

<p style="text-align: right;">Page 1</p> <p>1 IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT</p> <p>2 IN AND FOR PALM BEACH COUNTY, FLORIDA</p> <p>3 CASE NO.: 50-2020-CC-005756-XXXX-MB</p> <p>4</p> <p>5 CITIBANK N.A.,</p> <p>6 Plaintiff/Petitioner</p> <p>7 vs.</p> <p>8 EVAN S. GUTMAN,</p> <p>9 Defendant/Respondent.</p> <p>10 _____/</p> <p>11</p> <p>12</p> <p>13 PROCEEDINGS HELD BEFORE</p> <p>14 THE HONORABLE EDWARD A. GARRISON</p> <p>15</p> <p>16 April 3, 2024</p> <p>17 1:02 p.m. - 3:02 p.m.</p> <p>18</p> <p>19 PALM BEACH COUNTY COURTHOUSE</p> <p>20 205 NORTH DIXIE HWY</p> <p>21 WEST PALM BEACH, FL 33401</p> <p>22</p> <p>23 REPORTED BY:</p> <p>24 Lisa MacDonald, Court Reporter</p> <p>25 Notary Public No. HH-472774</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX OF PROCEEDINGS</p> <p>2 PAGE</p> <p>3</p> <p>4 OPENING COMMENTS 5</p> <p>5</p> <p>6 EVIDENTIARY HEARING ON THE AMOUNT OF</p> <p>7 PLAINTIFF/PETITIONER ATTORNEYS' FEES</p> <p>8</p> <p>9 WITNESSES ON BEHALF OF PLAINTIFF/RESPONDENT</p> <p>10 Donald Mihokovich, K.C.</p> <p>11 Direct examination by Mr. Curtin 10</p> <p>12 Cross-examination by Mr. Gutman 15</p> <p>13 Redirect examination by Mr. Curtin 38</p> <p>14</p> <p>15 Stephanie Serafin, K.C.</p> <p>16 Direct examination by Mr. Curtin</p> <p>17</p> <p>18 WITNESSES ON BEHALF OF DEFENDANT/RESPONDENT</p> <p>19 Kenneth Curtin, Esq.</p> <p>20 Direct examination by Mr. Gutman 47</p> <p>21</p> <p>22 Final argument by Mr. Gutman 60</p> <p>23 Final argument by MR. Curtin 61</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 ON BEHALF OF THE PLAINTIFF/PETITIONER:</p> <p>4 Kenneth Curtin, Esq.</p> <p>5 Adams and Reese LLP</p> <p>6 North Tampa Street, Suite 4000</p> <p>7 Tampa, Florida 33602</p> <p>8 813-227-5521</p> <p>9 Kenneth.curtin@arlaw.com</p> <p>10</p> <p>11 APPEARING ON HIS OWN BEHALF:</p> <p>12 Evan Gutman</p> <p>13 EVAN GUTMAN CPA, JD</p> <p>14 Boca Raton, Florida 33432</p> <p>15 201-400-6459 (Cell)</p> <p>16 Egutman@gutmanvaluations.com</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 MOTION TO HOLD DEFENDANT IN CONTEMPT OF</p> <p>2 COURT</p> <p>3 Submissions by Mr. Curtin 63</p> <p>4 Submissions by Mr. Gutman 72</p> <p>5</p> <p>6 MOTION FOR FINAL JUDGMENT ON VARIOUS WRITS</p> <p>7 OF GARNISHMENT</p> <p>8 Submissions by Mr. Curtin 86</p> <p>9 Submissions by Mr. Gutman 91</p> <p>10</p> <p>11</p> <p>12 INDEX OF EXHIBITS</p> <p>13 -----</p> <p>14 EXHIBIT DESCRIPTION PAGE</p> <p>15 -----</p> <p>16 PLAINTIFF EXHIBIT 1: 15</p> <p>17 ATTORNEY HOURS AND RATES SUMMARY WITH</p> <p>18 STATEMENTS</p> <p>19 PLAINTIFF EXHIBIT 2: 45</p> <p>20 KREUSLER-WALSH, VARGAS & SERAFIN'S FEE</p> <p>21 EXPERT BILL</p> <p>22 DEFENDANT EXHIBIT 3: 48</p> <p>23 EMAILS</p> <p>24 DEFENDANT EXHIBIT 4: 48</p> <p>25 JUDGMENT LIEN CERTIFICATE</p>

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1 (Proceedings commenced at 1:02 p.m.)
2 THE BAILIFF: All rise. Court is now in
3 session, the Honorable Edward Garrison presiding.
4 THE COURT: Good afternoon. If everyone could
5 have a seat, please.
6 Okay. So we have a variety of motions that
7 got added on. The main thing that was set for today
8 was the evidentiary hearing in determining the
9 reasonable fees on the prior award to the plaintiff,
10 and what else do we have still pending?
11 MR. CURTIN: Yes, Your Honor. This morning we
12 had two scheduled Zoom hearings, but your secretary
13 said just to set it all today live. So we have the
14 evidentiary hearing on the amount of appellate
15 attorneys' fees, and we have the motion to hold
16 Mr. Gutman in contempt of court, and we have the
17 motion for a final judgment on various writs of
18 garnishment.
19 If it pleases the Court, I would like to do
20 the evidentiary hearing first just because I have my
21 witnesses here for that.
22 THE COURT: Sure.
23 MR. GUTMAN: Your Honor, before we even start
24 with any of the motions, it's my position that these
25 hearings should not take place even, and if I could,

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1 I'd like to delineate why.
2 There's a Citibank motion for extension of
3 discovery that they filed, I believe, in July 2021.
4 They then -- excuse me, a motion to extend discovery
5 that they -- to respond to my discovery that they
6 filed in July of 2021. They then provided essentially
7 nothing in -- I believe it was February or March of
8 2022 they did respond, but they essentially objected
9 for the most part to all the requests for admissions.
10 I filed an opposition to the extension. We're now in
11 2024, which is almost three years -- it will be three
12 years this July.
13 The Florida Supreme Court has delineated
14 that -- in its rules of judicial administration that
15 all motions should be ruled upon within a reasonable
16 period of time. So this extension motion is now over
17 two and a half years old, almost three years old, it
18 still has not been ruled upon, and if their motion for
19 extension is denied, the impact is that substantially
20 all liability issues are resolved in my favor and
21 against them. If their motion to extend is granted
22 almost three years after its filing, that would
23 basically mean that a reasonable period of time,
24 according to this court, anyway, to comply with the
25 Florida Supreme Court dictate would be almost three

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1 years, which I don't think is reasonable, but, in any
2 event, even if the motion is granted, there's still
3 the issue of the fact that their discovery was
4 substantially deficient, and if the motion to extend
5 is granted, I should be able to file, then, a motion
6 to compel better answers to their discovery because
7 the extension motion was pending the entire time.
8 Now, Mr. Curtin -- I had brought this issue up
9 once before, and Mr. Curtin's rebuttal on it was that
10 the underlying case has been resolved, so the
11 extension motion is moot, but that's not really
12 correct because if all the liability issues are
13 admitted, then not only should the attorney fees
14 motion be denied, but it also provides me, then, with
15 the ability to file a motion to vacate the underlying
16 judgment based upon new evidence, that new evidence
17 being that Citibank has admitted all liability issues.
18 So before we even continue on the entitlement issue, I
19 do think we need a ruling on the outstanding motion
20 for extension.
21 Now, turning very briefly to the contempt
22 motion, the reason that should not be heard --
23 THE COURT: We're focusing on the evidentiary
24 hearing first, so --
25 MR. GUTMAN: Okay. Fair enough, fair enough.

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1 THE COURT: -- if you would clarify --
2 MR. GUTMAN: Okay. Fair enough.
3 THE COURT: You started out by saying an
4 objection, and you kind of moved into a motion. What
5 specifically do you want right now regarding --
6 MR. GUTMAN: A ruling on the motion for
7 extension, their motion for extension.
8 THE COURT: Okay. Well, we've dealt with that
9 before. Mr. Curtin's prior position is correct. This
10 has been resolved. The case is going to final
11 judgment and then affirmed in appeal. Any other
12 reasons not to proceed here?
13 MR. GUTMAN: Not on the entitlement issue, but
14 I do have -- but I guess what you're saying is --
15 THE COURT: The entitlement has already been
16 decided. This is the amount of determination of the
17 fees.
18 MR. GUTMAN: No, no, I understand that.
19 THE COURT: Okay.
20 MR. GUTMAN: In other words, with respect to
21 proceeding on the contempt and the garnishment, you're
22 saying I should wait until we --
23 THE COURT: Yeah, we're going to get this
24 evidentiary hearing --
25 MR. GUTMAN: Okay. Fair enough.

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1 THE COURT: -- out of the way so we don't keep
2 our witnesses waiting.
3 MR. GUTMAN: Okay. Understood.
4 THE COURT: Mr. Curtin, if you need to make a
5 brief opening, fine. If not, we can just jump into
6 the testimony. We know how an attorneys' fee hearing
7 works, so --
8 MR. CURTIN: Yeah, I think we can just jump
9 into the testimony, Your Honor.
10 THE COURT: All right.
11 MR. CURTIN: We won on entitlement; it's just
12 the amount.
13 My first witness will be my law partner,
14 Donald Mihokovich, Esquire.
15
16 DONALD MIHOKOVICH, ESQ.
17 Having been duly sworn, testifies as follows:
18
19 THE COURT: Please have a seat at the witness
20 stand. Watch your step going up.
21 All right. Once again, your full name is --
22 THE WITNESS: My full name is Donald Allen,
23 A-L-L-E-N, Mihokovich, and I've already --
24 THE COURT: Can you spell the last name,
25 please?

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1 THE WITNESS: It's M-I-H-O-K-O-V, as in
2 Victor, I-C-H.
3 THE COURT: All right, Mr. Curtin, you may
4 proceed.
5 MR. CURTIN: Thank you.
6 DIRECT EXAMINATION BY MR. CURTIN:
7 Q. Mr. Mihokovich, can you briefly go over your
8 educational background?
9 A. Sure. Undergraduate degree was from Bowling
10 Green State University, 1987. I then attended law
11 school at --
12 THE COURT: Let me interrupt for one brief
13 second.
14 Do you have an objection to his qualifications
15 and testimony?
16 MR. GUTMAN: No, no, no, no.
17 THE COURT: Okay. We can skip most of it,
18 then.
19 MR. CURTIN: Fair enough.
20 BY MR. CURTIN:
21 Q. We're here on an evidence hearing on the
22 amount of appellate attorneys' fees on the appeal of
23 the underlying final judging. What have you reviewed
24 in order to make an opinion on the reasonableness of
25 those fees?

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1 A. I reviewed the bills, your submissions,
2 Mr. Gutman's objections, and the underlying briefs,
3 motions, responses to motions, and rulings to those
4 motions.
5 Q. Okay. Let me show you what I'll mark for
6 identification purposes as exhibit number 1. What is
7 exhibit number 1?
8 A. It starts with a summary of the -- of the
9 number of hours and the hourly rate and the amount for
10 each of those, and after that, I assume this is all
11 part of the same thing, are the actual statements.
12 Q. And are those attorneys' fees statements that
13 you've reviewed in this matter that determine the
14 reasonableness of the amount of the appellate
15 attorneys' fees?
16 A. Yes, they are.
17 Q. Okay. And you are familiar with the Rowe
18 factors for reasonableness of attorneys' fees?
19 A. I am.
20 Q. Okay. And as far as the nature of the case
21 and involvement in this case and the time and labor
22 and novelty and complexity issues involved, do you
23 have any opinion on that Rowe factor?
24 A. It was a little more complex than most appeals
25 and certainly more than most Citibank or Citi Mortgage

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1 related appeals because Mr. Gutman, while he is an
2 attorney in other jurisdictions, he's not a Florida
3 attorney, so some of his arguments were a little
4 unique.
5 Q. And do you have an opinion on the fee and rate
6 customarily charged compared to the rates -- in this
7 jurisdiction compared to the rates charged Citibank
8 for this litigation?
9 A. Our rates that we charge for Citibank are more
10 than reasonable compared to what's usually charged in
11 this jurisdiction.
12 Q. And as far as the nature and length of the
13 professional relationship between Adams and Reese, the
14 law firm, your law firm, and Citibank, do you have any
15 knowledge of that?
16 A. Yes. That relationship goes back at least 15
17 years. I've been with Adams and Reese since 2010, and
18 Citibank has been a client of the firm since at least
19 then, and we've handled probably hundreds of files for
20 Citibank.
21 Q. And there was only two attorneys who billed
22 that we're asking for -- there are only two attorneys
23 who billed time on this appeal, correct, yourself and
24 myself?
25 A. Well, I think that there's one time entry on

