

COPY

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

FILED

MAY 06 2016

LOIS A. DURBIN
CIRCUIT CLERK

BRADLEY L. SWEENEY,)
Plaintiff,)
)
v.) No. 2016-L-18
)
CITY OF DECATUR,)
Defendant.)

**DEFENDANT'S COMBINED MOTION TO DISMISS VERIFIED AMENDED
COMPLAINT PURSUANT TO 735 ILCS 5/2-619.1**

Now comes the Defendant, City of Decatur, by its attorneys, Featherstun, Gaumer, Postlewait, Stocks, Flynn & Hubbard, and for its Combined Motion to Dismiss Verified Amended Complaint Pursuant to 735 ILCS 5/2-619.1, states:

I. 2-615 MOTION

A. Count I of the Verified Amended Complaint should be dismissed for failure to state a clear mandate of public policy undermined by the discharge of the at-will employee. The determination whether (a) a clearly mandated policy exists and (b) whether the discharge undermines that policy, are questions of law for the Court to decide. *Turner v. Memorial Medical Center*, 233 Ill.2d 494, 501 (2009). Plaintiff raises issue with three (3) alleged acts by Defendant [Para. 29] violating policies alleged at Paragraph 30 of the Complaint. The clearly mandated policy element to the common law claim fails for one or more of the following reasons:

1. The alleged Paragraph 29(a) disclosure by Plaintiff is alleged to have been in furtherance of three (3) policies to wit: (a) enforcing the State's Criminal Code and Ethics Regulations; (b) furthering investigation of a crime within a Police Department; (c) preventing private use of public resources under the Illinois Constitution.

(i) The policy set forth in the Illinois Criminal Code at 720 ILCS 5/33-3(c) does not support a retaliatory discharge claim. *Fellhauer v. City of Geneva*, 142 Ill.2d 495, 507 (1991). Plaintiff's anticipatory memorandum seeks to distinguish *Fellhauer*. However, the distinctions are not dispositive. The holding that recognition of a claim for retaliatory discharge is not necessary to vindicate the public policy underlying §33-3 of the Criminal Code was not dependent upon the subsequent review of the discharge by the mayor. *Fellhauer*, 142 Ill.2d at 507. The Court in *Fellhauer* found that compelling circumstances to recognize retaliatory discharge were absent prior to any consideration of the distinguishing factors argued by Sweeney in his memorandum. See: *Fellhauer*, 142 Ill.2d at 508. The strongest indication that the portions of the *Fellhauer* opinion upon which Sweeney relies were not necessary or dispositive is that the discussion was prefaced with the term, "moreover . . ." which indicates that the discussion was merely additional and not necessary to the determination. See: *Fellhauer*, 142 Ill.2d at 508. Finally, distinguishing *Fellhauer* on the basis of the subsequently enacted Whistleblower Act does not operate to expand the scope of the common law tort. See: *Sardiga v. Northern Trust Co.*, 409 Ill.App.3d 56, (1st, 2011). (Act does not interfere with the common law regarding retaliatory discharge.)¹

(ii) The allegations regarding the State Officials and Employee's Ethics Act [Para. 10(d) and Para. 30] are nonspecific [*Turner*, 233 Ill.2d at 505 (mere citation to statute insufficient)] and inapplicable to the City Manager as an enforceable state law.

¹ The sponsor of the Whistleblower Act in the Illinois House of Representatives explained that the intent of the statute was to codify the common law of retaliatory discharge. See: *Riedlinger v. Hudson Respiratory Care, Inc.*, 478 F.Supp.2d 1051, 1055 (N.D. IL, 2007); also see: *Sutherland v. Norfolk Southern Ry. Co.*, 356 Ill.App.3d 620, 624 (1st, 2005) (FN 4).

For example, 5 ILCS 430/10-10, Gift Ban, is applicable only to state employees. The prohibitions of 5 ILCS 430/5-15 are applicable only to state employees and no facts indicative of prohibited political activity are alleged.

(iii) The alleged policy to further investigation of a crime *within* a police department is not applicable to Gleason. Gleason is not a member of the Decatur Police Department. Moreover, Sweeney does not allege that he disclosed information for purposes of initiating an investigation against himself or any investigation against an officer subject to the Police Department policies. Also, Sweeney had the pre-existing duty to conduct investigations within the Department. There is no valid policy reason to incentivize one to do what he already is obligated to do.

