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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

MARCELLUS LONG,)
)
 Plaintiff,)
)
 v.) Case No. 2025L007458
)
 CDW GOVERNMENT, LLC.,) Calendar W
)
 Defendant.)

DEFENDANT CDW’S RULE 2-619.1 MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT AND SUPPORTING MEMORANDUM OF LAW

Pursuant to Sections 2-615 and 2-619 of the Illinois Code of Civil Procedure, Defendant CDW Government LLC, moves to dismiss Plaintiff’s Amended Complaint. Plaintiff’s vague and conclusory allegations fail to state a claim for any of the six counts on which he purports to seek relief. Defendant therefore requests that Plaintiff’s Amended Complaint be dismissed in its entirety with prejudice.

FACTS AS ALLEGED BY PLAINTIFF

CDW hired Plaintiff on June 21, 2021, as a Sales Contact Center – Inbound Sales Representative after Plaintiff accepted the terms of his offer letter. (Am. Comp. Ex. B; Am. Comp. ¶ 4.) The offer letter states that Plaintiff is an at will employee and that "all compensation plans are subject to change at any time at CDW’s discretion.” (Am. Comp. Ex. B.) In early 2023, management recommended Plaintiff be considered for a position as an account manager in CDW Government LLC (“CDWG” or “Defendant”) selling to the Army, Department of Defense. (Am. Comp. ¶¶ 6, 7.) On May 1, 2023, Josh D., Plaintiff’s manager of Plaintiff’s Residency program, sent Plaintiff a compensation plan when he requested it, in the form of an estimator. (Am. Comp.

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Ex. F.) In this new Army Sales role, Plaintiff was given a large book of business to service, and Plaintiff continued his at-will status in his new role on May 7, 2023. (Am. Comp. ¶¶ 7, 10.)

Plaintiff asserts he is a high-performing sales employee. (Am. Comp. ¶ 1.) He claims that Defendant acted to defraud him by deducting his earned commissions through what he claims is an undisclosed goal modifier. (Am. Comp. ¶ 1.) The goal modifier was designed to increase commissions, which in the case of Plaintiff, did exactly that. (Am. Comp. Ex. Q.) He asserts the basis for his claim is that he never gave written permission for the deductions of his wages. (Am. Comp. ¶¶ 36(A), 74, 82). He claims that after sending an email to management on June 21, 2023, his sales manager, Yemi O. [REDACTED] told him that his goal modifier was a penalty for not hitting his goal. (Am. Comp. ¶ 16.)

Plaintiff contends that the alleged deductions led to the wrongful conversion of Plaintiff's wages and caused the acceleration and involuntary default of his student loan (totaling over \$125,000). He further alleges that when Plaintiff exercised his protected right to complain about the wage theft, the Defendant retaliated, culminating in a threat of separation (although no date or other information is provided for this vague assertion) that forced Plaintiff to accept a financially diminished role to preserve his employment. (Am. Comp. ¶ 1.)

I. PLAINTIFF'S AMENDED COMPLAINT SHOULD BE DISMISSED FOR FAILING TO STATE A CLAIM PURSUANT TO 735 ILCS 5/2-615.

A motion to dismiss under Section 2-615 challenges the legal sufficiency of the complaint based on defects on the face of the complaint. *Sheffler v. Commonwealth Edison Co.*, 2011 IL 110166, ¶ 59, 955 N.E.2d 1110, 1127 (Ill. 2011). The critical inquiry is whether the allegations in the complaint, considered in the light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief can be granted. *Id.* “Because Illinois is a fact-pleading jurisdiction, a

plaintiff must allege facts sufficient to bring his or her claim within the scope of the cause of action asserted.” *Turner v. Mem’l Med. Ctr.*, 233 Ill. 2d 494, 499, 911 N.E.2d 369, 373 (2009). A plaintiff is required to allege facts, not mere conclusions without factual support, to plead a viable cause of action. *Vernon v. Schuster*, 179 Ill.2d 338, 344, 228 Ill.Dec. 195, 688 N.E.2d 1172, 1176 (1997). Exhibits attached to a complaint are part of the complaint and, if a conflict exists between facts contained in the exhibits and those alleged in the complaint, factual matters in the exhibits control. *Antonacci v. Seyfarth Shaw, LLP*, 39 N.E.3d 225 (Ill. App. 1st Dist. 2015.)

