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APPENDIX A
(Reformatted)

ORDER

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

At a Stated Terms of the United States Court
of Appeal for the Second Circuit, held at the
Thurgood Marshall United States Courthouse, 40
Foley Square, in the city of New York, on the 12th,
day of April, Two Thousand Eighteen.

Before Raymond J. Lohier, Jr.,
Circuit Judge

Modesta R. Sabeniano,

Plaintiff-Appellant

ORDER

Docket No. 17-3181

v.

Citibank NA, New York, Citigroup Inc.
Defendants-Appellees

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APPENDIX A

Order (Continued)

Appellant, Pro-Se moves for leave to file a motion for reconsideration or reconsideration en banc, for leave to attach exhibits to the motion, and for leave to supplement the motion

IT IS HEREBY ORDERED that the motions are
DENIED.

For the Court:

Catherine O'Hagan Wolfe, Clerk of

Court

Seal of Court of

Appeals

Stamped signed:

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APPENDIX A-1

MANDATE (Re-formatted) SDNY, NYC
16-CV1723

United States Court of Appeals

FOR THE SECOND CIRCUIT

At a Stated Terms of the United States Court
of Appeal for the Second Circuit, held at the
Thurgood Marshall United States Courthouse, 40
Foley Square, in the city of New York,, on the 14th,
day of February, Two Thousand Eighteen.

Present: Barrington D. Parker
Peter W. Hall
Raymond J. Lohier, Jr.
Circuit Judges.

Modesta R. Sabeniano,

Plaintiff-Appellant

v. 17-3181

Citibank NA New York, Citigroup Inc.

Defendants-Appellees

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APPENDIX A-1

Mandate (Continued)

Appellant Pro Se, moves to vacate the district court's summary judgment dismissal of her complaint and the denial of her cross-motion for summary judgment. We construe the motion as seeking summary reversal. Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it lacks arguable basis in law and fact. See Pillay v. INS, 45F3d 14,17(2nd Cir. 1995)(holding that this Court has inherent authority to dismiss an appeal when it "presents no arguably meritorious issue for the Court's consideration").

For the Court:

Catherine O'Hagan Wolfe, Clerk of Court

Signed/Stamped

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APPENDIX A-1

Mandate (Continued)

Seal of the Court, Second Circuit

A True Copy

Catherine O'Hagan Wolfe

Stamped Signed

MANDATE ISSUED ON 4/13/2018

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APPENDIX A-2

Notice of Non-Jurisdiction

United States Court of Appeals

For the Second Circuit

Thurgood Marshall United States Courthouse

40 Foley Square

New York, NY 10007

ROBERT A. KATZMANN CATHERINE

CHIEF JUDGE

O'HAGAN-WOLFE

CLERK OF COURT

Date: May 1, 2018

DC Docket#16-cv-1723

Docket # 17-3181CV

DC Court: SDNY

(New York City)

DC Judge: Nathan

Short Title: Sabeniano v. Citibank NA

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APPENDIX A-2

Notice of Non-Jurisdiction (Continued)

NOTICE OF NON-JURISDICTION

This is to acknowledge receipt of papers dated April 23, 2018, in the case referenced above. Because this case was mandated on **April 13, 2018**, this Court no longer has jurisdiction to entertain your request. For this reason, your papers are returned unfiled.

Inquiries regarding this case may be directed to (212)857-8560.

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APPENDIX B

ORDER

United States District Court, Southern District

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Stamped: USDC Document

Electronically Filed

Doc No:

Date Filed: Sep 01, 2017

ModestaR. Sabeniano,

Plaintiff

-v-

Citibank NA, New York,

Citigroup Inc. Defendants

16cv1723 AJN

MEMORANDUM

&

ORDER

ALISON J. NATHAN, District Judge

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APPENDIX B

US District Court ORDER (Continued)

Before the Court are Citibank NA New York and Citigroup Inc. (collectively, the defendants) motion to dismiss the second amended complaint (the complaint) see docket No. 34 and pro se plaintiff Modesta R. Sabeniano's cross-motion for summary judgment, Dkt No. 27. The Court assumes familiarity with the prior decisions of Judge Carter addressing plaintiff's previous complaint in this matter, and will recount only those facts necessary to explain its decision. See *Sabeniano v. Citibank NA New York* 12cv1928(ALC), Dkt No. 25 (SDNY March 20, 2013) granting summary judgment to the defendant on substantially identical claims); 12cv1928, Dkt No. 37(SDNY Oct. 25, 2013) (denying plaintiff motion for reconsideration)

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APPENDIX B

US District Court ORDER (Continued)

I. Introduction

The defendants argue that the plaintiff complaint which ask this Court to recognize an authenticated foreign country money judgment from the Republic of the Philippines (the Philippines) that the plaintiff claims establishes she is owed more than \$19 Million Dollars, must be dismissed for inter alia, two reasons: First, the plaintiff already brought the same claim before the Southern District of New York, seeking to enforce the same set of judgment arising out of the same purported foreign controversy between the plaintiff and defendants, and Judge Carter granted summary judgment for the defendant Citibank. *See Sabeniano v. Citibank NA New York 12 cv 1928 (ALC)* Docket no. 25 (SDNY March 20,

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APPENDIX B

US District Court ORDER (Continued)

2013. (granting summary judgment to the defendants) (hereafter “First Carter Decision”); 12cv1929, Dckt No. 37 (SDNY Oct. 25, 2013). Under principle of res judicata, the defendants argue that this action is barred.

Second, and in any case, the defendants argue that on the merits, Judge Carter’s determination remains correct according to the record in this case. In support of this contention, they produced various judgments from the Supreme court of the Philippines establishing that they have satisfied all relevant liabilities stemming from the decades-long controversy with the plaintiff in the Philippines, see eg Dkt no.17-5, at 4 (including a June 2008

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APPENDIX B

US District Court ORDER (Continued)

Resolution of the Supreme Court of the Philippines, Third Division, noting inter alia, that acknowledged in this Court's 4 February 2008 Resolution, petitioners had already voluntarily satisfied all their liabilities under October 16, 2006 decision... on 31 August 2007, and thus, were already discharged from any and all liabilities under the 16 October 2006 Decision.

