

IN THE CIRCUIT COURT OF DUPAGE COUNTY
CHANCERY DEPARTMENT

Case No 2020 MR000349

MICHAEL STOLLER
GRIEVANT/PLAINTIFF/APPELLANT(s)
Leo Stoller, Christopher Stoller
V.

Illinois Department of Human Resources
Defendant/Respondents

TO: See Service List

NOTICE OF FILING

PETITIONER Christopher Stoller file his **Response to Motion to Strike Plaintiff from Complaint, Dismiss all Claims filed by him and Strike all filings signed by him with the Clerk of the Court and Cross Motion for Rule 137 Sanctions.**

/s/Christopher Stoller
P.O. Box 60645
Chicago Illinois 60660
Cns40@hotmail.com
773-746-3163

CERTIFICATE OF SERVICE

I certify that the foregoing was served upon the following party via first class mail on June 5, 2020 and electronically.

∴

/s/ Chris Stoller

Bryant Jant

Department of Human Services
100 West Randolph Street 13th Floor

Chicago, IL 60601

IN THE CIRCUIT COURT OF DUPAGE COUNTY

CHANCERY DEPARTMENT

Case No 2020 MR000349

MICHAEL STOLLER
GRIEVANT/PLAINTIFF/APPELLANT(S)
Leo Stoller, Leo Stoller
V.

Illinois Department of Human Resources
Defendant/Respondents

**Response to Motion to Strike Plaintiff from Complaint,
Dismiss all Claims filed by him and Strike all flings signed by
him with the Clerk of the Court and Cross Motion for Rule 137
Sanctions.**

NOW COMES CHRISTOPHER STOLLER in Opposition to
Appellee/Respondent's misplaced to Motion to Strike Plaintiff from Complaint,
Dismiss all Claims filed by him and Strike all flings signed by him with the
Clerk of the Court ("Motion to Strike") and Cross Motion for Rule 137
Sanctions.

, Christopher Stoller in support of his cross Motion for Rule 137 Sanctions and
ARDC Rules 8.4 c & d and states as follows:

Christopher Stoller made an attempt to request that Kawme Raoul and Brian T. Jant withdraw the offensive Motions prior to filing this Motion for Rule 137 Sanctions in order for Kawme Raoul and Brian T. Jant to take the necessary remedial action to cure their Professional Misconduct and to avoid the consequences of having a Rule 137 Sanction motion filed against them, but Kawme Raoul and Brian T. Jant refused to take the necessary remedial action to purge themselves of Rule 137 Sanctionable conduct See **Exhibit 1**

1. Christopher Stoller moves this Court for Rule 137 Sanctions against the Respondent/Appellee Illinois Department of Human Recourses (“IDHR”) and their attorneys, Kawme Raoul and Brian T. Jant for filing their frivolous, fraudulent Defendant’s Combined Motion to Strike Plaintiff Christopher Stoller from the Complaint, Dismiss all Claims filed by him and Strike all filings signed by him as a Nullity..
2. Illinois Supreme Court Rule 137 provides that the signature of an attorney or party on a pleading or motion constitutes a certificate by him that “to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and this it is not interposed for any improper purpose, such as

to harass or to cause unnecessary delay or needless increase in the court of litigation” If a pleading or motion is signed in violation of this rule, the court may impose upon the party or attorney an appropriate sanction, which may include reasonable attorney’s fees Ill. Sup. Ct R. 137.

3. The IDHR 's frivolous Motion to Strike is not well grounded in fact and is unwarranted by existing law, contains numerous misstatements of material fact and law in direct violation of ARDC 3.3(a), represents a “fraud on the Court¹ and Direct Criminal Contempt² 730 ILCS 130/3.

1 Whenever any officer of the court commits **fraud** during a proceeding in the court, he/she is engaged in "fraud upon the court". In **Bulloch v. United States**, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a

member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." **Kenner v. C.I.R.**, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶160.23.

2 Every court of law in Illinois has the inherent power to punish the parties that appear before it from misuse or abuse of legal process. In Illinois, the court has the authority to sentence those people to imprisonment. Contempt of court is behavior that opposes or defies the authority, justice, and dignity of the court. Contempt charges may be brought against parties to proceedings; lawyers or other court officers. There are two types of contempt of court recognized under Illinois law. First, a person can be guilty of civil contempt. And second, a person can be guilty of criminal contempt. If a person is guilty of criminal contempt of court, the punishment is intended to deter other people from committing the same conduct. This person must serve a sentence like any other criminal defendant. **Contempt of court under**

. Kawme Raoul and Brian T. Jant did not make a Reasonable Inquiry Into the Facts

Under this requirement, an attorney or party may be sanctioned for failure to make a reasonable inquiry into the facts and law before filing the pleading, motion or other paper. This is a vague standard. The lead case for analyzing what constitutes a "reasonable inquiry into the facts" is *Chicago Title and Trust Company v. Anderson*, 177 Ill.App.3d 615 (1st Dist. 1988). There, the Court held that a reasonable factual inquiry requires an "objective standard based on circumstances existing at the time the pleading or other legal paper was presented to the Court." 177 Ill.App.3d at 615. Both the litigant and the attorney have an affirmative duty under Rule 137 to conduct an investigation of the facts and law before filing the pleading. *Polsky v. BDO Siedman*, 293 Ill.App.3d 414 (2d Dist. 1997).

