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Mariyana T. Spyropoulos
CIRCUIT CLERK
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

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

**DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S SECOND AND THIRD
AMENDED COMPLAINT, OR IN THE ALTERNATIVE, REQUEST FOR AN
EXTENSION OF TIME TO ANSWER OR OTHERWISE PLEAD**

Defendant, CDW Government, LLC. ("CDWG" or "Defendant"), submits this Motion to Strike Plaintiff Marcellus Long's ("Long" or "Plaintiff") Second and Third Amended Complaint, or in the Alternative Request for an Extension of Time to Answer or otherwise plead.

Plaintiff filed a 70-page Amended Complaint on January 21, 2026, five days after the Court-mandated deadline to do so. Plaintiff styled his January 21 filing a "First Amended Complaint, but given his prior filings, it is a Second Amended Complaint. Then on January 26, 2026, without leave of Court, Plaintiff filed an 87-page complaint, which he styled as a "First Amended Complaint – Corrected." Instead, it is a Third Amended Complaint. Given that the Second Amended Complaint was filed late and the Third Amended Complaint was filed without leave, both pleadings should be stricken. In the alternative, Defendant requests 21 days after this motion is heard to file its response to Plaintiff's Third Amended Complaint.

In support of its motion, Defendant states as follows:

STATEMENT OF FACTS

1. On June 10, 2025, Plaintiff filed his Complaint.

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2. On July 23, 2025, Defendant filed its answer to Plaintiff's Complaint.
3. On October 31, 2025, Plaintiff filed his First Amended Complaint, and on December 1, 2025, Defendant filed a Motion to Dismiss the First Amended Complaint.
4. On December 2, 2025, this Court struck Plaintiff's First Amended Complaint and granted him leave to re-plead by January 2, 2026.
5. On January 2, 2026, Plaintiff filed a Motion for an Extension of Time to file his Second Amended Complaint, which the Court granted by Order dated January 5, 2026, and gave Plaintiff until January 16, 2026 to re-plead.
6. Plaintiff did not seek further extension of the January 16 deadline and did not file an amended complaint on January 16.
7. On January 21, 2026, 5 days late, Plaintiff filed what he titled his First Amended Complaint, which actually is Plaintiff's Second Amended Complaint since Plaintiff filed a First Amended Complaint on October 31, 2025.
8. On January 26, 2026, Plaintiff filed a pleading he titled, Notice of Errata, along with an exhibit he titled a First Amended Complaint Corrected. The January 26 complaint includes allegations that are substantively different than the allegations in the Second Amended Complaint and should correctly be titled a Third Amended Complaint.
9. On January 9, 2026, the lead partner handling this matter went on medical leave, scheduled to last until February 16, 2026.
10. This matter is scheduled for a court status on February 10, 2026.

ARGUMENT

I. PLAINTIFF’S SECOND AND THIRD AMENDED COMPLAINTS ARE UNTIMELY, FILED WITHOUT LEAVE, AND SHOULD BE STRICKEN.

A. Plaintiff’s January 21, 2026 filing was late and should be stricken.

By this Court’s Order on January 5, 2026, Plaintiff had leave to replead and file an amended complaint by January 16, 2026. He did not do so and did not seek the Court’s permission to extend the deadline. Instead, he filed nothing until January 21, 2026. For this reason alone, his January 21 filing should be stricken.

Regardless, Plaintiff then filed on January 26, 2026 what should for the reasons explained below be considered another amended complaint. When an amended complaint is filed it has the effect of nullifying the previous complaint. Illinois courts have consistently held that filing an amended complaint constitutes abandonment of the previous complaint. *See, Mijatovich v. Columbia Sav. & Loan Ass’n*, 522 N.E.2d 728 (Ill. App. 1st Dist. 1988) (holding that in choosing to file further amendments to a complaint, plaintiffs abandoned the earlier complaint and waived any objection to an order sustaining motion to strike that complaint.)

B. Plaintiff’s January 26, 2026 filing is an amended complaint filed without leave and should be stricken.

On January 26, 2026, Plaintiff filed what must be considered a Third Amended Complaint for the reasons explained below, which he has labeled a “First Amended Complaint, Corrected.” It is well established in Illinois that a party may not file an amended pleading without leave of court. *Petrella v. Leisky*, 92 Ill. App. 3d 880, 48 Ill. Dec. 732, 417 N.E.2d 134 (1st Dist. 1981); *Callaghan Paving, Inc. v. Keeneyville Const. Co., Inc.*, 197 Ill. App. 3d 937, 145 Ill. Dec. 458, 557 N.E.2d 228 (1st Dist. 1990); *First Robinson Sav. & Loan v. Ledo Const. Co., Inc.*, 210 Ill. App. 3d 889, 155 Ill. Dec. 304, 569 N.E.2d 304 (5th Dist. 1991); *Allen v.*

Archer-Daniels-Midland Co., 129 Ill. App. 3d 783, 84 Ill. Dec. 921, 473 N.E.2d 137 (4th Dist. 1985).

A party has no absolute right to amend its pleadings. A party must first seek and obtain the court's permission to file a proposed amendment. *Kurczaba v. Pollock*, 318 Ill. App. 3d 686, 252 Ill. Dec. 175, 742 N.E.2d 425 (1st Dist. 2000). Plaintiff never requested permission to file a Third Amended Complaint. Amendments that are filed without leave of court are a nullity and should be stricken. *Kurczaba, supra*; *Estate of Zander v. Illinois Dept. of Public Aid*, 242 Ill. App. 3d 774, 183 Ill. Dec. 233, 611 N.E.2d 86 (4th Dist. 1993); *First Robinson Savings & Loan Co., supra*.

