

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION

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

**PLAINTIFF’S MOTION TO STAY SUMMARY JUDGMENT BRIEFING SCHEDULE
PURSUANT TO ILLINOIS SUPREME COURT RULE 191(b)¹**

Plaintiff Kyle Hadley, by and through his counsel, Cole Sadkin, LLC, respectfully moves this Court, pursuant to Illinois Supreme Court Rule 191(b), to stay the January 7, 2026 briefing schedule on Defendant’s Motion for Summary Judgment on Plaintiff’s Remaining Claims. In support thereof, Plaintiff states as follows:

I. INTRODUCTION

1. In or about October 2025, Plaintiff’s counsel contacted Defendant Brandon McGivern by telephone to request his availability for deposition. At that time, Defendant had five substantive motions pending and set for hearing on December 5, 2025, each raising fact-intensive issues concerning the parties’ course of dealing, alleged repudiation, claimed offsets, and Defendant’s own conduct.

¹ This Motion was previously filed on January 8, 2026 with only an affidavit from Plaintiff’s counsel as its lone exhibit. This Motion remains otherwise unchanged but includes November 5, 2025 order, January 8, 2026 order, and a corrected affidavit from Plaintiff following Judge Reilly’s denial of the prior Motion on January 26, 2026.

2. Plaintiff's counsel advised Defendant that his deposition was necessary to address those factual issues and to permit Plaintiff to meaningfully respond to the arguments advanced in Defendant's pending motions. Defendant refused to provide any deposition availability unless Plaintiff first obtained leave of Court.

3. On November 5, 2025, Plaintiff requested such leave from this Court, even though oral discovery had not yet commenced and no oral discovery deadlines had ever been set. At that hearing, this Court instructed that oral discovery was to be stayed until the Court ruled on Defendant's pending motions. See November 5, 2025 Order, attached as **Exhibit 1**.

4. The Court thereafter issued its rulings on December 22, 2025. Less than two weeks later, on January 2, 2026, Defendant filed his Motion for Summary Judgment, asserting the absence of any genuine issues of material fact. See January 7, 2025 MSJ Briefing Schedule Order, attached as **Exhibit 2**.

5. Defendant's Motion relies on factual assertions, intent-based arguments, and credibility determinations that Plaintiff has never been permitted to explore through deposition testimony. Plaintiff therefore brings this motion pursuant to Illinois Supreme Court Rule 191(b) and submits the required affidavit demonstrating that facts essential to oppose summary judgment cannot be presented absent limited discovery. See Plaintiff Kyle Hadley Affidavit in Support of this Motion to Stay, attached as **Exhibit 3**.

II. LEGAL STANDARD

6. Summary judgment is a drastic means of disposing of litigation and should be granted only where the movant's right to judgment is clear and free from doubt. See *Am. Zurich Ins. Co. v. Wilcox & Christopoulos, L.L.C.*, 2013 IL App (1st) 120402, 368 Ill. Dec. 361, 984 N.E.2d 86.

Where material facts depend on credibility, intent, or factual development, summary judgment is improper.

7. Illinois courts consistently hold that summary judgment should not proceed where discovery is incomplete and the non-moving party has not been afforded a reasonable opportunity to obtain evidence essential to oppose the motion. See *Murray v. Poani*, 2012 IL App (4th) 120059, 366 Ill. Dec. 916, 980 N.E.2d 1275. This is especially true where the lack of discovery results from circumstances beyond the non-movant's control, including court-imposed limitations.

8. Illinois Supreme Court Rule 191(b) expressly authorizes the Court to deny or continue a motion for summary judgment where the opposing party cannot present facts essential to justify its opposition. Ill. S. Ct. R. 191(b). Plaintiff submits a Rule 191(b) affidavit identifying the discovery sought, explaining why it has not previously been obtained, and demonstrating its materiality to the issues raised in Defendant's Motion for Summary Judgment.

III. ARGUMENT

9. Defendant seeks summary judgment based on factual assertions that turn on his own intent, conduct, and credibility, while Plaintiff has been procedurally barred from examining Defendant through deposition. Plaintiff acted diligently in seeking that discovery and did not waive or forfeit his right to obtain it.

10. Defendant cannot both refuse to provide deposition availability, rely on a court-ordered stay of oral discovery, and then seek dispositive relief based on purportedly undisputed facts that Plaintiff has never been permitted to test. Proceeding under these circumstances would deprive Plaintiff of a fair opportunity to present evidence and oppose summary judgment on a complete record.

11. A brief stay of the summary-judgment briefing schedule, coupled with leave to conduct Defendant's deposition, will promote judicial efficiency and ensure that the Court is presented with a fully developed factual record before ruling on dispositive relief. Plaintiff seeks no broader discovery and no unnecessary delay, only the limited discovery necessary to fairly address Defendant's Motion.

IV. CONCLUSION

WHEREFORE, allowing Plaintiff to depose Defendant within a reasonable timeframe would assist this Court to make a fully informed determination regarding the Motion for Summary Judgment that is not scheduled to be fully briefed before March 4, 2026.

Dated: January 26, 2026

Respectfully Submitted,

By: /s/Mason Cole
Attorney for the Plaintiff

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

5. On November 5, 2025, Plaintiff's counsel requested such leave from this Court on Plaintiff's behalf, notwithstanding that oral discovery had not yet commenced and no oral discovery deadlines had been set.

