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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,)
Defendant.)

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

DEFENDANT CHICAGO TEACHERS UNION’S REPLY BRIEF
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

Plaintiffs brought this lawsuit asking the Court to “require CTU [the Chicago Teachers Union] to provide its members with an audited report annually.” (Complaint, attached as Exhibit 1, ¶ 1.) CTU has now published these audited reports and Plaintiffs have received them, rendering this case moot.

Plaintiffs do not contest that they seek production of documents, and that documents have been provided to them. Rather, Plaintiffs say they are dissatisfied with the level of detail CTU put into the annual audited reports. But the form of the audited reports complies with the CTU’s Constitution and Bylaws. And if there were any ambiguity in the Constitution, the CTU’s President exercised her explicit right to interpret the Constitution and determine the form of the audited reports. This result doesn’t change with the extrinsic facts Plaintiffs have added into the record. Illinois law affords deference to the rights of voluntary associations such as labor unions to interpret and apply their own governing documents.

Plaintiffs repeatedly conflate two Bylaw provisions that require two different annual reports. CTU Bylaw Article VI, Section 2, requires the Union's Board of Trustees to procure and make available for member inspection an annual audit of the Union's finances. Plaintiffs have not alleged in their complaint that the Union ever failed to comply with this annual audit requirement. Plaintiffs sued under a different Bylaw Article VI Section 1, which requires the CTU Financial Secretary to publish an annual "audited report." (Exh. 1A at 23.)¹

The audited reports produced by the Union under Bylaw Article VI Section 1 consist of Auditor's summary pages from the full annual audit showing, among other things:

- Current Assets (cash, CDs, receivables, property and equipment)
- Liabilities (accounts payable, accrued expenses, long term liabilities)
- Net Assets
- Revenues (dues and fees, assistance from parent organizations, contributions, rent, merchandise sales)
- Expenses (collective bargaining and member services, member development, management, political action committee)

(Exh. 4, Exhibits A-D thereto.)

The format for the audited reports was determined by the CTU's President (Exh. 3 ¶ 3), acting under her Constitutional authority to interpret the Constitution and Bylaws.²

These audited reports are what Plaintiffs sued to get, and there is no dispute that after filing suit Plaintiffs received them. Once the audited reports were provided to Plaintiffs the lawsuit became moot and should now be dismissed. Plaintiffs' Response in Opposition to Defendant's

¹ Exhibits to this reply brief are to the exhibits attached to CTU's memorandum in support of its motion for summary judgment.

² Bylaw Article VI Sec. 1 includes among the President's duties: "He/she shall decide all questions concerning the interpretation and application of this Constitution, subject to reconsideration by the House of Delegates. (Exh. 1(A) at 22.)

Motion for Summary Judgment (“Response”) now sows confusion over what documents they seek and tries to move the goalposts away from the original dispute in Plaintiffs’ Complaint. Regrettably, Plaintiffs refuse to take yes for an answer.

ARGUMENT

I. Plaintiffs Concede the Court’s Limited Scope of Review.

Plaintiffs acknowledge that *Diamond v. United Food & Commer. Workers Union Local 881*, 329 Ill. App. 3d 519 (2nd Dist. 2002), app. den., 201 Ill. 2d 564 (2002), and related decisions set forth the law pertaining to application of the Union’s Constitution and Bylaws. These include: 1) that Union members are bound to the Union constitution and bylaws; 2) that voluntary associations such as unions enjoy judicial deference to their interpretation of their own governing documents; and 3) where the governing documents vest the union President discretion to interpret and apply the organization’s bylaws, the membership generally must accept the President’s interpretation and application.

As discussed in the opening brief, *Diamond* establishes that union members are bound by the union’s bylaws, including bylaws granting the union president discretion to interpret the bylaws themselves. Thus, under the authority of *Diamond*, these Plaintiffs here (all union members) have agreed to be bound by the President’s interpretation. *Diamond*, 329 Ill. App. 3d at 526.

