

FILED
4/16/2026 1:48 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025CH05527
Calendar, 7
37624062

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)**

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 (rescheduled on April 15, 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.
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. Plaintiff issued deposition notice on April 15, 2026 while

simultaneously issuing written discovery. *See* Plaintiff's Issued Discovery and Notice, attached jointly as **Exhibit 1**.

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. Judge Reilly previously denied the prior iteration of this Motion to Stay on January 26, 2026. *See* November 5, 2025 and January 26, 2026 Order , attached jointly as **Exhibit 2**.

4. 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 and Counsel Mason Cole Affidavit in Support of Motion to Stay, attached jointly as **Exhibit 3**.

5. Mr. McGivern is expected to testify concerning the following:

- a. The nature and terms of the alleged agreements between Plaintiff and Defendant, including whether such agreements were written, oral, or modified over time;
- b. the basis for Defendant's calculation of the amounts allegedly owed, including the methodology used to determine such amounts and whether all payments, credits, or offsets have been properly accounted for;
- c. Disputes regarding repair work or property damages alleged at the property in dispute;

- d. Whether Brand McGivern has personal knowledge of the matters set forth in his affidavit or is relying on information provided by others; and
- e. The nature of communications between the parties concerning the alleged obligations, payments, disputes, or performance.

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 the completion of written and oral discovery, 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 May 27, 2026.

Dated: April 16, 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

EXHIBIT 1

FILED
4/15/2026 2:02 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2025CH05527
Calendar, 7
37604180

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

CERTIFICATE OF SERVICE

TO: Brandon McGivern
5701 N Sheridan Rd, # 23G
Chicago, IL 60660
mcgivern219@gmail.com

The undersigned certifies that on April 15, 2026 the above-named individual(s) were served with a copy of the following:

- PLAINTIFF KYLE HADLEY’S FIRST SET OF INTERROGATORIES ISSUED TO DEFENDANT BRANDON MCGIVERN; and
- PLAINTIFF KYLE HADLEY’S FIRST SET OF REQUESTS FOR DOCUMENT PRODUCTION ISSUED TO DEFENDANT BRANDON MCGIVERN

Dated: April 15, 2026

Respectfully submitted,

/s/ Mason S Cole
One of the Attorneys for Plaintiff

COLE SADKIN LLC
Mason S. Cole
1652 W Belmont Ave, Ste 1
Chicago, IL 60657
T: (312) 548-8610
F: (312) 283-2626
Firm ID: 49001
mcole@colesadkin.com

PROOF OF SERVICE

I, Rebecca Bach, the undersigned hereby certify that on April 15, 2026 I served this notice and true and correct copies of the above documents by electronically mailing copies to the above-listed individuals.

/ s/ Rebecca Bach

**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

**PLAINTIFF KYLE HADLEY'S FIRST SET OF REQUESTS FOR DOCUMENT
PRODUCTION ISSUED TO DEFENDANT BRANDON MCGIVERN**

Plaintiff, KYLE HADLEY, by and through counsel, COLE SADKIN, LLC, pursuant to Illinois Supreme Court Rule 213 propound the following requests for document production on Defendant, BRANDON MCGIVERN, to be answered within twenty-eight (28) days of receipt hereof.

REQUESTS FOR DOCUMENT PRODUCTION

1. Please produce any and all documents relating to the facts alleged in the Complaint.

ANSWER:

2. Please produce any and all documents related to the transaction(s), or occurrence(s), or both, which are at issue in the Litigation..

ANSWER:

3. Please produce any and all documents related to communications between yourself and Plaintiff.

ANSWER:

4. Please produce any and all documents related to any agreements between Plaintiff and Defendant, including oral agreements.

ANSWER:

5. Please produce any and all documents related to all payments made by Plaintiff.

ANSWER:

6. Please produce any and all documents related to all repairs or improvements made by Plaintiff.

ANSWER:

7. Please produce any and all documents related to all alleged property damage and water damage incurred by Plaintiff.

ANSWER:

8. Please produce any and all documents related to all alleged violations or agreements between Plaintiff and Defendant.

ANSWER:

9. Please produce any and all documents related to all repair work or improvements performed by Plaintiff.

ANSWER:

10. Please produce any and all documents related to all repair work or improvements performed by Defendant.

ANSWER:

11. Please produce any and all documents related to any requests or denials for entry to the Property.

ANSWER:

12. Please produce any and all documents related to any attempts to contact the Plaintiff requesting entry or inspection of the Property.

