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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

**DEFENDANT'S REPLY IN SUPPORT OF MOTION FOR ENTRY OF ORDER
DEEMING ADMISSIONS UNDER ILLINOIS SUPREME COURT RULE 216**

NOW COMES the Defendant, BRANDON MCGIVERN, pro se, and for his Reply to Plaintiff's Response in Opposition to Motion for Deemed Admissions, states as follows:

INTRODUCTION

1. This case presents an unprecedented level of discovery fraud. Plaintiff Kyle Hadley, a licensed Illinois real estate agent who knows better, literally responded to zero of Defendant's 30 requests for admission. Instead, he fabricated 10 entirely different questions and answered those. This was not confusion, misunderstanding, or formatting error. This was deliberate obstruction designed to avoid admitting devastating facts.

2. The mathematical proof is irrefutable: Defendant served 30 specific requests. Plaintiff invented 10 different questions. The overlap is ZERO. Not one of Plaintiff's responses addresses any actual request served. This is not "substantial compliance," it is complete non-compliance that mocks the discovery process.

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3. Most damning: Plaintiff's Response **cannot explain** why he answered only 10 questions when 30 were served, why none match the actual requests, or how Exhibit B contains entries that Google Docs proves were never created. His silence confirms consciousness of guilt.

ARGUMENT

I. PLAINTIFF'S JULY 3 RESPONSES WERE NOT "TIMELY,"

THEY WERE NON-EXISTENT

4. Plaintiff claims he "timely responded" on July 3, 2025. This is categorically false. Under Illinois Supreme Court Rule 216, to "respond" means to answer the actual requests served, not to fabricate entirely different questions. See *Kedzie & 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 120 (1993) (party must respond to actual requests, not imaginary ones).

5. The evidence is mathematical and undisputed:

- (a) 30 requests served by Defendant
- (b) 10 fabricated questions created by Plaintiff
- (c) 0 actual requests answered
- (d) 100% non-compliance rate

6. Consider these stark comparisons proving deliberate fabrication:

Request No. 1

- **Defendant's Actual Request:** "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."

- **Plaintiff's Fabrication:** "Admit that Plaintiff did not sign a written contract for the purchase of 6122 N. Winthrop Ave., Unit C."

- **Analysis:** These bear no resemblance whatsoever. One asks about rental operations; the other denies a written contract. This is not paraphrasing, it is wholesale invention.

Request No. 21

- **Defendant's Actual Request:** "You are a licensed real estate agent in Illinois."

- **Plaintiff's Response:** [NONE - completely ignored]

- **Analysis:** Plaintiff deliberately avoided this request because admitting his professional status would confirm he knew oral real estate contracts are void.

7. This pattern reveals strategic intent. Plaintiff systematically avoided every damaging admission:

(a) Requests 1-7 (rental arbitrage operations): AVOIDED

(b) Request 8-11 (water damage concealment): AVOIDED

(c) Request 21 (real estate license): AVOIDED

(d) Request 22 (knowledge of Statute of Frauds): AVOIDED

(e) Requests 24-27 (Exhibit B fabrication): AVOIDED

(f) Request 28 (unauthorized disposal): AVOIDED

8. Instead, Plaintiff created softball questions he could deny without consequence. This was calculated obstruction, not error.

**II. NO ILLINOIS CASE HAS EVER PERMITTED COMPLETELY
FABRICATED RESPONSES**

9. Plaintiff cites *Vision Point of Sale, Inc. v. Haas*, 226 Ill. 2d 334 (2007) and *Bright v. Dicke*, 166 Ill. 2d 204 (1995) for the proposition that courts should permit late or amended responses. These cases are completely inapposite:

- (a) *Vision Point* involved late responses, not fabricated ones
- (b) *Bright* concerned inadequate responses, not invented ones
- (c) Neither case involved a party creating fictional requests

10. Defendant's research reveals **no Illinois case** where a party completely fabricated different requests and escaped sanctions. This conduct is so egregious it appears unprecedented in Illinois jurisprudence.

11. In fact, Illinois courts consistently hold that even partial non-compliance warrants deemed admissions. *Kedzie*, 156 Ill. 2d at 121 (substantial compliance insufficient where responses inadequate). If partial non-compliance triggers deemed admissions, then Plaintiff's **complete fabrication** certainly does.

