IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

Todd Collins,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 20 L 1746
	)	
UOP, LLC and Mechanical, Inc.,	)	
Defendants	)	
UOP, LLC,	)	
	)	
Third-Party Plaintiff,	)	
	)	
v.	)	
	)	
Dynamic Electric, Inc.,	)	
	)	
Third-Party Defendant.	)	

MEMORANDUM OPINION AND ORDER

A hiring entity may be liable to a contractor's employee if the entity retained some control over the operative details of the contractor's work. Here, the defendant retained significant control over the safety precautions that dictated the contractor's work and knew of the potential dangers the contractor's work entailed. For those reasons, there remains a question of material fact as to the defendant's retained control; consequently, the defendant's summary judgment motion must be denied.

Facts

In 2018, UOP prepared bid packages for the renovation of Building 21, one of 56 buildings at UOP's McCook, Illinois plant. Building 21 is a laboratory that houses equipment for the testing of chemical catalysts manufactured by UOP. The catalysts contain hazardous chemicals; consequently, the building relies on sophisticated ventilation systems and employs refrigeration, X ray, and diffraction equipment necessary to operate the building 24 hours a day.

UOP contracted with Mechanical, Inc. to serve as the general contractor for the renovation of Building 21. On February 28, 2019, UOP directly issued a $389,500 purchase order with Dynamic Electric, Inc. for the

performance of electrical work on the project. The UOP-Dynamic agreement generally provided that Dynamic was to "provide labor, material, labor [*sic*], and supervision to renovate Bldg [*sic*] 21 laboratory on the Riverside/McCook campus . . . to be completed over 5 phase [*sic*]." The purchase order also provided for "[a]ll work to be coordinated through UOP/Honeywell Project Mansger [*sic*] (Patrick Sweeney. . .)."[1]

The purchase order was also subject to Honeywell's standard purchase order terms and conditions for goods and services. These terms and conditions included the following:

- "Supplier will use Honeywell Property exclusively to fulfill Honeywell Purchase Orders unless otherwise authorized in writing by Honeywell#s [*sic*] procurement representative. . . . Supplier is responsible for any loss, damage, or destruction of Honeywell Property and any loss, bodily injury, damage or destruction resulting from Supplier#s [*sic*] use of Honeywell Property. . . . Honeywell makes no representations and disclaims all warranties (express or implied) with respect to Honeywell Property."

- "At any time by written notice and at no cost, Honeywell may require Supplier to stop all or any part of the work under this Purchase Order for up to 120 days. . . ."

- "Supplier will, at its expense, defend, hold harmless and indemnify Honeywell and its customers, subsidiaries, affiliates, and agents, and their respective officers, directors, shareholders, and employees, (collectively "Indemnities") from and against any and all loss, cost, damage, claim, demand or liability, including reasonable attorney and professional fees and costs, and the cost of settlement, compromise, judgment, or verdict, incurred by or demanded from the Indemnitee (#Loss#) [*sic*] arising out of, resulting from or occurring in connection with Supplier#s [*sic*] Goods or the performance of the Services by Supplier or its personnel (including any employment-related Loss arising out of, resulting from or occurring in connection with the performance), the acts, omissions, negligence or willful misconduct of Supplier or its personnel. . . ."

- "Nothing in this Purchase Order will be construed to place Supplier and Honeywell in an agency, employment, franchise, joint venture, or partnership relationship. . . . The parties agree that Supplier will perform its obligations under this Purchase Order as an independent contractor. Supplier will be solely responsible for all Employer Obligations with respect

[1] Honeywell International, Inc. acquired Universal Oil Products (UOP) in 2005. As of August 12, 2019, UOP was a Honeywell company.

to Supplier personnel, even if a court or other body deems the personnel to be Honeywell employees."

The UOP-Dynamic purchase agreement was also subject to Honeywell's access agreement. This document provided, among other things:

- "Contractor shall exonerate, indemnify, hold harmless and defend Honeywell, its executives, managers, and employees from and against any and all liabilities, losses, costs, expenses, damages, claims, fines or demands (including reimbursement of reasonable attorney fees and costs) (1) on account of injuries (including death) to Contractor, its employees or subcontractors, or loss of or damage to property , [*sic*] arising out of or resulting from Contactor's performance of services or its acts or omissions while present at the Honeywell Facility. . . . Such indemnification obligation shall not include liabilities caused by Honeywell's negligence or willful misconduct."

