

**IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CIVIL DIVISION**

CITIBANK, N.A.

Plaintiff

v.

EVAN S. GUTMAN,

Defendant, Pro Se

CASE NUMBER:

50-2020-CC-005756-XXXX-MB

**DEFENDANT'S MOTION FOR
PROTECTIVE ORDER FROM
FINANCIAL DISCOVERY**

QUESTION PRESENTED :

Is Judge Edward Garrison truly willing within his own Heart, Mind and Soul to continue providing that which "**appears**" to constitute complete, absolute, unswerving Judicial Support to Plaintiff's Counsel, Kenneth Michael Curtin, Esq.; even in the face of Mr. Curtin's express, written representation that he is willing to commit the **Criminal Act of Perjury** in order to advance Debt Collection efforts of his client, Citibank, N.A. ? (See Exhibits 1 - 3 attached)

ANSWER :

While the matter is concededly not entirely free from doubt, it is Defendant's sincerest and genuine belief that no matter how Judge Garrison answers or responds to the foregoing presented question, such will ultimately function to the advantage of Defendant.

Pursuant to Rule 1.280 of the Florida Rules of Civil Procedure, Defendant, Evan Gutman hereby MOVES this Court for a Protective Order prohibiting Financial Discovery related to the Attorney Fees Judgment entered in favor of Plaintiff on April 3, 2023. This Motion is supported by the following grounds:

1. Pursuant to Levin, Middlebrooks, Mabie v United States Fire Insurance Company, 639 So.2d 606 (Fla. 1994), this Court has a moral and ethical duty to protect its' own integrity by limiting legal filings of Plaintiff's Counsel. Plaintiff's Counsel Kenneth Michael Curtin, Esq. openly asserted in no uncertain, express written terms that he is willing to commit the Criminal Act of Perjury to advance the Debt Collection efforts of his client, Citibank, N.A. (See Exhibits 1 - 3)

On or about January 24, 2023, this Court entered an Order requiring Defendant and Plaintiff's Counsel to address disputed issues pertaining to Plaintiff's Motion for Attorney Fees and Costs. In conformity with the Court's Order, the parties engaged in a phone conversation on or about March 1, 2023. During the course of the phone conversation, Defendant agreed to Stipulate to most of the Costs that Plaintiff was seeking, so long as the agreed upon Stipulated Judgment would be neither enforceable or executable during the course of the pending appeal of the underlying Judgment. Plaintiff's Counsel, Kenneth Michael Curtin, Esq. agreed to said terms, but also indicated that he wanted the Stipulated Judgment to contain a provision allowing for him to file a "JUDGMENT LIEN CERTIFICATE." Defendant informed Mr. Curtin he was not familiar with a "JUDGMENT LIEN CERTIFICATE," but would research the legal significance and ramifications of such.

On February 28, 2023, Mr. Curtin sent an email to Defendant with his version of the proposed Stipulated Judgment, which contained language indicating Plaintiff could file a Judgment Lien Certificate; even though it also contained language that it was not enforceable or executable stating (pending appeal of the underlying Judgment) (See Exhibit 1(b)) :

"is not collectable or executable in any manner"

Upon receipt of Mr. Curtin's proposed Stipulated Judgment and researching the legal ramifications of a Judgment Lien Certificate, Defendant determined the filing of such would provide Plaintiff with substantial ability to "collect or execute" upon the Judgment, thereby contradicting the otherwise stated language therein. Further, Defendant determined that in

order to file the Judgment Lien Certificate, Mr. Curtin would have to commit the CRIMINAL ACT OF PERJURY because the Judgment Lien Certificate contains express language stating in part as follows (See Exhibit 2) (emphasis added) :

"UNDER PENALTY OF PERJURY, I hereby certify that : . . . (1) . . . there is no stay of the judgment or its enforcement in effect. . . ."