(iv) The determination whether an expenditure is private or public does not invoke clearly mandated policy of statewide concern. Recognition of local public spending disputes as clearly mandated policy of statewide concern triggers judicial encroachment into local legislative/executive functions regarding the expenditure of public funds. Exhibit #2 to the Amended Complaint reposes the Police Chief with the power to authorize the use of Police Department vehicles outside city limits. [See: Ex. 2, §I.A.6 and §II.A.] The Complaint alleges that Sweeney allowed the transport and is nothing less than the tacit authorization of the vehicle's use under Exhibit 2.

(v) The Court is required to balance competing interests and public policies. *Turner v. Memorial Medical Center*, 233 Ill.2d at 502. Plaintiff concedes that he allowed the use of the police car for the transportation of the City Manager from an event directly related to the City Manager's duties (a public purpose) to an airport for purposes of

attending a pre-arranged personal event.² If the Court assumes, for purposes of this Motion only, that Sweeney, in good faith, believed that the transportation was a violation of law or policy, then the fact that Sweeney allowed the transportation makes him accessory to the conduct for which he complains. Sweeney was obligated under state law to enforce state law and city ordinances. 65 ILCS 5/11-1-2. City of Decatur Departmental Regulations mandated that Sweeney refuse to follow an unlawful order and reposed Sweeney with the discretion to approve or disapprove the transportation [Police Department General Order(s) 16-09, II.A1, H, I, IV.A; Am Complaint Ex. 2, §§ I.A.6 and II.A.] The policies related to the Chief of Police are designed specifically for the enforcement of laws and should not be subordinated to policies allegedly supporting his cause of action. Public policy cannot embrace circumstances where a Chief of Police can cast a blind eye to the laws, which he is charged to enforce, for his own benefit, or the benefit of another.³

The legal question presented is whether by recognizing a cause of action in favor of Sweeney does the Court undermine clearly mandated policy Sweeney was obligated to protect in his unique position as the Police Chief. Here, accepting Sweeney's allegations, the Court is presented with a choice that public policy is undermined by whatever ruling the Court makes. Thus, the cause of action should not be recognized. In this respect, "it

² Public official attendance at non-government meeting serves public purpose which is not defeated because personal benefit also received. *Webb. v. Rock*, 80 Ill.App.3d 89, 897 (4th, 1980). If the expenditure has a public purpose, then the fact that there are benefits to private interests does not cause the expenditure to offend IL CONST. ART. 8, §1. *In Re: Marriage of Lappe*, 176 Ill.2d 414, 36-37 (1997).

³ Sweeney only could have "involuntarily allowed" the violation of law or policy for the benefit of Gleason or, his own benefit. A fair reading of the Complaint shows that Sweeney placed his concern in his own job/relationship with the City Manager above his professional obligations as Chief of Police. Sweeney's self-serving decision to allow the transportation is not consistent with the public policy manifest in recognition of the retaliatory discharge tort and/or whistleblower legislation. The party who discloses, placing their job at risk, is protected for making the disclosure or preventing an act wholly within their control to prevent.

would be contrary to public policy for Courts to relieve a citizen of the consequences of his act in violating the law or his duty to society, and it cannot be any defense that someone else either assisted in the offense or commanded him to do it. *Hubert v. Consolidated Medical Laboratories*, 306 Ill.App.3d 1118, 1126 (2d, 1999).⁴ The refusal to aid a Plaintiff derives not from the consideration of the Defendant, but, from a desire to see that those who transgress the moral or criminal code shall not receive aid from the judicial branch of government. *Id.* at 1125-26. The foregoing public policy reflects society's interest in preserving integrity of courts and heavily tips the balance in support of dismissal.

Another clearly mandated policy in Illinois is the importance of giving employers the ability to decide who will work for them. *Fellhauer*, 142 Ill.2d at 509. The general rule in Illinois is that an at-will employee can be fired for any reason or no reason. *Turner v. Memorial Medical Center*, 233 Ill.2d 494, 500 (2009). The policy in the State of Illinois is that these interests also are considered in the balancing performed by the Court in determining whether a clearly mandated policy is undermined by the discharge. *Collins v. Bartlett Park District*, 2013 Ill.App.(2d) 130006 ¶40. In this case, the proper balance, after considering all of the policies and interests at issue, supports dismissal of the Verified Amended Complaint.

