

NOTICE  
Decision filed 07/24/18. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2018 IL App (5th) 160519-U

NO. 5-16-0519

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE  
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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| BRADLEY A. LAVITE, Superintendent of the            | ) | Appeal from the    |
| Veterans Assistance Commission of                   | ) | Circuit Court of   |
| Madison County, Illinois,                           | ) | Madison County.    |
|   | ) |                    |
| Plaintiff-Appellant,                                | ) |                    |
|   | ) |                    |
| v.  | ) | No. 15-MR-145      |
|   | ) |                    |
| ALAN J. DUNSTAN, Chairman of the Madison            | ) |                    |
| County Board; JOSEPH D. PARENTE, County             | ) |                    |
| Administrator of Madison County, Illinois;          | ) |                    |
| THE MADISON COUNTY BOARD; and                       | ) |                    |
| JOHN D. LAKIN, Sheriff of Madison County, Illinois, | ) |                    |
|   | ) |                    |
| Defendants-Appellees                                | ) |                    |
|   | ) |                    |
| (THOMAS GIBBONS, Madison County State’s             | ) |                    |
| Attorney; ALAN J. DUNSTAN, Chairman of the          | ) |                    |
| Madison County Board; JOSEPH D. PARENTE,            | ) |                    |
| County Administrator of Madison County, Illinois;   | ) |                    |
| RICK FACCIN, Madison County Auditor; and            | ) |                    |
| JACK MINNER, MICHAEL HOLLIDAY, SR.,                 | ) |                    |
| LARRY TRUCANO, KELLY TRACY, and                     | ) | Honorable          |
| JAMIE GOGGIN, Madison County Finance                | ) | William J. Becker, |
| Committeepersons, Alleged Contemnors-Appellees).    | ) | Judge, presiding.  |

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JUSTICE CATES delivered the judgment of the court.  
Justices Chapman and Overstreet concurred in the judgment.

## ORDER

¶ 1 *Held:* The circuit court did not err in granting in part and denying in part the plaintiff's motion for a preliminary mandatory injunction. The order discharging the rule to show cause is not a final appealable order.

¶ 2 The plaintiff, Bradley A. Lavite, in his capacity as the superintendent of the Veterans Assistance Commission of Madison County, appeals from an order of the circuit court of Madison County granting in part and denying in part his motion for a preliminary mandatory injunction and discharging a rule to show cause against the alleged contemnors. For reasons that follow, we affirm the circuit court's order granting in part and denying in part the plaintiff's motion for a preliminary injunction. The order discharging the rule to show cause is not a final and appealable order, and we are without jurisdiction to consider it.

¶ 3 This is the second time this case has been before this court. A detailed presentation of the underlying facts can be found in our opinion in *Lavite v. Dunstan*, 2016 IL App (5th) 150401 (*Lavite I*).

¶ 4 *Lavite I*

¶ 5 On June 12, 2015, the plaintiff, Bradley A. Lavite, in his capacity as superintendent of the Madison County Veterans Assistance Commission (VAC), filed a three-count complaint against defendants, Alan J. Dunstan, chairman of the Madison County Board; Joseph D. Parente, county administrator of Madison County; the Madison County Board; and John D. Lakin, sheriff of Madison County. The complaint related to a standing order, issued by Administrator Parente on March 20, 2015, prohibiting the plaintiff from entering his VAC office in the Madison County Administration Building,

and warning the plaintiff that he would be arrested for trespass if he failed to abide by the order. In the complaint, the plaintiff alleged that he was wrongfully denied access to his VAC office in the Madison County Administration Building. The plaintiff sought a writ of *mandamus* directing the defendants to allow him access to his office in the Madison County Administration Building (count I), to process payroll warrants for his salary as superintendent of the VAC (count II), and to pay other warrants submitted by the plaintiff for attorney fees related to this litigation from VAC funds (count III). The trial court granted the defendants' motion to dismiss all counts on the pleadings, and the plaintiff appealed.