Judicial deference to a union’s interpretation of its own bylaws is a long-standing principle of Illinois law:

Illinois has long recognized the principle that courts should be reluctant to intervene in the internal affairs of an unincorporated association. In 1913, our supreme court articulated this principle as follows: “Courts will not interfere to control the enforcement of by-laws of such associations, but they will be left free to enforce their own rules and regulations by such means and with such penalties as they may see proper to adopt for their government.”

Diamond, 329 Ill. App. 3d at 525.

“Courts will not interfere to control the enforcement of by-laws of such associations, but they will be left free to enforce their own rules and regulations by such means and with such penalties as they may see proper to adopt for their government.” *Engel v. Walsh*, 258 Ill. 98, 103 (1913). More recently, the Illinois Supreme Court put it this way: “It is generally held that courts in the absence of circumstances of unfairness will not intervene in questions involving the enforcement of bylaws and matters of discipline in voluntary associations.” *American Federation of Technical Engineers, Local 144 v. La Jeunesse*, 63 Ill. 2d 263, 268 (1976). Accord, *Poris v. Lake Holiday Property Owners Ass’n*, 2013 IL 113907, ¶ 31 (“Thus, courts generally will not interfere with the internal affairs of a voluntary association absent mistake, fraud, collusion or arbitrariness.”). See also, *Amalgamated Transit Union v. Barron*, 2021 IL App (1st) 200380-U (August 18, 2021). (“[A]t all times, we must give deference to a union to interpret its own constitution or bylaws.”) *Id.*, at ¶ 64.

Particularly as to disputes over the meaning of union bylaws, as the Appellate Court noted in *Diamond*, where a union’s “bylaws vest interpretative authority in the president, the members have agreed to be bound by these interpretations.” *Diamond*, 329 Ill. App. 3d at 525. That is, as part of agreeing to a union’s bylaws, a union’s members have contracted to be bound by the president’s interpretation of the bylaws. That agreement to be bound by the union president’s interpretation is itself an enforceable term of the bylaws and union members have contracted away their right to seek a contrary interpretation from a court. *Id.* “Thus, considering Illinois law pertaining to unincorporated associations, federal labor policy, and ordinary principles of contract law, it is clear that we owe considerable deference to” the union’s own interpretation of its bylaws. *Id.* at 527. “So long as the president interprets the bylaws in a reasonable manner, the contract has not been breached.” *Id.* Where the court is “unable to conclude that” the interpretation is unreasonable, the court “must defer to it.” *Id.* at 529.

This Illinois principle of law comports with the “general national policy against judicial interference in the internal affairs of unions.” *Rota v. Brotherhood of Railway, Airline & Steamship Clerks*, 489 F.2d 998, 1003 (7th Cir. 1973). “The federal courts articulate a noninterference principle similar to that used in Illinois; however, they frame it in terms of reasonableness rather than arbitrariness.” *Diamond*, 329 Ill. App. 3d at 525. But these are “are similar standards and, in fact, are often used in conjunction in making certain evaluations.” *Id.*

This First District Appellate court had cause to apply this principle of non-judicial interference recently, in *Amalgamated Transit Union v. Barron*, 2021 IL App (1st) 200380-U (August 18, 2021).³ In that instructive case, the plaintiff union pursued internal charges against several former executive board members. *Id.* ¶¶ 6-11. The union conducted a hearing on those charges before a hearing officer, who assessed fines against the defendants. *Id.* ¶¶ 15-17. The Appellate Court held that summary judgment was appropriately granted to union on these fines. In doing so the Appellate Court specifically rejected arguments based on facts that might have led the hearing officer to rule in the defendants’ favor. *Id.* ¶ 73. The Appellate Court deemed those facts “extraneous,” since those “extraneous claims speak only to the underlying allegations against them, but in this litigation, the underlying allegations are irrelevant because the defendants were found to have engaged in behavior by a tribunal that Illinois courts recognize, and the defendants themselves contractually recognized, was empowered to make such findings.” *Id.*

Thus, where union bylaws grant a particular individual authority to resolve disputed issues, a court need not hold a trial merely over the possibility that individual could have decided differently. That is because the undisputed facts were that the union members had agreed to be bound by the hearing officer’s judgment. *Id.* Facts that might have led the hearing officer to rule differently are not *material* facts for the court. *Id.*

³ Per Illinois Supreme Court Rule 23(e)(1), courts may consider unpublished decisions issued after January 1, 2021.

