



**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS**

GRETCHEN WILKINSON, et al.,

Plaintiffs,

v.

**INSTITUTE IN BASIC LIFE PRINCIPLES,
INC. and WILLIAM W. GOTHARD, JR.,**

Defendants.

No. 15 L 000980

Hon. Judge Popejoy

**PLAINTIFF'S RESPONSE TO DEFENDANT GOTHARD'S MOTION PURSUANT TO
ILLINOIS SUPREME COURT RULES 137 AND 219(e) FOR SANCTIONS AND OTHER
RELIEF AGAINST JANE DOE IV**

NOW COMES the Plaintiff, JANE DOE IV, by and through her attorneys, MEYERS & FLOWERS, LLC, and for her Response to Defendant Gothard's Motion Pursuant to Illinois Supreme Court Rules 137 and 219(e) for Sanctions and Other Relief Against Jane Doe IV, states as follows:

INTRODUCTION

In his Motion Pursuant to Illinois Supreme Court Rules 137 and 219(e) For Sanctions and Other Relief Against Jane Doe IV ("Gothard's Motion," cited as "Gothard Mtn."), Defendant Bill Gothard ("Gothard") engages in page after page of victim blaming while blatantly disregarding the standard upon which courts adjudicate requests for Rule 137 sanctions. Gothard repeatedly mischaracterizes as false isolated, minor inconsistencies in Jane Doe IV's ("Plaintiff") allegations and pleadings. Rather than allege sanctionable conduct given the totality of the circumstances as required in a Rule 137 analysis, Gothard cherry-picks statements, provides no context, and then sensationalizes those statements as "proof" that Plaintiff filed false pleadings as part of a conjured mass conspiracy to topple Gothard. When looking beyond Gothard's outrageous assertions and providing context to Plaintiff's statements, however, it becomes clear that Jane Doe IV and the rest of the Plaintiffs were simply utilizing various coping mechanisms to deal with the trauma they

endured. Gothard has failed to allege sanctionable conduct as to Plaintiff's Third Amended Complaint at Law (the "Complaint"). Because the Complaint was well founded in law and fact and both Plaintiff and Plaintiff's counsel conducted a reasonable inquiry prior to filing, Gothard's Motion must be denied in its entirety.

LEGAL STANDARD

Rule 137 applies to pleadings, motions, and other papers. Ill. S. Ct. R. 137. When signing a pleading, an attorney represents to the court "that to the best of his knowledge, information, and belief formed after reasonable inquiry [the pleading] is well grounded in fact and is warranted by existing law" *Id.* The rule requires a narrow construction because it is "penal in nature and must be invoked only in those cases falling strictly within its terms." *Couri v. Korn*, 202 Ill.App.3d 848, 855 (3d Dist. 1990) (citing *In re Estate of Wernick*, 127 Ill.2d 61, 77 (1985)). To demonstrate a Rule 137 violation, the party seeking sanctions "must show that the opposing party pleaded untrue pleadings of fact without reasonable cause." *Id.* Even in the event an untrue statement is pleaded and proven to be untrue, it is not *per se* sanctionable. *Id.*

In the event the movant shows falsity in the pleadings, the court must then decide if the offending party conducted an objectively reasonable inquiry prior to making the false assertions. *Burrows v. Pick*, 306 Ill.App.3d 1048, 1054 (1st Dist. 1999). When analyzing the reasonableness of the inquiry, the court examines circumstances existing at the time the pleading was signed. *Couri*, 202 Ill.App.3d at 856. The trial court has sole discretion to award fees under Rule 137, and the trial court's decision will not be overturned except upon a showing of abuse of discretion. *Burrows*, 306 Ill.App.3d at 1051 (citing *Yassin v. Certified Grocers of Illinois, Inc.*, 133 Ill.3d 458, 467 (1990)).

ARGUMENT

Gothard fails to meet his burden to prove that (1) the Complaint contains statements of fact which were untrue when asserted, and (2) Plaintiff and Plaintiff's counsel failed to conduct an objectively reasonable inquiry under the circumstances existing at the time of the allegedly false assertions. Not only was Plaintiff's Complaint well founded in fact and law, a reasonable inquiry was undertaken by Plaintiff's Counsel and Plaintiff prior to filing the aforesaid documents. Gothard's narrow allegations ignore the Rule 137 standard and constitute a prohibited hindsight analysis. Gothard's Motion must be denied.