- "The Contractor shall be solely responsible for the safety of the work and all equipment and materials to be used herein until final completion and shall promptly and at its own expense repair any damage to the same, however caused. The work covered under this Agreement shall be performed in a safe manner as required by any and all local, State, and Federal laws and regulations. Each employee of the Contractor (and his subcontractors) shall comply with the Federal Occupational Safety and Health Act and all rules, regulations and orders issued thereunder."

The purchase agreement was also subject to Honeywell's health, safety and environmental cardinal rules. These rules included the following:

- No employee, contractor, or visitor at any of the Honeywell Performance Materials and Technologies facilities shall, at any time:

1. Willfully engage in conduct that endangers or injuries themselves or other employees, risks damage or actually does damage to company property or the environment. . . .

3. Knowingly operate equipment without necessary guards, safety devices or controls, or intentionally bypass those items without following established company procedures and protocols.

4. Fail to wear proper PPE when performing hazardous or safety critical tasks, or willfully or repeatedly fail to wear any required PPE while on Honeywell sites.

5. Knowingly violate a life safety permit or life safety critical procedure: Lockout-Tagout, Confined Space Entry, Fall Protection, Line Breaking or Hot Work. . . . All Employees, contractors and visitors are

expected to understand and adhere to these Cardinal Rules and to request assistance in questionable situations."

- "Contractor acknowledges that the sole responsibility for the safety of the Contractor's employees and for compliance with the OSHA Safety and Health Act regarding such employees rests with the Contractor. Nothing in this specification shall be construed to reduce in any way that responsibility of the Contractor or to create any duty or responsibility on the part of Honeywell to provide or enforce safety requirements for the Contractor. The duty, responsibility and liability for safety shall remain with the Contractor. Any failure of Honeywell to suspend work or to detect violations of any regulatory standards shall in no case relieve the Contractor of their safety responsibilities."

- "The Contractor shall be solely and completely responsible for the conditions of the Project Site, including the safety of all persons and property in the performance of the work. . . . The required or implied duty of Honeywell's representative to conduct reviews of the Contractor's performance does not and shall not be intended to include review of the adequacy of the Contractor's safety measures in, on or near the Project Site."

- "When Contractor services are performed in or near an existing Honeywell or customer plant, it should be recognized that plant operations might continue during the Contractor services. This means that the facility is a fully operational plant with energized equipment, pressurized piping, and vessels, hot wiring, etc., that utilizes processes involving gases, liquids, and other materials which, if improperly handled can result in an employee exposure, environmental release, or a fire/explosion. All plant safety procedures must be followed when working within the operating facility. Close coordination and cooperation with the Honeywell representative or HSE department is mandatory. All such work and working conditions shall be approved by the Honeywell representative prior to the start of the work."

- "Work permits are required for any and all Contractor services in the operating areas of existing plants and when working in energized, pressurized, or hazardous areas."

- "Contractor agrees to indemnify and hold harmless Honeywell from any expense, claim, penalty, or fine resulting directly or indirectly from Contractor's failure to comply with the aforementioned safety and health standards. . . ."

The purchase agreement was also subject to Honeywell's health, safety and environmental ("HSE") standards. These standards covered issues such

as emergency procedures, first aid, incident reporting, personal protective equipment, and energized electrical work. The HSE standards explicitly provided, among other things, that:

- "Honeywell retains the right to question Contractor employees regarding the content of this Contractor HSE Standard and to stop work if a Contractor's employee is not complying with Honeywell requirements."

- "Each Honeywell site shall clearly define the minimum PPE requirements for Contractors. If there is any question the Contractor should consult with the Honeywell Representative and site HSE Representative."

- "Electricians or personnel working around electrical equipment are not permitted to use metal ladders or any other ladder that may conduct electricity."
  "High voltage hot work may only be done by qualified, licensed electricians."
  "Contractors shall: Be aware . . . that the Contractor's electrical safe work practices program must meet or exceed the requirements of the Honeywell procedure."

