

**FOR THE ILLINOIS POLLUTION CONTROL**

SUSAN M. BRUCE, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 HIGHLAND HILLS SANITARY DISTRICT, )  
 )  
 Respondent. )

No. PCB 15-139



**ORIGINAL**

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FEB 24 2016

STATE OF ILLINOIS  
Pollution Control Board

**MOTION FOR LEAVE TO FILE**

Complainant, Susan M. Bruce, by her attorneys, ARONBERG GOLDGEHN DAVIS & GARMISA, moves pursuant to 35 Ill. Adm. Code 101.500(d) for leave to respond to the motion of the respondent to dismiss the complainant's amended formal complaint or in the alternative to strike reply to affirmative defenses. In support of her motion, complainant states as follows:

1. Respondent filed its motion to dismiss or strike on January 12, 2016, which remains pending and undetermined.
2. Complainant's counsel moved his practice from Huck Bouma PC in Wheaton to Aronberg Goldgehn in Chicago on December 23, 2015.
3. The magnitude of the effort and disruption that complainant's counsel exerted and experienced in moving his practice exceeded his wildest expectations. Complainant's counsel had been at his prior firm for nearly 25 years, it was the only firm he had ever practiced law at, and the move was much harder and more disorienting than he thought within the realm of possibility.
4. As a result of complainant's counsel's moving his practice, he failed to timely respond to the respondent's motion to dismiss.

5. By complainant's count, the pending motion is the fourth effort of the respondent to dismiss the complainant's claim against the respondent. None of the prior motions to dismiss were granted on the merits, and the complainant's amended formal complaint was accepted by the Board on September 3, 2015.

6. The Complainant would like to file a response to the pending motion even though the time to do so has passed.

7. The response proposed to be filed is attached as Exhibit A to this motion and the original of it will be sent to the hearing officer to file if this motion is granted.

WHEREFORE, Complainant, SUSAN M. BRUCE, requests an order granting her leave to file her response to the motion of the respondent to dismiss the complainant's amended complaint or in the alternative to strike reply to affirmative defenses and for all of the relief deemed appropriate under the circumstances.

Respectfully submitted,

ARONBERG GOLDGEHN DAVIS & GARMISA



Lawrence A. Stein

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**RESPONSE TO MOTION TO STRIKE**

Complainant, Susan M. Bruce, by Lawrence A. Stein of ARONBERG GOLDGEHN DAVIS & GARMISA, responds to the motion of the respondent to dismiss her amended formal complaint or in the alternative to strike her reply to respondent's affirmative defenses. In opposition to the motion, complainant states as follows:

1. The respondent filed a complex set of affirmative defenses that contained within them allegations of some of the same facts complainant alleged in her amended formal complaint.
2. The complainant simply denied each of the respondent's affirmative defenses. She did not address the allegations within each affirmative defense.
3. The respondent's motion claims, in paragraph 4, that by denying each of the respondent's affirmative defenses, she has "denied the essential elements" her own case, including denying her own address that she alleged in her amended formal complaint.
4. In simply denying the convoluted affirmative defenses of the respondent, the complainant was simply denying that the affirmative defenses precluded her claim.
5. Section 2-603 of the Code of Civil Procedure provides in pertinent part as follows:

If new matter by way of defense is pleaded in the answer, a reply shall be filed by the plaintiff, but *the filing of a reply is not an admission of the legal sufficiency of the new matter.* (735 ILCS 5/2-603.)

6. The complainant did not deny the allegations of her own complaint. She simply denied that the defenses pled by the respondent precluded her claim.

7. Nor is there any merit to the respondent's claim that a reply to an affirmative defense must be pled with specificity.

8. The respondent's motion lacks merit.

WHEREFORE, complainant, SUSAN M. BRUCE, requests an order denying the motion of the respondent to dismiss complainant's amended formal complaint, and for all other relief deemed appropriate under the circumstances.

Respectfully submitted,

ARONBERG GOLDGEHN DAVIS & GARMISA

Lawrence A. Stein

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**CERTIFICATE OF FILING AND SERVICE**

I, LAWRENCE A. STEIN, certify under penalty of perjury on this \_\_\_<sup>th</sup> day of February 2016, as follows:

1. I served this Response to Motion to Strike by placing it in an envelope with proper first class postage prepaid and plainly addressed to Joseph R. Podlewski, Jr., Esq. and Heidi Hanson, Esq., Podlewski & Hanson, P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, IL 60558-1720.

2. I deposited the envelope in the United States mail in Chicago on February \_\_\_, 2016.

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CERTIFICATE OF FILING AND SERVICE

I, LAWRENCE A. STEIN, certify under penalty of perjury on this 24<sup>th</sup> day of February

2016, as follows:

1. I served this Motion for an Extension of Time by placing it in an envelope with proper first class postage prepaid and plainly addressed to Joseph R. Podlewski, Jr., Esq. and Heidi Hanson, Esq., Podlewski & Hanson, P.C., 4721 Franklin Avenue, Suite 1500, Western Springs, IL 60558-1720.

2. I deposited the envelope in the United States mail in Chicago on February 24, 2016.