⁴ Sweeney's anticipatory memorandum seeks to distinguish *Hubert* on the contention that the policy therein expressed is applicable only to cases in equity. First, *Hubert* is a retaliatory discharge action. Secondly, the policy in *Hubert* existed even though it was not pleaded as a defense. "Courts will take judicial notice that the cause of action is based on whole or in part upon an immoral or illegal transaction regardless of the fact that such defense is not pleaded." *Hubert*, 306 Ill.App.3d at 1126. Finally, *Hubert* states policy for consideration in the Court's balancing of interests and evaluation whether discharge undermined a clear mandate.

B. Counts I and II of the Verified Amended Complaint should be dismissed because there is no whistleblowing activity alleged.

1. The content of the “disclosure” is insufficient to state a claim. Plaintiff’s alleged content for the “disclosure” was to say: “. . . use of a police car and driver for his personal purposes was improper.” [Para. 16, Counts I and II] Sweeney does not allege that he ever disclosed any state law, city policy or other information that identified the violation.⁵ Absent the disclosure of the law or rule violated, the concept of whistleblowing is expanded into an ill-defined duty of further inquiry on the part of the individual receiving the opinion of “improper” use. Accordingly, the alleged content of the disclosure was insufficient to satisfy the requirement that the information *disclose* a violation of state or federal law (Count II) or a clearly mandated public policy (Count I). Plaintiff’s Complaint seeks to expand the scope of the statutory language and extend the recognized limits for the common law claim. However, the tort is a very narrow exception to the general rule that at-will employees may be terminated for any or no reason. *Turner v. Memorial Medical Center*, 233 Ill.2d 494 (2009).

2. The recipient for the “information” (Gleason) does not qualify for a disclosure under the Act. §15 of the Whistleblower Act requires the disclosure of information showing a violation of state or federal law. No case or reported decision addresses, specifically, a situation where the disclosure is made to the alleged violator,

⁵ Close scrutiny of the Verified Amended Complaint is replete with nonspecific reference to the content of any disclosure. At Paragraph 37, the information is conclusorily identified as “certain information.” At Paragraphs 28 and 39, the content of the information is not defined. The only inference to be drawn in favor of Sweeney is that he claims actual knowledge of the state law violations (he alleges a good faith belief at the time) but he withheld the disclosure of that information from Gleason. Again, the withholding of information from the disclosure is not consistent with the policy for which the tort or statutory remedy exists.

who happens to be a government official.⁶ However, disclosure to the violator does not satisfy the definition for “disclosure.” Disclosure is defined as: “Act of disclosing. Revelation; the impartation of that which is secret or not fully understood.” Black’s Law Dictionary, 531 (9th Ed. 2009); *Williams v. OSF Healthcare Systems*, 2015 Ill.App.(3d) 120450 ¶13. Here, there has been no revelation. Here, there has been no impartation of that which is secret or not fully understood.

There is compelling rationale for excluding an individual violator from the class of recipients for a qualified whistleblowing disclosure. When the claimed whistleblower tells only the violator, the disclosure is indistinguishable from a threat or act of intimidation. When only the violator is told, the violation of law remains a secret. The “disclosure” then exists as a tool for the claimed whistleblower to use against or to leverage the violator. The claimed whistleblower’s decision not to disclose to a person or entity other than the violator does not support the whistleblower’s intent to call the conduct to the attention of authorities for purposes of taking action or addressing the alleged violation of law. The purposes of the statute are not served when a claimed whistleblower is insulated from accountability for a greater or, minimally equal, mischief of intimidation, coercion or other misconduct or as a permanent employment insurance policy. Societal interests are not well-served in such circumstances. The whistleblower statute should not be construed in a manner that yields unjust, absurd or unreasonable consequences. See: *Mulligan v. Joliet Regional Airport*, 123 Ill.2d 303, 312-13 (1988).

⁶ In *Brame v. City of North Chicago*, 2011 Ill.App.(2d) 100760, the Court held that if the whistleblower’s employer was a government official/law enforcement agency, the report to the whistleblower’s employer would meet the requirements of the statute. However, the sole recipient of the disclosure was not the violator. In *Riedlinger v. Hudson Respiratory Care*, 478 F.Supp.2d 1051 (N.D. IL, 2007), the disclosure to an employer who was not a government employer/law enforcement agency did not satisfy the Whistleblower Act.

Construing the Act to allow the violator to be the qualifying recipient for the disclosure enables absurd, unjust and unreasonable consequences offensive to the Act.

