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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION

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

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS

NOW COMES Defendant, BRANDON MCGIVERN, pro se, and respectfully moves this Court pursuant to 735 ILCS 5/2-615(e) for entry of Judgment on the Pleadings in favor of Defendant and against Plaintiff on all counts of Plaintiff's Complaint, and in support thereof states:

I. INTRODUCTION

1. On September 29, 2025, this Court granted Defendant's Motion for Entry of Order Deeming Admissions and deemed all thirty (30) Requests for Admission admitted by Plaintiff. These judicial admissions, combined with Plaintiff's own Complaint, establish as a matter of law that Plaintiff has no valid claim to the subject property and that judgment must enter for Defendant.
2. Plaintiff, a licensed real estate professional, has admitted he pursued claims he knew were legally impossible under Illinois law. No genuine issue of material fact exists based on the pleadings, and Defendant is entitled to judgment as a matter of law.

II. STANDARD FOR JUDGMENT ON THE PLEADINGS

3. A motion for judgment on the pleadings under Section 2-615(e) tests whether the pleadings disclose any material issue of fact and, if not, whether the moving party is entitled to judgment as a matter of law. The Court considers only the complaint, answer, and matters of record including judicial admissions. *Bank & Trust Co. v. Arnold N. May*, 413 N.E.2d 183 (2d Dist. 1980).

4. Deemed admissions under Rule 216 constitute judicial admissions that conclusively establish the admitted facts and withdraw them from contention. *Rakowski v. Lucente*, 104 Ill. 2d 317, 323 (1984).

III. THE DEEMED ADMISSIONS ESTABLISH DEFENDANT'S OWNERSHIP

5. The following deemed admissions conclusively establish that Defendant is the sole owner of the property and Plaintiff has no valid claim:

A. Plaintiff's Professional Knowledge Defeats His Claims

6. **Admission #21:** Plaintiff admits he is a licensed real estate agent in Illinois.

7. **Admission #22:** Plaintiff admits that as a licensed real estate agent, he knows that oral real estate purchase agreements are void under Illinois law.

8. **Admission #23:** Plaintiff admits he has never had a written real estate purchase agreement with Defendant.

9. These three admissions alone are dispositive. Plaintiff, as a licensed professional with knowledge of the law, pursued claims he knew were legally impossible. No court can enforce an oral real estate agreement that both parties acknowledge is void under the Statute of Frauds, 740 ILCS 80/2.

B. Plaintiff Admits Defendant's Sole Ownership

10. **Plaintiff's Complaint, Paragraph 6:** Plaintiff admits Defendant is the "record titleholder" of the property. This judicial admission in the pleadings confirms Defendant's legal ownership.

11. **Admission #29:** Plaintiff admits he has no knowledge of any steps taken by Defendant to market or sell the Property to third parties prior to March 2025, confirming Defendant maintained sole control over the property.

C. Plaintiff Repudiated Any Claimed Interest

12. **Admission #15:** Plaintiff admits that he sent text messages to Defendant on October 9, 2024 stating "Sell the house. I'll move out."

13. **Admission #16:** Plaintiff admits he used proceeds from his October 2023 condominium sale to purchase a vehicle rather than to purchase the Property.

14. **Admission #19:** Plaintiff admits he sent an email to Defendant on February 14, 2025 demanding return of his investment funds.

15. **Admission #20:** Plaintiff admits the email of February 14, 2025 constituted a repudiation of any purchase agreement.

16. These admissions establish Plaintiff himself characterized his contribution as an "investment" to be returned, not as creating ownership, and that he abandoned any claimed ownership interest months before filing this action.

D. Plaintiff's Own Exhibits Confirm No Ownership Interest

17. **Plaintiff's Exhibit A to Complaint:** In his March 4, 2025 email attached as Exhibit A to his own Complaint, Plaintiff states "Your arbitrary deadline is not binding" and accuses Defendant of using "manipulative tactic[s]," demonstrating his refusal to

engage in good faith negotiations.

18. **Plaintiff's February 14, 2025 Communication:** As referenced in Plaintiff's Complaint, Plaintiff admitted in writing that "It does not appear I will be able to do that in the next 4 months" regarding obtaining financing, and demanded "return [of] the \$30,000 plus cost of air conditioner and washer/dryer, for a total reimbursement of 40,217," characterizing his contributions as investments to be returned, not ownership payments.

19. **Plaintiff's Complaint Paragraph 8:** Plaintiff admits the alleged agreement was only "verbal" and for \$320,000.

20. **Plaintiff's Complaint Paragraph 10:** Plaintiff characterizes his \$30,000 as "payments" not as the purchase price for the property.

