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Judge: Calendar, Y

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

COUNTY DEPARTMENT, LAW DIVISION

30 DEGREE DESIGN LLC, an Illinois Limited Liability Company; BRAD BEHMER, an individual; KENNETH MAYLE, an individual,

Plaintiffs,

Case No. 22 L 10246

Calendar Y, Courtroom 2004

v.

GP OPPORTUNITY FUND, LLC, an Illinois Limited Liability Company,

Defendant.

Judge John J. Tully, Jr.

PLAINTIFFS' MOTION TO STRIKE DEFENDANT'S UNVERIFIED ANSWER, AFFIRMATIVE DEFENSES, AND INTERROGATORY ANSWERS, OR IN THE ALTERNATIVE, TO COMPEL VERIFIED RESPONSES

NOW COME Plaintiffs 30 Degree Design LLC, Brad Behmer, and Kenneth Mayle, pro se, and respectfully move this Court pursuant to 735 ILCS 5/2-605, Illinois Supreme Court Rule 213, and this Court's inherent authority to enforce compliance with pleading and discovery requirements, to strike Defendant GP Opportunity Fund, LLC's Answer and Affirmative Defenses and Interrogatory Answers for failure to provide proper verification, or in the alternative, to compel Defendant to serve properly verified responses within a date certain. In support thereof, Plaintiffs state:

I. INTRODUCTION

Plaintiffs' Third Amended Complaint is verified. Illinois law is unambiguous: once a plaintiff files a verified pleading, *every* subsequent pleading must also be verified unless the Court excuses verification. 735 ILCS 5/2-605(a). Defendant's Answer and Affirmative Defenses, filed May 13,

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2024, bears the caption "Verified Answer" but contains a signature block with a printed name only—no wet signature, no electronic signature, and no proper Section 1-109 certification by the party—Bryon Finke—purporting to verify it. Defendant's Answers to Plaintiffs' First Set of Interrogatories, served July 11, 2024, contain a verification page that is entirely blank: the printed header "VERIFICATION BY CERTIFICATION" appears with nothing underneath it—no signature, no printed name, no date, and no oath. Defendant's Responses to Plaintiffs' First Set of Requests to Produce bear no client verification whatsoever, signed only by defense counsel.

These defects are not technical. A printed name without a signature is not a verification. A blank verification page is not a verification. Interrogatory answers that are not sworn are inadmissible and cannot constitute evidence. Where Plaintiffs' pleadings are verified, Defendant's failure to verify its responsive pleadings has a direct legal consequence: Defendant's denials of verified allegations do not constitute properly sworn responses, and Defendant cannot benefit from the procedural protections afforded to verified pleadings. Plaintiffs respectfully request that the Court strike the defective pleadings or compel properly verified responses.

II. STATEMENT OF FACTS

1. Plaintiffs filed their Third Amended Complaint, which is verified pursuant to 735 ILCS 5/1-109 and 5/2-605. The verification constitutes Plaintiffs' sworn attestation that the allegations set forth therein are true and correct. Because Plaintiffs' operative complaint is verified, 735 ILCS 5/2-605(a) requires that *every subsequent pleading* be verified as well, unless the Court excuses verification.

2. On May 13, 2024, Defendant filed its "Verified Answer and Affirmative Defenses to Plaintiff's Third Amended Complaint" (Defendant's Answer, of record, filed 5/13/2024, Stamp No. 27667333). The caption uses the word "Verified." However, on page 7 of Defendant's Answer, the "Verification by Certification" section contains only a *printed* name—"S/ Bryon Finke"—without any accompanying wet ink signature or confirmed electronic signature. No date is entered. No officer or agent title under Section 1-109 is completed. The Affirmative Defenses,

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set forth on pages 8–9 of the same document, contain no verification whatsoever and are signed only by defense counsel.

3. A printed "/s/ [name]" designation is valid as an attorney's signature on court filings pursuant to Illinois Supreme Court Rule 131(b), which specifically authorizes attorneys to sign electronically filed documents by inserting "/s/" followed by the attorney's name. That rule applies to *attorney* signatures on *court filings.* It does not authorize a non-attorney client to substitute a typed "/s/" designation for a verified oath pursuant to 735 ILCS 5/1-109. The verification requirement under Section 2-605 requires that the party or authorized officer of the party certify under penalties of law that the statements are true and correct. A typed "S/ Bryon Finke" on a verification page—with no date and no completed certification language—does not constitute a sworn verification by the party.

4. On July 11, 2024, Defendant served its "GP Opportunity Fund, LLC's Responses and Objections to Plaintiffs' First Set of Interrogatories" (of record, served July 11, 2024). Page 9 of Defendant's Interrogatory Answers contains the printed header "VERIFICATION BY CERTIFICATION" followed by a *completely blank signature line.* No name appears, no signature appears, no date appears, and no Section 1-109 certification language is completed. The document was signed on page 8 only by defense counsel Zachary D. Limbaugh as attorney for Defendant.

5. Illinois Supreme Court Rule 213 requires that interrogatory answers be *sworn.* Rule 213 states: "Within 28 days after service of the interrogatories upon the party to whom they are directed, the party shall serve a *sworn answer* or an objection to each." (Emphasis added.) A blank verification page does not constitute a sworn answer. An attorney signature does not substitute for the client's oath. Defendant's Interrogatory Answers are facially unsworn.

