

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
NOV 15 2022 *JK*
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

David A. Bertha,
Plaintiff,

-vs.-

Clint Hull, et al.
Defendants.

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20-CV-1046

MOTION TO VACATE DISMISSAL ORDER

NOW COMES Plaintiff, David A. Bertha (“Bertha”), representing himself *pro se*, move this Court to vacate the dismissal order it granted to County and Sheriff’s Office employees on October 14, 2022, in support he states:

1. Plaintiff did not receive notice of County and Sheriff’s Office employees’ motion to dismiss. He was unaware that he was required to file leave to amend his complaint by October 12, 2022. He respectfully requests that this Court vacate the dismissal order pursuant to Supreme Court Rule 60(b)(e).
2. On motion and just terms, the court may relieve a party from a final judgment order for a mistake, inadvertence, surprise, excusable neglect, or any other reason that justifies relief. S. Ct. R. 60(b)(e).
3. Plaintiff was unaware that this Court issued a judgment on his motion to appoint legal representation, and had ordered him to file for leave to amend his complaint. Plaintiff asks for the opportunity to state a claim against Kane County and Sheriff’s Office employees in an amended complaint. Since Plaintiff inadvertently failed to file a motion for leave to amend his complaint in a timely manner because he did not receive proper notice, this Court should find

Plaintiff's failure to act excusable neglect and grant his motion to vacate its dismissal order because he acted within 30 days to correct the error.

WHEREFORE, for the foregoing reasons this Court should grant Plaintiff's motion to vacate dismissal order.

November 13, 2022

By: /s/ David A. Bertha

David A. Bertha

9242 S. Constance

Chicago, IL 60617

(773) 230-0579

dablawyer@yahoo.com

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NOTICE OF FILINGS

Please be advised that on November 13, 2022, Plaintiff filed the following **Motion to Vacate Dismissal Order** in the Office of the United States District Court via FedEx mail to Dirksen Federal Building, 219 S. Dearborn Street, Chicago, IL 60604.

By: /s/ David A. Bertha
Plaintiff, *pro se*

PROOF OF SERVICE

The undersigned certifies that a copy of the following **Motion to Vacate Dismissal Order** and **Notice** were served upon opposing counsel via FedEx mail to Kane County State's Attorney's Office at 37W777 Illinois Route 38, St. Charles, IL 60175.

November 13, 2022

By: /s/ David A. Bertha
David A. Bertha
9242 S. Constance
Chicago, IL 60617
(773) 230-0579
dablaway@yahoo.com