Plaintiff appears to be attempting to circumvent the clearly established rules of civil procedure by filing what he has titled a “Notice of Errata” and stating that he is merely making changes to correct, not amend, his First Amended Complaint, which is really a Second Amended Complaint as explained above. In the Notice of Errata Plaintiff filed on January 26, 2026, he wrote that “Illinois courts permit correction of clerical and scrivener's errors in pleadings without formal leave to amend where the corrections do not alter the substance of the claims. *See* 735 ILCS 5/2-616(c); *see also* Ill. Sup. Ct. R. 104 (errors in pleadings that do not affect substantial rights may be disregarded or corrected).” (*Plaintiff's Notice of Errata* at 5.) Plaintiff is mistaken in his interpretation of 735 ILCS 5/2-616(c) and Ill. Sup. Ct. R. 104.

735 ILCS 5/2-616(c) provides that a pleading may be amended at any time, before or after judgment, to conform the pleadings to the proofs, upon terms as to costs and continuance that may be just. Nowhere in that statute does it provide that Plaintiff may correct or amend a pleading without leave of Court and a party instead must first seek and obtain the court's

permission to file a proposed amendment. *Kurczaba v. Pollock*, 318 Ill. App. 3d 686, 252 Ill. Dec. 175, 742 N.E.2d 425 (1st Dist. 2000).

Likewise, Ill. Sup. Ct. R. 104, also cited by Plaintiff, addresses service of pleadings, other papers and filings, and nowhere in the rule is any support for Plaintiff's proposition that "errors in pleadings that do not affect substantial rights may be disregarded or corrected." (*Plaintiff's Notice of Errata*. at 5.)

Plaintiff's notice of Errata describes six changes Plaintiff is making in the complaint which he describes as "Various non-substantive formatting, typographical, and clerical corrections throughout the document to improve readability." (*Plaintiff's Notice of Errata*. at 4.) This is not accurate. The changes laid out in Plaintiff's Notice of Errata are substantive in nature. For example, Plaintiff changes one statute for another.

INCORRECT TEXT:

"Under 820 ILCS 115/12, when an employer fails to keep records as required by the Act, the employee's allegation of wages due is presumed to be correct."

CORRECTED TEXT:

"Under 56 Ill. Admin. Code 300.630(b), when an employer fails to keep records as required by the Act, the employee's allegation of wages due is presumed to be correct."

(*Plaintiff's Notice of Errata*. at 4.)

This change is significant; changing a claim brought under 820 ILCS 115/12, the Illinois Wage Payment Collection Act, to a claim under 56 Ill. Admin. Code 300.630(b), Records and Notice Requirements, a completely different potential cause of action. Other changes Plaintiff makes also are substantive, such as altering a claim that Defendant failed to provide a change in writing to Plaintiff within **seven** calendar days, to an allegation that Defendant failed to provide Plaintiff with written notice **prior to the time of change**. (*Plaintiff's Notice of Errata*.) Further, despite only identifying six changes in his Notice of Errata, Plaintiff's Third Amended

Complaint is now 87 pages, compared to the 70 pages in Plaintiff's Second Amended Complaint filed on January 21, 2026. Regardless of what further changes may have been made, the changes Plaintiff has identified in his Notice of Errata are not mere clerical errors, were done without leave of Court, and appear to be an attempt to circumvent the rules of civil procedure.

II. AT THE LEAST, DEFENDANT WILL BE PREJUDICED WITHOUT AN EXTENSION OF TIME TO RESPOND

While Plaintiff's Second and Third Amended Complaint both should be stricken, if the Court allows either of these pleadings to stand, Defendant requires additional time to file its responsive pleadings. First, Plaintiff's Second Amended Complaint was filed late. More specifically, in the Court's January 5 Order, Plaintiff was given until January 16, 2026 to re-plead and Defendant was given 14 days, until January 30, 2026, to answer or otherwise respond. On January 21, 2026, Plaintiff filed his 70-page Second Amended Complaint five days past the Court deadline, and then on January 26 Plaintiff filed a Third Amended Complaint, now 87 pages long, leaving Defendant with only four days under the operative court order to answer or otherwise respond. In addition, Plaintiff's complaint is a moving target given the filing of the Third Amended Complaint, leaving Defendant heavily prejudiced in preparing their response.

In addition, on January 9, 2026, the lead partner handling this matter went on an unexpected medical leave currently scheduled to last until February 16, 2026.

CONCLUSION

For reasons detailed in this motion, Defendant respectfully requests that (i) Plaintiff's Second Amended Complaint be stricken; (ii) Plaintiff's Third Amended Complaint be stricken; or, (iii) in the alternative should the Court allow Plaintiff's Second or Third Amended Complaint to stand, Defendant be granted 21 days after the Court's ruling on this motion to answer or otherwise respond to Plaintiff's Operative Amended Complaint.

Dated: January 29, 2026

Respectfully submitted,

CDW GOVERNMENT, LLC.,

s/Joel Zeid

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on January 29, 2026, they electronically filed the foregoing **DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S SECOND AND THIRD AMENDED COMPLAINT, OR IN THE ALTERNATIVE, REQUEST FOR AN EXTENSION OF TIME TO ANSWER OR OTHERWISE PLEAD** with the Clerk of the Circuit Court of Cook County, Illinois, Law Division, by using the Odyssey EfileIL system.

The undersigned, an attorney, further certifies that the following *pro se* plaintiff, is a registered service contact on the Odyssey eFileIL system, and thus will be served a copy of the foregoing **MOTION** via the Odyssey eFileIL system:

Marcellus Long (legal@marcelluslong.com)

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

s/Joel Zeid
Attorney for Defendant
Joel Zeid

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