

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Christopher Stoller,	)	
Michael Stoller,	)	
	)	
Plaintiffs,	)	
v.	)	Case No 1:18-cv-00047
	)	
Warren E. Buffett, Berkshire Hathaway, Inc.)	)	
CMH Manufacturing, Inc., Clayton Homes, )	)	
Inc., Clayton Home Building Group, )	)	
CMN Manufacturing West, Inc., Berkshire )	)	Judge Coleman
Hathaway Home Builders, Kevin T. Clayton )	)	
Individually and as President, Tim Woods, )	)	
Sales Manager, Larry Tompkins, Salesman, )	)	Jury Demand
Tim Kuhm, Manager, Simpson, McMahan, )	)	
Glick & Burford, PLLC, Jonathan E. Beling )	)	
Charles T. Munger, Merc D. Hamburg, )	)	
Daniel J. Jaksich, Forrest N. Krutter, )	)	
Rebecca K. Amick, Jerry W. Hufton, Mark )	)	
D. Millard, Susan T. Buffett, Howard G. )	)	
Buffett, Malcom G. Chace, Ronald Olsen, )	)	
Walter Scott, Jr., John Does 1-10, unknown )	)	
Attorneys, Agents, Assigns, Representatives )	)	
Officers, Directors, et al, )	)	
Defendants.	)	

**PLAINTIFF’S SUPPLEMENT TO ITS SECOND MOTION TO COMPEL DISCOVERY  
AND SECOND MOTION FOR DISCOVERY SANCTIONS AND TO AWARD THE  
PLAINTIFF JUDGMENT ON PLEADINGS BASED ON THE CMH  
MANUFACTURING INC., OFFICER’S FRAUD ON THE COURT, PERJURY<sup>1</sup> AND  
JOHN ROBERTS SORBORNATION<sup>2</sup> OF PERJURY**

Comes now, Plaintiffs and in support of it’ Second Motion to Compel and for Discovery Sanctions and for Judgment on the Pleadings<sup>3</sup> as a necessary sanction for the Defendants’ failure

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<sup>1</sup> 18 U.S. Code § 1621.Perjury generally (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28,United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

<sup>2</sup> 18 U.S. Code § 1622.Subornation of perjury, whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

<sup>3</sup> . Inherent power sanctions are the quintessential gap filler of sanctions law. In the leading modern decision, *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991), the Supreme Court made clear that the existence of a sanctioning scheme in statutes and rules does not displace the court’s inherent power to impose sanctions for bad faith conduct that John Roberts has engaged.

to cooperate with the Plaintiff discovery requests, obstruction of justice, failure to abide by this court's orders, perjury and subornation of perjury. Plaintiff states as follows:

The court in its last order (**Exhibit A**) on 05/23/19 incorporated herein by reference (Doc 288) stated:

“To the extent that Stoller argues that CMH or defense counsel has committed perjury and that sanctions are warranted, the Court finds no evidence in Stoller’s submission to substantiate those allegations at this time.”

Stoller has discovered prima facie and irrefutable evidence that officers of CMH Manufacturing Inc., Ronald G. Power, Regional Vice President lied under oath (false swearing) in CMH Manufacturing Inc.’s Answers and objections to Plaintiff’s First set of interrogatories to Defendant CMH Manufacturing Inc. to Interrogatories 5 on page 5 of 19, (**Exhibit B**).



### SMOKING GUN

The Plaintiff has located a letter from the attorney of CMH Manufacturing Inc., (“CMH”) that was sent to the Plaintiff’s attorney Philip Kiss on November 8, 2017, from the attorney for CMH Jonathan E. Beling from the law firm of **Simpson McMahan Glick & Burford** with factual information that contradicts all of the answers in the Defendants’ responses to the Plaintiff’s Interrogatories (**Exhibit B**) which were sworn to by Ronald G. Power the Vice President of CMH and conflicts with the sworn declaration (Doc 274-2) of the President of CMH Keith Holdbrooks, incorporated herein by reference, (**Exhibit C**) and conflicts with the sworn declaration (Doc 274-1) of Jim Stariha, the Chief Financial Officer and Secretary of CMH.

The previously undisclosed letter of CMH’s attorney Jonathan E. Beling (**Exhibit E**) is Judicial Evidence, evidence this is admissible in this court and meets the Rules of Evidence. The Beling Letter is Relevant evidence which speaks to and supports the Plaintiff’s charge of perjury against the CMH defendants President Keith Holdbrooks, Chief Financial Officer and Secretary Jim Stariha and the charge of subornation of perjury as against defendants’ counsel John Roberts for preparing and filing conflicting, perjured declarations (Doc 274-1, Doc 274-2) (**Exhibits C & D**) and perjured Interrogatory responses (**Exhibit B**) in relation to the Plaintiff’s charge of perjury being heard.

See a true and correct reproduction of a copy of the CMH Manufacturing Inc.'s (CMH) letter written by their counsel Jonathan E. Beling also marked as Exhibit E and attached hereto and made a part here of which contain damning admissions, previously denied by Keith Holdbrooks (Doc 274-2), (**Exhibit C**) Chief Financial Officer and Secretary Jim Stariha (Doc 274-1) (**Exhibit D**), Vice President of CMH Manufacturing Inc.



