2013 IL App (1st) 120126-U

FIFTH DIVISION
September 20, 2013

Nos. 1-12-0126 and 1-12-1382, Consolidated

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE THE MARRIAGE OF: JANICE M. O'CALLAGHAN	)	Appeal from the Circuit Court of Cook County,
Petitioner-Appellee,	)	
v.	)	No. 99 D3 31874
MARTIN S. HALL	)	
Respondent-Appellant	)	The Honorable Alfred Levinson, Judge Presiding.

JANICE M. O'CALLAGHAN	)	Appeal from the Circuit Court of Cook County
Petitioner-Appellee,	)	
v.	)	No. 99 D3 31874
MARTIN S. HALL	)	
Respondent-Appellant	)	The Honorable Samuel Betar III, Judge Presiding.

JUSTICE TAYLOR delivered the judgment of the court.
Justices McBride and Palmer concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not err in finding that certain expenses paid on behalf of the parties' son were not for medical reasons where petitioner's motion stated that the payments sought were for "tuition" at an institution where he would receive treatment. Further, sanctions under Supreme Court Rule 137 were not warranted where the record does not unequivocally show that petitioner's allegations were false and unreasonably made under the circumstances.

¶ 2 Respondent Martin Hall appeals from the judgment of the circuit court of Cook County in a divorce proceeding in which the court denied respondent's motion for sanctions against petitioner Janice O'Callaghan's attorneys. He contends that petitioner's attorneys made repeated unfounded accusations against him throughout the proceedings, even after respondent produced evidence that such accusations were untrue. Respondent also appeals from a post decree order in which the court the court found that respondent was in arrears for child support. In that appeal, which has been consolidated with the first, he argues that the trial court improperly characterized prior payments made by respondent for the medical treatment of the child, for half of which he was entitled to reimbursement from petitioner.

¶ 3 BACKGROUND

¶ 4 The proceedings in this case began on December 6, 1999, when petitioner filed a petition or dissolution of marriage with respondent and seeking custody of their three minor children. Petitioner alleged, in pertinent part, that during the marriage, the parties received a settlement on behalf of their oldest son, Martin Scott, Jr., in the amount of $120,000, which was placed in a trust and the two parents were appointed as co-trustees. She further alleged that without her knowledge or approval, respondent followed a course of conduct whereby he would "cause

petitioner's name to affixed documents," which allowed him to remove funds from the trust. According to petitioner, respondent improperly removed all of the funds from the trust and did not use them for the benefit for their child. She claimed, based on "information and belief," that had respondent not removed the funds from the trust, they would be worth $780,000 as of September 1998. Based on those allegations, petitioner sought restitution of those funds, as well as the income they would have generated, and asked that respondent be removed as a co-trustee. Petitioner also filed an emergency petition for temporary maintenance, child support, attorney's fees and other relief, as well as a petition for temporary and permanent custody, in both of which she repeated the same allegations with regard to their son's trust.

¶ 5 It appears that on December 20, 1999, Allen Gabe, one of petitioner's attorneys, sent a letter to the Attorney Registration and Disciplinary Commission ("ARDC"), in which he reported that respondent, who is a licensed Illinois attorney, had "misappropriated" funds from his son's trust. Consistently with his previously filed petitions, Gabe stated in that letter that petitioner never endorsed any of the checks which respondent drew on the account, and that none of the funds were used for the benefit of the child. On February 15, 2001, the ARDC issued a letter to respondent's attorney indicating that it had concluded its investigation of Gabe's report against him, and decided that any disciplinary proceedings were unlikely to be successful. The letter explained that during investigation, respondent denied that he inappropriately used the funds from the trust. Respondent had told the ARDC that he used those funds only to sustain the Hall family, which petitioner did not dispute.

¶ 6 On June 6, 2000, before the ARDC's decision, the circuit court entered a judgment of

dissolution of the parties' marriage, and on July 3, 2001, it entered a supplemental judgment reflecting the parties' agreement relating to property and custody rights, which provided, in pertinent part:

> ¶ 7 "[E]ach party will equally pay and defray, fifty-fifty (50/50), in its entirety and all medical, dental, hospital, nursing and medicine costs and expenses incurred on behalf of the minor children of the parties *** and that each party will save, indemnify and hold harmless the other party if and to the full extent that the other party shall hereinafter be called to, and shall, pay *** such expenses. *** In the event a party contributes to the aforesaid in excess of his or her determined percentage (or set amount) responsibility, the other party shall reimburse his or her former spouse to the full extent the former spouse has paid an amount in excess of his or her designated sum ***."