As an initial matter, the Court converts the defendants' motion to dismiss into a motion for summary judgment for the same reason Judge Carter saw fit to do so. *See First Carter Decision at 5* (noting that both parties attached voluminous documents to their respective motions, neither party could claim prejudice through conversion). Having

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APPENDIX B

US District Court ORDER (Continued)

done so, the Court proceeds to the merits of the defendants' to central arguments, and agrees as to both counts.

I. Res Judicata Requires Dismissal of the
Plaintiff's Second Amended Complaint.

First, as noted, Judge Carter previously dismissed the plaintiff substantively identical action against the defendant Citibank, and principle of res judicata bar her from bringing the same claim before this Court. Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties or their privies from re-litigating issues that were or could have been raised in that action." *Angell v. US Army Corps of Engineers*, 149 F App x 34, 36

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APPENDIX B

US District Court ORDER (Continued)

(2nd Cir 2005) (Summary Order) Quoting *Federated Dept. Stores Inc v. Moitie* 452 US 394,398 (1981). Res Judicata constitute an absolute bar ‘not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose.” Id (quoting *SEC v. First Jersey Secs, Inc.* 101 F3d 1450, 1463.) On March 15, 2012, the plaintiff brought an action in the Southern District of New York seeking to enforce a purported November 13, 2002 judgment of the Supreme Court of the Philippines largely affirming a March 26, 2002 Court of Appeals decision awarding her substantial damages. See 12cv1928 Dkt no: 1 First Carter Decision at 1-2. Judge Carter denied the plaintiff's

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APPENDIX B

US District Court ORDER (Continued)

motion for summary judgment and granted defendant Citibank's on the following grounds: First, Judge Carter held that "based on the record in this case, no reasonable person would believe the November 13, 2002 decision submitted by plaintiff is authentic. See First Carter Decision at 8. In particular, Judge Carter held that the evidence before him indicated, as a matter of law, that the November 13, 2002 judgment purporting to affirm March 26, 2002 Court of Appeals decision (including its substantial award of damages against Citibank, was falsified" Id at 7.

Second, Judge Carter noted that Citibank had produced a copy of an October 16, 2006 decision of the Supreme Court of the Philippines modifying the

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APPENDIX B

US District Court ORDER (Continued)

March 26, 2002 decision of the Court of Appeals and reducing the amount of damages owed by Citibank to the plaintiff. See *Id* at 2-3. Judge Carter observed that various subsequent resolutions of the Philippine Supreme Court had affirmed that Citibank had tendered all amounts due and had no further obligations pursuant to the October 16, 2006 judgment. *Id* at 3. Judge Carter concluded that, under New York and Second Circuit Law, these judgments were entitled to *res judicata*, and enforcement of them required granting summary judgment to Citibank on the question of whether it continued to owe any funds to the plaintiff stemming from their years of controversy in the Philippines. *Id* at 12 (Plaintiff's day in Court has come and gone,

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US District Court ORDER (Continued)

and she has exhausted all the available judicial avenues). On October 25, 2013, Judge Carter denied the plaintiff's motion to reconsider this order. See Second Carter Decision.

On March 26, 2014, the Second Circuit denied the plaintiff's appeal of Judge Carter's orders, (see *Sabeniano v Citibank NA New York* Case Co 13-1638 Dkt no 91) and on June 4, 2014, the Second Circuit denied her motion for reconsideration of that denial 13-1638 Dkt No 105. On January 12, 2015, the Supreme Court of the United States denied the plaintiff's petition for a writ of certiorari. (*Sabeniano v. Citibank NA* 135 SCt.963).

The plaintiff, in filing a complaint before this Court, seeks to re-litigate the same underlying

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APPENDIX B

US District Court ORDER (Continued)

questions that have already been resolved by Judge Carter. Indeed, plaintiff does not deny that she has essentially brought the same complaint before this Court, although she appears to believe she has cured the authentication problems cited by Judge Carter in finding the November 13, 2002 decision plaintiff presented to him to be fabricated. (*See eg Dkt No 27* at 41). Due to plaintiff's lack of litigation experience and legal advise as to how she is supposed to present her evidence in this case, on March 15, 2012, and hereafter, Plaintiff committed the error of improperly filing in the district court the complaint, summary judgment and unauthenticated foreign judgment that did not meet the statutory requirement of authentication therefore the court

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APPENDIX B

US District Court ORDER (Continued)

lack jurisdiction from the day of filing as there was basis for the Court to proceed” (Dkt No. 12 at 1-2.)

Since March 15, 2012, plaintiff has sought the enforcement here of the judgment she received from the Philippine Supreme Court, and defendant Citibank NA New York has opposed enforcement alleging that the Philippine Supreme Court Decision previously presented by the plaintiff in this Court was allegedly not authentic and that the defendant Citibank NA New York has allegedly satisfied foreign judgment when in fact it is untrue”. Plaintiff in suggesting Judge Carter merely found the previous version of the November 13, 2002 judgment to lack sufficient statutory requirement of authentication, appears to misunderstand the nature

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APPENDIX B

US District Court ORDER (Continued)

of Judge Carter's holding: Judge Carter held that no reasonable jury could conclude that the judgment presented to his court was not fabricated out of whole cloth, not simply that it was unclear if it was authentic for formalistic reasons. Regardless, however, of the precise reasoning of Judge Carter's decision to the degree that plaintiff has any new potentially meritorious factual, legal or evidentiary points to make as to whether she is owed money by the defendants' in this case, the time to present such argument has passed. The Court notes, additionally that plaintiff appears to suggest that she did not have full opportunity to appeal Judge Carter's decisions as the Second Circuit and Supreme Court found they lacked jurisdiction over the case.

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APPENDIX B

US District Court ORDER (Continued)

(See Pi Motion for Sum J). Plaintiff appears to be confused by notifications she received from both courts. Plaintiff (in keeping with her approach in this case) attempted to appeal to these courts on multiple occasions well after the mandate in the Second Circuit issued and after her petition for writ of certiorari was denied. Thus it appears both courts issued her letters informing her they lacked jurisdiction to consider her additional applications.

In sum, plaintiff had the opportunity to prove the defendants indeed had outstanding debts owed to her before Judge Carter and failed to do so. Res Judicata bars re-litigation of those issues.