The purchase agreement was also subject to Honeywell's HSE management system Level 2 standard concerning electrical safety ("HSEMS 307"). HSEMS 307 was in effect on August 12, 2019. UOP required Dynamic to comply with HSEMS 307 in writing, which Pociask did by signing off on an on-site contractor pre-job briefing checklist. The HSEMS 307 standards provided that:

- "Honeywell has adopted the electrical installation guidelines contained in the U.S. National Electrical Code . . . other National Fire Protection Association . . . standards, and other recognized electrical standards and safe practices for safe electrical work."

- "Work performed on Honeywell Facilities' wiring or wiring for connection to a supply must meet current NEC or equivalent Country Requirements regardless of who performs the work."

- "Implementation, including interpretation, inspection, and enforcement of these code requirements is coordinated through the Facilities, Engineering or Maintenance Departments."

- "When working in proximity to energized or potentially energized conductors and or exposed electrical components, Qualified Persons will use insulated tools and equipment."

- "Appropriate personal protective equipment (PPE) will be used by those who are exposed to electrical hazards, such as: . . . When in proximity to energized or potentially energized conductors or exposed electrical components. . . . If an arc Flash Analysis has not been performed, or is not current, the responsible individual must ensure that a Competent Person determines what PPE is required. This determination will be made by relying on the HRC Table in NFPA 70E to determine the Hazard / Risk Category for the task(s) to be performed and then Electrical Safety Protective Equipment Requirements . . . to determine the appropriate PPE and protective arc-rated clothing."

Before beginning any work, Dynamic also had to obtain from UOP a four-page, non-routine energized electrical work-in-progress permit. The permit identified potential shock hazards from exposure to power connections, an open panel, and exposed equipment. Identified work risks included tool use on circuits, movement or change of power leads, meter reading on live components, and short circuiting. The permit required the use of barricades, cones, barriers, a lookout, or danger tape. The permit required the use of a minimum 11-calorie/cm^2 arc flash suit, safety glasses, natural fiber clothing, voltage-rated gloves, earplugs, and leather protectors.

UOP prohibited Dynamic from beginning work on the energized panel without a "non-routine energized electrical permit" issued by UOP. Juan Garcia, UOP's lead electrical worker, approved the permit on August 12, 2019. Garcia knew that Dynamic's work on the panel would occur outside. He also knew that arc flash suits get very hot when used outside. Garcia recognized the potential hazard of performing non-routine energized electrical work given the hot and humid weather conditions on August 112 2019.

Skip Pociask was Dynamic's job foreman and started working at Building 21 on April 8, 2019. Pociask coordinated his work with Patrick Sweeney, the UOP project manager. On August 11, 2019, Pociask asked Sweeney about de-energizing Building 21 before conducting work on August 12. Conducting electrical work with an energized electrical system requires more precautions, planning, and effort. Sweeney informed Pociask that Sweeney could no longer turn off the power to Building 21. Andrew Zarchy, a UOP senior director, indicated that a facility electrical shutdown required four to six months of planning.

On August 12, 2019, Pociask planned to punch holes in the side of an energized breaker panel and install conduit and wires. Pociask had also previously requested Dynamic to provide additional workers and the

necessary PPE to conduct the work. To that end, Dynamic hired Todd Collins from the International Brotherhood of Electrical Workers Local 134 to assist Pociask at UOP. The job of working with the energized panel required a minimum 11-calorie/cm^2 arc flash suit. Dynamic or Collins supplied a 40-calorie/cm^2 arc flash suit that had no ventilation or air conditioning.

In the early afternoon of August 12, 2019, Pociask and Collins began working on the electrical panel. They had been delayed in starting their work in the morning because of the delivery of new chillers for Building 21. By the time Collins began his work, the temperature was approximately 80 degrees with 70-85 percent relative humidity. Pociask initially wore the arc flash suit and beginning the necessary work. Collins soon took over by putting on the arc flash suit and continuing the work. Collins took several breaks to cool off and drink water. Pociask and Collins completed their work for the day around 2:35 p.m. UOP did not supervise Pociask and Collins's work, and Collins never spoke with anyone from UOP while performing his work.

After completing the day's work, Collins removed the arc flash suit and began walking to an air-conditioned building. While walking to the cafeteria, Collins collapsed and fell to the ground. He suffered a heat stroke that allegedly caused acute hypoxic respiratory failure and acute heart failure.

