

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

<b>KYLE HADLEY,</b>	)		
	)		
<i>Plaintiff,</i>	)		
	)		
v.	)	Case No.	2025-CH-05527
	)		
<b>BRANDON MCGIVERN,</b>	)	Judge	Eve M. Reilly
	)		
<i>Defendant.</i>	)	Courtroom	2405

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR  
SANCTIONS**

NOW COMES Plaintiff, KYLE HADLEY (“Plaintiff”), by and through his undersigned counsel, Cole Sadkin, LLC, and for his Response in Opposition to Defendant BRANDON MCGIVERN’s (“Defendant”) Motion for Sanctions pursuant to Illinois Supreme Court Rule 137, states as follows:

**I. INTRODUCTION**

1. Defendant’s Motion for Sanctions is premised on a fundamental misreading of the law. He contends that because the Court granted his Motion to Deem Facts Admitted on September 29, 2025, Plaintiff’s Complaint must now be viewed as containing “knowingly false” allegations. That conclusion is legally untenable. A ruling deeming facts admitted under Rule 216 is a discovery consequence, not an adjudication of falsity or bad faith, and it does not retroactively convert any allegations into misconduct.

2. Rule 137 sanctions require proof that a pleading was filed without reasonable inquiry and with knowledge of its falsity at the time of signing. Defendant offers no such

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evidence. Plaintiff's allegations regarding the \$30,000 in payments and \$9,000 in property improvements were supported by invoices, correspondence, and contemporaneous records long before the discovery order. A later procedural ruling cannot rewrite the factual basis or good-faith belief underlying the original pleading.

3. Defendant's motion therefore confuses adverse procedural outcomes with intentional wrongdoing. Illinois courts have repeatedly held that sanctions cannot be used to punish parties merely for maintaining disputed positions or losing motions. *See Prairie Surgicare, LLC v. Encompass Specialty Network, LLC*, 2021 IL App (3d). Plaintiff's filings were grounded in evidence and advocacy, not misrepresentation or deceit.

4. Moreover, Defendant's request is cumulative and abusive. The Court has already exercised discretion by deeming certain facts admitted—effectively a built-in sanction. To impose additional penalties now would punish Plaintiff twice for the same conduct and would chill legitimate advocacy. For these reasons, the Motion for Sanctions should be denied.

5. In truth, Defendant's barrage of motions—including five filed within the same thirty-day period—has created the procedural congestion he now invokes. This Motion for Sanctions is yet another attempt to multiply filings and delay substantive resolution. The Court should reject this approach and instead reaffirm that litigants who actively plead and participate are entitled to have their cases decided on the merits, not dismissed on manufactured procedural grounds.

## II. LEGAL STANDARD

8. Illinois Supreme Court Rule 137 is penal in nature and must be strictly construed. Sanctions may issue only when a pleading is filed without reasonable cause and with actual knowledge that it is false. The test is objective reasonableness at the time of filing, not the ultimate success of the pleading. See *Lewy v. Koeckritz Int'l, Inc.*, 211 Ill. App. 3d 330 (1st Dist. 1991)<sup>1</sup>.

9. A litigant acts reasonably under Rule 137 when the facts appear credible based on available information. The Rule is not intended to discourage zealous advocacy or punish a party for advancing positions later rejected by the Court. See *Technology Innovation Ctr., Inc. v. Advanced Multiuser Techs. Corp.*, 315 Ill. App. 3d 238 (2d Dist. 2000)<sup>2</sup>.

10. The moving party bears the burden of showing specific facts demonstrating bad faith. Unsupported assertions or disagreement with a pleading's content are insufficient. Absent clear proof that a party knowingly filed a false document, sanctions are improper. See *Chabraja v. Avis Rent A Car Sys., Inc.*, 192 Ill. App. 3d 1074, 140 Ill. Dec. 221, 549 N.E.2d 872 (1989)<sup>3</sup>

## IV. ARGUMENT

### A. The Court's Order Deeming Facts Admitted Does Not Render Plaintiff's Allegations Knowingly False

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<sup>1</sup>“Rule 137 is intended to prevent counsel from making assertions of fact or law without support, whether the assertions be written or oral. The test is what was reasonable under the circumstances (citations omitted)”. *Lewy* 211, II at 334.

<sup>2</sup>“Though it may be true that, subjectively, [defendants] did not act in bad faith, the standard by which a court must measure an attorney's conduct is an objective one. It is of little consequence "that an attorney 'honestly believed' his or her case was well grounded in fact or law."(citation omitted)”. *Technology Innovation*, 315 Ill. at 245.

<sup>3</sup>“It has been held that to support the granting of sanctions, the pleadings must not only be untrue and made without reasonable cause, but must relate to facts and not to conclusions of law.” *Chabraja*, 192 Ill. at 1080.

20. Defendant's central premise—that the Court's September 29, 2025 order deeming facts admitted constitutes proof of falsity—is legally baseless. Rule 216 admissions operate as a discovery mechanism; they do not determine credibility or impose retroactive findings of deceit. See *Vision Point of Sale, Inc. v. Haas*, 226 Ill. 2d 334 (2007)<sup>4</sup>.

