

No. 19-1287

IN THE SUPREME COURT OF THE UNITED STATES

IN RE ROBERT SARHAN AND ANABELLA SOURY
Petitioners,

On Petition for a Writ of Mandamus and Writ of Prohibition to the
Eleventh Circuit Court of Appeals for the Eleventh Circuit

APPENDIX TO BRIEF IN OPPOSITION

RAUL GASTESI, JR.
Counsel of Record
GASTESI, LOPEZ & MESTRE, PLLC.
8105 NW 155th Street
Miami Lakes, Florida 33016
Tel: 305-818-9993
Fax: 305-818-9997
efiling@glmlegal.com
gastesi@glmlegal.com

Counsel for Respondent H&H Investors, Inc.

APPENDIX

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Appendix 1

Third District Court of Appeal
State of Florida

Opinion filed September 18, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D19-1322
Lower Tribunal No. 12-7970

**Robert Sarhan and Anabella Soury,
a/k/a Anabella Sarhan,
Appellants,**

vs.

**H & H Investors, Inc.,
Appellee.**

An Appeal from a non-final order from the Circuit Court for Miami-Dade County, Michael A. Hanzman, Judge.

Robert L. Moore, for appellant Anabella Sarhan; Arthur J. Morburger, for appellant Robert Sarhan.

GASTESI, LOPEZ & MESTRE, PLLC., and Raul Gastesi, Jr., for appellee.

Before LOGUE, SCALES and GORDO, JJ.

PER CURIAM.

Affirmed.

Appendix 2

Third District Court of Appeal

State of Florida

Opinion filed September 5, 2018.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-89
Lower Tribunal No. 12-7970

Robert Sarhan,
Appellant,

vs.

H & H Investors, Inc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Rodney Smith,
Judge.

Arthur J. Morburger, for appellant.

Gastesi & Associates, P.A., and Raul Gastesi, Jr., for appellee.

Before ROTHENBERG, C.J., and SALTER and LOGUE, JJ.

PER CURIAM.

Affirmed.

Appendix 3

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
OCTOBER 24, 2018

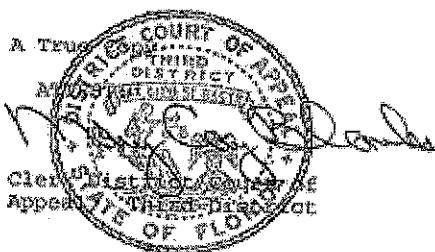
ROBERT SARHAN
Appellant(s)/Petitioner(s),
vs.
H & H INVESTORS, INC.
Appellee(s)/Respondent(s),

CASE NO.: 3D18-0089
L.T. NO.: 12-7970

Upon consideration, appellant's motion for rehearing and for issuance of a written opinion is hereby denied. Appellee's motion in opposition to appellant's motion for rehearing en banc is hereby denied as moot.

ROTHENBERG, C.J., and SALTER and LOGUE, JJ., concur.

Appellant's motion for rehearing en banc is denied.



cc: Arthur J. Morburger Raul Gastesi, Jr.

la

Appendix 4

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR DADE COUNTY, FLORIDA

ROBERT SARHAN,

FAMILY DIVISION

Petitioner,

CASE NO.: 08-17470 FC 29

v.

ANNABELLA SARHAN,

Respondent.

MARITAL SETTLEMENT AGREEMENT

THIS MARITAL SETTLEMENT AGREEMENT was made and entered into this day of _____, 2008, by and between ANNABELLA SARHAN, A resident of Dade County, Florida (hereinafter referred to as the Wife), and ROBERT SARHAN a resident of Dade County, Florida (hereinafter referred to as the Husband), (the Husband and Wife may be hereinafter collectively be referred to as the Parties).

WHEREAS, the Parties were lawfully married on December 4, 2002 Miami, Florida, and did thereafter cohabit as Husband and Wife, but are now living separate and apart.

WHEREAS, there has been one child born of this marriage, to wit: Robert Sarhan, Jr. who was born on July 17, 2004 and no further children are contemplated.