I. Plaintiff's Complaint Was Neither False Nor Frivolous

Under any standard, let alone the demanding standard upon which a party seeking sanctions must abide, Gothard fails to demonstrate that the Complaint was false or frivolous. Pleadings lacking factual or legal foundations can be considered false or frivolous. *Baker v. Berger*, 323 Ill.App.3d 956, 966 (1st Dist. 2001). A pleading is also false or frivolous if it is interposed for an improper purpose such as to unnecessarily delay litigation or to harass. *Rios v. Valenciano*, 273 Ill.App.3d 35, 40 (2d Dist. 1995). Plaintiff's Complaint had both a factual and legal foundation and was not interposed for an improper purpose.

A. Plaintiff's Complaint Was Well Founded in Law

While the majority of Gothard's argument consists of bombarding the Court with targeted, out-of-context statements purportedly demonstrating the lack of a factual basis for Plaintiff's claims, Gothard also suggests that Plaintiff's allegations of repressed memories were not well grounded in law. Gothard Mtn., p. 3-7. Gothard's assertion evinces a misunderstanding of the effect that legally cognizable allegations of repressed memories have on the discovery rule.

Plaintiff's allegations of repressed memories are well founded in law based on Illinois courts validating the legality of allegations that meet certain threshold requirements.

Illinois courts have held that the discovery rule applies to childhood sexual abuse cases where the plaintiff repressed her memories of the abuse. *See Clay v. Kuhl*, 297 Ill.App.3d 15, 23 (2d Dist. 1998) (citing *Pedigo v. Pedigo*, 292 Ill.App.3d 831, 839 (5th Dist. 1997); *D.P. v. M.J.O.*, 266 Ill.App.3d 1029, 1033-34 (1st Dist. 1994)). “[I]f it is the plaintiff’s intention to rely on such [repressed memories] to toll the statute of limitations, then she is obligated to plead the condition with sufficient specificity to advise the defendants of the alleged basis.” *Clay v. Kuhl*, 297 Ill.App.3d at 23-24. The trial court would then decide as a matter of law whether that condition is scientifically acknowledged and would prevent the plaintiff’s discovery of the abuse. *Id.*

Illinois courts have also held that it would be a patent injustice to require a plaintiff to discover something that is “inherently unknowable.” *Phillips v. Johnson*, 231 Ill.App.3d 890, 893 (3d Dist. 1992). “Therefore . . . we acknowledge that in certain instances a plaintiff may be suffering from a condition that precludes her from recognizing that she has been a victim of childhood sexual abuse.” *Clay*, 297 Ill.App.3d at 22. For the discovery rule to apply, a plaintiff must know that an injury occurred *and* that it was wrongfully caused. *Franke v. Geyer*, 209 Ill.App.3d 1009, 1012 (3d Dist. 1991).

Despite Gothard’s assertion to the contrary, Plaintiff’s allegations of repressed memories were well founded in Illinois law. Plaintiff needed only to plead the condition with sufficient details to apprise Gothard of the alleged basis. *See Clay*, 297 Ill.App.3d at 23-24. Here, Plaintiff met that burden. Not only did Plaintiff allege that she did not know her injuries were caused by the abuse, she also asserted that she was suffering from a condition that caused her to repress the memories of the abuse. Complaint, p. 177-195. Only the trial court, not Gothard, determines as a matter of law whether Plaintiff’s allegations amount to a scientifically cognizable condition that could cause repressed memories. *See Clay v. Kuhl*, 297 Ill.App.3d at 23-24. With Plaintiff citing

to well established Illinois law in her Complaint, Gothard's argument related to Plaintiff's allegations of repressed memories cannot be sustained.

B. Plaintiff's Complaint Was Well Founded in Fact

Gothard erroneously contends that, in addition to lacking a sound legal basis, Plaintiff's Complaint was factually deficient. *See generally* Gothard's Mtn. Gothard once again provides no context to the allegedly false statements in a thinly veiled attempt to induce the Court into conducting an improper Rule 137 analysis. Such an approach contradicts the express requirement that a court review the totality of the circumstances at the time the allegedly false documents were signed. *See Couri*, 202 Ill.App.3d at 856. Rather than engage Gothard's tit-for-tat approach in which Plaintiff's statements are scrutinized in isolation, Plaintiff must only look to the totality of the circumstances and Gothard's own discovery answers to invalidate Gothard's contentions and prove Plaintiff's Complaint was well founded in fact.