SIMPSON, McMAHAN,  
GLICK & BURFORD, PLLC  
ATTORNEYS | ARBITRATORS | COUNSELORS

*"Our insight is your advantage."*

The Mountain Brook Center  
2700 Highway 280, Suite 203W  
Birmingham, Alabama 35223  
Telephone: 205-876-1600  
www.smgblawyers.com

Jonathan E. Beling, Esq.  
jebeling@smgblawyers.com  
Direct: 205-876-1612

November 8, 2017

VIA U.S. MAIL

Philip M. Kiss, Esq.  
Kiss & Associates, LTD  
5250 Grand Ave #14-408  
Gurnee, IL 60031

**RE: Christopher Stoller / Modular Home Serial No. 379315**

Dear Mr. Kiss:

This firm represents CMH Manufacturing, Inc. ("CMH") in connection with the above referenced modular home, which was purchased from CMH by your client, Christopher Stoller, and installed by Turn Key Home. We understand that the home was damaged during installation. We are in receipt of the Wiss Janney report that your client sent to CMH. While we will need to arrange a formal inspection with our expert, it is our considered opinion that the home was built in compliance with all applicable building codes and the damage was not caused by any act or omission of CMH. To preserve his rights, we strongly urge your client to submit a timely insurance claim to Turn Key Home's carrier.

In addition, your client has failed to pay for the home as required under the terms of the CMH Retailer Sales and Service Agreement (the "Agreement"), which requires payment in advance of delivery. Stoller was not authorized to take possession of the home, but did so anyway without paying CMH the balance due in the amount of \$105,929.00. We hereby demand that Stoller remit payment to CMH no later than Monday, November 6, 2017.

Please contact me should you wish to discuss this matter.

Very truly yours,

Simpson, McMahahan, Glick & Burford, PLLC

Jonathan E. Beling, Esq.



1. Similarly, when in a Civil Interrogatory **Jon Burges** also made a simple **6 word denial** contained in an interrogatory in a civil case “**denying torturing prisoners into making confessions**”. Mr. Burges was charged and convicted of perjury<sup>4</sup>. Mr. Burges was sent to Federal Prison for 5 years. The Beling’s letter affirmatively establishes that Keith Holdbrooks, Jim Stariha committed perjury and that their attorney John Roberts committed subornation of perjury.

2. Attorney Jonathan E. Beling’s letter (**Exhibit E**) dated **November 8, 2017**, clearly establishes that, contrary to Defendant CMH Manufacturing Inc., and their witnesses Keith Holdbrooks, President, perjured claims, Jim Stariha the Chief Financial Officer and Secretary of CMH Manufacturing Inc., and Ronald G. Power the Vice President of CMH Defendants committed perjury in his responses to the Plaintiff’s Interrogatories (**Exhibit B**) which were sworn to by Ronald G. Power, Vice President of CMH.

3. That the referenced modular home 379314 was purchased from **CMH Manufacturing Inc.**, and not from CMH Manufacturing West, a claim that CMH Manufacturing Inc., and their witnesses deny under oath.

4. CMH Manufacturing Inc., admit that the modular home purchased by the Plaintiff was damaged.

5. CMH Manufacturing Inc., admit to being in possession of the Weiss Jenny’s Engineering Report (Doc 1-2). Roberts denies having received a copy of the Weiss Jenny Engineering although Plaintiff has sent him several copies pursuant to Judge Coleman’s direction, and of course one copy has been attached to the Complaint.

6. CMH Manufacturing Inc., demanded payment of \$105, 929.00, be made to CMH Manufacturing Inc., not CMH Manufacturing West, Inc.,

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<sup>4</sup> [https://www.democracynow.org/2010/6/29/jury\\_convicts\\_chicago\\_police\\_commander\\_jon](https://www.democracynow.org/2010/6/29/jury_convicts_chicago_police_commander_jon)

# The Perjurer

Attorney Jonathan E. Beling's letter (**Exhibit E**) dated November 8, 2017, clearly establishes that Keith Holdbrooks, President perjured himself on his Declaration.



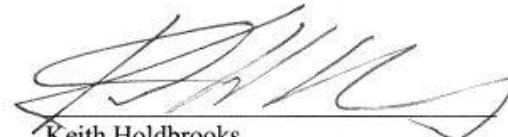
Stoller has discovered prima facie and irrefutable evidence that officers of CMH Manufacturing Inc., Keith Holdbrooks, President of CMH Manufacturing Inc., engaged in false swearing, perjury in a declaration provided by Defendant's counsel John Roberts filed in this proceeding on April 16, 2019 (Doc 274-2) incorporated herein by reference and marked as (**Exhibit C**). When he stated under oath (a true and correct copy of Mr. Keith Holdbrooks perjuries reproduced from his declaration:

- 2 I am the President of CMH Manufacturing Inc.
- 3 I do not have personal knowledge of the conduct, actions, or events at issue in the above styled lawsuit. I have no knowledge of this lawsuit, and the facts and persons involved, other than what I learned from corporate in house counsel
- 4 I do not have personal knowledge of the Construction Contract Agreement with Christopher that I am told is the subject of Mr. Stoller's breach of contract claim.
- 5 I do not have personal knowledge of the design or manufacture of the home that I am told is involved in the lawsuit.
- 7 I have never been involved in the day to day operations at the CMH Manufacturing West Inc., manufacturing plant located in Middlebury, Indiana, which I am told manufactured the home that is the subject of this lawsuit.
- 8 I have no expertise in the design for the manufacture home that I have been told is the subject of this lawsuit.

10. I have no unique or superior knowledge of discoverable information regarding this lawsuit.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the

11<sup>th</sup> day of April 2019.

  
Keith Holdbrooks

**The average person or “reasonable” person would find that Mr. Keith Holdbrooks declaration is not creditable for the President, making over a million dollars a year, of CMH Manufacturing Inc., to make the denial claims in his declaration that he has. In the same way that the jurors’ did not find Detective Jon Burge’s one sentence “denial” response in a civil interrogatory and found him guilty of perjury. Therefore this court must conclude that Keith Holdbrooks perjured himself in his declaration. That his attorney, who drafted Mr. Holdbrooks declaration and filed it in this proceeding is likewise guilty of subornation of perjury.**

In Paragraph 3: I do not have personal knowledge of the conduct, actions, or events at issue in the above styled lawsuit. I have no knowledge of this lawsuit, and the facts and persons involved, other than what I learned from corporate in house counsel. (This statement is not credible coming from the president of a corporation, it is a well-crafted lie, perjury)

This paragraph 3 is clear perjury, first Ms. Holdbrooks claims on one hand that he has no knowledge of the conduct, actions, or events at issue in the above styled lawsuit. On the other hand Mr. Holdbrooks admits that he does have knowledge of the conduct, actions, or events at issue in the above styled lawsuit which he has admitted he obtain from his in house counsel.