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1 the summary for Lou Ursini. He's the primary
2 relationship partner and oversees just about
3 everything that we do for Citibank, but primarily it
4 is my time and your time.
5 Q. And as far as the appeal, were you the main
6 attorney on the appeal?
7 A. Yes.
8 Q. And what was my relationship with the appeal?
9 A. Well, you were the trial court attorney, so
10 you helped guide me as to what the issues were, what I
11 should look for in the record.
12 Q. And is that normal in an appeal that you go to
13 the trial attorney to see what happened at that date?
14 A. Absolutely.
15 Q. As far as Section 768.79 Florida Statutes,
16 that's the offer of judgment statute -- as far as the
17 elements of that, do you have any opinion on the
18 apparent merit or lack of merit of the claim?
19 A. Well, that's already been determined by the
20 District Court of Appeal, which ruled in our favor on
21 all issues.
22 Q. So the appeal was 100 percent victory for
23 Citibank?
24 A. Correct.
25 Q. At the end of the day, how much in fees do you

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1 believe -- in hours, do you believe are reasonable
2 occurred in that appeal?
3 A. As shown on the summary, 56.4 is what we're
4 requesting, and that is a very reasonable amount.
5 Q. And as far as the hourly rates on the summary
6 and in the timesheets, do you have any opinion on the
7 reasonableness of the hourly rates for yourself,
8 myself and Mr. Ursini?
9 A. Again, the hourly rates are very reasonable,
10 and they're less than what I charge most other
11 clients.
12 Q. And as far as the total amount of attorneys'
13 fees you're asking for -- Citibank is asking for on
14 this appeal, what's the total amount?
15 A. \$20,250.90.
16 Q. And based upon your experience and education,
17 is that a reasonable total amount?
18 A. Absolutely.
19 Q. Based on your experience and education, are
20 the 56.4 hours reasonable?
21 A. Yes, they are.
22 MR. CURTIN: No further questions at this
23 point.
24 THE COURT: All right. The composite exhibit
25 1 that you've handed in has been marked as composite

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1 exhibit 1 for the plaintiff.
2 MR. CURTIN: Yes, I would like to enter that
3 into evidence, Your Honor.
4 THE COURT: Any objection to the exhibit?
5 MR. GUTMAN: No objection to it being entered
6 into evidence, Your Honor.
7 THE COURT: All right, composite exhibit
8 number 1 for the plaintiff has been admitted without
9 objection.
10 PLAINTIFF EXHIBIT 1:
11 ATTORNEY HOURS AND RATES SUMMARY WITH
12 STATEMENTS
13 Cross-examination, Mr. Gutman?
14 MR. GUTMAN: Yes.
15 CROSS-EXAMINATION BY MR. GUTMAN:
16 Q. Mr. Mihokovich, you basically, is it fair to
17 say, handled the bulk of the appeal?
18 A. Correct.
19 Q. Do you recall filing on May 19th, 2023 a
20 response in opposition to my motion for a 40-day
21 extension of time to file a reply brief?
22 A. I do recall filing a response to it. As I sit
23 here today, I don't recall the basis for it. You'd
24 have to show it to me.
25 Q. Okay. If I were to say to you -- and I'm

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1 actually reading from the document. If I were to say
2 to you that what you wrote is, once again, Gutman has
3 filed his motion in the wrong case --
4 A. Oh, now I recall the basis for it. You asked
5 for an extension of time to file a reply brief in this
6 case because of something that was going on in the
7 other appeal that was dealing with your appeal of the
8 attorneys' fee judgment.
9 Q. Okay. So when you say "the other appeal",
10 there was also a petition for mandamus and prohibition
11 that was filed, correct?
12 A. That's correct.
13 Q. And when you filed this response in opposition
14 to my motion, you were basically indicating that the
15 two appeals, although related -- actually, I'll read
16 exactly what you said to help you. "While the two
17 appeals are related, they have not been consolidated".
18 Would I be correct in saying that the appeal
19 which is the subject to entitlement to appellate fees
20 today includes time for the petitions for mandamus and
21 prohibition, which were a different case, and noting,
22 would I be correct -- that would be a compound
23 question, so, actually, I'll leave it at that for
24 right now.
25 Would I be correct that the petitions for

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1 mandamus and prohibition were different case numbers,
2 and you basically utilized that premise to defeat one
3 of my motions, or try to defeat it?
4 MR. CURTIN: My only objection is if he's
5 going to ask about a document and a filing, if he
6 could give us at least a copy of that filing to look
7 at before he answers the question.
8 MR. GUTMAN: That's fair enough. This is the
9 only one I have, but I've got my questions on it.
10 A. I'm not sure I follow your question, but I
11 can -- okay, this was the objection to appellate
12 attorneys' fees?
13 BY MR. GUTMAN:
14 Q. To clarify the question, you complained the
15 case numbers were different, therefore they were
16 different cases, even though they were related. Since
17 the petition for mandamus is a different case number,
18 isn't it fair to say that would not be subject to
19 entitlement to appellate attorney fees, even though
20 related to the other appeal, because you made that
21 argument yourself, the Court of Appeals agreed with
22 you, so isn't that a fair statement?
23 A. I -- no, I don't think it's a fair statement,
24 but I'm not here to make legal argument, but I can
25 tell you that the issues that you raise in your

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1 petition for writ of mandamus and prohibition, as I
2 recall, were the same issues that you raise in this
3 appeal. So to the extent I looked at the underlying
4 record when you first filed the petition for writ of
5 mandamus and prohibition, I did not have to repeat
6 that when handling this appeal, so it all carried over
7 because they were the exact same issues. You just --
8 Q. On your time --
9 A. You just filed it the wrong way.
10 Q. On your time records do you indicate it was
11 for this -- for the case that we're dealing with
12 today, or did you clearly indicate on your time
13 records that it was for a petition of mandamus?
14 A. Well, you filed the petition for writ of
15 mandamus and prohibition first.
16 Q. Right.
17 A. So when I looked at some of the stuff
18 initially, like when I looked at the record of this
19 case, it was when you would have only filed that one.
20 It was not until that was dismissed, then you
21 basically refiled the same thing as a -- as a final
22 appeal.
23 Q. On your timesheets, since the petition of
24 mandamus is a different case number, isn't it a
25 different case?

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1 MR. CURTIN: Objection, Your Honor. I think
2 it's asked and answered. The witness was asked and
3 answered that.
4 THE COURT: Overruled. He can answer.
5 A. They're the same issues that you raised in two
6 different cases, so I didn't have to repeat the work
7 twice. I didn't go back and look at the record.
8 BY MR. GUTMAN:
9 Q. On your billing records didn't you identify a
10 petition for mandamus and prohibition instead of
11 saying these are the same issues that were raised?
12 And you basically just said, am I correct, petition
13 from time for petition mandamus and prohibition,
14 extraordinary writs? I think that's exactly what you
15 said, there was extraordinary writs in there.
16 A. I still don't understand what your question
17 is. I understand you're making an argument, but is
18 there a question?
19 Q. The question is aren't they two different
20 cases? And the time you -- and aren't they two
21 different cases?
22 A. No. They're all -- it depends on what you
23 mean by that.
24 Q. Different case numbers.
25 A. You attempted -- there were -- so far in this

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1 case, if I recall correctly, you have generated --
2 you've made filings that have generated three
3 different case numbers with the District Court of
4 Appeal, if that's what you're asking. You filed first
5 for a petition of --
6 Q. I'm asking if your billing records include
7 time spent for two different case numbers. That's my
8 question.
9 A. In one sense, yes, in another sense, no. I
10 did the work --
11 Q. Well --
12 A. I did the work --
13 Q. -- can't argue with that, I guess.
14 A. I did the work -- again, I did the work
15 initially -- some of the work initially when you filed
16 a petition for writ of prohibition and writ of
17 mandamus. When that was denied, you essentially
18 refiled the same thing, but as a final appeal, so when
19 I initially went back and looked at what happened in
20 the lower court, that applied to both.
21 Q. I'm just going to ask the question again. The
22 time that's on your billing records indicates
23 extraordinary writ. Weren't the extraordinary writs a
24 different case number? That's the question. Yes or
25 no?

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1 A. I think I answered that. Yes, you've
2 generated three different District Court of Appeal
3 case numbers. At first it was the writ of
4 prohibition, writ of mandamus, then there was this
5 final appeal, and then you have a third appeal as to
6 the attorneys' fee judgment.
7 Q. Can I please, Your Honor, get a direct answer
8 to the question?
9 The items you identified as extraordinary
10 writs, aren't they a different case number?
11 A. I think I already answered that. There is a
12 different case number for what you initially filed.
13 Q. So, yes, you're saying yes?
14 A. Then when that was dismissed, you refiled the
15 same thing, which was the appeal that we're under now.
16 I don't know how else to answer that.
17 Q. You could just say yes.
18 MR. CURTIN: Your Honor, I think he's
19 badgering the witness. I think the witness has
20 answered it.
21 THE COURT: Next question, Mr. Gutman.
22 MR. GUTMAN: Okay. I'm not sure if I have any
23 other questions. If you could just bear with me for a
24 moment, Your Honor, please.
25 I do have a few more questions.

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1 BY MR. GUTMAN:
2 Q. Under the statute for attorney fees after an
3 offer judgment, Florida Statute 768.79, am I correct
4 that in considering the amount of attorney fees, the
5 Court should consider the apparent merit or lack of
6 merit in the claim?
7 A. That's one of the elements under the statute.
8 Q. Am I correct that another element would be the
9 closeness of questions of fact and law at issue?
10 A. I believe so.
11 Q. And would I also be correct in saying that the
12 Court should consider whether the suit was in the
13 nature of a test case?
14 A. As I recall.
15 Q. Okay. That being the case, are you familiar
16 with Florida's construction of litigation privilege in
17 the case of Echevarria v. Cole?
18 A. That is the issue that you attempted to raise
19 with the United States Supreme Court.
20 Q. Correct, which they denied the petition for
21 cert. That being said, are you aware that the denial
22 of a petition for cert is not precedential in nature?
23 A. I didn't come prepared here today to make
24 legal argument with you. That's Mr. Curtin's role, so
25 I'm not sure --

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1 Q. Well, no, these go to the amount, though, and
2 you are the appellate attorney, so, you know, there is
3 a certain mix of law and fact, basically, that
4 overlaps to a certain extent.
5 All I'm asking, basically, is you brought up
6 that I brought it to the U.S. Supreme Court, so here's
7 my question: Are you familiar with Florida's
8 construction of litigation privilege in the case of --
9 2007 case of Echevarria v. Cole? Are you familiar
10 with it?
11 MR. CURTIN: If he wants to talk -- I think
12 we're getting far afield from a specific time entry.
13 If he wants to talk about a specific time entry and
14 the relevancy of that specific time entry, I think
15 that would be relevant. To talk about esoteric issues
16 of law --
17 MR. GUTMAN: Your Honor --
18 MR. CURTIN: -- is not relevant for the amount
19 of attorneys' fees billed, Your Honor.
20 THE COURT: Where are we going with this line
21 of questioning?
22 MR. GUTMAN: Okay. Basically where we're
23 going is that in my opposition to the entitlement, I
24 basically only rose issue with respect to the
25 individual time entries to the extent of the

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1 extraordinary writs basically being a different case
2 number. However, I also objected to everything that
3 they're claiming with respect to entitlement to
4 appellate fees on the grounds that Florida's
5 construction of litigation privilege is different than
6 virtually every other state and perhaps even every
7 single other state, the result being that if Florida's
8 construction of litigation privilege is so different
9 from the rest of the country, then it falls squarely
10 into the 768.79 elements of merit in the claim, nature
11 of -- closeness of questions of fact and law, suit was
12 in the nature of an issue of a test case, because
13 Florida -- so far as I know, Florida is the only state
14 in the nation that holds that illegal tortious conduct
15 of any nature is subject to absolute immunity, whether
16 it's of a statutory source or of a common law source.
17 So that being the case, if Florida is the only state
18 that's doing that, and I challenge that premise,
19 clearly I'm in good shape as far as the issue of
20 merit, the issue of closeness of questions of fact and
21 that the suit was in the nature of a test case.
22 And additionally, since I indicated the U.S.
23 Supreme Court denied cert, and that's not
24 precedential, as also the Florida's fourth PCA
25 affirmance without opinion, that's also not

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1 precedential under Florida law. So I'm squarely
2 falling into with respect to the time spent that there
3 is substantial merit to my assertions, that there is
4 at least a closeness of questions of fact, if not the
5 point that 49 states agree with me, and also that the
6 suit was in the nature of a test case, because since
7 all the other states are not doing it, it's now
8 putting to the test in Florida whether Florida really
9 should be doing it. That's the crux.

10 THE COURT: It seems to me like your argument
11 tends to go towards the issue of entitlement rather
12 than time spent here today, so to the extent that was
13 the objection, Mr. --

14 MR. GUTMAN: Actually, if I could, Your Honor,
15 comment on that. As indicated in my response, we've
16 had a lot of back and forth, basically, with respect
17 to the entitlement to appellate attorney fees as well
18 as the original attorney fee judgment. We've had a
19 lot of back and forth as to whether the 768.79 factors
20 go to the issue of entitlement or whether they go to
21 the issue of amount. I believe when I was utilizing
22 those factors to challenge entitlement with respect to
23 the attorney fee judgment, you yourself indicated,
24 well, wouldn't that go more to the issue of amount?
25 So what's basically happening here is Citibank

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1 is saying the 768.79 factors go to amount, not
2 entitlement, then they get their entitlement, and then
3 we're at the hearing on amount, and now you're saying
4 it goes to entitlement. So either way, I should be
5 able to address it someplace.

