

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

THE CITY OF CALUMET CITY, an Illinois  
municipality,

Plaintiff,

v.

NYOTA FIGGS, individually and in her  
official capacity as the City Clerk of the City  
of Calumet City, Illinois,

Defendant.

Court No.:

INIS Y...  
CLERK OF COOK COUNTY

2021 OCT 29 AM 11:22

FILED

2021CH05512  
CALENDAR/ROOM 03  
TIME 00:00  
Declaratory Jdewt

**VERIFIED COMPLAINT FOR DECLARATORY  
JUDGMENT AND PRELIMINARY AND PERMANENT INJUNCTION**

The Plaintiff, the City of Calumet City, an Illinois municipality, by and through its attorneys, Ancel Glink, P.C., pursuant to 735 ILCS 5/11-101, and for its Verified Complaint for Declaratory Judgment, a Preliminary Injunction and a Permanent Injunction to prevent the unlawful destruction of public records of the City of Calumet City, states as follows:

**INTRODUCTION**

1. The residents of Calumet City, Illinois, ("the City") elected municipal officers to the City Council in April, 2021. These included Mayor Thaddeus Jones, ("Mayor Jones"), who was elected on an aggressive reform platform to eradicate the City's reputation of corruption and waste. The City's voters also re-elected incumbent City Clerk, Nyota Figgs, who was a holdover from the past administration.

2. To identify potential areas of concern and to gain knowledge about the City's finances and financial practices with an eye towards improving them, the City embarked upon a forensic audit. The City hired an outside auditor, Alyssia Benford, to review the City's financial records. Ms. Benford directed City staff and officials, including Defendant Figgs, to retain and

preserve the City's public records and not to destroy any documents, especially documents from the previous administration that could contain evidence of wrongdoing or criminal activity. Notwithstanding this explicit direction, and further notwithstanding that the Defendant does not have the discretion to determine that the City's records should be destroyed, Clerk Figgs surreptitiously and without approval from the Mayor or City Council disposed of and destroyed City a large quantity of the City's records without any legal authority to do so whatsoever.

3. The City has filed this lawsuit seeking a declaration that the City Clerk has no authority to destroy City records without approval of the City, to enjoin her from the further destruction of City records.

#### **PARTIES**

4. Plaintiff City of Calumet City (the "City") is an Illinois home rule municipality located in Cook County, Illinois.

5. Defendant Nyota Figgs ("Figgs") is a resident of Calumet City, Illinois and the elected City Clerk. She is sued in her official capacity as the City Clerk of Calumet City.

6. To the extent that Defendant Figgs has destroyed public record, such acts are beyond the scope of her official duties and she is, therefore, also sued in her individual capacity.

#### **ALLEGATIONS COMMON TO ALL COUNTS**

7. Voters in Calumet City elected municipal officers to the City Council in April, 2021.

8. These included Mayor Thaddeus Jones, ("Mayor Jones"), who was elected on an aggressive reform platform to eradicate the City's reputation of corruption and waste.

9. The City's voters also re-elected incumbent City Clerk, Nyota Figgs, who was a holdover from the past administration.

10. To identify potential areas of concern and to gain knowledge about the City's finances and financial practices with an eye towards improving them, the City embarked upon a forensic audit.

11. The City hired an outside auditor, Alyssia Benford, to review the City's financial records.

12. Ms. Benford directed City staff and officials, including Defendant Figgs, to retain and preserve the City's public records and not to destroy any documents, especially documents from the previous administration that could contain evidence of wrongdoing or criminal activity.

13. In June 2021, Defendant Figgs was given explicit direction by the auditor to refrain from destroying any city records while the audit was pending.

14. Notwithstanding this explicit direction, and further notwithstanding that the Defendant does not have the discretion to determine that the City's records should be destroyed, Defendant Figgs surreptitiously and without approval from the Mayor or City Council disposed of and destroyed City approximately two truckloads of the City's records without any legal authority to do so whatsoever. Upon information and belief, this action was undertaken to destroy evidence of wrongdoing by the previous administration.

15. On August 10, 2021 and August 11, 2021, Defendant Figgs ordered a shredding truck from ProShred Security requesting a document purge using thirteen 96-gallon totes.

16. The City has been billed for such services and the invoices indicate the requestor was the Clerk's Office. See invoices attached **Exhibits A** and **B**.

17. The service call was not a regularly scheduled service call and was specifically a service call for a larger shred by the Clerk's office.

18. ProShred Security provided a document destruction certificate for August 11, 2021 confirming destruction of over one ton of documents.

19. Defendant Figgs used her assigned alarm code to access the records building on the dates in question.

20. Defendant Figgs explicitly admitted that she knowingly destroyed city documents while an audit was in progress.

21. The Illinois Local Records Act, 50 ILCS 205/1, et seq., gives the authority to the Mayor to determine which records should be maintained or submitted for destruction. 50 ILCS 205/10. Mayor Jones did not seek to dispose of City records, nor did he authorize Defendant Figgs to do so.

22. Said Act also requires the Illinois Local Records Commission to approve the Mayor's request. The Illinois Local Records Commission did not authorize the destruction of the records that Defendant Figgs destroyed because the Mayor never submitted such a request.

23. Section 4(a) of the Act provides that public records shall not be destroyed except as provided by law. 50 ILCS 205/4(a).

24. Section 10 of the Act specifies, "No public record shall be destroyed or otherwise disposed of by any Local Records Commission on its own initiative, nor contrary to law."

