No. 126675

IN THE SUPREME COURT OF ILLINOIS

MANCINI LAW GROUP, P.C.,	)	Appeal from the Appellate
	)	Court, First District
	)	
Plaintiff-Appellant,	)	
	)	
-vs-	)	No. 1-19-1131
	)	
	)	
SCHAUMBURG POLICE DEPARTMENT,	)	
	)	
	)	
Defendant-Appellee.	)	

Appeal from Circuit Court of Cook County, 1st Judicial District
17 CH 13881
Judge Franklin U. Valderrama, Presiding

REPLY BRIEF OF PLAINTIFF-APPELLANT

Matthew Topic – Atty. No. 6290922
Joshua Burday – Atty. No. 6320376
Merrick Wayne – Atty. No. 6330610
COUNSEL FOR PLAINTIFF-APPELLANT
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, Illinois 60607
(312) 243-5900
foia@loevy.com

E-FILED
6/22/2021 9:30 AM
Carolyn Taft Grosboll
SUPREME COURT CLERK

POINTS AND AUTHORITIES

This Court, in part relying on reasoning from persuasive federal FOIA decisions, held in *Lieber* that "voluntary disclosure in one situation can preclude later claims that records are exempt from release to someone else." *Lieber v. Bd. of Trustees of S. Illinois Univ.*, 176 Ill. 2d 401, 413 (1997) (citing *Cooper v. United States Dep't of the Navy,* 594 F.2d 484, 485–86 (5th Cir. 1979); *State of North Dakota ex rel. Olson v. Andrus,* 581 F.2d 177, 182 (8th Cir. 1978)). *Lieber* dealt with the issue of disclosing addresses—for the purpose of marketing to college freshman about housing—in the context of the personal privacy exemption. *Id.* at 403-404, 408. The University made the addresses of incoming freshmen available to other groups, but not to the plaintiff. *Id.* at 412-413. This Court held that such "selective disclosure by the government is offensive to the purposes underlying the FOIA and intolerable as a matter of policy." *Id.* at 413 (quotation and citation omitted).

SPD's primary claim is that the General Assembly intended to overturn *Lieber* when it amended the FOIA statute in 2010. SPD Br. at 6-7. It cites nothing in the legislative history, or any other source for that matter, supporting that claim. Instead, it contends that changes or additions to exemption language with no relation to waiver somehow support the idea that the General Assembly meant to overturn *Lieber*. As this Court has said, "[t]here is a cogent policy against overruling cases by implication." *People v. Garcia*, 199 Ill. 2d 401, 408 (2002) (citation omitted).

While the waiver principle in *Lieber* remains intact and is well-established on its own, it is further supported by persuasive federal precedent, legislative history, the most basic principles of statutory construction, and the fact that the amendments on which SPD relies actually increased disclosure requirements. And while not directly relevant to the

waiver issue at hand, the legislative history even explicitly states that traffic accident reports were intended to be disclosable under the personal privacy exemption.

Most compelling of all, one simple point has remained uncontroverted for the entirety of this case: Nothing requires SPD to produce unredacted reports to LexisNexis free of restrictions as to what it may do with those reports. While SPD is required to provide reports to the State under the Illinois Vehicle Code, 625 ILCS 5/11-408, nothing requires it to provide the reports to LexisNexis (a for-profit third-party reseller), or provide them free of restrictions as to what it may do with the reports as part of that process. As such, *Lieber* squarely applies to this case.

I. SPD'S PREVIOUSLY REJECTED CLAIMS REGARDING *LIEBER*

SPD makes a variety of arguments in furtherance of its claim that *Lieber* was overturned by the 2010 Amendments to FOIA or is otherwise inapplicable. None are persuasive.

The crux of SPD's case is its claim that *Lieber* was overturned by the 2010 amendments to FOIA. SPD Br. at 6-7; *Lieber*, 176 Ill. 2d at 413. Both the circuit court and appellate court rejected SPD's claim. C269; *Mancini Law Grp., P.C. v. Schaumburg Police Dep't*, 2020 IL App (1st) 191131-U, ¶ 16. For starters, the amendments to FOIA are simply of no relevance here as they have no impact on the legal principle of waiver for which Mancini cites *Lieber*. None of the amended language even mentions or discusses waiver.