Plaintiff's allegations regarding repressed memories, in addition to citing established Illinois law, were based in fact. In her interrogatory answers, Plaintiff provided the names of three mental health professionals with whom she treated. *See Jane Doe IV's Supplemental Answers to Defendant William Gothard's SCR Interrogatories*, p. 3-4, 8-9, 12-13, copy attached hereto as **Exhibit A**. Additionally, Plaintiff stated that only after she began undergoing counseling did she begin to understand Gothard's abuse and how it caused her injuries. *See id.* Gothard points to internet posts and conversations taken out of context as support for his allegation that Plaintiff knew and was admitting that her claims were time barred. *See Gothard's Mtn.*, p. 6-7. Far from it, Plaintiff's statements merely show that she was aware that she was confused by Gothard's actions, not that she realized that an injury occurred *and* that it was wrongfully caused as required by Illinois law. *See Franke v. Geyer*, 209 Ill.App.3d 1009, 1012 (3d Dist. 1991).

Plaintiff's assertion that she did not know that her injuries were wrongfully caused is further supported by the fact that Plaintiff stated that she felt "confused" after Gothard gave her

prolonged hugs and played footsie. *See* Charis Barker's Responses to SCR 214 Request for Production of Documents and Intangible Things, p. 69-70, 88, copy attached hereto as **Exhibit B**. Plaintiff goes on to state that she felt "awkward," "scared," and "uneasy." *Id.* Contrary to Gothard's assertion, those feelings do not prove that Plaintiff was aware of the injuries she was suffering as they occurred. Plaintiff's confusion is understandable given that most of the Plaintiffs have stated that they were taught that Bill Gothard could do no wrong. Plaintiff, as a young person, tried to reconcile those teachings with Gothard's treatment. "I've really been working through that and just dismissed it all as mr. G as a great Christian leader with blind spots." Exh. B, p. 88. Plaintiff clearly could not comprehend that Gothard's behavior was wrong and caused her injuries. Gothard's citation to Plaintiff's out-of-context statements speaks only to Plaintiff's knowledge of Gothard's actions, not that those wrongful actions were causally linked to her emotional damage.

Plaintiff's allegations related to her suffering severe emotional distress as a result of Gothard's unwanted sexual conduct were factually sound. Again, Gothard employs the same tired attempts at cherry-picking statements to purportedly show that Plaintiff's claims were false. *See* Gothard's Mtn., p. 4-5. At best, Gothard identifies minor inconsistencies in Plaintiff's allegations while not definitively disproving them. At worst, Gothard stereotypes certain victims of sexual abuse as not being true victims if they cope in certain ways or suffer certain types of injuries. Plaintiff stated that she treated with Dr. Amy Bruton, who told Plaintiff that Gothard's abuse caused Plaintiff stress and mental damage. *See* Exh. A, p. 3-4, 8-9, 12-13. That Plaintiff may also have had concern regarding payment for future medical treatment does not somehow negate her objectively verifiable severe emotional distress. Gothard's assertion that Plaintiff's statements regarding counseling and medical care are incompatible with allegations of severe emotional distress reveals his gross misunderstanding that severe emotional distress somehow precludes such concerns. That Plaintiff may have had additional concerns directly related to the injuries caused

by Gothard does not negate or somehow falsify her allegations that she suffered severe emotional distress.

Regarding Gothard's misplaced argument that he did not engage in any sexual conduct, Plaintiff's aggravated sexual abuse claim against Gothard was dismissed by this Court. Plaintiff alleged that Gothard committed battery based on an unwanted touching. The Plaintiff alleged that Gothard "engaged in unwanted physical and sexual contact and conduct including spreading his legs while clothed to reveal an erection, forcing JANE DOE IV's hand under his jacket, playing with JANE DOE IV's hair in a sexual manner and rubbing his foot up JANE DOE IV's legs in a sexual manner. Complaint ¶ 1111. Despite emphatically stating that the aforementioned allegation was false, Gothard admitted in his answers to Plaintiff's interrogatories that he touched Plaintiff. *See generally* Gothard's Answer to Plaintiff Jane Doe IV Interrogatories, copy attached hereto as **Exhibit C**. Gothard qualified his answer in that "Defendant vehemently denies that any "physical contact" which occurred was of a sensual or sexual nature." *Id.* 2-3. Gothard also posted online that his actions of "holding of hands, hugs, and touching of feet or hair with young ladies crossed the boundaries of discretion and were wrong." *See* Gothard's Online Post, copy attached hereto as **Exhibit D**. Gothard's admissions contradict his claims that Plaintiff made false statements, regardless of his insistence that the contact was non-sensual. Gothard's assertion can only be considered a bad faith attempt to mischaracterize as false that which would ultimately be a question for the jury. Gothard cannot take a question of fact for the jury and repackage it as a false pleading.

