

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Peter Pethtel v. Veterans Roofing PLLC

Pethtel · No. 25-CV-01648-SPM · Decided March 24, 2026

SUMMARY

The United States District Court for the Southern District of Illinois denied Plaintiff Peter Pethtel’s motion for leave to file a second amended complaint adding claims under the Illinois Human Rights Act, concluding that he had not exhausted the required administrative remedies. The court also denied Defendant Veterans Roofing PLLC’s motion to compel because the motion lacked the required certification of a good-faith effort to resolve the discovery dispute informally.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Stephen P. McGlynn
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	March 24, 2026
DOCKET	25-CV-01648-SPM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to file a second amended complaint adding Illinois Human Rights Act claims. Defendant moved to compel Plaintiff to answer a deposition question. The district court denied both motions.
STANDARD OF REVIEW	A motion for leave to amend under Federal Rule of Civil Procedure 15(a)(2) is committed to the district court's sound discretion. A motion to compel under Rule 37 requires compliance with the applicable meet-and-confer certification requirements before court intervention.
PRECEDENTIAL VALUE	unknown
PARTIES	Peter Pethtel v. Veterans Roofing PLLC

TOPICS

- motion to amend
- discovery dispute
- subject matter jurisdiction
- age discrimination
- civil procedure

PRACTICE AREAS

civil procedure

employment law

age discrimination

administrative law

discovery

QUESTIONS PRESENTED

1. Whether Plaintiff should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to amend his complaint to add Illinois Human Rights Act claims.
2. Whether Defendant's motion to compel should be granted when the motion did not show that Defendant had made the required good-faith effort to resolve the discovery dispute without court action.

HOLDINGS

1. Leave to amend was properly denied because Plaintiff did not comply with the Illinois Human Rights Act's statutory procedure for forwarding the EEOC determination to the Illinois Department of Human Rights within the required thirty-day period, and that failure was jurisdictional under the authorities applied by the Court.
2. The motion to compel was denied because Defendant did not demonstrate that it had made the good-faith effort to resolve the discovery dispute informally required by the local rules and the Court's Case Management Procedures.

KEY QUOTATIONS

“The administrative closing of a charge by the IDHR . . . is not a final order, nor does it constitute an exhaustion of administrative remedies.” (Analysis Part I)

“A plaintiff cannot file suit in federal court and then, when the IDHR closes her charge precisely because she filed suit in federal court, argue that she has exhausted all administrative remedies.” (Analysis Part I)

“Plaintiff Peter Pethtel’s Motion for Leave to File Second Amended Complaint (Doc. 26) is DENIED and Defendant Veterans Roofing PLLC’s Motion to Compel (Doc. 27) is DENIED.” (Conclusion)

FACTUAL BACKGROUND

Peter Pethtel, a fifty-four-year-old general laborer and on-site support worker, alleged that Veterans Roofing terminated him on July 18, 2025 because of his age. He asserted claims for discrimination, harassment, and retaliation under the Age Discrimination in Employment Act and sought to add parallel claims under the Illinois Human Rights Act. During Pethtel's deposition, he stated that his wife had been present when he prepared with his attorney, and defense counsel sought to question him about what was discussed.

PROCEDURAL HISTORY

Pethtel filed suit alleging age discrimination, harassment, and retaliation under the Age Discrimination in Employment Act. After Defendant moved to dismiss, the Court permitted Plaintiff to file a first amended complaint and denied the motion to dismiss as moot. Following entry of a scheduling order, Plaintiff sought leave to file a second amended complaint adding Illinois Human Rights Act claims, and Defendant moved to compel a response to a deposition question. The Court denied the amendment motion based on failure to comply

with the statutory administrative-exhaustion procedure and denied the motion to compel because Defendant failed to certify a good-faith meet-and-confer effort.