4. I do not have personal knowledge of the Construction Contract Agreement with Christopher that I am told is the subject of Mr. Stoller’s breach of contract claim. Paragraph 4 is a perjurious statement in that it is reasonable to assume that the President of CMH Manufacturing, Inc., (CMH) would be aware of all contracts, valued at over a \$100,000.00 for modular homes purchased from CMH.

5. I do not have personal knowledge of the design or manufacture of the home that I am told is involved in the lawsuit. What average person or reasonable person or juror would believe that Keith Holdbrooks, President of CMH Manufacturing Inc., a billion dollar company would pay Mr. Holdbrooks over a million dollars a year and Mr. Holdbrooks would not have knowledge of the CMN Manufacturing Inc., line of modular homes that CMH sells? The average juror would find Mr. Holdbrooks guilty of perjury as they found Jon Burges guilty of denying he tortured prisoners in a civil interrogatory. John Roberts drafted the perjurious Declaration (274-2) and submitted it before this court there is reasonable grounds, probably cause to believe that Mr. Roberts has committed subornation of perjury.

Keith Holdbrooks, President of CMH Manufacturing, clearly perjured himself in at least 4 of his response(s), in paragraphs 3, 4, 5 & 10 of his declaration (**Exhibit D**). No average man or reasonable man would believe that a Chief Financial Officer of a Billion Dollar company who

makes over a Million Dollars, would know nothing about a plaintiff who owed that corporation over \$100,000.00 and nothing about that companies products that it sells. The evidence here demonstrates beyond a reasonable doubt that Mr. Holdbrooks is clearly a perjurer and John Roberts who drafted and filed the perjured declaration of Mr. Holdbrooks is clearly guilty of subornation of perjury. This is the evidence that the court needed to make its finding.

The court in its last order (**Exhibit A**) on 05/23/19 incorporated herein by reference (Doc 288) stated:

“To the extent that Stoller argues that CMH or defense counsel has committed perjury and that sanctions are warranted, the Court finds no evidence in Stoller’s submission to substantiate those allegations at this time.”

Plaintiff argues that it has now provided the court with prima facie evidence, and clear and convincing judicial evidence, which substantiates these allegations of perjury and subornation of perjury.

**The  
Perjurer**



Stoller has also discovered prima facie and irrefutable evidence that officer of CMH Manufacturing Inc., Jim Stariha, Chief Financial Officer and Secretary of CMH Manufacturing Inc., responsible for the accounts receivable for the defendant corporation defendant CMH Manufacturing Inc., engaged in false swearing, perjury in an declaration provided by Defendant's counsel John Roberts filed in this proceeding on April 16, 2019 (Doc 274-1) incorporated herein by reference and marked as **(Exhibit D)**. When he stated under oath (a true and correct copy Jim Stariha Holdbrooks oath is reproduced from his declaration below as well as paragraph(s):

**2** I am the Chief Financial Officer and Secretary of CMI Manufacturer, Inc.

**3** I do not have personal knowledge of the conduct, actions or events at issue in the above styled lawsuit. I have no knowledge of the lawsuit and the facts and persons involved other than what I have learned from corporate in house counsel.

Mr. Jim Stariha carefully crafted denial in the above paragraph is equivalent to Detective Jon Burges denial in his civil Interrogatory response "denying torturing prisoners into making confessions" where in Burges was found guilty of perjury and sent to prison for 5 years.

Mr. Stariha is the Chief Financial Officer of CMI Manufacturing, Inc. It is not creditable for the average person or reasonable person to believe that Mr. Stariha would not have been aware of the fact that Christopher Stoller owed **\$105,929.00** to CMI Manufacturing and that money was not being paid by Christopher Stoller. See Beling letter **Exhibit E**. No average person would believe Mr. Jim Stariha statement contained in paragraph 3 of his declaration (Doc 274-1) **(Exhibit D)**.  
**Mr. Striha is a perjurer**

**4** I do not have personal knowledge of the Construction Contract Agreement with Christopher Stoller that I am told is the subject of Mr. Stoller's breach of contract claim.

Mr. Stariha is the Chief Financial Officer of CMI Manufacturing, Inc. It is not creditable the average person or reasonable person would not believe that Mr. Stariha, the Chief Financial Officer, would not have been aware of the fact that Christopher Stoller owed **\$105,929.00** to CMI Manufacturing, based upon a Construct Agreement Contract agreement CMH had with Christopher Stoller and that money was **not** being paid by Christopher Stoller. No average person or reasonable person would believe Mr. Jim Stariha statement contained in **paragraph 4** of his declaration (Doc 274-1) **(Exhibit D)**.

**5** I do not have personal knowledge of the design or manufacture of the design or manufacture of the home that I am told is involved in the lawsuit.

Mr. Stariha is the Chief Financial Officer of CMI Manufacturing, Inc. It is not creditable, the average person would not believe that Mr. Stariha the fact that Christopher Stoller owed **\$105,929.00** to CMI Manufacturing Inc., based upon a Construct Agreement Contract agreement



CMH had with Christopher Stoller for the **Heritage Model Home**<sup>5</sup> and that money was not being paid by Christopher Stoller. No average person or reasonable person would believe Mr. Jim Stariha statement contained in paragraph 4 of his declaration (Doc 274-1) (**Exhibit D**) **nor should this court believe it.**

It is not believable to the average person or any reasonable person, that Mr. Stariha the Chief Financial Officer of CMI Manufacturing, Inc., of a billion dollar company would not have some knowledge of the line of products (ie homes) that his company sells. It is not reasonable that Mr. Stariha locks himself up in a room and looks at paper all day long without any knowledge of what products generate the sales that create the paper for the CMI Manufacturing Inc., company. Mr. Stariha is thus a perjurer as to Question 5.

