2015 IL App (1st) 150461-U
No. 1-15-0461
Order filed December 22, 2015

Second Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

ALDI, INC.,	)	
	)	
Plaintiff-Appellee,	)	Appeal from the Circuit Court
	)	of Cook County.
v.	)	
	)	
PREFERRED HALSTED, LLC,	)	No. 2011 CH 24018
	)	
Defendant-Appellee	)	
	)	The Honorable
and	)	Diane Larson,
	)	Judge, presiding.
LIQUORS GALORE, LLC,	)	
	)	
Defendant-Appellant.	)	

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Pierce and Justice Simon concurred in the judgment.

Order

¶ 1 *Held*: The trial court properly denied defendant Liquors Galore's motion to set aside the default judgment, and its finding of contempt was not against the manifest weight of the evidence.

¶ 2 When Preferred Halsted LLC sold land to Aldi, Inc. for use as a grocery store, it also agreed not to rent its neighboring parcels to any store selling alcohol. A few years later, after Aldi refused to waive the restriction, Preferred went ahead and rented a neighboring parcel to Liquors Galore, LLC to operate a liquor store. Aldi sued Preferred and Liquors to enforce its restrictive covenant with Preferred. Eventually, Preferred acquiesced and began proceedings to remove Liquors from the property.

¶ 3 Aldi served the suit on Liquors's registered agent, but Liquors did not appear and a default order was entered. Eight months later, the trial court entered a default judgment that prohibited Liquors from selling alcohol on the parcel. Five months after the entry of judgment, following the filing of a petition for rule to show cause, Liquors entered its appearance, explaining that it had never authorized its registered agent to fill that role, and the agent did not inform it of Aldi's complaint until after the default judgment had been entered. Ultimately, the default judgment was not vacated and Liquors was held in contempt for failing to comply with a different rule to show cause.

¶ 4 Liquors argues that the trial court considered its motion to set aside the default judgment under the wrong standard and erred in denying it. We hold that the trial court properly considered Liquors's motion as a petition to set aside the judgment under 735 ILCS 5/2-1401 and properly denied that motion. Liquors also challenges the trial court's finding of contempt. We affirm the trial court's imposition of contempt sanctions, including attorney's fees, costs, and a fine of $500 per day, given that Liquors did not comply (and, according to the parties, still has not complied) with the judgment. We deny Aldi's request for further sanctions under Supreme Court Rule 375(b).

¶ 5 BACKGROUND

¶ 6 In 2006, Aldi purchased a commercial strip ("Parcel A") at 821 West 115th Street, Chicago from Preferred Halsted, LLC. As part of the sale, Aldi entered into a restrictive covenant with Preferred stating that "Parcel B" could not be used for, among other things, "the operation of a business in which alcoholic beverages shall be sold for consumption off the premises." In March 2009, Preferred asked Aldi to waive this restriction so that Preferred could lease Parcel B to Liquors Galore, a liquor store; Walgreens, located at "Parcel D," had agreed to waive its right to prevent the presence of a liquor store.

¶ 7 Aldi's covenant with Preferred stated that, to be effective, Aldi's consent to the waiver "must be given, denied or conditioned expressly and in writing." Aldi did not respond in writing to Preferred's request; instead, an Aldi representative left a voicemail informing Preferred that Aldi would not waive the covenant as to Parcel B. Despite Aldi's refusal, Preferred leased Parcel B to Liquors Galore, LLC, in May 2009. The lease between Preferred and Liquors stated that it was conditioned on Preferred obtaining a written waiver of the restriction against liquor sales on Parcel B. In August 2010, Aldi first discovered Liquors's presence on Parcel B and wrote to Preferred, demanding that Preferred bring Parcel B into compliance with the restrictive covenant. Aldi sent another letter in June 2011, but neither letter induced any action from Preferred.

¶ 8 In July 2011, Aldi filed a complaint against Preferred, asking for a declaratory judgment. In July 2012, Aldi amended the complaint, adding Liquors Galore as a defendant. The summons and complaint were served on Liquors' registered agent, Halawa Illinois Registered Agent. Liquors having neither appeared nor answered the complaint, Aldi moved for a default judgment seeking injunctive relief. On October 17, 2012, the trial court granted the default. The order was served on Liquors's registered agent via certified mail. Eight months later, on June 19, 2013, the

trial court granted Aldi a declaratory judgment holding both defendants in violation of the restrictive covenant. The defendants were ordered to "cease and desist any lease and operation on Parcel B permitting and conducting the sale of liquor for consumption off premises." The trial court retained jurisdiction to enforce the order. Preferred did not oppose this order. Aldi sent the order to Liquors's registered agent by certified mail.