¶ 8 On December 15, 2003, petitioner filed a post decree emergency petition for payment of medical treatment and other relief. She alleged that Martin Hall, Jr. had been diagnosed with "bipolar disorder, manic, psychotic; R/O [result of] substance induced mood disorder; polysubstance dependence; R/O personality change," and that a doctor had recommended placement at a long-term residential facility. Petitioner further claimed that due to their son's age and medical condition, the parties were required to place him at a facility called Escuela Caribe, located in the Dominican Republic, through an institution named New Horizons Youth Ministries, Inc ("New Horizons"). The petition stated that the "monthly tuition" at that facility was $6,000, and petitioner sought payment of it from respondent. Petitioner again stated that

respondent had removed all of the funds from their son's trust without her knowledge or approval, and that despite taking those funds, respondent refused to pay for their son's treatment. She sought payment from respondent for all of their son's expenses at Escuela Caribe, as well as reimbursement for payments she had made for his medical treatment, and she again sought restitution of the trust funds taken by respondent.

¶ 9 Attached to that petition was a letter from a doctor named Atula Sharma recommending that Martin Hall, Jr. be placed at a residential facility due to his history of non-compliance with medication and treatment. Petitioner also filed her own affidavit, in which she attested that the petition was brought to ensure that her son received the medical treatment that he needed, and that no other facilities would treat him.

¶ 10 It appears that on the same day that this petition was filed, the circuit court entered an agreed order, pursuant to which respondent would pay $8,761.64 to New Horizons, and such payment would be credited towards respondent's reimbursement to their son's trust if any reimbursement was required. The petition was also continued with regard to future payments.

¶ 11 In his response to the petition, respondent acknowledged the recommendation that his son be placed in a residential facility, but denied the allegation with respect to his need to be placed at Escuela Caribe, as well as the allegations that he drew funds from the trust. Respondent also filed a motion to strike and dismiss the petition, where he argued that he only agreed to the order entered on December 15, 2003 because he did not fully understand his rights under the Illinois Marriage and Dissolution of Marriage Act.

¶ 12 On June 30, 2004, the circuit court entered another agreed order, this time striking the

emergency petition for payment of medical treatments and other relief. However, on September 22, 2004, respondent filed a petition for rule to show cause and other relief claiming that, while petitioner's emergency petition was stricken, he nevertheless paid over $25,000 for his son's expenses at the "drug treatment facility" in the Dominican Republic. Respondent asserted that although their divorce judgment required each party to pay half of their children's medical expenses, petitioner had failed to reimburse respondent for her share of those costs.

¶ 13 In her response, petitioner alleges that the payment of the expenses incurred by their son that she had requested in her emergency petition were not for medical treatment, but for boarding and school. She further explained that her insurance carrier denied coverage of those expenses precisely because they were not for medical treatment. As an affirmative defense, petitioner alleged that respondent admitted to removing funds from their son's trust and agreed to reimburse them. Such agreement was the reason why the agreed order striking her petition stated that respondent's payments towards their son's treatment would be credited towards his reimbursement of the trust. While the record before us does not appear to contain an order disposing of respondent's petition, it shows that on June 4, 2008, the circuit court entered a written order striking all of respondent's then pending motions.

¶ 14 On January 15, 2010, more than five years after petitioner's emergency petition for medical payments was struck, respondent filed a document styled "motion for bill of accounting for costs of medical treatment and rehabilitation and travel therefore and other relief." In that motion, respondent alleged that he had paid a total of $22,571.44 to New Horizons for the treatment of his son, but petitioner never reimbursed him for half of those expenses as she was

required to do under their divorce judgment. He, again, sought reimbursement for half of those payments. Attached to the motion were invoices of travel expenses, tuition and charges labeled as "medical" on behalf of Martin Hall, Jr., as well as checks to New Horizons. In her response, petitioner again alleged, now as an affirmative defense, that respondent had removed funds from their son's trust and that his payments were to be credited towards reimbursement of such funds. She also stated that she lacked sufficient funds to make contributions towards payment of their son's boarding school for drug treatment. Respondent filed a response to petitioner's affirmative defense, in which he denied that he alone removed any funds from their son's trust, but alleged that both parties borrowed $21,118.66 from the trust, which was proper under the terms of the trust. Attached to that document was a copy of the trust, which contains language allowing for such loans, as well as two installment notes, containing both parties' signatures, reflecting such loans from the trust in the total amount alleged by respondent.

