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

PHILIP WEISS, BRIDGET CUEVAS, ROSEMARY SWEARINGEN, THEODORE KALAGERESIS, *and* KENNETH MERACLE, Plaintiffs v. CHICAGO TEACHERS UNION, LOCAL 1, IFT-AFT, AFL-CIO, Defendant.	No. 2024 CH 09334 Judge David B. Atkins Calendar 16

Plaintiffs' Response to Defendant's Supplement in Support of its Motion for Summary Judgment

I. Introduction

Plaintiffs Philip Weiss, Bridget Cuevas, Rosemary Swearingen, Theodore Kalageresis, and Kenneth Meracle (collectively "Plaintiffs") respectfully submit this Response to Defendant Chicago Teachers Union, Local 1, IFT-AFT, AFL-CIO's ("CTU") January 21, 2026 Supplement in Support of its Motion for Summary Judgment. Plaintiffs are CTU members who sued to enforce provisions of CTU's governing documents requiring annual audited financial reporting and disclosure to membership. CTU has consistently maintained throughout this litigation that its Constitution/Bylaws do not require publication of "full, unabridged" audits, dismissing Plaintiffs' arguments as "strained." Suppl. at 1.

CTU now asserts that this matter is "incontestably moot" because CTU allegedly posted "unabridged audited financial reports for FY 2019–24" on a CTU members-only website on January 16, 2025. Suppl. at 1; Second Suppl. Decl. of Kurt

Hilgendorf ¶ 4. CTU claims that, on January 16, 2025, it both (a) provided unabridged audited financial reports for FY 2019–24 to a congressional committee and (b) posted those same unabridged audits (including auditor opinion letters) on CTU's members-only website.[1] Second Suppl. Decl. of Kurt Hilgendorf ¶¶ 2–4. CTU contends that this posting "renders Plaintiffs' claims moot." Suppl. at 1.

The newly posted audits on CTU's member-only website include adverse opinion letters from CTU's auditing firms, raising concerns about whether CTU accurately represented its financial position to those auditors. But even assuming CTU finally produced the missing audits at issue here, CTU still has not met its burden establishing mootness warranting summary judgment. CTU's apparent disclosure—even if welcomed—does not eliminate the live controversy over CTU's ongoing contractual duties to furnish annual audited financial information to its members. CTU's conduct fits squarely within the voluntary-cessation doctrine preventing a defendant from mooting a case by changing course only after being sued, while continuing to insist it had no obligation to do so and preserving the ability to revert. A defendant's voluntary cessation of a challenged practice cannot moot a case unless it is "absolutely clear that the defendant's wrongful conduct could not reasonably be expected to recur." *Fisch v. Loews Cineplex Theatres, Inc.*, 365 Ill.

[1] CTU's Supplement contains a material inconsistency: it asserts CTU "on January 16, 2023 published" the audits. Suppl. at 1. But the date on the supporting declaration for this purported assertion is January 16, 2025. Second Suppl. Hilgendorf Decl. ¶¶ 3–4. Plaintiffs will assume CTU's January 16, 2023 assertion is a typographical error.

App. 3d 537, 540 (2005) (internal citations omitted). "The burden is on the defendant to make this showing." *Id.* (internal citation omitted).

CTU cannot meet this burden. Its mid-litigation production of past audits—undertaken only after facing the pressure of this lawsuit and a congressional inquiry—does nothing to prove its future conduct regarding an ongoing annual duty. Because CTU continues to insist it has no legal obligation to provide these audits and has offered no enforceable assurance of future annual compliance, it remains "free to return to [its] old ways." *Friends of the Earth*, 528 U.S. at 189. CTU's tactical, non-committal production of audits of past fiscal years is insufficient to moot Plaintiffs' claim for permanent prospective relief.

II. Legal Standard

Summary judgment is only "appropriate when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law." *Schweihs v. Chase Home Fin., LLC*, 2016 IL 120041, ¶ 48. "Summary judgment is a drastic measure and should only be granted if the movant's right to judgment is clear and free from doubt. *Id.* (citing *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 42–43 (2004)). "Where a reasonable person could draw divergent inferences from undisputed facts, summary judgment should be denied." *Schweihs*, 2016 IL 120041, ¶ 48.