WHEREAS, irreconcilable differences have arisen between the Husband and Wife such that their marriage is irretrievably broken, and a dissolution of marriage proceeding is or may be filed in the Circuit Court for the 11th Judicial Circuit, Dade County, Florida.

WHEREAS, the Parties desire to define their respective obligations to each other and to record their understandings and agreements; the Parties desire to amicably adjust all property rights and obligations arising by virtue of their marriage; they desire to settle and adjust all rights and claims to each other's estate, including all rights and claims of inheritance, maintenance, support, property and alimony; and they wish to amicably settle other matters as are set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, and in consideration of the obligations accepted by the Parties, as well as other

EXHIBIT "Y"

good and valuable consideration provided for in this Agreement receipt of which is acknowledged, the Husband and Wife agree as follows:

ACKNOWLEDGMENT OF FAIRNESS OF AGREEMENT

1. The Parties have read this Agreement and they believe and acknowledge this Agreement to be fair, just, and reasonable. Each of the Parties is acting without coercion or duress, and freely and voluntarily assents to its terms and accepts its conditions, obligations, and mutual agreements.

IMMINENT ACTION FOR DISSOLUTION

2. The Parties have commenced an action to dissolve their marriage in the Circuit Court of the 11th Judicial Circuit for Dade County, Florida. This Agreement is intended to be a full and complete settlement of all matters arising therein or which could have been brought in that action, including a disposition of all rights and liabilities as to custody, property or support. This Agreement is intended to be introduced in evidence in that dissolution of marriage proceeding and to be incorporated in the Final Judgment of Dissolution of Marriage. The court shall retain jurisdiction to enforce its provisions. However, the Parties do not intend for it to be merged in the final judgment. Rather, they wish it to survive the judgment and be binding on the Parties. The Parties agree that the dissolution proceedings shall be uncontested and that neither Party shall inhibit the legal process.

SEPARATION AND NONINTERFERENCE

3. At all times after the execution of this Agreement, the Husband and the Wife shall be entitled to live separate and apart from each other and each shall be free from any interference, authority, and control, whether direct or indirect, by the other Party to the same extent as if they were unmarried.

CHILD SUPPORT/CUSTODY/VISITATION

4. The Father shall have sole custody of the parties' minor child. Father shall make all decisions concerning the health, welfare, education and religious training of the minor child. Wife shall have reasonable visitation as hereinafter provided: alternate weekends from 6:00 p.m. on Friday evening to Sunday evening at 7:00 p.m. Wife shall also be provided with reasonable additional visitation during the school week after school or for dinner with the minor child. Wife shall have alternating holidays and additional time during school vacations. Visitation as described herein will occur provided Mother is not hospitalized and is healthy. At any time that Father determines Mother is unable to execute visitation because of her health or mental state or has not

been taking her medication or her mental state has become impaired, Father may temporarily withhold such visitation until she is able to exercise visitation and makeup visitation may be requested when Mother becomes healthy and is able to exercise the visitation. When Mother obtains permanent employment, she shall commence to pay child support in an amount to be agreed upon by the parties. The child support shall be calculated in accordance with Florida statutory guidelines. The father shall carry health insurance for the minor child and the parties shall each be responsible for one half of the uninsured health insurance.

DISTRIBUTION OF MARITAL ASSETS. NON-MARITAL ASSETS AND DEBTS

5. The Parties accumulated certain assets during the course of the marriage and certain property was acquired by Husband prior to the marriage. The parties agree to the distribution of their property, both real and personal, as follows:

\$10,000.00 has already been distributed to the Wife.
\$10,000.00 has already been distributed to the Husband.

The home situated at 22795 SW 212th Ave, Miami, Florida was acquired prior to the marriage and shall be distributed to the Husband. Husband shall be solely responsible for payment of the mortgage in the approximate amount of \$340,000 and shall hold wife harmless from any liability thereon. All contents in the home shall be distributed to the Husband with the exception of the personal effects and jewelry of the Wife. Each party shall retain his or her own personal effects and jewelry. Wife shall execute a quit claim deed transferring the home simultaneously with the execution of this agreement.