¶ 6 In an opinion issued on August 5, 2016, we found that the trial court erred in dismissing count I and count III of the plaintiff's complaint. *Lavite I*, 2016 IL App (5th) 150401. We vacated those orders and remanded the case to the trial court with instructions to deny the defendants' motions to dismiss counts I and III. As to count III, which remains at issue, we determined that county officials did not have the authority to subject the VAC to the county's ordinances regarding competitive purchases and/or expenditures in excess of \$5000 when they processed warrants to pay the plaintiff's attorney fees from funds that had already been appropriated for the VAC's expenses in that fiscal year. *Lavite I*, 2016 IL App (5th) 150401, ¶ 47. In the opinion, we noted that the defendants conceded that the plaintiff's attorney fees must be paid from funds that had been appropriated to the VAC to the extent that such funds were available. *Lavite I*, 2016 IL App (5th) 150401, ¶¶ 48, 50.

¶ 7 The case was remanded and the mandate issued on September 14, 2016. At that point in the proceedings, the case was at the pleading stage. Upon remand, the presiding trial judge recused himself, and pursuant to a request from the chief judge in Madison County, the Illinois Supreme Court appointed a judge from outside the circuit to hear the case. We pick up the facts and procedural history from there.

¶ 8 On August 25, 2016, plaintiff's counsel, Thomas Burkart, delivered a letter to the Madison County Treasurer demanding payment of his fees for the legal services provided to the VAC's superintendent. Burkart include a redacted invoice showing a balance of \$60,365.92 due for legal services and "VAC Warrant #16-4, Superintendent's Warrant/Order on County Treasurer To Pay Appropriated Funds" (Warrant No. 16-4). Warrant No. 16-4 contained a directive from the plaintiff to the county treasurer to pay \$60,365.92 to Burkart's law firm from "appropriated funds on hand." In the letter, Burkart advised that the description-of-services section of the invoice was redacted because it contained matters of attorney-client privilege. He further advised that the plaintiff had approved the fees after thoroughly reviewing the invoice, including a complete description of services. Burkart asserted that the defendants had no authority to demand to review an unredacted copy of the invoice. He warned that failure to make full payment of the invoice would be in direct contravention of the appellate court's decision in *Lavite I*. The record shows that Burkart's invoice identified the dates of service, the number of hours, and the amount charged, but the description-of-services sections were completely blank. The record also shows that the invoices submitted by Burkart prior to

the decision in *Lavite I* included a fairly full description of the legal services provided, with some redaction of material based on the attorney-client privilege.

¶ 9 On September 6, 2016, Jennifer Zoelzer, Chief Deputy Auditor of Madison County, e-mailed plaintiff's counsel to inform him that the redactions on the invoice were too extensive, and that in order to process payment of Warrant No. 16-4, she would need a revised invoice with "some type of general description for services." In a reply e-mail sent September 7, 2016, plaintiff's counsel warned that Zoelzer and the auditor's office may be subject to contempt proceedings if they continued to interfere with VAC warrants. During a meeting on September 14, 2016, the Madison County Finance Committee directed County Auditor Rick Faccin to notify the VAC that there would be insufficient funds in the Administrative Fund to meet the VAC's payroll through the end of the fiscal year if the attorney's invoice was paid.

¶ 10 In a letter dated September 15, 2016, from Robert Sedlacek, president of the VAC Executive Board, to Auditor Rick Faccin, Sedlacek advised that the plaintiff had reviewed the unredacted invoice from his attorney and had approved it. Sedlacek indicated that the VAC Executive Board had recently learned of the existence of an unreserved fund account in the county treasury that contained funds levied for the VAC, and that upon learning of this fund, the Executive Board had directed county officials to pay Warrant No. 16-4 and to use as much of the balance in the unreserved fund as necessary to assure that the VAC would meet its obligations, including all salaries. Sedlacek stated that the VAC Executive Board had demanded that Warrant No. 16-4 be paid without further delay.

¶ 11 On September 16, 2016, the plaintiff filed a petition for a rule to show cause why Chairman Dunstan, Administrator Parente, Madison County Auditor Rick Faccin, Madison County State’s Attorney Thomas Gibbons, and the Madison County Finance Committeepersons (alleged contemnors) should not be held in contempt of court for failing to pay his counsel’s attorney fees in compliance with the appellate court’s decision and mandate in *Lavite I*. The plaintiff recounted the sequence of events noted above, beginning with the presentation of Warrant No. 16-4 to the county treasurer, and the treasurer’s failure to pay the warrant. The plaintiff asserted that the trial court was vested with inherent powers to enforce orders of the appellate court and to hold parties in contempt for ignoring the mandate of the appellate court. The plaintiff further asserted that despite the “clear mandate” of the appellate court in *Lavite I*, the alleged contemnors continued to put obstacles in the way of paying VAC warrants. The plaintiff claimed that there were ample funds to pay Warrant No. 16-4 and that the attorney fees could be paid from the VAC funds appropriated in fiscal year 2016 for the administrative budget (Administrative Fund) and the direct assistance budget (Direct Aid Fund), or from the recently discovered “unreserved fund,” referenced in a document entitled “July 2016 Comparative Statement of Financial Condition.”