II. This Court Should Find That the Union Published the “Audited Report” Required under its Constitution.

A. Whether the CTU Constitution Is Ambiguous Is a Question of Law for this Court to Decide.

Plaintiffs assert that “what the Bylaws require” is “plainly a disputed material fact, as is CTU’s interpretation of them.” (Response at 6-7.) That is not the law. Plaintiffs cannot avoid summary judgment merely by arguing that the individual vested with authority by the union’s bylaws could have decided things differently. That is the conclusion of both *Diamond* and *Barron*.

The *Barron* case is particularly instructive here. There, as here, the union members sought to avoid summary judgment by arguing that the union’s duly appointed hearing officer could have ruled differently based on particular facts. But the Appellate Court for the First District disagreed, calling these claims “extraneous” because the union members had “themselves contractually recognized” that the hearing officer had power to make decisions that would bind them. *Barron*, 2021 IL App (1st) 200380-U, ¶ 73.

Plaintiffs here cannot continue with their case merely by proposing an alternate reading of the bylaws. Their desire for a different reading does not create a disputed material fact. That is because CTU’s Constitution states that CTU’s president – not Plaintiffs nor this Court – has authority to interpret ambiguous bylaw provisions. Plaintiffs would put in front of a jury whether the CTU’s Constitution is ambiguous. That is incorrect. “Whether a contract is ambiguous is a question of law for the court.” *Midland Hotel Corp. v. Reuben H. Donnelley Corp.*, 149 Ill. App. 3d 53, 62 (1st Dist. 1986), *aff’d in part, rev’d in part on other grounds*, 118 Ill. 2d 306 (1987).

Thus, the analysis is as follows: First, are the Bylaws’ requirements ambiguous? That is a question for the Court. If they are deemed ambiguous on their face, the second question is whether the CTU President’s interpretation is unreasonable, because plaintiffs, as CTU members, have contracted to abide by the President’s interpretation. *Barron*, 2021 IL App (1st) 200380-U, ¶ 73;

Diamond, 329 Ill. App. 3d at 525. At no point is a trial called for because this is all a matter of law that can be resolved on summary judgment. *Barron*, 2021 IL App (1st) 200380-U, ¶ 73.

B. The Audited Reports Are Compliant with the Bylaws on their Face, Making Further Analysis Unnecessary.

Plaintiffs perpetually forget that they have *not* sued for breach of Bylaw Article VI Section 2.a., which requires the Union to annual procure “a reliable and adequate audit of the finances of the Union for the preceding fiscal year” and make it available for inspection by its members. They have sued for a breach of Bylaw Article VI Section 1.d., which requires the Financial Secretary to regularly present “a report on Union finances” to the Union’s governing body, and annually to “furnish an audited report” that is printed in the Union’s publication. The Financial Secretary’s annual “audited report” is the sole issue in this proceeding.

Plaintiffs essentially claim there is no difference between these two sections, that in both cases a full audit is required, and that the published audited reports are “self-prepared summary reports that bear none of the hallmarks of the type of legitimate, independent audits it used to release.” (Plaintiffs’ Response in Opposition to Defendant’s Motion for Summary Judgment (“Response”) at 1). But a comparison of the Bylaw sections relating to the Trustees’ annual audit (not at issue) and the Financial Secretary’s annual report (at issue) shows that they address different subjects and serve different purposes.

Bylaw Article VI Sec. 2.a. pertains to the Union’s Board of Trustees, who under supervision of the Union’s Executive Board are tasked with overseeing the finances, property, and budget of the Union. Among other duties, it must annually procure a “reliable and adequate audit,” which audit must be made available for inspection by every Union member. (Exh. 1A at 23.)

In contrast, Bylaw Article VI Sec. 1.d. at issue here concerns the Financial Secretary, one of four Union officers, who is responsible for handling the membership dues and paying the Union's bills. The Financial secretary makes "a report on the union's finances" at the monthly meetings of the Union's governing body, the House of Delegates, ⁴ and annually the report must be audited and published (the "audited report").