A. COUNT I FAILS TO STATE A CLAIM FOR FRAUD.

In Illinois, to state a cause of action for misrepresentation and fraud, a party must plead and prove the following elements: (1) the existence of a false statement of material fact, (2) made by a party who knows or believes it to be false, (3) with the intent to induce another to act, (4) which causes action by another in reasonable reliance on the statement's truth, and (5) causes an injury to the other resulting from the reliance. *Krilich v. American National Bank and Trust Co. of Chicago*, 334 Ill. App. 3d 563, 570 (2002). Fraud may also consist of an intentional concealment or omission of a material fact in circumstances that create an opportunity and a duty to speak. See *Hassan v. Yusuf*, 408 Ill. App. 3d 327, 345 (2011).

Plaintiff provides no facts alleging that any false statement was made, therefore he cannot satisfy the first element of fraud. Plaintiff instead appears to be relying on the theory that Defendant intentionally concealed his compensation plan from him, an allegation directly contradicted by the Amended Complaint. Plaintiff requested his compensation plan and was provided an estimator and informed that his goals would fluctuate. (Am. Comp. ¶ 21.) Plaintiff’s claim that he never received his compensation plan is directly contradicted by exhibits he attaches to his Amended Complaint. If a conflict exists between facts contained in the exhibits and those alleged in the complaint,

factual matters in the exhibits control. *Antonacci v. Seyfarth Shaw, LLP*, 39 N.E.3d 225 (Ill. App. 1st Dist. 2015.) Plaintiff's exhibits demonstrate that Plaintiff's supervisors provided him typical information regarding compensation and he had access to all compensation documents, like all Academy and Residency salespeople do. (Am. Comp. Ex. Q.)

Plaintiff also fails to allege how he was misled by this estimator and thus cannot demonstrate that Defendant knew the statement to be false or that he reasonably relied on an alleged false statement or omission. Plaintiff, an at-will employee, acted on his own with full knowledge that his compensation plan was outlined in the estimator he was provided with and that his goals would fluctuate. He accepted and voluntarily transferred into his CDWG Army sales role. (Am. Comp. ¶ 24; Am. Comp. Ex. B.) Plaintiff's vague and conclusory allegations that "Specifically, on multiple occasions, Defendant affirmatively represented to Plaintiff that the compensation structure would result in him making the same amount of money, if not better, than his prior role" are supported by no factual allegations. (Am. Comp. ¶ 24.) If anything, Plaintiff's Exhibit Q demonstrates that the goal modifier was working to increase his commissions, as he was paid as if he was 80% above his goal when he was at 76% of his goal. (Am. Comp. Ex. Q.) Plaintiff has not stated a claim of fraud and Count I should be dismissed.

B. COUNT II FAILS TO STATE A CLAIM FOR FRAUDULENT CONCEALMENT.

Likewise, Plaintiff fails to state a claim for fraudulent concealment, a claim that requires factual allegations of the following elements: "(1) the defendant concealed a material fact under circumstances that created a duty to speak; (2) the defendant intended to induce a false belief; (3) the plaintiff could not have discovered the truth through reasonable inquiry or inspection, or was prevented from making a reasonable inquiry or inspection, and justifiably relied upon the defendant's silence as a representation that the fact did not exist; (4) the concealed information was

such that the plaintiff would have acted differently had he or she been aware of it; and (5) the plaintiff's reliance resulted in damages." *Bauer v. Giannis*, 359 Ill.App.3d 897, 902–03, 296 Ill.Dec. 147, 834 N.E.2d 952 (2005). *Abazari v. Rosalind Franklin U. of Med. and Sci.*, 40 N.E.3d 264, 274 (Ill. App. 2d Dist. 2015).