On March 2, 2023, Defendant sent an email to Mr. Curtin (See Exhibit 3). In the email, Defendant provided proper professional "**Counseling**" to Mr. Curtin informing him that he would be committing "Perjury" if he filed the Certificate. In addition, Defendant informed Mr. Curtin that he had been misleading as to his representation of the legal ramifications of a Judgment Lien Certificate during the course of their phone conversation. Within approximately 2 hours of receiving Defendant's email, Mr. Curtin immediately responded he would remove the Judgment Lien Certificate language. Apparently, Mr. Curtin knew from inception that he was not really allowed to file a Judgment Lien Certificate if the Judgment was not executable. He indicated in his responsive email that he was doing so in order to : "put this issue to rest." However, he did not acknowledge fault in any manner.

Defendant acknowledges Mr. Curtin did not actually commit the criminal act of Perjury after receiving proper "**Counseling**" from Defendant. (See Exhibit 3(a)). However, it is similarly clear that he was quite willing to do so in order to advance collection efforts on behalf of his client, and for the purpose of negating the otherwise agreed upon language the Judgment would not be executable pending the existing appeal. In light of Mr. Curtin's extensive experience with debt collection and litigation, which he himself testified under sworn oath during the course of the attorney fees hearing, it is not tenable that he simply made an error and did not know what a Judgment Lien Certificate required him to attest to.

Put simply, Mr. Curtin knew precisely and exactly what he was trying to do and was willing to commit the criminal act of Perjury to accomplish such. This is borne out by how quickly he immediately agreed to eliminate the language, once he had effectively been "outed" by the Defendant; who had discovered his nefarious "scheme." It is unknown as to how many impoverished litigants, unable to perform the legal research as Defendant did, have been harmed by similar illegal tactics of Mr. Curtin, Citibank and their cohorts.

Accordingly, pursuant to Levin, supra, which expressly provides authority to the Court to protect the integrity of the legal system, Defendant requests this Court issue a Protective Order prohibiting financial discovery pending the outcome of the existing appeal of the underlying Judgment. In Levin, the Supreme Court of Florida wrote as follows regarding the issue of litigation privilege (emphasis added):

"This does not mean, however, that a remedy for a participant's misconduct is unavailable in Florida. On the contrary, just as "remedies for **perjury**, slander, and the like committed during judicial proceedings are **left to the discipline of the courts**, the bar association, and the state," . . . **other tortious conduct occurring during litigation is equally susceptible** to that same discipline."

2. Defendant will suffer irreparable harm if Plaintiff is allowed to proceed with Discovery related to the Attorney Fees Judgment entered by this Court on April 3, 2023, even if Defendant prevails on the pending appeal of the underlying Judgment in this matter.

An appeal of the underlying Judgment forming the basis for the attorney fees judgment is currently pending in this matter. This Court has previously denied Defendant's Motion for a Stay of Enforcement of the attorney fees judgment. Defendant, in turn, has filed a Motion with the Fourth District Court of Appeal to issue the requested Stay. That Motion remains pending, along with the underlying appeal.

If Plaintiff is allowed to proceed with financial discovery, Defendant will suffer irreparable harm even if he wins the pending appeal. Put simply, Plaintiff would then know all his financial information and could use such to their advantage. Accordingly, Defendant

requests this Court issue a Protective Order prohibiting Plaintiff's requested financial discovery pending the outcome of the appeal of the underlying judgment.

For the foregoing reasons, Defendant respectfully requests the Court issue a Protective Order prohibiting financial discovery pending the outcome of the pending appeal.

DATED this 17th day of May, 2023.

A handwritten signature in black ink that reads "Evan Gutman". The signature is written in a cursive style with a horizontal line underneath it.

Evan Gutman JD, CPA
Member State Bar of Pennsylvania
Member District of Columbia Bar
1675 NW 4th Avenue, #511
Boca Raton, FL 33432
561-990-7440

CERTIFICATE OF SERVICE

I Evan Gutman, hereby Certify a true copy of the foregoing was sent via E-Mail on this 17th day of May, 2023 thru the Florida Courts E-Portal and a follow up copy will be sent via U.S.

Mail addressed as follows:

Adams and Reese LLP
Attn: Kenneth M. Curtin, Esq.
100 N. Tampa Street, Suite 4000
Tampa, Florida 33602

DATED this 17th day of May, 2023.