A case is moot only when no actual controversy remains and no effectual relief may be granted. *See Turner v. Joliet Police Dep't,* 2019 IL App (3d) 170819, ¶ 12 (citing *Duncan Publ'g, Inc. v. City of Chicago*, 304 Ill. App. 3d 778, 782 (1st Dist. 1999)). But where the challenged conduct is capable of repetition, or where the

defendant's post-suit change is voluntary and reversible, courts do not dismiss simply because a defendant temporarily complied. To establish that an issue is capable of repetition yet evading review: (1) "the challenged action must be of a duration too short to be fully litigated prior to its cessation"; and (2) "there must be a reasonable expectation that 'the same complaining party would be subjected to the same action again.'" *Lakewood Nursing & Rehab. Ctr., LLC v. Dep't of Pub. Health*, 2015 IL App (3d) 140899, ¶ 34 (internal citations omitted).

III. Argument

A. The controversy remains live because CTU's belated production of audits is temporary and reversible.

CTU's entire mootness theory in its Supplement depends on the proposition that once CTU posted audits for FY 2019 through 2024, there is no longer a live controversy. That is wrong for at least two reasons.

First, CTU continues to dispute the meaning of its governing documents and insists it had no duty to do what it now claims to have done in producing audits for FY 2019 through 2024. CTU does not recognize Plaintiffs' arguments were correct, nor does it pledge to produce audits annually going forward. Instead, CTU declares the opposite: it says its "actions were not motivated by this lawsuit," and it continues to characterize Plaintiffs' arguments as "strained." Suppl. at 1. That posture is fatal to CTU's mootness argument under the voluntary cessation doctrine. Mootness in this context is not a backward-looking question of whether Plaintiffs have, at some point, managed to lay eyes on certain documents. It is a question that looks to the future as to whether a defendant can evade judicial

review by temporarily altering its conduct while preserving both the legal position and the practical ability to revert to the challenged behavior as soon as the case is dismissed. Illinois court have, therefore, held that a defendant who voluntarily ceases the challenged conduct cannot obtain dismissal on mootness grounds unless it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur" *Drury v. Vill. of Barrington Hills*, 2018 IL App (1st) 173042, ¶ 56 (internal citations omitted).

By CTU's own account, that demanding standard is not remotely met here. CTU offers no binding change—no official policy adoption, no irrevocable commitment, no written policy directive, and no other institutional safeguard—pledging that it will continue to provide unabridged audits in future years in the manner Plaintiffs seek—and CTU's constitution requires. Instead, CTU expressly positions its production as discretionary and extraneous to the merits ("not motivated by this lawsuit"), while continuing to litigate that Plaintiffs' argument is wrong. Suppl. at 1. CTU's attached Second Supplemental Declaration of Kurt Hilgendorf confirms that the website posting occurred only after a specific November 20, 2025 demand from a congressional committee for "[a]ll unabridged audited financial reports for FY 2019-24," which Hilgendorf says "matches the claims by plaintiffs for release of CTU audits in this Weiss litigation." ¶¶ 2–4. That account underscores that CTU acted because of a transient, external political development, not because it accepted any ongoing duty toward its own members. Once the external pressure subsides, nothing in CTU's filing makes it "absolutely clear" that the alleged wrongful

conduct "could not reasonably be expected to recur." *Drury*, 2018 IL App (1st) 173042, ¶ 56.

CTU's continued insistence that Plaintiffs' reading of its governing documents is "strained" shows that the legal dispute over what the governing documents require is very much alive. CTU is attempting to obtain dismissal while still reserving—and actively defending—its right to interpret the Constitution and bylaws in a way that would again deny members access to unabridged audits. That is the opposite of the kind of repudiation, binding policy change, or structural reform that might, in some circumstances, satisfy the voluntary-cessation doctrine. A defendant that denies it ever had the duty being litigated and that expressly characterizes its changed behavior as unrelated to the lawsuit, cannot plausibly argue it is "absolutely clear" the challenged violation will not recur. At most, CTU has shown that—for now—its website contains a particular set of documents. That showing does not extinguish the controversy—it simply illustrates why courts are skeptical of defendants who seek mootness based on self-initiated, revocable changes while still disputing the underlying obligation. Should the Court grant CTU's summary judgment at this juncture, nothing would prevent CTU from simply revoking its members' access to those documents.