21. These exhibits and admissions from Plaintiff's own Complaint confirm he viewed himself as an investor seeking return of funds, not an owner seeking to enforce a purchase agreement.

D. Plaintiff Operated as Tenant, Not Owner

22. **Admission #30:** Plaintiff admits his pattern of operating rental businesses while living at below-market rent demonstrates he intended to profit from rental arbitrage rather than purchase the Property.

23. **Admission #3:** Plaintiff admits he received rental payments from Timothy Lenihan for occupancy of a portion of the Property.

24. **Admission #18:** Plaintiff admits he collected rental payments from additional roommates or tenants at the Property beyond Timothy Lenihan since August 2024.

25. **Admission #11:** Plaintiff admits he concealed the ongoing status and worsening condition of water damage from Defendant for over four months after his

initial January 2025 notification.

26. These admissions establish Plaintiff operated as a tenant subletting for profit, not as an owner maintaining the property.

IV. PLAINTIFF'S CLAIMS FAIL AS A MATTER OF LAW

A. The Statute of Frauds Bars All Claims

27. Illinois's Statute of Frauds, 740 ILCS 80/2, provides: "No action shall be brought... upon any contract for the sale of lands... unless such contract or some memorandum or note thereof shall be in writing, and signed by the party to be charged."

28. Plaintiff's admissions establish:

- He has no written real estate purchase agreement (Admission #23)
- He knows oral real estate purchase agreements are void (Admission #22)
- He is a licensed professional bound by this knowledge (Admission #21)

29. Every claim in Plaintiff's Complaint seeks to enforce an admitted oral agreement for an interest in real estate. The Statute of Frauds bars each claim as a matter of law.

B. Unjust Enrichment Cannot Circumvent the Statute of Frauds

30. Illinois law is clear that unjust enrichment cannot be used to circumvent the Statute of Frauds for real estate transactions. *Landmark Properties, Inc. v. Architects Int'l-Chicago*, 172 Ill. App. 3d 379, 386 (2d Dist. 1988).

31. Even accepting Plaintiff's allegation that he contributed funds toward the property, such contributions without a written agreement cannot create an ownership interest in real estate. At most, they create a creditor-debtor relationship. *Ceres Illinois*,

Inc. v. Illinois Scrap Processing, Inc., 114 Ill. 2d 133, 147 (1986).

32. Plaintiff cannot use equitable theories to achieve what the law expressly prohibits, enforcement of an oral agreement for an interest in real estate.

C. Professional Knowledge Creates Judicial Estoppel

33. As a licensed real estate agent, Plaintiff is charged with knowledge of the Statute of Frauds. His pursuit of claims he professionally knows are legally void constitutes bad faith litigation.

34. Courts have consistently held that real estate professionals cannot claim ignorance of basic real property law. *Century 21 Castles by King v. Meachum*, 2013 IL App (1st) 122094.

35. Plaintiff's claimed investment of funds, even if proven, cannot create what the law prohibits - an ownership interest in real estate without a written agreement.

V. PLAINTIFF'S MISCONDUCT CONFIRMS LACK OF MERIT

36. **Admission #26:** Plaintiff admits he altered or fabricated portions of the equity tracking document attached as Exhibit B to his Complaint.

37. **Admission #27:** Plaintiff admits he changed the purchase price from \$320,000 to \$300,000 in the document attached as Exhibit B.

38. **Admission #24:** Plaintiff admits Exhibit B to his Complaint contains entries dated after January 30, 2025.

39. **Admission #25:** Plaintiff admits he did not have access to Defendant's equity tracking document after January 30, 2025.

40. On September 29, 2025, this Court granted Defendant's Motion to Strike Exhibit B as Fabricated Evidence and for Rule 137 Sanctions, removing Plaintiff's

fabricated exhibit from the pleadings.

41. A party who fabricates evidence to support claims demonstrates the absence of legitimate claims. The Court's finding of fabrication and imposition of sanctions confirms the lack of merit to Plaintiff's case.

VI. NO MATERIAL FACTS REMAIN IN DISPUTE

42. Based solely on the pleadings and deemed admissions, the following facts are established:

- Defendant is the record titleholder (Complaint ¶6)
- Plaintiff has no written agreement for any ownership interest (Admission #23)
- Plaintiff knows oral real estate agreements are void (Admission #22)
- Plaintiff is a licensed real estate professional (Admission #21)
- Plaintiff repudiated any claimed interest (Admissions #15, #19, #20)
- Plaintiff fabricated evidence to support his claims (Admissions #26, #27)

43. Even accepting as true Plaintiff's allegation that he contributed funds to the property, this does not create a material fact issue because the Statute of Frauds bars any claim to ownership based on oral agreements, regardless of consideration paid.