Evan Gutman CPA, JD
Member State Bar of Pennsylvania
Member District of Columbia Bar
Admitted to Federal Sixth Circuit Court of Appeals
Admitted to Federal Ninth Circuit Court of Appeals

1675 NW 4th Avenue, #511
Boca Raton, FL 33432
561-990-7440

**IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

CITIBANK, N.A.,

Plaintiff,

Case No. 2020-005756-CC

v.

EVAN S. GUTMAN,

Defendant.

_____ /

STIPULATED FINAL JUDGMENT AS TO TAXABLE COSTS

Plaintiff, Citibank, N.A. (“Plaintiff”), and Defendant, Evan S. Gutman (“Defendant”), individually or by and through their undersigned counsel, and pursuant to this Court’s January 13, 2023 Order Granting Plaintiff’s Motion for Attorneys’ Fees and Taxable Costs as to Entitlement, but not as to Amount, and this Court’s January 24, 2023 Preliminary Order Regarding Hearing on Plaintiff’s Motion for Attorney’s Fees and Taxable Costs, stipulate and agree to the following:

1. Plaintiff has requested \$1,458.41 in taxable costs incurred up until February 27, 2023 and provided backup documentation for such costs. Defendant has contested one charge for \$134.38 and Plaintiff has agreed to eliminate said charge. Accordingly, the parties agree Plaintiff is entitled to a Final Judgment as to Taxable Costs in the amount of \$1,324.03 which represents Plaintiff’s taxable costs incurred up until February 27, 2023.

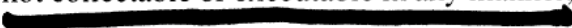

2. Plaintiff and Defendant recognize the above amount of \$1,324.03 does not include any taxable costs related to Plaintiff’s expert witness on the reasonableness of attorneys’ fees, which Defendant reserves the right to contest. Nor does it include taxable costs that may be incurred in relation to the upcoming evidentiary hearing on the issue of attorneys’ fees, which

EXHIBIT 1(b)

Defendant also reserves the right to contest. The parties agree any such additional taxable costs asserted by Plaintiff will be handled by the Court at the upcoming evidentiary hearing on the amount of attorneys' fees that may or may not be awarded, if any attorney fees are awarded at all.

3. Plaintiff also agrees that while this Judgment may be recorded and Plaintiff may file a Judgment Lien Certificate, Plaintiff will not seek to collect upon or otherwise Execute in any manner, this Final Judgment on Taxable Costs until the conclusion of Defendant's current pending appeal, including any subsequent relevant Petitions that may be filed at the Florida Supreme Court and/or U.S. Supreme Court and any subsequent appeals of this Court's Final Judgment dated September 19, 2022. Until all appeal remedies are exhausted Plaintiff agrees not to Execute upon this Judgment in any manner. This Judgment shall be Vacated in full, and of no force or effect if said appeals or petitions are successful.

BASED ON THIS STIPULATION THE COURT ORDERS AND ADJUDGES that:

1. Plaintiff, Citibank, N.A., with a mailing address of 701 E. 60th Street N., Sioux Falls, South Dakota 57117, shall have and recover against Defendant, Evan S. Gutman, with the last known mailing address of 1675 NW 4th Avenue #511, Boca Raton, FL 33432 the total of \$1,324.03 in taxable costs that shall bear interest at the statutory rate of 5.52%. Until all appeals and petitions are fully exhausted, this Judgment is not collectable or executable in any manner, but  may be recorded and Plaintiff may file a Judgment Lien Certificate in relation to this Judgment. If  the appeals referenced above are successful, this Judgment shall be Vacated and Plaintiff shall not be entitled to recover any amounts related to this Judgment.

2. The Court reserves jurisdiction to award additional taxable costs consistent with the parties' stipulation above.

DONE AND ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this ____ day of March, 2023.