12. The Illinois Supreme Court has emphasized: "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). Plaintiff's fabrication defeats this purpose entirely.

III. PLAINTIFF'S "AMENDED RESPONSES" WERE UNTIMELY AND VIOLATED COURT ORDER

13. The chronology destroys Plaintiff's argument:

- June 24, 2025: Defendant serves 30 Requests (Start of 28-day clock)
- July 3, 2025: Plaintiff files 10 fabricated responses (Complete non-compliance)
- **July 22, 2025: Rule 216 deadline expires (Admissions deemed by operation of law)**

- July 23, 2025: Defendant files Motion (Seeking judicial confirmation)
- **August 1, 2025: Court ORDERS Rule 201(k) conference (Mandatory conferral required)**
- August 13, 2025: Plaintiff files "Amended" responses (**WITHOUT ordered conference**)
- August 21, 2025: Parties forced into breakout (After Plaintiff's continued refusal)
- August 29, 2025: Plaintiff falsely claims violation (Projection of his own misconduct)

14. Critical facts Plaintiff cannot dispute: (a) His August 13 amendments were filed **22 days after the deadline** (b) He violated the Court's **direct order** to confer before amending (c) He filed amendments **unilaterally** without the ordered conference (d) He now claims Defendant violated Rule 201(k) when **he ignored a Court order**

15. Rule 216 does not permit unilateral time extensions. Once the deadline passed on July 22, 2025, the admissions were deemed by operation of law. See *Jackson v. Hooker*, 397 Ill. App. 3d 614, 620 (1st Dist. 2010) (deemed admissions occur automatically upon deadline).

IV. THE EXHIBIT B FABRICATION PROVES THE PATTERN

16. Plaintiff's fabrication of discovery responses follows his fabrication of Exhibit B. The Google Docs version history proves mathematically the Timeline of Document Access:

- (a) August 19, 2024, 2:44 PM: Defendant's last edit
- (b) **Zero edits between August 19, 2024 and February 14, 2025**

(c) January 30, 2025, 12:45 PM: Access revoked

(d) February 14, 2025, 5:52 PM: First edit after revocation

17. Yet Exhibit B contains entries for September 2024 through May 2025. These entries are physically impossible because: (a) The data was never entered (zero edits) (b) Plaintiff lost access before the dates shown (c) The entries literally never existed

18. Additionally, Plaintiff changed the purchase price from \$320,000 to \$300,000, a \$20,000 manipulation designed to inflate his equity claim by falsely increasing his percentage from 11.5% to 12.3%.

19. This pattern of fabrication spans:

- **Original Complaint:** False allegations and misrepresentations
- **Exhibit B:** Backdated entries, impossible timestamps, manipulated price
- **Interrogatory Responses:** THREE contradictory versions (two under oath)
- **Document Production:** THREE different versions with material inconsistencies
- **Admission Responses:** Completely fabricated questions
- **Amended Responses:** Filed in violation of Court order

V. RULE 201(k) DOES NOT APPLY TO FABRICATION

20. Plaintiff argues Defendant should have "conferred" about the fabricated responses. This fundamentally misunderstands Rule 201(k)'s purpose. The rule exists to resolve legitimate disputes about scope, privilege, or burden; not to negotiate whether a party can invent different questions.

21. What would such a conference have accomplished?

- **Defendant:** "You answered 10 made-up questions instead of my 30 actual

requests."

- **Plaintiff:** "We think that's sufficient."
- **Result:** Impasse requiring judicial intervention

22. No conference could transform fabricated responses into legitimate ones. As the court noted in *Shimanovsky v. General Motors Corp.*, 181 Ill. 2d 112, 120 (1998), "meet and confer requirements do not apply to willful misconduct."

VI. THE UNANSWERED QUESTIONS PROVE CONSCIOUSNESS OF GUILT

23. Plaintiff's Response conspicuously **fails to answer** these dispositive questions:

- (a) Why did Plaintiff respond to only **10 questions when 30 were served**?
- (b) Why do **NONE** of Plaintiff's responses match Defendant's actual requests?
- (c) How do entries exist in Exhibit B **after August 19, 2024** when Google Docs shows **zero edits**?
- (d) How did Plaintiff access data **after January 30, 2025** when access was **revoked**?
- (e) Why did Plaintiff change the purchase price from **\$320,000** to **\$300,000**?
- (f) Why did Plaintiff **avoid every request** about his real estate license?
- (g) Which of his **three contradictory discovery** versions does Plaintiff claim is true?

