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

MARCELLUS LONG)
)
 Plaintiff,)
)
 vs.)
)
 CDW GOVERNMENT LLC.)
)
)
 Defendant.)

Case No.: 2025L007458
Judge: Hon. Thomas More Donnelly
Trial Date: Unassigned

PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO STRIKE
JURY DEMAND

I. INTRODUCTION

Defendant CDW Government LLC moves to strike Plaintiff’s Jury Demand as untimely. This motion should be denied because Plaintiff’s First Amended Complaint ("FAC") asserts newly pled common-law causes of action—Constructive Fraud, Fraudulent Concealment, and Conversion—that were not present in the original pleading.

While 735 ILCS 5/2-1105 generally requires a jury demand at the commencement of an action, the Court possesses broad discretion to allow a late demand. Under Illinois law, a late jury demand should be granted where there is "good cause" for the delay and an absence of prejudice or inconvenience to the parties. *Hernandez v. Power Constr. Co.*, 73 Ill. 2d 90 (1978).

Here, good cause exists because the FAC introduces complex common law tort claims involving intent, reliance, and property rights that are legally distinct from the strict-liability wage claims originally pled. Furthermore, Defendant fails to demonstrate prejudice or inconvenience. To deny Plaintiff a jury on these newly pled, constitutionally protected claims would elevate procedural form over substantive justice.

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II. ARGUMENT

A. Good Cause Exists to Allow the Jury Demand Because the FAC Introduces Distinct Common Law Tort Claims.

Defendant relies on the strict waiver rule of 735 ILCS 5/2-1105, but ignores the discretionary standard for late demands. To establish good cause, a plaintiff must show a reason independent of mere inadvertence. *Hernandez v. Power Constr. Co.*, 73 Ill. 2d 90 (1978) (leave to file late demand allowed on good cause; absence of prejudice and inconvenience considered).

1. The New Claims Constitute Independent Good Cause: Good cause exists here because the nature of the litigation has fundamentally changed.

Original Complaint: Alleged statutory violations of the IWPCA (unpaid wages/strict liability).

First Amended Complaint: Adds Common Law Fraud (Count II) and Conversion (Count IV).

Because the FAC introduces new common-law tort claims that inject new factual disputes regarding intent to deceive, reasonable reliance, and wrongful dominion over property, good cause exists to accept the demand filed with the FAC. Plaintiff could not have demanded a jury for a Fraud claim he had not yet pled.

2. No Prejudice or Inconvenience: Defendant has not shown prejudice. The FAC was filed the week of January 19, 2026, pursuant to a Court order. Defendant will suffer no prejudice or inconvenience, and the parties have not yet reached trial readiness on the newly pled fraud and conversion issues. Defendant has ample time to prepare for a jury trial on these issues. Where no prejudice exists and rights are substantive, the preference is to protect the litigant's constitutional rights. *Hernandez*, 73 Ill. 2d 90.

B. Plaintiff Has a Constitutional Right to a Jury Trial for Conversion and Fraud.

Defendant argues that the IWPCA does not convey a jury right. Even if true, this is irrelevant to Plaintiff's new claims.

Article I, Section 13 of the Illinois Constitution guarantees the right to trial by jury as it existed at common law.

Conversion (Count IV): A claim for conversion of money is a classic legal action for damages entitled to a jury verdict. See *Cruthis v. Firststar Bank, N.A.*, 354 Ill. App. 3d 1106 (5th Dist. 2004) (affirming jury verdict for conversion of funds).

Fraudulent Concealment (Count II): A legal claim seeking legal damages for deceit, historically triable to a jury under Article I, Section 13.

Plaintiff demands a jury of twelve as preserved by Article I, Section 13 of the Illinois Constitution. *Kakos v. Butler*, 2016 IL 120377. Defendant cannot use the statutory nature of the original IWPCA claim to strip Plaintiff of his constitutional right to a jury on these new, distinct common law torts.

C. Judicial Economy Dictates a Single Jury Trial.

The facts underlying the Fraud and Conversion claims (concealment of the Goal Modifier, assurances of "no dips") are inextricably intertwined with the IWPCA claims. While the federal *Beacon Theatres* doctrine is persuasive, Illinois courts similarly favor efficiency. It would be a waste of judicial resources to hold a bench trial for wages and a separate jury trial for fraud on the exact same timeline. At minimum, the jury should resolve the common factual issues that overlap the tort counts and the wage claims, to avoid inconsistent findings.

III. CONCLUSION

Plaintiff has established good cause for the jury demand based on the filing of the First Amended Complaint and the introduction of new common law torts. Defendant suffers no prejudice. Accordingly, Plaintiff respectfully requests that this Court deny Defendant's Motion to Strike and enter an order confirming the case for trial by a jury of twelve.

Respectfully submitted,

/s/ Mr. Marcellus Long, MBA
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CERTIFICATE OF SERVICE

The undersigned certifies that on or around Jan 28, 2026, a true and correct copy of the foregoing was served via email pursuant to Supreme Court Rule 11 upon counsel of record for Defendant at their designated service addresses.

/s/ Marcellus Long