6 THE COURT: Perhaps, but I'm not sure the line
7 of questioning you're pursuing gets you to that point.
8 If you're suggesting that a certain number of hours
9 involved in this was on that issue that you're
10 raising, then just have him identify how much that is,
11 if he can, and if not --

12 MR. GUTMAN: Actually, I believe I identified
13 it in my opposition.

14 THE COURT: I'm not looking at that right now,
15 but this --

16 MR. GUTMAN: Okay.

17 THE COURT: This is the witness testifying
18 about the hours that were submitted that were
19 reasonable. If you want to have him identify those
20 that relate to the issue you're raising, we can carve
21 that out potentially, but I don't want to have a
22 debate here about the whole substantive argument
23 that you're --

24 MR. GUTMAN: Oh, okay. I do -- I mean, I do
25 have that here, and I can identify them and ask him to

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1 confirm the identification of any --

2 THE COURT: Well, like I said, he may or may
3 not be able to segregate those items, but I'm assuming
4 at some point you're going to go on to the things that
5 perhaps may contradict that, but let's focus on the
6 time and --

7 MR. GUTMAN: Okay. No, fair enough. Fair
8 enough. I understand what you're saying.

9 BY MR. GUTMAN:

10 Q. Okay. Your time entry on October 3rd, 2022,
11 Mr. Mihokovich, I assume you have your -- could you
12 please read that into the record, the description?

13 A. Is this the second page of the exhibit?

14 Q. This is the November 3rd, 2022 statement.
15 It's the first page right after your summary.

16 A. Okay. (As read)

17 0.5 hours review/analyze Gutman's
18 petition for extraordinary writs.

19 Q. Okay. Jump down to the last item on that --
20 actually, jump down -- the second one down -- third
21 one down, excuse me, October 3rd, 2022, "Time spent by
22 Louis Ursini III". Could you read the description
23 there?

24 A. (As read)

25 Analyze petition for mandamus and

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1 briefing from op council.

2 Q. Okay. Jump down to October 4th, 2022, the
3 last item on that statement, same page.

4 A. (As read)

5 Detailed review of trial court docket,
6 pleadings, motions and orders for
7 appellate purposes in light of
8 defendant's petition for writ of
9 mandamus and prohibition.

10 Q. Okay. Starting with the phrase that you just
11 read where it says "in light of", read that into the
12 record again.

13 A. You mean you want me to reread the second half
14 of the sentence I just read?

15 Q. Exactly.

16 MR. CURTIN: The only objection I have, Your
17 Honor, is the record speaks for itself. It's already
18 been read in.

19 THE COURT: Sustained.

20 MR. CURTIN: I don't like to make objections
21 for no reason, but when you have a question that's
22 just repeating a question already answered --

23 BY MR. CURTIN:

24 Q. Okay. Let's go to the next page, page 2 of 4.
25 Please read the October 4th, 2022 entry.

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1 A. For Mr. Curtin's time?
2 Q. For Mr. Curtin's time.
3 A. (As read)
4 Review filing and pleading from the
5 Fourth District Court of Appeal on
6 Gutman's writ of mandamus.
7 Q. Okay.
8 A. And then I think that was the last one during
9 that time period because then --
10 Q. Hang on.
11 A. -- then you filed your appeal on the exact
12 same issues.
13 Q. Okay. Let's jump to the -- let's jump to the
14 November 3rd, 2022 statement.
15 A. Okay.
16 Q. Read the entry that is the fourth one down,
17 October 25th, 2022.
18 A. (As read)
19 Review fourth district's order denying
20 Gutman's petition for writ of
21 mandamus, 0.1; Communications with P.
22 Wiggins regarding same, 0.1.
23 Q. Okay. Read the October 27th entry on that
24 same page, time spent by you.
25 A. I'm sorry, which date?

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1 Q. October 27th, 2022, same page.
2 A. So the last time entry on the same page?
3 Q. Same page, yeah.
4 A. (As read)
5 Consult with K. Curtin regarding
6 appellate ramifications of plan to get
7 trial court order voluntarily
8 dismissing count 2 without prejudice.
9 Q. What was count 2?
10 A. Count two was the alternate count that wasn't
11 tried, which I believe 1 was --
12 Q. Was it the --
13 A. -- on contract, and count 2 was then for
14 unjust enrichment.
15 Q. And so you're charging time for that claim
16 even though you dismissed it?
17 A. Even though it was later dismissed. That's
18 what allowed the appeal to go forward.
19 Q. Okay. Let's jump to the January 10th, 2023
20 invoice statement.
21 A. Okay. I'm there.
22 Q. The last entry on that page for an hour and a
23 half, December 27th, 2022.
24 A. You want me to read it?
25 Q. Read the description.

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1 A. Okay. (As read)
2 Legal research regarding motion to
3 strike and at-issue rule for setting
4 matter for trial for use in an
5 anticipated answer brief.
6 Q. Are you aware that at the trial Mr. Curtin
7 testified that the motion to strike was not timely
8 filed by his predecessor, Mr. Debski?
9 MR. CURTIN: Your Honor, my objection is we're
10 not going into what happened at the trial, what
11 happened at the appeal. We're going into whether this
12 time entry was relevant to the appeal, not what
13 happened at trial, and whether it is reasonable, the
14 amount.
15 MR. GUTMAN: Your Honor, we're going to have a
16 major issue on this, so we might as well address it
17 right now. It is my position that any misconduct on
18 the part of Mr. Curtin impacts upon the entitlement to
19 attorney fees. In reliance, I rely on the case of
20 Levin v. Middlebrooks (verbatim), and I would cite the
21 last page where the court, Florida Supreme Court,
22 wrote as follows: (As read)
23 This does not mean, however, that a
24 remedy for a participant's misconduct
25 is unavailable in Florida. On the

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1 contrary, just as remedies for
2 perjury, slander and the like
3 committed during judicial proceedings
4 are left to the discipline of the
5 courts, the Bar Association and the
6 state (Wright 446 South 2nd at 1164)
7 other tortious conduct occurring
8 during the litigation is equally
9 susceptible to that same discipline.
10 Clearly, a trial judge has the inherent
11 power to do those things necessary to
12 enforce its orders, to conduct its
13 business in a proper manner and to
14 protect the court from acts obstructing
15 the administration of justice.
16 So in a nutshell, I've got a list of questions
17 that when I call Mr. Curtin to the stand, which I will
18 be doing if he doesn't want to testify himself, that
19 address a lot of stuff he's done during this
20 litigation, and that all impacts upon attorney fees in
21 accordance with Levin where basically even though they
22 get the benefit of litigation privilege providing them
23 with absolute immunity, under Levin the Court still
24 has to consider these items to conduct its business
25 properly. I don't think you can simply say, you know,

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1 Mr. Curtin, I like you, so I'm just going to ignore
2 all the misconduct that you've committed, and I'm not
3 even going to allow Mr. Gutman to ask questions,
4 because I got a long list of questions to ask
5 Mr. Curtin.
6 THE COURT: Well, thank you for the preview,
7 but Mr. Curtin is not on the witness stand. Do you
8 have a question for this witness about a particular
9 time entry?
10 BY MR. GUTMAN:
11 Q. Basically I think this conversation started
12 because I wanted him to read December 27, 2022, and
13 are you aware, Mr. Mihokovich, that Mr. Curtin on the
14 day of trial indicated that Mr. Debski's motion to
15 strike was not timely filed?
16 MR. CURTIN: Once again, Your Honor, I don't
17 know if what happened at trial has to do with the
18 appeal. The issue on the appeal he did -- Mr. Gutman,
19 did bring up an at-issue argument on the appeal
20 because the Fourth DCA ruled against him on it when
21 the PCA'd it, and he brought all this up in the
22 appeal. If he wants to talk about what happened in
23 the appeal and this time entry and why Mr. Mihokovich
24 was doing research for 1.5 hours on this, that is
25 fine, but to talk about what happened at the trial is

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1 irrelevant to the appellate attorneys' fees.
2 THE COURT: Sustained.
3 MR. GUTMAN: In other words, you -- just to
4 clarify, Your Honor -- just to clarify, is it your
5 position that any conduct Mr. Curtin -- misconduct
6 that Mr. Curtin committed is not relevant to
7 determining the amount of appellate attorney fees?
8 THE COURT: I'm sure I didn't say that.
9 MR. GUTMAN: Okay. All right. Then I'll just
10 move on. Thank you.
11 BY MR. GUTMAN:
12 Q. Let's go to February 7th, 2023.
13 A. The bill dated February 7th?
14 Q. Bill dated February 7th, 2023, the statement.
15 A. I'm there.
16 Q. Okay. Let's look at the fifth entry down,
17 January 6th, 2023. Could you read the description for
18 that of 3.9 hours?
19 A. (As read)
20 January 6th, 2023, it's my time, 3.9
21 hours. Legal research regarding
22 at-issue waiver arguments for answer
23 brief.
24 Q. Okay. Thank you.
25 Let's go to the invoice of March 2nd, 2023.

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1 A. Okay.
2 Q. Actually, I'm sorry, excuse me, skip that one.
3 Let's go back, March 2nd, 2023, the second
4 time entry on February 3rd, 2023 for 2.5 hours, if you
5 could read that description.
6 A. (As read)
7 Legal research or primary issues
8 raised in Gutman's initial brief.
9 Q. Okay. Let's go to April 24th, 2023, one hour.
10 A. The time entry from April 4th (verbatim),
11 2023?
12 Q. Correct.
13 A. Okay. (As read)
14 Review and analyze motion filed by
15 Gutman with Fourth DCA for stay of
16 enforcement and execution of
17 attorneys' fee judgment. Begin
18 working on response to the same.
19 Q. Okay. Now let's look at the one right below
20 that for 1.5 hours, if you could read that into the
21 record?
22 A. (As read)
23 Review/analyze Gutman's notice of
24 appeal as to final judgment.
25 Q. No, I think you're on the wrong one. This is

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1 the same statement we were on.
2 A. Right.
3 Q. May 9th, 2023.
4 A. A time entry for me. Okay, that's the next --
5 all right. (As read)
6 Draft and file opposition to motion to
7 stay enforcement of attorneys' fee
8 judgment.
9 Q. Okay. So the last three items that I had you
10 read into the record, February 3rd, 2023 for 2.5 hours
11 where it says, legal research of primary issues raised
12 in Gutman's initial brief; the one for one hour on
13 April 24th, 2023 for stay of enforcement and execution
14 of attorney fees judgment; the next one, May 8th,
15 where you had 2.5 hours, opposition to appellate's
16 motion; May 9th, draft and file opposition to motion
17 to stay enforcement -- here's my question related to
18 those items that I just had you read into the record:
19 You're aware that the attorney fee judgment is
20 currently on appeals at Fourth DCA?
21 A. Yes.
22 Q. Okay. So if the Fourth DCA rules in my favor,
23 isn't it fair to say that those times essentially
24 should not be subject to an entitlement to appellate
25 attorney fees?

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1 A. No, because we were the prevailing party on
2 this appeal that we're here seeking attorneys' fees
3 on, and you filed that motion in this appeal.
4 Q. Okay. So if the Fourth DCA rules in my favor
5 on the attorney fee judgment, depending upon what
6 ground they ruled in my favor on, isn't there a
7 possibility that the underlying judgment which they
8 affirmed without opinion could then be subject to
9 challenge on grounds of new evidence based upon the
10 attorney fee appeal?
11 MR. CURTIN: My objection, Your Honor, is this
12 has nothing to do with the appellate attorneys' fees
13 in this case.
14 THE COURT: Well, besides that, it's being
15 speculative as to what the Court --
16 MR. GUTMAN: It is -- it's somewhat
17 speculative, but I need --
18 THE COURT: And I'm not sure anybody in this
19 room is good at predicting what they're --
20 MR. GUTMAN: What's that?
21 THE COURT: I said I'm not sure anybody in
22 this room is good at predicting what they're going to
23 do.
24 MR. GUTMAN: Okay, I'll move on.
25 I have no further questions for you,

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1 Mr. Mihokovich.
2 THE COURT: Any redirect for this witness?
3 MR. CURTIN: Briefly. Briefly, Your Honor.
4 REDIRECT EXAMINATION BY MR. CURTIN:
5 Q. So, Mr. Mihokovich, if you can go to exhibit
6 number 1, the time entry from October 4th, 2022, the
7 2.4 hours.
8 A. Yes.
9 Q. And it says: (As read)
10 Detailed review of trial court docket,
11 pleadings, motions and orders for
12 appellate purposes in light of
13 defendant's petition for writ of
14 mandamus and prohibition.
15 While you originally did that for the writ of mandamus
16 and prohibition, those 2.4 hours you didn't repeat
17 later on when the actual -- Mr. Gutman actually filed
18 his correct appeal, the appeal we're talking about
19 here, correct?
20 A. That's correct. It was the same record.
21 Q. So you would have had to incur those 2.4 hours
22 regardless of whether Mr. Gutman filed his writ of
23 mandamuses or not?
24 A. That's correct.
25 Q. So that's when you were talking about -- as

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1 far as on your cross-examination when you were talking
2 about the work you did for the mandamus and
3 prohibition, that work would have happened -- would
4 have had been done by you, regardless if he had filed
5 correctly his appeal in the beginning?
6 A. That's correct. There was the same issues in
7 the same underlying record.
8 Q. And you didn't repeat that work?
9 A. That's right.
10 Q. All right. And as far as your entries as to
11 legal research, December 27th, 2022, for 1.4 hours of
12 at-issue rule and January 6, 2023, for 3.9 hours of
13 at-issue arguments, was that one of the main arguments
14 in the appeal?
15 A. Yes. He raised four arguments on appeal, and
16 that was one of the four.
17 Q. Okay. And the Fourth DCA ruled in your favor
18 on that issue?
19 A. That's correct.
20 MR. CURTIN: No further questions of this
21 witness, Your Honor.
22 THE COURT: All right. Thank you,
23 Mr. Mihokovich. You can step down. Be careful on the
24 witness stand there.
25 THE WITNESS: Will do.

