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7/23/2025 7:12 AM
Mariyana T. Spyropoulos
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COOK COUNTY, IL
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION**

KYLE HADLEY,)
)
Plaintiff,)
)
v.)
BRANDON MCGIVERN,)
)
Defendant.)
)

Case No. **2025-CH-05527**

Judge Eve M. Reilly
Courtroom 2405

**MOTION FOR ENTRY OF ORDER DEEMING ADMISSIONS UNDER
ILLINOIS SUPREME COURT RULE 216**

NOW COMES the Defendant, BRANDON MCGIVERN, pro se, and respectfully moves this Honorable Court pursuant to Illinois Supreme Court Rule 216 for entry of an order deeming all thirty (30) requests for admissions served upon Plaintiff as admitted due to Plaintiff's complete failure to respond within the time required by law, and in support thereof states as follows:

I. STATEMENT OF FACTS

1. On June 24, 2025, Defendant properly served upon Plaintiff thirty (30) Requests for Admissions pursuant to Illinois Supreme Court Rule 216. See Exhibit A (Requests for Admissions).

2. Plaintiff was represented by counsel and the requests were served upon Plaintiff's attorney, Mason Cole of Cole Sadkin, LLC, via email at mcole@colesadkin.com.

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3. Under Rule 216, Plaintiff had twenty-eight (28) days to respond to these requests, making the deadline July 22, 2025.

4. Rule 216 explicitly warns: "Failure to respond within 28 days results in deemed admissions of all requested facts."

5. As of July 22, 2025, Plaintiff has completely failed to respond to any of Defendant's thirty (30) actual requests for admissions.

II. PLAINTIFF'S FABRICATED "RESPONSE"

6. On July 2, 2025, Plaintiff filed a document titled "Plaintiff's Responses to Defendant's Requests to Admit." However, this document constitutes a complete failure to respond under Rule 216.

7. Rather than respond to Defendant's actual requests, Plaintiff fabricated ten (10) entirely different "requests" and responded to those fabricated questions instead.

8. **Complete Non-Response:** Plaintiff responded to zero (0) of Defendant's actual thirty (30) requests for admissions.

9. **Systematic Fabrication:** Plaintiff rewrote every single request he chose to address, creating fictional language that bears no resemblance to Defendant's actual requests.

III. SIDE-BY-SIDE COMPARISON OF FABRICATION

Example of Fabrication:

10. **Defendant's Actual Request No. 1:** "You operated rental businesses involving multiple properties from June 2022 to present, including your condominium and portions of 6122 N. Winthrop Avenue, Unit C, Chicago, Illinois 60660."

11. **Plaintiff's Fabricated "Request No. 1"**: "Plaintiff did not sign a written contract for the purchase of 6122 N. Winthrop Ave., Unit C."

12. These requests bear no resemblance to each other. Plaintiff completely rewrote Defendant's request and responded to his own fabricated version.

13. This pattern repeats for all ten (10) fabricated requests Plaintiff created, while completely ignoring all thirty (30) of Defendant's actual requests.

IV. PERJURIOUS RESPONSES AND FACTUAL ERRORS

14. Plaintiff's fabricated responses contain demonstrably false statements made under oath and numerous factual errors, including:

15. **Multiple Date Errors**: Plaintiff's responses contain wrong years, months, and days throughout, demonstrating careless fabrication rather than good faith responses based on actual facts.

16. **Fabricated "April 14, 2025 Agreement"**: In Plaintiff's fabricated Response No. 1, Plaintiff claims the parties "reached an agreement memorialized through written correspondence, including the April 14, 2025 purchasing terms."

17. **This is a provable lie**: No agreement was reached on April 14, 2025. The communication history shows that on April 15, 2025 - the day after this alleged "agreement" - Plaintiff sent Defendant an aggressive text message demonstrating the complete breakdown of any cooperative relationship. Plaintiff fabricated this "April 14, 2025 agreement" to support his false narrative.

18. **Property Listing Perjury**: Plaintiff's fabricated Response No. 7 claims Defendant listed the property for sale at a higher price than Plaintiff's alleged purchase price.

19. **Plaintiff's Perjurious Response:** "Denied. Defendant did not list the Property for sale until after Plaintiff had already made payments..."

20. **This is perjury:** Defendant has never listed the property for sale at any time, for any price, to anyone. In Defendant's sworn Affidavit filed June 23, 2025, Defendant stated under penalty of perjury: "I have no intention of selling the Property and intend to retain it as rental investment property generating monthly income."