¶ 9 Five months later, Aldi filed a petition for rule to show cause against both Preferred and Liquors, alleging that despite the trial court's order, Preferred still leased space to Liquors and Liquors continued to sell alcohol. This petition, too, was served on Liquors's registered agent by certified mail. Meanwhile, on November 18, 2013, the trial court granted Aldi attorneys' fees from Preferred.

¶ 10 Finally, on November 22, 2013, Liquors's attorney filed an appearance. Liquors then responded to the petition for a rule to show cause, alleging that its registered agent, Halawa Illinois Registered Agent, had never forwarded Liquors the complaint, summons, or default judgment. Liquors attached the affidavit of Samer Alzayed, a "managing member" of Liquors. Alzayed stated that when he filed the articles of organization for Liquors in May 2009, he listed himself as the registered agent at his own home address and did not authorize any change to the LLC's registered agent. To his knowledge, no one had authorized a change. He knew Abdo Halawa, the president of Halawa Illinois Registered Agent, but did not remember any communications from Halawa about this case.

¶ 11 Preferred then petitioned for an order of possession or leave to file a cross-complaint against Liquors. Preferred also wrote to Liquors notifying Liquors of cancellation of their lease.

¶ 12 On January 13, 2014, Liquors moved to vacate the default judgment under 735 ILCS 5/2-1301. Liquors attached the affidavit of Dipak Patel, another "managing member" of Liquors,

who stated that Abdo Halawa served as the company's accountant but Patel had never authorized any change in the registered agent. The first paperwork Liquors received from Halawa about this case was the petition for a rule to show cause. Patel also stated that before Liquors signed the lease, Preferred had sent them a waiver of the restrictive covenant from both Walgreens and Aldi, and Liquors relied on these waivers in signing the lease. (The waiver document in the record is from Walgreens only.)

¶ 13 Liquors also attached Abdo Halawa's affidavit. Halawa stated he was Liquors's accountant, and that it was his custom to make himself the registered agent for a business when he took on the business as a client. But Halawa did not tell his clients that he was making this change and did not always forward his client businesses the mail he received as their registered agent. Halawa stated that he did receive a copy of the summons and complaint but did not forward them to Liquors; the first document he sent Liquors was the petition for a rule to show cause.

¶ 14 Finally, Liquors included an affidavit from Liquors's attorney, Timothy Fitzgerald, who stated that in late 2011 or early 2012, his clients asked him to review the original complaint against Preferred, and because Liquors was not named in the original suit, Fitzgerald did not file an appearance. Fitzgerald failed to explain how his clients received a copy of the original complaint. On receiving the petition for a rule to show cause in November 2013, Fitzgerald tried to file an appearance on Liquors's behalf. Fitzgerald also stated that he had been suffering major health problems since February 2013.

¶ 15 In February 2014, Aldi withdrew the petition for rule to show cause against Preferred, as Preferred had tried to proceed against Liquors. In March 2014, the trial court denied the petition for rule to show cause, stating that Liquors had shown good cause why it had not complied with

the June 2013 order. Liquors also withdrew its 2-1301 motion, though the trial court wrote that it had been prepared to rule on it "based in part on the Court's view that the Order of November 18, 2013 resolved all matters as to all parties and was a final and appealable order."

¶ 16 On April 16, 2014, Liquors filed a combined petition to vacate the default judgment, under 735 ILCS 5/2-1401, or in the alternative under 2-1301. Liquors attached another affidavit from Fitzgerald, stating that he had not thought the November 2013 order was final and appealable, and had he known he would have brought a motion to vacate the default more quickly.

¶ 17 In May 2014, Aldi filed a second petition for a rule to show cause, against Liquors only. Aldi stated that Liquors was still selling alcohol on Parcel B; Aldi asked for a finding of indirect contempt, sanctions, and attorney's fees. Aldi also moved to strike Liquors's combined 2-1301 and 2-1401 motion, saying that Liquors had not been diligent. Aldi attached documentation showing that in June 2010, Alzayed (who had earlier stated that he had never authorized a change in registered agent) had, in fact, signed articles of amendment for Liquors that changed the LLC's registered agent to Halawa Illinois Registered Agent.