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1 (Witness stands down)
2 THE COURT: Next witness, Mr. Curtin?
3 MR. CURTIN: Yes, Your Honor. I call
4 Stephanie Serafin, Esquire.
5 STEPHANIE SERAFIN, ESQ.
6 Having been duly sworn, testifies as follows:
7 THE COURT: And please take a seat at the
8 witness stand and watch your step.
9 Can you please state your full name and spell
10 the last name, please?
11 THE WITNESS: Stephanie Serafin. My last name
12 is spelled S-E-R-A-F-I-N.
13 THE COURT: All right, Mr. Curtin, your
14 witness.
15 DIRECT EXAMINATION BY MR. CURTIN:
16 Q. Good afternoon, Ms. Serafin. Can you just
17 briefly go through your educational background?
18 A. Sure. I.
19 THE COURT: And, again, is there any question
20 about her qualifications and the testimony,
21 Mr. Gutman?
22 MR. GUTMAN: What is the purpose of her
23 testimony, I guess that would be the first question.
24 MR. CURTIN: She's our expert witness on the
25 amount of attorneys' fees --

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1 MR. GUTMAN: She's the expert witness? Okay.
2 I'll ask a few questions. What school did you
3 graduate from? I know you just --
4 MR. CURTIN: I don't know if it's --
5 THE COURT: We can have him to do the whole
6 dog and pony show or you can zero in on what you think
7 she's not qualified to do. Either way, I was just
8 trying to see if you had an objection to --
9 MR. GUTMAN: I would just like to -- I would
10 just like to get a general idea. I'm not going to ask
11 a lot of questions. I don't anticipate --
12 MR. CURTIN: Well, I think I could go through
13 the questions, then.
14 THE COURT: Go ahead and do that.
15 BY MR. CURTIN:
16 Q. Can you please briefly go through your
17 educational background?
18 A. Sure. I graduated from the University of
19 Florida in 2004 with my undergraduate degree and the
20 University of Miami School of Law in 2008 with my JD.
21 Q. I may not have hired you if I knew you went to
22 the University of Miami for law school, but --
23 MR. GUTMAN: Don't badger witnesses.
24 BY MR. CURTIN:
25 Q. Can you go through your employment background?

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1 A. Of course. My first job out of law school, I
2 was a staff attorney at the Fourth District Court of
3 Appeal for Judge Dorian Damoorgian. I worked there
4 for two years, and then I was hired at what was then
5 Kreuzler-Walsh, Compiani & Vargas as an associate. I
6 still work there today. I became a named partner in
7 2017. The firm is now called Kreuzler-Walsh, Vargas &
8 Serafin.
9 Q. Okay. And has most of your legal education
10 and, well, legal background been in appellate work?
11 A. All of it, yes.
12 Q. Okay. And what have you been retained to do
13 in this case?
14 A. I've been retained to provide an expert
15 opinion on the reasonableness of the attorneys' fees
16 that the Adams Reese firm extended for its client,
17 Citibank, in the appeal.
18 Q. And what did you review in order to make that
19 opinion?
20 A. I reviewed a number of things. I reviewed the
21 appellate briefs in the appeal, the appellate court
22 docket, the PCA and the motion for appellate fees and
23 response that were filed in the Fourth DCA. I also
24 reviewed the fee-related filings in this court, the
25 billing records, the court docket in this court and

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1 the biographies on your firm's website for both you
2 and Mr. Mihokovich.
3 Q. And do you have exhibit number 1 in front of
4 you?
5 A. I do.
6 Q. All right. Are those the attorneys' fee
7 records that you reviewed?
8 A. Yes.
9 Q. Okay. And looking at that summary, do you
10 have any opinion on the 56.4 hours being sought by
11 Adams and Rees in this appeal?
12 A. My opinion is that that amount of hours is
13 reasonable for this appeal.
14 Q. And based upon your education and experience,
15 do you have any opinion as to the rates charged by
16 both myself, Mr. Ursini and Mr. Mihokovich outlined in
17 exhibit number 1?
18 A. Sure. My opinion is that those rates are
19 reasonable based on the fees charged for
20 similarly-qualified lawyers in the community.
21 Q. And do you have any opinion based upon your
22 education and experience on the total amount of
23 \$20,250.90 being sought by Citibank in this appeal?
24 A. Yes. My opinion is that the total amount is
25 very reasonable for this appeal.

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1 Q. And has your -- is your firm charging for its
2 time to review the records that you just went over and
3 make your opinions in this case?
4 A. Yes.
5 Q. And let me show you what I'll mark as for
6 identification purposes exhibit number 2.
7 A. Thank you.
8 Q. What is exhibit number 2?
9 A. Exhibit number two is a history bill of all of
10 the time that my firm has expended as the fee expert
11 in this case.
12 Q. That does not include your time here today,
13 correct?
14 A. That's correct, it doesn't include my time
15 today, and it doesn't include a small amount of time I
16 spent yesterday preparing for today's hearing.
17 Q. Okay. So on the invoice, exhibit number 2,
18 how much time -- prior to that small amount of time
19 reviewing yesterday and your time today, how much time
20 was incurred?
21 A. 5.6 hours.
22 Q. For how much money?
23 A. For \$2,677.50.
24 MR. CURTIN: I'd like to enter exhibit number
25 3 into evidence, your honor.

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1 THE COURT: Any objection, Mr. Gutman?
2 MR. GUTMAN: The only objection I am going to
3 make is that I was not provided with this previously
4 or notified that the expert witness would be
5 testifying at all.
6 THE COURT: Objection is overruled.
7 Plaintiff's exhibit 2 is received is received over
8 objection.
9 PLAINTIFF EXHIBIT 2:
10 KREUSLER-WALSH, VARGAS & SERAFIN'S FEE
11 EXPERT BILL
12 BY MR. CURTIN:
13 Q. And as far as your small amount of time
14 yesterday to preparing time today, how many hours
15 would that be?
16 A. I spent an hour preparing for the hearing, and
17 today it would be an hour and 20 minutes for my
18 appearance time if you stop right now.
19 Q. If we stop right now, gotcha.
20 A. Which I -- that's fine.
21 Q. And how much is your hourly rate?
22 A. My rate is \$475 an hour.
23 Q. Is that \$475 -- is that a reasonable rate for
24 a person of your education and appellate experience in
25 this jurisdiction?

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1 A. Yes, it is.
2 Q. The rates charged by Citibank attorneys are
3 considerably less, correct?
4 A. Much less, that's correct.
5 MR. CURTIN: No further questions for this
6 witness, Your Honor.
7 MR. GUTMAN: No questions, Your Honor.
8 THE COURT: Okay. Thank you, Ms. Serafin.
9 You can step down.
10 (Witness stands down)
11 THE COURT: Any other witnesses for the
12 plaintiff?
13 MR. CURTIN: No, Your Honor.
14 THE COURT: Okay, plaintiff rests. Witnesses
15 for the defence?
16 MR. GUTMAN: I'm sorry, I know I need hearing
17 aids. I'm sorry, I didn't hear you.
18 THE COURT: He has now rested. Any witnesses
19 for you?
20 MR. GUTMAN: I'd like to call Kenneth Curtin
21 to the witness stand.
22 THE COURT: All right.
23 MR. MIHOKOVICH: Your Honor, if I could change
24 roles here, I'm going to step in and --
25 THE COURT: Not a problem.

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1 KENNETH CURTIN, ESQ.
2 Having been duly sworn, testifies as follows:
3 THE COURT: Please have a seat.
4 Mr. Gutman, you may proceed.
5 MR. GUTMAN: Okay. Thank you.
6 DIRECT EXAMINATION BY MR. GUTMAN:
7 Q. Mr. Curtin, are you licensed to practice law
8 in the State of Tennessee?
9 A. I am -- I have an application for the State of
10 Tennessee for the license -- for a license to practice
11 law, and I have been sent an email that I have been
12 accepted to it, yes, but I have not been sworn in yet.
13 Q. You have received an email that you've been
14 accepted?
15 A. I have received an email that I've been
16 accepted, yes.
17 Q. Okay.
18 A. I haven't been sworn in, so, no, technically
19 I'm not.
20 Q. Got it. Okay.
21 You're aware -- actually, I'm going to give
22 him an exhibit.
23 THE COURT: I'm sorry, I didn't catch that.
24 MR. GUTMAN: I said I'm going to give him an
25 exhibit.

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1 THE COURT: Oh, okay.
2 MR. GUTMAN: And I've just got to get the
3 exhibit.
4 Okay. I'd like to enter in exhibits -- mark
5 Exhibit 3 and 4 for the witness.
6 DEFENDANT EXHIBIT 3:
7 EMAILS
8 DEFENDANT EXHIBIT 4:
9 JUDGMENT LIEN CERTIFICATE
10 THE BAILIFF: Do you have copies for the
11 judge?
12 MR. GUTMAN: Yes, actually, I do have an extra
13 copy. I've got one for me and an extra one too, so,
14 yes.
15 MR. MIHOKOVICH: Is there one I can see?
16 MR. GUTMAN: I brought -- I brought three
17 copies, one for me, one for Mr. Curtin and then one
18 for whoever else, so I didn't bring four copies.
19 THE WITNESS: If I could have Mr. Mihokovich
20 at least look at these before I -- and then I'll look
21 at them.
22 THE COURT: Thank you.
23 BY MR. CURTIN:
24 Q. Mr. Curtin, on the first page --
25 A. I don't have the exhibits in front of me. My

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1 attorney is looking at them right now.
2 Q. Okay. You know what, you can have my copy.
3 On the first page there --
4 THE COURT: You're referring to what's marked
5 Exhibit 3?
6 MR. GUTMAN: Yes, Exhibit 3.
7 THE COURT: Okay.
8 BY MR. GUTMAN:
9 Q. What's marked as Exhibit 3, on the first page
10 there are two emails. Could you please read the
11 bottom email, which is from me to you, first because
12 that occurred first in time.
13 A. You want me to read the whole email?
14 Q. No, actually, just the first two paragraphs.
15 I believe the first paragraph is a paragraph, and then
16 I think the second paragraph is just one line.
17 THE COURT: I believe he's talking about the
18 bracketed portion.
19 BY MR. GUTMAN:
20 Q. The bracketed, yeah, the bracketed.
21 A. (As read)
22 Hi Ken,
23 Per our discussion, I researched the
24 issue of a judgment lien certificate
25 to determine if I would be willing to

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1 agree to that provision you proposed
2 yesterday. I do not anticipate being
3 willing to agree to that provision for
4 several reasons as follows: First, it
5 appears to me a judgment lien
6 certificate directly contradicts
7 established Florida law that the
8 judgment may not be executed upon,
9 more specifically, attached is a
10 blank copy of a judgment lien
11 certificate application. Please note
12 the bottom, which you -- which you
13 would need to sign under penalty of
14 perjury expressly states the
15 following: Under penalty of perjury,
16 I certify there is no stay of the
17 judgment or its enforcement in effect.
18 Q. Okay. Now could you please read the first two
19 sentences of the top email, and if you could speak a
20 little louder because my hearing is not that good, and
21 that's partly my fault.
22 A. And my hearing is not that good either. It
23 goes back to a Marine Corps injury when I was in the
24 Marine Corps.
25 Q. I understand, believe me.

