
**IN THE
SUPREME COURT OF ILLINOIS**

RUEBEN D. WALKER and M. STEVEN DIAMOND, Individually and on Behalf of
Themselves and for the Benefit of the Taxpayers and on Behalf of All Other Individuals
or Institutions who pay Foreclosure Fees in the State of Illinois,

Plaintiffs-Appellees,

v.

ANDREA LYNN CHASTEEN, in her official capacity as the Clerk of the Circuit Court
of Will County, and as a representative of all Clerks of the Circuit Courts of all Counties
within the State of Illinois,

Defendants-Appellants,

and

PEOPLE OF THE STATE OF ILLINOIS *Ex rel.* KWAME RAOUL, Attorney General of
the State of Illinois, and DOROTHY BROWN, in her official capacity as the Clerk of the
Circuit Court of Cook County,

Intervenors-Appellants.

On Appeal from the
Appellate Court of Illinois, Third District, No. 3-22-0387
There heard on Appeal from the Circuit Court of the
Twelfth Judicial Circuit, Will County, Illinois
Case No. 12 CH 5275
The Honorable John C. Anderson, Judge Presiding

DEFENDANTS-APPELLANTS' ADDITIONAL BRIEF

ORAL ARGUMENT REQUESTED

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CYNTHIA A. GRANT
SUPREME COURT CLERK

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NATURE OF THE CASE

This case involves a \$102 million-dollar claim against the State of Illinois (circuit clerks as state officers/officials) in the form of restitution for payers of an unconstitutional mortgage foreclosure fee. The trial court dismissed the matter based on sovereign immunity, leaving the injunction against the collection of the fee in place. The Illinois Appellate Court reversed and held that the circuit clerks who followed the statute on mortgage foreclosure fees, prior to a finding of unconstitutionality, can be stripped of their sovereign immunity. The decision of the appellate court has broad policy implications which are likely to impose significant hardships for state officials seeking sovereign immunity.

ISSUES PRESENTED FOR REVIEW

Whether the Defendants-Appellants circuit clerks' collection of a statutory mandatory fee, prior to its being held unconstitutional, is an act which strips the circuit clerks of their sovereign immunity.

STATEMENT OF JURISDICTION

Illinois Supreme Court Rule 315 confers jurisdiction upon this Court. The appellate court issued its decision on November 15, 2023. This Court granted petitioner's motion for extension of time and granted leave to file the petition by January 24, 2024. This Court granted Defendants-Appellants circuit clerks petition for leave on March 27, 2024.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

§ 18. Clerk of Courts

(a) The Supreme Court and the Appellate Court Judges of each Judicial District, respectively, shall appoint a clerk and other non-judicial officers for their Court or District...Ill. Const. art. VI, § 18.

§ 27.3d. Circuit Court Clerk Operation and Administrative Fund. Each Circuit Court Clerk shall create a Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law. The Circuit Court Clerk shall be the custodian, ex officio, of this Fund and shall use the Fund to perform the duties required by the office. The Fund shall be audited by the auditor retained by the Clerk for the purpose of conducting the Annual Circuit Court Clerk Audit. Expenditures shall be made from the Fund by the Circuit Court Clerk for expenses related to the cost of collection for and disbursement to entities of State and local government. 705 ILCS 105/27.3d.

§ 1. Except as provided in the Illinois Public Labor Relations Act, the Court of Claims Act, the State Officials and Employees Ethics Act, and Section 1.5 of this Act, the State of Illinois shall not be made a defendant or party in any court. 745 ILCS 5/1.

§ 8. Court of Claims jurisdiction; deliberation periods. The court shall have exclusive jurisdiction to hear and determine the following matters:

(a) All claims against the State founded upon any law of the State of Illinois or upon any regulation adopted thereunder by an executive or administrative officer or agency; provided, however, the court shall not have jurisdiction (i) to hear or determine claims arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act, or claims for expenses in civil litigation, or (ii) to review administrative decisions for which a statute provides that review shall be in the circuit or appellate court. . . . 705 ILCS 505/8.

STATEMENT OF FACTS

This is the third time this matter has come before this Court. In 2010, the Illinois legislature enacted Section 15-1504.1 of the Code of Civil Procedure which required mortgage foreclosure plaintiffs to pay the clerk of the circuit court an additional fee for the Foreclosure Program Prevention Fund. 735 ILCS 5/15-1504.1. The statute required the circuit clerk to collect this fee as part of their statutory duties and to remit those funds to the State treasurer. Section 15-1504.1(a-5) further required a portion of the fees to be

deposited into the Abandoned Residential Property Municipality Relief Fund which also required the circuit clerk to collect fees and remit same to the State treasurer. 735 ILCS 5/15-1504.1(a-5). In 2015, this Court held that circuit court clerks did not fall within the state constitutional provision prohibiting fee officers in the judicial system. *Walker v. McGuire*, 2015 IL 117138. Then in 2021, this Court in *Walker v. Chasteen* found the subject fee to be unconstitutional as the subject fee injuriously interfered with the right to access to the courts. *Walker v. Chasteen*, 2021 IL 126086.

This Court remanded the case to the circuit court following that decision, at which time, the Defendant circuit clerks stopped collecting the challenged fee. As part of their requested relief, Plaintiffs have sued in part for the “return of all fees collected pursuant to this statute.” C972; R255. However, the money Plaintiffs seek has been remitted to the State pursuant to the statute. At the trial court level, it was undisputed that the circuit clerks are state officers. R103, 255-56. Plaintiffs allege Defendant circuit clerks collected the fee as part of their duties mandated by the statute that was later ruled unconstitutional. C968, 1013. So, in effect, Plaintiffs are suing state officers for money collected pursuant to their state duties, who then sent the money they collected to the Illinois State Treasurer as required by law. It is conceded that the money sent by the Defendant circuit clerks has likely been spent pursuant to the statute. R256-7. Among the motions filed by Defendants was a motion to dismiss based on sovereign immunity. As this is a claim against the State, sovereign immunity should apply, and thus the circuit court lacks jurisdiction to consider the monetary claim. The trial court dismissed the claim based on sovereign immunity. C3016-18, V2. On appeal, the appellate court reversed that finding, reasoning Defendant

circuit clerks collected the unconstitutional fee and determined that those actions were not protected by sovereign immunity. Defendants-Appellants circuit clerks filed a Petition for Leave to Appeal which was granted by this Court.

ARGUMENT

I. Defendant Circuit Clerks Should Not be Stripped of Their Sovereign Immunity for Simply Following the Command of the Legislature Until its Enactment Was Found Unconstitutional.