13.

ANSWER:

14. Please produce any and all documents related to any offsets the Plaintiff is entitled to for improvements to the property.

ANSWER:

15. Please produce any and all documents related to any offers made to return funds to Plaintiff.

ANSWER:

16. Please produce any and all documents related to any attempts to return funds to Plaintiff.

ANSWER:

17. Please produce any and all documents related to any credits owed to Defendant for alleged damages to the Property.

ANSWER:

18. Please produce any and all documents related to any disagreements regarding payments received by Defendant.

ANSWER:

19. Please produce any and all documents related to any attempts to resolve this dispute with Plaintiff.

ANSWER:

20. Please produce any and all documents related to modifications to any agreements between yourself and Plaintiff

ANSWER:

21. Please produce any and all documents related to any contractors or repair people hired by Defendant to remediate alleged property damage.

ANSWER:

DATED: April 15, 2026

Respectfully submitted,

/s/ Mason S Cole
Counsel for Plaintiff

Cole Sadkin, LLC

Mason S Cole
1652 W. Belmont Ave., Ste. 1
Chicago, Illinois 60657

(312) 548-8610
Firm ID: 49001
mcole@colesadkin.com
Counsel for Plaintiff

**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

**PLAINTIFF KYLE HADLEY’S FIRST SET OF INTERROGATORIES ISSUED TO
DEFENDANT BRANDON MCGIVERN**

Plaintiff, KYLE HADLEY, by and through counsel, COLE SADKIN, LLC, pursuant to Illinois Supreme Court Rule 213 propound the following interrogatories on Defendant, BRANDON MCGIVERN, to be answered within twenty-eight (28) days of receipt hereof.

DEFINITIONS AND INSTRUCTIONS

1. “Plaintiff” refers to Plaintiff, Kyle Hadley, and all other persons or entities acting or purporting to act for or on his behalf.
2. “Defendant” refers to Defendant, Brandon McGivern, and all other persons or entities acting or purporting to act for or on his behalf.
3. “You” and “Your” refers to Defendant, Brandon McGivern, and all other persons or entities acting or purporting to act for or on his behalf.
4. “Complaint” means the Complaint for Breach of Contract and Injunctive Relief filed by Plaintiff on, May 21, 2025, in the above-captioned action.

5. “Litigation” means the above-captioned action, including without limitation all matters set forth in the Complaint, any answers, affirmative defenses, or counterclaims, and all additional pleadings, motions, discovery, affidavits, or other matter related thereto.

6. “Document” means any writing, graphic matter or other tangible thing, whether stored as an electronic file, printed, recorded, produced by any process, or written or produced by hand, including, without limitation, agreements, contracts, correspondence, memoranda, letters, reports, other written communications (as defined hereunder) and electronically stored information (as defined hereunder), correspondence, telegrams, internal and external memoranda, summaries, records of oral conversations, original or preliminary notes, diaries, calendars, analyses, projections, ledgers, work papers, photographs, tape recordings, applications, video tapes, computer hard drives or disks, statistical statements, logs, graphs, charts, schedules, notebooks, minutes or records of meetings, minutes or records of conferences, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of investigators, accountants or consultants, studies, appraisals, evaluations, or copies of any of the foregoing if the copy is in any way different from the original now in your possession, custody or control, or in the possession, custody or control of your counsel, investors, agents, employees and/or persons acting on your behalf.

7. “Communication” means any written, electronic or verbal transmission of words or thoughts between or among two or more persons, including, without limitation, any letter, electronic mail (“e-mail”), instant or text message, blog, web posting,

interview, conference, meeting, spoken words, conversation, understanding, agreement, discussion, talks and reports, whether transmitted orally, in writing or by any electronic device.

8. “Person” means a natural person or any business, company, corporation, association, partnership organization or other legal entity.