DISPOSITION

other

CASES CITED

- Bausch v. Stryker Corp., 630 F.3d 546, 562 (7th Cir. 2010)
- Airborne Beepers & Video, Inc. v. AT&T Mobility LLC, 499 F.3d 663, 666 (7th Cir. 2007)
- McDaniel v. Loyola University Medical Center, 317 F.R.D. 72, 76–77 (N.D. Ill. 2016)
- Soltys v. Costello, 520 F.3d 737, 743 (7th Cir. 2008)
- Dubicz v. Commonwealth Edison Co., 377 F.3d 787, 792 (7th Cir. 2004)
- Doherty v. Davy Songer, Inc., 195 F.3d 919, 927 (7th Cir. 1999)
- King v. Cooke, 26 F.3d 720, 723–724 (7th Cir. 1994)
- J.P. Morgan Chase Bank, N.A. v. Drywall Service & Supply Co., 265 F.R.D. 341, 347 (N.D. Ind. 2010)
- Sanders v. Venture Stores, Inc., 56 F.3d 771, 775 (7th Cir. 1995)
- Motorola Solutions, Inc. v. Hytera Communications Corp., 365 F. Supp. 3d 916, 924 (N.D. Ill. 2019)
- Bumphus v. Illinois Human Rights Commission, 2021 IL App (5th) 200037-U, ¶¶ 17–18
- Weatherly v. Human Rights Commission, 788 N.E.2d 1175, 1178 (Ill. App. Ct. 2003)
- Pickering v. Human Rights Commission, 496 N.E.2d 746, 754 (Ill. App. Ct. 1986)
- Donald v. City of Chicago, 539 F. Supp. 3d 912, 921 (N.D. Ill. 2021)
- Prusaczyk v. Hamilton County Coal, LLC, No. 3:20-CV-73-NJR, 2020 WL 5981377, at *3 (S.D. Ill. Oct. 8, 2020)
- Falco v. Office Electronics, Inc., No. 97 C 4170, 1997 WL 587660, at *2 (N.D. Ill. Sept. 17, 1997)
- Ball v. Roeslein & Associates, Inc., No. 20-CV-00045-NJR, 2020 WL 4673136, at *14–15 (S.D. Ill. Aug. 12, 2020)
- Hickman v. Board of Education of Hinsdale Township, No. 1:23-CV-01102, 2023 WL 9050972, at *9 (N.D. Ill. Dec. 29, 2023)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS PETER PETHTEL Plaintiff, v. Case No. 25-CV-01648-SPM VETERANS ROOFING PLLC, Defendant. MEMORANDUM AND ORDER McGLYNN, District Judge: Pending before this Court are two motions: a Motion for Leave to File Second Amended Complaint filed by Plaintiff Peter Pethtel (Doc. 26) and a Motion to Compel filed by Defendant Veterans Roofing PLLC (Doc.

27). Having been fully informed of the issues presented, Plaintiff Pethtel's Motion is DENIED and Defendant Veterans Roofing's Motion is also DENIED. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND The instant suit arises from alleged age discrimination. Plaintiff Peter Pethtel, a fifty-four-year-old man, alleges that he was terminated from his role as a general laborer and on-site support worker with Defendant Veterans Roofing on July 18, 2025 because of his age.

(Doc. 1, ¶¶ 11–18). He filed the instant suit on August 25, 2025 alleging discrimination, harassment, and retaliation in violation of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621, et seq. (See id., ¶¶ 19–45). Defendant filed a Motion to Dismiss on September 19, 2025 (Docs. 14, 15). Plaintiff filed a Motion for Leave to File First Amended Complaint on October 3, 2025 (Doc.

16); this Court granted the Motion for Leave to File and denied Defendant's Motion to Dismiss as moot on October 6, 2025. (Doc. 17). The operative First Amended Complaint was filed on the same day. (Doc. 18). This Court entered a Scheduling Order on October 24, 2025. (Doc. 23). Plaintiff Pethtel filed the instant Motion for Leave to File Second Amended Complaint on February 20, 2026 (Doc.

26); Defendant responded in opposition on March 2, 2026 (Doc. 28) and Plaintiff filed a Reply on March 16, 2026 (Doc. 30). Defendant's Motion to Compel was filed on February 24, 2026 (Doc. 27) and Plaintiff's Response was filed on March 10, 2026 (Doc. 29). APPLICABLE LAW AND LEGAL STANDARDS Federal Rule of Civil Procedure 15 governs the amendment of pleadings and provides that courts "should freely give leave [to amend] when justice so requires." FED.

R. CIV. P. 15(a)(2). Nonetheless, "[a] district court may deny leave to file an amended complaint in the case of 'undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, and futility of amendment.'" *Bausch v. Stryker Corp.*, 630 F.3d 546, 562 (7th Cir.

2010) (citation modified) (quoting *Airborne Beepers & Video, Inc. v. AT & T Mobility LLC*, 499 F.3d 663, 666 (7th Cir. 2007)). "Ultimately, the decision to grant or deny a motion to file and amended pleading is a matter purely within the sound discretion of the court." Plaintiff's Reply (Doc. 30) was untimely filed in accordance with Local Rule 7.1(b)(2)(B), which requires replies to be filed no later than seven (7) days after the filing of a response in opposition to a pending motion. discretion of the district court." *McDaniel v. Loyola Univ.*

Med. Ctr., 317 F.R.D. 72, 76 (N.D. Ill. 2016) (citing *Soltys v. Costello*, 520 F.3d 737, 743 (7th Cir. 2008)). Delay alone may not prove sufficient grounds to warrant denial of leave to amend a complaint; "rather, the degree of prejudice to the opposing party is a significant factor in

determining whether the lateness of the request ought to bar filing.” *Dubicz v. Commonwealth Edison Co.*, 377 F.3d 787, 792 (7th Cir.