As demonstrated, Plaintiff's Complaint was well founded in fact and law. By isolating statements and pointing the finger at Plaintiff for certain behavior misperceived as contradictory to her allegations, Gothard engages in page after page of victim shaming. Setting aside Gothard's ridicule and shaming, his allegations fall well short of the those necessary for the Court to levy sanctions against Plaintiff. Gothard's Motion must be denied.

II. Plaintiff and Plaintiff's Attorneys Conducted a Reasonable Inquiry

While Plaintiff expressly maintains that the allegations contained in her Complaint were true, both Plaintiff and Plaintiff's attorneys nonetheless conducted a reasonable inquiry at the time of filing such that sanctions under Rule 137 are inappropriate. The totality of the circumstances surrounding the initial filing bolster the reasonableness of those inquiries. While Gothard engages in a piecemealed hindsight analysis *ad nauseum*, he once again provides no legal basis for sanctions under Rule 137.

Plaintiff conducted a reasonable inquiry prior to filing the lawsuit by having extensive discussions with other victims of Gothard's abuse in order to corroborate her resurfaced memories. She reviewed all Gothard and IBLP related documents in her possession in order to further confirm Gothard's misdeeds. Plaintiff treated with three mental health professionals in order to obtain necessary treatment and opinions regarding her injuries and how they were causally linked to Gothard's conduct. No other due diligence could have been conducted or was required to further corroborate Gothard's actions. Additionally, the sufficiency of Plaintiff's due diligence is bolstered by the fact that touching did occur even though Gothard could not recall specific dates or specific instances of unwanted touching. *See* Exh. C, p. 2-3; Exh. D.

Plaintiff's attorneys engaged in extensive due diligence by vetting the facts and circumstances forming the bases of the initial complaint filed by Plaintiff's prior attorneys. Plaintiff's attorneys conducted research into the validity in Illinois of tolling the statute of limitations based on repressed memories. *See* Section I, Part A, *supra*. Plaintiff's attorneys reviewed innumerable documents and verified Plaintiff's recitation of the abuse Gothard perpetuated versus the similar accounts given by other girls. It was reasonable to rely on Plaintiff's assertions because aside from Plaintiffs and Gothard, no one else was or could have been privy to what occurred between the two of them. *See Couri*, 202 Ill.App.3d at 856. Plaintiff's attorneys' inquiry did not stop after the initial pleadings and continued through the present.

Given the vigilance with which both Plaintiff and her attorneys initially vetted this case and continued to do so until dismissal, no basis for sanctions exists under Rule 137. Plaintiff's allegations were neither false nor frivolous. Regardless of Gothard's failure to satisfy this threshold inquiry, both Plaintiff and Plaintiff's counsel conducted a reasonable and thorough inquiry into the facts and law underpinning this case. Gothard is not entitled to any relief under Rule 137.

III. Gothard's Rule 219 Motion is Moot

After engaging in nine pages of finger pointing, victim shaming, and ignorant behavior regarding coping mechanisms utilized by sexual abuse victims, Gothard concludes his Motion with a superfluous claim for sanctions under Illinois Supreme Court Rule 219. In determining whether to impose sanctions under Rule 219(e), a "court shall consider discovery undertaken (or the absence of same), any misconduct, and orders entered in prior litigation involving a party." Similar to Gothard ignoring the standard upon which a claim for sanctions under Rule 137 must lie, Gothard intentionally omits discussion of any of the factors considered in a Rule 219(e) analysis. When analyzing the discovery undertaken and the lack of misconduct, Gothard's motion must be denied.

Plaintiff produced extensive documents and answers in response to Gothard's interrogatories and requests for production of documents. Plaintiff has diligently and in good faith searched and produced her records in order to comply with all discovery requests. Now that Plaintiff's case has been voluntarily dismissed, it makes little sense to continue with discovery. Gothard spent his entire motion protesting the expense of litigation, yet now seeks to prolong litigation. At most, Plaintiff should be instructed to preserve any previously compelled evidence rather than engage in additional production. All other relief sought by Gothard pursuant to Rule 219 should be denied.

CONCLUSION

Rather than continue to victim shame and needlessly drag out the current litigation, Gothard should withdraw his motion and move on. Regardless of Plaintiff's voluntary dismissal, Gothard's ignorance of the ways in which sexual abuse victims cope with or describe that abuse is abhorrent. There is a stark difference between voluntarily dismissing a case due to the inability to prove the allegations after due diligence versus dismissing because those allegations were false. Gothard grossly confuses the two. This Court should deny Gothard's motion in its entirety and put an end to his continued shaming and victim blaming.

Respectfully Submitted,

MEYERS & FLOWERS, LLC



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