9. The terms “relating to,” “demonstrating,” and “supporting” mean having any connection, association or concern with, or any relevance, relation, pertinence or applicability to or any implication bearing on, the subject matter, whether directly or indirectly.

10. The word “and” includes the disjunctive “or,” and the word “or” includes the conjunctive “and.” Words in the singular shall be interpreted to include the plural, and words in the plural shall be interpreted to include the singular. A masculine, feminine or neuter form of a word shall be interpreted to include the other genders. The use of any tense of any verb shall be interpreted to include all other tenses.

11. As used herein, the term “identify” means:

(a) In the case of a natural person, to state:

- (i) the full name;
- (ii) the last known residence;
- (iii) the last known employer or business affiliation; and
- (iv) the last known occupation and business position or title held;

(b) In the case of any other person, to state:

- (i) the name;

- (ii) the place of incorporation or organization; and
 - (iii) the place of principal business;
- (c) In the case of a document, whether or not privilege is claimed, to state:
 - (i) the type of document (e.g., letter, memorandum, telegram, etc.);
 - (ii) the general subject matter of the document;
 - (iii) the number of pages comprising the document;
 - (iv) the present location and the identity of the custodian of the document;
 - (v) the date the document bears, if any;
 - (vi) the date the document was prepared;
 - (vii) whether the document was sent and, if so, the date it was sent; and
 - (viii) the identity of the author, originator and sender, each person who received the document (whether or not named as an addressee) and each person known to have read the document;
- (d) In the case of a communication, to state:
 - (i) the form of the communication;
 - (ii) whether the communication was in written form, and, if so, to identify the communication in the same manner that a document is to be identified; and
 - (iii) if the communication was not in written form, to so state, and to state:
 - (1) the manner in which the communication was made (telephone, conversation, etc.);
 - (2) the identity of each person who participated in or witnessed the communication;

- (3) the subject matter and content of the communication; and
- (4) the date of the communication.

12. Where a claim of privilege is asserted in responding or objecting to any discovery requested herein and information is not provided on the basis of such assertion, you shall, in your response or objection, identify the nature of the privilege (including work product) which is being claimed. When any privilege is claimed, you shall, as to the information requested:

- (a) indicate whether any documents exist; or
- (b) indicate whether any communications took place; and
- (c) provide the following information for each such document or communication in a “privilege log” or similar format:
 - (i) the type of document or communication;
 - (ii) the general subject matter of the document or communication;
 - (iii) the date of the document or communication;
 - (iv) the author(s) of the document or participants in the communication;
 - (v) the addressee(s) and any other recipient(s) of the document;
and
 - (vi) the custodian of the document, where applicable.

13. Unless otherwise indicated, the relevant time-period for these interrogatories is from January 1, 2022 to the present.

14. Plaintiff reserves the right to issue additional Interrogatories after it has reviewed Defendant’s responses to these Interrogatories.

15. These interrogatories are continuing in nature and require supplemental response if you obtain further information between the time of compliance and any hearing or trial in the case.

INTERROGATORIES

1. Identify each person with knowledge related to the Litigation, including, but not limited to, the facts alleged in the Complaint.

ANSWER:

2. To the extent that copies are not produced in response to Plaintiff's Requests for Production, identify all documents and communications related to the transaction(s), or occurrence(s), or both, which are at issue in the Litigation.

ANSWER:

3. Identify each person, which you consulted with in any manner in responding to these Interrogatories and specify for each person the specific interrogatory for which he or she provided the information.

ANSWER:

4. Identify all communications between yourself and Plaintiff.

ANSWER:

5. Describe in detail all agreements between Plaintiff and Defendant, including oral agreements.

ANSWER:

6. Describe in detail all payments made by Plaintiff.

ANSWER:

7. Describe in detail all repairs or improvements made by Plaintiff.

ANSWER:

8. Describe in detail all alleged property damage and water damage incurred by Plaintiff.

ANSWER:

9. Describe in detail all alleged violations or agreements between Plaintiff and Defendant.

ANSWER:

10. Describe in detail all repair work or improvements performed by Plaintiff.

ANSWER:

11. Describe in detail all repair work or improvements performed by Defendant.

ANSWER:

12. Describe in detail any requests or denials for entry to the Property.

ANSWER:

13. Describe in detail any attempts to contact the Plaintiff requesting entry or inspection of the Property.

14.