3. Sweeney is not entitled to protection under the Whistleblower Act because he allowed the very conduct for which he complains. *Sardiga v. Northern Trust*, 409 Ill.App.3d 56 (1st, 2011). The intent of the Act is to protect those who act in a manner to bring attention to the violation. The alleged May 4, 2015 “disclosure” was in the nature of a §20 refusal to participate in a future violation. However, Sweeney alleges he allowed the transport to occur thereafter. §15 of the Whistleblower Act cannot be applicable to a violation which has not occurred. The violation of state law, if any, [only improper conduct was alleged] could not have taken place until May 7, 2015. Only the May 11, 2015 alleged whistleblowing disclosure could fall under §15. Similarly, the participation in the alleged unlawful act is not protected by the Whistleblowing Act for one or more of the reasons set forth above. [See Part A above]

C. Allegations regarding First Amendment Rights fail to state a claim.

At Paragraph 29(b) and (c), Sweeney alleges retaliation in response to (a) a refusal to make a statement at the City Council meeting regarding the motor fuel tax, [Para 19]; and, (b) statement in opposition to increasing taxes when he believed other sources of “income” were available to the City at a meeting of City Department Heads at the Civic Center [Para. 22]. The foregoing allegations are applicable to Count I, only, and do not support a remedy under the Whistleblower Act (Count II). The allegations fail to state a claim for one or more of the following reasons:

1. The facts alleged show that Sweeney was not speaking as a citizen at the City of Decatur Department Head meeting – a meeting not open to the public. The

occasion for the speech was an internal meeting of city management. As such, the First Amendment does not insulate the communication from employer discipline. *Garcetti v. Ceballos*, 547 US 410, 418-23 (2006).

2. The alleged assignment to speak in support of City staff recommendations at the City council meeting would be a request for support promoting his employer's mission in the employee's professional capacity. Supervisors have an interest in promoting the employer's mission. *Garcetti v. Ceballos*, 547 US 410, 418-23 (2006). An employer has heightened interest in controlling speech made by an employee in his professional capacity. *Id.* Official communications have official circumstances creating a need for substantive consistency and clarity. *Id.* The alleged request was an assignment from City Manager to the Police Chief regarding revenue sources for the funding of City operations, a duty of the Police Chief under the City Code, Chapter 13, §4(g). [See attachment 3, Gleason Affidavit – supports Judicial Notice of City Ordinance].⁷ Sweeney's alleged refusal to speak is not protected under the factual circumstances alleged.

3. Consistently, the Supreme Court has sought to restrict the common law tort of retaliatory discharge. *Sutherland v. Norfolk Southern Ry. Co.*, 356 Ill.App.3d 620, 625 (1st, 2005). In no instance has the Supreme Court expanded the tort to encompass discharge for the exercise of the right of free speech. *Id.* at 625, FN 5 [citing: *Barr v. Kelso-Burnett*, 106 Ill.2d 520 (1985).]

⁷At Paragraph 22 of the Verified Amended Complaint, Sweeney acknowledges that the issue of City revenue was appropriate for his input at the department head meeting. On the other hand, he suggests that city revenues have no connection with his public duties. The City Code identifies the Police Chief's duties as . . . (g) to perform such other functions and duties as may be assigned from time to time by the City Manager. Chapter 13 City Code, §4(g). Moreover, the Police Department does require City revenue.

D. Causation is defeated by the allegations of the Amended Verified Complaint.

1. The element of causation is not met if the employer has a valid basis, which is not pretextual, for discharging the employee. *Hartlein v. Illinois Power*, 151 Ill.2d 142, 160 (1992). *Collins v. Bartlett Park Dist.*, 2013 Ill.App. (2d) 130006 ¶31. Effectively, the protected conduct must be the sole (or direct) cause for the retaliation. Here, Sweeney alleges First Amendment grounds for termination and a whistleblower basis for termination. If either fails to state a cause of action, then the legally deficient basis stands as a non-pretextual (non-protected) cause for termination which defeats a retaliatory discharge claim, common law or statutory. If any one or more of the activities alleged by Sweeney are not protected, then causation fails.

2. Sweeney's own factual construct, that is, following what he thought was an unlawful order, is a dischargeable act. See: Defendants' Supplement to Combined Motion to Dismiss pursuant to 735 ILCS 5/2-619.1; Police Department General Order(s), 16-09. Thus, the City would have a valid, non-pretextual basis to discharge under the facts alleged in the Verified Amended Complaint.

