

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

CHRISTOPHER S. CYNOWA,)
)
Plaintiff,)
)
v.)
)
CSSS, INC., et al.)
Defendants,)

No. 08 L 403

5 FILED 5
APR - 7 PM 4:30
CLERK OF THE CIRCUIT COURT
DISTRICT-5
DOMINICK BROWN, CLERK

NOTICE OF MOTION

TO Kevin Duff
John Murray
Rachlis Durham Duff & Adler, LLC
542 South Dearborn, Suite 900
Chicago, Illinois 60605
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Alexandria, Virginia 22314
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June 9, 2011

PLEASE TAKE NOTICE that on ~~April 7, 2011~~, or as soon thereafter, I shall appear before the Honorable Hogan or any judge sitting in that judge's stead, in courtroom 2005, usually occupied by him, located at Daley Center, 50 West Washington Street, Chicago, Illinois, and present PLAINTIFF'S MOTION FOR LEAVE TO FILE A SECOND AMENDED COMPLAINT, a copy of which is attached hereto.

Theresa V. Johnson
Theresa V. Johnson

5 FILED 5
APR 10 10:50
CLERK OF THE CIRCUIT COURT
DISTRICT-5
DOMINICK BROWN, CLERK

PROOF OF SERVICE

I, Theresa V. Johnson, the attorney, certify under penalties as provided by law pursuant to 735 ILCS 5/1-109, that the statements set forth herein are true and correct; that I served this Notice and the afore-named pleading by causing a copy to be emailed to each of the parties listed above on April 7, 2011.

Respectfully Submitted:

Theresa V. Johnson
Theresa V. Johnson
Attorney for Plaintiff

Theresa V. Johnson
Law Office of Theresa V. Johnson
200 E. Chicago Ave., Suite 200
Westmont, Illinois 60559
Tel: 630-321-1330
Fax: 630-321-1185
Cook County Atty No.: 37363

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

5 FILED 5
11 APR -7 PM 10:24
CLERK OF THE CIRCUIT COURT
DISTRICT 15
DONALD BROWN

CHRISTOPHER S. CYNOWA,)
)
Plaintiff,)
) No. 08 L 403
v.)
)
CSSS, INC., et al.)
)
Defendants,)

**PLAINTIFF'S MOTION FOR
LEAVE TO FILE A SECOND AMENDED COMPLAINT**

5 FILED 5
11 APR -7 PM 4:30
CLERK OF THE CIRCUIT COURT
DISTRICT 15
DONALD BROWN

Plaintiff, by his attorney, pursuant to section 2-616 and 2-1005 (g) of the Illinois Code of Civil Procedure, moves this Honorable Court to grant him leave to file the attached Second Amended Complaint. In support thereof, Plaintiff states:

1. This is a case for defamation arising from false statements made by one of Plaintiff's supervisors. The defamatory statement was made on at least 3 occasions: once to a group of supervisory personnel, the second to a VA police officer, and the third to other employees and/or former co-workers of CSSS.
2. The Court ordered that Plaintiff prepare an amended complaint because the prior iterations of the complaint did not make clear that the defamatory statements were made to different persons at different times
3. Attached hereto is Plaintiff's proposed Second Amended Verified Complaint.
4. The proposed Second Amended Complaint complies with the Court's Order of March 24, 2011 (**Exhibit A**)
5. The proposed Second Amended Complaint also includes facts obtained through discovery and through the evidentiary testimony of Larry Carver.

6. Plaintiffs should be granted leave to file his proposed Second Amended Complaint. Section 2-616 of the Illinois Code of Civil Procedure provides: "At any time before final judgment amendments may be allowed on just and reasonable terms . . . changing the cause of action or defense or adding new causes of action or defenses, and in any matter, either of form or substance, in any process, pleading, bill of particulars or proceedings, which may enable the Plaintiff to sustain the claim for which it was intended to be brought or the defendant to make a defense or assert a cross claim." 735 ILCS 5/2-616(a).

7. Section 2-616 is to be liberally construed to permit resolution of cases on the merits with any doubts resolved in favor of allowing amendments. *Selcke v. Bove*, 258 Ill.App.3d 932, 937 (1st Dist. 1994).

8. "The overriding consideration is whether allowing the amendment of the pleadings will further the ends of justice." *Selcke*, 258 Ill.App.3d at 937; *Delzell v. Moore*, 224 Ill.App.3d 808, 812 (5th Dist. 1992).

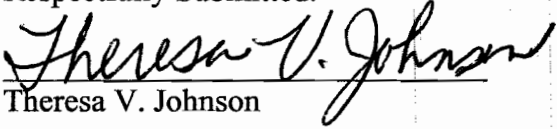
9. In this case, the proposed pleading will further the ends of justice. The proposed Second Amended Complaint does not raise any new facts, or any facts that were not learned by the parties during the discovery phase of the case.

10. No prejudice will result to the defendants if the amendment is allowed because the trial of this matter has been continued until the disposition of this motion.

11. Plaintiff should be granted leave to file his proposed Second Amended Complaint. Section 2-1005 (g) of the Illinois Code of Civil Procedure provides: "BEFORE OR AFTER THE ENTRY OF A SUMMARY JUDGMENT, THE COURT SHALL PERMIT PLEADINGS TO BE AMENDED UPON JUST AND REASONABLE TERMS."

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant him leave to file his proposed Second Amended Complaint.

Respectfully Submitted:


Theresa V. Johnson

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