ANSWER:

15. Describe in detail any offsets the Plaintiff is entitled to for improvements to the property.

ANSWER:

16. Describe in detail any offers made to return funds to Plaintiff.

ANSWER:

17. Describe in detail any attempts to return funds to Plaintiff.

ANSWER:

18. Describe in detail any credits owed to Defendant for alleged damages to the Property.

ANSWER:

19. Describe in detail any disagreements regarding payments received by Defendant.

ANSWER:

20. Describe in detail any attempts to resolve this dispute with Plaintiff.

ANSWER:

21. Describe in detail modifications to any agreements between yourself and Plaintiff

ANSWER:

22. Describe in detail any contractors or repair people hired by Defendant to remediate alleged property damage.

ANSWER:

23. Provide the identities and addresses of witnesses who will testify at trial and provide the following information:

(1) *Lay Witnesses*. A “lay witness” is a person giving only fact or lay opinion testimony. For each lay witness, the party must identify the subjects on which the witness will testify.

ANSWER:

24. Provide the identities and addresses of witnesses who will testify at trial and provide the following information:

(2) *Independent Expert Witnesses*. An “independent expert witness” is a person giving expert testimony who is not the party, the party’s current employee, or the party’s retained expert. For each independent expert witness, identify the subjects on which the witness will testify and the opinions the party expects to elicit.

ANSWER:

25. Provide the identities and addresses of witnesses who will testify at trial and provide the following information:

(3) *Controlled Expert Witnesses*. A “controlled expert witness” is a person giving expert testimony who is the party, the party’s current employee, or the party’s retained expert. For each controlled expert witness, identify: (i) the subject matter on which the witness will testify; (ii) the conclusions and opinions of the witness and the bases therefor; (iii) the qualifications of the witness; and (iv) any reports prepared by the witness about the case.

ANSWER:

DATED: April 15, 2026

Respectfully submitted,

/s/ Mason S Cole
Counsel for Plaintiff

Cole Sadkin, LLC

Mason S Cole

1652 W. Belmont Ave., Ste. 1

Chicago, Illinois 60657

(312) 548-8610

Firm ID: 49001

mcole@colesadkin.com

Counsel for Plaintiff

EXHIBIT 2

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

Kyle Hadley,

Plaintiff(s),

v.

Brandon McGivern,

Defendant(s).

Case No: 2025CH05527

Calendar 7

ORDER

THIS MATTER coming before the Court, on prove-up of Defendant's Counterclaims, Plaintiff appearing through Counsel and Defendant appearing *pro se*, and the Court being fully advised on the matter. It is hereby ordered:

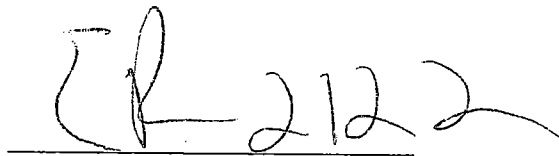
1. The Plaintiff was defaulted on the counterclaims on December 22, 2025. On January 21, 2026, Defendant filed a memorandum in support of prove-up with respect to the counterclaims. The Court takes this memorandum under advisement and will issue a written ruling in due course.
2. Additionally, this matter was previously set for presentment of Plaintiff's Motion to Stay Summary Judgment Briefing Schedule Pursuant to Illinois Supreme Court Rule 191(b) on January 23, 2026. Due to inclement weather, court was cancelled on January 23, 2026 and presentment of the motion was automatically reset to January 30, 2026. The Court has reviewed the Plaintiff's Motion to Stay Summary Judgment Briefing Schedule Pursuant to Illinois Supreme Court Rule 191(b) and it is DENIED. Rule 191(b) requires that the affidavit submitted be of a party to the case. Ill. Sup. Ct. R. 191(b). Since the affidavit provided with the motion is signed by Mason Cole as Plaintiff's Counsel rather than by Plaintiff himself, the motion must fail.
3. For the reasons stated herein the January 30, 2026 date is STRICKEN.
4. This matter remains set for clerk's status on Defendant's Motion for Judgment on the Pleadings for March 3, 2026, at 9:30 a.m. via Zoom Teleconference (Meeting ID: 943 7767 4389; Passcode; 980847; Dial-in: (312) 626-6799).

