

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, INDIANAPOLIS DIVISION

Steven Neville v. Michael Kevin Gill

Neville v. Gill · No. 1:25-cv-00043-SEB-MJD · Decided February 4, 2026

SUMMARY

The United States District Court for the Southern District of Indiana grants Defendant Michael Kevin Gill's motion for leave to file an amended counterclaim despite the expired amendment deadline. The court finds good cause and concludes that the amendment clarifies the asserted claims without materially changing the underlying facts. The court denies as moot, without prejudice, a pending motion for summary judgment and declines to consider a disqualification request raised for the first time in a reply brief.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Indianapolis Division
WRITING FOR THE COURT	Mark J. Dinsmore
JURISDICTION	United States District Court for the Southern District of Indiana
DECIDED	February 4, 2026
DOCKET	1:25-cv-00043-SEB-MJD
DISPOSITION	other
PROCEDURAL POSTURE	The court considered the defendant's motion for leave to file an amended counterclaim after the deadline for amendments had passed, as well as a motion for summary judgment and an attempted motion to disqualify opposing counsel raised in a reply brief.
STANDARD OF REVIEW	Good-cause standard for amendment after a scheduling-order deadline; the court also applied the local rule governing motions improperly raised in reply briefs.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- motion to amend
- summary judgment
- pleadings
- civil procedure
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether good cause existed to permit amendment of the counterclaim after the scheduling-order deadline.
2. Whether a proposed amendment may alter or refine the legal theories supporting claims when the underlying factual allegations remain substantially the same.
3. Whether the pending motion for summary judgment should remain pending after the amendment was allowed.
4. Whether a motion to disqualify opposing counsel could be asserted for the first time in a reply brief.

HOLDINGS

1. The court may permit amendment after the applicable deadline upon a showing of good cause, and good cause existed here because the amendment would clarify the defendant's claims and promote a more orderly dispositive-motions process.
2. A motion may not be asserted in a reply brief unless the court orders otherwise.
3. The pending motion for summary judgment was denied as moot and without prejudice to refiling in compliance with the court's scheduling deadline.

KEY QUOTATIONS

"We have made this point repeatedly: 'The Federal Rules of Civil Procedure do not require a plaintiff to plead legal theories.'"

"A motion may not be asserted in a reply brief."

FACTUAL BACKGROUND

Gill sought to amend his counterclaim after the court-ordered August 14, 2025 deadline. The proposed amendment changed some legal bases for the counterclaims, but the underlying facts remained basically the same. The court concluded that amendment would clarify Gill's claims and allow a more orderly dispositive-motions process.

PROCEDURAL HISTORY

Defendant Michael Kevin Gill moved for leave to amend his counterclaim after the August 14, 2025 amendment deadline. The court found good cause, granted the motion, and directed the Clerk to file the amended counterclaim. Because the amendment would permit the counterclaim defendants to address the claims actually being asserted, the court denied Kinnard's pending motion for summary judgment as moot and without prejudice. The court also declined to consider Gill's motion to disqualify counsel because it was raised in a reply brief and had not been properly presented.

DISPOSITION

other

CASES CITED

- Chessie Logistics Co. v. Krinos Holdings, Inc., 867 F.3d 852, 859 (7th Cir. 2017)
- Vidimos, Inc. v. Laser Lab Ltd., 99 F.3d 217, 222 (7th Cir. 1996)
- Johnson v. City of Shelby, 574 U.S. 10, 10-11, 135 S. Ct. 346, 190 L.Ed.2d 309 (2014) (per curiam)
- Skinner v. Switzer, 562 U.S. 521, 529-30, 537, 131 S. Ct. 1289, 179 L.Ed.2d 233 (2011)
- Zimmerman v. Bornick, 25 F.4th 491, 492-94 (7th Cir. 2022)
- Beaton v. SpeedyPC Software, 907 F.3d 1018, 1023 (7th Cir. 2018)
- Zall v. Standard Ins. Co., 58 F.4th 284, 295 (7th Cir. 2023)
- CMFG Life Insurance Co. v. RBS Securities, Inc., 799 F.3d 729, 743-44 (7th Cir. 2015)
- Whitaker v. Milwaukee County, 772 F.3d 802, 808-09 (7th Cir. 2014)

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