SPD begins its 2010 FOIA Amendments argument by focusing on the amended language of Section 7(1), the section leading into the enumerated exemptions. SPD Br. at 8. SPD claims that the amended language gives public bodies' discretion when it comes to exemptions. *Id.* The post-amendment language, however, actually decreases their

discretion and increases their disclosure obligations. The fact that Section 7(1) ensures public bodies cannot withhold non-exempt information just because a record contains pieces of exempt information that may be redacted does not aid SPD. If anything, the amendment adding the following language only further supports Mancini:

> When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body ***shall*** make the remaining information available for inspection and copying.

Act of Aug. 17, 2009, Pub. Act 96-542, 2009 Ill. Laws 5420, 5435-36; *see* 5 ILCS 140/7(1). It states that the fact some information in a record may be exempt does not justify withholding the record in its entirety. *Id*. Instead, only the exempt portion may be redacted and the remainder "shall" be produced. *Id.* In other words, the fact that Section 7(1) was amended to reduce public bodies' opportunities for gamesmanship when asserting exemptions does not support SPD's position.

SPD next turns to arguments about the language of specific exemptions. It argues that adding in Section 2(c-5) to clarify what constitutes "private information" somehow overrules the waiver principle so clearly articulated in *Lieber*. SPD Br. at 9. SPD argues that Section 2(c-5) allows public bodies to withhold addresses if they wish. *Id.* But this simply does not address the waiver point at all. In fact, this Court held in *Lieber* that "[e]ven if" addresses were exempt, waiver would ***still*** require disclosure. *Lieber*, 176 Ill. 2d at 412-413. Put simply, waiver can only apply when material was originally exempt, and so the exempt nature of the material is irrelevant to whether the exemption has been waived through selective disclosure.

SPD also makes passing reference to a waiver argument not making sense in the context of Section 7(1)(c) because 7(1)(c) contains a waiver provision already. SPD Br. at

9. Fatal to SPD's claim is the fact that the "consent" language in question was part of the FOIA statute prior to *Lieber*. Act of Aug. 20, 1993, Pub. Act 88-444. Nor was that language changed in the 2010 FOIA Amendments. Act of Aug. 17, 2009, Pub. Act 96-542, 2009 Ill. Laws 5420, 5435-36. And in any event, Section 7(1)(c) does not contain a waiver clause: it provides for release through consent, which is a different principle entirely. 5 ILCS 140/7(1)(c) ("unless the disclosure is consented to in writing by the individual subjects of the information"); *Lieber*, 176 Ill. 2d at 413 (quoting and citing *State of North Dakota ex rel. Olson,* 581 F.2d at 182) ("selective disclosure by the government 'is offensive to the purposes underlying the FOIA and intolerable as a matter of policy. Preferential treatment of persons or interest groups fosters precisely the distrust of government the FOIA was intended to obviate.'"). Section 7(1)(c) is just codifying common sense: how could a disclosure be an invasion of personal privacy if the individual in question consented to disclosure?[1]

While the Court need never reach the legislative history of the 2010 FOIA Amendments as the case law and statute are clear, that history only supports Mancini. When amending FOIA, Speaker Madigan enunciated an explicit intent to modify the

[1] While there is no need to engage with exemptions and their language as SPD continually asks this Court to do, the prior history of exemption 7(1)(c) makes clear that the exemption allows for the disclosure of the very traffic accident reports at issue in this case. The legislative synopsis of Public Act 88-444 states: "Amends the Freedom of Information Act. Provides that traffic accident witness information, traffic accident reports and rescue reports may be provided without constituting an unwarranted invasion of personal privacy that would otherwise exempt that information from copying and inspection requirements." Final Legislative Synopsis and Digest of the 1993 Session of the Eighty-eighth General Assembly, at 101, *available at* https://libsysdigi.library.uiuc.edu/ILHarvest/ILLegislative/v01993i00001/finallegislativev01993i00001_opt.pdf.

personal privacy exemption only to increase disclosure.[2] As he stated, the amendment "narrows and clarifies the personal privacy exemption. This exception has been identified as the most abused." *Id.* Moreover, the senators even discussed specific FOIA cases and inquired if specific cases were meant to be overturned.[3] *Lieber* was not even mentioned during these discussions, let alone discussed with any intent to overturn the decision. *Id.* And as one senator stated, "there have been many court decisions that have defined the scope of FOIA, and we do not intend to overturn or otherwise interfere with these decisions, as I understand it." *Id.* at 42.

