

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL
CIRCUIT OF ILLINOIS, CASS COUNTY, ILLINOIS

GWENDOLYN M. THOMAS

Petitioner,

vs.

LUKE A. THOMAS,

Respondent.

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No. 2022-DC-15

**RESPONDENT'S REPLY TO THE AFFIDAVIT OF THE
HONORABLE HOLLY J. HENZE**

NOW COMES the Respondent, LUKE A. THOMAS, pro se, and submits this Reply to the Affidavit of the Honorable Holly J. Henze, filed October 16, 2026 (hereinafter "Henze Affidavit"). This Reply demonstrates that the assertions contained within the Henze Affidavit not only fail to defeat Respondent's Motion for Substitution of Judge for Cause, but affirmatively prove that substitution is strictly mandated under both 735 ILCS 5/2-1001(a)(1) and (a)(3).

In support thereof, Respondent states as follows:

**I. MANDATORY SUBSTITUTION UNDER 735 ILCS 5/2-1001(a)(1): THE
COURT HAS ADMITTED TO BEING A MATERIAL WITNESS TO DISPUTED,
OFF-THE-RECORD EVENTS**

1. In Paragraph 8 of her Affidavit, Judge Henze swears under oath that her ex parte communications with the Guardian ad Litem "were disclosed to the Petitioner and the Respondent at subsequent hearing(s)". As established in Respondent's contemporaneously filed Counter-Affidavit, no such disclosure was ever made on the record.
2. During a subsequent hearing before Chief Judge McCartney on September 25, 2025, Respondent testified under oath that his requests for disclosure of these ex parte communications were "denied.". Neither Judge Henze nor Petitioner objected to or contradicted this testimony on the record.

3. By introducing her own uncorroborated, personal recollection of an off-the-record "disclosure" to resolve a highly disputed issue of fact, Judge Henze has voluntarily abandoned her role as an impartial adjudicator and inserted herself as a material fact witness.
4. Under 735 ILCS 5/2-1001(a)(1), substitution is mandatory when "the judge is a party or interested in the action, or his or her testimony is material to either of the parties to the action.". This subsection contains no requirement to prove prejudice and no requirement for an evidentiary hearing; the materiality of the judge's testimony is sufficient.
5. The Illinois Supreme Court has established that a judge must recuse when the judge "has knowledge outside the record concerning the truth or falsity of allegations" and "may be called as a material witness." *People v. Wilson*, 37 Ill. 2d 617, 619-20 (1967). Judge Henze's Affidavit confirms that she possesses precisely such knowledge—the contents of her own private notes, emails, and text messages—and has used that knowledge to make a factual finding about her own conduct.
6. In *In re Marriage of Alush*, 172 Ill. App. 3d 646 (1988), the appellate court reversed a denial of substitution where the trial judge engaged in off-the-record ex parte communications and then attempted to resolve disputes about what was said. The *Alush* court held that a judge possessing personal knowledge of disputed, off-the-record events is a material witness, establishing actual prejudice.
7. Illinois Supreme Court Rule 2.11(A)(1) mandates that a judge "shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned," including instances where the judge has "personal knowledge of facts that are in dispute in the proceeding.". Rule 2.11(A)(2)(d) requires disqualification if the judge "is to the judge's knowledge likely to be a material witness in the proceeding.". Judge Henze's Affidavit establishes both grounds.

8. Illinois Rule of Evidence 605 provides that "the judge presiding at the trial may not testify in that trial as a witness.". Judge Henze has circumvented this absolute bar by entering unsworn, un-cross-examinable factual findings through her Affidavit and her August 25, 2026 Order.
9. In *People v. Dameron*, 196 Ill. 2d 156 (2001), the Illinois Supreme Court held that a judge violates due process when relying on personal knowledge or matters outside the record, noting that the judge effectively becomes an unsworn witness whom the parties cannot cross-examine.

II. THE IMPOSSIBILITY OF THE CLAIMED DISCLOSURES CONFIRMS ACTUAL PREJUDICE

10. If Judge Henze had actually disclosed the substance of the May 2023 ex parte communications at "subsequent hearing(s)," as she now claims, such disclosure would necessarily appear in at least one of the following official repositories: (a) the certified transcripts of the subsequent hearings; (b) the official docket; (c) a written order; or (d) a minute entry.
11. As established by Respondent's Counter-Affidavit and Request for Judicial Notice, no such disclosure appears in any of these sources. The certified transcripts for September 20, November 3, December 1, and December 29, 2023, are completely devoid of this disclosure.
12. The absence of any record of disclosure, combined with Respondent's sworn, uncontradicted testimony on September 25, 2025, that disclosure was "denied," establishes that Judge Henze's current claim cannot be reconciled with the objective record. Manufacturing an off-the-record defense that contradicts the certified record demonstrates textbook actual prejudice.