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1 A. (As read)
2 Mr. Gutman,
3 To put this issue to rest, I took out
4 the judgment lien certificate
5 language. However, I did add in
6 another sentence directly following
7 your sentence about if the appeals are
8 successful that the judgment is
9 vacated that read that if the appeals
10 are unsuccessful, plaintiffs may start
11 collection and execution on the
12 judgment.
13 Q. Okay. Now turn to Exhibit 4 --
14 A. Is that the judgment lien certificate?
15 Q. -- which is the judgment lien certificate, and
16 at the very bottom of that form, read -- I believe
17 it's the first four words, I believe.
18 A. The very bottom?
19 Q. It's the signature section.
20 A. Okay. Under penalty of perjury, is that what
21 you're talking about?
22 Q. That's it.
23 A. Okay.
24 Q. That's what I wanted you to read, yes.
25 So am I correct that we had a discussion, and

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1 you indicated that -- when we were negotiating the
2 cost aspect of the appeal, earlier appeal, and you
3 indicated that you would like to file a judgment lien
4 certificate when I indicated that the cost should not
5 be executable?
6 A. No, that's not correct. If you --
7 Q. That's not correct?
8 A. The background to this is -- has nothing --
9 well, it has nothing to do with the appeal and the --
10 the appeal we're on here today, and the time --
11 Q. Actually --
12 A. -- and the time we're on here today, unless
13 you point me to a time entry, but I don't think
14 there's any time entries for this.
15 This goes back to after I won the trial, I
16 moved for attorneys' fees and costs. The judge sent
17 out an order where we had to mediate that issue, which
18 we did. At that mediation we came to agreement on
19 costs, on specific costs. We couldn't come to
20 agreement on all the costs, but on some specific costs
21 you said that you -- you would agree to those costs
22 only if we wouldn't seek to collect upon it until the
23 appeal of the final judgment, which is this appeal,
24 and that appeal was finalized, the appeal of that
25 final judgment. I agreed to that.

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1 This is -- this email, we're going back and
2 forth on that proposed order, which eventually we came
3 to an agreement on that proposed final judgment. Then
4 I waited before filing any judgment lien certificate
5 until your appeal with the Fourth DCA was over with,
6 until your appeal with the U.S. Supreme Court was over
7 with, until all appeals on that final judgment were
8 over with. Then I sent you an email saying all
9 appeals on that final judgment are over with, I'm
10 going to file this judgment lien certificate unless I
11 hear from you again, and I did file a judgment lien
12 certificate on those costs, which were, like, \$1,300
13 or so odd dollars. I don't remember exact amount.
14 Q. Am I to understand what you're saying now --
15 and please correct me if I'm wrong. Am I to
16 understand what you're saying now is that you never
17 suggested filing a judgment lien certificate until
18 after the appeals were done?
19 THE COURT: Gentlemen, as much as I'd like to
20 spend the entire day with you, this all sounds like
21 settlement negotiations, which I have no interest in
22 whatsoever, so, Mr. Gutman, where are you going with
23 this?
24 MR. GUTMAN: Basically, like I said, Your
25 Honor, I've got a list of things that I believe

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1 constitute misconduct on the part of Mr. Curtin, and I
2 believe the misconduct should not be ignored by the
3 Court based upon the Florida Supreme Court's decision
4 in Levin, Middlebrooks v. United States Fire Insurance
5 because in the Echevarria case they basically refer to
6 the Levin case, and that's the reason they're giving
7 the absolute immunity.
8 So in my opposition to the entitlement to
9 appellate fees, the crux of my opposition to all of
10 the appellate attorney fees -- to all of them, the
11 crux of it is, one, the extension issue that still
12 remains outstanding, which I realize you indicated
13 you're not going to rule on that. The other, which
14 basically allows me to go against all of the appellate
15 attorney fees on entitlement, is Mr. Curtin's
16 misconduct to the extent the Court may believe under
17 the Florida Supreme Court of Levin, that they should
18 be penalized on attorney fees because they committed
19 so much misconduct from the beginning of the case to
20 the end of it.
21 THE COURT: All right. Well, let me clarify
22 what I said earlier when I said I had not said what
23 you thought I said, but I'm going to say it now.
24 Regardless of how much misconduct you think you can
25 prove on Mr. Curtin's part, I am not changing the

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1 ruling of the Fourth DCA on the entitlement issue. So
2 if that's where you're headed, until they direct me to
3 conduct such a hearing, I choose not to.
4 MR. GUTMAN: Well --
5 THE COURT: We're talking about time, rates
6 and reasonableness here.
7 MR. GUTMAN: I understand that, Your Honor,
8 and I'm not asking you to change the Fourth DCA's
9 opinion.
10 THE COURT: Well, you used the word
11 "entitlement" several times there.
12 MR. GUTMAN: No, that's -- that's correct, but
13 the reason I used it is because under 768.79 the
14 statute requires you to look at closeness of issues of
15 fact and whether this is a test case. So to the
16 extent, basically, that litigation privilege --
17 whether Florida should change its rule or not in
18 conjunction with other states, to the extent that
19 litigation privilege in Florida is different than
20 other states, it should be considered within the
21 context of the amount of attorney appellate fees
22 because that falls within the scope of 768.79. That's
23 the crux of what I'm saying.
24 THE COURT: Perhaps. Next question.
25 MR. GUTMAN: Well, I just -- like I say, I've

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1 got a list of misconduct issues. Can I ask them or
2 not?
3 THE COURT: I'm going to ask that you proffer
4 them in writing if you choose to make a record for
5 that, but, as I said, it's not going to change the
6 Fourth District's decision on determining entitlement,
7 which is limited, in my view, to time, rate and
8 reasonableness. Some of the issues you raised there
9 appear to be going to whether there should be a
10 numerical factor increase as in Rowe for a test case
11 and things that you mentioned. It has nothing to do
12 with the fact that -- at this point I'm not sure
13 Mr. Curtin is questioning the multiplier, but I'm
14 trying to focus in right here on the evidentiary part
15 to the number of hours and the reasonableness of
16 hours.
17 The other factors may or may not happen, but
18 maybe you can clarify that right now, Mr. Curtin. Are
19 you going to be seeking a multiplier in this case?
20 THE WITNESS: I'm not seeking any multiplier.
21 THE COURT: All right. Okay. So I'm not sure
22 the factors you've mentioned, Mr. Gutman, really are
23 going to help me out this afternoon, unless your
24 argument is correct at some point, and they decide --
25 the Fourth DCA decides to vacate their decision of

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1 entitlement based on the prevailing party in the
2 appeal.
3 MR. GUTMAN: So, Your Honor, you referred to
4 the Fourth DCA decision numerous times and how you
5 don't want to change it. The question I have is, my
6 understanding is that the Fourth DCA's affirming
7 without opinion has no precedential value because they
8 didn't write an opinion, they didn't address the
9 issues. Therefore, I think you do have the ability to
10 rule however you want on issues pertaining to amount
11 because the Fourth DCA's affirmance without opinion is
12 not binding on the at-issue point that I brought up,
13 it's not binding on the disqualification issue I
14 brought up, it's not binding on anything because they
15 didn't issue an opinion, and, therefore, it's not
16 precedential, and, therefore, you would not be
17 changing their decision. You would be exercising your
18 legitimate authority to basically rule however you
19 want on all these misconduct issues that basically
20 are -- they're absolutely immune from under litigation
21 privilege, but, nevertheless, they can be penalized
22 for under Levin.
23 THE COURT: Well, as tempting as you make it
24 sound that I can always rule however I want, which is
25 my personal opinion, it is not my legal opinion, and

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1 it's not what I'm going to do here today. I'm going
2 to rule based on the evidence presented, as I said,
3 focusing on the issue of the number of hours, the
4 reasonableness of the time and the reasonableness of
5 the rate to be applied thereto. Mr. Curtin has said
6 we're not talking about a multiplier, so regardless of
7 what your arguments are, convoluted as some of them
8 may be, the issue is pretty simple, so time and --
9 MR. GUTMAN: Okay. So I understand what
10 you're saying. The only things you're going to rule
11 upon are the time entries on the invoices, the amount
12 spent, the reasonableness of it, the matters that
13 their expert testified on, but you're not going to
14 reduce the amount -- regardless of whether it's a test
15 case or regardless of whether there's closeness of
16 issues of that -- because if that's the case, then I
17 have no further questions.
18 THE COURT: Okay. I don't believe that your
19 arguments regarding test case and closeness of issues
20 relate to my assignment here today, so if that's clear
21 to you, then --
22 MR. GUTMAN: Yeah, unfortunately I did not
23 hear you.
24 THE COURT: I said I don't believe that
25 raising the issues of it being a test case or the

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1 closeness of issues are what I'm to listen to here
2 today, so if that helps you there --
3 MR. GUTMAN: Okay. Then I'm --
4 THE COURT: You've made an argument, and, like
5 I said, if you want to supplement a proffer, you can
6 always --
7 MR. GUTMAN: Okay.
8 THE COURT: -- you can always do that.
9 MR. GUTMAN: Okay. Let me see if I -- I don't
10 think I'm going to have anymore questions, but -- just
11 a couple more questions.
12 THE COURT: Okay.
13 BY MR. GUTMAN:
14 Q. Mr. Curtin, you withdrew the -- and sought
15 voluntary dismissal of the unjust enrichment claim,
16 correct?
17 A. Yes, after the Fourth DCA brought the issue
18 up.
19 Q. The question I have is, do you know if
20 Citibank has similarly moved for dismissal of unjust
21 enrichment claims with respect to all other litigants
22 throughout the State of Florida?
23 MR. MIHOKOVICH: Objection to relevance.
24 THE COURT: Sustained.
25 MR. GUTMAN: No more questions.

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1 THE COURT: Any redirect on his testimony --
2 I'm sorry, cross?
3 Your his witness.
4 MR. MIHOKOVICH: No, sir.
5 THE COURT: Okay, no cross.
6 Thank you, Mr. Curtin. You can step down.
7 (Witness stands down)
8 THE COURT: Any other witnesses, Mr. Gutman,
9 for your side?
10 MR. GUTMAN: No.
11 THE COURT: All right. You're resting as
12 well.
13 All right. As I've tried to explain, fairly
14 straightforward, your arguments regarding why the
15 rates and time are unreasonable in this case,
16 Mr. Gutman?
17 MR. GUTMAN: I thought you were making a
18 statement. I didn't know it was a question.
19 THE COURT: Okay. It is a question. I have
20 on their face the number of hours, the number of -- I
21 mean, the rate and reasonableness. Is there some
22 reason I should not accept the uncontroverted
23 testimony --
24 MR. GUTMAN: Well, actually, it was
25 controverted to the extent of all of the entries

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1 regarding the extraordinary writs in different case
2 numbers.
3 THE COURT: Okay.
4 MR. GUTMAN: And then also I would incorporate
5 in -- I would ask basically anything else that's in my
6 written submission to be considered by the Court also.
7 THE COURT: I will do that. I'm not moving on
8 it right now, but I know that you've filed it.
9 All right. Mr. Curtin, any final word from
10 you?
11 MR. CURTIN: No, Your Honor. Well, as you
12 said, I believe the original -- on the summary of
13 \$20,250.90, there been no -- at least no expert
14 witnesses contesting that.
15 Ms. Serafin's bill of \$2,677.50, that's
16 exhibit number 2, is for a good cause, and, as she
17 testified, she had 2.2 other hours at \$475 to be added
18 to that bill, so we would ask for all those amounts,
19 Your Honor.
20 THE COURT: All right. Based on the evidence
21 presented this afternoon, I find that the time set
22 forth in composite Exhibit 1 from the plaintiff, the
23 total time of 56.4 hours, is reasonable and that the
24 rates applied to the attorneys, I believe there's
25 three of them, are reasonable rates for those types of

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1 services in this area, and so the total of \$20,250.90
2 seems reasonable based on Exhibit 1 for the plaintiff.
3 As far as Ms. Serafin's testimony, obviously
4 she corroborated those numbers, and her time spent of
5 5.6 hours and her rate of \$475 were both reasonable
6 with the additional time that she mentioned here
7 today.
8 Subject to a review of Mr. Gutman's
9 opposition, which he said was filed, and, frankly, I
10 meant to review it this morning and it just got caught
11 up, I will hold off on signing that. You can submit a
12 proposal based on that. I can always correct it if I
13 find something different in those numbers.
14 Mr. Curtin, you can submit a proposed order
15 based upon those tentative findings while I review the
16 matters that were filed previously.
17 MR. CURTIN: I will do that, Your Honor.
18 THE COURT: Okay. Now, there were some other
19 housekeeping matters. Do we want to take a short
20 break to get organized and see if this --
21 MR. GUTMAN: All right.
22 THE COURT: Let's take ten minutes and see if
23 we can get rid of some of the other pending motions
24 that are still out there.
25 (Recess taken)

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1 THE BAILIFF: All rise. Court is back in
2 session.
3 THE COURT: Okay. The remaining motions, what
4 is the logical order where you'd like to start, Mr.
5 Curtin?
6 MR. CURTIN: I think the motion to show cause
7 why Mr. Gutman should not be held in contempt should
8 go next, and then we can end with the motion for final
9 judgment on the writs.
10 THE COURT: Okay. Sounds good. Go ahead.
11 Your motion.
12 MR. CURTIN: Thank you, Your Honor.
13 This is our amended motion for order to show
14 cause why defendants should not be held in contempt in
15 reply to Mr. Gutman's motion to quash in a request for
16 entitlement to attorneys' fees pursuant to Section
17 57.115, Florida Statute, and the inherent power in
18 this court.
19 I believe it's in the collection -- I have a
20 copy of the motion, Your Honor.
21 THE COURT: Okay. I was just going to look
22 for the docket, but if you've got it, that's fine.
23 MR. CURTIN: That's fine. The docket's pretty
24 full, so it will be easier this way.
25 THE COURT: I'm not able to find things