The plain language of the two sections shows that the Financial Secretary's reports and the Board of Trustee's annual audits serve different purposes. The Trustees, who are tasked with oversight of the Unions overall finances, property and budget, procure a "reliable and adequate audit of the finances of the Union." The Financial Secretary, by contrast, is tasked only with handling money and paying the Unions bills, and not the Union's overall financial health. The Financial Secretary gives a monthly report on the Union's finances, and annually the report must be verified by an auditor (the "audited report").

That the Financial Secretary's reports are distinguishable from the Trustees' annual audit is further demonstrated by the bylaw requirement that the Financial Secretary provide the Trustees an accounting of income, expenditures, investments and savings, and further allow them access to "all financial records of the Union" – plainly necessary for Trustees (and not the Financial Secretary) to conduct their annual audit. ⁵

⁴ Bylaw Article XIII Sec. 2 provides that the House of Delegates meets every month during the school year.

⁵ Bylaw Art. VI Sec. 1.d. states, in relevant part:

At the meeting of the Board of Trustees or upon request of the Trustees, the Financial Secretary shall provide the Trustees with the following:

1. an updated statement of income and expenditures, including in the latter a list of accounts to which the expenses were charged;
2. an updated statement of monies deposited in savings and investment accounts in the name of the Union.

The Financial Secretary shall, upon written request by the Board of Trustees, allow the Board of Trustees, either singly or as an assembled body, to examine all financial records of the Union.

By conflating the 'Trustees' annual audit and the Financial Secretary's financial report, Plaintiffs essentially claim there is no difference between the two Bylaw sections, and the Financial Secretary's "audited report" must actually be the 'Trustees' full annual audit. But this claim is contradicted by the plain language of the Union's Bylaws, which uses different terms to describe the Board of 'Trustees' annual "reliable and adequate audit" and the Financial Secretary's annual "audited report." Notably, these two sections appear adjacently in the Bylaws. A plain reading suggests they are different.

A facial review of the Bylaws further shows that it is entirely reasonable for the audited report to be something less than the full audit based on the way these documents are handled. The Bylaws make clear that the audited report is published in the Union's publication – and accordingly available to the public – while the full audit of the CTU's finances is *not* published but rather "may be inspected in the Union office by any member." (Exh. 2 at 23.) It is reasonable that the broadly published audited report would contain less detailed, private information about CTU's finances than the full audit, the review of which review is restricted to CTU members. Plaintiffs argue that the Bylaws require these to be the same document, but the differing levels of disclosure make it reasonable for the documents to be different. This is exactly the sort of practical consideration that the Appellate Court in *Diamond* looked to when approving a union president's exercise of discretion to interpret an ambiguous bylaw provision. *Diamond*, 329 Ill. App. 3d at 528-29.

There is no factual dispute that the Financial Secretary's "audited report" at issue in this proceeding consists of the auditor's summary pages taken from the full audit, and that these pages include the Union's revenues and expenses for the audited year. Thus, the one common term in both Bylaw sections – audit – is fully observed in the annual audited report.

C. If the Term “Audited Report” Isn’t Clear from the Face of the Constitution, the President’s Discretion Was Exercised Reasonably, Even if Considering Extrinsic Evidence.

As detailed above, a union constitution and bylaws is afforded special deference by the courts because of the rights of voluntary associations to govern themselves by their own rules, and courts further defer to the discretion of the Union’s president when the president is authorized to interpret these governing documents. *Barron*, 2021 IL App (1st) 200380-U, ¶ 73; *Diamond*, 329 Ill. App. 3d at 525.

The only judicially recognized exception that might apply here is if Plaintiffs had shown that the CTU President exercised her discretion “arbitrarily,” which the *Diamond* Court applies as a test of “reasonableness”: “So long as the president interprets the bylaws in a reasonable manner, the contract has not been breached.” 329 Ill. App.3d at 527. “The touchstone of our review of the president's actions is reasonableness.” *Ibid*. “In short, we are unable to conclude that [the president’s] interpretation of the dues provision is unreasonable. Accordingly, we must defer to it.” *Id.*, at 529.