This matter has been pending for over ten years and this Court has resolved many of the underlying issues. All that remains is the monetary claim by Plaintiffs for a refund of the fees paid during that time. This claim is for money that has been remitted to the Illinois State Treasurer pursuant to the statute. The sole remaining issue is in what forum Plaintiffs are required to seek this refund. The trial court agreed with Defendants that the proper forum is the Illinois Court of Claims. The appellate court disagreed and held that the circuit court should resolve the monetary claim. The Defendants' position is that based on sovereign immunity, Plaintiffs' claim should be heard in the court of claims. The appellate court's ruling that Defendant circuit clerks should be stripped of their sovereign immunity merely for following a directive from the Illinois legislature which was later found to be unconstitutional is contrary to Illinois law and public policy and should be reversed. See *Parmar v. Madigan*, 2018 IL 122265.

The trial court dismissed Plaintiffs' complaint on a motion to dismiss. Under section 2-619.1 of the Code of Civil Procedure, a complaint may be dismissed either because it is insufficient in law (735 ILCS 5/2-615(a)) or because it is barred by an affirmative matter that avoids the legal effect of the claim. 735 ILCS 5/2-619(a); 735 ILCS

5/2–619.1. Here, the trial court dismissed the case pursuant to 2-619(a). See *Sibenaller v. Milschewski*, 379 Ill. App. 3d 717 (2d Dist. 2008). Review of the trial court's dismissal order is de novo. *MB Fin. Bank, N.A. v. Brophy*, 2023 IL 128252.

At the heart of the remaining issue, Plaintiffs are seeking a monetary judgment against the State of Illinois. As the appellate court observed, the Illinois legislature has provided the State with sovereign immunity but allows monetary claims to be resolved in the Illinois Court of Claims. *Walker v. Chasteen*, 2023 IL App (3d) 220387, ¶ 19. However, the appellate court ruled that sovereign immunity did not apply in this case even though the Plaintiffs are in effect suing the State of Illinois. *Walker v. Chasteen*, 2023 IL App (3d) 220387. That decision would return this matter to the circuit court, presumably for collection, and would subject the State to garnishments and citations among other collection devices.

The Defendants in this matter are circuit clerks whose only role was to collect, as part of their statutory duties, a fee instituted by the Illinois legislature. In accordance with this Court's decisions in *Drury* and *Walker*, the Defendant circuit clerks, from which a monetary judgment is sought, are state officers. *Drury v. McLean Cnty.*, 89 Ill. 2d 417 (1982); *Walker*, 2021 IL 126086. Although the Illinois Constitution of 1970 abolished sovereign immunity in this State (Ill. Const. 1970, art. XIII, § 4), the Illinois General Assembly subsequently passed HB 2047 on December 10, 1971, which became P.A. 77-1776, and it was reinstated. P.A. 77-1776 (eff. Jan. 1, 1972). In accordance with that constitutional grant of authority, the Illinois General Assembly adopted the State Lawsuit Immunity Act, reinstating the doctrine of sovereign immunity. *Id.* This statute provides:

Except as provided in the Illinois Public Labor Relations Act, the Court of Claims Act, the State Officials and Employees Ethics Act, and Section 1.5 of this Act, the State of Illinois shall not be made a defendant or party in any court. 745 ILCS 5/1.

The Illinois State Lawsuit Immunity Act provides that the State (or its officers) cannot be sued unless one of a limited number of exceptions applies. *Id.* Moreover, where a suit is brought against a state official and the judgment or decree, although nominally against the official, could operate to control the action of the State or subject it to liability, the cause in effect is a suit against the State. *Schwing v. Miles*, 367 Ill. 436, 442 (1937). Such claims against the State brought in the circuit court are barred by operation of law. 745 ILCS 5/1; see *Jenkins v. Lee*, 209 Ill. 2d 320, 330 (2004). The most reliable indicator of that intent is the language of the statute itself. *People v. Araiza*, 2020 IL App (3d) 170735, ¶ 18. The intent here is that claims against the State should be heard in the Illinois Court of Claims.

The Illinois legislature granted sovereign immunity to the State so that public officials could perform their jobs without fear that a mistake could entail a damage claim. To balance the peoples' need for public officials' compliance with the law, the "officer-suit exception" has historically permitted lawsuits seeking prospective relief to proceed in the circuit court, but not "present claims" seeking monetary compensation for past injuries. *Parmar*, 2018 IL 122265. This balance has enabled courts to protect the public, through its powers in equity, to ensure that public officials comply with applicable law, while simultaneously preserving the State's sovereign decision-making authority and protecting the State treasury. By concluding that the availability of these protections turns on how a plaintiff chose to characterize a monetary claim, or his inclusion in his complaint of other

alleged non-monetary claims not subject to sovereign immunity, rather than the actual substance of the claim at issue, the appellate court has drastically undermined the protections of sovereign immunity provided by Illinois law.

The appellate court found that since this case involved a constitutional question, it could not be heard in the court of claims. However, the appellate court previously noted in its decision, that the constitutional question had already been decided and that the “only remaining issue from the Plaintiffs’ action is their request for restitution.” *Walker*, 2023 IL App (3d) 220387, ¶ 18. Notwithstanding, even if that is not the case, the Illinois Court of Claims would still be the proper forum to resolve this matter. *Parmar*, 2018 IL 122265.

The appellate court in this case went on to hold that when a state officer follows the dictates of an enactment of the legislature prior to judicial resolution and the enactment is later found unconstitutional, the state officer is stripped of their sovereign immunity. *Walker*, 2023 IL App (3d) 220387. The appellate court found:

[T]he defendant circuit court clerks collected the filing fees from the plaintiffs in violation of the constitution and absent legal authority to do so; accordingly, their actions were not considered as actions by the State. See *Walker*, 2023 IL App (3d) 220387, ¶ 24 (citing *Parmar*, 2018 IL 122265).

This holding is contrary to decades of Illinois law and threatens the ability of state officers simply following Illinois law to be protected by sovereign immunity. The duties of circuit clerks are set by statute. 705 ILCS 105/27.3d states, in relevant part, as follows:

Each Circuit Court Clerk shall create a Circuit Court Clerk Operation and Administrative Fund, to be used to offset the costs incurred by the Circuit Court Clerk in performing the additional duties required to collect and disburse funds to entities of State and local government as provided by law...705 ILCS 105/27.3d.

As part of their statutory duties, circuit clerks are required to collect fees mandated by State

statute. Plaintiffs agree that the fee was collected as part of their duties. C968, 1013. In the appellate court's reasoning, it appears that Defendant circuit clerks should not have collected the fees in order to preserve their sovereign immunity, contrary to the statute. *Walker*, 2023 IL App (3d) 220387. However, if they had not collected the statutory fees, prior to the finding of unconstitutionality, they would have committed official misconduct. See 720 ILCS 5/33-3.