Plaintiff cannot meet the first element of a claim for fraudulent concealment because Defendant did not conceal any information from Plaintiff and provided him with an estimator of his compensation plan upon his request. (Am. Comp. ¶ 21.) Plaintiff states in a conclusory manner that Defendant admitted in discovery it did not ask Plaintiff to sign or authorize the Estimator sent May 1, 2023. (Am. Comp. ¶ 36(A).) However, Plaintiff's own offer letter, which he attaches as an Exhibit to his Amended Complaint, demonstrates he was an at-will employee and contains his own signature. (Am. Comp. Ex. B.) This signed offer letter states, "Please note that all compensation plans are subject to change at any time at CDW's Discretion." *Id.* Plaintiff voluntarily transferred into a new role within CDW, Plaintiff requested his compensation plan and was provided an estimator and informed that his goals would fluctuate. (Am. Comp. ¶ 21.) Plaintiff's own Amended Complaint supports that Plaintiff's supervisors provided him typical information regarding compensation and he had access to all compensation documents, like all Academy and Residency salespeople do. (Am. Comp. Ex. Q.)

Plaintiff has likewise not alleged the third element, that the plaintiff could not have discovered the truth through reasonable inquiry or inspection, or was prevented from making a reasonable inquiry or inspection and relied upon the defendant's silence as a representation that the fact did not exist. Plaintiff does not allege that Defendant denied that the compensation plan existed or that any part of the compensation plan did not exist. Defendant informed Plaintiff of the compensation plan and provided it to him. (Am. Comp. Ex. Q.) Plaintiff even states that he actually

did have an agreement regarding compensation with CDW and was aware of the Goal Modifier as early as May 2023. (Am. Comp. ¶¶ 54-56.) He also had access to all compensation documentation, just as all Academy and Residency salespeople do. (Am. Comp. Ex. Q.) As such, Plaintiff cannot state a claim for fraudulent concealment and Count II should be dismissed.

C. COUNT III FAILS TO STATE A CLAIM FOR FAILURE TO PAY WAGES UNDER THE IWPCA.

Plaintiff fails to state a *prima facie* claim under the Illinois Wage Payment Collection Act (“IWPCA”), which requires that he plead that (1) he had an employment agreement with the employer that required the payment of wages and (2) that the defendants were employers under the IWPCA. See *Landers–Scelfo v. Corporate Office Systems, Inc.*, 356 Ill. App. 3d 1060, 1067, 293 Ill.Dec. 170, 827 N.E.2d 1051 (2005) (citing 820 ILCS 115/2, 3, 5 (West 2002)). *Watts v. ADDO Mgt., L.L.C.*, 97 N.E.3d 75, 80 (Ill. App. 1st Dist. 2018). A plaintiff must allege facts that “wages or final compensation is due to him or her as an employee from an employer under an employment contract or agreement.” *Landers–Scelfo v. Corporate Office Systems, Inc.*, 356 Ill.App.3d 1060, 1067, 293 Ill.Dec. 170, 827 N.E.2d 1051 (2005). *Majmudar v. H. of Spices (India), Inc.*, 1 N.E.3d 1207, 1210 (Ill. App. 1st Dist. 2013).

Plaintiff does not meet the first element of his claim as he has not alleged that he had an agreement requiring the payment of the wages that were not paid beyond his own vague and conclusory statements. For example, Plaintiff writes that “An agreement existed between Plaintiff and Defendant for the payment of commissions, calculated by applying an agreed commission rate to Plaintiff’s gross profit to determine the monthly commission payout.” (Am. Comp. ¶ 54.) Plaintiff does not say what the alleged agreement to pay wages was, nor how that agreement was breached. He merely provides vague and conclusory statements that such an agreement existed.