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APPENDIX B

US District Court ORDER (Continued)

II. In any case, the decisions plaintiff cites demonstrate defendants have satisfied their Obligations to her.

The Court thus need not reach the merits of this case. Were it to do so, however, the Courts notes that the very foreign judgment that plaintiff cites to establish liability in fact make clear that as Judge Carter held, the defendants no longer owe the plaintiff money.

In her opposition to the defendants' motion to dismiss or for summary judgment, the plaintiff observes that she was granted two favorable decisions by the Philippine Supreme Court and the most current one was supported by an Order issued by the Philippine Regional Trial Court dated February 10, 2012 (Dkt No 41 at 6) The plaintiff the

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APPENDIX B

US District Court ORDER (Continued)

decision of her motion for summary judgment (See Dkt No 12) hereafter February 2012 Decision). In the decision, the Regional Trial Court of the Philippines denies the plaintiff's Extremely Urgent Omnibus Motion to Order Both Parties to Submit Complete Computation with Summary and to Issue a Writ of Execution". February 2012 decision at 1. The Court notes that it agrees with the Citibank representation that the issuance of a writ of execution is not warranted considering the pronouncement by the Philippine Supreme Court of the defendants' full satisfaction of its liability to the plaintiff under the final and executory decision of the Supreme Court dated October 16, 2006 and the discharged was confirmed by this Court in the Order dated August 4,

APPENDIX B

US District Court ORDER (Continued)

2008". In other words, the decision the plaintiff appears to cite establishing the continued liability of the defendants in fact disclaims it. The Court further notes that, as to the November 13, 2002 decision plaintiff purports to enforce, putting aside whether the plaintiff fabricated that decision (as Judge Carter held a determination that binds this Court), even were the decision authentic, it would not support the plaintiff's requested relief. The supposed November 13, 2002 Philippine Supreme Court decision that the plaintiff claims largely affirm a March 26, 2002 decision of the Court of Appeals awarding plaintiff a particular amount of damages, has a Docket No. GR 152985. In an October 16, 2006

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APPENDIX B

US District Court ORDER (Continued)

decision of the Philippine Supreme Court, that court made clear that its decision of November 13, 2002 (and decisions containing that docket no.) was not binding on the defendant, Citibank. The October 16 decision explained that the parties to the case made separate attempts to bring the aforementioned Decision of the Court of Appeals, dated 26 March 2002, before the Supreme Court for review. Plaintiff's appeal labeled as GR 152985 was dismissed in an order on November 13, 2002 for failure to file any petition for review within the prescribed period for appeal. The result of the dismissal was the affirmance of the underlying Court of Appeals decision on procedural grounds-but only as to plaintiff. Citibank instead first moved to

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APPENDIX B

US District Court ORDER (Continued)

reconsider the Court of Appeals decision, and then brought a separate appeal of both the first Court of Appeals decision and its resolution of the motion to reconsider. The appeal was assigned docket number GR 156132 and was the subject of the October 16, 2006 decision of the Philippine Supreme Court. That Supreme Court decision the court of Appeals award and further held that Sabeniano also owed the defendants a sum of money. Subsequent decisions by the Supreme Court and the Regional Trial Court make clear that the defendants satisfied their liabilities under the October 16, 2006 judgment e.g. February 2012 Decision. The point however, is that the November 13, 2002 judgment the plaintiff presented to Judge Carter and presents this Court,

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APPENDIX B

US District Court ORDER (Continued)

whether or not satisfied or not fabricated, is in any case superseded by the October 16, 2006 Supreme Court opinion. Thus, were the Court to reach the merits of this dispute, the Court would agree with Judge Carter and award summary judgment to the defendants.

III. Injunction and Sanctions

Finally, the defendants move for this Court to enjoin plaintiff "from bringing any further actions against Citibank or Citigroup to enforce any judgment from the Philippines without this Court's approval, and to award the defendants "cost and fees and impose sanctions pursuant to Fed.R.Civ.P 11Dkt No. 36 at 18-19. As to the request for cost and fees, Rule 11(c) requires that any motion for sanctions

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APPENDIX B

US District Court ORDER (Continued)

pursuant to Rule 11 “be made separately from any other motion.” The Court thus denies the request, without prejudice, on the ground that it was included as part of defendants’ motion to dismiss. A motion for sanctions must be made separately from any other motion, including motion to dismiss.

As to the requested injunction, the Court notes that case-law is clear that a purportedly vexatious litigant must have notice that a district court is contemplating issuing such an injunction before a court so orders. ... the unequivocal rule in this circuit... that the district court may not impose a filing injunction on a litigant *sua ponte* without providing the litigant with notice and an opportunity to be heard”. (Moates v. Barkley). Although the

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APPENDIX B

US District Court ORDER (Continued)

plaintiff in this case was arguably on notice such an injunction might issue, given that defendants moved for such in their motion to dismiss, the plaintiff did not address the injunction in her opposition. Out of an abundance of caution, then, the Court denies the motion for an injunction without prejudice. The plaintiff is on notice that any further vexatious filings or litigation against the defendants may result in a filing injunction. This includes any frivolously brought motion for reconsideration of this Order.

IV. Conclusion

The Court thus grants the defendants motion for summary judgment, and denies the plaintiff's motion. This resolves the defendants' motion for summary

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APPENDIX B

US District Court ORDER (Continued)

judgment, and denies the plaintiff's motion. This resolves docket number 27 and 34. The Court will mail this order to the Pro se plaintiff.

SO ORDERED
Dated September 1, 2017
New York, NY

Signed:
ALISON J. NATHAN
United States District
Court Judge.

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APPENDIX B-1
JUDGMENT

UNITED STATES DISTRICT COURT

Stamped: USDC

SDNY

DOCUMENT

Electronically Filed

Date Filed: 9/8/17

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X

Modesta R. Sabeniano, 16CIVIL 1723 AJN

Plaintiff JUDGMENT

-v-

Citibank NA, New York

Citigroup Inc.

Defendants.