21. Plaintiff and his counsel have no evidence to support either false claim because: (a) no "April 14, 2025 agreement" exists, and (b) no property listing has ever existed. These false statements were made deliberately to support Plaintiff's fabricated narrative.

V. PATTERN OF FABRICATED EVIDENCE

22. This fabrication of admission responses follows Plaintiff's pattern of creating false documents established in Defendant's pending Motion to Strike Exhibit B.

23. Just as Plaintiff fabricated Google Docs entries with false timestamps to inflate his claimed equity, Plaintiff has now fabricated admission requests to avoid addressing devastating facts about his rental arbitrage schemes, real estate professional status, and document manipulation.

24. The requests Plaintiff refused to address include the most damaging admissions that would destroy his case:

- His status as a licensed real estate agent (Request No. 21)
- His knowledge that oral real estate contracts are void under Illinois law (Request No. 22)

- His operation of rental arbitrage schemes (Requests Nos. 1-7, 17-18)
- His fabrication of court documents (Requests Nos. 24-27)

VI. LEGAL STANDARD

25. Illinois Supreme Court Rule 216(f) is clear and unambiguous: "Each matter of which an admission is requested is admitted unless, within 28 days after service of the request... the party to whom the request is directed serves upon the party requesting the admission a written answer or objection..."

26. The rule provides no exception for rewriting the opponent's requests and responding to fabricated versions.

27. Illinois courts have consistently held that substantial compliance is insufficient where a party completely fails to respond to the actual requests served. *See Kedzie & 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112 (1993).

28. "The purpose of requests for admission is to expedite trials by establishing certain facts so that they need not be proven at trial." *Bower v. Weisman*, 639 N.E.2d 532, 535 (Ill. App. 1st Dist. 1994).

VII. RULE 137 SANCTIONS WARRANTED

29. Plaintiff's fabrication of admission responses violates Illinois Supreme Court Rule 137, which prohibits presenting pleadings that are not well-grounded in fact.

30. Counsel Mason Cole signed the fabricated responses without conducting reasonable inquiry into whether they actually responded to Defendant's served requests.

31. This represents the second instance of Plaintiff fabricating evidence in this case, following his submission of falsified Google Docs entries with backdated

timestamps. This pattern of systematic misconduct warrants substantial sanctions and professional misconduct referral.

VIII. RELIEF REQUESTED

WHEREFORE, Defendant respectfully requests this Court enter an order:

A. **DEEMING ADMITTED** all thirty (30) requests for admissions served by Defendant on June 24, 2025, including but not limited to:

- Plaintiff's operation of rental arbitrage businesses (Requests 1-7)
- Plaintiff's status as a licensed Illinois real estate agent (Request 21)
- Plaintiff's knowledge that oral real estate contracts are void under Illinois law (Request 22)
- Plaintiff's fabrication of court documents (Requests 24-27)
- Plaintiff's unauthorized disposal of property (Request 28)

B. **STRIKING** Plaintiff's fabricated "responses" as procedurally invalid and made in bad faith;

C. **IMPOSING RULE 137 SANCTIONS** against Plaintiff in the amount of \$5,000 for costs and attorney fees incurred responding to fabricated documents;

D. **IMPOSING RULE 137 SANCTIONS** against Plaintiff's counsel Mason Cole in the amount of \$10,000 for filing fabricated responses without reasonable inquiry, and referring counsel to the Illinois Attorney Registration and Disciplinary Commission for professional misconduct;

E. **FINDING** that Plaintiff has committed perjury by falsely claiming under oath

that Defendant listed the property for sale;

F. For such other relief as this Court deems just and proper.

RESPECTFULLY SUBMITTED,

/s/ Brandon McGivern

Brandon McGivern, Defendant

Brandon McGivern, Pro Se
5701 N Sheridan Rd #23G
Chicago, IL 60660

Phone: [REDACTED]

Email: [REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Deemed Admissions was served upon Plaintiff's counsel by email to mcole@colesadkin.com on July 23, 2025.