III. ACTUAL PREJUDICE UNDER 735 ILCS 5/2-1001(a)(3): THE COURT'S SWORN ADMISSION OF CONDUCTING AN INDEPENDENT FACTUAL INVESTIGATION

13. Illinois Supreme Court Rule 2.9(C) strictly prohibits a judge from independently investigating facts in a matter and requires the judge to consider only the evidence presented.
14. In Paragraph 7 of her Affidavit, Judge Henze explicitly confesses to a violation of this rule. She swears under oath: "I obtained from Judge Perrin a copy of the Emergency Order of Protection... A copy of same was transmitted to the GAL at her request.". By independently pulling records from a separate case presided over by a different judge in Sangamon County, and transmitting those documents to the court-appointed evaluator off the record, Judge Henze engaged in an independent factual investigation.

IV. THE COURT'S OWN RECORD CONTRADICTS ANY CLAIM OF INNOCUOUS EX PARTE COMMUNICATIONS

15. Judge Henze's Affidavit characterizes the May 2023 ex parte communications as involving "frustration with both the Petitioner's and the Respondent's behaviors." This characterization is contradicted by the certified record.
16. During a hearing on November 3, 2023, Judge Henze acknowledged on the record that she entered an ex parte order restricting Respondent's parenting time based on the false kidnapping allegation. She stated: "I entered that order based on my—the information that I had at the time that he had basically kidnapped Grant and then I find out that that's not the case, you guys had a camping trip planned, you had given them permission to do that." She further stated: "That information wasn't exactly correct that I was operating under."

17. Despite this on-the-record admission, Judge Henze took no corrective action. She did not vacate the ex parte order, did not impose sanctions on Petitioner for the false report, and did not otherwise remedy the harm caused by the false allegation.
18. This sequence of events—ex parte communication with the GAL, followed by an ex parte order based on false information, followed by an on-the-record admission of falsity, followed by inaction—demonstrates that the ex parte communications were substantive, prejudicial, and resulted in tangible harm to Respondent. It also demonstrates Judge Henze's personal knowledge of the disputed facts, further supporting substitution under 735 ILCS 5/2-1001(a)(1).
19. In *People v. Bradshaw*, 171 Ill. App. 3d 971 (1st Dist. 1988), the court held that the failure to promptly disclose an ex parte communication creates an appearance of impropriety requiring recusal, "even without proof of actual bias.". Here, Judge Henze did not disclose the ex parte communications promptly, nor did she disclose them at all on the record. Instead, she waited more than three years and then, when challenged, relied on her own private review of her own communications to declare the matter resolved.
20. In *In re Marriage of Knoche*, 322 Ill. App. 3d 297, 307 (2001), the appellate court held that "substantive ex parte communications between the trial court and the guardian ad litem are improper" and that "the trial court must place the substance of any such communications on the record and give the parties an opportunity to rebut the information.". Judge Henze failed to comply with this mandate.

IV. EVIDENCE OF SYSTEMIC BIAS: SELECTIVE COMPLIANCE WITH RULE 2.9

21. Judge Henze's handling of ex parte communications demonstrates a prejudicial double standard. As established in Respondent's October 6, 2025 Motion for Disclosure, when Respondent inadvertently sent an ex parte email to the Court on January 19, 2024, Judge

Henze immediately forwarded it to all parties, explicitly citing her "ethical obligation to ensure there are no ex parte communications."

22. Conversely, when the Guardian ad Litem and Petitioner engaged in highly prejudicial ex parte communications with the Court in May 2023, Judge Henze claims she casually disclosed the matter off the record at unspecified "subsequent hearing(s)". The Court's rigorous, documented enforcement of Rule 2.9 against Respondent contrasted with its secret, undocumented leniency toward the GAL and Petitioner is textbook evidence of actual prejudice and selective enforcement.

23. The Guardian ad Litem's May 19, 2023 email to the Court states: "I have conferred with Judge Henze." This email is part of the record and establishes that an ex parte conference occurred. The substance of that conference has never been disclosed on the record.