2004) (citation modified) (citing *Doherty v. Davy Songer, Inc.*, 195 F.3d 919, 927 (7th Cir. 1999)). Nonetheless, the longer the delay, the greater presumption against granting leave to amend. *McDaniel v. Loyola Univ. Med. Ctr.*, 317 F.R.D. 72, 77 (N.D. Ill. 2016) (citing *King v. Cooke*, 26 F.3d 720, 723 (7th Cir. 1994)). Undue delay is most likely to result in undue prejudice when a combination of factors, including delay in proceedings without explanation, no change in the facts since filing of the original complaint, and new theories that require additional discovery, occur together.

McDaniel v. Loyola Univ. Med. Ctr., 317 F.R.D. 72, 77 (N.D. Ill. 2016) (citing *J.P. Morgan Chase Bank, N.A. v. Drywall Serv. & Supply Co.*, 265 F.R.D. 341, 347 (N.D. Ind. 2010)). It is the party seeking to amend that “has the burden of showing that undue prejudice will not result to the non-moving party.” *Id.* (citing *King*, 26 F.3d at 724). “If the moving party fails to provide any explanation for not filing its amendment sooner or if the explanation it provides is inadequate, that will weigh towards denying leave to amend.” J.P.

Morgan Chase Bank, N.A., 265 F.R.D. at 347 (citing *Sanders, et al. v. Venture Stores, Inc.*, 56 F.3d 771, 775 (7th Cir. 1995)). Rule 26(b)(1) of the Federal Rules of Civil Procedure permits a party to obtain discovery “regarding any nonprivileged matter that is relevant to any party’s claim or defense.” FED. R. CIV. P. 26(b)(1). “Information within this scope of discovery need not be admissible in evidence to be discoverable.” *Id.* In addition to being relevant, the discovery sought must be proportional to the needs of the case, “considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefits.” *Motorola Sols., Inc. v. Hytera Commc’ns Corp.*, 365 F. Supp. 3d 916, 924 (N.D.

Ill. 2019) (citing FED. R. CIV. P. 26(b)(1)). Federal Rule of Civil Procedure 37(a)(1) permits a party to “move for an order compelling disclosure or discovery” provided that the motion includes “a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” This certification is also required by Local Rule 26.1(c)(2) and the Court’s Case Management Procedures.

Rule 37(b) provides that failure to comply with a discovery order issued by the court is a sanctionable offense, with potential sanctions including dismissal of the action in whole or in part, default judgment, or holding a party in contempt of court. See FED. R. CIV. P. 37(b)(2)(A). ANALYSIS I. Motion for Leave to File Second Amended Complaint In his Motion (Doc.

26), Plaintiff Pethtel requests to amend his operative First Amended Complaint (Doc. 18) to add discrimination, harassment, and retaliation claims under the Illinois Human Rights Act, 775 ILL. COMP. STAT. 5 (“IHRA”). (Doc. 26, Ex. A). He alleges that “the IDHR Notice of Opt-Out was only recently received, preventing the filing of the amendment at an earlier time.” (Id., p. 1).

In opposition, Defendant Veterans Roofing argues that this Court lacks subject-matter jurisdiction over Plaintiff’s proposed IHRA claims due to Plaintiff’s purported failure to exhaust administrative remedies. (Doc. 28, p. 1). Defendant asserts that Plaintiff first filed a charge with the EEOC and failed to provide the IDHR with the applicable Notice of the EEOC’s Determination within thirty days of August 5, 2025.

(Id., p. 2 (citing 775 ILL. COMP. STAT. 5/7A-102(A-1)(1), (A-1)(1)(iv); *Ball v. Roeslein & Assocs., Inc.*, No. 20-CV-00045-NJR, 2020 WL 4673136, at *14–15 (S.D. Ill. Aug. 12, 2020); *Hickman v. Bd. of Educ. of Hinsdale Twp.*, No. 1:23-CV- 01102, 2023 WL 9050972, at *9 (N.D. Ill. Dec. 29, 2023); (Doc. 26, Ex. A))). Defendant argues that various district courts, including former Chief Judge Nancy J. Rosenstengel in this district, have held that compliance with the requisite statutory time limit is a jurisdictional prerequisite.