Other factors that a court may consider when deciding a 137 motion alleging a failure to conduct a reasonable inquiry into the facts

Kawme Raoul and Brian T. Jant Motion to Strike Plaintiff from Complaint, Dismiss all Claims filed by him and Strike all flings signed by him with the Clerk of the Court . Not Well Grounded In Fact

A statement is sanctionable under Rule 137 if it is not well grounded in fact. A pleading, or other paper is not well grounded in fact if an untrue statement is made without reasonable cause, *Chicago City Bank and Trust Co. v. Pick*, 235 Ill.App.3d 252 (1st Dist. 1992), or in sheer speculation. *Swanson v. Carter*, 258 Ill.App.3d 157 (2nd Dist. 1994). It is not sufficient that the attorney believed that the case was well grounded in fact or law. *Shea, Rogal & Associates, Ltd. v. Leslie Volkswagen, Inc.*, 250 Ill.App.3d 149 (1st Dist. 1993).

Illinois law is considered to be the following: any conduct committed with intent to impede, embarrass, or obstruct the court, or to derogate from the court's authority, or bring the court into disrepute. *Criminal contempt* involves behavior that assaults the dignity of the court or impairs the ability of the court to conduct its work. Direct criminal contempt is any conduct that takes place in the presence of the judge. In these cases, the judge is a witness to the contempt of court. Therefore, the judge does not have to hold trial to determine the guilt or innocence of the person who is in contempt. In situations where direct criminal contempt of court takes place, the judge is authorized to impose a sentence immediately. <http://legal-dictionary.thefreedictionary.com/Contempt+of+Court>

The Third District has clearly noted that an attorney simply is not entitled to make up facts, put them in a pleading, and then hope something remotely similar comes up at trial. *Liddle v. Cepeda*, 251 Ill.App.3d 892 (3d Dist. 1993).

D. Kawme Raoul and Brian T. Jant did not make a Reasonable Inquiry Into The Law

No clear standard has been articulated regarding sanctions for failure to make a reasonable inquiry into the law. Usually, if there is some support for the applicability of the law, courts deny sanctions requested on this basis. *Davis v. Chicago Housing Authority*, 176 Ill.App.3d 976 (1st Dist. 1988).

E. Kawme Raoul and Brian T. Jant Motion to Dismiss is Not Warranted By Existing Law

It is unnecessary to be the prevailing party in the case for the filing to be warranted by existing law. *Allcare v. Bork*, 176 Ill.App.3d 993 (1st Dist. 1988). Generally, a Plaintiff is not required to anticipate a defense to a claim. *Couri v. Korn*, supra. However, sanctions were appropriate when the Plaintiff filed an action after the statute of limitations ran when the statute was straight forward and obvious. *Wren v. Feeney*, 176 Ill.App.3d 364 (3rd Dist. 1988). But see *Derby Meadows Utility Co., Inc. v. Village of Orland Park*, 226 Ill.App.3d 195 (1st Dist. 1992) where the court denied sanctions because the affirmative defense of Statute of Frauds was not as easy to anticipate as the statute of limitations defense in *Wren*, supra.

The Third District upheld sanctions when the attorney was made aware of an affirmative defense of absolute immunity before filing and proceeded to file the action anyway. *Jurgensen v. Haslinger*, 295 Ill.App.3d 139 (3d Dist. 1998).

F. Kawme Raoul and Brian T. Jant Motion to Dismiss did not make a Good Faith Argument For Extension, Modification or Reversal of Existing Law

Sanctions will be upheld under this portion of Rule 137 only when the law is well settled. This means that the law at issue is essentially unchangeable and clearly obvious. An attorney must really make an effort to violate this section, but it can be done. See *Jurgensen*, supra, where the Court found that there could be no good faith argument for a change in firmly embedded common law dealing with the absolute immunity of a witness testifying in a judicial proceeding.

Therefore, it was not realistic to request at exception for testimony of a witness in a will contest.

G. Kawme Raoul and Brian T. Jant Motion to Dismiss was brought for an Improper Purpose

Rule 137 allows for sanctions if a pleading, motion or other paper is filed for an improper purpose, such as to harrass or to cause unnecessary delay or needless increase in the cost of litigaton. *Moody v. First National Bank of Moline*, 239 Ill.App.3d 986 (3rd Dist. 1993).

H. A hearing on the merits is unnecessary

A hearing on the merits is unnecessary because the untrue statements were made without reasonable cause which can be determined solely on the basis of the pleadings . *Century Road Builders v. Palos Heights*, 283 Ill.App.3d 527, 531 (1st Dist. 1996).

Christopher Stoller’s Memorandum in support of his Motion for Rule 137 Sanctions will be filed separately and is incorporated herein as if fully copied and attached.

WHEREFORE, Christopher Stoller requests that the **Judge** Paul Fullerton issue a Rule 137 sanction in the form of striking the Illinois Department of Human Recourses Motion to Motion to Strike Plaintiff from Complaint, Dismiss all Claims filed by him and Strike all flings signed by him with the Clerk of the Court and the Illinois Human Recourse Motion to Vacate ther Court’s May 4, 2020 Stay Order with prejudice..

MOTION TO STAY

In the alternative, to give the Plaintiff 304(a) language and to permit the Plaintiff to take an immediate appeal and to stay this case pending the Plaintiff’s appeal to the Illinois Appellate Court.

Respectfully Submitted

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Verification

Under penalties as provided by law pursuant to § 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 verily believes the same to be true.

/s/Chris Stoller 6-4-20

EXHIBIT 1