¶ 18 In Liquors's July 22, 2014 reply, a new affidavit from Alzayed stated that he had not read the amendment documents before signing them and therefore did not realize that he was authorizing a change in the registered agent. He had signed a number of documents at that time in connection with a transfer in LLC shares, some of which had been prepared by Halawa.

¶ 19 In July 2014, the court denied Preferred's motion for an order of possession, but stated that Preferred could file a cross-complaint for forcible entry detainer, because the June 2013 order terminated the lease between Preferred and Liquors. Preferred then filed a cross-complaint. Meanwhile, Preferred moved for clarification of the June 2013 order, asking if it

could still collect rent from Liquors if Liquors was refusing to vacate the site. On January 13, 2015, the trial court granted Preferred's motion to clarify, stating that Liquors must pay Preferred back rent and continue to pay rent as long as it occupied the premises. The court also granted Liquors leave to file an answer to Preferred's cross-complaint.

¶ 20 In a separate order, the trial court evaluated Liquors's combined 2-1301/2-1401 petition as a 2-1401 petition and denied it, finding that Liquors had not shown diligence or a meritorious defense. The court also granted the second petition for rule to show cause, allowed Aldi to submit a fee petition, and imposed a $500 per day penalty on Liquors if they continued to sell alcohol on the premises. The court noted that "this is one of the most troubling cases I've seen," and Liquors's conduct was willful and contumacious. On February 11, 2015, Liquors filed a notice of appeal as to both January 13, 2015 orders. In the interim, Aldi had filed its fee petition, and filed a petition for additional contempt sanctions because Liquors was continuing to sell alcohol on Parcel B.

¶ 21 ANALYSIS

¶ 22 The Trial Court Properly Considered Liquors' Motion Under 5/2-1401.

¶ 23 If a party files a motion to set aside a default judgment within 30 days of the final judgment, the motion is considered under 5/2-1301(e). Courts strictly enforce this time limit, for the trial court loses jurisdiction to consider the motion under that provision after the 30-day period elapses. *In re Marriage of Harnack & Fanady*, 2014 IL App (1st) 121424, ¶43. After 30 days, the party must file a petition to set aside the judgment under 5/2-1401(a).

¶ 24 The movant's "reward" for filing the motion within 30 days of the judgment is a difference in standards: having a default judgment set aside is much easier under 2-1301 than under 2-1401. *Draper & Kramer, Inc. v. King*, 2014 IL App (1st) 132073, ¶25. Under 2-1301,

the "overriding consideration" is whether "substantial justice" is being done, and whether it is reasonable under the circumstances to compel the other party to go to trial on the merits. *In re Haley D.*, 2011 IL 110886, ¶57 (litigant need not necessarily show existence of meritorious defense and reasonable excuse for not having diligently presented defense). In contrast, a movant proceeding under section 2-1401 must show, by a preponderance of the evidence (i) the existence of a meritorious defense, (ii) due diligence in presenting that defense in the trial court, and (iii) due diligence in filing the 2-1401 petition itself. *Id*. at ¶58.

¶ 25 The threshold question is when, and whether, the trial court issued a final judgment of default. This controls whether 2-1301 or 2-1401 applies to Liquors's April 2014 motion to set aside the default judgment, which Liquors filed under both provisions. Liquors's position is that the trial court never entered a "final order," because (i) proceedings continued after the trial court found it in default; (ii) Aldi asked for and received attorney's fees; (iii) Aldi filed two petitions for a rule to show cause against Liquors; (iv) Preferred asked the trial court to clarify whether Preferred could continue to collect rent from Liquors; and (v) Preferred ultimately filed a cross-complaint to remove Liquors from the premises. Thus, according to Liquors, Liquors's April 2014 motion was timely filed under 2-1301, and the trial court erred in considering its motion as a 2-1401 petition.

¶ 26 Aldi contends that the final judgment was entered, at the latest, on November 18, 2013, when the trial court ordered Preferred to pay Aldi's attorneys' fees, and the trial court implied that the November 18 order was intended to be final. This would mean that Liquors's motion was filed over 30 days later and properly considered under 2-1401's more rigid standards. (Aldi asserts that our jurisdiction does not extend to Liquors's argument that its motion should have been considered as filed under 2-1301 because Liquors's notice of appeal did not include that

portion of the motion. *See* Ill. Sup. Ct. R 303(b)(2). Notices of appeal are to be construed liberally, *People v. Smith*, 228 Ill. 2d 95, 104 (2008), and Liquors's notice of appeal sufficiently brings the 2-1301 portion of its motion within our purview.)

