

**STATE OF MICHIGAN**  
**IN THE CIRCUIT COURT FOR THE COUNTY OF GRAND TRAVERSE**

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FRED TOPOUS, JR.,

Plaintiff / Counter-Defendant,

HON. THOMAS G. POWER  
CIRCUIT COURT JUDGE

v

FILE NO. 12-28977-CB

CLARENCE K. GOMERY and GOMERY &  
ASSOCIATES, PLLC,

Defendants/Counter-Plaintiffs

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**ORDER GRANTING PLAINTIFF'S MOTION FOR SANCTIONS FOR FRIVOLOUS  
DEFENSE AND FOR SPOLIATION OF EVIDENCE**

At a session of this Court held on the \_\_\_\_ day of \_\_\_\_\_, 2013 having read and considered **PLAINTIFF FRED TOPOUS, JR.,S MOTION FOR SANCTIONS PURSUANT TO MCR 2,625 (1) and (2) and MCL 600.2591 AND FOR SPOLIATION OF EVIDENCE,** and having heard oral argument thereon:

**Now it is hereby ordered,** that Plaintiff's motion is granted and Defendants are sanctioned in the amount of Plaintiff's reasonable attorney fees and costs since the date of filing of their answer to the lawsuit for all fees and costs necessary to:

1. Refute Defendants claim that the subject \$25,000 payment was to settle an outstanding claim and/or was for attorney fees owed,
2. Attempt to obtain and search the "actual computer used to create, access, store or modify" the subject digital file, and
3. Refute the legitimacy of the original "Operating Agreement" alleged by Defendants to spell out the rights, obligations and duties of the parties in the "T & G Real Estate Development, LLC" entity.

Plaintiff's shall file a motion for an evidentiary hearing on the amount of fees and costs to be awarded as sanctions pursuant to the directives of *Smith v. Khouri, 481 Mich 519 (2008)*.

Dated:

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The Honorable Thomas G. Power  
Circuit Court Judge