Plaintiff's compensation plan was outlined in the estimator he was provided, and he was informed by his manager that his goals would fluctuate. Plaintiff's own Amended Complaint supports that Plaintiff's supervisors provided him typical information regarding compensation and he had access to all compensation documents, like all Academy and Residency salespeople do. (Am. Comp. Ex. Q.) The goal modifier aspect is designed to increase commissions, which in the case of Plaintiff, an internal CDW investigation found it did exactly that. (Am. Comp. Ex. Q.) He accepted these terms and voluntarily transferred into his CDWG Army sales role with that compensation plan. (Am. Comp. ¶ 24; Am. Comp. Exs. B, Q.) Thus, Plaintiff has failed to state a claim under the IWCPA for failure to pay wages and Count III of his Amended Complaint should be dismissed.

D. COUNT IV FAILS TO STATE A CLAIM FOR CONVERSION.

To state a cause of action for conversion, a plaintiff must allege facts that: (1) he/she has a right to the property at issue; (2) he/she has an absolute and unconditional right to the immediate possession of that property; (3) the defendant wrongfully and without authorization assumed control, dominion, or ownership over the property; and (4) he made a demand for the return of the property. *Weisberger v. Weisberger*, 954 N.E.2d 282, 289 (Ill. App. 1st Dist. 2011).

First, despite Plaintiff's statement that "The Commission Payout funds listed in Schedule A totaling 4,432.89 constitute specific, identifiable funds to which Plaintiff had an immediate right of possession, having been calculated and rightly earned pursuant to the agreed compensation arrangement.", he fails to identify a specific identifiable fund and has failed to describe this alleged "compensation arrangement." (as discussed above) (Am. Comp. ¶ 66.) Plaintiff is claiming that Defendant is obligated to pay him money or wages, but that is not a claim for conversion. *In re Thebus*, 483 N.E.2d 1258, 1260 (Ill. 1985) (the subject of conversion needs to be an identifiable

object of property of which the plaintiff was wrongfully deprived.). The amount that Plaintiff purports to be due is not specific, identifiable property - it is the employer's money that Defendant pays wages with and thus it is interchangeable with any other part of the employer's money. The subject of conversion is required to be an identifiable object of property of which the plaintiff was wrongfully deprived. Money may be the subject of conversion, but it must be capable of being described as a specific chattel. An action for the conversion of funds may not be maintained to satisfy a mere obligation to pay money. *Id.* In *Thebus*, the Attorney Registration and Disciplinary Commission ("ARDC") charged the respondent with conversion in that he allegedly withheld funds from his employees' wages to pay their FICA and failed to remit the amount to the IRS. While the respondent was censured for his conduct, the Illinois Supreme Court ruled that the ARDC failed to show that the defendant's conduct constituted a conversion of government funds. *In re Thebus*, 483 N.E.2d 1258 (Ill. 1985). *Sandy Creek Condo. Ass'n v. Stolt and Egner, Inc.*, 642 N.E.2d 171, 175 (Ill. App. 2d Dist. 1994) (holding that the amount accrued with each pay period was not a specific and identifiable fund capable of being the subject of conversion). Just as in *Thebus*, the amount alleged by Plaintiff is accrued with each pay period and not a specific and identifiable fund capable of being the subject of a conversion claim.

Plaintiff also fails to allege facts to support the second element of conversion, that he has an absolute and unconditional right to the immediate possession of that property. *Weisberger v. Weisberger*, 954 N.E.2d 282, 289 (Ill. App. 1st Dist. 2011). As discussed, Plaintiff concludes that he is entitled to a specific identifiable property but fails to explain or provide any factual basis for the allegation he has an immediate right to possession of \$4,432.89. Plaintiff further pleads that "Defendant wrongfully exerted unauthorized control and dominion over the specific Commission Payout funds by unilaterally applying the 'Goal Modifier' debit to the calculated payout, thereby

diverting and retaining Plaintiff's property to the exclusion of Plaintiff's ownership rights.” (Am. Comp. ¶ 68.) Plaintiff has not alleged he has a right to any property he was denied, aside from making conclusory and contradictory statements. Plaintiff includes as an exhibit to his Amended Complaint, an investigative report done by CDW which found that Plaintiff's supervisors provided him typical information regarding compensation and he had access to all compensation documents, like all Academy and Residency salespeople do. (Am. Comp. Ex. Q.) In Illinois, when an at-will employee continues to work after a change in a compensation plan, the employee is deemed to have accepted the change. *Samano v. Temple of Kriya*, 166 N.E.3d 250, 268 (Ill. App. 1st Dist. 2020).