**10** I have no unique or superior knowledge of discoverable information regarding this lawsuit.

It is not believable to the average person or any reasonable person, that Mr. Stariha the Chief Financial Officer of CMH Manufacturing, Inc., of a billion dollar company would not have some knowledge regarding the \$105,929.00 invoice that CMH claimed that Christopher Stoller owed to CMH see Exhibit E The Beling November 6, 2017 letter.

John Burges merely “denying torturing prisoners into making confessions” in response to only one Civil Interrogatory which resulted in Mr. Burges be charged and convicted of perjury.

Mr. Stariha is the Chief Financial Officer of CMI Manufacturing, Inc., clearly perjured himself in at least his response in paragraphs 3, 4, 5 & 10 of his declaration **Exhibit D**. No average man or reasonable man would believe that a Chief Financial Officer of a Billion Dollar company who makes over a million dollars, would know nothing about a plaintiff who owed that corporation over \$100,000.00 and nothing about that companies products (homes) that it sells. Mr. Stariha is clearly a perjurer and John Roberts who drafted and filed the perjured declaration of Jon Burges is clearly guilty of subornation of perjury. See below a true and correct copy of Mr. Stariha’s oath he took when he signed his declaration (Exhibit D)

I declare under penalty of perjury that the foregoing is true and correct. Executed on the

15<sup>TH</sup> day of April 2019.

  
\_\_\_\_\_  
Jim Stariha

The evidence here demonstrates beyond a reasonable doubt and conclusively that t Mr. Stariha is clearly a perjurer and John Roberts who drafted and filed the perjured declaration (Exhibit D)(Doc 274-1) of Mr. Stariha is clearly guilty of subornation of perjury. The court in its last order (**Exhibit A**) on 05/23/19 incorporated herein by reference (Doc 288) stated:

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<sup>5</sup> See the Wiss Jenny Engineering Report (Doc 1-2 pages 90-196)(incorporated herein by reference) which clearly establish that CMH Manufacturing Inc. was directly involved in the manufacturing of the Plaintiff’s modular home.

“To the extent that Stoller argues that CMH or defense counsel has committed perjury and that sanctions are warranted, the Court finds no evidence in Stoller’s submission to substantiate those allegations at this time.”

Plaintiff argues that it has now provided court with prima facie evidence, and clear and convincing judicial evidence which substantiate plaintiff’s claims of perjury and subornation of perjury by John Roberts.

**PLAINTIFFS’ MOTION FOR DISCOVERY SANCTIONS INTRODUCTION AND REQUEST FOR EXPEDITED RULING**

This second motion arises from Defendants and their counsel John Roberts pervasive violations of their obligations under Rule 26 and Rule 37 of the Federal Rules of Civil Procedure, including the failure provide the names of the two witnesses who were familiar with the purchase of the factory built home by the Plaintiff which is designated as: Modular Home Serial No. 379314 in the Plaintiff’s interrogatories (**Exhibit 4**)

A letter sent to Plaintiff’s counsel Philip Kiss on Nov. 8, 2017, (**Exhibit E**) by CMH Manufacturing Inc attorney Jonathan E. Beling.:

Plaintiff received an invoice (**Exhibit 3**) from defendant CMH MFG, Inc., to remit payment to CMH MFG. Inc., See a true and correct copy below. Defendant claims that Defendant CMH MFG Inc., has no knowledge of the transaction regarding the Modular Home Serial No. 379314. See Defendants answer to Interrogatory 3 (**Exhibit B**):

CMH MANUFACTURING WEST, INC. - Middlebury (C)				Page 1 of 3	
Sold To: 433163 CHRISTOPHER STOLLER 415 WESLEY #1 OAK PARK, IL 60302		Invoice No.: 379314		Remit To: CMH MFG, INC. P.O. BOX 791071 BALTIMORE, MD 21279-1071	
Retail Cust: MODEL		Invoice Date: 08/02/2017		Sls Rep: TIMOTHY S WOODS	
Approval No:		Model Year: 2017		Brand: CREST	
Financed By:		Approx. Sq. Ft: 2,040		Drawing #: 816830-8052	
** COD **		P/O Number:		Model #: 81CMN30683AM17S MOD	
PAID IN FULL PRIOR TO SHIP		Serial No.: MDC379314INAEM		Model Series: CREST HERITAGE	
		Ship To: 433163 CHRISTOPHER STOLLER		Model Name: MOD LARAMIE 6830-8052	

Opt. #	Description	Qty	Price	Opt. #	Description	Qty	Price
090976	01 PACKAGES *** 2017 HERITAGE						

Defendant CMH MFG Inc., falsely claims in their response (**Exhibit B**) Response to Plaintiff’s interrogatory 3 (**Exhibit B**) that there is no one at CMH Manufacturing Inc.<sup>6</sup> that “is familiar with Plaintiff’s purchase because CMH did not manufacturer the subject modular home.

<sup>6</sup> Plaintiff respectfully asserts that the Defendant’s response to Plaintiff Interrogatory number 3 under oath by the Vice President Ronald G. Powell, is perjured and John Roberts caused Mr. Powell to swearing of a false oath to tell the truth in Defendants’ response to Plaintiff’s Interrogatories. There is no question that Mr. Powell committed Perjury in his response to Interrogatory 3 that John Roberts procured the perjury corruptly, knowing, believing or

Ronald Powell the Vice President of CMH Manufacturing Inc., committed perjury and John Roberts subornation of perjury in defendants' CMH response to Plaintiff's Interrogatory 3

**INTERROGATORY NO. 3:** Identify the three person(s) at CMH Manufacturing, Inc., which are most familiar with the Plaintiff's purchase of the factory home identified as Modular Home Serial No, 379315.