25. Defendant Figgs was not authorized by the Mayor or City Council to destroy the City's records.

26. Upon information and belief, Mayor Jones believes that Defendant Figgs intends to destroy additional public records.

**COUNT I –  
DECLARATORY JUDGMENT THAT DEFENDANT FIGGS  
DOES NOT HAVE INDEPENDENT AUTHORITY TO  
DESTROY THE CITY’S PUBLIC RECORDS**

27. The City realleges paragraphs 1 through 26 and incorporates the same as though fully restated herein.

28. 735 ILCS 5/2-701 provides for declaratory judgment actions which, in cases of actual controversy may make binding declarations of rights having the force of final judgments, including the determination at the instance of anyone interested in the controversy, of the construction of any contract and a declaration of the rights of the interested parties.

29. There is no basis in Illinois law which permits a municipal clerk or individuals to destroy public records without approval of the mayor or public body or in a manner inconsistent with Illinois law.

WHEREFORE, the City respectfully prays for this Court to enter an order:

A. Declaring Defendant Figgs has no authority as City Clerk or otherwise to destroy the City’s public records without approval of the Mayor or contrary to law.

For such other and further or different relief as the court may deem equitable and just.

**COUNT II –  
PRELIMINARY AND PERMANENT INJUNCTION ENJOINING  
DEFENDANT NYOTA FIGGS FROM DESTROYING  
PUBLIC RECORDS OF THE CITY OF CALUMET CITY**

30. The City realleges paragraphs 1 through 29 and incorporates the same as though fully restated herein.

31. The City has a clearly ascertainable right to the preservation of its public records. In fact, the City is required, by law, to maintain its public records. 50 ILCS 205/3a.

32. The City has a clearly ascertainable right to the strict compliance with the Illinois Local Records Act.

33. Defendant Figgs unlawful destruction of public records, including the City's financial records, will cause irreparable harm to the City, as well as to the public.

34. The City has no legal remedy available to prevent Defendant Figgs from destroying its records.

35. The balancing of the equities favors the City because the Defendants has no right whatsoever to destroy the City's public records or to destroy possible evidence of wrongdoing by the previous administration.

36. For the reasons described herein, the City has a likelihood of success on the merits because Defendant Figgs is destroying public property in a manner not permitted by law.

WHEREFORE, the City respectfully pray this Court enters an order granting a preliminary and permanent injunction against Defendant Nyota Figgs from destroying public records without the authority of the Mayor.

Respectfully submitted,

CITY OF CALUMET CITY, ILLINOIS

By: Amber M. Samuelson  
One of the Attorneys for Plaintiff

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Amber M. Samuelson (asamuelson@ancelglink.com)  
ANCEL GLINK, P.C.  
Attorneys for Plaintiff, City of Calumet City  
140 South Dearborn Street, 6th Floor  
Chicago, Illinois 60603  
P: 312-782-7606  
Attorney Code: 42783

**VERIFICATION BY CERTIFICATION**

Under penalties provided by Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the attached instruments are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
Thaddeus Jones

Subscribed and sworn to before me this 28 Day of October, 2021.

  
Notary Public



*City of Calumet City v. Nyota Figgs*

# **EXHIBIT A**



Redishred Chicago Inc.  
For Assistance Call · 708.487.1660  
Select: 3 for Sales Quote, 4 for Scheduling, 5 for Billing  
www.proshred.com/chicago/



# INVOICE 990093171

Invoice Date 8/10/2021

Terms: Due Upon Receipt

Accts Payable  
Calumet City  
204 Pulaski Rd.  
Calumet City, IL 60409

PO#: 181343

Amount Due: \$750.00

Cost Center	Building/Room	Description	Tkt	Date	Qty	Price
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Clerk's Office

Purge 96 Gallon

990134707 08/10/21

15 \$750.00

TOTAL **\$750.00**

### Certificate of Destruction

Proshred Security hereby certifies that all materials supplied to us on the above date have been confidentially and irreversibly destroyed, and the materials will be recycled.

Dear Proshred Preferred Customer: Please note, you may see a marginal price increase in November as part of an account / market review process. Thank you for trusting us as your security partner!

✂ -----  
Please detach and return this portion with your payment

Invoice# 990093171 08/10/21

100003830 Calumet City

**Amount Due: \$750.00**

Remit to:  
Proshred Security  
7700 Graphics Dr.  
Tinley Park, IL 60477

Bill to:  
Accts Payable  
Calumet City  
204 Pulaski Rd.  
Calumet City, IL 60409

*City of Calumet City v. Nyota Figgs*

# **EXHIBIT B**

Redishred Chicago Inc.  
For Assistance Call · 708.487.1660  
Select: 3 for Sales Quote, 4 for Scheduling, 5 for Billing  
www.proshred.com/chicago/



# INVOICE 990093297

Invoice Date 8/11/2021

Terms: Due Upon Receipt

Accts Payable  
Calumet City  
204 Pulaski Rd.  
Calumet City, IL 60409

PO#: 181343

Amount Due: \$650.00

Cost Center	Building/Room	Description	Tkt	Date	Qty	Price
	Clerk's Office	Purge 96 Gallon	990134878	08/11/21	13	\$650.00

TOTAL **\$650.00**

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Please detach and return this portion with your payment

Invoice# 990093297 08/11/21

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**Amount Due: \$650.00**

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