/s/ Brandon McGivern

Brandon McGivern, Pro Se

PROPOSED ORDER

IT IS HEREBY ORDERED:

1. Defendant's Motion for Deemed Admissions is **GRANTED**.
2. All thirty (30) requests for admissions served by Defendant on June 24, 2025, are **DEEMED ADMITTED**.
3. Plaintiff's fabricated "responses" are **STRICKEN** as procedurally invalid.
4. Rule 137 sanctions in the amount of \$5,000 are imposed against Plaintiff Kyle Hadley.
5. Rule 137 sanctions in the amount of \$10,000 are imposed against Plaintiff's counsel Mason Cole.
6. Counsel Mason Cole is **REFERRED** to the Illinois Attorney Registration and Disciplinary Commission for professional misconduct.

ENTERED: _____

Honorable Eve M. Reilly

Circuit Judge

EXHIBIT 1

Defendant's Requests for Admissions

06/24/2025

FILED
6/24/2025 8:05 AM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025CH05527
Calendar, 7
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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION**

KYLE HADLEY,)
)
Plaintiff,)
)
v.)
BRANDON MCGIVERN,)
)
Defendant.)
)

Case No. **2025CH05527**

WARNING: If you fail to serve the response required by Rule 216 within 28 days after you are served with this document, all the facts set forth in the requests will be deemed true and all the documents described in the requests will be deemed genuine.

DEFENDANT'S REQUESTS FOR ADMISSIONS

TO: Plaintiff Kyle Hadley, by and through his attorney, Mason Cole

Pursuant to Illinois Supreme Court Rule 216, Defendant Brandon McGivern requests that Plaintiff admit or deny the following matters of fact within twenty-eight (28) days of service of this request:

INSTRUCTIONS

1. Each matter must be admitted or denied. If you cannot truthfully admit or deny a matter, you must set forth in detail the reasons why.
2. An admission in response to a request is considered conclusively established unless the court permits withdrawal or amendment.

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3. Failure to respond within 28 days results in deemed admissions of all requested facts.

REQUESTS FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: You operated rental businesses involving multiple properties from June 2022 to present, including your condominium and portions of 6122 N. Winthrop Avenue, Unit C, Chicago, Illinois 60660.

REQUEST FOR ADMISSION NO. 2: You received rental payments from tenants for occupancy of your condominium from June 2022 until its sale in October 2023.

REQUEST FOR ADMISSION NO. 3: You received rental payments from Timothy Lenihan for occupancy of a portion of the Property.

REQUEST FOR ADMISSION NO. 4: You received at least \$6,400 in rental payments from Timothy Lenihan during 2024-2025.

REQUEST FOR ADMISSION NO. 5: You have had additional roommates or tenants at the Property since August 2024 without Defendant's knowledge or consent.

REQUEST FOR ADMISSION NO. 6: You charged rental rates of approximately \$1,000 per month to occupants of the Property.

REQUEST FOR ADMISSION NO. 7: You operated simultaneous rental businesses from June 2022 to October 2023, collecting rent from your condominium tenants while paying below-market rent to Defendant.

REQUEST FOR ADMISSION NO. 8: You discovered water damage at the Property on or about January 6, 2025.

REQUEST FOR ADMISSION NO. 9: After notifying Defendant of water damage in January 2025, you failed to follow through on obtaining repair estimates despite Defendant's insurance guidance.

REQUEST FOR ADMISSION NO. 10: You ceased communication with Defendant regarding the water damage after initially reporting it, failing to provide promised repair estimates or updates on the damage status.

REQUEST FOR ADMISSION NO. 11: You concealed the ongoing status and worsening condition of the water damage from Defendant for over four months after your initial January 2025 notification.

REQUEST FOR ADMISSION NO. 12: You were waiting outside the Property when Defendant arrived on May 10, 2025, and denied Defendant access to inspect the interior of the Property.

REQUEST FOR ADMISSION NO. 13: You entered the Property through the front door after Defendant left to call police, but exited through the rear door when police officers arrived on May 10, 2025.

REQUEST FOR ADMISSION NO. 14: You allowed an unauthorized contractor to access and potentially damage the Property without notifying Defendant.

REQUEST FOR ADMISSION NO. 15: You sent text messages to Defendant on October 9, 2024 stating "Sell the house. I'll move out."

REQUEST FOR ADMISSION NO. 16: You used proceeds from your October 2023 condominium sale to purchase a vehicle rather than to purchase the Property.

REQUEST FOR ADMISSION NO. 17: You sold your condominium in October 2023.

REQUEST FOR ADMISSION NO. 18: You collected rental payments from additional roommates or tenants at the Property beyond Timothy Lenihan since August 2024.