**ANSWER:** Plaintiff did not purchase Modular Home Serial No. 379315. As for the modular home Plaintiff did purchase, no one within CMH is familiar with Plaintiff's purchase because CMH did not manufacturer the subject modular home.

### **The Sanctioning Power of the Federal Courts**

The sanctioning power of the Federal Court is not limited to what is enumerated in statutes or in the rules of civil procedure. Federal courts have the inherent power to punish persons who abuse the judicial process. The inherent power of the court is an "implied power squeezed from the need to make the courts function."<sup>7</sup> Rule 11 and § 1927 do not displace the court's inherent power, but instead they exist concurrently.<sup>8</sup>

The inherent power to sanction is broad.<sup>9</sup> The scope of the power reaches "any abuse" of the judicial process.<sup>10</sup> This includes the authority to sanction for conduct that occurs outside of the courtroom and is not limited to attorneys or parties.<sup>11</sup> Courts also have broad discretion to determine the appropriate sanction to be imposed.<sup>12</sup>

One such sanction, limited to those cases where the litigant has engaged in bad-faith conduct or willful disobedience<sup>13</sup> as the defendants' and their attorney John Roberts have in this case, as shown by this record.

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having reason to believe it to be false testimony; and that the John Roberts knew, believed or had reason to believe that the Vice President of CMH Manufacturing, Ronald Powell, the perjurer had knowledge of the falsity of his, he knew that "someone within CMH was familiar with Plaintiff's purchase" because the Plaintiff received an invoice (**Exhibit 3**) from CMH directing him to pay CMH . See also Christopher Stoller's affidavit. To secure a conviction for subornation of perjury, the perjury sought must actually have been committed. *United States v. Hairston*, 46 F.3d 361, 376 (4th Cir.), *cert. denied*, 116 S.Ct. 124 (1995).18 U.S. Code § 1622 - Subornation of perjury

<sup>7</sup> *Chambers*, 501 U.S. 32, 42 (1991) (quoting *NASCO, Inc. v. Calcasieu Television & Radio, Inc.*, 894 F.2d 696, 702 (5th Cir. 1990)).

<sup>8</sup> *Id.* at 46, 49 ("The Court's prior cases have indicated that the inherent power of a court can be invoked even if procedural rules exist which sanction the same conduct."). *But see Peer*, 606 F.3d at 1315 ("Generally, if appropriate sanctions can be imposed under provisions such as Rule 11, courts should not exercise their inherent power.").

<sup>9</sup> *Id.* at 44

<sup>10</sup> *See id.* At 44

<sup>11</sup> *See id.* at 46, 57 ("As long as a party receives an appropriate hearing . . . the party may be sanctioned for abuses of process occurring beyond the courtroom . . .").

<sup>12</sup> *See id.* at 44-45. *See Stalley v. Mountain States Health Alliance*, 644 F.3d 349, 352 (6th Cir. 2011) (monetary sanction can exceed amount needed for deterrence). However, the court should account for the sanctioned party's ability to pay the monetary sanction. *Martin v. Automobile Lamborghini Exclusive, Incorporated*, 307 F.3d 1332, 1337 (11th Cir. 2002).

<sup>13</sup> *Chambers*, 501 U.S. at 45; *Ali v. Tolbert*, 636 F.3d 622, 627 (D.C. Cir. 2011); *Amlong & Amlong*, 500 F.3d at 1251. *But see United States v. Seltzer*, 227 F.3d 36, 40-42 (2d Cir. 2000) (distinguishing between sanctioning

The right of the Plaintiff to a discovery deposition is fundamental to our adversary system<sup>14</sup>. This right imposes a duty on the Defendants and their attorney John Roberts that cannot be avoided by John Roberts's technical maneuvers which are not in accordance with the spirit of discovery. *Vaughn v. Northwestern Memorial Hospital*, 210 Ill.App.3d 253, 569 N.E.2d 77, 82, 155 Ill.Dec. 77 (1st Dist. 1991); *Ainsworth Corp. v. Cenco Inc.*, 158 Ill.App.3d 639, 511 N.E.2d 1149, 1153, 110 Ill.Dec. 829 (1st Dist. 1987) John Roberts has refused to produce any witnesses for their discovery depositions.



Among Defendants' and their attorney **John Roberts** many specific discovery violations, fraud on the court, subornation of perjury, refusing to properly respond to the Plaintiffs' First set of Interrogatories (**Exhibit 4**), including the perjury of the Vice President of CMH Manufacturing, Inc., Ronald Powell, contained in Defendants' answers to Plaintiffs' Interrogatory (**Exhibit B**) John Roberts, Subornation of perjury, this Motion will address:

The Defendants pervasive failure to provide any witness familiar with the Plaintiff's purchase of Modular Home Serial No. 379314 represents obstruction of justice, fraud on the court.