The Honorable Edward Garrison
County Court Judge

Stipulation as to Final Judgement as to Taxable Costs

Plaintiff, Citibank, N.A. ("Plaintiff"), and Defendant, Evan S. Gutman ("Defendant"), individually or by and through their undersigned counsel, hereby stipulate and agree to the above Stipulated Final Judgment as to Taxable Costs

Kenneth M. Curtin, Esquire
Adams and Reese, LLP
100 N. Tampa Street, Suite 4000
Tampa, Florida 33602
Florida Bar Number 87319
Counsel for Citibank, N.A.
Dated: March ____, 2023

Evan S. Gutman, CPA, JD
1675 NW 4th Avenue, #511
Boca Raton, Florida 33432

Dated: March ____, 2023

Copies to:

Kenneth M. Curtin, Esq., Adams and Reese LLP, 100 North Tampa Street, #4000,
Tampa, FL 33602
Evan Gutman, 1675 NW 4th Avenue #511, Boca Raton, FL 33432

JUDGMENT LIEN CERTIFICATE

FOR PURPOSES OF FILING A JUDGMENT LIEN, THE FOLLOWING INFORMATION IS SUBMITTED IN ACCORDANCE WITH s. 55.203, FLORIDA STATUTES.

DO NOT PHOTOCOPY THIS FORM PRIOR TO USE.
BAR CODE MUST BE LEGIBLE.



EXHIBIT 2

1. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M. I.

MAILING ADDRESS

CITY ST ZIP

2. ADDITIONAL JUDGMENT DEBTOR, IF AN INDIVIDUAL, IS:

LAST NAME FIRST NAME M. I.

MAILING ADDRESS

CITY ST ZIP

3. JUDGMENT DEBTOR (DEFENDANT) NAME AS SHOWN ON JUDGMENT, IF A BUSINESS ENTITY, IS:

BUSINESS ENTITY NAME

MAILING ADDRESS

CITY ST ZIP

4. FEDERAL EMPLOYER IDENTIFICATION NUMBER: _____

5. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

6. JUDGMENT CREDITOR (PLAINTIFF) NAME AS SHOWN ON JUDGMENT OR CURRENT OWNER OF JUDGMENT, IF ASSIGNED:

CREDITOR NAME(S)

MAILING ADDRESS

CITY ST ZIP

7. DEPARTMENT OF STATE DOCUMENT FILE NUMBER: _____

PLEASE CHECK BOX IF DOCUMENT NUMBER IS NOT APPLICABLE

8. OWNER'S ATTORNEY OR AUTHORIZED REPRESENTATIVE: (ACKNOWLEDGMENT OF FILING WILL BE SENT TO THIS ADDRESS)

NAME

MAILING ADDRESS

CITY ST ZIP

9. AMOUNT DUE ON MONEY JUDGMENT: _____

10. APPLICABLE STATUTORY INTEREST RATE: _____

11. NAME OF COURT: _____

12. CASE NUMBER: _____

13. DATE OF ENTRY: _____
MONTH DAY YEAR

UNDER PENALTY OF PERJURY, I hereby certify that: (1) The judgment above described has become final and there is no stay of the judgment or its enforcement in effect; (2) All of the information set forth above is true, correct, current and complete; (3) I have not previously filed a Judgment Lien Certificate regarding the above judgment with the Department of State; and, (4) I have complied with all applicable laws in submitting this Judgment Lien Certificate for filing.

SIGNATURE OF CREDITOR OR AUTHORIZED REPRESENTATIVE

PRINT NAME

NON-REFUNDABLE PROCESSING FEE:

JUDGMENT LIEN WITH ONE DEBTOR \$ 20.00 EACH ADDITIONAL DEBTOR \$ 5.00
EACH ATTACHED PAGE, IF NECESSARY \$ 5.00

CERTIFIED COPY REQUESTED \$10.00

Division of Corporations • P.O. Box 6250 • Tallahassee, FL 32314 • 850-245-6011
Make Checks Payable to: Florida Department of State