On February 11, 2020, Collins filed a two-count complaint against UOP and Mechanical. Count one is a negligence cause of action directed against UOP. Collins alleges that UOP instructed Dynamic to undertake non-routine energized electrical work, including work on a distribution box located outside of a building. UOP allegedly informed Dynamic that is was important to perform the work without delay. Dynamic allegedly requested to delay the work to a day on which the temperature-humidity index would be lower, but UOP refused. Collins alleges that UOP owed him a duty of care in the construction or operation of the site, including the provision of a safe, suitable, and proper work environment. Collins claims that UOP breached its duty by: (1) not shutting down Building 21 for the non-routine energized electrical work; (2) failing to consider the weather conditions; (3) choosing not to reschedule the work to a day with more favorable and safer weather conditions; (4) failing to provide a safe workplace; (5) failing to provide adequate safeguards; (6) failing to supervise the work; and (7) improperly managing, maintaining, and controlling the construction project.

On April 13, 2022, UOP filed a summary judgment motion. The parties fully briefed the motion and provided a substantial number of exhibits as part of the record.

Analysis

UOP brings its summary judgment motion pursuant to the Code of Civil Procedure. The statute authorizes the issuance of summary judgment "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005. The purpose of summary judgment is not to try a question of fact, but to determine whether one exists that would preclude the entry of judgment as a matter of law. *See Land v. Board of Educ. of the City of Chicago*, 202 Ill. 2d 414, 421, 432 (2002).

A defendant moving for summary judgment may disprove a plaintiff's case by establishing that the plaintiff lacks sufficient evidence to establish an element essential to a cause of action; this is the so-called "*Celotex* test." *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986), *followed Argueta v. Krivickas*, 2011 IL App (1st) 102166, ¶ 6. A court should grant summary judgment on a *Celotex*-style motion only when the record indicates the plaintiff had extensive opportunities to establish his or her case but failed in any way to demonstrate he or she could do so. *Colburn v. Mario Tricoci Hair Salons & Day Spas, Inc.*, 2012 IL App (2d) 110624, ¶ 33. UOP's summary judgment motion is a *Celotex*-style motion.

If a defendant presents facts that, if not contradicted, are sufficient to support summary judgment as a matter of law, the nonmoving party cannot rest on the complaint and other pleadings to create a genuine issue of material fact. *See Harrison v. Hardin Cnty. Cmty. Unit Sch. Dist. No. 1*, 197 Ill. 2d 466, 470 (2001). Rather, a plaintiff creates a genuine issue of material fact only by presenting enough evidence to support each essential element of a cause of action that would arguably entitle the plaintiff to judgment. *Prostran v. City of Chicago*, 349 Ill. App. 3d 81, 85 (1st Dist. 2004). To determine whether a genuine issue as to any material fact exists, a court is to construe the pleadings, depositions, admissions, and affidavits strictly against the moving party and liberally in favor of the opponent. *See Adams v. Northern Ill. Gas Co.*, 211 Ill. 2d 32, 43 (2004). The inferences drawn in favor of the nonmovant must, however, be supported by the evidence. *Destiny Health, Inc. v. Connecticut Gen'l Life Ins. Co.*, 2015 IL App (1st) 142530, ¶ 20. A triable issue precluding summary judgment exists if the material facts are disputed, or if the material facts are undisputed but a reasonable person might draw different inferences from the undisputed facts. *Id.* On the other hand, if no genuine issue of material fact exists, a court has no discretion and must grant summary judgment as a matter of law. *See First State Ins. Co. v. Montgomery Ward & Co.*, 267 Ill. App. 3d 851, 854-55 (1st Dist. 1994).

UOP argues that the evidentiary record fails to establish that UOP owed Collins a duty of care. Absent a duty, there is, of course, no negligence. *Washington v. City of Chicago*, 188 Ill. 2d 235, 239 (1999). The question of whether a duty exists is one of law for the court to decide. *See Burns v. City of Centralia*, 2014 IL 116998, ¶ 13. To determine if a duty exists, a court is to analyze whether a relationship existed between the plaintiff and the defendant for which the law would impose a duty on the defendant for the plaintiff's benefit. *Carney v. Union Pac. R.R. Co.*, 2016 IL 118984, ¶ 27, *quoting Ward v. K Mart Corp.*, 136 Ill. 2d 132, 140 (1990). The "relationship" is "a shorthand description for the analysis of four factors: (1) the reasonable foreseeability of the injury, (2) the likelihood of the injury, (3) the magnitude of the burden of guarding against the injury, and (4) the consequences of placing the burden on the defendant." *Id., citing Simpkins v. CSX Transp., Inc.*, 2012 IL 110662, ¶ 18.