-----X

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APPENDIX B-1

JUDGMENT

UNITED STATES DISTRICT COURT

(Continued)

Citibank NA New York (Citibank) and Citigroup Inc. (Citigroup) (collectively, the defendants) having moved to dismiss the second amended complaint (Complaint) and Pro Se plaintiff Modesta Sabeniano having filed a cross-motion for summary judgment, and the matter having come before the Honorable Judge Alison J. Nathan, United States District Court Judge , and the Court, on September 1, 2017 having rendered it Order granting the defendants motion for summary judgment, and denying the plaintiff motion, it is,

ORDERED, ADJUDGED AND DECREED: That for the reason stated in the Court's Order dated

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APPENDIX B-1

JUDGMENT

UNITED STATES DISTRICT COURT

(Continued)

-
September 1, 2017, the defendants motion for summary judgment is granted and the plaintiffs motion is denied.

Dated: New York, New York

September 8, 2017

RUBY J. KRAJICK

Clerk of Court

By: Deputy Clerk (Signed)

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APPENDIX C

**DEFENDANTS' LETTER REQUEST FOR 91-
DAYS TO FILE BRIEF IN RESPONSE TO
PETITIONER'S NEW EVIDENCES**

Zeicher, Ellman & Krause LLP,
1211 Avenue of the Americas,
New York, New York 10036

BY ECF

December 26, 2017

Catherine O'Hagan-Wolfe
Clerk of the Court
United States Court of Appeals
For the Second Circuit
Thurgood Marshall US Courthouse
40 Foley Square
New York, New York 10007

Sabeniano v. Citibank NA and Citigroup Inc.

Docket No: 17-3181

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APPENDIX C

DEFENDANTS' LETTER REQUEST FOR 91-DAYS
TO FILE BRIEF IN RESPONSE TO PETITIONER'S
NEW EVIDENCES (Continued)

Dear Ms. O'Hagan-Wolfe,

We are counsel to defendant-appellees
Citibank NA and Citigroup Inc. in the above matter.
Pursuant to Local Rule 31.2, we **respectfully
request 91-days from the date Appellant filed
her brief, until March 20, 2018 to file Appellees'
brief in this matter.**

Respectfully,

Signed: Stuart A. Krause

cc: All parties

Modesta R. Sabeniano (by first
class mail)

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APPENDIX D

CIVIL DOCKET

Southern District of New York (Foley Square)

Civil Docket For Case # 1:16-cv-01723-AJN

Sabeniano v. Citibank NA New York

Date Filed: 03/07/2016

Assigned to: Judge Alison J. Nathan

Date Terminated: 09/08/2017

Cause: 28:1332 Diversity Action Jury Demand:

None Nature of the Suit: 150 Contract

Recovery/Enforcement

Jurisdiction: Diversity

Plaintiff

Modesta R. Sabeniano

Represented by: Modesta R. Sabeniano Pro Se

V.

6048 Roosevelt Drive,

Fontana, Ca. 92336

Citibank NA, Citigroup Inc.

Defendants

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APPENDIX D

Civil Docket (Continued)

Represented by:

Ronald Mark Neumann

Zeichner, Ellman and

Krause LLP

103 Eisenhower Pwy,

Roseland, NJ 07068

(212)826-5350

Stuart Alan Krause

Zeichner, Ellman &

Krause LLP

1211 Avenue of the Americas

New York, NY 10036

(212)223-0400

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APPENDIX D

Civil Docket (Continued)

Date Filed: No: Docket Text

03/07/2016 (1) COMPLAINT against Citibank
NA, document filed by Modesta
R. Sabeniano.

03/07/2016 (2) Notice of Filing of Plaintiffs
Affidavit, Authenticated Foreign
Country Money Judgment and
Petition for Recognition

03/07/2016 (3) Affidavit of Petition for
Recognition of Authenticated
Foreign Judgment Article 53
CPLR Uniform Foreign Country
Money Judgment Recognition Act.

03/07/2016 (4) Letter for Modesta R. Sabeniano

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APPENDIX D

Civil Docket (Continued)

follow up letter received certified
true copy of the authenticated
foreign court judgment. Case
Designated ECF

**04/15/2016 (5) Letter addressed to Judge
Andrew L. Carter from
Ronald Neumann dated April
15, 2016 re: requesting a pre-
motion conference for leave
to make motion to dismiss, to
enjoin plaintiff from future
frivolous litigation and
motion practice against
Citibank; and for the**

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APPENDIX D

Civil Docket (Continued)

imposition of sanctions.

Documents filed by Citibank

NA New York (Attachment:# 1

Certificate of Service of letter

(Ronald Neumann) entered

4/15/2016.

05/04/2016 (6) Affidavit of Service of Summons
and complaint, petition for
recognition etc... Citibank NA
New York served on 04/06/2016.
Service was accepted by Angela
Yaturo, Manager for Citibank
NA, Smithtown NY 11787.
Document filed by Modesta R.
Sabeniano.

APPENDIX D

Civil Docket (Continued)

- 05/09/2016 (7) Letter from Romwell M. Sabeniano dated 05/04/16 re: plaintiff informs the Court that upon close observation of the summons he received from the court, the complaint was stamped dated but not the summons remain blank and unsigned by the Court. Document filed by Modesta R. Sabeniano entered 05/11/2016.
- 05/17/2016 (8) Letter addressed to Judge Loretta A. Preska from Modesta R. Sabeniano, dated 5/14/2016 re: Plaintiff request that the Court

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APPENDIX D

Civil Docket (Continued)

assign a judge as soon as possible
in order for the Summons to be
issued and for the early
adjudication and resolution of the
case. Document filed by Modesta
R. Sabeniano, entered 05/20/2016.

05/27/2016 (9) Letter addressed to Modesta R.
Sabeniano from B. Lerner, Staff
Attorney dated 05/27/2016 re:
responding to her letters.

05/27/2016 (10) Letter addressed to Judge
Loretta A. Preska from Modesta
R. Sabeniano that the Court
assign a judge as soon as possible
in order for the Summons to be
issued and for the early
adjudication and resolution of the

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APPENDIX D

Civil Docket (Continued)

case. Documents filed by Modesta
R. Sabeniano Modified on
05/31/2016 entered 05/31/2016.