3. The last alleged whistleblowing activity was May 11, 2015 and discharge nine (9) months thereafter. The intervening employment renders the alleged whistleblow too remote to satisfy causation. The remedy effectively requires direct causation. The discharge, as a matter of law, fails to satisfy principles of cause in fact or legal causation given the remoteness of the discharge to the underlying basis for the alleged retaliation.

E. In the alternative to dismissal of action, the following should be stricken:

1. Paragraph 27 of Counts I and II of the Verified Amended Complaint and Exhibit 6 should be stricken. IDES Determination Letter is a confidential document and inadmissible in a civil proceeding. 820 ILCS 405/1900(A) and (B); *Clemons v. Mechanical Devices Co.*, 292 Ill.App.3d 242, 53-54 (4th, 1997); *Lowrance v. Marion Pepsi – Cola Bottling Co.*, 221 Ill.App.3d 623 (5th, 1991). In fact, a violation of the statutory confidentiality is a Class B misdemeanor. See: 820 ILCS 405/1900(C).

2. Paragraph 25 of Counts I and II of the Verified Amended Complaint and Exhibit 5 should be stricken because the allegation and exhibit do not constitute ultimate facts necessary to state the cause of action. The allegations are surplusage and the pleading of irrelevant matter. Exhibit 5 is remote and unrelated to the Plaintiff's position as Police Chief.

3. Paragraph 22 of Counts I and II of the Verified Amended Complaint should be stricken because said communication at the meeting of department heads is not protected speech. [See this Motion, Part C. above.] Further, the allegation is immaterial to Count II.

4. Subparagraph 29(a) of Counts I and II of the Verified Amended Complaint should be stricken for the reasons stated at Part A and B above.

5. Subparagraph 29(b) of Counts I and II of the Verified Amended Complaint should be stricken for the reasons stated at Part A and C above.

6. Subparagraph 29(c) of Counts I and II of the Verified Amended Complaint should be stricken for the reasons stated at Part A and C above.

7. Paragraph 13, including more particularly, the second sentence and thereafter should be stricken as irrelevant surplusage. Gleason's belief is not the ultimate

fact at issue. The proper inquiry is Sweeney's good faith belief. Further, the content of Exhibit 2 is misstated. When the allegations of a Complaint conflict with the content of an exhibit, the content of the exhibit prevails. *Gagnon v. Schickel*, 2012 Ill.App. (1st) 120645 ¶18. In this respect, Exhibit 2 provides that the Police Chief is reposed with the discretion to determine when an out-of-city use of vehicle has an allowable business use. [Ex. 2. I.A.6 and II.A] The Exhibit is inconsistent with the allegation that "under no circumstances" will a vehicle be used outside City limits. The allegations of the Complaint are that Sweeney allowed the use of the vehicle outside City limits.

8. Paragraph 14 of Counts I and II of the Verified Amended Complaint should be stricken as surplusage, the pleading of evidence and not ultimate facts related to the alleged cause of action.

9. Paragraph 15 of Counts I and II of the Verified Amended Complaint should be stricken as surplusage, the pleading of evidence and not ultimate facts related to the alleged cause of action.

10. Paragraph 11 of Counts I and II of the Verified Amended Complaint should be stricken as immaterial pleading of conclusions and not ultimate fact to support the cause of action. More particularly, the relevant knowledge of Gleason arises from the "information disclosed" by Sweeney to Gleason. Scrutiny of the pleading shows that Sweeney never disclosed to Gleason that Sweeney believed that Gleason's actions violated state law or any policy. The relevant inquiry is what did Sweeney disclose, not what Gleason may have concluded upon a duty of further inquiry based upon information obtained from sources other than the whistleblower's disclosure.

11. Portions of Paragraph 12 of Counts I and II of the Verified Amended

Complaint should be stricken to the extent the allegations plead a legal conclusion that the use of the City vehicle was an unlawful personal use of public resources. The allegations of the Complaint are limited to an opinion that the use was improper but no facts are alleged that the use exceeded the lawful authority of Gleason, Sweeney or Getz. [See: FN 2, *infra*.]

12. Subparagraph 10(a) of Counts I and II of the Verified Amended Complaint should be stricken for one or more of the reasons set forth at Paragraphs I.A.1.(i) above.

13. Subparagraph 10(b) of Counts I and II of the Verified Amended Complaint should be stricken for one or more of the reasons set forth at Paragraphs I.A.1.(iii) of this Motion above and to the extent that the allegations misstates the content of Exhibit 2. [See Para. I.A.1.(iv) of this Motion above]

14. Subparagraph 10(c) of Counts I and II of the Verified Amended Complaint should be stricken for the reasons set forth at Paragraphs I.A.1(ii) above.