In Illinois, a person or entity employing an independent contractor is generally not liable for the independent contractor's acts or omissions. *Gomien v. Wear-Ever Aluminum, Inc.*, 50 Ill. 2d 19, 21 (1971). The reasoning behind this rule is long established:

> An independent contractor is one who renders service in the course of an occupation representing the will of the person for whom the work is done only as to the result of the work and not as to the means by which it is accomplished, and is one who undertakes to produce a given result without being in any way controlled as to the method by which he attains that result. . . . The test of the relationship is the right to control. It is not the fact of actual interference with the control, but the right to interfere, that makes the difference between an independent contractor and a servant of agent.

Hartley v. Red Ball Transit Co., 344 Ill. 534, 538-39 (1931) (citations omitted). If the hiring entity does not control the details and methods of the independent contractor's work, "[the hiring entity] is not in a good position to prevent negligent performance, and liability therefore should not attach. Rather, the party in control—the independent contractor—is the proper party to be charged with that responsibility and to bear the risk." *Carney*, 2016 IL 118984, ¶ 32 (citing cases).

A hiring entity may, however, still be subject to liability for its own negligence if it retains some control over the independent contractor. *Id.* at ¶ 33. As provided:

> One who entrusts work to an independent contractor, but who retains the control of any part of the work, is subject to liability for physical harm to others for whose safety the employer owes a duty to exercise reasonable care, which is caused by his failure to exercise his control with reasonable care.

Restatement (Second) of Torts § 414 (1965). Illinois has adopted this so-called "retained control" exception to the general rule. *Larson v. Commonwealth Edison Co.*, 33 Ill. 2d 316, 325 (1965). In expanding on what constitutes retained control, the Restatement provides that:

> [F]or the rule stated in this Section to apply, the employer must have retained at least some degree of control over the manner in which the work is done. It is not enough that he has merely a general right to order the work stopped or resumed, to inspect its progress or to receive reports, to make suggestions or recommendations that need not necessarily be followed, or to prescribe alternations and deviations. Such a general right is usually reserved to employers, but it does not mean that the contractor is controlled as to his methods of work, or as to operative detail. There must be such a retention of a right of supervision that the contractor is not entirely free to do the work in his own way.

Restatement (Second) of Torts § 414, cmt. *c*.

UOP's primary argument is that it owed Collins no duty because UOP retained no control over Collins's work either by contract or in practice. As *Carney* recognized, "[t]he best indicator of whether the defendant retained control sufficient to trigger the potential for liability under section 414 is the written agreement between the defendant and the contractor." *Carney*, 2016 IL 118984, ¶ 41 (citing *Cain v. Contarino*, 2014 IL App (2d) 130482, ¶ 76). In this case there is not just one controlling agreement, but seven incorporated documents: (1) a purchase order; (2) standard purchase order terms and conditions; (3) an access agreement; (4) health safety and environmental cardinal rules; (5) health safety and environmental standards; (6) an HSE management system level two standard concerning electrical safety; and (7) a non-routine energized electrical work-in-progress permit.

There is no question that UOP's operations at Building 21 were highly sophisticated and that any work at or on the building could result in adverse outcomes for persons and products if safety concerns were not a priority. UOP unquestionably understood such possibilities and properly addressed them through its comprehensive, integrated, and highly detailed contracting documents. The documents mandated, among other things, that Dynamic

follow all local, state, and federal safety laws, including all OSHA rules and regulations. The documents also required Dynamic to use specific types of equipment and PPE. UOP is to be commended for making safety a top priority as evidenced in its controlling documents. At the same time, however, UOP cannot argue that it lacked control over Dynamic's work. Rather, the inexorable conclusion is that UOP controlled the operative details of Collins's work at least as it related to safety and the use of safety equipment. Given UOP's contractual control over Collins's work, there is no need to address UOP's alternative argument that it did not control Collins's work in practice.