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1 quickly, that's for sure. Thank you for the extra
2 copy.
3 MR. CURTIN: Sure. So, Your Honor, this is to
4 hold -- in essence, this is to hold Mr. Gutman in
5 contempt for not responding to interrogatories and
6 requests to produce in aid of execution now for over a
7 year. I would like to take Your Honor -- and the
8 motion goes through exactly all the attempts
9 Mr. Gutman has done to try to avoid collection in this
10 matter.
11 THE COURT: Before you get into this --
12 MR. CURTIN: Yes.
13 THE COURT: -- is there a specific order of
14 this court on penalty responses, whatever the --
15 MR. CURTIN: There is, Your Honor.
16 THE COURT: Okay.
17 MR. CURTIN: There has been, and part of it --
18 attached to that motion is part of this, Your Honor.
19 THE COURT: Okay. Go ahead.
20 MR. CURTIN: If you remember, we had a trial
21 on September 15th, 2022; we had a motion for fees
22 after that on September 21st, 2022; we had a hearing
23 on entitlement January 11th, 2023; and on March 24th,
24 2023 we had an evidentiary hearing, and eventually a
25 final judgment for attorneys' fees was entered with

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1 costs for 30-some-odd thousand dollars.
2 Before that was entered, we tried -- after the
3 evidentiary hearing, you asked me to do a proposed
4 final judgment. Mr. Gutman would not agree, and on
5 March 30th, 2023 he filed an objection to the form of
6 that final judgment. I filed a response one day
7 later, and eventually you entered the final judgment
8 for \$31,315.50 on April 3rd. His objection to the
9 form was he wanted it not to be executable, but you
10 entered it regardless of his objection.
11 That didn't stop. He filed a motion to stay
12 and for rehearing on April 10th, 2023, arguing the
13 same items he argued in his objection to the form. I
14 filed a response two days later, and then you had an
15 order denying that again. That's on April 20th, 2023.
16 That's when I served my request to produce
17 interrogatories in aid of execution on April 20th,
18 2023, almost a year ago. He filed a -- almost a day
19 before they were due, on May 17th, 2023, Mr. Gutman
20 filed a motion for protective order on that discovery,
21 arguing the same issues he's argued in his motion to
22 stay and in his objection to the form. I filed a
23 response. You denied that order for the protective
24 order. So that's the first order you entered denying
25 the protective order.

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1 He then went up to the Fourth DCA on May 23rd,
2 2023 and filed a motion to stay enforcement. That's
3 part of the appeal that we were just talking about.
4 May 31st, 2023, we responded. The Fourth DCA denied
5 his motion to stay enforcement on June 12th, 2023. I
6 held off on trying to collect or filing any sort of
7 motions on my request to produce interrogatories until
8 the Fourth DCA ruled. He filed these motions. I
9 wanted to get through them all, even though he's
10 arguing the same issues constantly.
11 I filed my first motion for contempt on June
12 27th, 2023. Mr. Gutman filed a response on September
13 18th, 2023. After the hearing on September 21st,
14 2023, you entered an order compelling. You didn't
15 hold him in contempt. You entered an order
16 compelling, telling him to respond within 20 days.
17 That's Exhibit A to that motion, Your Honor, you have
18 in your hand. That would be October 11th, 2023.
19 Mr. Gutman filed his motion to quash an
20 unenforceable order. That's, I believe, attached to
21 the motion I just handed you, but I have an extra copy
22 of it, Your Honor. Here's his motion to quash.
23 So he filed a motion to quash what he believed
24 was your unenforceable order to compel. In that, if
25 you look on page 7 -- I think I highlighted it --

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1 Mr. Gutman states accordingly it's the defendant's
2 determination that Mr. Garrison's order -- he wouldn't
3 be -- he's in past motions said he's not going to call
4 you judge because you don't rule in his favor, he's
5 going to call you Mr. Garrison -- order may be freely
6 ignored, and it would be ignored and flouted by the
7 defendant.
8 If you look at his last page of his motion to
9 quash, page 9, he literally says whether this motion
10 is granted or not, the subject court order is going to
11 be ignored by defendant, so he specifically admits
12 that he's just going to ignore the court order, Your
13 Honor.
14 On November 28th I tried, again, to get
15 Mr. Gutman -- before I filed this motion -- and this
16 is Exhibit B to the motion; I have an extra copy for
17 you, Your Honor -- to just abide by --
18 THE COURT: I'm sorry, Exhibit B to your
19 motion?
20 MR. CURTIN: Yeah, Exhibit B. There's an
21 extra copy there, Your Honor, but it should be Exhibit
22 B to the motion.
23 THE COURT: All right.
24 MR. CURTIN: I tried to get him to comply with
25 it without filing another motion, just comply with it,

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1 and Mr. Gutman wrote to me and stated, and I quote:
2 (As read)
3 That said, I am hereby waiving, at
4 least as of the date of this email,
5 any issue as to inability to pay
6 the judgment. Put simply, due to my
7 inheritance, I am able to pay it
8 currently.
9 And then he goes on, stating that he is still
10 going to refuse to -- (as read)
11 That said, you are correct, and I'm
12 forthrightly refusing to comply with
13 your discovery request due to the
14 abject violations of constitutional
15 law committed by the Palm Beach
16 Judiciary, including, notably, Judge
17 Edward Garrison.
18 And then he goes on and says I'll go to jail,
19 basically, for this.
20 He then, Your Honor, after I filed my motion,
21 sent me another email, which I actually have filed
22 with the Court on February 13th, 2024 -- I have an
23 extra copy of it here -- talking about collection,
24 things of that nature, and he's still refusing to give
25 me any answers to the interrogatories or request to

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1 produce in aid of execution.
2 If you look at the first page of that email,
3 this was talking about -- I did -- you probably
4 remember, I did a writ of garnishment on a bank, got a
5 safe deposit box, we're still going to drill into that
6 with the magistrate, but he actually says here --
7 because basically I think that was the date I removed
8 all monetary stuff, and he states in here that just a
9 few days earlier, prior to the writ of garnishment, he
10 had monetary items in the safe deposit box, but took
11 it out and secured it elsewhere, won't tell me where,
12 because he won't answer any discovery.
13 "Too funny" is his response, so he's flaunting
14 his intentional conduct to prevent discovery of any
15 assets for collection, and not only prevent discovery,
16 he is hiding assets and telling me he's hiding it and
17 still refusing to comply with your order compelling,
18 with your order denying his motion for protective
19 order, and we're sitting here a year later, Your
20 Honor.
21 So I would hold that an order should be
22 entered making factual findings in those motions, in
23 the e-mails that his -- fining him and holding him in
24 contempt of court, stating that he can purge that
25 contempt if by April 10th -- say give him a week -- he

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1 complies with the request to produce interrogatories,
2 fully complies, meaning answers all the
3 interrogatories, answers all the requests produced,
4 and provides the documents.
5 If not, upon an affidavit of default without
6 further hearing, I think the only thing you have left
7 in your arsenal is an arrest order and have him jailed
8 for up to 30 days. And I have no problem putting in
9 the order that even if he's jailed, if he complies
10 during that time, he will be released from the jail,
11 but at this point in time, Your Honor, I think that's
12 the only thing left, unless Mr. Gutman complies, and
13 that's why in the next seven days he can purge that
14 contempt.
15 I would also request, Your Honor, that at this
16 point in time, according to Section 57.115 -- and I
17 have a copy of that, Your Honor. 57.115 provides the
18 Court may award against a judgment debtor reasonable
19 costs and attorneys' fees incurred thereafter by a
20 judgment creditor in connection with execution on a
21 judgment, and it has various factors, whether the
22 judgment debtor had attempted to avoid or evade the
23 payment of the judgment and other factors that can be
24 determined by the Court.
25 So according to Section 57.115 -- and also,

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1 Your Honor, not only that, but the inherent power of
2 this court -- because of Mr. Gutman's litigious
3 conduct and intentional failure and refusal to respond
4 to discovery, that you enter an order of entitlement
5 to attorneys' fees in regards to collection efforts
6 under both 57.115 and the inherent power of this
7 court. We can determine those amounts at another
8 hearing if it becomes necessary, but at this point in
9 time I believe an order of contempt should be entered
10 and an order including attorneys' fees for collection
11 efforts.
12 And I've cited several -- there's several
13 cases on 57.115, Webber v. B. D'Agostino, which was a
14 Fourth DCA 2018 case, fees awarded in connection with
15 an execution under 57.115; the Fifth DCA, Vick v.
16 Vick, the same thing awarded under that same statute;
17 and Solichin v. Solichin, a Middle District Florida
18 case under Florida law ordered fees in connection with
19 execution, all under 57.115, but also under the
20 inherent power of this court.
21 So at this point in time we ask that -- and I
22 have a proposed order I've already drafted for the
23 contempt, Your Honor. We ask that contempt be
24 entered.
25 THE COURT: Any response, Mr. Gutman?

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1 MR. GUTMAN: Yup. It's interesting that
2 Mr. Curtin selected Exhibit B attached to his motion
3 for order to show cause because I actually have the
4 same exhibit. I'm not sure if he gave you a full copy
5 of the e-mail train, but I would like to -- this is
6 Exhibit 8. That would be the judge's copy.
7 Mr. Curtin -- I don't know if he basically included
8 the whole thing in there or not.
9 The interesting thing about Exhibit 8 is the
10 first sentence in the second paragraph -- I can't tell
11 what that sentence reads because it's been redacted.
12 If we turn the page to page 2, it looks like there's a
13 whole -- some other e-mails that were redacted. If we
14 turn to page 3, we see more e-mails redacted. If we
15 turn to page 4, we see more e-mails redacted.
16 So these redactions of substantial portions of
17 the entire e-mail train misconstrue what really
18 occurred here. Mr. Curtin has basically selected the
19 one e-mail that conceivably has some interesting
20 language in it, which I did write, and that language
21 was not submitted to this court. That language was
22 only submitted to Mr. Curtin to the extent that it
23 criticizes the legal profession, the judiciary and the
24 manner in which litigants are victimized by
25 high-powered debt collector attorneys. The message is

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1 being misconstrued because of all the other
2 redactions. As a point of fact, the other redactions
3 would indicate that what I was really trying to do in
4 the earlier e-mails, as well as the first sentence in
5 paragraph 2 -- what I was really trying to do is
6 settle this matter amicably, and that message is
7 clearly missing from the version with the redactions
8 that Mr. Curtin filed.
9 More specifically, I believe what I had
10 offered is \$15,000.
11 MR. CURTIN: Your Honor, those were settlement
12 discussions. Mr. Gutman is correct, all those are
13 settlement discussions between ourselves, and nothing
14 came of it, but that's why I redacted them, because
15 they're settlement discussions.
16 MR. GUTMAN: And, Your Honor, if I may, in
17 anticipation of that, I would now like to admit
18 Exhibit 9, which pertains to settlement discussions.
19 Exhibit 9 is Florida Statute 90.408, Compromise and
20 Offers to Compromise: (As read)
21 Evidence of an offer to compromise a
22 claim, which was disputed as to
23 validity or amount, as well as any
24 relevant conduct or statements made in
25 negotiations concerning a compromise,

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1 is inadmissible to prove liability or
2 absence of liability for the claim or
3 its value.
4 Those redactions were not related to the
5 liability or absence of liability for the claim. They
6 were based upon my good faith in trying to settle the
7 matter so that we wouldn't have contempt. Therefore,
8 the \$15,000 that I offered you for attorney fees is
9 admissible, even though it was a settlement
10 discussion, as is the 70,000 that you told me you
11 wanted in your e-mails.
12 MR. CURTIN: Once again, I don't think
13 settlement discussions are relevant. The relevant
14 part of that e-mail is his outright refusal to ever
15 comply with discovery requests in aid of execution,
16 Your Honor. I would just move that the amounts
17 offered --
18 MR. GUTMAN: I'm not through yet, actually.
19 MR. CURTIN: -- be stricken from the record.
20 MR. GUTMAN: Just so we're clear, I'm not
21 through.
22 THE COURT: I'm certain that you're not
23 through.
24 I will take the matter on that objection under
25 advisement, Mr. Curtin.