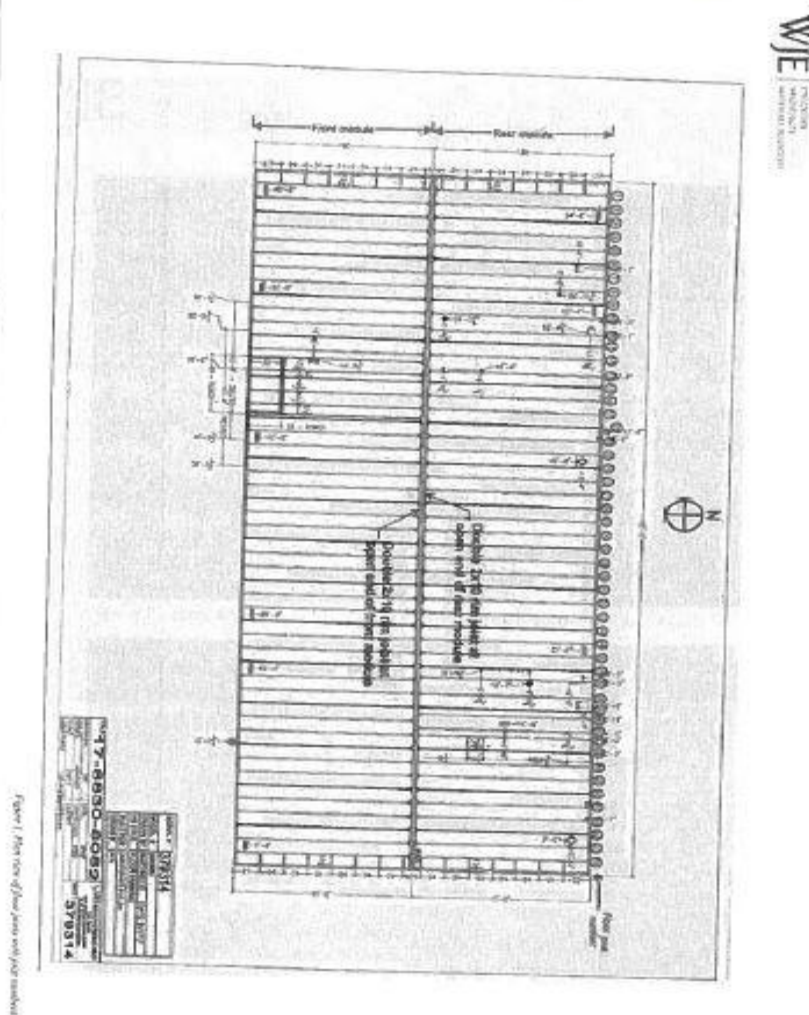
The Defendants pervasive failure to provide any witnesses familiar with the construction of the Modular Home Serial No. 379314, after the courts instructions and the plaintiff serving the defendants with interrogatories is sanctionable discovery conduct.

The Defendants pervasive failure to provide any witness familiar with the defects in construction of the Modular Home Serial No. 379314. (It is important to note that despite the denials of Defendants in their responses to the Plaintiff's written discovery of providing the Plaintiff with a defective home, in breach of the Construction Agreement Contract, it is important to note that defendants have provided the Plaintiff's engineering firm Wiss Janney Elstner Associates, Inc., with engineering drawings on how the damage to Plaintiff's Modular Home Serial No. 379314. See a true and correct copy of the engineering drawings supplied to the Plaintiff by the Defendants:

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attorneys as officers of court, which does not require bad faith, and attorneys in their capacity as counsel for clients, which does).

<sup>14</sup> The court's discretion during pretrial discovery should be exercised by keeping in mind the goal of promoting the ascertainment of truth. *Welton v. Ambrose*, 351 Ill.App.3d 627, 814 N.E.2d 970, 976, 286 Ill.Dec. 744 (4th Dist. 2004); *Wausau Insurance Co. v. All Chicagoland Moving & Storage Co.*, 333 Ill.App.3d 1116, 777 N.E.2d 1062, 1074, 268 Ill.Dec. 139 (2d Dist. 2002) (noting that orders restricting discovery will be reversed as abuse of trial court's discretion if they Prevent ascertainment of truth concerning substantial issue in case).



Defendants' failure to comply with specific instructions issued by the Court on April 17, 2019, Judge Coleman on April 17, 2019, stated "that the Plaintiff should provide the Defendants with an interrogatory requesting that you produce a witness who is familiar with "Plaintiff's purchase of the said manufacture modular home":

THE COURT: All right. Let's do a date for the interrogatories, Yvette. 14 days they will be served.

MR. STOLLER: Can we ask Mr. Roberts to give us a person that he'll produce for the deposition, Judge?

THE COURT: If you put, you put in the -- you ask the questions you want to in the interrogatories, and then based on his responses, which will be due in 14 days thereafter, Mr. Roberts.

MR. ROBERTS: Fair enough, Your Honor.

THE COURT: Once you get the responses, then you make the request to depose, and you make your list of who you want

to depose. So with that extra time -- when was the cutoff date for discovery?<sup>15</sup>

Defendants' collective failures to respond to Plaintiff's written discovery interrogatory requests (**Exhibit 4**) requests.

The failure to comply with the court's Order April 17, 2019 (Doc 276) where defendants' were required to file their response to Plaintiff's interrogatories by 5/15/19. The defendant's responses to the Plaintiff's interrogatories, 1 thru 25 were evasive, incomplete and Defendant's objections to Plaintiff's interrogatories<sup>16</sup> were entirely without merit.

The first ten of Defendants' answers to Plaintiff's was incomplete, evasive and evidence Defendants' on going policy of stonewalling, in order to run out the fact discovery clock, so that the Plaintiff will be deprived of his due process.

John Roberts is well aware that his failure to comply with Judge Coleman's discovery Order (Doc 276) April 17, 2019 carries potentially severe consequences.

Notwithstanding, that Rule 37 provides, in part: "If a party ... fails to obey an order (Doc 276) to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), Judge Coleman is asked to issue further just orders." Fed. R. Civ. P. 37(b)(2)(A)(1) that designated facts listed in the Plaintiff's First Set of Admissions incorporated herein marked as **Exhibit 5** are to be taken as established as the Plaintiff claims; (2) prohibiting the Defendants party from supporting or opposing designated claims or defenses, or from introducing specified matters into evidence.