Further, Plaintiff does not allege facts to support the third element of conversion, that the defendant wrongfully and without authorization assumed control, dominion, or ownership over the property. *Weisberger v. Weisberger*, 954 N.E.2d 282, 289 (Ill. App. 1st Dist. 2011). Plaintiff's Amended Complaint states that he was emailed his compensation plan estimator by Josh D. (Am. Comp. Ex. F.) He was informed by his manager that his goals would fluctuate and he still accepted and voluntarily transferred into his CDWG Army sales role. (Am. Comp. ¶ 24; Am. Comp. Ex. B.) Plaintiff's supervisors provided him typical information regarding compensation, and he had access to all compensation documents, like all Academy and Residency salespeople do. (Am. Comp. Ex. Q.) Plaintiff fails to allege that Defendant did not adhere to this compensation plan and ignores that he never had possession, control or ownership of the money that Defendant uses to pay wages to Plaintiff and other employees. Therefore, Count IV of his Amended Complaint should be dismissed.

E. COUNT V FAILS TO STATE A CLAIM FOR UNJUST ENRICHMENT.

“The elements of unjust enrichment are: (1) an enrichment, (2) an impoverishment, (3) a relation between the enrichment and impoverishment, (4) the absence of justification and (5) the absence of a remedy provided by law.” *Sherman v. Ryan*, 911 N.E.2d 378, 399 (Ill. App. 1st Dist. 2009).

Plaintiff cannot demonstrate that there is an absence of a remedy provided by law, as required. It is clear from Plaintiff’s Amended Complaint that Plaintiff is alleging monetary damages. (Am. Comp. ¶ 71.) Generally, if money damages can fully compensate a party for its injury, the party has an adequate legal remedy. *Lumbermen’s Mut. Cas. Co. v. Sykes*, 384 Ill. App. 3d 207, 230-31 (2008). As this Court recognized in its October 2, 2025 order, “Long cannot establish the absence of an adequate legal remedy. He is actively pursuing claims under the IWPCA, which allows recovery of damages for the very injuries alleged.” Thus, Plaintiff cannot state a claim for unjust enrichment since Plaintiff has an adequate remedy provided by law.

Further still, Plaintiff cannot meet the fourth element of unjust enrichment, that Defendant has no justification for the enrichment it received as a result of Plaintiff’s employment. Plaintiff voluntarily transferred into his CDWG Army sales role as an at-will employee. (Am. Comp. Ex. B; Am. Comp. ¶ 20(A).) He states in a vague manner that Defendant took unauthorized money from his Commission Payout yet ignores that Defendant did not require any prior authorization to apply a goal modifier. (Am. Comp. ¶ 69.) Plaintiff was never entitled to this amount and therefore has not met the fourth element of unjust enrichment, as he has not pled facts to support that there was no justification for the application of the goal modifier.

F. COUNT VI FAILS TO STATE A CLAIM FOR IWPCA RETALIATION.

To state a *prima facie* claim for retaliation under the IWPCA, a plaintiff must plead that “he engaged in activity protected under the Act, that his employer took an adverse employment action against him, and a causal link exists between the two.” *Dobrov v. Hi-Tech Paintless Dent Repair, Inc.*, 2021 WL 1212796, at *8 (quoting *Sloan v. Am. Brain Tumor Assoc.*, 901 F.3d 891, 894 (7th Cir. 2018)).