¶ 12 The plaintiff attached several documents in support of his show-cause petition. The documents included the letter from plaintiff’s counsel to the Madison County treasurer demanding a payment of \$60,365.92 for attorney fees from VAC funds, a copy of Warrant No. 16-4, and a copy of the nine-page redacted invoice from the Burkart law firm. Additional attachments included the above-referenced e-mail thread between

plaintiff's counsel and Chief Deputy Auditor Zoelzer, and an unauthenticated document entitled "July 2016 Comparative Statement of Financial Condition." The document indicated that there was a balance of approximately \$800,000 in the unreserved fund. The plaintiff also attached an unverified transcription of an audio recording of the September 14, 2016, meeting of the Madison County Finance Committee. According to the transcript, County Auditor Rick Faccin advised the committee that the auditor's office could not audit the invoice for legal fees until the plaintiff's attorney provided some explanation of services. Faccin also expressed his view that the VAC matter should be settled because the money being used for attorney fees should be going to veterans. The committee voted to direct the auditor's office to inform the VAC that if the attorney's invoice was paid, there would be insufficient funds to meet the VAC's payroll through the end of the fiscal year.

¶ 13 Subsequently, the plaintiff filed two other documents in a supplement to his petition for rule to show cause. The first was a letter dated September 19, 2016, from Auditor Faccin to the VAC. In the letter, Faccin also informed the VAC that upon payment of \$60,365.92 in attorney fees and the VAC payroll for September 2016, the VAC's Administrative Fund would be exhausted, and that any increase in the Administrative Fund to cover additional expenses would require an additional appropriation approved by the Madison County Finance Committee and the Madison County Board. Faccin also indicated that the auditor's office had the authority to audit any claim presented for payment by the VAC. Faccin noted that the description of legal services in the attorney's invoice had been "fully redacted." He informed the VAC that it

was not the practice of the auditor's office to remit payment for undisclosed services. The second document was the aforementioned letter, from Robert Sedlacek, president of the VAC Executive Board, to Rick Faccin, demanding that Warrant No. 16-4 be paid without further delay.

¶ 14 On September 23, 2016, the defendants filed an objection to the plaintiff's petition for rule to show cause. The defendants asserted that the plaintiff's petition lacked merit because there was no order from the appellate court or the trial court directing them to pay the plaintiff's attorney fees. The defendants argued that the only order issued by the appellate court was a directive to the trial court to deny the motions to dismiss counts I and III of the plaintiff's complaint. The defendants pointed out that under section 9 of the Military Veterans Assistance Act (330 ILCS 45/9(b) (West 2016)), "[t]he Commission superintendent and the president or chairman of the county board, or some other county officer appointed by him, shall have general oversight of the distribution of all moneys and supplies appropriated by the county for the benefit of military veterans and their families, subject to such rules, regulations, administrative procedures or audit reviews as are necessary as approved by the county board to carry out the spirit and intent of this Act." The defendants argued that under section 9, they had authority to request an itemized statement of legal services, other than those detailing matters of attorney-client privilege, before paying the VAC warrant for attorney fees.

¶ 15 On October 5, 2016, the court held a telephonic hearing on the plaintiff's petition for rule to show cause and took the matter under advisement. On October 19, 2016, the court issued an order directing the alleged contemnors to appear for a hearing on

November 18, 2016. The court also indicated that it would hear arguments on the plaintiff's motion for a preliminary mandatory injunction on that date.

¶ 16 On October 24, 2016, the plaintiff filed an amended motion for preliminary mandatory injunction, asking the court to require the defendants to pay the warrants submitted for the plaintiff's attorney fees. Plaintiff alleged that since the filing of his original motion, a number of facts had come to light, including the existence of an unreserved fund containing more than \$800,000 of VAC funds that had been levied and collected by the county collector in prior years. The plaintiff argued that because the county had already appropriated those funds for the VAC, it had no right to impose its ordinances on the VAC's use of those funds.

