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

PHILIP WEISS, BRIDGET CUEVAS, ROSEMARY SWEARINGEN, and KENNETH MERACLE, Plaintiffs v. CHICAGO TEACHERS UNION, LOCAL 1, IFT-AFT, AFL-CIO; STACY DAVIS GATES, President; and MARIA T. MORENO, Financial Secretary, Defendants.	No. 2024 CH 09334 Judge David B. Atkins Calendar 16

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO STRIKE

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INTRODUCTION

For decades, the Chicago Teachers Union ("CTU") furnished members with independent financial audits, consistent with its obligation to publish "audit reports" under the CTU Constitution. After CTU abruptly stopped this longstanding practice, Plaintiffs—longtime CTU members—filed this lawsuit to ensure they receive the financial transparency they are contractually entitled to.

Rather than simply provide the missing audits, CTU moved to dismiss the case, arguing that self-prepared, three-page financial summaries suffice to meet their legal obligations. In effect, CTU asks this Court to disregard its obligation to construe facts in the light most favorable to Plaintiffs, and instead trust that CTU has provided sufficient information—without allowing discovery or argument on the merits. In opposing that motion, Plaintiffs submitted evidence suggesting CTU leadership has acted in bad faith, reinforcing why the Court should not simply take CTU at its word.

CTU now moves to strike the most damning portions of lead Plaintiff's affidavit as "scandalous and impertinent." For the following reasons that motion should be denied.

BACKGROUND[1]

In its motion to dismiss, CTU argues that this case is moot because, in lieu of full independent audit reports, CTU has belatedly provided its members with three-

[1] The general background of the Parties' dispute is summarized above and detailed in Plaintiff's Response to Defendants' Motion to Dismiss. This Background section sets forth only those facts most pertinent to the Motion to Strike.

page self-prepared financial summaries. In support of its mootness argument, Defendants rely on the Declaration of Kurt Hilgendorf, "the Legislative Coordinator/Special Assistance [sic] to the President." Hilgendorf. Decl. ¶ 1. Hilgendorf acknowledges that the 2020, 2021, and 2022 audit reports were not available until December 2024—two months after this lawsuit was filed. Hilgendorf Decl. ¶¶ 3–4. He also concedes that the belatedly produced documents are not "full" audit reports; they are self-prepared "summary" audit reports. *Id.* Mr. Hilgendorf further asserts that "CTU has always made its full annual audits available for personal inspection by any CTU member upon request" but distinguishes these from "the summary audited reports previously printed in the CTU's publication." *Id.*

Plaintiff Philip Weiss, in his declaration opposing the Motion to Dismiss, provides critical context that undermines Defendants' attempt to manufacture mootness, and highlights their ongoing and misleading efforts to deny members meaningful financial transparency. The Motion to Strike specifically targets paragraphs 7–13 of the Weiss Declaration (the "Challenged Paragraphs"), which recount Mr. Weiss's and other members' attempts to obtain the audits prior to filing suit, and CTU leadership's efforts to stonewall members and then retaliate against Plaintiffs for pursuing the audits. The Challenged Paragraphs also expose inconsistencies between leadership's public statements and the affidavit submitted by Mr. Hilgendorf, revealing a pattern of misrepresentation regarding the audits' availability. In other words, the Challenged Paragraphs highlight precisely why—consistent with the standard on a motion to dismiss—all inferences must be made

in Plaintiffs' favor, allowing them to pursue discovery to test the veracity of Defendants' assertions.

ARGUMENT

CTU argues that the Challenged Paragraphs should be struck because they are "scandalous and impertinent." Illinois courts have declined to strike allegations as "scandalous and impertinent" even where counsel had to be warned against using "invective." *Cincinnati Tool Steel Co. v. Breed*, 136 Ill. App. 3d 267, 283 (2nd Dist. 1985). If a court deems allegations to be mere "surplusage," then "the usual course is merely to disregard and reject from consideration the superfluous matter" rather than strike it. *Stover Mfg. Co. v. Millane*, 89 Ill. App. 532, 537 (2nd Dist. 1900). Under relevant federal precedent, a "'scandalous' allegation is one which *unnecessarily* reflects upon the moral character of the defendant"; allegations are "impertinent if they are not responsive or irrelevant." *Extra Equipamentos E Exportacao Ltda v. Case Corp.*, No. 01 C 8591, 2005 U.S. Dist. LEXIS 43935, at *42 (N.D. Ill. Jan. 20, 2005) (emphasis added; internal quotation marks omitted); *Simons v. Ditto Trade, Inc.*, No. 14 C 309, 2015 U.S. Dist. LEXIS 55194, at *14 (N.D. Ill. Apr. 28, 2015).

Here, the Challenged Paragraphs are neither scandalous nor impertinent—they go directly to the heart of the Parties' dispute and the standards governing a Motion to Dismiss. Defendants' Motion to Dismiss rests on the premise that the Court should simply accept CTU's word that it has now provided sufficient information to its members. But that position is incompatible with well-settled standards requiring

courts to deny dismissal unless it is "clearly apparent that no set of facts can be proved that would entitle the plaintiff to recovery." *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006); *see also Doe-3 v. McLean County Unit Dist. No. 5 Bd. of Dirs.*, 2012 IL 112479, ¶ 16 (courts must construe all facts "in the light most favorable to the plaintiff."). Plaintiff may highlight specific conduct undermining Defendants' credibility reinforcing why the Court should not dismiss the case.

The two cases cited by Defendants are plainly inapposite and highlight precisely why the Challenged Paragraphs should stand. *Biggs v. Cummins* involved a vexatious *pro se* plaintiff who levied widespread and unsupported conspiratorial allegations against multiple trial court judges, the Attorney General and his assistants, and the Circuit Court. 16 Ill. 2d 424, 425 (1959). And in *Benitez v. KFC Nat'l Mgmt. Co.*, the court struck "scandalous and impertinent" allegations only because "the plaintiffs lacked standing to make those allegations." 305 Ill. App. 3d 1027, 1037 (2nd Dist. 1999) (striking allegations by KFC employees that management spied on customers and sold them spoiled food, because employees could not bring claims on behalf of those customers). By contrast, the Challenged Paragraphs are not unsupported scattershot allegations against government officials, nor do they assert claims on behalf of nonparties—they are directly relevant to the core issue presented by the Motion to Dismiss: whether the Court should not take CTU leadership at its word, or whether Plaintiffs are entitled to pursue discovery and the merits of their claim.

CONCLUSION

The Challenged Paragraphs of the Weiss Declaration contain information regarding the contractual dispute at issue in this case, Plaintiffs' attempts to resolve it, and Defendants' bad-faith efforts to deny financial transparency to its members. The Court should deny Defendants' motion to strike them as "scandalous and impertinent."

April 11, 2025

/s/ Dean McGee

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CERTIFICATE OF SERVICE

I, James McQuaid, an attorney, certify that on April 11, 2025, I served the foregoing on counsel for all parties by filing it electronically via the Odyssey eFile IL service.

/s/ James McQuaid