15. Subparagraph 10(d) of Counts I and II of the Verified Amended Complaint should be stricken because the allegation is non-specific and the provisions of the alleged statute are not applicable to the City Manager, a non-state employee.

16. Subparagraph 10(e) of Counts I and II of the Verified Amended Complaint should be stricken for the reasons set forth at Paragraphs I.A.1(iv) and FN 2 above.

17. That portion of Paragraph 7 of Counts I and II of the Verified Amended Complaint relating to the May 4 alleged communication by Sweeney to Gleason should be stricken because the alleged conduct does not relate to the disclosure of an act that

violated (past tense) state law or policy. Further, construed most liberally in favor of Sweeney, the communication only could implicate participation in a future act that allegedly violated state law or policy. Sweeney's allegation that he participated, voluntarily or involuntarily, does not satisfy the requirement that Sweeney refused to act. Further, those portions of Paragraph 7 related to the May 11, 2015 communication to Gleason should be stricken for one or more of the reasons set forth in Part of this Motion above.

18. Paragraph 16 of Counts I and II of the Verified Amended Complaint should be stricken.

19. Paragraph 26 of Counts I and II of the Verified Amended Complaint should be stricken as it represents the pleading evidence and not the pleading of ultimate fact.

20. Paragraph 31 of Counts I and II of the Verified Amended Complaint should be stricken because the allegations constitute the pleading of surplusage immaterial to the ultimate facts related to Plaintiff's cause of action.

21. Paragraph 37 of Count II of the Verified Amended Complaint should be stricken in that the Paragraph is non-specific. "Certain information" is not defined, nor does the allegation identify which communications made when are the basis for Count II. A §15 allegation only relates to disclosure of laws violated and not to a refusal to participate in future action.

22. Paragraph 38 of Count II of the Verified Amended Complaint should be stricken because said allegation is non-specific.

23. Paragraph 39 of Count II of the Verified Amended Complaint should be

stricken because the information is not defined. Further, the only alleged disclosure occurred approximately nine (9) months prior to the alleged retaliation. As such, the termination constituting the alleged retaliation is remote and does not support causation.

24. Paragraph 20 of Counts I and II of the Verified Amended Complaint should be stricken because it misstates Chapter 13 of the City Code and constitutes an unsupported legal conclusion. §4(g) of said Chapter 13 includes duties as assigned by the City Manager.

II. 2-619 MOTION

1. Defendant restates and incorporates herein the grounds reserved in its original 2-619 Motion directed against the original Complaint and the supplement thereto as and for a part of its 2-619 Motion against the Verified Amended Complaint.

2. The allegation that Plaintiff allowed the use of City vehicle for the St. Louis transportation provides additional support not set forth in the original 2-619 Motion.

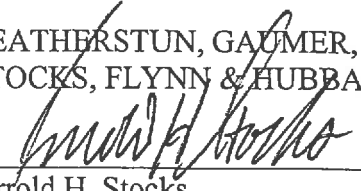
3. The allegations of the Verified Amended Complaint and the unrebutted portions of the Gleason Affidavit establish a cause, other than a retaliatory cause, for the termination of Sweeney's at will employment as Police Chief which defeats the cause of action stated in the Amended Complaint.

4. The discharge was remote from the date of alleged whistleblow and causation fails. Also see Paragraph I.D.3 above.

WHEREFORE, the Defendant respectfully requests that the Court dismiss Counts I and II of the Verified Amended Complaint for one or more of the reasons set forth herein without leave to replead.

CITY OF DECATUR, Defendant,

BY: FEATHERSTUN, GAUMER, POSTLEWAIT,
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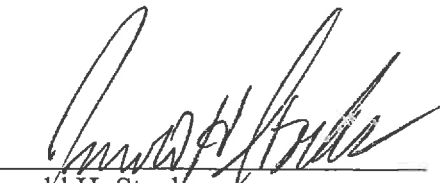
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glw

CERTIFICATE OF SERVICE

I certify that on the 6th day of May, 2016, at ___:00 o'clock p. m., I deposited a copy of the foregoing in a U. S. Post Office Box at 225 North Water Street, Decatur, Illinois, enclosed in an envelope with proper postage prepaid, addressed to the following in the manner set forth: I also sent the same via electronic mail to the following:

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