21. When a court deems facts admitted, it enforces compliance with discovery obligations, not ethical duties. The purpose is to narrow factual disputes, not to punish or brand one party's version of events as knowingly false. Defendant's interpretation would convert every discovery sanction into an ethical indictment—an approach no Illinois authority supports.

22. Plaintiff's Complaint was filed months before the discovery order and based on the evidence available at that time. The procedural consequence of deemed admissions merely affects what facts are now established for purposes of litigation; it does not alter Plaintiff's good-faith belief or evidentiary foundation at filing.

23. Adopting Defendant's theory would create an untenable precedent: every litigant who loses a discovery motion could be accused of perjury. The law draws a bright line between procedural enforcement and punitive sanctions. Because the Court's order addressed discovery, not honesty, it cannot justify Rule 137 penalties.

#### B. Defendant Fails to Demonstrate Bad Faith or Knowing Falsity

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<sup>4</sup> "This concept is also consistent with our long-held belief that discovery is to be "utilized to 'illuminate the actual issues in the case'" (citations omitted) ..., as well as to "narrow the issues in order to expeditiously reach a disposition which fairly vindicates the rights of the parties"(citation omitted). In light of the above, we therefore disagree with defendants' assertion that Rule 216 requests to admit are not "discovery." We hold, as we did in *Bright*, that requests for admission constitute discovery." *Vision Point*, 226 Ill. at 346.

24. To impose Rule 137 sanctions, Defendant must prove that Plaintiff or counsel knowingly advanced false statements at the time of filing. He provides no affidavit, testimony, or documentary evidence meeting that standard. His motion simply re-argues factual issues already before the Court.

25. The record demonstrates the opposite of bad faith. Plaintiff relied on bank statements, payment records, and invoices contemporaneous with the alleged transactions. These materials reasonably supported the Complaint's allegations concerning partial performance and equitable ownership. *See Leoco, S.A. v. Caribe Crown, Inc.*, 212 Ill. App. 3d 640, (1991)<sup>5</sup>.

26. Disagreement about evidence is a hallmark of litigation, not a ground for sanctions. Rule 137 does not penalize losing arguments or mistaken interpretations honestly advanced. *See Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). Defendant's position would collapse that distinction and weaponize every adverse ruling into a sanctions motion.

27. Further, Defendant's failure to substantiate his allegations of bad faith underscores the frivolous nature of this motion. Without affidavits or exhibits showing intentional falsehood, the request for sanctions must fail as a matter of law. The Court should therefore deny this motion and reaffirm that factual disagreement is resolved through evidence, not punishment.

### C. The Motion Is Procedurally Defective and Seeks Duplicative Sanctions

28. Even if the Court were inclined to consider the request on its merits, the motion is procedurally defective. Defendant provides no affidavit of fees, no itemized billing, and no

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<sup>5</sup> "This rule is consistent with the underlying purpose of both Rule 11 and section 2-611, which is to sanction groundless litigation proceedings (citation omitted) ... litigant should think twice before filing sanctions motion as reflex response, since the very purpose of Rule 11 is to eliminate baseless litigation." *Leoco*, 212 Ill. at 644.

evidence supporting his claimed \$15,800 figure. Rule 137 requires a detailed factual basis before monetary sanctions can issue. See *Spiegel v. Hall*, 2020 IL App (1st).<sup>6</sup>

29. Moreover, the Court has already imposed an appropriate procedural consequence through its order deeming facts admitted. That sanction served its purpose—enforcing discovery obligations and maintaining efficiency. Piling additional Rule 137 penalties on top of that ruling would be cumulative and contrary to Illinois’ policy against double punishment.

30. Illinois courts emphasize that sanctions must be proportionate to the misconduct proven. *Lewy*, 211 Ill. App. 3d at 334. Here, there is no misconduct at all—only Defendant’s dissatisfaction with the pleadings. His motion thus seeks punishment where none is warranted and risks chilling good-faith advocacy in chancery litigation.

31. Finally, the frequency and redundancy of Defendant’s filings—motions to compel, to strike, for default, and now for sanctions—reflect procedural gamesmanship rather than legitimate grievance. The Court should deny this motion in its entirety and caution Defendant that further misuse of Rule 137 will itself invite corrective action.

#### IV. CONCLUSION

32. Defendant’s Motion for Sanctions misapprehends the law, lacks factual support, and seeks duplicative relief. The Court’s prior order deeming certain facts admitted fully addressed any procedural concerns. Because Defendant has not shown that Plaintiff’s Complaint was filed in bad faith or with knowledge of falsity, the Motion for Sanctions should be denied.

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<sup>6</sup>“Rule 137 gives the trial court authority to penalize a litigant or counsel who files a motion or pleading that (1) is false or otherwise fails to have a well-grounded factual basis, (2) is not supported by existing law, or (3) is interposed for any improper purpose (citation omitted). The trial court also has broad discretion to determine the appropriate form of the sanction depending on the circumstances.” *Spiegel*, 2020 IL App, at 78.

Dated: October 17, 2025

Respectfully Submitted,

By: /s/Mason Cole  
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