¶ 27 A final order or judgment terminates the litigation on the merits, or disposes of the rights of the parties. *Haley D.*, 2011 IL 110886, ¶61. An order of default is not a final judgment; to be final, a default judgment must include a finding of the issues for the plaintiff and an assessment of damages. *Jackson v. Hooker*, 397 Ill. App. 3d 614, 620-21 (2010). A judgment is final if it determines the merits so that, if affirmed on appeal, the only remaining task is to execute the judgment. *Marriage of Harnack & Fanady*, 2014 IL App (1st) 121424, ¶36.

¶ 28 Both parties are incorrect. The trial court entered final judgment on June 19, 2013, when it (i) found for Aldi and granted Aldi a declaratory judgment that both Preferred and Liquors were in violation of the restrictive covenant, and (ii) ordered Preferred and Liquors to "cease and desist any lease and operation . . . permitting and conducting the sale of liquor for consumption off premises." All the proceedings that followed – Aldi's petitions for rule to show cause, Preferred's cross-complaint against Liquors, and Preferred's request for clarification of the June 19 order – related to enforcing the June 19, 2013 judgment. Aldi's petitions for attorneys' fees do not change this conclusion. *See Servio v. Paul Roberts Auto Sales, Inc.*, 211 Ill. App. 3d 751, 759 (1991) (recognizing distinction between cases where request for fees is part of principal action or is brought after principal action has been decided).

¶ 29 Liquors asserts that the November 18, 2013 judgment cannot have been final because it did not dispose of all claims between all parties. But as explained above, the proceedings that took place on November 18, and afterwards, related to enforcement of a final judgment. Thus, Liquors's reliance on Supreme Court Rule 304(a) – which would require a trial court to make a

special finding allowing an appeal of a judgment that applied only to less than all parties or all claims – is misplaced.

¶ 30 Liquors did not enter an appearance until November 2013, nearly five months later after June 19, and did not file its first motion challenging the default judgment until January 2014. That motion Liquors withdrew, and only filed its motion challenging the default, whose denial gave rise to this appeal, in April 2014. Liquors's April 2014 motion was well outside the 30-day window for filing a 2-1301 motion. (This conclusion is the same regardless of whether the final order was indeed entered, as Aldi and the trial court assume, in November 2013.) Thus, the trial court did not have jurisdiction to consider the motion under 2-1301's more lenient standard. *Marriage of Harnack & Fanady,* 2014 IL App (1st) 121424, ¶43.

¶ 31 Under section 2-1401, the movant, by a preponderance of the evidence, must show the (i) existence of a meritorious defense, (ii) due diligence in pursuing that defense in the trial court, and (iii) due diligence in presenting the 2-1401 petition itself. *Haley D.*, 2011 IL 110886, ¶58. Whether the defense is meritorious presents a question of law we review de novo. See *Charles Austin, Ltd. v. A-1 Food Servs., Inc.,* 2014 IL App (1st) 132384, ¶26. If a meritorious defense exists, the issue of due diligence is subject to abuse of discretion review. *Id.*

¶ 32 Liquors Was Not Diligent in Defending the Suit.

¶ 33 To show diligence in defending against the lawsuit, Liquors must show that its initial failure to defend was the result of an "excusable mistake" and that it acted reasonably. *Charles Austin*, 2014 IL App (1st) 132384, ¶40. We examine all the circumstances surrounding the entry of the default judgment, including the conduct of the litigants and their attorneys. *Id.* A party cannot use section 2-1401 to escape the consequences of its own mistakes or negligence. *Id.*

¶ 34 Liquors alleges that it was diligent because it never received the amended complaint from Abdo Halawa, who "unilaterally and without authorization" appointed himself the registered agent. The record shows otherwise. Liquors's first factual representation on this issue was that Samer Alzayed, a manager of Liquors, had no idea that Halawa was the new registered agent and never authorized such a change. Halawa himself stated that he had made the change without asking the permission of his clients and made a practice of not forwarding to his clients the documents served on him. How could this situation occur? Aldi provided the answer: Alzayed had, in fact, authorized the change several years earlier. At this point, Liquors backtracked; the new story was that Alzayed had authorized the change without knowing he was doing so because he had signed the documents without reading them. The document changing the registered agent – entitled "Articles of Amendment" – all of two pages, states that the registered agent is being changed to Halawa, and Alzayed affixed his signature as the manager of Liquors. It boggles the mind to consider how Liquors could imagine itself diligent in defending the suit where the reasonableness of its excuse depends on the unreasonable negligence of its own registered agent and managing partner.