EVAN GUTMAN

From: Kenneth Curtin <Ken.Curtin@arlaw.com>
Sent: Thursday, March 2, 2023 2:05 PM
To: EVAN GUTMAN
Cc: Louis M. Ursini III; Chantal Pillay; Lisa Stallard; Don Mihokovich; Carter Pope
Subject: RE: CITIBANK V GUTMAN - STIPULATION ISSUE with BLANK COPY OF JUDGMENT LIEN CERTIFICATE ATTACHED
Attachments: Citibank v. Gutman - FINAL VERSION 03.02.2023 Stipulation on Taxable Costs.pdf; Citibank v. Gutman - REDLINE OF LAST VERSION VsS. FINAL VERSION 03.02.2023 Stipulation on Taxable Costs.DOCX

Mr. Gutman:

To put this issue to rest, I took out the Judgement Lien Certificate language. However, I did add in another sentence directly following your sentence about if the appeals are successful that the Judgment is vacated that read that if the appeals are unsuccessful Plaintiff may start collection and execution on the Judgment. See attached clean "Finalized" version along with a redline from the last version I sent to you showing the changes. As far as the amounts, I appreciate your note on the \$135, but I had already added that \$135 to the total of \$1, 458.41 in costs so the final amount of \$1,324.03 is correct.

I am sending the "finalized" version in PDF for signature. Please let me know if the attached is good so we can both sign, date, and then I will send to the Court for signature.

From: EVAN GUTMAN <egutman@gutmanvaluations.com>
Sent: Thursday, March 2, 2023 12:17 PM
To: Kenneth Curtin <Ken.Curtin@arlaw.com>
Cc: Louis M. Ursini III <Louis.Ursini@arlaw.com>; Chantal Pillay <Chantal.Pillay@arlaw.com>; Lisa Stallard <Lisa.Stallard@arlaw.com>
Subject: RE: CITIBANK V GUTMAN - STIPULATION ISSUE with BLANK COPY OF JUDGMENT LIEN CERTIFICATE ATTACHED

Hi Ken,

Per our discussion, I researched the issue of a Judgment Lien Certificate to determine if I would be willing to agree to that provision you proposed yesterday. **I do not anticipate being willing to agree to that provision for several reasons as follows.**

FIRST, it appears to me a Judgment Lien Certificate directly contradicts established Florida law that the Judgment may not be executed upon. More specifically, attached is a blank copy of a Judgment Lien Certificate application. Please note at the bottom (which you would need to sign under Penalty of Perjury) it expressly states as follows in part (emphasis added):

"UNDER PENALTY OF PERJURY, I hereby certify that . . . there is no stay of the judgment or its enforcement in effect"

SECOND, it appears to me a Judgment Lien Certificate does substantially more than merely function to establish your priority as a creditor, as you indicated yesterday. Rather, it functions as a Lien on my Personal Property, which means I could not sell if I wanted to. I can not allow myself to be placed in that position, while appeals may be pending. More specifically, just as an example, I currently own a 2017 Nissan Altima. Although I have not yet decided, I may want to trade that in and get a new

vehicle sometime this year or the next. As I understand the Lien Certificate, it would mean that I couldn't sell the car, unless I first paid you the amount on the Judgment. I can not be in that position.

THIRD, for all practical purposes there really is no reason for me to agree to the provision now that I understand how it truly functions. More specifically, under established Florida Law and as indicated on **page 8 of my filed Opposition filed on November 4, 2022**, since I have already paid in the full amount of the Monetary Judgment into Court **I am already entitled by law to an Automatic Stay of Enforcement** without the necessity of paying any additional Bond or Cash. See **Bernstein v Bernstein**, 43 So.2d 356 (Fla. 1949); **Larson v Higginbotham**, 66 So.2d 40 (1953); **Luckhardt v Pardiak**, 142 So.2d 749 (1962); and **City of Coral Gables v Geary**, 398 So.2d 479 (Fla. App. 3rd DCA 1981).

FOURTH, now that I more adequately understand how the Lien Certificate functions and its purpose, and since it was never part of the agreement we made, it would not be equitable or fair to add such at this time.