Second, even assuming CTU has, in fact, made unabridged audits for FY 2019 through 2024 available to its members, that would not resolve the controversy because Plaintiffs' claims are inherently forward-looking. Plaintiffs did not initiate this litigation merely to obtain a static cache of past audits. They brought it to

enforce an annual contractual obligation to provide CTU members with unabridged, auditor-issued financial statements on a yearly basis. This contractual duty is not satisfied and does not disappear simply because CTU belatedly decided to produce a finite set of historical financial documents ranging from 2019 to 2024.

CTU tries to reframe the case as if it were a simple request for documents that becomes moot as soon as those documents are handed over. That framing may fit cases where the only relief sought is the production of a particular record and the defendant subsequently provides the exact item requested, with no continuing duties at issue. But that is not the claim here. Plaintiffs request relief that would clarify and enforce CTU's annual reporting obligations going forward. The parties remain in sharp disagreement over what the governing documents require—CTU calls Plaintiffs' reading "strained" and insists its prior practice of publishing only summarized "audited reports" sufficed, while Plaintiffs maintain that "audited report" means the full, unabridged audit. Suppl. at 1; Plaintiff's Opp'n at 11. That live interpretive dispute is precisely what declaratory and specific-performance relief exist to resolve. Illinois courts have highlighted that a controversy remains live if there is, as here, an ongoing dispute regarding the parties' legal duties and obligations, as seen in cases where defendants ceased the conduct but maintained their right to resume it. *See Cohan v. Citicorp,* 266 Ill. App. 3d 626, 630 (1993) (finding a live controversy because the defendants waived imposing assessments but maintained their right to impose the same fees in the future). *See also Payne v. Coates-Miller,* 52 Ill. App. 3d 288, 292-293 (1977) (finding against mootness because

a defendant reserved the power to assess certain charges that were central to the controversy there) CTU's position that it has no obligation to provide full, unabridged audits each year makes this a live controversy. Granting summary judgment in CTU's favor would allow it to return to its prior practice of denying members access to complete audits—potentially for years at a time. A declaration in Plaintiffs' favor would have concrete consequences for future years: it would establish that CTU must continue to provide unabridged audits annually, not merely when forced by litigation and external political oversight.

Allowing CTU to moot this suit by a one-time, backward-looking posting of old materials—while it simultaneously insists it had no obligation to do so and declines to promise that it will do the same next year—would invite a pattern of evasion that Illinois law does not tolerate. A defendant with an ongoing, recurring duty could always temporarily comply for a short historical window, obtain dismissal as "moot," and then quietly revert to noncompliance the following year, safe in the knowledge that any new challenge would have to start from scratch. That kind of repetitive, whack-a-mole litigation risk is exactly why courts treat suits over continuing obligations differently from purely retrospective records disputes.

Simply put, Plaintiffs' claims are about enforcing an ongoing contractual reporting obligation, not about securing a single document dump for a certain timeframe. CTU's belated posting of audits for fiscal years 2019 through 2024—prompted by outside political scrutiny, expressly disavowed as being "motivated by this lawsuit," and accompanied by vigorous insistence that CTU has no such duty—

does not extinguish the forward-looking controversy about what CTU must do for its members going forward. Under the voluntary-cessation standard, CTU has not met its burden to show it is "absolutely clear" that the alleged wrongful conduct will not recur. CTU's new factual assertion, even if accepted at face value, does not render this case moot.

IV. Conclusion

CTU does not establish that Plaintiffs' claims are moot. To the contrary, CTU's new assertion underscores why judicial resolution remains necessary: CTU changed its conduct midstream while continuing to deny any duty to do so and without any binding guarantee of future compliance. CTU's actions constitute voluntary cessation, and it does not deprive this Court of jurisdiction or justify summary judgment. For the foregoing reasons, Plaintiffs respectfully request that this Court deny CTU's motion for summary judgment.

Dated: February 13, 2026

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CERTIFICATE OF SERVICE

I, Ángel J. Valencia, counsel for Plaintiffs, hereby certify that on February 13, 2026, I served the foregoing on counsel for all parties by filing it electronically via the Odyssey eFile IL service.