Staying further proceedings until the order is obeyed; and the Defendants' provide the names of at least 3 people familiar with the Plaintiff's purchase of the Modular Home Serial No. 379314.

Issuing a default judgment against the Defendants; and/or treating John Roberts. Failure to obey Judge Coleman's instructions and discovery order dated April 17, 2018 (Doc 276) (**Exhibit 5**) as contempt.

Judge Coleman on April 17, 2019 stated that the Plaintiff should provide the Defendants with an interrogatory requesting that you produce a witness who is familiar with "Plaintiff's purchase of the said manufacture modular home. Defendants have failed to provide any names of witnesses and should be sanctioned for their stonewalling and obstruction of discovery.

Plaintiff requests that the court issue a discovery sanction against the defendants in the form of a default judgment for their willful disobedience of this court's instructions and Order (276).(Exhibit 5) And/or order the Defendants' to give the names of three witnesses that are familiar with the Plaintiff's purchase of Modular Home Serial No. 379314 in order for the Plaintiff to dispose and to order the Defendants to pay all fees in cost associated with Plaintiffs' depositions of the Defendants witnesses.

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<sup>15</sup> See a copy of the Official Transcript dated April 17, 2019, marked as (**Exhibit 4a**).

<sup>16</sup> See attached Motion to Compel incorporated herein by reference.

Compel the Defendant's to fully answer all of the Plaintiff's Interrogatories (**Exhibit B**) Plaintiff attempted to meet and confer with John Roberts prior to seeking court intervention see attached email to Mr. Roberts marked as (**Exhibit 6**).

The defendants refused to respond (**Exhibit B**) to Plaintiff's interrogatories from 15 to 25, despite the fact that in each case Plaintiff's first interrogatory question, cannot be answered fully and completely without answering the second question, then the second question (the subpart) is not totally independent of the first and factually subsumed within and is necessarily related to the primary question.

Mr. Roberts was well aware that the Plaintiffs' sub parts to its interrogatories should not be counted as separate interrogatories. Notwithstanding, Mr. Roberts stonewalled and refused to respond to the last 10 of Plaintiffs' interrogatories. Plaintiff is requesting that the court order Defendants to respond to the last 10 of Plaintiffs' Interrogatory and/or issue a sanction against the Defendants' in the form of a default judgment for failing to cooperate with the Plaintiff in its discovery.

The first ten of Defendants answers (**Exhibit B**) to plaintiffs' interrogatories (**Exhibit 4**) are incomplete, evasive and evidence the Defendant and their attorney John Roberts on going policy of stonewalling, in order to run out the fact discovery clock, so that the Plaintiff will be deprived of his due process.

John Roberts's failure to comply with Judge Coleman's discovery Order (Doc 276) April 17, 2019 carries potentially severe consequences.

Notwithstanding that Rule 37 provides, in part: "If a party ... fails to obey an order (Doc 276) (**Exhibit A**) to provide or permit discovery, including an order under Rule 26(f), 35, or 37(a), Judge Coleman is asked to issue further just orders." Fed. R. Civ. P. 37(b)(2)(A)(1) that designated facts are to be taken as Established as the prevailing party claims; (2) prohibiting the Defendants party from supporting or opposing designated claims or defenses, or from introducing specified matters into evidence; (3) striking pleadings in whole or in part; (4) staying further proceedings until the order is obeyed; (5) issuing a default judgment against the Defendants; or (7) treating John Roberts failure to obey Judge Coleman's discovery order dated April 17, 2018 (Doc 276) (**Exhibit A**) as contempt.

It is the Plaintiff's argument that John Roberts and the Defendant's Regional Vice President Ronald G. Powell, who signed the verification on page 16 of 19. On May 13, 2019, of Defendants' response (**Exhibit B**) to Plaintiff's interrogatories (**Exhibit 4**) committed perjury, were not truthful in Defendants' answers that John Roberts provided.

Namely response to Plaintiffs' interrogatory Number 1, Defendants claim is vague, but fail to list the documents that were used to respond to Plaintiffs' admission(s). Plaintiff request that the court order the defendants to provide the list of documents that were used in order to respond to the plaintiffs' admissions.

Plaintiff request that the court compel the defendants to give a complete answer to Interrogatory Number 2 (**Exhibit B**) Defendants were asked to identify the name of the chief legal counsel of the defendants.

## **DEFINITIONS AND INSTRUCTIONS TO PLAINTIFF'S INTERROGATORIES**

If the answer to any Interrogatory is different for different times, please so state, giving times and Differences. The sense in which the terms in these Interrogatories are used is as follows:

The term(s) "Respondent, Defendant", CMH Manufacturing, Inc., CMH, shall include any and all partners, parents, subsidiaries, or associated organizations, officers, directors, trustees, employees, staff members, agents and representatives, of Defendant as well as all predecessor companies, divisions, corporations, partnerships, or any business entities at any time directly or indirectly controlled by the Defendant or controlled by a predecessor company."

Plaintiff's Interrogatory No. 3 was posed to the Defendants CMH Manufacturing Inc., and/or and all partners, parents, subsidiaries, or associated organizations stated:

### **INTERROGATORY NO. 3**

Identify the three person(s) at CMH Manufacturing, Inc., which are most familiar with the Plaintiff's purchase of the factory home identified as Modular Home Serial No, 379315 (Sic) (Actual No. is 379314).

**ANSWER:** Plaintiff did not purchase Modular Home Serial No. 379315. As for the Modular home Plaintiff did purchase, no one within CMH is familiar with Plaintiff's purchase because CMH did not manufacturer the subject modular home.

This statement was given under oath. It conflicts with the information contained in the Beling letter dated Nov 8, 2017, and thus represents perjury.

