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DOCUMENT DESCRIPTION: Legal - Order Upon Plaintiffs' Motion for Sanctions [Garzee v JC]

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
PEORIA COUNTY, ILLINOIS

GARZEE, etc.,	}	
Plaintiff	}	
	}	
Vs.	}	**01 – L - 201**
	}	
JOHN CRANE, etc., et al.,	}	
Defendants	}	

ORDER UPON PLAINTIFF'S MOTION FOR SANCTIONS

This cause coming before this Court for ruling upon Plaintiff's Motion for Sanctions against John Crane, filed approx. December 12, 2003 and Plaintiff's argument heard by this Court on December 19, 2003; Defendant having orally moved for continuance to allow Defendant to brief the matters addressed; This Court having initially heard oral argument on Defendant's motion to continue and brief the Motion, and having thereupon granted Defendant's oral motion to continue for briefing with dates certain for filing of Defendant's response and Plaintiff's reply, which have now been received; This Court having retained jurisdiction over the pending motion notwithstanding Circuit-wide reassignments effective January 1, 2004 due to this Court's familiarity with the issues and initial arguments made upon the motion to continue; and this Court now being fully advised in the premises, finds and rules as follows:

This Court finds that Defendant John Crane has committed discovery abuse as alleged in Plaintiff's Motion, by failure to duly investigate "in house" or within the resources of Defendant's various counsel and agents as required for full disclosure pursuant to discovery, by failure to produce documents responsive to discovery requests though those documents were known to and available to the Defendant, by purposefully delaying and refusing compliance with discovery requests and orders of this Court directing compliance intending thereby to gain unfair trial advantage in this and related litigation, and by misleading Plaintiff's counsel to believe that Defendant's compliance was complete when Defendant knew or had reason to know that compliance was not complete.

Plaintiff seeks, as sanction against Defendant John Crane, that said Defendant be defaulted or that Defendant be foreclosed from certain defenses at trial, as (arguably) provided by Rule. While the actions of the Defendant appear to warrant such sanction, precedent is clear in suggesting that trial courts use great caution in entering appropriate but less severe sanctions if justice can be served without resort to the "ultimate" sanction of forfeiting a party's right to trial. The matter so left to the trial court's sound discretion, it is the determination of this Court that sanctions less severe than default are appropriate in the premises.

Plaintiff's
Ex.