Judge Eve M. Reilly

JAN 26 2026

Circuit Court-2122

Entered:



Judge Eve M. Reilly

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

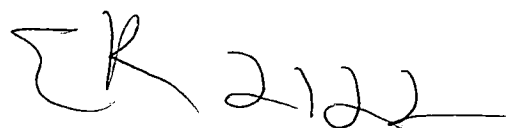
AGREED ORDER

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

Pro Se Defendant

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.

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.

10. Plaintiff is unable to present facts essential to justify their opposition to Defendant's Motion for Summary Judgment at this time, as discovery remains incomplete. Specifically, Plaintiff requires the deposition of Brandon McGivern in order to examine the factual basis for his statements and the documents referenced therein.

11. Mr. McGivern is expected to testify concerning the following:

- a. The nature and terms of the alleged agreements between Plaintiff and Defendant, including whether such agreements were written, oral, or modified over time;
- b. the basis for Defendant's calculation of the amounts allegedly owed, including the methodology used to determine such amounts and whether all payments, credits, or offsets have been properly accounted for;

- c. Disputes regarding repair work or property damages alleged at the property in dispute;
- d. Whether Brand McGivern has personal knowledge of the matters set forth in his affidavit or is relying on information provided by others; and
- e. The nature of communications between the parties concerning the alleged obligations, payments, disputes, or performance.

12. Mr. McGivern's self-serving affidavit states facts in the light most favorable to Defendant. Plaintiff has never had the opportunity 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.

12. 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.

13. Without the opportunity to conduct the foregoing depositions, Plaintiff cannot adequately test the accuracy, foundation, or admissibility of Defendant's asserted records or the conclusions set forth in Defendant's Motion for Summary Judgment.

FURTHER AFFIANT SAYETH NOT:

Dated: April 16, 2026

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 Hadley

ID Uvdex3Cuuo8Ng74YSfSmMUSb

/s/ Kyle Hadley

eSignature Details

Signer ID:	Uvdex3Cuuo8Ng74YSfSmMUSb
Signed by:	Kyle Hadley
Sent to email:	[REDACTED]
IP Address:	140.248.30.57
Signed at:	Apr 16 2026, 1:17 pm CDT

**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'S COUNSEL, MASON S. COLE, PURSUANT TO
ILLINOIS SUPREME COURT RULE 191(b)**

I, Mason S. Cole being first duly sworn upon oath, depose and state as follows:

1. I am the Plaintiff's Counsel in this action. I have knowledge of the underlying facts set forth herein 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.

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 is unable to present facts essential to justify their opposition to Defendant's Motion for Summary Judgment at this time, as discovery remains incomplete. Specifically, Plaintiff requires the deposition of Brandon McGivern in order to examine the factual basis for his statements and the documents referenced therein.

10. Mr. McGivern is expected to testify concerning the following:

- a. The nature and terms of the alleged agreements between Plaintiff and Defendant, including whether such agreements were written, oral, or modified over time;
- b. the basis for Defendant's calculation of the amounts allegedly owed, including the methodology used to determine such amounts and whether all payments, credits, or offsets have been properly accounted for;

- c. Disputes regarding repair work or property damages alleged at the property in dispute;
- d. Whether Brand McGivern has personal knowledge of the matters set forth in his affidavit or is relying on information provided by others; and
- e. The nature of communications between the parties concerning the alleged obligations, payments, disputes, or performance.

11. Mr. McGivern's self-serving affidavit states facts in the light most favorable to Defendant. Plaintiff has never had the opportunity 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.

12. 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.

13. Without the opportunity to conduct the foregoing depositions, Plaintiff cannot adequately test the accuracy, foundation, or admissibility of Defendant's asserted records or the conclusions set forth in Defendant's Motion for Summary Judgment.

FURTHER AFFIANT SAYETH NOT:

Dated: April 16, 2026

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:

Mason S Cole

/s/ Mason S Cole