Accordingly, the Defendant circuit clerks were adhering to their job duties in collecting and disbursing funds as provided by law, i.e., Section 15-1504.1, which was in full force and effect at the time. 735 ILCS 5/15-1504.1. If Defendant circuit clerks intentionally failed to collect the fees required by Section 15-1504.1, they would, if convicted, forfeit their office and be guilty of official misconduct, a Class 3 felony offense, pursuant to 720 ILCS 5/33-3(a)(1). Despite this, the appellate court opined that Defendant circuit clerks, in collecting the fees, violated statutory or constitutional law, or were in excess of their authority, thus separating their conduct from that of the State. It is simply incomprehensible that Defendant circuit clerks should be forced to choose between maintaining their sovereign immunity by following a statute (later deemed unconstitutional) passed by the Illinois legislature and performing their job duties, or committing felony official misconduct, in violation of the Illinois Criminal Code.

II. The Officer Suit Exception to Sovereign Immunity Does Not Apply in a Circumstance Where a State Officer Follows a Duly Enacted Statute Prior to a Finding of Unconstitutionality.

The appellate court went on to discuss sovereign immunity and the application of the "officer suit exception". The appellate court held that:

However, under the “officer suit exception,” sovereign immunity will not apply if “the State officer’s conduct violates statutory or constitutional law or is in excess of his or her authority, [because] such conduct is not regarded as the conduct of the State.” *Id.* ¶ 22; see *PHL, Inc. v. Pullman Bank & Trust Co.*, 216 Ill. 2d 250, 261 (2005) (holding that “when an action of a state officer is undertaken without legal authority, such an action strips a State officer of his official status *** [and] his conduct is not then regarded as the conduct of the State, nor is the action against him considered an action against the State” (internal quotation marks omitted)). *Walker*, 2023 IL App (3d) 220387, ¶ 23.

This holding appears to suggest that the “officer suit exception” to sovereign immunity applies if a state official, while performing their duties, follows a statute prior to any finding of unconstitutionality, stripping them of their sovereign immunity. Again, this holding is simply breathtaking in that if drawn to its logical conclusion, any state official who follows a properly enacted statute, prior to any court finding otherwise, loses the immunity granted to them as a state official. Plaintiffs allege that Defendant circuit clerks collected the fees as part of their duties mandated by the statute that was later ruled unconstitutional. C968, 1013. So, Defendant circuit clerks were within their statutory duty in collecting the fees. If the legislature mandates a fee to be collected by Defendant circuit clerks and they perform that function, surely, they are not outside their legal authority as suggested by the appellate court, stripping away their sovereign immunity.

The appellate court decision is contrary to this Court’s holding in *Parmar*, which limited the officer suit exception to future conduct. 2018 IL 122265. In *Parmar*, the plaintiff filed a class action complaint against the attorney general and the treasurer, “challenging the application and constitutionality of an amendment to the Illinois Estate and Generation-Skipping Transfer Tax Act (Estate Tax Act) (35 ILCS 405/1 *et seq.* (West 2014)) and seeking a refund of all moneys paid to the Treasurer pursuant to the Estate Tax

Act.” *Parmar* at ¶ 1. The Illinois Supreme Court held that sovereign immunity applied, and plaintiff must bring its claim to the Illinois Court of Claims. *Parmar*, 2018 IL 122265. Plaintiff in *Parmar* argued *inter alia* that the officer suit exception should apply. *Id.* However, this Court in *Parmar* determined that the officer suit exception to the sovereign immunity doctrine did not apply because, although the plaintiff alleged the defendants’ conduct was unlawful because the defendants acted pursuant to an unconstitutional statute, the plaintiff sought damages, including a refund of money, for a past wrong. *Id.* “*Leetaru* makes plain that a complaint seeking damages for a past wrong does not fall within the officer suit exception to sovereign immunity.” *Id.* at ¶ 26 (citing *Leetaru v. Bd. of Trustees of Univ. of Illinois*, 2015 IL 117485, ¶ 51). The Illinois Supreme Court stated that the officer suit exception applies when a plaintiff seeks to “enjoin future conduct” that is alleged to be contrary to law, not to “a complaint seeking damages for a past wrong.” *Id.* In this case, the prospective relief claims have been resolved and only “restitution” remains in the case, which is barred under the doctrine of sovereign immunity. *Walker*, 2023 IL App (3d) 220387, ¶ 18.

This case is analogous to *Parmar*. This Court held that under these facts (a class action based on an unconstitutional statute which sought a refund of past payments against state officials), the circuit court did not have jurisdiction. *Parmar*, 2018 IL 122265.

This matter, as it stands now, is a claim for a \$102 million-dollar monetary judgment against the State of Illinois for a past wrong which will subject the State to the collection procedures available to those who have a monetary judgment to enforce. Defendants do not deny the importance of the decision in *Walker v. Chasteen* (2021 IL

126086), nor the right of the Plaintiffs to seek their fees, however Plaintiffs are required to seek their monetary remedy in the Illinois Court of Claims pursuant to statute. The appellate court, in reversing the trial court, upended decades of law concerning sovereign immunity. *Walker*, 2023 IL App (3d) 220387.

III. Plaintiffs Are Entitled to Seek Their Refund in the Illinois Court of Claims.

While the Defendants do not contest Plaintiffs are entitled to a refund, the issue is where Plaintiffs may go to seek that relief. The appellate court noted that constitutional questions, which present legal questions, cannot be heard by the court of claims. *Walker*, 2023 IL App (3d) 220387, ¶ 19 (citing *Hooker v. Illinois State Board of Elections*, 2016 IL 121077, ¶ 21). However, no constitutional questions remain in this stage of the case. *Walker*, 2023 IL App (3d) 220387, ¶ 18. Only the matter of monetary relief remains. *Id.* Further, the appellate court's ruling runs contrary to the decisions of other appellate districts which have found that the Illinois Court of Claims can grant equitable relief. The appellate court, in support of its position, cites to Illinois Court of Claims decisions:

Additionally, the court of claims does not possess the authority to grant equitable remedies. *Lowery v. State*, 72 Ill. Ct. Cl. 102, 104 (2020). Thus, no matter whether the plaintiffs' restitution request is legal or equitable, the court of claims was—and is—not the proper venue for any part of the plaintiffs' action. Therefore, the circuit court erred when it so held. *Walker*, 2023 IL App (3d) 220387, ¶ 19.

This contrasts with the trial court's citation to *Mgmt. Ass'n of Illinois, Inc. v. Bd. of Regents of N. Illinois Univ.*, 248 Ill. App. 3d 599 (1st Dist. 1993), which held that the court of claims can grant injunctive (equitable) relief. C3017-3018, V2. However, again, the appellate court has already stated that the only remaining issue to be decided is the restitution to

Plaintiffs. *Walker*, 2023 IL App (3d) 220387, ¶ 18.