REQUEST FOR ADMISSION NO. 19: You sent an email to Defendant on February 14, 2025 demanding return of your investment funds.

REQUEST FOR ADMISSION NO. 20: The email of February 14, 2025 constituted a repudiation of any purchase agreement.

REQUEST FOR ADMISSION NO. 21: You are a licensed real estate agent in Illinois.

REQUEST FOR ADMISSION NO. 22: As a licensed real estate agent, you know that oral real estate purchase agreements are void under Illinois law.

REQUEST FOR ADMISSION NO. 23: You have never had a written real estate purchase agreement with Defendant.

REQUEST FOR ADMISSION NO. 24: Exhibit B to your Complaint contains entries dated after January 30, 2025.

REQUEST FOR ADMISSION NO. 25: You did not have access to Defendant's equity tracking document after January 30, 2025.

REQUEST FOR ADMISSION NO. 26: You altered or fabricated portions of the equity tracking document attached as Exhibit B to your Complaint.

REQUEST FOR ADMISSION NO. 27: You changed the purchase price from \$320,000 to \$300,000 in the document attached as Exhibit B.

REQUEST FOR ADMISSION NO. 28: You disposed of functioning appliances at the Property, including a working washer and dryer, without Defendant's authorization.

REQUEST FOR ADMISSION NO. 29: You have no knowledge of any steps taken by Defendant to market or sell the Property to third parties prior to March 2025.

REQUEST FOR ADMISSION NO. 30: Your pattern of operating rental businesses while living at below-market rent demonstrates you intended to profit from rental arbitrage rather than purchase the Property.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Requests for Admissions was served upon Plaintiff's counsel by email to mcole@colesadkin.com on June 24, 2025.

RESPECTFULLY SUBMITTED,

/s/ Brandon McGivern

Brandon McGivern, Defendant

Brandon McGivern, Pro Se
5701 N Sheridan Rd #23G
Chicago, IL 60660

Phone: [REDACTED]
Email: [REDACTED]

EXHIBIT 2

Plaintiff's Responses to Defendant's Requests to Admit

07/03/2025

Response: Denied. Plaintiff made multiple payments toward the purchase, including payments made in March and April 2025, which are documented through communications and acknowledged by Defendant.

3. Admit that Plaintiff failed to vacate the Property after receiving the May 16, 2025 60-day notice.

Response: Admitted in part. Plaintiff remained in possession of the Property, but disputes that the May 16, 2025 notice was valid in light of the parties' ongoing purchase agreement and Plaintiff's reliance and performance thereunder.

4. Admit that Plaintiff has no recorded interest in the Property with the Cook County Recorder of Deeds.

Response: Admitted.

5. Admit that Defendant Brandon McGivern initiated Case No. 25-M1-707919 in the Cook County Law Division against Plaintiff for eviction.

Response: Admitted, though Plaintiff asserts that the filing was retaliatory and in bad faith.

6. Admit that Defendant's Emergency Motions filed in this case sought possession or access to the Property.

Response: Admitted.

7. Admit that the subject Property was listed for sale in January 2025 for a price higher than the price Plaintiff alleges in his Complaint.

Response: Denied. Defendant did not list the Property for sale until after Plaintiff had already made payments and performed in furtherance of their agreement. Any later pricing does not alter the parties' prior understanding.

8. Admit that no deed was executed by Defendant in favor of Plaintiff.

Response: Admitted.

9. Admit that Plaintiff continued to occupy the Property without paying rent from May 2025 to July 2025.

Response: Denied. Plaintiff continued to make payments in good faith based on the ongoing purchase arrangement. Plaintiff disputes that rent, as opposed to purchase installments, was ever owed.

10. Admit that Defendant never cashed a check tendered by Plaintiff on or around June 1, 2025.

Response: Admitted.

Respectfully submitted,

KYLE HADLEY

By: /s/Mason Cole

Cole Sadkin, LLC
1652 W. Belmont
Chicago, Illinois 60657
(312) 548-8610
mcole@colesadkin.com
Cook County Attorney No. 49001
Counsel for Plaintiff

eSignature Details

Signer ID: jUwgVC11ashVJgqGDEeCBRpU
Signed by: Kyle Hadley
Sent to email: kylewhadley@gmail.com
IP Address: 172.224.237.254
Signed at: Jul 2 2025, 5:12 pm CDT