**06/16/2016 (11) Letter addressed to Judge
Andrew L. Carter from
Ronald M. Neumann, dated
June 16, 2016 re: in response
to plaintiff's latest submission
by plaintiff pro-se received on
June 15, 2016. Docket filed by
Citibank NA New York. (Ronald
M. Neumann).**

**06/16/2016 (12) PLAINTIFF MOTION FOR
SUMMARY JUDGMENT IN
THE ENFORCEMENT OF**

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APPENDIX D

Civil Docket (Continued)

AUTHENTICATED FOREIGN
COURT JUDGMENT IN
ACCORDANCE WITH CPLR 54
SECTION 5408. Document filed
by Modesta R. Sabeniano entered
07/17/2016.

07/21/2016 (*) CASE DECLINED AS NOT
RELATED. The case referred
as related to 12CV1928 and
declined by Judge Andrew L.
Carter and returned to wheel
for assignment. Entered
07/21/2016.

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APPENDIX D

Civil Docket (Continued)

- 07/21/2016 (*) NOTICE OF CASE**
REASSIGNMENT to Judge
Alison J. Nathan. Judge
unassigned is no longer
assigned to the case. (WB)
Entered 07/21/2016.
- 07/21/2016 (*) Magistrate Judge Debra C.**
Freeman is so designated
(WB) Entered 07/21/2016.
- 07/21/2016 (14) ORDER OF SERVICE:** The Court
directs the Clerk of Court to issue
summons as to defendant
Citibank NA New York, Plaintiff
is so directed to serve the
summons and complaint on

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APPENDIX D

Civil Docket (Continued)

defendant within 90 days of the
issuance of the summons.

07/29/2016 (*) Mailed copy of Order of service to
Modesta R. Sabeniano at 6048
Roosevelt Drive. Fontana, Ca.
92336. Entered 07/25/2016.

08/01/2016 (*) SUMMONS ISSUED as to Citibank
NA New York entered 08/01/2016.

08/01/2016 (*) FRCP Service Package mailed to
plaintiff at the address noted on
the complaint.

08/23/2017 (15) NOTICE OF FILING OF
PLAINTIFF'S FIRST
AMENDED COMPLAINT,
CIVIL COVER SHEET, LEAVE

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APPENDIX D

Civil Docket (Continued)

OF COURT, AMNDED
SUMMONS, AMEDED
AFFIDAVIT, NEW YORK DEPT.
OF THE STATE SERVICE OF
PROCESS AND AMENDED
PETITION FOR
RECOGNITION OF
AUTHENTICATED FOREIGN
JUDGMENT filed by Modesta R.

Sabeniano, entered 08/23/2016

08/23/2016 (16) MOTION FOR LEAVE OF COURT
TO FILE FIRST AMENDED
COMPLAINT Entered 08/23/2016.

08/23/2016 (17) PLAINTIFF AMENDED

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APPENDIX D

Civil Docket (Continued)

PETITION FOR RECOGNITION
OF AUTHENTICATED
FOREIGN JUDGMENT IN
ACCORDANCE WITH ARTICLE
53 NYCPLR 5301-5302 ET SEQ
UNIFORM FOREIGN
COUNTRY MONEY
JUDGMENT RECOGNITION
ACT. Document filed by Modesta
R. Sabeniano, Entered
08/23/2016.

09/06/2016 (18) MOTION to Dismiss plaintiff's
amended complaint. Document
filed by Citibank NA New York

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APPENDIX D

Civil Docket (Continued)

(Ronald M. Neuman) Entered
09/06/2016.

09/06/2016 (19) DECLARATION of Ronald M.
Neumann in support re: MOTION
to dismiss plaintiff's amended
complaint. (Document filed by
Ronald M. Neumann) Entered
09/06/2016.

09/06/2016 (20) MEMORANDUM OF LAW in
support re: MOTION to dismiss
amended complaint. Document
file by Citibank NA New York
Ronald M. Neumann. Entered
09/06/2016.

09/06/2016 (21) NOTICE of Local Rule 12.2 Notice

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APPENDIX D

Civil Docket (Continued)

with FRCP 12.2 Notice with
FRCP Rule 56 attachment re:
Motion to dismiss. Document
filed by Citibank NA New York
Ronald M. Neumann. Entered
09/06/2016.

09/07/2016 (22) RULE 7.1 CORPORATE
DISCLOSURE STATEMENT.
Identifying Corporate Parent
Citigroup Inc. for Citibank NA
New York. Document filed by
Citibank NA New York. Ronald
M. Neumann. Entered 09/07/2016.

09/08/2016 (23) ORDER. On August 23, 2016, the

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APPENDIX D

Civil Docket (Continued)

Court received a copy of pro se Plaintiff Modesta R. Sabeniano's motion to file First Amended Complaint Dkt No. 16. Plaintiff explains that the basis for the request is to name the correct defendants and to be able to effect service accordingly. GRANTED, SO ORDERED. (Entered 09/08/2016).

09/08/2016 (24) ORDER. It is ordered that if Plaintiff intends to file another amended complaint she shall do so before October 4, 2016.

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APPENDIX D

Civil Docket (Continued)

- 09/12/2016 (*) Mailed copy of ORDER on motion
to amend/correct to Modesta R.
Sabeniano to 6048 Roosevelt
Drive, Fontana, Ca. 92336.
Entered 09/12/2016.
- 09/13/2016 (25) NOTICE OF APPEARANCE by
Stuart Alan Krause on behalf of
Citibank NA New York. Entered
09/13/2016.
- 09/30/2016 (26) MOTION FOR EXTENSION OF
TIME TO FILE SUMMONS.
Document filed by Modesta R.
Sabeniano. Entered 09/30/2016.
- 10/04/2016 (27) NOTICE OF FILING OF
PLAINTIFF'S SECOND

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APPENDIX D

Civil Docket (Continued)

AMENDED COMPLAINT,
MOTION FOR LEAVE OF
COURT, AMENDED AFFIDAVIT
AND AMENDED PETITION
FOR RECOGNITION OF
AUTHENTICATED FOREIGN
COURT JUDGMENT. Document
filed by Modesta R. Sabeniano.
Entered 10/06//2016.

10/11/2016 (28) LETTER addressed to Judge
Alison J. Nathan from Ronald M.
Neumann dated October 11, 2016
re: advising the Court that
defendants -respondents
withdraw their motion to dismiss

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APPENDIX D

Civil Docket (Continued)

plaintiff's amended complaint
and requesting that a briefing
schedule be made for defendants
proposed motion to dismiss
plaintiff's second amended
complaint with proposed date of
October 28, 2016 for filing the
motion. Document file by
Citibank NA (Ronald M.
Neumann) Entered 10/11/2016.