Plaintiffs essentially offer two facts – actually, one fact and one opinion – as extrinsic evidence to resist summary judgment here.

First, Plaintiffs argue that the CTU’s prior practice of publishing the full audits in its newsletter proves that the term “audited report” must mean a full audit (Response at 10-11). Plaintiffs do not dispute that the published “audited report” at issue consists of the auditor’s summary pages taken from the full annual audit made available for member inspection. Thus, there is nothing inherently unreliable about the report. Rather, Plaintiffs argue that the Union’s past decision to publish a more detailed audited report than the Constitution and Bylaws require somehow estops them from altering that practice now.

But a union official vested with discretion may exercise that discretion to modify a practice without violating the union's constitution. Plaintiffs cite various cases about commercial contract interpretation to support their argument (Response at 11), but they simply ignore the *Diamond* court's admonition that "we are not convinced that a member of a union or unincorporated association vested with the authority to interpret bylaws or constitutions is necessarily bound by the same rules of contractual construction that bind a court." *Diamond*, 329 Ill. App. 3d at 527. Moreover, a court's deference to the union's interpretation of its governing documents includes deference to the *exercise* of that discretion to change its prior practices. See, *Vazquez v. Central States Joint Board*, 2006 U.S. Dist. LEXIS 11355 *32; 2006 WL 695563 (N.D. Ill. Mar. 15, 2006) (finding "no authority that suggests that the presumptive strong deference owed to a union's interpretation of its own constitutive documents and procedural rules is mitigated by a putative change of practice").

Second, Plaintiffs present the affidavit of Sheila A. Weinberg, a Certified Public Accountant, to support their argument for an alternate interpretation of the term "audited report." Weinberg applies the "standards promulgated by the American Institute of Certified Public Accountants ("AICPA")." (Response Exh. C ¶11.) Plaintiffs offer no reason why professional and technical accounting terminology must apply to the constitutions of voluntary organizations such as labor unions generally, or to the CTU in particular.

Plaintiffs claim that under professional accounting standards, "an 'audited report' means a set of financial statements that have been examined by an independent CPA in accordance with GAAS [Generally Accepted Auditing Standards]." (Response at 11). However, Weinberg's Declaration, (Response Exh. C) actually shows something else. She states that an auditor's report is a separate opinion letter as to whether a set of financial statements are accurate. (Response Exh. C, ¶

10.)⁶ Thus, even if professional accounting standards bore any relevance to a union constitution, the Plaintiffs' proffered definition of the term undercuts its contention that the "audited report" is the same as an annual audit.

Plaintiffs cannot proceed to trial simply by suggesting an alternative, if questionable, interpretation of the term "audited report" from an unrelated field. Further, plaintiffs have contracted to accept the CTU President's determination on the matter. *Diamond*, 329 Ill. App. 3d at 525-27.

Plaintiffs have nothing they could bring to trial to show arbitrariness – or unreasonableness, as the term is applied to a union's constitution. For example, in *First National Bank v. County of Grundy*, 197 Ill. App. 3d 660 (3rd Dist. 1990), summary judgment was granted to the defendant county on a zoning decision where the plaintiffs had no evidence to "prove that the denial of the preliminary plat was an arbitrary and unreasonable decision." *Id.* at 666-67. Plaintiffs argue that "nothing has changed" since this Court initially denied CTU's motion to dismiss for mootness, but that assertion is incorrect. What has changed is the standard of review. In evaluating the motion to dismiss, the Court assumed Plaintiffs had evidence for their claims. Now, at summary judgment, Plaintiffs must show the Court that they have evidence to contest mootness at trial. They have failed to do so.

At most, Plaintiffs ask many "what ifs" – what if the CTU President's interpretation of the Constitution might have been overturned by the Union's governing body? What if the President had no reason whatsoever in her mind for making her interpretive decision? What if the Union's full audits (not at issue here) don't include an independent auditor's opinion letter?

⁶ Weinberg Declaration Paragraph 10 states: "As discussed below, the endpoint of such an audit is the issuance of an independent auditor's report containing the auditor's opinion as to whether those GAAP statements are presented fairly, in all material respects."