24. The silence is deafening. These questions have no innocent explanation, which is why Plaintiff cannot answer them.

VII. MAXIMUM SANCTIONS ARE WARRANTED

25. This Court faces systematic fraud upon the judicial process. This is not Plaintiff's first, second, or third fabrication, it is at least his sixth documented instance:

- (a) **Original Complaint:** False allegations, (Filed under oath)
- (b) **Exhibit B:** Backdated entries, wrong price, (Attached to Complaint)
- (c) **Interrogatories v.1:** First version, (Signed under oath)
- (d) **Interrogatories v.2:** Contradicts v.1, (Signed under oath)
- (e) **Document Production:** Three versions, (Material inconsistencies)
- (f) **Admission Responses:** 10 invented questions, (Signed verification)

26. Mason Cole has now signed **multiple contradictory statements under penalty of perjury**. He either: (a) Failed to read what he signed (gross negligence) (b) Knowingly signed false statements (fraud) (c) Permitted systematic fabrication (Rule 137 violation)

27. Illinois Supreme Court Rule 137 requires pleadings be "well grounded in fact" after "reasonable inquiry." *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998). Cole's signature on completely fabricated responses violates both requirements.

28. The prejudice to Defendant is severe and ongoing: (a) Forced to respond to fabricated evidence (b) Incurred costs addressing serial fabrications (c) Cannot prepare for trial with shifting "facts" (d) Denied basic discovery rights

29. Conversely, there is **no prejudice** to Plaintiff from deeming the admissions. He had 28 days to respond properly. He chose fabrication. The consequences are entirely self-inflicted.

30. Illinois courts have dismissed cases for less egregious discovery misconduct.

See *Shimanovsky*, 181 Ill. 2d at 123 (dismissal appropriate for discovery abuse); *People v. Garnett*, 2021 IL App (1st) 180390 (striking all versions when party files contradictory sworn statements).

RELIEF REQUESTED

WHEREFORE, Defendant respectfully requests this Court:

DEEM ADMITTED all thirty (30) requests for admissions served June 24, 2025, including but not limited to:

- Plaintiff's operation of rental arbitrage businesses (Requests 1-7)
- Plaintiff's concealment of water damage for 5 months (Requests 8-11)
- Plaintiff's status as licensed real estate agent (Request 21)
- Plaintiff's knowledge that oral real estate contracts are void (Request 22)
- Plaintiff's fabrication of court documents (Requests 24-27)
- Plaintiff's unauthorized disposal of property (Request 28)

STRIKE Plaintiff's July 3 and August 13 responses as fraudulent, untimely, and filed in violation of Court order;

IMPOSE Rule 137 sanctions against Plaintiff in the amount of **\$10,000** for costs and attorney fees incurred responding to fabricated documents;

IMPOSE Rule 137 sanctions against Mason Cole in the amount of **\$15,000** for signing fabricated responses without reasonable inquiry and violating Court orders;

REFER Mason Cole to the Attorney Registration and Disciplinary Commission for:

- (a) Filing fabricated discovery responses
- (b) Signing contradictory statements under oath

(c) Violating Rule 137 certification requirements

(d) Ignoring Court orders

DISMISS Plaintiff's Complaint with prejudice as sanction for fraud upon the court;

GRANT such other relief as this Court deems just and proper.

CONCLUSION

This Court should not countenance Plaintiff's unprecedented discovery fraud. He cannot explain why he answered 10 fictional questions instead of 30 actual ones. He cannot explain how Exhibit B contains entries that Google Docs proves never existed. He cannot explain why three different "truths" exist under oath.

Most revealing: Plaintiff never denies the fabrication, he merely argues procedural technicalities to excuse it. But deliberately falsifying discovery responses is not excusable under any procedural rule. It is fraud. It is sanctionable. And where, as here, the pattern extends across six separate documents, it warrants the harshest consequences.

As a licensed real estate agent, Plaintiff knew oral contracts for real estate are void. He knew concealing water damage violated his duties. He knew fabricating evidence was fraud. Yet he did all three, believing his professional knowledge would help him game the system. This Court should prove him wrong.