¶ 35 Liquors compares its case to *Bird v. Kostbade*, 52 Ill. App. 3d 742 (1977), where the court found that a defendant was diligent in responding to a lawsuit because its system for handling legal documents simply "broke down," but did not indicate defendant's indifference. The comparison misses the mark by a mile. Both Alzayed and Halawa have shown themselves willing to swear to disproven or absurd factual statements. Further, the record indicates that Liquors knew quite well, long before they were ever named as a defendant, that their sale of alcohol from that location had become a legal issue for their landlord. Liquors went so far as to

consult an attorney on the matter. The full circumstances demonstrate that Liquors is no blameless victim of a paperwork-shuffling-mishap.

¶ 36 We reached a different conclusion in *West Bend Mut. Ins. Co. v. 3RC Mechanical and Contracting Servs., LLC*, where the registered agent's relationship with the principal was "estranged" at the time of service and the trial court determined, based on the full circumstances, that the lack of diligence resulted from an excusable mistake. 2014 IL App (1st) 123213, ¶¶15-16. Unlike in *West Bend Mut. Inc. Co.*, however, the trial court did not credit Liquors' story blaming Halawa for its troubles, and we will not reverse that finding absent an abuse of discretion.

¶ 37 Finally, Liquors takes Aldi to task for not notifying Liquors's named officers or serving the summons and complaint directly at the store. But in *Smith v. Airoom, Inc.*, 114 Ill. 2d 209 (1986), our Supreme Court held that a plaintiff has no obligation to constantly alert a defendant to the course of proceedings in the trial court. *Id.* at 226-27. Aldi served Liquors's registered agent through proper means; Aldi had no obligation or duty to also send a courtesy copy to another address simply because Liquors, in retrospect, would have found it more convenient.

¶ 38 Liquors's proffered excuses, rather than showing it reasonable, has instead shown Liquors to be engaging in exactly the type of mistakes and negligence that cannot be escaped through a 2-1401 petition. Thus, the trial court did not abuse its discretion in finding that Liquors was not diligent in defending the suit.

¶ 39 Liquors Was Not Diligent in Filing Its 2-1401 Petition.

¶ 40 Liquors must also show that it was diligent in filing the 2-1401 petition. No bright-line rule guides us in answering this question; we must judge by the reasonableness of Liquors's conduct under the circumstances. *Charles Austin*, 2014 IL App (1st) 132384, ¶48.

¶ 41 The time lapse between when Liquors claimed it first learned of the default judgment (November 2013) and when it filed its 2-1401 petition (April 2014) shows a lack of diligence in filing. Cf. *Cavalry Portfolio Servs. v. Rocha*, 2012 IL App (1st) 111690, ¶17 (litigant diligent in filing 2-1401 petition three days after first learning of trial court's judgment). Liquors was represented by counsel during this five-month period. Any negligence by that counsel does not excuse the lack of diligence. See *R.M. Lucas Co. v. People Gas Light & Coke Co.*, 2011 IL App (1st) 102955, ¶18 (litigant generally bound by mistakes or negligence of counsel; parties must follow progress of case, and 2-1401 petition will not relieve party of consequences of attorney's neglect). Liquors filed an earlier motion against the judgment in January 2014, but voluntarily withdrew that motion in March 2014, though the trial court was prepared to rule on it. Even that earlier motion had been filed two months after Liquors learned of the default judgment.

¶ 42 We find that Liquors has not provided adequate facts or support to indicate due diligence and, accordingly, violated this statutory requirement. Under these circumstances, Liquors's conduct in waiting that long to challenge the default judgment was not reasonable, and Liquors was not diligent in filing the 2-1401 petition.

¶ 43 Liquors's Possible Defenses

¶ 44 Liquors asserts that it has possible meritorious defenses to the action: estoppel and laches. Since we have already determined that Liquors cannot demonstrate due diligence in pleading their case in the trial court, or in filing their 2-1401 petition, we need not determine what defenses might be available to Liquors or their possible merit. See *Haley D.*, 2011 IL 110886, ¶58 (movant under 2-1401 must show diligence in addition to existence of meritorious defense).