10/11/2016 (29) ORDER: On October 4, 2016,
Plaintiff moved for leave to file
second amended complaint Dkt
No 27. The MOTION is
GRANTED. Second amended

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APPENDIX D

Civil Docket (Continued)

complaint replaces first amended
complaint.

10/12/2016 (*) Mailed a copy of Order to
Modesta R. Sabeniano at 6048
Roosevelt Drive, Fontana, Ca.
92336. Entered 10/12/2016.

10/12/2016 (30) MEMO ENDORCEMENT: Court
order the briefing schedule on or
before October 28, 2016. Entered
10/13/2016.

10/13/2016 (31) LETTER addressed to Judge
Alison J. Nathan from Ronald M.
Neumann dated October 13, 2016
re: confirming that the
defendants will not challenge any

APPENDIX D

Civil Docket (Continued)

insufficiency of service of the summons and the applicable complaint and requesting that the date for defendant's reply on the motion to dismiss be re-scheduled to December 9, 2016.

10/14/2016 (32) MEMO ENDORCEMENT

10/17/2016 (*) Mailed a copy of the MEMO to plaintiff Sabeniano.

10/19/2016 (33) Letter addressed to Judge Alison J. Nathan from Modesta R Sabeniano request to deny defendants letter request dated 10/11/2016.

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APPENDIX D

Civil Docket (Continued)

- 10/28/2016 (34) MOTION to dismiss plaintiffs
second amended complaint filed
by Citibank NA.
- 10/28/2016 (35) DECLARATION of Ronald M.
Neumann in support of Motion to
dismiss plaintiff second amended
complaint.
- 10/28/2016 (36) MEMORANDUM OF LAW in
support of Motion to dismiss
plaintiffs second amended
complaint. Citibank NA.
- 10/28/2016 (37) Notice of Local Rule 12.2 Notice
with FRCP Rule 56 attachment
re: Motion to dismiss plaintiff

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APPENDIX D

Civil Docket (Continued)

second amended complaint filed
by Citibank NA.

11/02/2016 (38) LETTER addressed to Judge
Alison J. Nathan from Modesta R.
Sabeniano dated 10/28/2016 re
plaintiff request to issue
summons.

12/01/2016 (41) NOTICE OF FILING
PLAINTIFF'S RESPONSE IN
OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS, PLAINTIFF'S
AFFIDAVIT, AND MOTION TO
ISSUE SUMMONS filed by
Modesta R. Sabeniano.

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APPENDIX D

Civil Docket (Continued)

12/07/2016 (39) ORDER: No later than
12/26/2016, plaintiff shall submit
letter of opposition.

12/07/2016 (*) Transmission to Docket Assistant.

12/08/2016 (*) Mailed copy to Modesta R.
Sabeniano 6048 Roosevelt Drive,
Fontana, Ca. 92336.

12/08/2016 (40) LETTER addressed to Judge
Alison J. Nathan from Ronald M.
Neumann dated 12/8/2016
advising the Court that plaintiff
served opposition to defendants'
motion to dismiss. Filed by
Citibank NA. New York.

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APPENDIX D

Civil Docket (Continued)

- 12/09/2016 (42) REPLY MEMORANDUM OF
LAW in support of motion to
dismiss and opposition to
plaintiff's motion for summary
judgment. Filed by Citibank NA
New York.
- 12/12/2016 (*) Mailed copy of Order to Modesta
R. Sabeniano.
- 12/14/2016 (44) LETTER addressed to Judge
Alison J. Nathan from Modesta R.
Sabeniano dated 12/07/2016 as
follow-up letter to request for
Summons.
- 12/16/2016 (45) LETTER addressed to Judge
Alison J. Nathan to release

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APPENDIX D

Civil Docket (Continued)

summons and amount stated in
the complaint.

12/20/2016 (46) ORDER OF SERVICE the Court
directs the Clerk of Court to issue
Summons as to defendants
Citibank NA and Citigroup Inc.
SO ORDERED. Signed by Judge
Alison J. Nathan.

12/22/2016 (*) FRCP mailed to plaintiff on the
address noted on the complaint a
copy of the Order of Service,
original summons and copies of
the summons.

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APPENDIX D

Civil Docket (Continued)

12/28/2016 (*) Mailed copy of the Order of Service to plaintiff Modesta R. Sabeniano.

02/13/2017 (47) AFFIDAVIT OF SERVICE of summons and complaints served on Citibank NA New York was received on 02/02/2017 answer due 03/01/2017; service was received by Ronald M. Neumann, Zeicher, Ellman & Krause. Document filed by Modesta R. Sabeniano.

02/15/2017 (48) AFFIDAVIT OF SERVICE of Summons and Complaint served on Citibank NA New York on

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APPENDIX D

Civil Docket (Continued)

01/19/2017, answer due
02/09/2017. Service was accepted
by for Fern Strauss, Authorized
Agent for Citibank NA New York,
document filed by Modesta R.
Sabeniano.

02/15/2017 (49) AFFIDAVIT OF SERVICE of
summons and complaint served
on Citigroup, Inc. on 01/25/2017
answer due by 02/15/2017.
Service was accepted by Sue
Zouky, Office of the Secretary of
State New York, document filed
by Modesta R. Sabeniano.

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APPENDIX D

Civil Docket (Continued)

02/15/2017 (50) AFFIDAVIT OF SERVICE of
summons and complaint served
on Citigroup Inc. on 01/18/2017,
answer due by 02/15/2017 service
was received by Sattie Jairam,
Authorized Agent for CT
Corporation System. Document
filed by Modesta R. Sabeniano.

02/16/2017 (51) LETTER addressed to Judge
Alison J. Nathan from Ronal M.
Neumann dated 02/16/2017
regarding recent affidavits of
service filed in this action
regarding service of the second
amended complaint on

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APPENDIX D

Civil Docket (Continued)

defendants. Document filed by
Citibank NA New York and
Citigroup Inc.