¶ 17 On November 14, 2016, the defendants filed two motions to dismiss the plaintiff's petition for rule to show cause. The first motion was brought pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2016)). The defendants argued that the petition failed to state a cause of action for contempt because the alleged contemnors did not refuse to comply with the mandate of the appellate court or any order of the trial court. The defendants asserted that the only order issued by the appellate court in *Lavite I* was an order directing the trial court to deny the defendants' motions to dismiss counts I and III of the plaintiff's complaint, and that contrary to the plaintiff's contention, neither the appellate court nor the trial court had ordered the defendants to pay the plaintiff's attorney fees from the VAC's funds.

¶ 18 The defendants also filed a motion to dismiss under section 2-619 of the Code (735 ILCS 5/2-619(a)(9) (West 2016)) and alleged, in part, that the plaintiff's claim for

payment in full of his attorney fees was moot because the entirety of the administrative funds appropriated for the VAC for fiscal year 2016 had been exhausted. The defendants indicated that after the VAC employee payroll was processed for November 4, 2016, and November 18, 2016, a check in the sum of \$14,548.88 was tendered to plaintiff's counsel, and that this payment consumed the balance of the Administrative Fund for fiscal year 2016. The defendants noted that while an emergency appropriation could be made, such an appropriation was purely discretionary, requiring approval by not less than two-thirds of all county board members.

¶ 19 An affidavit by County Administrator Parente was attached in support of the defendants' motion to dismiss. Parente averred that plaintiff's counsel had been paid \$78,240.01 for work on behalf of the VAC during the 2016 fiscal year, and that the additional invoice for \$65,365.92 would result in a total payment of \$138,605 in attorney fees, representing 38% of the VAC's administrative budget. Parente noted that upon paying the salaries of VAC's employees through the end of the fiscal year, there was balance was \$14,548.88 in the in the VAC's Administrative Fund, which was tendered to plaintiff's counsel. Parente stated that payment of any additional expenses incurred by the VAC in fiscal year 2016 would require a special appropriation, approved by two-thirds of the county board.

¶ 20 A hearing was held on November 18, 2016. At the outset, the court acknowledged that prior to the commencement of the proceedings, he met with the lawyers in chambers to discuss the issues in dispute. The court noted that one issue was whether county officials should be held in contempt of court for failing to pay the plaintiff's attorney

fees. The court explained that plaintiff's counsel believed some county officials failed to comply with what counsel perceived to be an order of the appellate court directing the county to pay the plaintiff's attorney fees from any funds appropriated for the VAC, including the Administrative Fund, the Direct Aid Fund, and the unreserved fund. The court noted that defendants' counsel represented that all funds appropriated for VAC administrative expenses in 2016 had been exhausted upon the tender of a check for approximately \$14,500 to plaintiff's counsel, and that the county board would have to approve an emergency appropriation for any additional administrative expenses. The court stated that a second issue was whether the balance of the attorney fees owed could be paid from either the money appropriated in 2016 for the Direct Aid Fund or the unreserved fund without a supplemental appropriation by the county board authorizing payment.

¶ 21 Prior to the testimony, the parties agreed that the county board had approved a total of \$517,224 in VAC funding for the fiscal year 2016, and of that sum, \$364,424 was appropriated for the Veterans Assistance Administrative Fund (Administrative Fund), and \$152,800 was appropriated for Veterans Assistance Aid to Vets Fund (Direct Aid Fund). Defendants' counsel stipulated that there was a VAC unreserved fund account in the county treasury that contained funds from property taxes that had been levied in prior years. Counsel explained that the unreserved fund consisted of tax money from two sources. The account contained money that had been appropriated pursuant to the VAC's annual funding requests, but had not been spent in the years appropriated. The account

also contained money from tax levies that exceeded the VAC's funding requests in given years, and consequently that money had not been appropriated to the VAC.

¶ 22 The plaintiff testified that on the date of the hearing, the balance in the Administrative Fund was \$14,548.88 and the balance in the Direct Aid Fund was \$53,683.42. He estimated that there would be a balance of several thousand dollars in the Direct Aid Fund at the close of the fiscal year on November 30, 2016. He believed that the VAC could transfer money from the Direct Aid Fund to the Administrative Fund to pay the balance of the attorney fees. Assistant Auditor Jennifer Zoelzer testified that a check in the sum of \$14,548.88 had been tendered to plaintiff's counsel in partial payment of Warrant No. 16-4, leaving a zero balance in the VAC's Administrative Fund. Zoelzer further testified that there was a current balance of \$53,600 in the Direct Aid Fund.