¶ 45 The Trial Court's Contempt Finding

¶ 46 Liquors challenges the trial court's finding of contempt and imposition of sanctions. Courts have inherent power to compel compliance with their orders through contempt, an essential power to the administration of justice. *Sanders v. Shephard*, 163 Ill. 2d 534, 540 (1994); *In re Estate of Steinfeld*, 158 Ill. 2d 1, 19 (1994). A party's disagreement with the court's orders does not excuse their obligation to obey the order. *Steinfeld*, 158 Ill. 2d at 19. Whether a party has committed indirect civil contempt presents a question of fact which we will not overturn unless clearly against the manifest weight of the evidence. *Allied Asphalt Paving Co. v. Vill. of Hillside*, 314 Ill. App. 3d 138, 146 (2000). Trial courts have the discretion to fashion appropriate remedies for "contumacious" behavior, including reasonable fees as a sanction. *Welch v. City of Evanston*, 181 Ill. App. 3d 49, 56 (1989).

¶ 47 Liquors argues that it could not have complied with the June 19, 2013 order because it was unclear as to whether Liquors should stop selling alcohol or terminate the lease, and therefore the trial court abused its discretion in ultimately holding Liquors in contempt. The order stated that defendants "are ordered to cease and desist any lease and operation on Parcel B permitting and conducting the sale of liquor for consumption off premises."

¶ 48 To support a finding of contempt, the court's underlying order must be unambiguous, so "specific and clear as to be susceptible of only one interpretation." *In re Marriage of Steinberg*, 302 Ill. App. 3d 845 (1998). An injunctive order must set forth with "certainty, clarity and conciseness precisely what actions are enjoined." *O'Leary v. Allphin*, 64 Ill. 2d 500, 513-14 (1976). In determining whether the order has been violated, the order must be interpreted within the context of its issue and the purpose for which it was requested. *Doe v. Lutz*, 253 Ill. App. 3d

59, 64 (1993). A party cannot escape contempt where it fully understands the orders meaning but chooses to ignore it. *Id.* at 65.

¶ 49 The order is specific and unambiguous, given the context of the case, and the trial court's contempt finding was not against the manifest weight of the evidence. The order was directed at both Preferred, which had leased Parcel B and was permitting Liquors to operate a liquor store on that parcel, and Liquors, which was operating a liquor store and conducting the sale of liquor from that store. The entire thrust of the case, from the initial complaint, involved nothing more than Liquors selling alcohol on Parcel B – the conduct the order enjoins.

¶ 50 Liquors states in passing that it "filed a motion to clarify [the June 19] order, but said motion was never ruled upon." This is incorrect. Liquors cites to its response to Aldi's first petition for a rule to show cause. The trial court denied that petition. Preferred sought and ultimately received clarification of the June 19 order, just as it was Preferred who filed a cross-complaint against Liquors in an attempt to comply with the order. The contempt sanction imposed on Liquors was in response to Aldi's second petition for a rule to show cause – a petition not filed against Preferred because Aldi perceived, correctly, that Preferred was actually trying to comply with the trial court's orders. The record is void of any effort by Liquors to comply with the trial court's orders. The trial court had discretion to craft the fees, costs, and fines to compel Liquors to comply with its orders. Given the length of time that elapsed (during which Liquors apparently never ceased its enjoined activities) and Liquors's spurious factual arguments during the life of the suit, the trial court's finding of contempt was not against the manifest weight of the evidence.

¶ 51 Aldi's Request for Sanctions under Rule 375(b)

¶ 52 Finally, Aldi has asked this Court to impose further sanctions on Liquors under Supreme Court Rule 375(b), asserting that Liquors's appeal is not taken in good faith. Aldi asserts that it is entitled to damages in the form of Liquors's unlawfully derived profits, costs of the appeal, and attorneys' fees. Liquors correctly responds that a request must be made on motion of a party. Ill. Sup. Ct. R. 375(b). Aldi made its request only in its brief. Regardless, though we reject Liquors's arguments in this opinion, those arguments are not so baseless, nor is their briefing technically so insufficient, as to merit further sanctions under this rule. Liquors has not descended into the type of zealotry that requires this Court to punish its conduct. We reject Aldi's request for further sanctions under Rule 375(b).

¶ 53 Affirmed.