Lastly, as a sidenote, I did notice an inadvertent error on my part, when I sent you the draft. Specifically, the Stipulated Judgment should be for an additional \$ 135. As you may recall, after you agreed to eliminate the \$ 134.38, I agreed to the additional \$ 135 invoice you mentioned had just been received. This of course functions to your benefit. I believe that would make the total \$ 1,459.03 instead of \$ 1,324.03.

With the foregoing in mind, I respectfully request the reference to a Judgment Lien Certificate be removed from the Stipulation and that we proceed to finalize such in accordance with the terms we agreed upon. In the event you are unwilling to do so, I assume we will simply have to address the issue in Court on the 24th. While the matter is concededly not entirely free from doubt, my best guess is the Judge will be sensitive to my position on the issue.

Regards,
Evan

EVAN GUTMAN CPA, JD
Boca Raton, Florida 33432
561-990-7440
201-400-6459 (Cell)
egutman@gutmanvaluations.com
Website: www.gutmanvaluations.com

From: Kenneth Curtin <Ken.Curtin@arlaw.com>
Sent: Thursday, March 2, 2023 10:12 AM
To: EVAN GUTMAN <egutman@gutmanvaluations.com>
Subject: RE: Citibank v. Gutman - REVISED STIPULATION ATTACHED

Mr. Gutman:

As we discussed on the phone the other day, I took your revised version and made some additional revisions and additions. Attached, you will find a "clean" version of the proposed Stipulated Final Judgment labeled "KMC VERSION

03.02.2023" with all of your revisions and additions and few changes/revisions that I added. Also attached in Word is a version labeled "REDLINE GUTMAN VERSION – KMC VERSION" which show the additional revisions and additions that I added. Please note that I had to change the spacing so that the Judge's signature is not on a its own page separate and distinct from any part of the written Order. Judges dislike such. Therefore, I just changed the spacing on the title page and added a page break so that Paragraph 2 of the Order is on the third page along with the Judge's signature.

If this is good, let me know and we can exchange signatures and then I can file and send to the Court for execution

From: EVAN GUTMAN <egutman@gutmanvaluations.com>
Sent: Tuesday, February 28, 2023 1:00 PM
To: Kenneth Curtin <Ken.Curtin@arlaw.com>
Cc: Louis M. Ursini III <Louis.Ursini@arlaw.com>; Lisa Stallard <Lisa.Stallard@arlaw.com>; Chantal Pillay <Chantal.Pillay@arlaw.com>
Subject: RE: Citibank v. Gutman - REVISED STIPULATION ATTACHED

Hi Ken,

Attached is a **REVISED STIPULATION**, which more adequately represents my understanding of the agreements made yesterday. If such meets with your approval, please sign and return. I will then perform a final review and if such meets with my approval, I will then also sign and return to you. Also, I would like a handwritten original signature rather than /s/.

For your convenience, I am attaching this Proposed Stipulation in both Word and PDF format. If you have any additional revisions you feel should be made, feel free to edit the document. However, it will be after our meeting tomorrow before I address such.

Regards,
Evan

EVAN GUTMAN CPA, JD
Boca Raton, Florida 33432
561-990-7440
201-400-6459 (Cell)
egutman@gutmanvaluations.com
Website: www.gutmanvaluations.com

From: Kenneth Curtin <Ken.Curtin@arlaw.com>
Sent: Tuesday, February 28, 2023 11:22 AM
To: EVAN GUTMAN <egutman@gutmanvaluations.com>
Subject: Citibank v. Gutman

Mr. Gutman:

Please find attached a proposed Stipulated Final Judgment as to Taxable Costs which I believe adequately represents our agreement at mediation yesterday as to the taxable costs. If the attached meets with your approval, please sign and date on the last page under your name, return the signature page to me and I will then date and send to the Court for signature. I am glad we were able to amicably settle this one issue.

Kenneth Curtin | ADAMS AND REESE LLP

Partner

100 N. Tampa Street, Suite 4000 | Tampa, FL 33602

P: 813.227.5521 | **M:** 561.308.0148

Ken.Curtin@arlaw.com | [Bio](#) | [vCard](#) | [Twitter](#) | [LinkedIn](#)