¶ 15 On August 3, 2010, respondent filed a petition for rule to show cause against petitioner as to why she should not be held in contempt for failing to comply with the terms of their divorce judgment with respect to visitation. He alleged that petitioner prohibited respondent from seeing and communicating with their minor son Chase Hall in retaliation for respondent's filing of, *inter alia*, a motion for bill of account for costs of medical treatment and rehabilitation and travel. In her response, she again described the expenses in question as "boarding school" and "drug treatment," but alleged that it was respondent who filed the motion for bill of accounting in retaliation for her actions in seeking child support that was due to her. She further alleged that it was their son Chase who did not want to see respondent, and that Chase had seen a therapist to

address issues caused by respondent's mental abuse towards that child, as well as their other children and petitioner herself.

¶ 16 On January 4, 2011, the circuit court held a hearing on, *inter alia*, respondent's motion for bill of accounting for costs of medical treatment and rehabilitation and travel, and a petition for rule to show cause filed by petitioner, regarding respondent's failure to pay child support and certain insurance premiums. Respondent apparently argued that the sum of $11,285.72, which was petitioner's share of their son's expenses for psychiatric treatment and rehabilitation, should be set off against his child support arrears. According to the bystander's report in the record before us, the court stated at that hearing that the payments made by respondent were to be credited to room and board at New Horizons and not for medical purposes. The report indicates that respondent offered into evidence a partial set of New Horizons billing statements, which showed that his payments were credited to psychiatric "milieu therapy and counseling."

¶ 17 Ten days later, the circuit court entered a written order denying respondent's motion for bill of accounting, and continued the hearing on petitioner's motion for rule to show cause. The court also ordered visitation between respondent and the parties' son Devin for two hours every Sunday and directed the parties to investigate counseling options to "address the issues between [r]espondent and the minor child." Respondent filed a motion for reconsideration of the court's order denying his motion for bill of accounting, which the trial court also denied, on January 29, 2011.

¶ 18 On December 13, 2011, the circuit court entered its final judgment on child support arrearage in favor of petitioner, for the amount of $8,827.78. Consistently with its prior order,

the court did not give respondent credit for any payments made for their son's treatment and stay at the facility in the Dominican Republic.

¶ 19 Before that ruling, respondent filed a motion for sanctions under Illinois Supreme Court Rule 137 for false allegations of respondent's felonious conduct throughout the proceedings. That motion was filed with regard to various documents filed by petitioner throughout the proceedings containing allegations that respondent denied. With regard to the allegations that respondent improperly removed all funds from their son's trust account and did not use them for the best interest of that child, petitioner included them, aside from the documents noted above, in her: (1) petition for temporary and permanent custody; and (2) response to another petition for rule to show cause filed by respondent. Insofar as petitioner's claim that respondent was abusive to their children, petitioner filed as noted above, a response from November 24, 2010, as well as a later response to another petition for rule to show cause, where she claimed that respondent was mentally abusive to their sons and herself. She also filed a motion to modify visitation, where she alleged that respondent made comments to make their son Devin feel inadequate, which is why Devin was undergoing counseling to work on "issues" with respondent. Furthermore, petitioner filed responses to respondent's motions to deny further continuance and to set child support in which she alleged that respondent attempted to "self-deal" as a co-trustee of their oldest son's trust and to breach his fiduciary duty in that capacity, and that he called her names. Lastly, petitioner filed one original and one amended motion to set child support, in which she alleged that while respondent claimed to be unemployed, he provided legal services and was compensated on a contract basis, but did not disclose that to petitioner.