¶ 23 Following the testimony, the plaintiff argued that the VAC could transfer money from the Direct Aid Fund to the Administrative Fund, to pay the balance of the attorney fees, without a supplemental appropriation. He also argued that the attorney fees could be paid from the balance in the unreserved fund, without a supplemental appropriation. The plaintiff concluded that the county had levied, collected, and appropriated those funds to the VAC and thereafter had no right to interfere with the VAC's decisions on expenditures. The defendants argued that the VAC, upon exhausting its 2016 administrative budget, did not have authority to transfer money from the Direct Aid Fund, or obtain money from the unreserved fund to pay additional expenses, without an emergency appropriation, approved by two-thirds of the county board.

¶ 24 After considering the pleadings, documents, and arguments, the trial court entered an order granting in part and denying in part the plaintiff's motion for preliminary injunction. The court denied the plaintiff's request to enjoin the defendants to pay the balance of the attorney fees or other unpaid operating expenses incurred in 2016, from the balance in the Direct Aid Fund or the unreserved fund. The court expressed concern about whether the plaintiff's attorney fees could be paid from either fund without a supplemental appropriation from the county board. The court enjoined the county to maintain a balance of at least \$45,817 in the unreserved fund to pay the balance of the attorney fees pending a determination of the issue. The court also entered an order discharging the rule to show cause against alleged contemnors.

¶ 25 On December 13, 2016, the plaintiff filed this interlocutory appeal pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2016). The plaintiff contends that the trial court erred in granting in part and denying in part his request for an order enjoining the defendants from interfering in the VAC's expenditure of funds that had been levied, collected, and appropriated to the VAC.

¶ 26 The purpose of a preliminary injunction is not to determine controverted rights or decide the merits of a case, but rather, to preserve the rights of the parties or the status quo until the case can be decided on the merits. *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 62, 866 N.E.2d 85, 91 (2006). The party seeking a preliminary injunction must demonstrate: (1) the existence of a clearly ascertained right in need of protection, (2) an irreparable injury in the absence of an injunction, (3) an inadequate remedy at law, and (4) the likelihood of success on the merits. *Mohanty*, 225 Ill. 2d at 62. In that regard,

the petitioner need only raise a fair question as to the existence of the rights claimed. *Seyller v. County of Kane*, 408 Ill. App. 3d 982, 990, 946 N.E.2d 923, 930 (2011); *Kalbfleisch v. Columbia Community Unit School District No. 4*, 396 Ill. App. 3d 1105, 1114, 920 N.E.2d 651, 660 (2009). Generally, the trial court's decision to grant or deny a preliminary injunction rests within the sound discretion of the trial court, and the court's decision will not be disturbed on review absent an abuse of discretion. *Mohanty*, 225 Ill. 2d at 63.

¶ 27 In this case, the plaintiff filed an amended motion for a preliminary mandatory injunction, asking the court to require the defendants to pay the warrants submitted for payment of the contracted services of plaintiff's counsel, and to prevent the defendants from otherwise interfering with expenditures of the VAC or imposing its rules and regulations on VAC operations. The plaintiff argued that the defendants were required to pay the balance of the attorney fees owed from either the Direct Aid Fund or the unreserved fund. After considering the pleadings and arguments of counsel, the trial court granted partial relief to the plaintiff. The court found that the plaintiff had raised a fair question as to the existence of the rights claimed, and that it was appropriate to maintain the status quo until a final determination on the merits. In this case, the trial court has been presented with questions not previously presented or considered in *Lavite I*. The trial court has been asked to determine whether the VAC is authorized, upon exhaustion of monies specifically appropriated for the 2016 Administrative Fund, to pay additional administrative expenses, including the attorney fees, from appropriated but unspent money in the 2016 Direct Aid Fund or from the unreserved fund without a supplemental

appropriation. In our view, the trial court properly concluded that an order directing county officials to maintain an adequate balance in the unreserved fund to pay the plaintiff's attorney fees would best maintain the status quo until those questions can be considered on the merits. Accordingly, the trial court did not abuse its discretion in granting in part and denying in part the plaintiff's motion for a preliminary injunction.

