if the defendant produces the documents. *Garlick*, 2018 IL App (2d) 171013, ¶ 38; *Turner*, 2019 IL App (3d) 170819, ¶ 13; *Duncan Publ’g*, 304 Ill. App. 3d at 782. The Complaint here is moot, based on that precedent.

Conclusion

In their own words in their own Complaint, Plaintiffs brought “this lawsuit for breach of contract for failure to furnish an audited report.” Shortly after the Complaint was filed, CTU furnished that to Plaintiffs. Plaintiffs cannot avoid mootness by moving the goal posts and demanding new things (requesting different documents or asking for ongoing court supervision of CTU), now that they have received what their Complaint on its face sought. CTU is entitled to summary judgment on the basis of mootness.

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Respectfully submitted,

/s/ Josiah A. Groff

February 20, 2026

Certificate of Service

I, Josiah A. Groff, an attorney, hereby certify that, on February 20, 2026, I caused to be served the foregoing Defendant's Reply to Plaintiffs' Response to Defendant's Supplement in Support of its Motion for Summary Judgment to all attorneys of record by using the Odyssey eFileIL service, and to the following by email:

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