¶ 20 In his motion for sanctions, respondent alleged that his borrowing of funds from his son's trust was duly authorized by petitioner, and that he had delivered to petitioner's attorneys the installment documents related to such borrowing, signed by both respondent and petitioner. He further argued that petitioner's attorneys knew that their accusations were false when the ARDC issued a letter deciding not to pursue sanctions against respondent. According to the motion, the remaining allegations made against respondent, relating to their son's trust fund and respondent's abusive behavior, were unfounded, and in any event, irrelevant and inadmissible in these post-decree proceedings. Attached to that motion was, *inter alia*, a letter from a clinical psychologist stating that she had been treating the parties' son Devin for major depressive disorder and anxiety disorder. Petitioner and her attorneys filed a response, in which Gabe admitted to seeing copies of the parties' son's trust and the installment notes.

¶ 21 On April 12, 2012, the circuit court denied respondent's motion for sanctions based on its finding that petitioner's attorney was required to report respondent to the ARDC under the circumstances. With respect to the other allegations against respondent, the court noted that such statements were made only in pleadings, and were, therefore, not sanctionable. The court also struck all exhibits introduced by respondent that showed settlement negotiations between the parties. Such exhibits included a settlement proposal by petitioner, in which she would withdraw her claims for child support in exchange for a payment of $11,000 in child support, his payment of petitioner's attorneys' fees, and his agreement to stop seeking reimbursement for their son's expenses.

¶ 22 ANALYSIS

¶ 23 On appeal, respondent first contends that the circuit court abused its discretion when it declined to credit respondent's child support in arrears for half of the expenses paid on behalf of his oldest son for his stay at a residential facility through New Horizons. He maintains that he was entitled to reimbursement for half of those expenses. According to respondent, petitioner's characterization of the expenses in her 2003 emergency petition as medical costs for the treatment of their son constitutes an admission by both petitioner and her attorney, and the doctrine of judicial estoppel therefore precluded petitioner from arguing at a later time that those costs were for anything else.

¶ 24 As a preliminary matter, we note that we have no appellee's brief, and are therefore bound to apply the principles set forth by our supreme court in First Capitol Mortgage Corp. v. Talandis Construction Corp., 63 Ill. 2d 128, 133 (1976), in order to determine whether we may properly resolve the merits of this appeal with the record before us and based solely on the arguments raised by plaintiff. In that case, our supreme court held:

> "We do not feel that a court of review should be compelled to serve as an advocate for the appellee or that it should be required to search the record for the purpose of sustaining the judgment of the trial court. It may, however, if justice requires, do so. Also, it seems that if the record is simple and the claimed errors are such that the court can easily decide them without the aid of an appellee's brief, the court of review should decide the merits of the appeal. In other cases, if the appellant's brief demonstrates prima facie reversible error and the contentions of the brief find support in the record the judgment of the trial court may be reversed." Talandis, 63

Ill. 2d at 133.

¶ 25 Thus, although the supreme court's decision in Talandis permits us to decide this appeal without the benefit of appellee's brief, the burden nevertheless remains on plaintiff to provide us with a sufficient record to support his contentions. See Id.

¶ 26 Generally, matters involving child support and the judicial determination of child support arrearage are reviewed for abuse of discretion. *In re Marriage of Paredes*, 371 Ill. App. 3d 647, 650 (2007). Here, respondent contends, as noted above, that the trial court abused its discretion because the expenses that he paid on behalf of their son were medical expenses, half of which should have been credited towards his child support arrearage. He maintains that petitioner's description of their oldest son's expenses in her emergency petition as medical treatment was a judicial admission. Thus, according to respondent, the court erred in not only allowing petitioner to contradict them in her later motions, but also in agreeing with those contradictions when it found that the expenses paid on behalf of the parties' oldest son were not medical, despite petitioner's admission in her emergency petition. Respondent further asserts that such a finding was also an improper failure to comply with the doctrine of judicial estoppel to petitioner's admissions.

¶ 27 Those contentions have been waived. It is well established that this court may deem any arguments not raised before the trial court waived or forfeited on appeal. *Mann v. Thomas Place LP*, 2012 IL App (1st) 110625, ¶15. The record before us does not show that respondent ever raised them before the circuit court. It does not indicate that he ever characterized petitioner's allegations in her emergency petition and affidavit as judicial

admissions, neither did he raise the argument that she was judicially estopped from claiming that the expenses in question were not for medical purposes. Thus, we conclude that respondent has waived his arguments regarding any admissions that petitioner may have made with respect to the medical nature of the costs spent on the parties' son.