The Plaintiffs are not without an avenue to collect their fees. The Court of Claims Act 705 ILCS 505/1 *et seq.*, creates a forum for actions against the State. *Healy v. Vaupel*, 133 Ill. 2d 295, 316 (1990). With limited exceptions, the Illinois Court of Claims “shall have exclusive jurisdiction to hear and determine . . . [a]ll claims against the State founded upon any law of the State of Illinois . . .” 705 ILCS 505/8(a). A party seeking a monetary judgment against a state agency payable out of state funds must bring its action in the court of claims. *Meyer v. Department of Public Aid*, 392 Ill. App. 3d 31, 35 (3d Dist. 2009); *James ex rel. Mims v. Mims*, 316 Ill. App. 3d 1179, 1181 (1st Dist. 2000). An action naming a state employee as defendant will be found to be a claim against the State, such that exclusive jurisdiction lies in the court of claims, where a judgment for the plaintiff could operate to control the actions of the State or subject it to liability. *Loman v. Freeman*, 229 Ill. 2d 104, 113, 140 (2008). As *Parmar* held, this type of action belongs in the court of claims where it can be dealt with by an appropriation by the state legislature following an adjudication. *Parmar*, 2018 IL 122265.

Illinois courts have referred plaintiff class actions to the Illinois Court of Claims. In *Kay v. Frerichs*, a taxpayer filed a putative class action complaint in the Cook County Circuit Court against Michael Frerichs, in his official capacity as Treasurer of the State of Illinois, alleging that he was administering the Illinois College Savings Pool in an illegal manner, and sought equitable and monetary relief. 2021 IL App (1st) 192271. The court in that case held that plaintiff could pursue her claim in the court of claims. *Kay*, 2021 IL App (1st) 192271.

Plaintiffs have also argued that the Illinois Court of Claims is not suited to handle a large number of claims. This is yet another misdirection by Plaintiffs. In *Midwest Pediatric Assocs., Ltd. v. State*, the court of claims handled a case with over 1,000 different patients. 35 Ill. Ct. Cl. 765 (1983). Other examples of joint awards entered by the court of claims on stipulations are *Peltz v. State*, 34 Ill. Ct. Cl. 284 (1981); *Acoff v. State*, 35 Ill. Ct. Cl. 364 (1981); and *Coppotelli v. State*, 35 Ill. Ct. Cl. 328 (1981), in which significant awards were granted for a large group of claimants (each case involved individual judgments for claimants as opposed to a class action judgment).

Practically speaking, what happens if the appellate court decision is allowed to stand? Plaintiffs could presumably get a judgment that can be enforced by the courts. Then, garnishments and citation orders could then be entered against the State treasurer regarding the payment of funds. However, the money sent to the State treasurer has been spent, so what accounts will the money be drawn from? Since the appellate court found the circuit clerks' actions to be separate from the State, can they be held personally liable? Can the State indemnify Defendant circuit clerks if their actions are not part of their duties even though they were simply following a legislative enactment?

The appellate court decision, when viewed in a prospective manner, can have a monumental effect on the finances of the State. A \$102 million-dollar judgment against the State is not insignificant. "Taxes are raised for certain specific governmental purposes; and, if they could be diverted to the payment of the damage claims, the more important work of government, which every municipality must perform regardless of its other relations, would be seriously impaired if not totally destroyed." *Abrams v. Oak Lawn-Hometown*

Middle Sch., 2014 IL App (1st) 132987, ¶ 6 (internal citations omitted). The route of the court of claims, in which such a refund could be handled, meets the purposes for which claims against the State can be resolved. Following a decision by the court of claims, the money may then be appropriated by the Illinois legislature. All three of the criteria for Defendant circuit clerks' invocation of sovereign immunity are met in this case. Defendants are an arm of the State, Plaintiffs seek to hold Defendants liable for a monetary judgment, and none of the exceptions (including the officer suit exception which is confined to enjoining future conduct) to that doctrine are applicable in this matter.

CONCLUSION

For these reasons, Defendants-Appellants, Andrea Chasteen, in her official capacity as the Clerk of the Circuit Court of Will County, and as a representative of all Clerks of the Circuit Courts of all Counties within the State of Illinois, respectfully requests that the decision of the appellate court be reversed, and circuit court be affirmed.

Respectfully submitted,

By: 

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Will County Assistant State's Attorney

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 15 pages.

Respectfully submitted,

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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

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CLERK, CIRCUIT COURT
WILL COUNTY, ILLINOIS

REUBEN D. WALKER and M. STEVEN)
DIAMOND, Individually and on Behalf of)
Themselves and for the Benefit of the)
Taxpayers and on Behalf of All Other)
Individuals or Institutions Who Pay)
Foreclosure Fees in the State of Illinois,)

Plaintiffs,)

v.)

Case No. 12 CH 5275

ANDREA LYNN CHASTEEN, in her)
official capacity as the Clerk of the)
Circuit Court of Will County, and as a)
Representative of all Clerks of the Circuit)
Courts of All Counties within the State of)
Illinois,)

Defendants.)

John C. Anderson
Circuit Judge

ORDER

In March 2020, this Court declared section 15-1504.1 of the Code of Civil Procedure (735 ILCS 5/15-1504.1), and also sections 7.30 and 7.31 of the Illinois Housing Development Act (20 ILCS 3805/7.30 and 20 ILCS 3805/7.31), unconstitutional. The Illinois Supreme Court affirmed. *Walker v. Chasteen*, 2021 IL 126086.

This Court's prior orders did not resolve issues of damages sought in the complaint (specifically, restitution relating to the plaintiff class members' payment of unconstitutional court fees).

Pending before the Court are three motions: (1) Will County's supplemental motion to dismiss; (2) Cook County's motion for summary judgment on damages; (3) the Illinois Attorney General's motion (on behalf of various circuit clerks) for judgment on the pleadings. Even though the three motions are advanced under three different procedural vehicles, they all make the same basic argument. Specifically, the governmental entities all contend that the question of restitution must be litigated in the Court of Claims.

The Court of Claims Act (705 ILCS 505/1 *et seq.*) creates a forum for actions against the State. *Healy v. Vaupel*, 133 Ill. 2d 295, 307 (1990). That statute, with some exceptions not relevant here, provides that the Illinois Court of Claims “shall have exclusive jurisdiction to hear and determine *** [a]ll claims against the State founded upon any law of the State of Illinois.” 705 ILCS 505/8(a).

