**IN THE CIRCUIT COURT OF THE SECOND JUDICAL CIRCUIT**

**WABASH COUNTY, ILLINOIS**

**GARY LANCE,**

(Petitioner)

**v.**  **Case No. 2020 – OP- 33**

**AMBER BANKS,**

(Respondent)

**RESPONDENT’S MOTION FOR SANCTIONS PURSUANT TO ILLINOIS SUPREME COURT RULE 137, 735 ILCS 5/1-109 and 735 ILCS 110/1 *et seq*.**

Now comes, the Respondent, Amber Banks, by and through her attorneys, Turpin & Ghibaudy, in the above-captioned Cause, pursuant to *Illinois Supreme Court Rule 137, 735 ILCS 5/1-109* and 735 ILCS 110/1 *et**seq*., now states as follows in support of her Motion for Sanctions against the Pleading Petitioner:

1. That the Petitioner filed a Petitioner’s Verified Petition for an Emergency Order of Protection / Stalking No-Contact Order in the instant cause on March 30, 2020.

2. That on Page Number Two (2) and Page Number Three (3) of the Petitioner’s Verified Petition for an Emergency Order of Protection / Stalking No-Contact Order in the instant Cause, Filed on March 30th, 2020, the Petitioner without a reasonable belief as to the person(s) responsible for the acts complained of, and without making reasonable inquiry into the underlying allegations Plead wanton lies about the named Respondent, upon information and belief because of personal dislike for the Respondent, her associates, or political differences between the Parties.

3. That on Page Number Two (2), Paragraph Three (3) of the Petitioner’s Verified Petition for an Order of Protection in the instant Cause, filed on March 30th, 2020, the Petitioner falsely asserts that he believed that Amber Banks was the person who was taking pictures and videos of Petitioner’s property from the street. Further Petitioner pleads that the instant Respondent was partially responsible for taking pictures of signs at the Belmont Village Hall and posting the videos and pictures to social media outlets.

4. That there was a final disposition of this matter on April 16th, 2020 wherein a full plenary hearing was as to related matters and causes, wherein the Petitioner admitted that he had no knowledge that the named Respondent was the person who had taken any photos or videos of the Petitioner, further, that Petitioner had made no inquiry into whether the named Respondent was the person responsible for the photos and videos complained of, further, during the hearing, Petitioner admitted did not believe that the named Respondent was the person responsible for taking / making the photos and videos complained of within Petitioner’s Petition.

5. Upon Information and belief, the Petitioner actually sought the Emergency Order of Protection / Stalking No-Contact Order as a means of harassing and causing expense for the Respondent because the Petitioner believed the Respondent to be a part of a group of Bellmont citizens politically opposed to him for his alleged misconduct with the Village of Bellmont’s municipal utility tractor in violation of 735 ILCS 110/15 *et seq*. the Citizen Participation Act.

6. That the Citizen Participation Act or 735 ILCS 110/5 states in pertinent part:

*“Public policy. Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that the constitutional rights of citizens and organizations to be involved and participate freely in the process of government must be encouraged and safeguarded with great diligence. The information, reports, opinions, claims, arguments, and other expressions provided by citizens are vital to effective law enforcement, the operation of government, the making of public policy and decisions, and the continuation of representative democracy. The laws, courts, and other agencies of this State must provide the utmost protection for the free exercise of these rights of petition, speech, association, and government participation.”*

7. That immediately prior to the plenary hearing described above, the Petitioner dismissed his Petition against the instant Respondent.

8. That after the dispositional hearing in the other accompanying cases, namely 2020-OP-29 and 2020-OP-32 in Wabash County, the presiding Judge, Judge Dunn, granted leave for all adverse Respondents to seek sanctions as a result of the admitted falsehood of the Petitioner’s testimony.

9. That the Petitioner verbally admitted during the plenary dispositional hearings in 2020-OP-29 and 2020-OP-32 in Wabash County, that Petitioner included the Respondent in the allegations contained within Petitioner’s pleading, which Petitioner admitted had no reason to believe were true at the time of pleading, and did not believe true at the time of his testimony against other Respondents, that Petitioner made said allegations against the instant Respondent within his Verified Petition for an Emergency Order of Protection, because the named Respondent was “against me,” [the Petitioner.]