44. These undisputed facts require judgment for Defendant as a matter of law.

VII. PLAINTIFF'S COMPLAINT MUST BE DISMISSED WITH PREJUDICE

45. Each count of Plaintiff's Complaint fails based on his own admissions:

- **Count I (Breach of Contract):** No written contract exists (Admission #23); oral contracts for real estate are void

- **Count II (Unjust Enrichment):** Cannot circumvent Statute of Frauds; any funds provided without written agreement create at most a debt, not ownership
- **Count III (Breach of Fiduciary Duty):** No fiduciary relationship exists between record owner and person with no written ownership agreement
- **Count IV (Constructive Trust):** Cannot impose trust to enforce void oral agreement for real estate

46. Dismissal must be with prejudice as amendment cannot cure the fundamental defect, Plaintiff's admitted lack of any written agreement for an interest in real estate.

VIII. CONCLUSION

47. Plaintiff Kyle Hadley, a licensed real estate professional, filed this action seeking to enforce an oral agreement he admits does not exist in writing and which he knows is void under Illinois law. His judicial admissions establish Defendant's sole ownership of the property and the legal impossibility of Plaintiff's claims.

48. The fact that Plaintiff may have contributed funds to the property is legally irrelevant when he admits having no written agreement for any ownership interest. Illinois law is clear: monetary contributions without a written agreement cannot create ownership rights in real estate.

49. No factual disputes exist based on the pleadings. The law requires judgment for Defendant.

WHEREFORE, Defendant BRANDON MCGIVERN respectfully requests this Court:

- A. Enter Judgment on the Pleadings in favor of Defendant and against Plaintiff on all counts;
- B. Dismiss Plaintiff's Complaint with prejudice;
- C. Find that Defendant is the sole owner of 6122 N. Winthrop Ave, Unit C, Chicago, Illinois;
- D. Award Defendant costs and fees pursuant to the Court's September 29, 2025 sanctions order;
- E. Grant such other relief as this Court deems just and equitable.

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 **Motion for Judgment on the Pleadings** was served upon Plaintiff's counsel by email to mcole@colesadkin.com on September 30, 2025.

/s/ Brandon McGivern

Brandon McGivern, Pro Se

EXHIBIT A

September 29, 2025 Order

(finding fabricated evidence and deeming 30 admissions admitted)

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

KYLE HADLEY,

Plaintiff,

v.

BRANDON MCGIVERN,

Defendant.

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Case No. 2025-CH-05527

Judge Eve M. Reilly

Courtroom 2405

September 29, 2025 Agreed Order

Plaintiff's counsel and *pro se* Defendant appeared for oral arguments on:

1. Defendant's Motion to Strike Exhibit B As Fabricated Evidence and for Rule 137 Sanctions;
2. Plaintiff's Motion to Strike Defendant's Affirmative Defenses; and
3. Defendant's Motion for Entry of Order Deeming Admissions under Illinois Supreme Court Rule 216.
4. Defendant's September 2, 2025 Motion to Compel Discovery Responses and for Sanctions is entered and continued generally to be considered for briefing schedule.

IT IS HEREBY ORDERED:

1. Defendant's Motion to Strike Exhibit B As Fabricated Evidence and for Rule 137 Sanctions is **GRANTED**.
2. Defendant's Motion for Entry of Order Deeming Admissions under Illinois Supreme Court Rule 216 is **GRANTED**. All 30 facts are deemed **ADMITTED**.
3. Plaintiff's Motion to Strike Defendant's Affirmative Defenses and Defendant's

Motion to Compel Discovery Responses and for Sanctions are taken under advisement with an Order to follow in the afternoon of September 30, 2025.

4. Defendant's September 2, 2025 Motion to Compel Discovery Responses and for Sanctions is entered and continued generally to be considered for briefing schedule. Judge Reilly will issue a written order and set a new presentment date as needed.

Entered:

Prepared and Drafted by:

Brandon McGivern

[REDACTED]

[REDACTED]

Pro Se Defendant

Reviewed and Approved by:

Mason S. Cole

COLE SADKIN LLC

1652 W. Belmont Ave., Ste. 1

Chicago, Illinois 60657

T: (312) 548-8610

Firm ID: 49001

mcole@colesadkin.com

Counsel for Plaintiff

EXHIBIT B

Defendant's Requests for Admissions served June 24, 2025

(all 30 requests now deemed admitted by Court Order)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION

KYLE HADLEY,)
)
Plaintiff,)
)
v.) Case No. 2025CH05527
)
BRANDON MCGIVERN,)
)
Defendant.)
)

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.

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