The circuit clerks are nonjudicial members of the judicial branch of state government. See *Drury v. McLean Cty.*, 89 Ill. 2d 417 (1982). In other words, the defendant class members are state officers. However, the determination of whether an action is against the State “does not depend on the identity of the formal parties, but rather on the issues raised and the relief sought.” *Senn Park Nursing Center v. Miller*, 104 Ill. 2d 169, 186 (1984). If a judgment for plaintiff could operate to control the actions of the State or subject it to liability, the action is effectively against the State and is barred by sovereign immunity. *Currie v. Lao*, 148 Ill. 2d 151, 158 (1992). The justification advanced in support of the doctrine is that it “protects the State from interference in its performance of the functions of government and preserves its control over State coffers.” *S.J. Groves & Sons Co. v. State of Illinois*, 93 Ill. 2d 397, 401 (1982), *overruled on other grounds*, *Rossetti Contracting Co. v. Ct. of Claims*, 109 Ill. 2d 72, 79 (1985). Here, the Amended Complaint seeks “[a]n order to return all fees collected pursuant to this statute to Plaintiffs.” The Court must conclude that the remaining aspects of the case involve a request for money damages, thereby implicating sovereign immunity.

Plaintiffs suggest that the Court of Claims cannot hear the case because their restitution claim is equitable in nature. Plaintiff’s might be right regarding their claim being based in equity. As the Illinois Supreme Court stated in *Raintree Homes, Inc. v. Vill. of Long Grove*, 209 Ill. 2d 248, 257 (2004):

Stated another way, plaintiffs’ requested relief of a refund may be properly designated as seeking an award of restitution. While restitution may be available in both cases at law and in equity, “[t]he concepts of restitution and damages are quite distinct, but sometimes courts use the term damages when they mean restitution.” As Professor Dobbs states in his 1993 revision of his *Treatise on Remedies*:

“The damages award is not the only money award courts make. Courts may also award restitution in money; they may also order money payments in the exercise of equity powers. Damages differs from restitution in that damages is measured by the plaintiff’s loss; restitution is measured by the defendant’s unjust gain.”

(Internal citations omitted.)

However, even if the restitution sought here should be viewed as a purely equitable remedy, the Court of Claims’ jurisdiction is not limited to monetary “damages at law” claims. It has authority

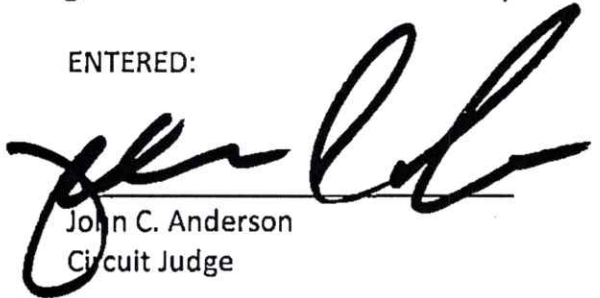
to grant equitable relief. *See Management Ass'n of Illinois, Inc. v. Board of Regents of Northern Illinois University*, 248 Ill.App.3d 599, 610 (1993).

For the reasons stated in the governmental entities' briefs, the Court agrees that the Court of Claims Act, and the Illinois Supreme Court's ruling in *Parmar v. Madigan*, 2018 IL 122265, and that fact that the last remaining issue involves a monetary claim against the State, the Court must agree that it lacks jurisdiction to proceed.

Will County's supplemental motion to dismiss is granted to the extent it seeks dismissal for lack of jurisdiction over plaintiff's restitution claims. This order does not impact the permanent injunction previously entered by the Court; that order was entered with jurisdiction and remains enforceable. However, the Court lacks jurisdiction to provide any relief to plaintiffs relative to their claim for restitution. Accordingly, the prayers for restitution are stricken. Class plaintiffs may pursue their request for restitution in the Court of Claims. Cook County's motion for summary judgment, and the Illinois Attorney General's motion for judgment on the pleadings, are denied as moot. This order resolves all matters pending before this Court. Clerk to notify.

Dated: August 30, 2022

ENTERED:



John C. Anderson
Circuit Judge

2023 IL App (3d) 220387

Opinion filed November 15, 2023

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2023

REUBEN D. WALKER and M. STEVEN)	Appeal from the Circuit Court
DIAMOND, Individually and on Behalf of)	of the 12th Judicial Circuit,
Themselves and for the Benefit of the)	Will County, Illinois.
Taxpayers and on Behalf of All Other)	
Individuals or Institutions Who Pay)	
Foreclosure Fees in the State of Illinois,)	

Plaintiffs-Appellants,

v.

ANDREA LYNN CHASTEEN, in Her Official)
Capacity as the Clerk of the Circuit Court of)
Will County and as a Representative of All)
Clerks of the Circuit Courts of All Counties)
Within the State of Illinois; CANDICE)
ADAMS, Clerk of the Circuit Court)
of Du Page County; ERIN CARTWRIGHT)
WEINSTEIN, Clerk of the Circuit Court of)
Lake County; THOMAS A. KLEIN, Clerk of)
the Circuit Court of Winnebago County;)
MATTHEW PROCHASKA, Clerk of the)
Circuit Court of Kendall County; THERESA)
E. BARREIRO, Clerk of the Circuit Court of)
Kane County; LORI GESCHWANDNER,)
Clerk of the Circuit Court of Adams County;)
PATTY HIHER, Clerk of the Circuit Court of)
Carroll County; SUSAN W. McGRATH, Clerk)
of the Circuit Court of Champaign County,)
AMI L. SHAW, Clerk of the Circuit Court of)
Clark County; ANGELA REINOEHL, Clerk of)
the Circuit Court of Crawford County; JOHN)
NIEMERG, Clerk of the Circuit Court of)

Appeal No. 3-22-0387
Circuit No. 12-CH-5275

Effingham County; KAMALEN JOHNSON)
 ANDERSON, Clerk of the Circuit Court of)
 Ford County; LEANN DIXON, Clerk of the)
 Circuit Court of Livingston County; KELLY)
 ELIAS, Clerk of the Circuit Court of Logan)
 County; LISA FALLON, Clerk of the Circuit)
 Court of Monroe County; CHRISTA S.)
 HELMUTH, Clerk of the Circuit Court of)
 Livingston County; KIMBERLY A. STAHL,)
 Clerk of the Circuit Court of Ogle County; and)
 SETH E. FLOYD, Clerk of the Circuit Court of)
 Piatt County,)
)
 Defendants-Appellees.)
)
) The Honorable
) John C. Anderson,
) Judge, presiding.

JUSTICE McDADE delivered the judgment of the court, with opinion.
 Presiding Justice Holdridge and Justice Peterson concurred in the judgment and
 opinion.