V. THE PRETEXTUAL EXCUSE FOR THE 10-MONTH DELAY

24. In Paragraph 4 of her Affidavit, Judge Henze attempts to excuse her 10-month failure to rule on Respondent's foundational due process motions by blaming Respondent's "excess of twenty pleadings". This excuse is objectively false and refuted by the record.

25. On October 28, 2025, Respondent transmitted a formal letter to Chief Judge McCartney, attaching the pending Motion for Disclosure and explicitly stating: "As to the Motion to Disclose Ex-Parte Communications, I believe the Court has the authority and obligation to rule on this without delay.". Respondent actively escalated the lack of a ruling to the Chief Judge. The Court's attempt to retroactively blame Respondent for a delay that Respondent was actively protesting demonstrates a profound level of bad faith and animus.

26. Furthermore, the Court proved that when its own conduct was challenged, it possessed the capacity to act immediately. Upon Respondent filing his Motion for Ruling on the Pleadings on October 5, 2026, Judge Henze managed to draft, notarize, and file her own

defensive Affidavit in less than 24 hours—circumventing the mandated TylerTech e-filing system to do so. The Court's capacity for immediate action when its own conduct is challenged contrasted with its prolonged inaction when Respondent's due process rights are at stake demonstrates actual prejudice.

VI. THE IRREGULAR FILING OF JUDGE HENZE'S AFFIDAVIT DEMONSTRATES PREFERENTIAL TREATMENT

27. Respondent's filings in this cause are processed through the mandatory Odyssey File & Serve (TylerTech) electronic filing system and bear the corresponding digital watermark. Judge Henze's October 16, 2026 Affidavit does not bear the TylerTech digital watermark. It bears a physical, wet-ink stamp and was transmitted to Respondent by manual email from the Clerk's office, without a Notice of Filing or Certificate of Service.
28. Illinois Supreme Court Rule 9(a) mandates that all documents filed in civil cases be filed electronically through an approved e-filing service provider. There is no exception for judicial officers filing counter-affidavits under 735 ILCS 5/2-1001(a)(3). The Henze Affidavit was filed outside this mandatory system, depriving Respondent of the procedural safeguards and notice that the e-filing system provides.

VII. CONCLUSION

29. Judge Henze's October 16, 2026 Affidavit is an improper, highly reactive defense that inadvertently proves Respondent's core allegations. By admitting to independent factual investigations and injecting her personal recollection into disputed events, she has confirmed actual prejudice and rendered herself a material witness as a matter of law.
30. She is the only person who can testify about what was said during the May 2023 ex parte conference, what documents she transmitted to the GAL, and what her notes, emails, and text messages contain. Because Judge Henze is the sole witness to these disputed facts, her testimony is material to the resolution of Respondent's pending motions, and substitution is mandated under 735 ILCS 5/2-1001(a)(1).

WHEREFORE, Respondent respectfully requests this Court enter an Order:

A. Granting the Motion for Substitution of Judge for Cause pursuant to 735 ILCS 5/2-

1001(a)(1) as a matter of law;

B. In the alternative, granting the Motion for Substitution of Judge for Cause pursuant to

735 ILCS 5/2-1001(a)(3) upon hearing;

C. Vacating all orders entered by Judge Henze subsequent to her introduction of

extrajudicial knowledge and her May 2023 ex parte communications;

D. Reassigning this matter to a judge from outside the Eighth Judicial Circuit pursuant to

Illinois Supreme Court Rule 383; and

E. Granting such other and further relief as this Court deems just and proper.

Respectfully Submitted,

/s/ Luke A. Thomas

By: LUKE A. THOMAS, Respondent
Thomaslitigation2022@gmail.com
ARDC No: 6278591

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this Instrument are complete and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certifies aforesaid that I verily believe the same to be true.

Dated October 17, 2026

/s/ Luke A. Thomas

By: LUKE A. THOMAS, Respondent
Thomaslitigation2022@gmail.com
ARDC No: 6278591

CERTIFICATE OF SERVICE

I, Luke A. Thomas, an attorney at law duly licensed to practice in the State of Illinois, do hereby certify that I served a copy of the foregoing Instrument as set forth herein upon Petitioner at her respective electronic mailing address of record.

Gwendolyn M. Thomas: gwenthomaslaw@gmail.com

Signed this 17th day of October, 2026.

LUKE A. THOMAS, Respondent

BY:

/s/ Luke A. Thomas

Luke A. Thomas, Respondent

ARDC #: 6278591