

FILED
7/22/2025 10:49 AM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
20251707919
Courtroom, 1402
33669310

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, MUNICIPAL DIVISION**

BRANDON MCGIVERN,)		
)		
<i>Plaintiff,</i>)		
)		
v.)	Case No.	2025-M1-707919
)		
KYLE HADLEY,)	Judge	Brian Porter
)		
<i>Defendant.</i>)	Courtroom	1402

DEFENDANT’S MOTION TO VACATE DEFAULT JUDGMENT AND ORDER FOR POSSESSION

NOW COMES Defendant, KYLE HADLEY, by and through his undersigned counsel, and respectfully moves this Court to vacate the default judgment and order for possession entered on July 21, 2025, pursuant to 735 ILCS 5/2-1203 and/or the Court’s inherent authority, and in support states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. This case is one of two intertwined actions involving the property located at 6122 N. Winthrop Ave., Unit C, Chicago, Illinois.
2. Defendant Hadley filed a separate action in the Chancery Division (Case No. 2025-CH-05527) asserting that he is the rightful purchaser of the property under a verbal agreement and seeking equitable relief, including a constructive trust and injunctive relief.
3. On June 26, 2025, this Court presided over a hearing where the conflict between this eviction case and the pending Chancery matter was addressed.

4. During that hearing, Judge Porter explicitly struck all motions, including the July 21 trial date, and stated on the record that the Chancery action would take precedence. *See* June 26, 2025 Order, attached as **Exhibit 1**.

5. However, following the hearing, Plaintiff submitted two conflicting proposed orders—one of which omitted any reference to the stricken trial date and was apparently entered by the clerk without objection from Plaintiff. *See* Submitted Proposed Orders, attached jointly as **Exhibit 2**.

6. Counsel for Defendant submitted the accurate competing order, and immediately notified both Chambers and opposing counsel that the trial date was struck. *See* Correspondence, attached as **Exhibit 3**.

7. Nevertheless, on July 21, 2025, Plaintiff appeared before the Court and secured a default eviction judgment, despite knowing that the trial date had been stricken and that the matter was stayed by order of this Court.

II. GROUNDS FOR VACATUR

8. The entry of judgment on July 21, 2025 was procedurally defective, as it was based on a misrepresentation of the case's procedural posture, and directly contradicts the oral rulings made by Judge Porter on June 26, 2025.

9. Plaintiff had actual notice that the trial date was no longer valid. Plaintiff's conduct in attending trial anyway and requesting default is tantamount to an *ex parte* misrepresentation.

10. A trial court retains the power to vacate any judgment obtained by mistake, inadvertence, fraud, or misconduct. *Paul v. Gerald Adelman & Assoc., Ltd.*, 223 Ill. 2d 85 (2006).

11. Courts have inherent authority to vacate orders that were entered contrary to the express rulings of the court or under circumstances that violate fair play. See *Smith v. Airoom, Inc.*, 114 Ill. 2d 209 (1986).

12. Defendant acted promptly upon learning of the improper judgment, and no prejudice will result to Plaintiff from restoring the matter to its proper status—particularly because Defendant continues to pursue his equitable ownership claims in Chancery.

REQUEST FOR RELIEF

WHEREFORE, Defendant Kyle Hadley respectfully requests that this Honorable Court:

- A. Vacate the default judgment and order for possession entered on July 21, 2025;
- B. Confirm that the trial setting was struck on June 26, 2025, consistent with the Court's oral ruling;
- C. Re-calendar this matter only upon resolution of the pending Chancery matter in Case No. 2025-CH-05527; and
- D. Grant such other and further relief as this Court deems just and appropriate.

Date: July 22, 2025

Respectfully submitted,
By: /s/ Mason Cole

Mason Cole
Cole Sadkin, LLC

1652 W. Belmont Ave., Suite 1
Chicago, IL 60657
mcole@colesadkin.com
(312) 548-8610

Counsel for Defendant

EXHIBIT 1

Counsel for Defendant

Reviewed and Approved by:

Brandon McGivern

Pro Se Plaintiff

EXHIBIT 2

EXHIBIT 3

Reviewed and Approved by:
Brandon McGivern



Pro Se Plaintiff

Counsel for Defendant

Reviewed and Approved by:

Brandon McGivern



Pro Se Plaintiff

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Subject: Re: Case # 20251707919 - McGivern v. Hadley - Courtesy Copy Trial Exhibits



Mason Cole <mcole@colesadkin.com>
to Brandon McGivern, courtorders1402

Mon, Jul 14, 4:29 PM (8 days ago)

Judge Porter previously struck this trial and all other dates.

On Mon, Jul 14, 2025 at 4:28 PM Brandon McGivern [REDACTED] wrote:

Dear Mr. Cole and Court Clerk,

Please find attached the trial exhibits for McGivern v. Hadley, Case No. 20251707919.

The exhibits were physically dropped off with the court today and received the file stamp. Attached you will find:

- PDF copy of the complete trial exhibits
- Photo of the file-stamped first page confirming today's filing

This serves as courtesy copy delivery to counsel and electronic filing confirmation to the court.

Thank you for your attention to this matter.

Best regards,

Brandon McGivern

Pro Se Plaintiff

[REDACTED]

Brandon McGivern

Web Developer / Graphic Designer

[REDACTED]

--

Sincerely,

Mason Cole

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IRS Circular 230 Disclosure: To comply with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained herein (including any attachments), unless specifically stated otherwise, is not intended or written to be used, and cannot be used, for the purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting or recommending to another party any transaction or matter herein.

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