6. On July 11, 2024, Defendant served its "Defendant and Counter-Plaintiff's Answers to Plaintiff and Counter-Defendant's First Set of Request for Production of Documents" (of record, served July 11, 2024). That document bears no client verification of any kind and is signed only by defense counsel. Because Plaintiffs' complaint is verified, Defendant's discovery responses—

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which effectively constitute denials of Plaintiffs' verified allegations—should be accompanied by a verification consistent with the standards applied to the underlying pleading.

7. At no time has this Court excused verification of Defendant's pleadings or discovery responses pursuant to 735 ILCS 5/2-605(a).

8. **GP's Authority to Execute the Lease Has Been Placed in Question by Subpoena Return Evidence.** Plaintiffs note, for context, that records returned under subpoena by the title company in this matter raise substantial questions regarding whether GP Opportunity Fund, LLC possessed lawful authority to execute the lease as Landlord. These records—which are in evidence and were obtained under oath—were not fully reviewed and appreciated until later in this litigation. That discovery bears directly on the weight and reliability of any sworn statements made by Bryon Finke purporting to act on behalf of GP Opportunity Fund, LLC in this proceeding, including verification of pleadings and interrogatory answers. A party whose authority to act is itself in question cannot verify pleadings on behalf of that entity with the same presumptive reliability afforded to a properly constituted principal.

III. ARGUMENT

A. Illinois Law Requires Verification of All Responsive Pleadings When the Complaint Is Verified.

Section 2-605(a) of the Code of Civil Procedure provides in relevant part: "If any pleading is so verified, every subsequent pleading must also be verified, unless verification is excused by the court." 735 ILCS 5/2-605(a).

Defendant's Answer and Affirmative Defenses nominally invokes the word "Verified" in its caption. But a caption does not make a document verified. Verification requires that a party—or an authorized officer of a corporate party—sign a Section 1-109 certification attesting that the statements are "true and correct" under penalties of perjury. What Defendant filed contains a printed designation "S/ Bryon Finke" on the verification page, with no date and no completed certification language. That

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is not a verified pleading within the meaning of 735 ILCS 5/2-605.

B. A Typed "/s/" Designation Is Not Enough Here to Establish a Proper Party Verification.

Defendant may argue that "S/ Bryon Finke" constitutes a valid electronic signature sufficient to satisfy the verification requirement. Even if a typed signature can sometimes function as a signature, that does not by itself establish a proper sworn verification under Section 1-109. The problem here is not merely form; it is the lack of a completed, attributable, sworn party certification. The verification page has no date and no completed party attestation beyond the typed notation. In contrast, the interrogatory verification is entirely blank, which confirms Defendant's broader failure to provide sworn party verifications in this case.

C. Defendant's Interrogatory Answers Are Facially Unsworn and Legally Defective.

Illinois Supreme Court Rule 213 expressly requires *sworn* answers to interrogatories. The rule is unambiguous. A party "shall serve a sworn answer or an objection to each" interrogatory. The verification page on Defendant's Interrogatory Answers—page 9 of the July 11, 2024 document—is entirely blank. There is no signature, no name, no date. The document is signed only by defense counsel in his capacity as attorney. An attorney signature does not substitute for the client's oath.

Unsworn interrogatory answers are procedurally defective. The proper remedy is to require Defendant to serve sworn answers that comply with Rule 213. This is the clearest and strongest defect presently before the Court.

D. The Proper Remedy Is Strike With Leave to Refile Verified Responses Within 14 Days, or in the Alternative, an Order Compelling Verified Responses.

Plaintiffs do not seek a disproportionate sanction in the first instance. Instead, Plaintiffs seek an order that gives Defendant a short opportunity to cure while preserving Plaintiffs' right to insist on compliance with 735 ILCS 5/2-605 and Rule 213. The appropriate relief is: (1) strike Defendant's Answer and Affirmative Defenses with leave to refile a properly verified response within fourteen (14) days; (2) strike Defendant's unsworn interrogatory answers and require properly sworn answers

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within fourteen (14) days; and (3) require a properly verified response to Plaintiffs' request to produce, if the Court finds verification appropriate in light of the verified pleading posture of this case.

IV. RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Strike Defendant's Answer and Affirmative Defenses to Plaintiffs' Third Amended Complaint, filed May 13, 2024, as unverified, and order Defendant to refile a properly verified Answer and Affirmative Defenses within fourteen (14) days of entry of this Court's order;
2. Strike Defendant's Answers to Plaintiffs' First Set of Interrogatories, served July 11, 2024, as facially unsworn in violation of Illinois Supreme Court Rule 213, and order Defendant to serve properly sworn Interrogatory Answers within fourteen (14) days of entry of this Court's order;
3. Order Defendant to serve a properly verified Response to Plaintiffs' First Set of Requests to Produce within fourteen (14) days of entry of this Court's order, or such other relief regarding the request-to-produce responses as the Court deems appropriate;
4. Provide that if Defendant fails to timely comply with any of the above, Defendant's Affirmative Defenses may be stricken with prejudice and Defendant's unsworn Interrogatory Answers barred from use, subject to further order of Court; and
5. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Kenneth Mayle, Plaintiff, Pro Se
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ken.mayle@gmail.com

Pro Se No.: 99500

Date: May 5, 2026

CERTIFICATE OF SERVICE

I, Kenneth Mayle, certify that on May 5, 2026, I caused a true and correct copy of the foregoing Motion to Strike Defendant's Unverified Answer, Affirmative Defenses, and Interrogatory Answers, or in the Alternative, to Compel Verified Responses to be served upon all parties of record through the eFileIL electronic filing system, which effectuates service upon all registered counsel and parties in this matter, under penalties as provided by law pursuant to 735 ILCS 5/1-109.

_____

/s/ Kenneth Mayle, Pro Se Plaintiff