(Id., p. 2 (citing *Donald v. City of Chicago*, 539 F. Supp. 3d 912, 921 (N.D. Ill. 2021); *Prusaczyk v. Hamilton Cnty. Coal, LLC*, No. 3:20-CV-73-NJR, 2020 WL 5981377 (S.D. Ill. Oct. 8, 2020); *Ball*, 2020 WL 4673136)). In his Reply (Doc. 30), Plaintiff insists, inter alia, that “Defendant’s argument improperly focuses on technical compliance with procedural requirements while ignoring the substantive purpose of those requirements.” (Id., p. 3).

This Court notes that Plaintiff’s Reply was untimely filed (see *supra* note 1) and does not cite any caselaw. (See Doc. 30). First, both Illinois appellate courts and Illinois-based district courts have repeatedly held that “an administrative agency... can only act ‘pursuant to the authority conferred on it by statute.’” *Donald*, 539 F. Supp. 3d at 921 (citing *Bumphus v. Illinois Hum.*

Rts. Comm’n, 2021 IL App (5th) 200037-U, ¶ 17). These courts have held that “‘compliance with [a] statutory time limit is a condition precedent to the right to seek a remedy’ before an administrative body, and that it is a prerequisite to the acquisition of subject matter jurisdiction.” *Bumphus*, 2021 IL App (5th) 200037- U, ¶¶ 17–18 (quoting *Weatherly v. Human Rights Comm’n*, 788 N.E.2d 1175, 1178 (Ill.

App. Ct. 2003)) (citing *Pickering v. Human Rights Comm’n*, 496 N.E.2d 746, 754 (Ill. App. Ct. 1986)). Additionally, “[t]he administrative closing of a charge by the IDHR... is not a final order, nor does it constitute an exhaustion of administrative remedies.” *Prusaczyk*, 2020 WL 5981377, at *3 (citing *Falco v. Office Elecs., Inc.*, No. 97 C 4170, 1997 WL 587660, at *2 (N.D.

Ill. Sept. 17, 1997)). Put another way, “[a] plaintiff cannot file suit in federal court and then, when the IDHR closes her charge precisely because she filed suit in federal court, argue that she has

exhausted all administrative remedies.” Id. Considering the above, it is clear that Plaintiff did not forward the EEOC’s determination to the IDHR within the requisite thirty-day period required by 775 ILL. COMP.

STAT. 5/7A-102. Additionally, Plaintiff’s submitted Notice of EEOC Adopted Finding (Doc. 26, Ex. C) does not provide proof that he exhausted his administrative remedies. This Court concurs with Judge Rosenstengel that the failure to precisely follow the appropriate statutory scheme is an error of jurisdictional proportions.

Therefore, Plaintiff Pethtel’s Motion for Leave to File Second Amended Complaint (Doc. 26) shall be denied. II. Motion to Compel In its Motion to Compel (Doc. 27), Veterans Roofing seeks to compel Plaintiff Pethtel to respond to a question asked during his Deposition. Counsel for Defendant asked Plaintiff if anyone else was present when he spoke with his attorney to prepare for his Deposition; Plaintiff answered that his wife was present.

(Id., p. 1 (quoting id., Ex. A, 2:4–10)). When defense counsel asked what was discussed, Plaintiff’s counsel directed him to not answer due to attorney-client privilege and spousal privilege. (Id., pp. 1–2 (quoting id., Ex. A, 2:15–24)). Defendant argues that attorney-client privilege and spousal privilege were both invalidated because (1) Plaintiff’s spouse’s presence invalidated attorney-client privilege and (2) Plaintiff’s counsel’s presence invalidated spousal privilege.

(Id., p. 4). In opposition, Plaintiff argues that Plaintiff’s counsel properly asserted both privileges, the Defendant misapprehends the relevant law, and, separately, that Defendant failed to abide by this Court’s Local Rules and the Case Management Procedures. (Doc. 29, pp. 1–2). Both Local Rule 26.1(c)(3) and this Court’s Case Management Procedures require the party filing a Rule 37 motion to certify that a good-faith effort was made to resolve the discovery issue informally prior to seeking this Court’s intervention.

Defendant has not made this showing. Defendant’s motion is bereft of any information concerning attempts to meet and confer to resolve this issue. Because Defendant’s Motion shall be denied for this reason alone, this Court does not reach the merits of Defendant’s arguments. CONCLUSION Considering the above, Plaintiff Peter Pethtel’s Motion for Leave to File Second Amended Complaint (Doc.

26) is DENIED and Defendant Veterans Roofing PLLC’s Motion to Compel (Doc. 27) is DENIED. IT IS SO ORDERED. DATED: March 24, 2026 s/ Stephen P. McGlynn STEPHEN P. MCGLYNN U.S. District Judge