SPD then asks this Court to ignore the persuasive federal case, *Watkins v. Customs and Border Protection*, which further supports the reasoning and holding in *Lieber*. 643 F.3d 1189, 1197 (9th Cir. 2011). As an initial matter, there is no need to reach federal case law at all. This Court's own precedent in *Lieber* establishes the waiver principle. Cases such as *Watkins* merely lend further support to an already established principle in Illinois. In any event, the federal FOIA likewise contains a "reasonable segregation" requirement that allows for redaction of exempt information while requiring production of the rest. 5 U.S.C. § 552(b) ("Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.").

SPD also continues to mischaracterize Mancini's position. It argues that under "Appellant's interpretation of the waiver rule, releasing an unredacted accident report to a

---

[2] H. of Reps. 96th Gen. Assemb., 62nd Legis. Day, at 93 (Ill. 2009), *available at* https://www.ilga.gov/house/transcripts/htrans96/09600062.pdf.

[3] S. 96th Gen. Assemb., 58th Legis. Day, at 41-49 (Ill. 2009), a*vailable at* https://www.ilga.gov/senate/transcripts/strans96/09600058.pdf.

victim of an accident now entitles the world to an unredacted copy of that accident report." SPD Br. at 11. Mancini does not argue that releasing a report to an individual waives exemptions. It is true that privacy considerations are different under FOIA when individuals request records related to themselves. SPD Br. at 8; 5 ILCS 140/7(1)(c). Rather, releasing all reports to a third-party reseller with no restrictions on what the reseller may do with those reports constitutes waiver. There is no basis for the government to treat one group of third-party requesters different from another. *Lieber*, 176 Ill. 2d at 413 ("If the address lists can be disclosed to campus ministries and the local newspaper, the University has no valid basis for withholding them from Stan Lieber.")

Ultimately, all of SPD's claims about the 2010 amendments somehow overturning *Lieber* are eviscerated by the most basic principles of statutory interpretation. As held by this Court, and reiterated in FOIA case law, the rules of statutory construction dictate that "[w]here the legislature chooses not to amend a statute after a judicial construction, it will be presumed that [the legislature] has acquiesced in the court's statement of the legislative intent." *Kalven v. City of Chicago*, 2014 IL App (1st) 121846, ¶ 18 (internal quotation marks omitted) (citing and quoting *Wakulich v. Mraz,* 203 Ill.2d 223, 233 (2003)). If the General Assembly wanted to eliminate the waiver rule set forth in *Lieber*, it had every opportunity and ability to do so expressly. The General Assembly certainly would not have overturned this Court's decision in *Lieber* through the ambiguous means that SPD argues for in this case. *People v. Garcia*, 199 Ill. 2d 401, 408 (2002) (citation omitted).

Finally, SPD pivots to a claim that *Lieber* dealt with a different exemption than the exemptions at issue in this case and therefore the case cannot apply. SPD Br. at 11. First, the scope of no exemptions are directly at issue on this petition. Instead, only the question

of whether SPD waived its right to assert exemptions is at issue, and thus, as discussed above, Mancini does not rely on *Lieber* for discussion of exemptions but only for the waiver standard it articulates. Notably, the Appellate Court did not even deem SPD's claim worthy of discussion when rejecting it, and the trial court flatly rejected SPD's argument that the exemption at issue had any relevance:

> The Court also finds the Department's contention that *Lieber* is inapplicable unpersuasive. The Department argues that the FOIA exemption in *Lieber* is distinguishable from the ones asserted here. However, Mancini does not cite *Lieber* for a specific FOIA exemption; rather, Mancini cites *Lieber* for the proposition that voluntary disclosure by a public body to one entity precludes the public body from denying the records to another.

C269. In short, SPD fails to even engage with Mancini's argument and instead attempts to distract by delving into a discussion about exemptions with no relevance to this appeal. In short, every indication from the General Assembly points to the fact that the waiver rule in *Lieber* remains firmly intact and there is no reason to think otherwise.