¶ 28 Moreover, even assuming, *arguendo*, that respondent's contentions had been properly preserved, he would fare no better. With respect to respondent's assertion that petitioner made a binding judicial admission in her emergency petition, we note that judicial admissions are defined as "deliberate, clear, unequivocal statements by a party about a concrete fact within that party's knowledge." *Smith v. Pavlovich*, 394 Ill. App. 3d 458, 468 (2009). Such a judicial admission cannot be contradicted by evidence at trial, and if it is made in a verified pleading, and was not a result of a mistake or inadvertence, it becomes binding on the party who made it. *Shelton v. OSF Saint Francis Medical Center*, 2012 IL App (3d) 120628, ¶24. However, the question of whether a fact constitutes a judicial admission "must be decided under the circumstances in each case, and before a statement can be held to be such an admission, it must be given a meaning consistent with the context within which it was found." *Smith*, 394 Ill. App. 3d at 468.

¶ 29 Here, petitioner states in her emergency petition and in her affidavit that the reason for placing the parties' son in a long-term facility was for medical treatment. However, her petition also states that the money sought from respondent was for "tuition" at the institution where their son would receive such treatment. In this context, while it appears that the residential facility in question would ensure that their son received medical treatment,

petitioner's statement could be viewed as seeking the cost of room and board at that facility. Although respondent argues that the trial court would not have ordered him, on December 15, 2003, to pay for those costs if they were not for medical treatment, the court merely entered an agreed order, which is not a judicial determination of the parties' rights, but rather a recordation of an agreement between them. *In re M.K.*, 284 Ill. App. 3d 449, 456 (1996).

¶ 30 Respondent's related assertion that petitioner was judicially estopped from asserting that her son's expenses were not medical is likewise unpersuasive. Somewhat similar to the rule on judicial admissions, the doctrine of judicial estoppel provides that " 'a party who assumes a particular position in a legal proceeding is estopped from assuming a contrary position in a subsequent legal proceeding.' " *Barack Ferrazzano Kirschbaum Perlman & Nagelberg v. Loffredi*, 342 Ill. App. 3d 453, 460 (2003) (quoting *Bidani v. Lewis*, 285 Ill. App. 3d 545, 550 (1996)). Five elements are necessary for the application of the doctrine, namely, that "the party to be estopped must have: (1) taken two positions, (2) that are factually inconsistent, (3) in separate judicial or quasi-judicial administrative proceedings, (4) intended for the trier of fact to accept the truth of the facts alleged, and (5) have succeeded in the first proceeding and received some benefit from it." *People v. Caballero*, 206 Ill. 2d 65, 80 (2002). Here, petitioner's emergency motion was not made in a separate proceeding, but it was part of the same case. Furthermore, since, we noted above, petitioner stated in her emergency petition that she sought payment for the cost of her son's "tuition," it does not appear that her later argument that respondent's payments were made towards expenses other than medical treatment was a new, factually inconsistent position.

¶ 31 Respondent next challenges the trial court's denial of his motion for Rule 137 sanctions against petitioner and her attorneys. He maintains that petitioner's allegations of child abuse, as well as respondent's misappropriation of funds from their son's trust by forging documents, are unfounded, and therefore, grounds for sanctions. In support of his contention, respondent argues that, while the letter from the ARDC exonerated him from wrongfully taking funds from his son's trust, petitioner continued to make allegations of such misappropriation. Respondent further asserts that the trial court improperly declined to admit into evidence petitioner's proposed settlement, which according to respondent, showed that petitioner's allegations were made for the sole purpose of harassing him and coercing him into an unfavorable settlement.

¶ 32 Illinois Supreme Court Rule 137 provides, in relevant part:

> "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 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." Ill. S. Ct. R. 137 (eff. Jan. 4, 2013).

¶ 33 The purpose of Rule 137 is to " 'prevent abuse of the judicial process by penalizing claimants who bring vexatious or harassing actions based on unsupported allegations of fact or law,' " not to punish litigants and their attorneys merely because they have been

unsuccessful in litigation. *Burrows v. Pick*, 306 Ill. App. 3d 1048, 1050 (1999) (quoting *Senese v. Climatemp, Inc.*, 289 Ill. App. 3d 570, 581 (1997)). The party requesting sanctions under that rule has the burden of showing that the opposing party made assertions of fact which were untrue and made without reasonable cause. *Reyes v. Compass Health Care Plans*, 252 Ill. App. 3d 1072, 1078 (1993). "Because of Rule 137's penal nature, courts must construe it strictly, must make sure the proposing party has proven each element of the alleged violation, and should reserve sanctions for the most egregious cases." *Webber v. Wright & Co.*, 368 Ill. App. 3d 1007, 1032 (2006). In determining whether a party made a reasonable inquiry, the circuit court must employ an objective standard, as subjective good faith is insufficient to meet the burden under Rule 137. *Burrows* at 1051 (citing *Edwards v. Estate of Harrison*, 235 Ill. App. 3d 213, 221 (1992); *In re Marriage of Irvine*, 215 Ill. App. 3d 629, 638 (1991)).