The vehicles (a jetta and a truck) are to be distributed to the Husband. (One of the vehicles is in the possession of a third party who is paying the debt on that vehicle and is in the process of being transferred to this person). Husband shall be responsible for the debt on these vehicles of approximately \$36,000 and shall hold Wife harmless for any liability thereon. Wife shall execute any documents necessary for accomplishing the transfer of these vehicles.

Father has approximately \$180,000 in student loans for which he shall be solely responsible and shall hold wife harmless for any liability in connection therewith.

ALLOCATION OF OTHER DEBTS

6. The Parties have incurred certain other debts from the marriage and with respect to same, agree as follows:

- a. Husband shall pay all credit cards in his name or joint names.
- b. Wife shall pay all credit cards in her name.

Each Party does hereby agree to seek releases for the other for any liability that the other Party has assumed pursuant to this Agreement. In the event that either Party is unable to secure a release for any specific liability, the Party who assumes the liability agrees to indemnify the non-assuming Party from any loss, injury or damage that the non-assuming Party may sustain as a result of that liability. Upon execution of this Agreement, the Parties shall neither contract for nor incur any liability that obligates the other Party. In the event that any third Party seeks to hold one Party liable for the obligation of the other, the Party responsible for the liability shall indemnify the innocent Party for any loss, injury, or damage.

ALIMONY

7. The Parties expressly waive all claims to alimony of any form or nature, which they may now have or which they may in the future acquire and includes a waiver of any support or maintenance, whether permanent, temporary, periodic, rehabilitative, lump sum or any combination thereof and in any form or nature thereof. The Parties specifically waive and relinquish any rights to equitable distribution and to any special equities other than that which is specifically provided for in this Marital Settlement Agreement in any business or personal property, real, personal or mixed, tangible or intangible, which property may be held solely in the name of the other spouse, jointly in the names of Husband and Wife, or any other person or entity, or any combination thereof.

ATTORNEY'S FEES AND COSTS

8. The Parties agree that each Party shall be responsible for their own attorney's fees and costs incurred in connection with dissolving the Parties' marriage, including without limitation, relating to the negotiation and preparation of this Agreement. Wife has chosen not to hire counsel but has been advised that she has the right to do so. However, in the event of a breach of this Agreement, the party found to be in breach, shall be liable for the other party's reasonable attorney's fees.

EFFECT OF RECONCILIATION

9. It is intention of the Parties that this Agreement will remain in full force and effect regardless of whether there is a reconciliation between the Parties or the resumption of a relationship following the dissolution of the marriage.

DOCUMENTS

10. Each Party agrees that he or she shall promptly sign, execute, and deliver any and all documents, instruments, and papers that may be requested, required, or necessary to fulfill the terms of this Agreement.

GENERAL RELEASE AND WAIVER

11. Except as otherwise provided in this Agreement, each Party waives any and all claims, demands, rights, title, or interest that he or she may have or hereafter acquire in any present or future asset of the other. This release includes, but is not limited to, alimony rights, the right to elect to claim against any will or codicil of the other Party; the right to share in the other Party's estate; the right to act as executor, administrator, or personal representative of the other Party's estate; the right to claim dower, courtesy, inheritance, descent, distribution, or any other rights or claims arising out of the marital relationship; the right to share in any pension or retirement benefits of the other; and the right to share in any litigation awards or proceeds the other may receive. This release is binding on the executors, administrators, personal representatives, heirs, and assigns of each of the Parties.

FULL DISCLOSURE

12. Each Party represents that he or she has made a full, frank, and complete financial disclosure of his or her assets, liabilities, income, and expenses to the other Party. Each Party acknowledges that he or she has had sufficient time and opportunity to satisfy himself or herself as to the completeness and accuracy of the disclosure of the other's financial status. The Wife acknowledges that she has had the opportunity to consult counsel and other professionals concerning advice/investigation in relation to the Husband's assets/marital assets but has declined to do so. The Husband likewise acknowledges this opportunity.