II. SPD CITES NOTHING THAT REQUIRES IT TO PRODUCE CRASH ACCIDENT REPORTS TO LEXISNEXIS

In addition to arguing that the waiver rule in *Lieber* is not good law, SPD argues that under the waiver rule itself, it has not selectively disclosed the reports in a way that results in waiver because it does not give LexisNexis unrestricted access to the reports. The record shows to the contrary.

SPD provides LexisNexis with all of the accident reports that it receives. C171 at ln. 16-22; C230. These thousands of reports are provided to LexisNexis without any redactions at all. C183 at line 20-24, C172 at ln. 15-C173 at ln. 13. Nor are there any restrictions in the agreement between SPD and LexisNexis as to what LexisNexis may do

with those reports. C185 at ln. 4-11; C230-236. LexisNexis is free to sell the unredacted reports. *Id.*

One critical point underlies SPD's attempts to convince this Court that there is no waiver here if *Lieber* applies: nothing required SPD to provide LexisNexis with the accident reports ***restriction free.*** C185 at ln. 4-11; C230-236. SPD did not have a response to this point in the motion to dismiss briefing before the circuit court, the cross-motions for summary judgment briefing before the circuit court, the briefing before the appellate court, the briefing before this Court, or at any other point in this case. While SPD does have to provide the reports to the State per the Vehicle Code, and SPD has the ***option*** of using a third-party like LexisNexis to do so, nothing requires the production of the reports to LexisNexis free of restrictions allowing LexisNexis to sell the redaction free reports at a profit.

Once LexisNexis has the reports, it sells them to people for $13.00 while sending $5.00 to SPD. C52-53 at ¶¶ 4-8; C44-45. By statute, if SPD was providing these reports directly to people, it typically would not be allowed to charge more than $5.00 per report. 625 ILCS 5/11-416. In other words, SPD's arrangement with LexisNexis circumvents the $5.00 statutory cap on charges per report and allows a private company to profit from the sale of public records. The agreement even states that if SPD's contract with LexisNexis is terminated LexisNexis can still distribute the crash reports in its possession. C183. While SPD would produce redacted reports to a FOIA requester, the only way to get them unredacted is by paying an additional fee to a third-party reseller. FOIA prohibits such conduct. 5 ILCS 140/3(a) ("Notwithstanding any other law, a public body may not grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to

access and disseminate any public record as defined in this Act."); *Lieber*, 176 Ill. 2d at 413 ("selective disclosure by the government is offensive to the purposes underlying the FOIA") (quotation and citation omitted).

SPD attempts to respond by arguing that LexisNexis is required to comply with FOIA as though this somehow supports its position.[4] SPD Br. at 14. Crucially, FOIA cannot even apply to LexisNexis in the first place as it is not a public body. 5 ILCS 140/2(a). While the Court need go no further, FOIA is not even explicitly mentioned in the agreement between LexisNexis and SPD. Instead, SPD merely relies on general umbrella language to argue its claim. C235 ("In performing their respective obligations under this Agreement, each party agrees to use any data and provide any services, in strict conformance with applicable laws and regulations…"); *Clarendon Am. Ins. Co.*, 374 Ill. App. 3d at 585 (contract language "speaks for itself"). The Appellate Court held that SPD is required to produce the traffic accident reports to the State so there is no waiver. *Mancini Law Grp., P.C.*, 2020 IL App (1st) 191131-U, ¶¶ 16-17. Citing SPD's affiant's "beliefs," it held that there was no voluntary disclosure to LexisNexis, only the mandatory disclosure required by the vehicle code. *Id.* at ¶ 20. But, SPD's affiant's beliefs are contradicted by the written agreement between SPD and LexisNexis, as well as the record evidence that the unredacted reports remained obtainable by the public.

[4] The only evidence supporting this claim comes from Defendant's attorney asking its own witness a series of leading questions to which the witness acquiesced. C213 at ln. 2-21 (Defense counsel asking leading questions about contractual obligations to comply with "laws and regulations" where FOIA is not even mentioned); C235; *Clarendon Am. Ins. Co. v. 69 W. Washington Mgmt. LLC*, 374 Ill. App. 3d 580, 585 (2007) (contract language "speaks for itself").