¶ 34 This court, in reviewing a circuit court's decision on a party's motion for sanctions under Rule 137, must determine whether the circuit court's decision was informed, based on valid reasons, and logically follows from the circumstances of the case. *Id.* The circuit court's decision on whether to impose such sanctions is left to the discretion of the circuit court, and will not be disturbed absent an abuse of discretion. *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 487 (1998).

¶ 35 Here, respondent argues that petitioner's statements that he misappropriated funds from their sons's trust and did not use them for the benefit of that child are false, which petitioner and her attorneys knew. In support of that argument, respondent claims that he

showed them copies of the trust, which allowed the parties to borrow from the trust, and of the installment notes containing both parties' signatures. Respondent further asserts that the letter issued by the ARDC, declining to continue investigatory proceedings against respondent, exonerated him of those accusations, and yet petitioner continued to repeat the allegations in later pleadings.

¶ 36 We note, however, that while the installment notes in the record appear to be signed by both parties, they account for only $21,118.66, petitioner alleged that respondent removed all $120,000 contained in the trust. Furthermore, since petitioner alleged that respondent forged her signature in order to have access to those funds, her signature on those notes, with no evidence of their authenticity, does not conclusively show that respondent did not improperly remove those funds. Moreover, insofar as the letter from the ARDC states that formal disciplinary proceedings were unlikely to be successful, it merely states that respondent denied inappropriately using their son's trust funds, and that petitioner does not dispute that he used those funds to sustain the "Hall family" as a whole. Those statements are hardly conclusive that respondent did not fail to use those funds more specifically for the benefit of their oldest son, as required under the terms of the trust. Neither does the letter present conclusory evidence that respondent removed those funds with petitioner's permission. Respondent's reliance on *Edwards v. Estate of Harrison*, 235 Ill. App. 3d 213 (1992) is misplaced because unlike petitioner's attorneys in this case, the attorney in *Harrison* received conclusive evidence that the document on which he relied had a forged signature, yet he continued to present it as genuine.

¶ 37 Furthermore, with respect to petitioner's allegations that respondent was abusive towards their children, as well as towards petitioner, he points to the letter from Chase's psychologist, which diagnoses the child with depression and anxiety, but makes no mention of abuse. Respondent notes that since the therapist was required, under section 5/4.02 of the Abused and Neglected Child Reporting Act, to report any suspicion of abuse to the Department of Children and Family Services ("DCFS"), the fact that she did not do so is indicative that he never abused that child. See 325 ILCS 5/4.02 (West 2002). However, the mere fact that the psychologist who treated one of the parties' children did not report any suspected abuse at the time that she treated that child does not conclusively show that petitioner's allegations of mental abuse towards the entire family was false. Thus, we conclude that the circuit court did not abuse its discretion in denying respondent's motion for sanctions under Rule 137.

¶ 38 Respondent lastly claims that the proposed settlement offered by petitioner should have been admitted as evidence that petitioner and her attorneys' accusations were made for the purpose of coercing him into an unfavorable settlement. Nevertheless, having found that the evidence on the record before us is insufficient to show that petitioner's allegations were, in fact, untrue, we conclude that the trial court did not err in declining to admit that settlement offer into evidence. Respondent's reliance on *Joslyn v. Joslyn*, 337 Ill. App. 443 (1949) is unpersuasive because in that case, the record unequivocally showed that one of the parties' attorney falsely stated in court that his client was owed alimony, after admitting in a letter that her former husband was, in fact, up to date on his payments. Here, as discussed

above, there was no clear showing that petitioner's statements were false.

¶ 39 For the foregoing reasons, we affirms the judgment of the circuit court of Cook County.

¶ 40 Affirmed.