

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LEONCIO ELIZARRI, individually and for )  
others similarly situated, )  
Plaintiff, ) 17-CV-8120  
vs. ) Honorable Judge  
SHERIFF OF COOK COUNTY and ) Steven C. Seeger  
COOK COUNTY, ILLINOIS, )  
Defendants. )

**UNOPPOSED MOTION FOR ENTRY OF AN ORDER IN LIEU OF**  
**COOK COUNTY ILLINOIS' ANSWER**

Defendant, COOK COUNTY, ILLINOIS, named only for purposes of indemnification, by its attorney, KIMBERLY M. FOXX, State's Attorney of Cook County, through her Assistant, Danielle Mikhail, respectfully moves this Court pursuant to Federal Rule of Civil Procedure 8 to enter and Order in lieu of its Answer to Plaintiff's Second Amended Complaint. In support thereof, Cook County, Illinois, states as follows:

1. Plaintiff filed his Second Amended Complaint in this matter on April 19, 2021. *Dkt. No. 140.*
2. The only paragraph within Plaintiff's Second Amended Complaint that mentions Defendant Cook County, Illinois is as follows: "Defendant Cook County is joined to this action pursuant to *Carver v. Sheriff of LaSalle County*, 324 F.3d 947 (7<sup>th</sup> Cir. 2003)." *Dkt No. 140, p. 2.*
3. The Seventh Circuit in *Carver* held that the County has a duty to indemnify the Sheriff of said County when the Sheriff is named in a lawsuit in his official capacity. 324 F.3d at 948. ("Because the office of the sheriff is funded by the county, the county is therefore required to pay a judgment entered against a sheriff's office in an official capacity.").

4. Cook County's responsive pleading to Plaintiff's Second Amended Complaint is due May 5, 2021.

5. As Cook County only remains a party to this lawsuit for the sole purpose of indemnification on behalf of Defendant Sheriff Thomas Dart, Cook County should not be required to respond to Plaintiff's Complaint.

6. Accordingly, Defendant Cook County, Illinois respectfully requests that this Honorable Court enter an Order in lieu of Cook County, Illinois' response to Plaintiff's Second Amended Complaint.<sup>1</sup> Pursuant to this Court's standing order, a copy of the proposed Order has been emailed to the Court.

7. Plaintiff does not oppose this motion.

WHEREFORE, Cook County, Illinois, named solely for purposes of indemnification, respectfully requests this Court to stay all responsive pleading deadlines for Cook County while the Court considers this motion, and enter the proposed Order in lieu of Cook County's response to Plaintiff's Second Amended Complaint, which exempts Cook County, Illinois from submitting a response to Plaintiff's Complaint, or any other relief this Court deems necessary and just.

Respectfully Submitted,

/s/ Danielle A. Mikhail  
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<sup>1</sup> Cook County previously made this same motion in response to Plaintiff's original complaint, *see dkt. no. 32*, which the Court granted on August 8, 2018, *dkt. no. 34*.

**CERTIFICATE OF SERVICE**

I, Danielle A. Mikhail, hereby certify that in accordance with Fed. R. Civ. P. and LR 5.5 and the General Order on Electronic Case Filing (ECF), the foregoing was served upon all counsel of record pursuant to the District Court's ECF system on May 3, 2021.

*/s/Danielle A. Mikhail*  
Danielle A. Mikhail