02/16/2017 (52) ORDER: The Court is in receipt
of a letter from defendants asking
the Court to strike Docket Nos.
47-50. The Court will not strike
docket nos. 47-50 from the docket.

02/17/2017 (53) AFFIRMATION OF SERVICE,
summons and complaint Citibank
NA New York was served
01/25/2017 answer due
02/15/2017; Citigroup Inc. was
served on 01/25/2017 answer due
02/15/2017. Service was accepted

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APPENDIX D

Civil Docket (Continued)

by Ms. Sue Zouky Agent for New
York State Dept. office.
Document filed by Modesta R.
Sabeniano.

02/21/2017 (54) PLAINTIFF'S URGENT
SUPPLEMENTAL MOTION
FOR SUMMARY JUDGMENT
FOR THE IMMEDIATE
ENFORCEMENT OF
AUTHENTICATED FOREIGN
JUDGMENT IN ACCORDANCE
WITH CPLR 54 SECTION 5408.

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APPENDIX E

Philippine Regional Trial Court

ORDER

REPUBLIC OF THE PHILIPPINES
PHILIPPINE REGIONAL TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION,
BRANCH 141, Makati City

Modesta R. Sabeniano, Civil Case No: 11-336

Plaintiff

-versus-

Citibank NA and FNCB Finance

Defendants

X-----X

ORDER

Opposing parties appeared in today's hearing. As
prayed for by defendant Citibank, through counsel,

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APPENDIX E

Philippine Regional Trial Court

ORDER (Continued)

he is given a period of **ten (10) days** from today within which to file a written comment on Plaintiff's Extremely Urgent Motion to Order both Parties to Submit Complete Computation with Summary and to Issue Writ of Execution. Thereafter, the incident shall be resolved. So Ordered.

Given in open court this 25th day of November 2011
at Makati City, Philippines.

(Signed)

Maryann E. Corpus-Manalac

Judge

Dated

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APPENDIX F

**Petitioner's Letter Request for Certification to
the Philippine Regional Trial Court**

Dated: October 3, 2017

RTC Branch 141, Makati City

**REQUEST FOR CERTIFICATION OF THE
FOUR (4) INCORRECT SEALED CITIBANK NA
CITIGROUP INC. MANAGER'S CHECKS
ISSUED TO MODESTA R. SABENIANO**

The undersigned Modesta R. Sabeniano, Plaintiff of Civil Case No: 11336 Decision(Please see Exhibit US District Court). Urgent request of Modesta R. Sabeniano for Certification of the INCORRECT AMOUNT of the Citibank NA, Citigroup Inc., ALL STEALED MANAGER'S CHECKS listed below:

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APPENDIX F

Petitioner's Letter Request for
Certification (Continued)

1. CITIBANK NA, CITIGROUP

MC NO:60416512 Dated: August 30,2007

(Php 16,716,439.61)

2. CITIBANK NA, CITIGROUP

MC NO:60424669 Dated: March 3,2008

(Php 16,716,439.61)

3. CITIBANK NA, CITIGROUP

MC NO:60435911 Dated: October 10, 2008

(Php 16,716,439.61);

4. CITIBANK NA, CITIGROUP

MC NO:60470189: Dated: December 13,2010

(Php 16,716,439.61)

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APPENDIX F

Petitioner's Letter Request for
Certification (Continued)

Thank you for your kind consideration and approval
of the above request.

Respectfully, Stamped seal and notarized

Signed by Modesta R. Sabeniano

Petitioner-Respondent

Stamped dated: 10-03-2017

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APPENDIX F-1

(Certification By: Hon. Maryann L. Corpus-
Manalac, Presiding Judge)

Republic of the Philippines
NATIONAL CAPITAL JUDICIAL REGION
REGIONAL TRIAL COURT
Branch 141, Makati City

CERTIFICATION

This is to certify that from the records of CIVIL
CASE NO: 11336 entitled Modesta R. Sabeniano -
versus- Citibank NA, the following checks with
Modesta R. Sabeniano as payee were consigned to
court by ACCRA Law Office, Counsel of Citibank NA
to wit:

1. CITIBANK NA, CITIGROUP
MC NO:60416512 Dated: August 30,2007
(Php 16,716,439.61)
2. CITIBANK NA, CITIGROUP
MC NO:60424669 Dated: March 3,2008

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APPENDIX F-1

Regional Trial Court Certification (Continued)
(Hon.Maryann L. Corpus-Manalac, Presiding Judge)

(Php 16,716,439.61)

3. CITIBANK NA, CITIGROUP

MC NO:60435911 Dated: October 10, 2008

(Php 16,716,439.61);

4. CITIBANK NA, CITIGROUP

MC NO:60470189: Dated: December 13,2010

(Php 16,716,439.61)

**CITIBANK NA, Citigroup Inc. Manager's Check
Nos: 60416512, 60424669, 60435911 were
respectively retrieved on various dates by the
ACCRA Law Office. Currently, only Citibank
NA Citigroup Manager's check No: 60470189:
Dated: December 13, 2010 in the**

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APPENDIX F-1

Regional Trial Court Certification (Continued)
(Hon. Maryann L. Corpus-Manalac, Presiding Judge)

amount of Php 16,716,439.61 payable to Modesta R. Sabeniano remains in the records and unclaimed by the said payee up to this date. Issued upon the request of Mrs. Modesta R. Sabeniano for whatever legal purpose it may serve her. Issued this 29th day of September 2017 here at Makati City, Philippines.

Signed: Atty. Charlie E. Vallo

Branch Clerk of Court

Noted and Signed by

Hon. Maryann L. Corpus-Manalac

Presiding Judge

(Please see Originals as Exhibits: US District Court, NY).

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APPENDIX F-2

Authentication Certificate No: 0334725

Department of Foreign Affairs

Kagawaran ng Ugnayang Panlabas

Seal of the Republic of the Philippines

S.N. 0334725

(Gold seal with red ribbon attached on left side of
Certificate)

Whom these Presents Shall Come, Greeting:

**ANGELO C. MABINI, Authentication Officer of
the Department of Foreign Affairs, do hereby
certify that CHARLIE E. VALLO, whose name
appears signed in the attached certification /
document was at the time of signing, Branch Clerk of
Court, Regional Trial Court, Branch 141, Makati City,
duly appointed and qualified to sign the
certification/document and that full faith and**

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APPENDIX F-2

Authentication Certificate No: 0334725

Department of Foreign Affairs

(Continued)

credit may be given to his/her acts. For the contents of the annexed documents, the Department assumes no responsibilities. I further certify that I am familiar with his/her handwriting and verily believe that the signature and seal affixed to the said certification / document are genuine.