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1 Go ahead, Mr. Gutman.
2 MR. GUTMAN: In my motion to quash the
3 order -- excuse me -- in my motion to quash the
4 self-contradictory void and unenforceable order, I
5 referred to Exhibit 6, which is attached to my motion.
6 I don't know that I actually made an exhibit for that,
7 but in Exhibit 6, attached to the motion to quash,
8 which was filed on October 9, 2023, what I attached is
9 an administrative order of this court.
10 This is actually an administrative order from
11 Chief Judge Glenn Kelley, and Paragraph 1 states as
12 follows: (As read)
13 No motions to compel discovery or for
14 protection from discovery will be
15 heard unless the notice of hearing
16 bears the certificate of moving
17 counsel that opposing counsel has been
18 contacted and a good-faith attempt has
19 been made to resolve the discovery
20 dispute without a hearing, but that
21 could not be accomplished.
22 So far as I know, Mr. Curtin has never filed
23 that certificate.
24 MR. CURTIN: I don't know if Mr. Gutman has
25 finished. I have a brief reply.

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1 THE COURT: Is there more, Mr. Gutman?
2 MR. GUTMAN: Yes, I believe there is, not
3 related to that issue, so if you would like to respond
4 to that issue, that would be fine, or I can go on with
5 my other stuff, whichever you prefer, Your Honor.
6 THE COURT: Which other stuff? You mean the
7 other motions?
8 MR. GUTMAN: No, no, no, the other arguments I
9 had related to contempt.
10 THE COURT: If you have other arguments, go
11 ahead.
12 MR. GUTMAN: Okay. I thought he wanted to
13 respond to that specific one.
14 Okay. Let me -- I don't -- see what I have
15 here. Oh, I think it's important to note with respect
16 to the email in question at Exhibit 8 that I provided
17 that it should not be used --
18 THE COURT: Just so we're clear for the record
19 here, the Exhibit 8 that you're referring to is the
20 Exhibit B that's attached to this material?
21 MR. GUTMAN: Correct.
22 THE COURT: So we're talking about the same
23 exhibit?
24 MR. GUTMAN: That is correct, yes.
25 THE COURT: All right.

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1 MR. GUTMAN: Yes, that is exactly right.
2 As indicated, I sent that to him, not the
3 Court, and it's a legitimate expression of First
4 Amendment rights. Therefore, it should not be
5 considered for purposes of contempt at all unless he
6 were to provide a full unredacted version, and the
7 burden would be upon him to provide the full
8 unredacted version so the Court would have the full
9 communicative nature of the email.
10 The other thing I would point out --
11 THE COURT: If you would permit an
12 interruption, Mr. Gutman, your discussions back and
13 forth with Mr. Curtin, although it may be interesting,
14 and, in Mr. Curtin's view, damning -- as you point
15 out, some of the things were redacted, so I don't have
16 the full body of what was going on. What seems
17 important to me is the purported statement by you that
18 you have no intention of abiding by the order of the
19 Court, so let me just ask you point blank, are you
20 intending to abide by the order of the Court?
21 MR. GUTMAN: That's a fair question, Your
22 Honor, and I was actually going to make that kind of
23 my closing part, but since you've asked it directly
24 now, I will answer the question.
25 I guess I have a slight preference, not a huge

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1 preference, I would say a 55 percent degree
2 preference, to not go to a jail cell, 55 percent,
3 maybe 54. On the other hand, I will tell you, there's
4 about 46 percent of me that believes it could serve a
5 good purpose.
6 As you know, I've challenged Rule 4 --
7 THE COURT: Mr. Gutman --
8 MR. GUTMAN: No, I'm just trying -- I'm really
9 trying to answer your question fully.
10 THE COURT: No, you're not.
11 MR. GUTMAN: Okay.
12 THE COURT: It's a simple question, and this
13 is not a negotiation.
14 MR. GUTMAN: Okay.
15 THE COURT: I'm asking you point blank, do you
16 intend to abide by the order of this court regarding
17 those discovery items?
18 MR. GUTMAN: Not at this time.
19 THE COURT: And if an order is entered today
20 granting Mr. Curtin's request to hold you in contempt
21 for your previous failure to comply with that, is
22 there any point to a purge provision?
23 MR. GUTMAN: I'm sorry, is there any point to
24 a purge?
25 THE COURT: Yeah.

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1 MR. GUTMAN: No.
2 THE COURT: So --
3 MR. GUTMAN: Well, actually -- actually, let
4 me correct that. Actually, yes --
5 THE COURT: We can skip that part. I have
6 enough deputies here to take you into custody --
7 MR. GUTMAN: I understand that. I understand
8 that.
9 THE COURT: -- if that's what you --
10 MR. GUTMAN: In all fairness, I might break in
11 jail. I might say, you know, I don't want to be
12 there, you know, but --
13 THE COURT: Yeah, but you don't want a purge
14 provision, so --
15 MR. GUTMAN: No, actually -- actually, I'm
16 going to retract the purge provision.
17 THE COURT: Good. Let's think this -- let's
18 think this through.
19 MR. GUTMAN: Okay. The reason I'm going to --
20 I have a bad left arm, stenosis. Believe me, I'll be
21 the easiest guy in the world.
22 The one thing I would like to actually address
23 where -- I don't know if this is relevant. I have two
24 cats. I'd like to arrange to have them boarded, if I
25 could, before I show up for a jail sentence.

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1 THE COURT: All right. So you're specifically
2 stating on the record that you have no intention to
3 honor the previous order of this court directing you
4 to file those discovery responses?
5 MR. GUTMAN: With the -- with the
6 understanding that no motion to compel discovery was
7 ever filed and also with the understanding that you
8 acted beyond your authority, in my opinion, by
9 treating his contempt motion as a motion to compel, I
10 do not believe a judge has that authority, so, yes,
11 you are correct.
12 THE COURT: And if I enter an order similar to
13 what Mr. Curtin is requesting today, a finding of
14 contempt, and, again, reiterating that you must comply
15 with those discovery requests, you have no intention
16 of complying with that?
17 MR. GUTMAN: I think that's what I said, but
18 by the same token, I would like the opportunity to
19 purge -- to at least consider it. I might change my
20 mind. As I sit here, I think it's unlikely I would
21 change my mind, but I might change it. I think it's
22 unlikely. And, in any event, I would like the seven
23 days to purge if for no other reason just so I can get
24 my two cats boarded.
25 THE COURT: Your reasons are your own,

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1 Mr. Gutman, but --
2 MR. GUTMAN: I understand.
3 THE COURT: -- but this is not a game.
4 MR. GUTMAN: Understood.
5 THE COURT: And I don't know if you've ever
6 been inside a jail. I've only visited them.
7 MR. GUTMAN: I'm kind of interested to see
8 what it's like, actually.
9 THE COURT: You will --
10 MR. GUTMAN: I'd like to see what the
11 conditions are like, and I'd like to talk to the other
12 prisoners.
13 THE COURT: You will find it interesting. I
14 don't know how much time you'll get to talk to other
15 prisoners.
16 MR. GUTMAN: Fair enough.
17 THE COURT: But have you -- that order that
18 you were preparing to offer, Mr. Curtin --
19 MR. CURTIN: I do have it, Your Honor. I
20 can --
21 THE COURT: We can cut to the chase here based
22 on Mr. Gutman's statements and eliminate a lot of the
23 findings you probably included there.
24 MR. CURTIN: Probably, or we could put it --
25 write in a finding that in open court he stated that

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1 he would not comply. I mean, that --
2 THE COURT: You may want to revise that and
3 submit it, but he's asking apparently for the
4 seven-day provision.
5 MR. CURTIN: I already put that in there, Your
6 Honor.
7 MR. GUTMAN: And I --
8 MR. CURTIN: I'll revise that, I'll add in
9 that finding that he stated in open court that he
10 would not comply, and I'll submit it tomorrow for you.
11 MR. GUTMAN: And then I also indicated I would
12 reconsider.
13 MR. CURTIN: I'll put the purge provision in
14 there. That's the reconsideration part, I think, Your
15 Honor.
16 THE COURT: Yeah, well, reconsideration on
17 your part, Mr. Gutman, I'm not sure what you're
18 contemplating, and I hope you decide to comply with
19 the order --
20 MR. GUTMAN: I understand.
21 THE COURT: -- and not file any motions
22 directed to the order because we keep going in circles
23 here.
24 MR. GUTMAN: I understand.
25 THE COURT: I have no interest in putting you

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1 in jail or anyone else, for that matter.
2 MR. GUTMAN: I understand.
3 THE COURT: That's why I'm sitting in civil.
4 I've done enough criminal stuff when I was a younger
5 judge, but --
6 MR. GUTMAN: If I may, I would like to --
7 THE COURT: -- but I don't understand your
8 position, but it's entirely your own, but I'm just
9 telling you we're reaching the end of the line here.
10 MR. GUTMAN: I understand that.
11 Can I make a closing statement, basically, to
12 delineate my position for no other reason than to just
13 make the record?
14 THE COURT: You're talking about your reasons
15 for refusing?
16 MR. GUTMAN: No, no. I'm talking about
17 basically a summary of essentially what's really
18 transpired in this case from the inception four or
19 five years ago.
20 THE COURT: Well, you have tried on numerous
21 occasions to obfuscate the issues on this case, and
22 we've gone in circles around and around and around.
23 The issue that Mr. Curtin is presenting this afternoon
24 is very straightforward and simple. There was an
25 order of the court. You've made a couple of attempts

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1 to quash it and avoid it, but it was there, and now we
2 have evidence, not only in these exhibits, but also
3 your own statement, that you do not intend to comply
4 with it.
5 MR. GUTMAN: Well, what --
6 THE COURT: I really don't care what your
7 reasons are.
8 MR. GUTMAN: Well, what about the issue that
9 he did not attach the certificate of good faith as
10 required by Chief Judge Glenn Kelley?
11 THE COURT: Let's assume that's true. Are you
12 willing to comply now?
13 MR. GUTMAN: What's that?
14 THE COURT: Are you willing to comply now?
15 MR. GUTMAN: I'm basically --
16 THE COURT: This isn't rocket science. All
17 we're looking for is discovery responses. If you
18 think there was a flaw before, okay, well, we're here,
19 we know that --
20 MR. GUTMAN: I guess the -- I guess the answer
21 would be as opposed to the straightforward no, with
22 asking for a purge, I would say it's quite unlikely I
23 would comply now. That being said, after the fourth
24 DCA issues an opinion, I might change my mind, and I
25 might say, hey, I can't handle this jail stuff.

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1 THE COURT: All I'm suggesting to you,
2 Mr. Gutman -- this is your choice. These are direct
3 questions, and you're avoiding them, but I'm trying to
4 get a direct response.
5 MR. GUTMAN: Unlikely is the answer.
6 THE COURT: If you want to have one foot on a
7 banana peel and your neck in a noose, that's entirely
8 up to you, but there will be no more games, so when
9 this order is entered, that's it.
10 MR. GUTMAN: Mmhhh. Well, like I say,
11 unlikely. I --
12 THE COURT: Okay.
13 MR. GUTMAN: My answer went from -- from no to
14 unlikely.
15 THE COURT: Okay. Well, it's your choice.
16 MR. GUTMAN: Understood.
17 THE COURT: All I'm trying to make is that
18 clear.
19 All right. The other motion that you wanted
20 to deal with?
21 MR. CURTIN: Yes, Your Honor, one other
22 motion. This is for the final motion on various writs
23 of acknowledgement, Your Honor. I have a copy of the
24 motion, Your Honor.
25 So this is an interesting one, Your Honor.

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1 Once again, on March 14th, 2023 you entered a cost
2 judgment for 1,300-and-some-odd dollars. On April
3 3rd, 2023 you entered an additional attorneys' fee
4 judgment and additional cost judgment for \$31,000, so
5 about 32,000-and-some-odd change.
6 I did a writ of garnishment on an entity
7 called American Title Corporation because what
8 happened, Your Honor, was one day I received a call
9 that there was going to be a sale of property, and
10 they wanted a release from me, which is typical of a
11 title company because I have a judgment against
12 Mr. Gutman, and it's sitting recorded in the public
13 record. I gave them a payoff, but they never called
14 me back on it, so I did a writ of garnishment to them,
15 and lo and behold, they have \$55,161.16 sitting in
16 their trust account due to a sale of property from
17 Mr. Gutman's mother's estate where Mr. Gutman is a
18 beneficiary, and he's also the executor of the Estate.
19 Mr. Gutman -- that was on December 21st, 2023
20 when American Title Company responded to the writ of
21 garnishment. Mr. Gutman filed, timely, a January 9th,
22 2024 motion for dissolution of the writ. He had three
23 bases in that motion. Your Honor, here it is. I
24 have a copy of that motion.
25 He had three bases in that motion, Your

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1 Honor, one, that the writ says \$32,639.53, which is
2 the total amount of the two judgments that I went
3 over, owed for the two judgments, and the writ says
4 this does not include post-judgment interest, court
5 costs and attorneys' fees. Mr. Gutman said that's
6 just untrue, that that judgment does include that, and
7 he's pointing to the fact that the judgment itself is
8 for attorneys' fees, but the writ is correct, the
9 judgment does not include any post-judgment attorneys'
10 fees on those judgments or court costs or fees on
11 those judgments.
12 His other objection is that fees -- I'm asking
13 fees upon fees. That's not true, Your Honor. It is a
14 judgment for fees. I'm not asking for fees on the
15 amount of the fees, which is typical of the fees upon
16 fees.
17 The only objection he has in that January 9,
18 2024 motion for dissolution, which may have some sort
19 of validity, is that this money shouldn't go to him,
20 but it will go to the Estate, and once the Estate
21 makes a distribution, maybe I could get it, but it's
22 not going to him; it's going to the Estate.
23 Now, he is the executor of the Estate, so what
24 did I do? On December 20th, 2023, I served writs of
25 garnishment upon Mr. Gutman as the executor of his

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1 mother's estate and upon Lynne Spraker, PA, and Lynne
2 Spraker, Esquire, who's the lawyer for the Estate, and
3 in the Estate she has stated that they filed a
4 document in the Estate action that she is the
5 registered agent. So this motion is on all those.
6 What happened on those motions -- those writs
7 of garnishment on the Estate, Your Honor -- the Estate
8 has never responded to those three writs of
9 garnishment, neither Mr. -- no one on behalf of the
10 Estate has responded to those writs of garnishment and
11 said what's in the Estate because the Estate needs to
12 respond and say what they have in the Estate.
13 Mr. Gutman did file a motion -- similar
14 motions, as he filed on behalf of American Title
15 Corporation, having those three same bases that the
16 writ says is post-judgment interest and cost, that
17 it's fees upon fees, and anything that the Estate
18 hasn't made a distribution yet.
19 So what we have here -- and Mr. Gutman
20 rightfully says, and he makes a good point, that he
21 asked for a jury trial in all his responses, and I
22 agree with him that Section 77.08 has a right to a
23 jury trial if there is an issue of fact.
24 And you can look at Security Bank v.