Mr. John Roberts knew that Judge Coleman on April 17, 2019, (**Exhibit 4a**) stated that the Plaintiff should provide the Defendants with an interrogatory requesting that you produce a witness who is familiar with "Plaintiff's purchase of the said manufacture modular home.

When **John Roberts** procured **Ronald Powell** to answer the Plaintiffs' interrogatory he procured Ronald Powell to swear falsely under oath (See pages 18-19 **Exhibit B**), exactly like Chicago Detective **John Burge** did when he signed the verification on his answer to Plaintiff's Interrogatory.<sup>17</sup>

Plaintiff requests that the court compel the defendants to answer Interrogatory 4 (**Exhibit 4**). Defendant was asked you identify to identify each complaint and lawsuit filed against the defendants. Defendants' objection was frivolous, Plaintiffs' request was Jermaine to Plaintiffs' case because it goes to the pattern and practice of the defendants regularly selling defective modular homes throughout the country, similar to the plaintiff's modular home.

Plaintiff request that the court order the Defendants to revise their interrogatory response to Plaintiff's Interrogatory 5. Defendants refused to answer on the frivolous grounds that CMH Manufacturing Inc., did not do any work on the subject model home. Plaintiff has attached the invoice he received from CMH Manufacturing Inc., which required that the funds for the modular house be sent to CMH Manufacturing Inc., (**Exhibit 3**).

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<sup>17</sup> <https://www.chicagotribune.com/news/ct-met-burge-sentencing-0122-20110121-story.html>



Whether CMH Manufacturing Inc., did any work on the modular house is irrelevant. CMH Manufacturing Inc., wanted to collect the money for the said modular home. CMH Manufacturing Inc., had knowledge about the Plaintiff's purchase of the said Modular Home Serial No. 379315.

John Roberts was very clever he attempted to shield his client CMH Manufacturing Inc., from answering interrogatories by claiming that CMH Manufacturing Inc., had no knowledge when according to the definitions of the Plaintiffs' Interrogatories, Interrogatories directed to CMH Manufacturing Inc. were also directed to Plaintiff requests that the court order the defendants to provide complete answers to Plaintiff's Interrogatory 5,6,7, 8.

Plaintiff requests that the court order the defendants to provide a full and complete answer to Interrogatory 9 .Plaintiffs' interrogatory was directed to CMH Manufacturing Inc.

Plaintiff requests that the court order the defendants to provide a full and complete answer to Interrogatory 10. Defendants answer to Interrogatory 10 is non-responsive because Plaintiffs' interrogatory was directed to CMH Manufacturing Inc.

Please provide an answer that relates to all of the Defendants, not just CMH Manufacturing Inc., if Defendants has no photo's than state that fact.

Plaintiff requests that the court order the defendants to provide a full and complete answer to Interrogatory 11, 12, 13, 14, and 15, to order the Defendants to provide full and complete answers to Plaintiff's interrogatories 16 through 15. Defendants answer were all non-responsive because Plaintiffs' interrogatory was directed to CMH Manufacturing Inc., as well known to Roberts.

The Defendants send architectural drawings to Plaintiff's engineering firm Weiss Jennings in order to recommend the proper repairs as well known to Roberts and the Defendants. Roberts continues to obfuscate the truth each and every discovery answer that defendants provided was non responsive, untrue and perjurious.

It is for that reason that the Plaintiff is entitled to discovery sanctions in the form of a default judgment being entered against the defendants and for the Plaintiff to be allowed to prove up its damages. Because the Defendants' are not going to cooperate with any discovery orders that this court issues, they are going continue to stonewall plaintiff's discovery.

**WHEREFORE**, Plaintiff prays that this court issue a discovery sanction against the Defendants in the form of a default judgment for defendants' failure to cooperate with the Plaintiffs written discovery and/or, compel them to file complete answers to all of the Plaintiffs' Interrogatories, Documents Requests and Admissions.

In view of the Defendants' continual stonewalling as it relates to the Plaintiffs' written discovery and depositions requests, Plaintiff requests that fact discovery be continued until at least September 25, 2019.

The Plaintiff has raised a prima facie case and irrefutable case for the defendants engaging in perjury, as to Jim Stariha, Keith Holdbrooks and Ronald Powell's perjurious responses to the Plaintiffs' Interrogatories.

The Plaintiff has raised a prima facie case and irrefutable case for case of subornation of perjury against **John Roberts** for submitting the false swearing documents of Jim Stariha, Keith Holdbrooks and Ronald Powell under oath.



. This court has an obligation under the Code of Judicial Conduct to now refer Ronald Powell, Jim Stariha, Keith Holdbrooks and John Roberts to the U.S. Attorney's Office for a perjury and subornation of perjury investigation and to the ARDC. Plaintiff requests that as an appropriate sanction that the court enter a default judgment against the defendants' on its breach of contract claim and set a date for the Plaintiff to prove up its damages.

**Request for Disgorgement and Return of Fees Paid by Defendants to Faegre Baker Daniels LLP.**

Defendants should be Ordered to pay to the Clerk of the Court as an appropriate sanction, all of the fees that the defendants paid them as a sanction.

Defendants should be ordered to pay the plaintiff their legal fees and costs.

Further, the court has an obligation under the Illinois Code of Judicial Conduct to also now refer attorney John Roberts to the ARDC for a professional misconduct investigation regarding his conduct regarding this proceeding.

/s/Christopher Stoller \_\_\_\_\_  
Christopher Stoller, Plaintiff

# **EXHIBIT A**

# **EXHIBIT B**

# **EXHIBIT C**

# **EXHIBIT D**

# **EXHIBIT E**

# **EXHIBIT 1**



# **EXHIBIT 2**

# **EXHIBIT 3**

# **EXHIBIT 4(a)**

## **Transcript 4-17-19**

# **EXHIBIT 5**

# **EXHIBIT 6**

# **EXHIBIT 7**