In witness hereof, I have hereunto set my hand at the City of Manila, Philippines, this 5th day of **October 2017.**

Signed: ANGELO C. MABINI

Authentication Officer Certification in Civil Case
No:11336 Modesta R. Sabeniano v. Citibank NA
(Please see Originals as Exhibits: US Court of Appeals)

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APPENDIX F-3

Embassy of the United States of America
Manila, Philippines

Seal of US Embassy)

Republic of the Philippines)

City of Manila,)

Embassy of the United States of America) ss:

**I, GENEVIEVE C. SIEBENGARTNER, Consular
Officer of the United States of America at
Manila, Philippines, duly commissioned and
qualified, do hereby certify that ** ANGELO C.
MABINI** whose true signature and official seal are,
respectively, subscribed and affixed to the foregoing
(annexed) certificate (document) was on the 5th
day of October 2017, the date thereof,
Authentication Officer,**

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APPENDIX F-3

Embassy of the United States of America

Manila, Philippines (Continued)

**Department of Foreign Affairs, Manila
Philippines**, duly commissioned and qualified, to
whose official acts, faith and credit are due. Note:
This document is only to be used in the United
States of America.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed the seal of the American Consular
Services at Manila, Philippines, this 16th Day of
October 2017.

Signed: Genevieve C. Seibengartner

**Consular Officer of the United States of
America**

Indefinite Commission.

(Please see Originals as Exhibits: US Court of
Appeals).

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APPENDIX G

(Certification Issued by

Atty. Charlie E. Vallo, Branch Clerk of Court)

Republic of the Philippines

NATIONAL CAPITAL JUDICIAL REGION

REGIONAL TRIAL COURT

Branch 141, Makati City

CERTIFICATION

This is to certify that from the records of CIVIL
CASE NO: 11336 entitled Modesta R. Sabeniano -
versus- Citibank NA, the following checks with
Modesta R. Sabeniano as payee were consigned to
court by ACCRA Law Office, Counsel of Citibank NA
to wit:

1. CITIBANK NA, CITIGROUP

MC NO:60416512 Dated: August 30,2007

(Php 16,716,439.61)

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APPENDIX G- Continued

(Certification Issued by
Atty. Charlie E. Vallo, Branch Clerk of Court)

2. CITIBANK NA, CITIGROUP

MC NO:60424669

Dated: March, 2008

(Php 16,716,439.61)

3. CITIBANK NA, CITIGROUP

MC NO:60435911

Dated: October 10, 2008

(Php 16,716,439.61);

4. CITIBANK NA, CITIGROUP

MC NO:60470189:

Dated: December 13, 2010

(Php 16,716,439.61)

CITIBANK NA., Citigroup Inc. Manager's Check

Nos: 60416512, 60424669, 60435911 were

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APPENDIX G- Continued

(Certification Issued by

Atty. Charlie E. Vallo, Branch Clerk of Court)

respectively retrieved on various dates by the ACCRA Law Office. Currently, only Citibank NA Citigroup Manager's Check No: 60470189: Dated: December 13, 2010 in the amount of Php 16,716,439.61 payable to Modesta R. Sabeniano remains in the records and unclaimed by the said payee up to this date. Mrs. Sabeniano refused to receive the said checks allegedly for being incorrect amount. Issued upon the request of Mrs. Modesta R. Sabeniano for whatever legal purpose it may serve her. Issued this 4th day of October 2017 here at Makati City, Philippines.

Signed: Atty Charlie E. Vallo
Branch Clerk of Court
(Please see Originals as Exhibits: US District Court, NY).

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APPENDIX G-1

Authentication Certificate No: 0334726

Department of Foreign Affairs

Kagawaran ng Ugnayang Panlabas

Seal of the Republic of the Philippines

S.N. 17A-0334726

(Gold seal with red ribbon left side of Certificate)

Whom these Presents Shall Come, Greeting:

**ANGELO C. MABINI, Authentication Officer of
the Department of Foreign Affairs, do hereby
certify that CHARLIE E. VALLO, whose name
appears signed in the attached
certification/document was at the time of signing,
Branch Clerk of Court, Regional Trial Court, Branch
141, Makati City, duly appointed and qualified to
sign the certification/document and that full faith
and credit may be given to his/her acts. For the
contents of the annexed documents, the Department**

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APPENDIX G-1

(Authentication by the Dept. of Foreign Affairs)

assumes no responsibilities. I further certify that I am familiar with his/her handwriting and verily believe that the signature and seal affixed to the said certification / document are genuine. In witness hereof, I have hereunto set my hand at the City of Manila, Philippines, this 5th day of October 2017.

Signed: ANGELO C. MABINI

Authentication Officer

Certification in Civil Case No:11336

Modesta R. Sabeniano v. Citibank NA

(Please see Originals as Exhibits: US Court of Appeals)

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APPENDIX G-2

Embassy of the United States of America

Manila, Philippines

Seal of US Embassy)

Republic of the Philippines)

City of Manila,)

Embassy of the United States of America) ss:

**I, GENEVIEVE C. SIEBENGARTNER, Consular
Officer of the United States of America at
Manila, Philippines, duly commissioned and
qualified, do hereby certify that ** ANGELO C.
MABINI** whose true signature and official seal are,
respectively, subscribed and affixed to the foregoing
(annexed) certificate (document) was on the 5th
day of October 2017, the date thereof,
Authentication Officer, Department of Foreign
Affairs, Manila Philippines,**

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Embassy of the United States of America

Manila, Philippines (Continued)

duly commissioned and qualified, to whose official acts, faith and credit are due. Note: This document is only to be used in the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the American Consular Services at Manila, Philippines, this 16th Day of October 2017.

Signed: Genevieve C. Seibengartner

Consular Officer of the United States of America

Indefinite Commission.

(Please see Originals as Exhibits: US Court of Appeals).