OPINION

¶ 1 The plaintiffs in this case comprise a class of individuals who, in connection with the filing of their mortgage foreclosure complaints in the circuit courts, paid filing fees mandated by section 15-1504.1 of the Code of Civil Procedure (Code) (735 ILCS 5/15-1504.1 (West 2012)). The defendants are a class of all the Illinois circuit court clerks. The class action alleged, among other things, that section 15-1504.1 of the Code was facially unconstitutional. The supreme court agreed, thereby striking down section 15-1504.1, as well as two additional statutes that created programs funded by the filing fees (20 ILCS 3805/7.30, 7.31 (West 2012)). *Walker v. Chasteen*, 2021 IL 126086, ¶ 47 (*Walker II*).

¶ 2 On remand from the supreme court, the circuit court dismissed the remainder of the plaintiffs’ action, which sought refunds of the filing fees paid by the plaintiffs. The circuit court ruled that it lacked jurisdiction to grant the plaintiffs’ requested relief, as the claim was against

the State and therefore had to be brought in the Illinois Court of Claims. On appeal, the plaintiffs alleged that the circuit court erred when it dismissed the remainder of their action. We reverse and remand for further proceedings.

¶ 3

I. BACKGROUND

¶ 4

The facts of this case have been set out in previous appeals; most recently, in *Walker II*, 2021 IL 126086. We include only those facts necessary for the disposition of this appeal.

¶ 5

The original plaintiff in this action, Reuben D. Walker, filed a mortgage foreclosure complaint in the Will County Circuit Court in April 2012. At the time he filed his complaint, Walker paid a \$50 filing fee mandated by section 15-1504.1 of the Code. Pursuant to sections 7.30 and 7.31 of the Illinois Housing Development Act (Act) (20 ILCS 3805/7.30, 7.31 (West 2012)), the fees collected in connection with the filing of mortgage foreclosure complaints were earmarked to fund a social welfare program.

¶ 6

In October 2012, Walker filed a putative class action complaint against the Will County Circuit Court, which, in part, alleged that section 15-1504.1 was unconstitutional. The circuit court certified the class, which included all individuals who paid the \$50 filing fee up to and including Walker. The court also certified a class of defendants, which consisted of all the Illinois circuit court clerks in their official capacities. The State was later allowed to intervene.

¶ 7

In November 2013, the circuit court granted partial summary judgment in favor of the plaintiffs and denied the State's motion to dismiss. More specifically, the court ruled that (1) the circuit court clerks fell within the "fee officer" prohibition in article VI, section 14, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 14), and (2) the provision in section 15-1504.1 authorizing circuit court clerks to retain 2% of the \$50 filing fees for administrative expenses

created an unconstitutional fee office. Accordingly, the court struck down section 15-1504.1 as facially unconstitutional.

¶ 8 An appeal was taken to our supreme court. In *Walker v. McGuire*, 2015 IL 117138, ¶ 30 (*Walker I*), our supreme court disagreed with both of the circuit court's rulings. The case was remanded for further proceedings. *Id.* ¶ 44.

¶ 9 In April 2018, the plaintiffs filed an amended complaint containing four counts. Count I alleged that section 15-1504.1 of the Code and sections 7.30 and 7.31 of the Act violated separation-of-powers principles. Count II alleged that the statutes violated equal protection, due process, and uniformity-of-burden principles. Count III alleged that the statutes unconstitutionally provided for the imposition of a filing fee for a noncourt related purpose. Count IV requested the creation of a protest fund to contain all fees collected or to be collected pursuant to section 15-1504.1 until the conclusion of the plaintiffs' case. Counts I, II, and III requested the same relief: (1) a declaratory judgment that the statutes were unconstitutional, (2) "[a] declaratory judgment that any expenditures of State funds collected pursuant to this statute must be returned to Plaintiffs," (3) temporary, preliminary, and permanent injunctions "enjoining Defendants from disbursing fees collected pursuant to [section 15-1504.1], and (4) "[a]n order to return all fees collected pursuant to [section 15-1504.1] to Plaintiffs."

¶ 10 The circuit court granted partial summary judgment in favor of the plaintiffs, striking down all three statutes as violative of the equal protection, due process, and uniformity clauses of the Illinois Constitution (Ill. Const. 1970, art. I, § 2; Ill. Const. 1970, art. IX, § 2). The court also found the statutes violated the free access clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 12). The court stayed its permanent injunction, which prohibited the collection of the fees and the funding the social welfare program, so our supreme court could review the case.

¶ 11 In June 2021, our supreme court addressed the appeal in *Walker II*. First, the court held that the filing fees were paid by the plaintiffs under duress such that the voluntary payment doctrine did not invalidate the plaintiffs' cause of action. *Walker II*, 2021 IL 126086, ¶ 28. Second, the court held that section 15-1504.1 of the Code and sections 7.30 and 7.31 of the Act violated the free access clause of the Illinois Constitution. *Id.* ¶¶ 47-48. The court then remanded the case for further proceedings. *Id.* ¶ 49.

¶ 12 After remand, discovery proceeded on the issue of restitution. During that time, numerous motions were filed, including a motion and supplemental motion to dismiss pursuant to section 2-619 of the Code (735 ILCS 5/2-619 (West 2020)) filed by Will County Circuit Court Clerk Andrea Lynn Chasteen.

¶ 13 In August 2022, the circuit court issued a written order dismissing the case. The court ruled that it lacked jurisdiction over the plaintiffs' restitution claims, as those claims had to be brought in the court of claims because they were directed at recovering money from the State. The plaintiffs appealed.

¶ 14 II. ANALYSIS

¶ 15 While the plaintiffs claim there are five issues on appeal, there is only one—whether the circuit court erred when it granted Chasteen's motion to dismiss.

¶ 16 "The purpose of a section 2-619 motion to dismiss is to dispose of issues of law and easily proved issues of fact at the outset of litigation." *Van Meter v. Darien Park District*, 207 Ill. 2d 359, 367 (2003). Section 2-619(a)(9) permits a motion to dismiss that alleges "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) (West 2020). When ruling on a section 2-619 motion, a court must construe all pleadings and supporting documents in the light most favorable

to the nonmoving party. *Van Meter*, 207 Ill. 2d at 367-68. We review the granting of a motion to dismiss *de novo*. *Parmar v. Madigan*, 2018 IL 122265, ¶ 17.

¶ 17 The primary question we must answer on appeal is whether jurisdiction over the remainder of the plaintiffs' case lies with the circuit court or the court of claims. Here, the plaintiffs filed a declaratory judgment action seeking a ruling that section 15-1504.1 of the Code and sections 7.30 and 7.31 of the Act were unconstitutional. "Actions under the declaratory judgments statute [citation] are neither legal nor equitable in nature. Rather, they are *sui generis* and the judgment, decree or order takes its character from the nature of the relief declared." *Continental Casualty Co. v. Commonwealth Edison Co.*, 286 Ill. App. 3d 572, 578 (1997).