Long has not alleged an adverse action or a causal connection between protected activity and this phantom adverse action. Plaintiff makes a factually unsupported conclusion that after he complained about the wage issue, Defendant retaliated, culminating in a threat of separation that forced Plaintiff to accept a financially diminished role to preserve his employment. (Am. Comp. ¶ 1.) Plaintiff does not describe this threat of separation, who made it to him, when it occurred or how he was somehow forced to transfer into his current role at CDWG. In its October 2, 2025, order denying Plaintiff’s motion for a preliminary injunction, this Court held that in Plaintiff’s retaliation allegations “...he identifies no specific retaliatory action tied to his wage complaint beyond conclusory references to hostility, scrutiny, and threats.” Likewise, Plaintiff’s IWPCA retaliation claim in his Amended Complaint is riddled with only vague and conclusory statements and thus he has failed to state a claim for retaliation under the IWPCA and Count VI of his Amended Complaint should be dismissed.

II. PLAINTIFF’S AMENDED COMPLAINT SHOULD BE DISMISSED PURSUANT TO 735 ILCS 5/2-619(a)(9).

Section 2-619 of the Illinois Rules of Civil Procedure allows for the dismissal of a complaint based on “certain defects or defenses.” 735 Ill. Comp. Stat. § 5/2-619; *McCoy v. Ill. Int’l Port Dist.*, 334 Ill. App. 3d 462, 466, 778 N.E.2d 705, 709 (Ill. App. Ct. 1st Dist. 2002). Basis for dismissal under the rule include:

- (9) That the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim.

735 ILCS § 5/2-619(a)(9).

Under Section 2-619, the defendant admits to all well-pled facts in the complaint, as well as any reasonable inferences which may be drawn from those facts, but asks the court to conclude that there is no set of facts which would entitle the plaintiff to recover. *Wolf v. Bueser*, 279 Ill. App. 3d 217, 221-222, 664 N.E.2d 197, 200 (Ill. App. Ct. 1st Dist. 1996). The defendant bears the burden of proving any affirmative defense it relies upon, and may ask the court to consider the pleadings, as well as any affidavits and other proof. *Streams Condominium No. 3 Ass'n v. Bosgraf*, 219 Ill. App. 3d 1010, 1013, 580 N.E.2d 570, 573 (Ill. App. Ct. 2d Dist. 1991). As long as there is no genuine issue of material fact and the defendant is entitled to judgment as a matter of law, the complaint may be properly dismissed. *Id.*

A. AN EMPLOYER OWES COMMISSIONS ONLY IF EARNED BY THE EMPLOYEE BASED ON THE EMPLOYER'S POLICIES.

Plaintiff claims CDW owes him earned commissions under the IWPCA. (Am. Comp. ¶¶ 51-63.) Pursuant to the Illinois Department of Labor's regulations governing the IWPCA, whether a commission is earned and therefore owed to an employee is controlled by the agreement between the employer and employee:

A commission is the compensation for services performed pursuant to an employment contract or agreement between the two parties. In order to be entitled to receive compensation for a commission under the Act, the commission must be earned under the terms of the agreement or contract.

56 Ill. Admin. Code § 300.510; *Watts v. ADDO Mgmt., L.L.C.*, 97 N.E.3d 75, 80 (Ill. App. 1st Dist. 2018), ¶¶ 18–19 (Illinois courts look to regulations issued by Illinois' Director of Labor for guidance when interpreting the IWPCA).

Whether there is an agreement between the employer and employee regarding earned commissions and whether an employee has satisfied the conditions regarding entitlement to the commission is determined by the employer's policies and rules: "'Agreement' means the manifestation of mutual assent on the part of two or more persons . . . Company policies and policies in a handbook create an agreement. . . ." 56 Ill. Admin. Code § 300.450, definition of Agreement; *Montero v. JPMorgan Chase & Co.*, 2016 WL 7231604 at *6 (N.D. Ill. Dec. 14, 2016)(stating that employer's compensation plan is the agreement between the parties for purposes of IWPCA). Plaintiff's CDW Army Sales compensation plan applied a goal modifier to calculate his earned wages. (Am. Comp. ¶¶ 51-55.) As discussed below, Plaintiff was an at will employee who continued to work in the role he voluntarily transferred into and received all the compensation he was entitled to under CDW's compensation policy. When an at-will employee continues to work after a change in compensation plan, he is deemed to have accepted the change. *Samano v. Temple of Kriya*, 166 N.E.3d 250, 268 (Ill. App. 1st Dist. 2020).