Significantly, SPD largely avoids referencing the actual written agreement between SPD and LexisNexis, which is part of the record. Instead, it leans heavily on Brack's affidavit, while minimally engaging with what was actually said. SPD's corporate representative Brack testified "that she 'believe[s] [LexisNexis] ha[s] their own safeguards in place of who can purchase a report,' and, to obtain a report through LexisNexis, 'her understanding' was that the requesting party would need to know specific information about the report, including the date of the accident, the location of the accident, and the accident report number." *Mancini Law Grp., P.C.*, 2020 IL App (1st) 191131-U, ¶ 42 (Hyman, dissenting). In short, the majority rested its decision on nothing but Brack's "belief." *Id.* Brack's belief found zero support in any contract or agreement between LexisNexis and SPD, or any other document for that matter. *Id.* at ¶ 43.

Contrasted with Brack's uncertain "belief" is the fact that Michael Camarata, an attorney at Mancini's office, "submitted an affidavit asserting he purchased an unredacted version of one of SPD's accident reports from LexisNexis." *Id.* at ¶ 44. There is a discrepancy between Brack's "beliefs" and "Camarata's first-hand experience." *Id.* In other words, at a minimum, there is "a genuine issue of material fact as to whether LexisNexis sells unredacted reports to the public." *Id.*

III. SPD'S EFFORTS TO AVOID FEDERAL CASE LAW OR ADOPT A NEW LEGAL THEORY IN THE ALTERNATIVE SHOULD BE REJECTED

SPD also asks this court to ignore federal case law such as *Watkins*. *Watkins* further supports the waiver principle announced in *Lieber*. The Court in *Watkins* concluded that a statutorily required, but "no-strings-attached disclosure" to an aggrieved trademark owner "voids any claim to confidentiality" and constituted a waiver of an exemption. 643 F.3d at 1197. The facts of this case are an even easier call than those of *Watkins* as SPD was

not required to produce the records to LexisNexis at all, let alone produce them with "no-strings-attached." SPD is only required to produce the accident reports to the State and chose to go the optional route of using LexisNexis as an intermediary.

SPD argues that this Court should ignore *Watkins* and other federal case law on waiver because federal FOIA does not include similar "discretionary language" about redacting exempt information and producing the rest. SPD Br. at 10-11. Again, as a threshold matter, the Court need not reach federal case law at all as Mancini relies on the waiver principle laid out in *Lieber*. Further, SPD ignores that this Court itself relied on federal case law when enunciating the waiver principle in Illinois in the first place. 176 Ill. 2d at 413 (citing *Cooper,* 594 F.2d at 485–86; *State of North Dakota ex rel. Olson,* 581 F.2d at 182).

Lastly, SPD claims for the first time in the entirety of this case that if the Court wishes to reference federal case law it should apply a different theory, the "public domain" theory. Under this theory public bodies would be free to disclose records to one party while withholding them from another—the very thing *Lieber* sought to prevent. For records to be disclosable under the public domain theory, "the specific information sought must have already been 'disclosed and preserved in a permanent public record.'" *Judicial Watch, Inc. v. United States Dep't of Def.*, 963 F. Supp. 2d 6, 12 (D.D.C. 2013) (citation omitted). That is clearly not the principle enunciated in *Lieber*. 176 Ill. 2d at 413. In *Lieber*, the Court quoted the Eighth Circuit stating: "Preferential treatment of ***persons*** or interest groups fosters precisely the distrust of government the FOIA was intended to obviate." 176 Ill. 2d at 413 (quoting *State of North Dakota ex rel. Olson,* 581 F.2d at 182) (emphasis added). This Court continued on to say that "[w]e agree with those principles and believe they

should be applied here." 176 Ill. 2d at 413. In other words, this Court held that preferential treatment of certain people (or for profit businesses in this case) was unacceptable. SPD has provided no basis or reason to abandon that decision.