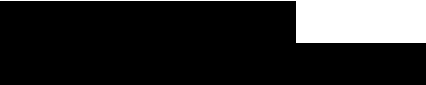
The discovery process depends on good faith. When a party systematically fabricates responses, signs contradictory statements under oath, and violates Court orders, the integrity of the judicial system demands accountability. The requests must be deemed admitted. Sanctions must be imposed. Counsel must face discipline. Justice requires nothing less.

RESPECTFULLY SUBMITTED,

/s/ Brandon McGivern

Brandon McGivern, Defendant

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



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply to Plaintiff's Response in Opposition to Motion for Deemed Admissions was served upon Plaintiff's counsel by email to mcole@colesadkin.com on September 12, 2025.

/s/ Brandon McGivern

Brandon McGivern, Pro Se

EXHIBIT A

COMPARISON CHART OF FABRICATION

COMPARISON CHART OF FABRICATION

Request Number	Defendant's Actual Request (served June 24, 2025)	Plaintiff's Fabricated Version (responses filed July 3, 2025)
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.	Admit that Plaintiff did not sign a written contract for the purchase of 6122 N. Winthrop Ave., Unit C.
2	You received rental payments from tenants for occupancy of your condominium from June 2022 until its sale in October 2023.	Admit that Plaintiff did not make any payments toward the purchase of the Property.
3	You received rental payments from Timothy Lenihan for occupancy of a portion of the Property.	Admit that Plaintiff failed to vacate the Property after receiving the May 16, 2025 60-day notice.
4	You received at least \$6,400 in rental payments from Timothy Lenihan during 2024-2025.	Admit that Plaintiff has no recorded interest in the Property with the Cook County Recorder of Deeds.
5	You have had additional roommates or tenants at the Property since August 2024 without Defendant's knowledge or consent.	Admit that Defendant Brandon McGivern initiated Case No. 25-M1-707919 in the Cook County Law Division against Plaintiff for eviction.
6	You charged rental rates of approximately \$1,000 per month to occupants of the Property.	Admit that Defendant's Emergency Motions filed in this case sought possession or access to the Property.
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.	Admit that the subject Property was listed for sale in January 2025 for a price higher than the price Plaintiff alleges in his Complaint.
8	You discovered water damage at the Property on or about January 6, 2025.	Admit that no deed was executed by Defendant in favor of Plaintiff.
9	After notifying Defendant of water damage in January 2025, you failed to follow through on obtaining repair estimates despite Defendant's insurance guidance.	Admit that Plaintiff continued to occupy the Property without paying rent from May 2025 to July 2025.

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.	Admit that Defendant never cashed a check tendered by Plaintiff on or around June 1, 2025.
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.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
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.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
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.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
14	You allowed an unauthorized contractor to access and potentially damage the Property without notifying Defendant.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
15	You sent text messages to Defendant on October 9, 2024 stating "Sell the house. I'll move out."	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
16	You used proceeds from your October 2023 condominium sale to purchase a vehicle rather than to purchase the Property.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
17	You sold your condominium in October 2023.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
18	You collected rental payments from additional roommates or tenants at the Property beyond Timothy Lenihan since August 2024.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
19	You sent an email to Defendant on February 14, 2025 demanding return of your investment funds.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
20	The email of February 14, 2025 constituted a repudiation of any purchase agreement.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
21	You are a licensed real estate agent in Illinois.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
22	As a licensed real estate agent, you know that oral	<i>[BLANK - PLAINTIFF PROVIDED NO</i>

	real estate purchase agreements are void under Illinois law.	<i>RESPONSE OF ANY KIND]</i>
23	You have never had a written real estate purchase agreement with Defendant.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
24	Exhibit B to your Complaint contains entries dated after January 30, 2025.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
25	You did not have access to Defendant's equity tracking document after January 30, 2025.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
26	You altered or fabricated portions of the equity tracking document attached as Exhibit B to your Complaint.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
27	You changed the purchase price from \$320,000 to \$300,000 in the document attached as Exhibit B.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
28	You disposed of functioning appliances at the Property, including a working washer and dryer, without Defendant's authorization.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
29	You have no knowledge of any steps taken by Defendant to market or sell the Property to third parties prior to March 2025.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>
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.	<i>[BLANK - PLAINTIFF PROVIDED NO RESPONSE OF ANY KIND]</i>

SUMMARY

Total Requests Served: 30

Fabricated Responses: 10 (NONE matching actual requests)

Actual Requests Ignored: 30

Compliance Rate: 0%