FULL AGREEMENT

13. Each Party agrees that this Agreement constitutes the entire marital settlement agreement of the Parties. This Agreement supersedes any prior understandings or agreements between them (including without limitation, temporary support agreements), whether or not the matters were covered in this Agreement. There exist no representations or warranties other than those set forth herein. The Parties acknowledge that this Agreement constitutes the full, complete, and final settlement of all alimony rights, property rights, liabilities, and other responsibilities between the Parties. This Agreement is a full, complete, and final settlement of all claims of any nature whatsoever that either Party may have against the other, now or in the future, except as expressly provided for herein.

MODIFICATION OR AMENDMENT

14. No addendum, modification, or waiver of any of the terms of this Agreement shall be effective, unless in writing, signed by both Parties, and executed in the same manner as this Agreement. Otherwise, it is the intent of the Parties that this be a non-modifiable Marital Settlement Agreement.

DEFAULT OR WAIVER

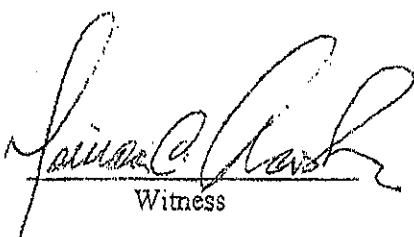
15. No waiver of any breach of the terms of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or similar nature. No waiver of any rights created by this Agreement shall be deemed to be a waiver for all time of those rights, but shall be considered only as to the specific event surrounding that waiver.

GOVERNING LAW

16. This Agreement shall be governed by the laws of the State of Florida as they exist on the date of its execution.

SEVERABILITY

17. If any portion of this Agreement is held illegal, unenforceable, void, or voidable by any Court, each of the remaining terms hereof shall nevertheless remain in full force and effect as a separate contract. This Agreement shall be deemed modified and amended to the extent necessary to render it valid and enforceable.



Linda Clark
Witness

FBS
ANNABELLA SARHAN
Wife



Shirley
Witness

ROBERT SARHAN
Husband

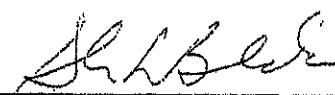
STATE OF FLORIDA)

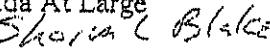
) ss:

COUNTY OF DADE)

On this day personally appeared before me the undersigned authority, ANNABELLA SARHAN, who signed the foregoing Marital Settlement Agreement in my presence and who being by me first duly sworn, deposes and says that she knows and understands the contents of said Agreement, agrees to them, and enters into this Agreement freely and voluntarily.

WITNESS my hand and official seal at Miami, Florida this 5th day of August, 2008.



Notary Public - State of Florida At Large
My Commission Expires: 

STATE OF FLORIDA)

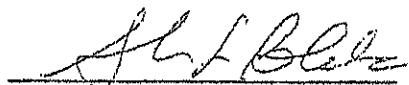
NOTARY PUBLIC - STATE OF FLORIDA

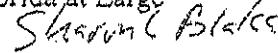
)
COUNTY OF DADE)

Sharon L. Blake
Commission # DD531396
Expires: MAY 03, 2010
Bonded Thru Atlantic Bonding Co., Inc.

On this day personally appeared before me the undersigned authority, ROBERT SARHAN who signed the foregoing Marital Settlement Agreement in my presence and who being by me first duly sworn, deposes and says that he knows and understands the contents of said Agreement, agrees to them, and enters into this Agreement freely and voluntarily.

WITNESS my hand and official seal at Miami, Florida this 5th day of August, 2008.



Notary Public - State of Florida at Large
My Commission Expires: 

NOTARY PUBLIC-STATE OF FLORIDA
Sharon L. Blake
Commission # DD531396
Expires: MAY 03, 2010
Bonded Thru Atlantic Bonding Co., Inc.

