

No. 126101

**In the
Supreme Court of Illinois**

STANLEY EIGHNER,

Plaintiff-Petitioner,

v.

PATRICIA J. TIERNAN,

Defendant-Respondent.

Appeal from the Appellate Court
Of Illinois, First District Case No. 19-1369.

There heard on Appeal from the Circuit Court of Cook County, Illinois,
County Department, Law Division 18 L 11146.
The Honorable **Maira S. Johnson**, Judge Presiding

Table of Contents - Record on Appeal / Supporting Record

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TABLE OF CONTENTS

<u>DATE FILED</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGE NO.</u>
1.1.2014	Complaint in 2014 L 011428	1-4
5.18.2017	Order of Dismissal	5-6
4.23.2018	Notice of Refiling Complaint	7-14
10.15.2018	Complaint	15-18
3.7.2019	Appearance and Jury Demand	19-20
3.7.2019	Motion to Dismiss	21-41
4.22.2019	Response to Motion to Dismiss	42-92
5.7.2019	Reply in Support of Motion to Dismiss	92-95
5.29.2019	Order Denying Motion to Dismiss	96
5.29.2019	Record of Hearing on Motion to Dismiss	97-118
6.19.2019	Motion for Rule 308 Statement	119-145
6.26.2019	Order Granting Motion	146
6.28.2019	Emergency Motion to Modify Order	147-149
6.28.2019	Order Granting Emergency Motion	150

Respectfully submitted,

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**STATEMENT OF ISSUES AND STANDARD OF REVIEW
UNDER SUPREME COURT RULE 315(h)**

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STATEMENT OF ISSUES

1. Whether a circuit court, in issuing an order granting dismissal under 735 ILCS 5/2-1009 and also granting preemptive leave to “reinstate” the action within one year, retained jurisdiction over the action, rendering a refiling of the complaint in that same action within one year in compliance with 735 ILCS 5/13-217?
2. Whether 735 ILCS 5/13-217 applies only to refiling of an action, not to reinstatement, rendering a filing of a subsequent complaint after a dismissal under 735 ILCS 5/2-1009 under the same case number a reinstatement, and not a refiling, of the dismissed action?
3. Whether the Appellate Court erred when it ventured beyond the scope of the certified question by remanding the case with directions to dismiss Plaintiff’s complaint in the first-filed action when the appeal came from an order issued in the later-filed action?
4. Whether the Appellate Court should have applied the doctrine of equitable tolling to allow the filing of the new action (Case No. 18 L 11146) beyond the one-year statutory limit, as the question of reinstatement versus refiling was an unresolved question of law?

STANDARD OF REVIEW

“By definition, certified questions are questions of law subject to *de novo* review.” *Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶ 21. Furthermore, cases of statutory interpretation like this one are also reviewed *de novo*. *MD Elec. Contractors, Inc. v. Abrams*, 228 Ill. 2d 281, 286

(2008). Also, “[w]hen reviewing a judgment dismissing a claim under [a] statute,” this Court will “afford no deference to the determinations by the lower courts.” *In re Estate of Boyar*, 2013 IL 113655, ¶ 27.

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