¶ 28 Next, the plaintiff contends that the trial court erred in discharging the rule to show cause against the alleged contemnors. The plaintiff claims that the defendants' failure to pay his attorney fees from either the balance remaining in the 2016 Direct Aid Fund or the unreserved fund balance constituted contempt of this court's decision and mandate in *Lavite I*.

¶ 29 Generally, civil contempt occurs when a party fails to do something ordered by the court, resulting in the loss of a benefit or advantage to the opposing party. *In re Marriage of Tatham*, 293 Ill. App. 3d 471, 479, 688 N.E.2d 864, 871 (1997). Contempt which occurs outside the presence of the court is classified as indirect contempt. *Tatham*, 293 Ill. App. 3d at 480. The existence of an order and proof of willful disobedience of that order are essential elements of a finding of indirect civil contempt. *Tatham*, 293 Ill. App. 3d at 480.

¶ 30 In this case, the trial court did not find the alleged contemnors in contempt of court. The court discharged the rule to show cause upon tender of the balance of the money in the VAC's Administrative Fund to plaintiff's counsel. Our supreme court has consistently held that only an order finding a person or entity in contempt of court and imposing a monetary sanction or other penalty is a final, appealable order. Ill. S. Ct. R.

304(b)(5) (eff. Mar. 8, 2016); *In re Marriage of Gutman*, 232 Ill. 2d 145, 152, 902 N.E.2d 631, 635 (2008). The rationale for authorizing an immediate appeal from the entry of a contempt order imposing sanctions is that it would be unreasonable to force a party to wait until a final judgment on all issues before allowing an appeal of the ruling and sanction imposed. *Gutman*, 232 Ill. 2d at 153. Thus, the trial court's decision to discharge the rule to show cause was not a final, appealable order. The order did not dispose of all issues between the parties. The trial court did not make an express written finding that there was no just reason for delaying an appeal of its order. See Ill. S. Ct. R. 304(a), (b)(5) (eff. Mar. 8, 2016). Additionally, the interlocutory appeal from the ruling on the preliminary injunction did not open the door to a review of the order discharging the rule to show case. *Kalbfleisch*, 396 Ill. App. 3d at 1113-14. Thus, the court's decision to discharge the rule to show cause is not a final, appealable order, and we are without jurisdiction to consider it.

¶ 31 Finally, several motions were taken with the case. The plaintiff asked this court to take judicial notice of the Madison County Auditor's FY 2016 Budget Expenditure Analysis, noting that it was not available until two weeks after the hearing on plaintiff's petition for preliminary injunction. The defendants and alleged contemnors objected to the plaintiff's motion for judicial notice. The defendants also filed a motion to strike the supplemental appendix to the plaintiff's reply brief and all related arguments in the reply brief because the documents in the appendix were not part of the trial court record. The supplemental appendix to plaintiff's reply brief contains a copy of the aforementioned auditor's expenditure analysis, along with a document entitled "Resolution to Hire

Attorney,” dated May 3, 2016. As previously noted, the auditor’s expenditure analysis was not completed at the time of the hearing. The Resolution was apparently in existence at the time of the hearing, but was not presented to the trial court. The plaintiff provided no foundation for these documents. Neither document was included in the record on appeal. Moreover, these documents are not helpful to the issue currently before us. Accordingly, we deny the plaintiff’s motion to take judicial notice of the Madison County Auditor’s FY 2016 Budget Expenditure Analysis, and we will disregard the documents in the supplemental appendix as the attachment of a supplemental appendix to a reply brief is not in conformance with our rules. Ill. S. Ct. R. 341 (eff. Jan. 1, 2016); R. 329 (eff. July 1, 2017). The plaintiff’s motion for leave to cite additional authority is granted. The plaintiff’s motions to set oral argument as soon as possible and to deny consolidation of another appeal in this case are moot, and accordingly we will not take judicial notice of the documents appended in support of those motions.

¶ 32 In summary, the trial court did not err in granting in part and denying in part the plaintiff’s motion for a preliminary mandatory injunction, and that order is affirmed. The court’s order to discharge the rule to show cause order is not a final and appealable order, and we are without jurisdiction to consider it.

¶ 33 Affirmed.