IV. SPD'S LAST DITCH EFFORT TO MISCONSTRUE *LIEBER*

Finally, for the first time in the lengthy history of this case, SPD now claims in the alternative that under *Lieber*, waiver can only apply where records were disclosed in response to a FOIA request. SPD Br. at 12-13. As an initial matter, *Lieber* simply never says this as SPD claims. 176 Ill. 2d 401 (1997). This Court noted that "voluntary disclosure in one situation can preclude later claims that records are exempt from release to someone else." *Id.* at 413. Nowhere was waiver limited to only situations where disclosure occurred as a result of FOIA request.

Further, it seems clear that the disclosure did not occur as a result of a FOIA request: "In the past the University supplied Lieber and other owners of approved off-campus housing with information about incoming freshmen so that the owners could contact them directly with information about their respective housing units." *Id.* at 404. At some point the University stopped its routine informal disclosures to the plaintiff (while still providing the same information to others), which led to the plaintiff to making a FOIA request and ultimately the ensuing litigation. *Id.* As this Court stated, "[i]f the address lists can be disclosed to campus ministries and the local newspaper, the University has no valid basis for withholding them from Stan Lieber." *Id.* at 413. As *Lieber* makes clear, therefore, a disclosure does not need to be made in response to a FOIA request for waiver to occur.

V. CONCLUSION

Public bodies should not be allowed to produce records to one person, group, or for-profit business, while simultaneously withholding them from others. "The majority's

holding opens a pungent loophole. It lets government entities avoid their responsibilities regarding public records under the FOIA while giving a freehand in marketing and selling unredacted public records to non-government, for-profit third-party vendors." *Mancini Law Grp., P.C.*, 2020 IL App (1st) 191131-U, ¶ 40 (Hyman, dissenting).

For these reasons, the Appellate Court should be reversed. This Court should rule that SPD waived the right to withhold the requested records and that the records must be immediately released. In the alternative, at a minimum, the order granting summary judgment for SPD should be reversed and the case should be remanded to the Circuit Court to resolve the material question of fact.

Dated: June 17, 2021

RESPECTFULLY SUBMITTED,

/s/ Joshua Hart Burday

_____

Attorneys for Appellant
MANCINI LAW GROUP P.C.

Matthew Topic
Joshua Burday
Merrick Wayne
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com

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 13 pages.

Dated: June 17, 2021

/s/ Joshua Hart Burday

No. 126675

IN THE SUPREME COURT OF ILLINOIS

MANCINI LAW GROUP, P.C.,	)	Appeal from the Appellate
	)	Court, First District
	)	
Plaintiff-Appellant,	)	
	)	
-vs-	)	No. 1-19-1131
	)	
	)	
SCHAUMBURG POLICE DEPARTMENT,	)	
	)	
	)	
Defendant-Appellee.	)	

Appeal from Circuit Court of Cook County, 1st Judicial District
17 CH 13881
Judge Franklin U. Valderrama, Presiding

NOTICE OF FILING

To: Mallory A. Milluzzi
Lance C. Malina
Klein, Thorpe and Jenkins, Ltd.
20 N. Wacker Dr., Suite 1600
Chicago, IL 60606
lcmalina@ktjlaw.com
mamilluzzi@ktjlaw.com

Attorneys for Defendant-Appellee Schaumburg Police Department

PLEASE TAKE NOTICE that on June 17, 2021, I electronically filed the foregoing Reply Brief of Plaintiff-Appellant with the Clerk of the Illinois Supreme Court, in the above-entitled case, a copy of which is attached hereto and hereby served on you.

Dated: June 17, 2021

/s/ Joshua Hart Burday
Attorneys for Plaintiff-Appellant

Matthew Topic
Joshua Burday
Merrick Wayne
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is one of the attorneys for Plaintiff-Appellant and that he caused the foregoing Reply Brief of Plaintiff-Appellant and Notice of Filing to be served on all counsel of record on June 17, 2021 by filing said documents electronically via Odyssey eFile and designating the following counsel for service at the email addresses listed below:

Mallory A. Milluzzi
Lance C. Malina
Klein, Thorpe and Jenkins, Ltd.
20 N. Wacker Dr., Suite 1600
Chicago, IL 60606
lcmalina@ktjlaw.com
mamilluzzi@ktjlaw.com

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 certifies as aforesaid that he verily believes the same to be true.

/s/ Joshua Hart Burday