¶ 18 The only issue remaining from the plaintiffs' action is their request for restitution—namely, refunds of the fees they paid. Our supreme court has noted that restitution "may be available in both cases at law and in equity." *Raintree Homes, Inc. v. Village of Long Grove*, 209 Ill. 2d 248, 257 (2004). Notably, "[t]he law of restitution is not easily characterized as legal or equitable, because it acquired its modern contours as the result of an explicit amalgamation of rights and remedies drawn from both systems." Restatement (Third) of Restitution and Unjust Enrichment § 4 cmt. b (2011); see *Great-West Life & Annuity Insurance Co. v. Knudson*, 534 U.S. 204, 212-15 (2002) (discussing the distinction between restitution as a legal remedy and restitution as an equitable remedy). The complex analysis¹ needed to determine whether the plaintiffs' restitution request in this case is legal or equitable is not necessary, however. Either way, the court of claims would not have jurisdiction over the plaintiffs' restitution request.

¹The Restatement (Third) of Restitution and Unjust Enrichment § 4 (2011), contains an excellent, thorough discussion of why it is so difficult to determine whether a request for restitution is legal or equitable.

¶ 19 While the State possesses immunity from being sued (745 ILCS 5/1 (West 2020)), the legislature has authorized certain claims to be brought against the State in the court of claims (705 ILCS 505/8 (West 2020)). In relevant part, the court of claims has jurisdiction over “[a]ll claims against the State founded upon any law of the State of Illinois.” *Id.* § 8(a). Constitutional questions, which present legal questions (*Hooker v. Illinois State Board of Elections*, 2016 IL 121077, ¶ 21), cannot be heard by the court of claims. See, e.g., *Bennett v. State*, 72 Ill. Ct. Cl. 141, 142 (2019). Additionally, the court of claims does not possess the authority to grant equitable remedies. *Lowery v. State*, 72 Ill. Ct. Cl. 102, 104 (2020). Thus, no matter whether the plaintiffs’ restitution request is legal or equitable, the court of claims was—and is—not the proper venue for any part of the plaintiffs’ action. Therefore, the circuit court erred when it so held.

¶ 20 We note that an issue was raised below regarding whether sovereign immunity prohibited the plaintiffs from maintaining this action in the circuit court. The issue was addressed by both parties but not decided by the circuit court. Because that issue will arise again on remand and is a question of law that both parties have briefed on appeal, we choose to address the issue now. *Village of Spring Grove v. Doss*, 202 Ill. App. 3d 858, 862 (1990); see *Bell v. Louisville & Nashville R.R. Co.*, 106 Ill. 2d 135, 142 (1985).

¶ 21 “Sovereign immunity is a common-law doctrine that bars lawsuits against the government unless the government consents to be sued.” *Jackson v. Alvarez*, 358 Ill. App. 3d 555, 559 (2005). Article XIII, section 4, of the Illinois Constitution (Ill. Const. 1970, art. XIII, § 4) abolished sovereign immunity but authorized the legislature to reinstate it by law. It did so, with limited exceptions that include the court of claims, in section 1 of the State Lawsuit Immunity Act (745 ILCS 5/1 (2020)).

¶ 22 “A suit against a State official in his or her official capacity is a suit against the official’s office and is therefore no different than a suit against the State.” *Parmar*, 2018 IL 122265, ¶ 21. In this case, the plaintiffs sued the defendant circuit court clerks in their official capacities and do not dispute that they are State officers. Presumably, then, sovereign immunity would apply in this case.

¶ 23 However, under the “officer suit exception,” sovereign immunity will not apply if “the State officer’s conduct violates statutory or constitutional law or is in excess of his or her authority, [because] such conduct is not regarded as the conduct of the State.” *Id.* ¶ 22; see *PHL, Inc. v. Pullman Bank & Trust Co.*, 216 Ill. 2d 250, 261 (2005) (holding that “when an action of a state officer is undertaken without legal authority, such an action strips a State officer of his official status *** [and] his conduct is not then regarded as the conduct of the State, nor is the action against him considered an action against the State” (internal quotation marks omitted)).

¶ 24 “When a statute is found to be facially unconstitutional in Illinois, it is said to be void *ab initio*; that is, it is as if the law had never been passed ***.” *In re N.G.*, 2018 IL 121939, ¶ 50. Here, our supreme court held that the relevant statutes were facially unconstitutional. *Walker II*, 2021 IL 126086, ¶¶ 47-48. Thus, the defendant circuit court clerks collected the filing fees from the plaintiffs in violation of the constitution and absent legal authority to do so; accordingly, their actions were not considered as actions by the State. See *Parmar*, 2018 IL 122265, ¶ 22; *PHL*, 216 Ill. 2d at 261.

¶ 25 Importantly, this exception to sovereign immunity does not apply when the complaint seeks only damages for a past wrong. *Parmar*, 2018 IL 122265, ¶ 26. However, the plaintiffs’ complaint not only sought restitution rather than damages (see *Raintree*, 209 Ill. 2d at 257-58 (discussing the difference between damages and restitution)), but also sought injunctive relief to

prohibit certain future conduct. Under these circumstances, we hold that the officer suit exception applies and sovereign immunity neither protects the defendants in this case nor robs the circuit court of jurisdiction to resolve the restitution issue.

¶ 26

III. CONCLUSION

¶ 27

The judgment of the circuit court of Will County is reversed, and the cause is remanded for further proceedings on the plaintiffs' complaint.

¶ 28

Reversed and remanded.

Walker v. Adams, 2023 IL App (3d) 220387

Decision Under Review: Appeal from the Circuit Court of Will County, No. 12-CH-5275; the Hon. John C. Anderson, Judge, presiding.

Attorneys for Appellant: Daniel K. Cray and Melissa H. Dakich, of Cray Huber Horstman Heil & VanAusdal LLC, of Chicago, Laird M. Ozmon, of Law Offices of Laird M. Ozmon, Ltd., of Joliet, and Michael T. Reagan, of Ottawa, for appellants.

Attorneys for Appellee: Kwame Raoul, Attorney General, of Chicago (Jane Elinor Notz, Solicitor General, and Frank H. Bieszczat, Assistant Attorney General, of counsel), for appellees Candice Adams, Erin Cartwright Weinstein, Thomas A. Klein, Matthew Prochaska, Theresa E. Barreiro, Lori Geschwandner, Patty Hiher, Susan W. McGrath, Ami L. Shaw, Angela Reinoehl, John Niemerg, Kamalen Johnson Anderson, LeAnn Dixon, Kelly Elias, Lisa Fallon, Christa S. Helmuth, Kimberly A. Stahl, and Seth E. Floyd.

Carrie L. Haas, of Dunn Law Firm, LLP, of Bloomington, for appellee Don Everhart Jr.