But suppositions over possible facts and a lack of evidence does not allow Plaintiffs to survive summary judgment. *Hall v. InPhoto Surveillance Co.*, 271 Ill. App. 3d 852 (4th Dist. 1995) (summary judgment properly granted for defendants when plaintiffs admitted they had no evidence of unreasonable surveillance). To survive summary judgment, Plaintiffs must show the Court facts which they would present at trial as evidence of arbitrariness. They cannot proceed to trial hoping to prevail merely on “fanciful speculation.” *Id.* at 856.

III. Summary Judgment Is Appropriate Because Case Is Moot.

CTU’s Bylaws provide for two forms of publications to members: (1) “an audited report of the Union which shall be printed in the Union’s publication” and (2) a “reliable and adequate audit of the finances of the Union” which “may be inspected in the Union office by any member.” (Exh. 2 at 23.)

Plaintiffs’ complain only of the audited report. Plaintiffs’ Complaint states that they “bring this lawsuit for breach of contract for failure to furnish an *audited report*” (Exh. 1 at 1, emphasis added). Plaintiffs filed their Complaint on October 9, 2022, and Plaintiffs do not contest the affidavits CTU provided in support of its request for summary judgment, stating that these audited reports were, indeed, published a few months later (Exh. 4 ¶ 2). Thus, Plaintiffs’ claim is moot. *Garlick v. Bloomingdale Twp.*, 2018 IL App (2d) 171013, ¶ 38, appeal denied 116 N.E.3d 943 (2019) (lawsuit seeking documents is moot where the documents were provided after the lawsuit was filed).

Plaintiffs cannot avoid summary judgment by moving the goalposts. Having filed a complaint to compel CTU to provide the audited reports, Plaintiffs now pivot to complaining that the audited report should be the same as the full audit and that the full audit could be more detailed. But a plaintiff cannot avoid summary judgment by raising new arguments that were not in the complaint. This was the holding in *Abramson v. Marderosian*, 2018 IL App (1st) 180081, ¶ 55, where a

plaintiff responded to the defendant's motion for summary judgment on a legal malpractice claim by "assert[ing] new factual allegations that should have been included in the underlying complaint." The Appellate Court held that, "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." *Id.* The same is true here. Having brought a complaint to compel CTU to publish audited reports, Plaintiffs cannot avoid summary judgment by raising a new dispute about the full audit that is available only for inspection. *Id.* Plaintiffs sued to compel publication of audited reports and they got those audited reports. The lawsuit that Plaintiffs actually brought to the Court is now moot. *Garlick*, 2018 IL App (2d) 171013, ¶ 38. Raising other issues in response to summary judgment does not allow Plaintiffs to avoid the reality that their claims are now moot. *Abramson*, 2018 IL App (1st) 180081, ¶ 55

CONCLUSION

There is no dispute of material fact about the mootness of this lawsuit. Plaintiffs have received the audited reports they filed this lawsuit to obtain, which makes their Complaint moot. CTU submits that the term "audited report" is not ambiguous and that what it has provided Plaintiffs clearly suffices. But even if the term "audited report" is ambiguous, Plaintiffs have contracted to abide by CTU's President's interpretation of that. Illinois law requires this Court to defer to that interpretation and hold Plaintiffs to their agreement that they will accept that interpretation as binding. Plaintiffs have nothing to show as evidence that CTU's President exercised her discretion arbitrarily, such that this Court could second-guess that discretion.

Nor can Plaintiffs avoid summary judgment on the actual claims they make about the audited report in their Complaint, by moving the goalposts in response to summary judgment with new claims about the full audit. In fact, the CTU President's choice to publish a summary audited

report to all of CTU's members, while securing the full audit for inspection at CTU's offices, is entirely consistent with the Bylaws's provision for two levels of disclosure. Summary judgment should be granted to CTU on the grounds of mootness.

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Respectfully submitted,

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October 6, 2025

CERTIFICATE OF SERVICE

I, Josiah A. Groff, an attorney, hereby certify that, on October 6, 2025, I caused to be served the attached Defendant Chicago Teachers Union's Reply Brief 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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