

I David Martin respectfully request that this Honorable Court deny the defendants motion filed on 8/3/23 at 9:56 AM. In that motion, the defendants ask; 1. That this court consider their motion to dismiss as moot, 2. That the defendants be allowed to respond to the plaintiff's second amended complaint by September 20th, 23. I'n the Alternative, the defendants are requesting a 14-day extension of time, until August 17th 2023, to file their reply to my answer to their motion to dismiss.

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I support their request to withdraw their motion to dismiss. However, I ask this court to deny all other requests in their motion. In support of my motion I state the following...

BRIEF STATEMENT OF FACTS

1. On 11/10/2022, I filed my complaint against the defendants, and the defendants Ahern and Raoul were emailed copies of the complaint.
2. On 11/29/2022 a summons was issued for the defendants Ahern and Raoul.
3. **On 12/6/2022 the summons was served on the defendants.**
4. **The defendants failed to file an appearance and respond to my complaint. Despite the fact that they had just under 4 months to do so.**
5. On 3/06/2023 I made substantial amendments to my complaint. The amendments applied to the defendants Ahern and Raoul.
6. **On 3/20/2023 the defendants were served again, this time with copies of my amended complaint.**
7. 4/10/23, Was the deadline for the defendants to respond to my amended complaint.
8. On 4/10/23, the defendants filed a motion for extension of time. In that motion the defendants incorrectly stated that they were served on 3/31/23. However, the record clearly shows that the defendants was served on 3/20/23. The motion also

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stated that the defendants were “working to determine whether the State Defendants have been properly served.”.

9. On 4/11/2023, I filed a motion for default.
10. On 4/12/2023, my motion for default was denied before I had a chance to respond to the plaintiff’s motion for extension of time.
11. On 5/8/2023, the defendants filed a motion to dismiss.
12. On 5/9/2023, I filed a motion for extension of time because a family member was murdered.
13. On 6/13/2023 My motion for extension of time was granted and I was given up to 7/13/2023 to file my answer to the defendant’s motion to dismiss. The defendants were given up to 8/3/23 to file a reply to my answer.
14. On 7/7/23 I filed my answer to the defendant’s motion to dismiss.
15. On 7/28/2023 I filed an amended complaint... Except for the affidavit which was missing from the preceding version, the amended complaint did not have any changes as it pertained to Ahern and Raoul.

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ARGUMENT

**THIS COURT SHOULD DENY THE DEFENDANTS REQUEST TO REPLY TO
MY AMENDED COMPLAINT.**

This court should deny the defendants request to reply to my amended complaint because there aren't any changes in the complaint that actually applies to the defendants Ahern and Raoul. My amended complaint contains the following changes:

1. An affidavit was added. This is the same affidavit that was provided in the original complaint, but forgotten in first amendment of my complaint. I referred to it, but forgot to attach it... This is the same affidavit provided to Ahern in the state court proceedings. The affidavit does not apply to Raoul. The affidavit does not bring anything new, and it does not offer any changes in my accusations against Ahern,

2. Gretchen Peterson was named in count 4 of my complaint, and some updates were provided as to the claims against her. Originally the claims in count 4 was directed at the state court clerks. However, the federal court refuse to issue a summons because no one was named. The complaint is now updated with a specific person's name,

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3. Exhibits pertaining to Gretchen Peterson was added. In essence, these are exhibits of the alter documents provided by Gretchen Peterson and her subordinates.

4. Additional claims were made against Gretchen Peterson in count 11,

5. The Illinois Department of Employment Security was added as a new defendant, and new counts 12, 13, and 14 are directed to them.

As argued, the defendants should not be allowed to respond to the amended complaint. Nothing in the amended complaint pertains to Ahern or Raoul. The complaint has been updated with an affidavit, but this affidavit does not provide anything new and it does not change any of the claims against Ahern.

THIS COURT SHOULD DENY THE DEFENDANTS

REQUEST FOR AN EXTENSION OF TIME

The defendants also ask *“Alternatively, if this Court denies Plaintiff’s motion to amend his complaint, Defendants request a 14-day extension until August 17, 2023, to file their reply brief ”*.

I argue that the court should deny this request because the defendants do not offer any specific reasoning on why they could not meet their August 3rd deadline for their reply brief. I allege that the defendants are simply using my amended complaint as

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an excuse to buy more time to reply. This should not be allowed, because the amended complaint has nothing to do with their reply. They have had ample time to reply, and they could have submitted their reply along with their motion.

I also argue and allege that the defendants request should be denied because they have established a clear pattern of avoiding and causing delay. Before being served, the defendants were emailed a copy of my complaint. In judge Ahern's case, I appeared in his court room via zoom on November 11th 2022 to personally inform him that he was being sued. I know that this does not count as service, but Ahern knew or should have known that he was being sued. Eventually the defendants were served on December 6 2022, and they simply ignored my complaint for about 4 months. They were then served again on March 20th 2023. Their deadline to respond was April 10th 2023. Instead of filing a response to my complaint, they filed a motion for extension of time which incorrectly stated that they were served on March 31st 2023. In that motion they ask the court to give them time to see if they had been properly served. I argue that they were simply avoiding and delaying my claims. They had more than enough time to at least appear. By that time, they had known about my complaint for about 4 months. Now they are essentially using the same tactic. Only this time they don't even try to give a reason on why this court should give them an extension of time. The defendants have missed their deadline, and I allege that they are simply trying to delay.

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THIS COURT SHOULD DENY THE DEFENDANTS REQUEST

BECAUSE IT WOULD CAUSE ME UNDUE PREJUDICE

I argue that I would be prejudiced against if this court allows the defendant to rewrite their motion to dismiss. As argued, there are no changes in my amended complaint that applies to the defendants... Thus, I would ask the rhetorical question... if my amended motions contains no changes regarding the defendants, what would the defendant's new motion to dismiss be based on? Assuming that the defendants are going to refile their motion to dismiss, that motion could not be based off of any changes in my amended complaint. As there are none that applies to defendants Ahern and Raoul. Instead, I argue the defendant's new motion would be based on my answer to their original motion. In this situation I would suffer undue prejudice because the defendants have already read my arguments. Now they are essentially asking the court to allow them to recraft their motion to dismiss so that they can defeat the arguments that I made in my first answer. Simply put, I argue that the defendants are asking this court for a cheat code. They've seen my response. Now they want to rewrite their motion to defeat my response. I would also be prejudiced against because I would be forced to file an answer to multiple motions to dismiss from the same parties.

I ask that this court not allow the defendants to file an answer to my complaint. The defendants have had an excessive amount of time to file an answer to my

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complaint. On one occasion they asked for an extension of time but later filed a motion to dismiss. Now they are asking for time to file a response, but they did not say what type of response they intend to file. I ask that the court take notice that Rule 12(a)(1)(A) of the Federal Rules of Civil procedure provides that “a defendant must serve an answer within 21 days after being served with the summons and complaint.” The defendants have had multiple chances to file an answer and have not done so. Now they are using my amended complaint as an excuse to file an answer. As previously argued, the amended complaint does not have any changes as it regards to Ahern or Raoul. I ask that this court deny the defendants answer to my complaint if the defendants intending on filing an answer.

Wherefor I pray:

- 1. That the defendant's motion is denied.**
- 2. Any remedy that this court can provide.**

8/4/2023
David Martin

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