UOP's second argument is that it had no actual or constructive notice of unsafe work methods or a dangerous condition. In support of this argument, UOP relies on section 414 comment *b*, which provides that:

> The rule stated in this Section is usually, though not exclusively, applicable when a principal contractor entrusts a part of the work to subcontractors, but himself or through a foreman superintends the entire job. In such a situation, the principal contractor is subject to liability if he fails to prevent the subcontractors from doing even the details of the work in a way unreasonably dangerous to others, if he knows or by the exercise of reasonable care should know that the subcontractors' work is being so done, and has the opportunity to prevent it *by exercising the power of control which he has retained in himself.* So too, he is subject to liability if he knows or should know that the subcontractors have carelessly done their work in such a way as to create a dangerous condition, and fails to exercise reasonable care either to remedy it himself or by the exercise of his control cause the subcontractor to do so.

Restatement (Second) of Torts § 414, cmt. *b*. As has been explained, "comment b of section 414 comes into play" only "[w]hen the hiring entity has retained some degree of control over the manner in which the work is done by the subcontractor." *Gerasi v. Gilbane Bldg. Co.*, 2017 IL App (1st) 133000, ¶ 45. Comment *b* must be addressed in this instance because, unlike in *Carney*, this court has found that UOP retained control over Collins's work through its interrelated contracting documents. *Id.* at ¶ 54.

There is an initial question as to whether comment *b* applies at all in this case. In contrast to the language of comment *b*, UOP is not a principal contractor that hired a subcontractor as in *Gerasi*. *Id.* at ¶¶ 3-5. To the extent, however, that *Gerasi* employs a different and broader term—"hiring entity"—than used in comment *b*, the provision is likely relevant and should be addressed. As *Gerasi* explains:

> in construction negligence cases under section 414, issues of fact may arise as to (i) whether the hiring entity retained control over the manner in which the subcontractor performed its work, (ii) if so, whether the hiring entity knew or should have known that the subcontractor's work was being done in a manner unreasonably dangerous to others, (iii) whether the hiring entity failed to exercise reasonable care to prevent its subcontractor's dangerous conduct, and (iv) whether the hiring entity's failure to exercise reasonable care in connection with its retained control proximately caused the plaintiff's injuries.

Id. at ¶ 46. Thus, in contrast to comment *c*, comment *b* does not focus on contractual provisions or practice, but on a hiring entity's knowledge.

The record is plain that UOP knew or should have known that Collins's work on August 12, 2019, was potentially dangerous given the temperature, humidity, and the PPE Collins had to wear. Indeed, Sweeney testified that he addressed these specific issues with UOP before Collins started his work. UOP, therefore, had the ability through its contractual authority to prevent Collins from beginning his work. Whether Dynamic agreed that the work could begin is an independent consideration from whether UOP knew of the unreasonably dangerous condition of Collins's work. Indeed, UOP's argument that it relied on Dynamic's superior knowledge about electrical work does not mean UOP was unaware of the dangerous conditions surrounding Collins's work.

The seven operative documents in the record further belie UOP's argument that it lacked knowledge of the dangerous conditions Collins faced. UOP explicitly acknowledges in its documents the dangers attendant with a fully operational plant containing energized equipment, pressurized piping, and vessels, and hot wiring, and that utilizes processes involving gases, liquids, and other materials that can result in an exposure to persons, an environmental release, a fire, or an explosion. In particular, the work-in-progress permit explicitly identifies potential hazards Collins faced from exposure to power connections, an open panel, and exposed equipment as well as work risks based on the use of tools on circuits, movement or change of power leads, meter reading on live components, and short circuiting. UOP plainly knew of the dangers because the permit explicitly set out the type of clothing and equipment Collins had to wear based on the dangers posed by working on an energized electrical panel.

In sum, there remain questions of material fact as to the extent to which UOP retained control over Collins's work and the extent to which UOP knew of the dangerous conditions Collins faced.

Conclusion

For the reasons presented above, it is ordered that:

UOP's summary judgment motion is denied.

John H. Ehrlich, Circuit Court Judge

Judge John H. Ehrlich

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