6. At the November 5, 2025 hearing, the Court instructed that oral discovery was to be stayed until the Court ruled on Defendant's pending motions.

7. The Court thereafter issued its rulings on December 22, 2025, and on January 2, 2026, Defendant filed his Motion for Summary Judgment.

8. Defendant's Motion for Summary Judgment relies on factual assertions, intent-based arguments, and credibility determinations concerning Defendant's understanding of the parties' arrangement, alleged repudiation, claimed offsets, and Defendant's conduct. I have conferred with Plaintiff's counsel and proffer that we need Defendant Brandon McGivern's oral testimony via deposition to fully respond to the allegations in his Motion for Summary Judgment.

9. Plaintiff has not been permitted to depose Defendant on any of these subjects and has therefore been unable to obtain testimony essential to oppose Defendant's Motion for Summary Judgment.

10. The discovery sought is limited to the deposition of Defendant Brandon McGivern, which is material and necessary to present facts essential to justify Plaintiff's opposition. Plaintiff's inability to obtain this discovery is not due to lack of diligence, but to Defendant's refusal to provide availability absent leave of Court and the Court's instruction staying oral discovery.

FURTHER AFFIANT SAYETH NOT:

Dated: January 26, 2026

EXHIBIT 1

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

November 5, 2025

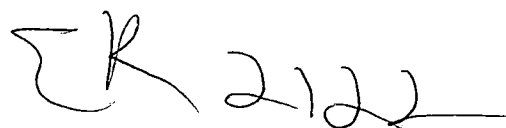
AGREED ORDER

Plaintiff's counsel and *pro se* Defendant appearing before this Court for Clerk Status.

IT IS HEREBY ORDERED:

1. On December 22, 2025 at 10:30 a.m., this Court will hear arguments on Defendant's five (5) fully briefed Motions:
 - a. Defendant's Motion for Judgment on the Pleadings;
 - b. Motion to Compel Complete Discovery Responses and for Sanctions;
 - c. Defendant's Motion for Entry of Order Specifying Rule 137 Sanctions;
 - d. Defendant's Motion for Default Judgment on Counterclaims; and
 - e. Defendant's Motion to Strike Plaintiff's Untimely Answer to Counterclaims.
2. Defendant is to submit courtesy copies of remaining fully briefed motions in advance of the Arguments on the Motions Hearing, scheduled for December 22, 2025 at 10:30a.m. Zoom Meeting ID: 943 7767 4389; Zoom Passcode: 980847.
3. The December 1, 2025 date is hereby stricken.

Dated: November 5, 2025

Entered: 

Prepared and Drafted by:

Mason Cole
Cole Sadkin, LLC
1652 W. Belmont
Chicago, Illinois 60657

Judge Eve M. Reilly

NOV 05 2025

Circuit Court-2122

(312) 548-8610
mcole@colesadkin.com
Cook County Attorney No. 49001
Counsel for Plaintiff

Reviewed and Approved by:

Brandon McGivern

[REDACTED]

Pro Se Defendant

EXHIBIT 2

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

January 7, 2026

AGREED ORDER

Plaintiff's counsel and *pro se* Defendant appearing before this Court for presentment of Defendant's Motion for Judgment on Plaintiff's Remaining Claims.

IT IS HEREBY ORDERED:

1. Plaintiff to Respond in Opposition by February 4, 2026. Defendant to Reply by February 18, 2026.
2. Defendant is to submit courtesy copies in advance of clerk's status scheduled for March 3, 2026 at 9:30a.m. Zoom Meeting ID: 943 7767 4389; Zoom Passcode: 980847.

Dated: January 7, 2026

Entered:

ER 2/22

Prepared and Drafted by:

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

Judge Eve M. Reilly

JAN 07 2026

Circuit Court-2122

Reviewed and Approved by:

Brandon McGivern

EXHIBIT 3

**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

**AFFIDAVIT OF PLAINTIFF KYLE HADLEY PURSUANT TO ILLINOIS SUPREME
COURT RULE 191(b)**

I, Kyle Hadley being first duly sworn upon oath, depose and state as follows:

1. I am the Plaintiff in this action. I have personal knowledge of the underlying facts set forth herein, and have been informed by my attorney regarding correspondence between counsel and general discovery strategy, and could competently testify thereto.

2. In or about October 2025, Plaintiff's counsel contacted Defendant Brandon McGivern by telephone to request his availability for deposition. At that time, Defendant had five substantive motions pending and set for hearing on December 5, 2025, which raised fact-intensive issues concerning the parties' course of dealing, alleged repudiation, claimed offsets, and Defendant's conduct.

3. Plaintiff's counsel advised Defendant that his deposition was necessary to address those factual issues and to permit Plaintiff to meaningfully respond to the positions advanced in Defendant's pending motions.

4. Defendant refused to provide any deposition availability unless Plaintiff first obtained leave of Court.

CERTIFICATION

Under the penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he, or she, verily believes the same to be true.

By:

Kyle adley

ID HUMMBkNVzLNXA9scLUnRMe2m

/s/ Kyle Hadley

eSignature Details

Signer ID:	HUMMBkNVzLNXA9scLUnRMe2m
Signed by:	Kyle Hadley
Sent to email:	[REDACTED]
IP Address:	67.163.36.65
Signed at:	Jan 26 2026, 4:09 pm CST