Appendix 5

VERIFIED RETURN OF SERVICE

State of Florida

County of MIAMI-DADE

Circuit Court

Case Number: 12-7970 CA02

Plaintiff:

H&H INVESTORS, INC. A FLA. CORP.

vs.

Defendant:

**SARHAN A/K/A ANABELLA SOURY A/K/A ANABELLA AMIN ALHARES
A/K/A ANABELLA HARRIS, ET AL.**

For:

GASTESI & ASSOCIATES, P.A.
8105 Nw 155th Street
First Floor
Miami Lakes, FL 33016

Received by TYTELL AND ASSOCIATES, INC. on the 12th day of May, 2012 at 6:56 pm to be served on **ANABELLA SARHAN A/K/A ANABELLA SOURY A/K/A ANABELLA AMIN ALHARES A/K/A ANABELLA HARRIS, 1718 N.E. 8TH ST., #B, HOMESTEAD, FL 33033.**

I, Brenda L. Anderson, do hereby affirm that on the 30th day of July, 2012 at 7:30 pm, I:

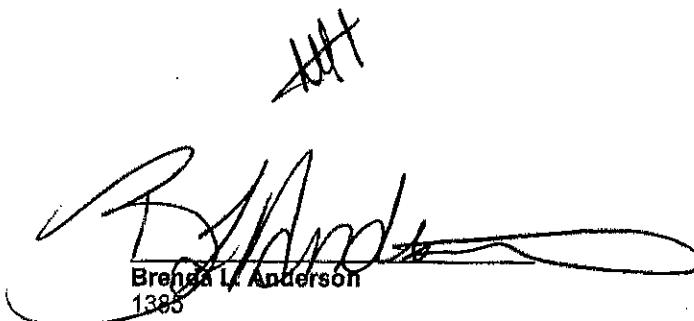
INDIVIDUAL: served by delivering a true copy of the **20 DAY CIVIL ACTION SUMMONS AND COMPLAINT FOR FORECLOSURE + NOTICE OF ACTION + NOTICE OF RELATED CASES + AMENDED COMPLAINT FOR FORECLOSURE AND AMENDED LIS PENDENS** with the date and hour of service endorsed thereon by me, to: **ANABELLA SARHAN A/K/A ANABELLA SOURY A/K/A ANABELLA AMIN ALHARES A/K/A ANABELLA HARRIS** at the address of **1718 N.E. 8TH ST., #B, HOMESTEAD, FL 33033** and informed said person of the contents therein, in compliance with state statutes

Additional Information pertaining to this Service:

AT 22795 SW 212 AVE, UNATTENDED HOUSE. DOG TIED UP ON 2ND FLOOR VERANDAH WITH BEE HIVE UNDER THE DECK. UNDER DECK AREA IS FULL OF JUNK. CANNOT GET TO THE 2ND FLOOR ENTRANCE BECAUSE OF BEES AND GUARD TYPE DOG. NO ONE RESPONDS TO HONKING OF HORN. AT 1718 N.E. 8TH ST. #B, HOMESTEAD, FL. 33033. SERVICE MADE HERE.

I certify that I am not a party to the above action and have no interest in the above action and over age eighteen. The server is certified in the county where the process was served and in good standing with the said court. I also certify that service was made in accordance with Florida Stats. 48.031 Florida R.C.P.1.070 & Fed .Rule 4 (c),

Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated in it are true. F.S. 92.525 (2)


Brenda L. Anderson
1385

TYTELL AND ASSOCIATES, INC.
8500 Sw 92 Street
Suite #202
Miami, FL 33156
(305) 382-2161
Our Job Serial Number: 2012001346

Appendix 6

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT AND FOR
MIAMI-DADE COUNTY, FLORIDA

CASE NO. 12-07970 CA 02

H & H INVESTORS, INC.,
A Florida Corporation

Plaintiff
v.