Kimberly M. Foxx, State's Attorney, of Chicago (Cathy McNeil Stein, Jessica Scheller, Jonathon D. Byrer, Paul Fangman, and Patrick E. Dwyer III, Assistant State's Attorneys, of counsel), for appellee Iris Martinez.

James W. Glasgow, State's Attorney, of Joliet (Scott Pyles, Assistant State's Attorney, of counsel), for appellee Andrea Lynn Chasteen.

**SUPREME COURT OF ILLINOIS**

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FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

March 27, 2024

In re: Reuben D. Walker et al., etc., Appellees, v. Andrea Lynn
Chasteen, etc., Appellant. Appeal, Appellate Court, Third District.
130288

The Supreme Court today ALLOWED the Petition for Leave to Appeal in the above entitled cause. We call your attention to Supreme Court Rule 315(h) concerning certain notices which must be filed with the Clerk's office.

With respect to oral argument, a case is made ready upon the filing of the appellant's reply brief or, if cross-relief is requested, upon the filing of the appellee's cross-reply brief. Any motion to reschedule oral argument shall be filed within five days after the case has been set for oral argument. Motions to reschedule oral argument are not favored and will be allowed only in compelling circumstances. The Supreme Court hears arguments beginning the second Monday in September, November, January, March, and May. Please see Supreme Court Rule 352 regarding oral argument.

Neville, J., took no part.

Very truly yours,

A handwritten signature in cursive script that reads "Cynthia A. Grant".

Clerk of the Supreme Court

APPEAL TO THE APPELLATE COURT OF ILLINOIS
 THIRD JUDICIAL DISTRICT
 FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
 WILL COUNTY, ILLINOIS

REUBEN D WALKER AND M STEVEN

DIAMOND

Plaintiff/Petitioner

Reviewing Court No: 3-22-0387

Circuit Court/Agency No: 2012CH005275

v.

Trial Judge/Hearing Officer: JOHN ANDERSON

ANDREA LYNN CHASTEEN

Defendant/Respondent

CERTIFICATION OF RECORD

The record has been prepared and certified in the form required for transmission to the reviewing court. It consists of:

- 2 Volume(s) of the Common Law Record, containing 3072 pages
- 1 Volume(s) of the Report of Proceedings, containing 276 pages
- 0 Volume(s) of the Exhibits, containing 0 pages

I hereby certify this record pursuant to Supreme Court Rule 324, this 7 DAY OF NOVEMBER, 2022

Andrea Lynn Chasteen

(Clerk of the Circuit Court or Administrative Agency)

A15

APPEAL TO THE APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

REUBEN D WALKER AND M STEVEN
DIAMOND

Plaintiff/Petitioner

Reviewing Court No: 3-22-0387

Circuit Court/Agency No: 2012CH005275

v.

Trial Judge/Hearing Officer: JOHN ANDERSON

ANDREA LYNN CHASTEEN

Defendant/Respondent

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
 JUDICIAL DISTRICT
 FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
 WILL COUNTY, ILLINOIS

REUBEN D. WALKER AND M. STEVEN

DIAMOND

Plaintiff/Petitioner

Reviewing Court No: 1-26-087

Circuit Court No: 2012CH005275

Trial Judge: JOHN C. ANDERSON

v.

ANDREA LYNN CHASTEEN

Defendant/Respondent

CERTIFICATION OF RECORD

The record has been prepared and certified in the form required for transmission to the reviewing court. It consists of:

- 1 Volume(s) of the Common Law Record, containing 2054 pages
- 1 Volume(s) of the Report of Proceedings, containing 165 pages
- 0 Volume(s) of the Exhibits, containing 0 pages

I do further certify that this certification of the record pursuant to Supreme Court Rule 324, issued out of my office this 6 DAY OF AUGUST, 2020

Andrea Lynn Chasteen

 (Clerk of the Circuit Court or Administrative Agency)

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ANDREA LYNN CHASTEEN, CLERK

ILLINOIS JUDICIAL CIRCUIT COURT ©

JOLIET, ILLINOIS 60432

APPEAL TO THE APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

REUBEN D. WALKER AND M. STEVEN
DIAMOND

Plaintiff/Petitioner

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
WILL COUNTY, ILLINOIS

REUBEN D WALKER AND M STEVEN

DIAMOND

Plaintiff/Petitioner

Reviewing Court No: 3-22-0387

Circuit Court/Agency No: 2012CH005275

v.

Trial Judge/Hearing Officer: JOHN ANDERSON

ANDREA LYNN CHASTEEN

Defendant/Respondent

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ANDREA LYNN CHASTEEN, CLERK OF THE 12th JUDICIAL CIRCUIT COURT ©

JULIETT, ILLINOIS 60432

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**IN THE
SUPREME COURT OF ILLINOIS**

RUEBEN D. WALKER and M. STEVEN DIAMOND, Individually and on Behalf of
Themselves and for the Benefit of the Taxpayers and on Behalf of All Other Individuals
or Institutions who pay Foreclosure Fees in the State of Illinois,

Plaintiffs-Appellees,

v.

ANDREA LYNN CHASTEEN, in her official capacity as the Clerk of the Circuit Court
of Will County, and as a representative of all Clerks of the Circuit Courts of all Counties
within the State of Illinois,

Defendants-Appellants,

and

PEOPLE OF THE STATE OF ILLINOIS *Ex rel.* KWAME RAOUL, Attorney General of
the State of Illinois, and DOROTHY BROWN, in her official capacity as the Clerk of the
Circuit Court of Cook County,

Intervenors-Appellants.

On Appeal from the
Appellate Court of Illinois, Third District, No. 3-22-0387
There heard on Appeal from the Circuit Court of the
Twelfth Judicial Circuit, Will County, Illinois
Case No. 12 CH 5275
The Honorable John C. Anderson, Judge Presiding

NOTICE OF FILING

TO: *See Certificate of Service*

PLEASE TAKE NOTICE that we have caused to be electronically filed with the
Clerk of the Supreme Court of Illinois this 10th day of July, 2024, the following
document(s), a copy of which is attached hereto:

DEFENDANTS-APPELLANTS' ADDITIONAL BRIEF

Respectfully submitted,

By: 

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Will County Assistant State's Attorney

JAMES W. GLASGOW

Will County State's Attorney

Gary Scott Pyles, Assistant State's Attorney

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CERTIFICATE OF SERVICE

I, Gary Scott Pyles, certify that on July 10, 2024, I electronically filed the foregoing with the Clerk of the Illinois Supreme Court by using Odyssey eFileIL system, an approved electronic filing service provider, pursuant to Illinois Supreme Court Rule 11(c).

I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and thus will be served via the Odyssey eFileIL system.

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned as aforesaid that he verily believes the same to be true.

By: _____

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