

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NICHOLAS LOBACZ,)	
)	
Plaintiff,)	
)	
v.)	No. 13 C 1777
)	
CITY OF CHICAGO, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

This Court's brief April 16, 2013 memorandum order called for further input from the litigants to enable it to address, on an informed basis, the motion by the City of Chicago ("City") to dismiss Complaint Count III at the time of the April 25 presentment date that City had designated. Plaintiff Nicholas Lobacz ("Lobacz") has responded by his April 19 filing of a Verified Amended Complaint ("AC"), the allegations of which must be accepted as true for Fed. R. Civ. P. ("Rule") 12(b)(6) purposes.

AC ¶20 has changed Lobacz's stated date of receipt of EEOC's right-to-sue letter, the precondition to suit under Count III, to "on or after November 5, 2012." On that basis Lobacz got in just under the wire with his Americans with Disabilities Act claim set out in Count III: February 2, 2013 (a Saturday) was the 90th day after November 5, 2012, so that Lobacz's filing of suit in the Circuit Court of Cook County on Monday, February 4 was timely.

Although City's motion to dismiss the original Complaint's

Count III has been rendered moot by Lobacz's filing of the AC, any attempted renewal of that motion would be futile in light of what has been said here. Accordingly City is ordered to file its Answer to the AC on or before May 6, 2013. Counsel for the parties are nevertheless expected to appear on the April 25 presentment date to discuss the nature and scheduling of further proceedings.



Milton I. Shadur
Senior United States District Judge

Date: April 22, 2013