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1 BellSouth, which was a Third DCA 1996 case where the
2 third DCA says when there is no disputed issue of
3 fact, a motion for summary judgment can be -- is
4 always permissible.
5 Zeller Capital v. Zeller, an 11th Circuit case
6 interpreting -- 2014 interpreting Florida law, says
7 77.08 does not provide jury trial and garnishments --
8 does provide jury trial and garnishments, but jury
9 trial is not absolute. A jury trial is not required
10 if it would serve no purpose such as a summary ruling.
11 And Tortilla Marina v. Hartford, a third DCA
12 1965 case, which every other case thereafter cites to,
13 says if facts of a particular case warrant, a summary
14 judgment ruling is appropriate on a writ of
15 garnishment, even though it provides for a jury trial.
16 And here, Your Honor, the first two bases
17 that he comes up with, that the writ says 32,000, and
18 it does not include post-judgment interest, court
19 costs or fees, and that's some sort of material
20 violation, it's just -- on the face of it it's not,
21 Your Honor. It makes no sense. The fees upon fees
22 makes no legal sense.
23 The only issue goes to whether it's a state
24 asset, the money, or whether it's a Mr. Gutman asset,
25 and at this point in time, that does not matter. And

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1 why does that not matter? Because, according to
2 Section 77.072 -- excuse me -- yes, the Estate itself
3 must file a response to the writs; otherwise they are
4 defaulted, and a final judgment will be entered
5 against the Estate for the amounts requested plus
6 interest in the writs, Your Honor.
7 The Estate has never, despite three writs
8 being issued against them, one being served upon
9 Mr. Gutman as the executor of the Estate, two being
10 served upon the lawyer and the law firm as executor of
11 the Estate, has ever responded to the writs and said
12 what they are holding. So a judgment needs to be
13 entered for the full amount of the writ plus the
14 statutory interest against the Estate, Your Honor.
15 So now I would have a judgment against the
16 Estate, so whether this money being held by American
17 Title belongs to Mr. Gutman personally or to the
18 Estate, it doesn't matter because if it belongs to
19 Mr. Gutman, I get it because I have a judgment against
20 him, and he hasn't issued any sort of viable legal
21 objection. And if it's money of the Estate, the
22 Estate has failed to respond to the writs. Mr. Gutman
23 just filed on his personal behalf a motion to
24 dissolve, but not on behalf of the Estate, and the
25 Estate must respond to it and show how much money they

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1 have, and they have not. If they do not, the statute
2 says a judgment should be entered against it, default
3 judgment. And it literally says, failure to timely
4 file by the garnishee, the one being garnished, that's
5 the Estate, shall result in a striking of a motion as
6 unauthorized nullity by the Court and a default
7 entered.
8 So there's no issue of fact here demanding a
9 jury trial, but if there is any issue of fact
10 demanding a jury trial, Your Honor, that issue of fact
11 is only based upon his original January 9th motion,
12 which is only whether this money belongs to him or
13 belongs to the Estate.
14 THE COURT: Mr. Gutman?
15 MR. GUTMAN: On March 25th I filed a
16 supplement to the motion for dissolution of writ of
17 garnishment. The first issue here is that there's a
18 substantial question as to whether this court should
19 even be deciding this issue. It probably should be
20 referred over to the probate court. The Estate is
21 basically a separate entity, according to the IRS,
22 according to federal statutes. Florida law has
23 extensive information and statutes regarding how an
24 estate is handled.
25 Additionally, I don't see how you can possibly

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1 even make a decision on this today without the estate
2 attorney even being present. The estate attorney is
3 not even here. I don't know whether Mr. Curtin even
4 notified the estate attorney of this hearing or not.
5 I did check the online file for the Estate. I don't
6 see anything at all filed in the Estate file. They
7 didn't file the writ with the -- with the probate
8 court, the Estate, which has a separate case number.
9 They basically sent it to me, and then they basically
10 also, I guess, sent a writ to the estate attorney that
11 was filed in this case, but there's nothing at all
12 filed with the probate court.
13 I am the personal representative of the
14 Estate, but under Florida unauthorized practice of law
15 provisions, I can't even argue on behalf of the
16 Estate. The Estate has an engaged attorney who is
17 Lynne Spraker. She's not here today. I don't even
18 know if she got notice of the hearing or not, I really
19 have no idea, so this is a probate issue.
20 What Mr. Curtin is basically saying -- he's
21 essentially asserting, look, Your Honor, Evan's the
22 beneficiary of the Estate. This money is really his.
23 He's ultimately going to get it. The first problem
24 with that is that Evan is not the only beneficiary of
25 the Estate. Evan is one of the beneficiaries of the

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1 Estate and the personal representative of the Estate.
2 There is at least one more beneficiary. Actually,
3 I'll state right off the bat there is one more
4 beneficiary. There's also a substantial question as
5 to whether the other --
6 THE COURT: Well, let me interrupt you for
7 just one moment.
8 It's a due process issue, do you have a copy
9 of the notice of hearing for these motions,
10 Mr. Curtin.
11 MR. CURTIN: Yes, and the estate attorney is
12 not on that, Your Honor, and the reason why is they
13 never answered the writ. And If you look at 77.081,
14 they had 20 days to answer it. They never answered
15 it, and that's where the default process comes in.
16 THE COURT: You're not moving for default;
17 you're moving for a judgment.
18 MR. GUTMAN: I'm moving for a judgment, but
19 what I'm saying is the Estate should be defaulted
20 also, so the judgment -- it doesn't matter whether the
21 beneficiaries are Mr. Gutman and his brother, which
22 that's the other beneficiary, his brother, because I
23 have a copy of the will. If that's -- if that's the
24 beneficiary -- because the Estate never responded to
25 the writ, a final -- a default was entered against the

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1 Estate, so that money being held by the title company,
2 whether it belongs to the Estate or should go directly
3 to Mr. Gutman -- because I also have the escrow
4 agreement, which says it goes directly to Mr. Gutman,
5 but that would be an issue of fact. We don't have to
6 get into that on that, Your Honor, because the Estate
7 should be defaulted, and if the -- so if the money
8 belongs to Mr. Gutman, it comes to me. If it belongs
9 to the Estate, the Estate has already defaulted on
10 that.
11 THE COURT: All right. Well, I'm going to
12 treat the motions here as a motion for default as
13 opposed to a full final judgment, so, as you pointed
14 out, they have been served, and no answer has been
15 filed. You would be entitled to a default, but that's
16 as far as I'm willing to go without having a specific
17 notice to the attorney representing the Estate who may
18 or may not have an issue with this, but obviously they
19 were not noticed for today.
20 So it's convoluted, I understand that, but
21 default, I think, is as far as I'm willing to go
22 today.
23 MR. CURTIN: I will set an order of default on
24 the Estate, Your Honor.
25 MR. GUTMAN: Your Honor, can I just make one

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1 other point for the record?
2 THE COURT: Sure.
3 MR. GUTMAN: The funds that Mr. Curtin is
4 seeking to have turned over, which are held by the
5 Marecki Law Firm -- actually, American Title Company
6 that Tim Marecki owns, at least I understand he owns
7 it -- those funds, basically, are subject to an escrow
8 holdback agreement, which is attached to my
9 supplement.
10 Now, it does get a little convoluted because
11 as we sit here today, the other issue the Court will
12 need to consider is that the funds held by
13 Mr. Marecki, by American Title Company, currently are
14 illegally held by American Title Company.
15 THE COURT: I'm sure that's not an issue for
16 me here today, so --
17 MR. GUTMAN: Well, the question -- the only
18 issue is whether -- even if the funds were to be
19 turned over, should the Court be turning over funds to
20 a beneficiary's creditor that are being illegally held
21 by a third party? That's the crux of the issue.
22 THE COURT: We're not there yet.
23 MR. GUTMAN: Understood. Understood.
24 THE COURT: Okay. So the defaults will be
25 granted, you can submit those, as well as the other

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1 proposals that you were going to submit. Okay.
2 MR. CURTIN: That's it, Your Honor.
3 THE COURT: That wraps it up for this
4 afternoon?
5 MR. GUTMAN: Actually, one other thing, just
6 going back to the contempt issue, Your Honor, if I
7 could just very, very briefly, I understand there's
8 going to be a purge entered. With respect to -- and,
9 like I said, I am going to consider it. I think it's
10 unlikely I'll change my mind, but that being said, I
11 would request that in the order -- in the order, if
12 there is going to be a period of time spent in jail,
13 to see if I can take it or not, I would request
14 that --
15 THE COURT: There will be no time specified
16 for you being in jail.
17 MR. GUTMAN: No, no. I understand.
18 THE COURT: It will be a civil commitment
19 until --
20 MR. GUTMAN: Understood.
21 THE COURT: -- until we have compliance.
22 MR. GUTMAN: That's not even -- that's not
23 even what I'm getting to.
24 The only request I have is I would ask that I
25 be given the opportunity to turn myself in as opposed


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1 to having the police just show up at my door.
2 THE COURT: That's a reasonable request. I
3 hope you don't go there.
4 MR. GUTMAN: Okay.
5 THE COURT: Anyway, I just want to make sure
6 you understand this is not intended to be punitive.
7 We just want some responses to the previous order,
8 which will be reinforced by this new order, that it's
9 not debatable. Regardless of your personal opinions
10 about me or the judiciary in general or the state of
11 the world, it's not going to be negotiable at this
12 point.
13 MR. GUTMAN: Understood.
14 THE COURT: Okay.
15 MR. GUTMAN: The only -- the last point I
16 would make, and I think I said the last one was, but I
17 do have one more. Will Your Honor be considering at
18 all the fact that there is not an order in place
19 scheduling a contempt hearing for today?
20 THE COURT: I don't believe we had it set by
21 order. Mr. Curtin's office was directing the schedule
22 a notice of hearing to add on what was already set by
23 order. That's --
24 MR. GUTMAN: That's my point.
25 THE COURT: That's how we got here, yes.

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1 MR. GUTMAN: My point is that there's no
2 order. Don't you need an order to at least have a
3 hearing on contempt?
4 THE COURT: I don't believe so. I mean, it's
5 basic due process. You knew about it; we're here;
6 we're talking about it.
7 MR. GUTMAN: I understand.
8 THE COURT: Okay.
9 MR. GUTMAN: I understand.
10 THE COURT: Okay. We were just adding onto a
11 previous order, was the direction of the Court,
12 because we were getting too many Zoom requests, and
13 the direction was let's lump it all together while
14 we're here, and we'll do it.
15 MR. GUTMAN: Okay.
16 THE COURT: So I appreciate your point. I'm
17 not sure it matters, to tell you the truth.
18 Anyway, I'll wait for those submissions,
19 Mr. Curtin.
20 MR. CURTIN: Thank you.
21 THE COURT: All right. Thank you.
22 MR. GUTMAN: Thank you, Your Honor.
23 (Proceedings concluded at 3:02 p.m.)
24
25

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1 Certificate of Transcript
2
3 I, Lisa MacDonald, a Registered Shorthand Reporter
4 in and for the State of Florida, do hereby certify:
5
6 That the foregoing proceedings were taken before me
7 at the time and place herein set forth; that the
8 testimony and proceedings were reported
9 stenographically by me and later transcribed into
10 typewriting under my direction; and that the foregoing
11 is a true record of the testimony and proceedings
12 taken at that time.
13
14 IN WITNESS THEREOF, I have subscribed my name this
15 15th day of April, 2024.
16
17 
18
19 Lisa MacDonald, Court Reporter
20 Notary Public No. HH-472774
21
22
23
24
25