B. PLAINTIFF WAS AN AT-WILL EMPLOYEE AND THUS HIS AMENDED COMPLAINT IS DEFECTIVE AND CANNOT BE CURED.

Plaintiff's own pleading makes it impossible for him to cure any of the defects in his Complaint given his status as an employee at-will. (Am. Comp. Ex. B.) Illinois courts hold that exhibits attached to a complaint are part of the complaint and, if a conflict exists between facts contained in the exhibits and those alleged in the complaint, factual matters in the exhibits control. *Antonacci v. Seyfarth Shaw, LLP*, 39 N.E.3d 225 (Ill. App. 1st Dist. 2015.) This signed offer letter states, "Please note that all compensation plans are subject to change at any time at CDW's Discretion." (Am. Comp. Ex B.) The offer letter also states that Plaintiff is an at-will employee. *Id.* Nowhere in the offer letter does it state that its terms are limited to Plaintiff's employment in any specific CDW entity.

Plaintiff's assertion that he was never provided an offer letter for his transfer to the Army Sales role at CDWG or written permission following the acceptance of his transfer from one CDW affiliate to another is a red herring. Even should the terms of his CDW offer letter not apply to his role at CDWG, employees who serve absent a contract are considered at-will and generally may be discharged for any or no reason. *Rabin v. Karlin & Fleisher, LLC*, 409 Ill.App.3d 182, 186, 348 Ill.Dec. 912, 945 N.E.2d 681, 687 (2011). Further, Illinois Court's hold that employers can unilaterally change an at-will employee's compensation plan. In *Geary v. Telular Corp.*, the Court held that the employee was an employee at-will, and therefore, employer had a right to change unilaterally the employee's compensation plan; employee accepted the modifications to his compensation plan when he accepted payment of commissions under the new plan and continued his employment. *Geary v. Telular Corp.*, 341 Ill. App. 3d 694, 793 N.E.2d 128 (2003). It has already been discussed that Plaintiff voluntarily transferred into a new role with a different compensation plan, was informed of that compensation plan, provided access to all compensation documents, as all Residency and Academy salespeople are, and continued to work at-will and accept payment of his commissions throughout his tenure in his CDWG Army Sales role. (Am. Comp. Exs. J, M, N, Q)

In fact, this Court held in its October 2, 2025, order that as an at-will employee, Plaintiff does not have a right to continued employment or to a particular role within the company. While Plaintiff alleges without facts that he was "effectively coerced..." into accepting a lower paid role on a non-goal modifier team, these statements are conclusory and lack any factual support.

Plaintiff on one hand complains about dissatisfaction with his Army Sales compensation plan, which applied a goal modifier, and at the same time, anguishes over what he sees as a lower paid role on a non-goal modifier team. This is the duality of the situation Plaintiff has created, he

wants the compensation he got when he was on a goal modifier team but does not want a goal modifier applied. But Plaintiff is not entitled to make such a demand. Plaintiff is an at will-employee who voluntarily transferred into his role at CDWG Army Sales. Exhibits attached to his Amended Complaint by Plaintiff support that Plaintiff was informed of his compensation plan and had access to it. (Am. Comp. Ex. Q.) CDW could unilaterally change Plaintiff's compensation policy and Plaintiff accepted those changes by working in his at-will role. Plaintiff's amended retaliation claim is defective and should be dismissed with prejudice.

CONCLUSION

Plaintiff's failure to state any factually supported claims and at-will employment status demonstrate that he has not stated a claim, and he cannot amend his complaint to assert a valid claim. Accordingly, Defendant requests that this Court dismiss Plaintiff's Complaint with prejudice.

Dated: December 1, 2025

Respectfully submitted,

CDW GOVERNMENT, LLC.,

/s/ Craig R. Thorstenson
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