10. That at the time the Petitioner made these statements on the face of his Verified Petition, Petitioner admitted he knew the forgoing and described allegations to be false, or at the very least had no reason to believe them true at the time the pleading was signed and filed. Further, the Petitioner knew such false claims would be material in the Court’s decision to grant an Emergency Stalking no-Contact Order to either grant or deny the requested relief, which is why they are required affirmations.

11. Further, during the April 16th, 2020 hearing of related matters, the Petitioner admitted that he was literate at the time of his Emergency Petition. Further, Petitioner admitted Petitioner was under no disability inhibiting him from writing or reading his own pleading, yet Petitioner testified before the Court that some third party, whom Petitioner later identified to be Judge William Hudson wrote the allegations contained within his Petition, and that the Petitioner did not read the allegations before verifying them as true by his signature, but merely signed.

12. That Illinois Supreme Court Rule 137 States:

*(a) Signature requirement/certification.**Every pleading, motion and other document of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other document and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other document; 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 that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other document is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other document is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other document, including a reasonable attorney fee.*

13. That 735 ILCS 5/1-109 states in pertinent part:

“Any person who makes a false statement, material to the issue or point in question, which he does not believe to be true, in any pleading, affidavit or other document certified by such person in accordance with this Section shall be guilty of a Class 3 felony.” *735 ILCS 5/1-109.*

14. That the Petitioner at the time he made the assertions which are the subject of the instant Cause knew them to be false, and such allegations were made admittedly in reprisal for political or personal differences, or for the Petitioner’s belief the Respondent’s made inquiry into the Petitioner’s official actions as the Chairman of the Board of Trustees (Mayor) for the Village of Belmont, Wabash County, Illinois.

15. That the Petitioner has willfully and contumaciously abused legal process and perjured himself to use this honorable Court to harass and cause emotional distress to the Respondent.

16. That the Respondent and Respondent’s Counsel lack standing to bring a felony charge against the Petitioner pursuant to *735 ILCS 5/1-109.*

17. That the Respondent lacks a remedy at law to be made whole for litigation costs, costs of legal counsel, emotional distress, and harassment caused by the Petitioner in the instant Cause, in that, Petitioner has made knowingly false material assertions to the Court for the purpose of harassing the Respondent.

18. That if the Court does not take action to sanction the Petitioner in the insistent Cause for his intentional perjury then the Petitioner is likely to repeat the conduct complained of in this Motion in the future, and will in its effect approve of the Petitioner’s untruthful and harassing conduct, or exhibit an apparent inability of this honorable Court to punish such dishonest and harassing behavior on the part of lying petitioner who makes false statements under oath.

19. That a sanction against the Petitioner is necessary in this Cause because the Respondent must bring in this Cause to comply with Illinois Supreme Court Rule 137(b) which states in pertinent part:

“**(b) Procedure for Alleging Violations of This Rule.** All proceedings under this rule shall be brought within the civil action in which the pleading, motion or other document referred to has been filed, and no violation or alleged violation of this rule shall give rise to a separate civil suit, but shall be considered a claim within the same civil action. Motions brought pursuant to this rule must be filed within 30 days of the entry of final judgment, or if a timely post-judgment motion is filed, within 30 days of the ruling on the post-judgment motion.” *Illinois Supreme Court Rule 137.*

20. That the Court must grant a sanction against the Petitioner for fundamental justice to be served.

21. That if this honorable Court grants sanctions against the Petitioner for the conduct described herein, it is not likely to have a “*chilling effect*” on legitimate claims associated with domestic abuse or stalking, for which the statute and its protections were intended.

22. That if the Court does grant sanctions against the Petitioner for Respondent’s costs in defending the Petitioners false claims, Respondent’s Counsel would be willing to provide an affidavit as to the Respondent’s reasonable legal fees in defending the Petitioners claims if so directed by the Court.

**WHEREFORE,** the Respondent Amber Banks, asks this honorable Court to impose sanctions upon the Petitioner for knowingly making false statements, for willful, wanton, and contumacious non-compliance with Supreme Court Rule 137, and *735 ILCS 5/1-109* perjuring himself before the Court under Oath, for the purpose of harassing the Respondent; and for violations of 735 ILCS 110/1 *et seq*. prays for any such other relief this honorable Court may grant to justice among the Parties described in said Acts.

Respectfully Submitted,

**Jonathan Turpin Esq.**

Dated: 5/11/2020 **(Attorney For the Respondent, Amber Banks)**

**TURPIN & GHIBAUDY,**

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