Anabella Souri

Defendant

THE CIRCUIT COURT
FLORIDA
SELF REPO

CIRCUIT COURT DADE COUNTY

OBJECTION TO FORECLOSURE

COMES NOW the Defendant, Anabella Souri, proceeding Pro-Se until I can afford to hire an attorney, files this motion to object to this Foreclosure by H & H Investors Complaint and as grounds states as follows:

1. The Defendant, Anabella Souri was served with the original complaint on July 30, 2012.
2. The Defendant was mentally ill at the time of signing the mortgage and did not understand what she was signing and the risks involved in losing our home.
3. Defendant objects to the complaint under **Fla. Stat. §494.00791 (6) et seq.** and states that H & H Investors has engaged in **Predatory Mortgage Lending practices** such as asset-based lending on a borrower's overall assets, rather than income and ability to repay, balloon payments and outright fraud and abuse.
4. **Fla. Stat. 494.00791 Prohibited acts (6)** The lender H & H Investors extended credit without regard to the payment ability of the borrower.--A lender making a high-cost home loan shall not engage in any pattern or practice of extending high-cost home loans to borrowers based upon the borrowers' collateral without regard to the borrowers' ability to

repay the loan, including the borrowers' current and expected income, current obligations, and employment.

5. The lender knew that both borrowers were both unemployed and had no income.
6. H & H Investors violated **Fla. Stat. 494.00792 Required disclosures for high-cost home loans**, the Defendant states that at the time of signing or anytime thereafter the lender never provided us with appropriate forms in accordance to 15 U.S.C.s.1635 (a). **Fla. Stat. 494.00792 (d) Required disclosures for high-cost home loans**, A creditor must disclose to any high-cost home loan borrower the rights of the borrower to rescind the high-cost home loan within 3 business days pursuant to 15 U.S.C. s. 1635(a) and shall provide appropriate forms for the borrower to exercise his or her right to rescission. The notice, forms, and provisions thereof must be in accordance with the requirements of 15 U.S.C. s. 1635(a).
7. H & H Investors are in violation of Consumer Credit Under Counseling Provision **Fla. Stat. §494.00792 et seq.** in which the lender never told us about this provision prior to the loan or anytime thereafter to receive counseling, prior to accepting the home loan.
8. Thomas Sanders represented the lender and the borrower at the same time, which were a conflict of interest and a violation of due process. At the time, the defendant did not understand that the home can be taken if we miss one payment, this was not disclosed.
9. H & H Investors refused June 2010 payment on July 26 with a cashier's check and went immediately to foreclosure refusing to accept payment, which was less than 45 days. This check was hand delivered by Earnest Faust, Jr. Thomas Sanders committed "Fraud on the Court" stating he never received the cashier's check and never cashed the check, but was

hand delivered on July 26, 2010 in violation of **Fla. Stat. 494.00792 and Fla. Stat 494.00794 and Fla. Rules of Civ. Proc. 1.540. RELIEF FROM JUDGMENT, DECREES, OR ORDERS due to Fraud on the Court.**

10. H & H Investors are in violation of section 494.00792 of the Florida Fair Lending Act, the lenders never disclosed disclose many more terms and conditions of their loans than previously. All interest rates, fixed or variable, must be disclosed in clear, easy to understand terms. Lenders must also disclose any increases, the reasons for these increases and provide a monthly payment example that includes these increases for the borrowers. These disclosures must be made no more than three days before the closing of the loan. The Florida Fair Lending Act prohibits lenders from calling in the full loan amount when the borrower has been sticking to the terms of the agreement. If the borrower is in default on the loan, they still have the right to reinstate the old loan terms. If the borrower pays the outstanding amount due with late fees and penalties then the lender must reinstate the loan under the original terms and conditions.

11. H & H Investors are in violation of **Fla. Stat 494.00794 Right to cure high-cost home loans.** H & H violated our right to reinstate the loan.(1) **RIGHT TO REINSTATE.**--For a high-cost home loan, if a lender asserts that grounds for acceleration exist and requires the payment in full of all sums secured by the security instrument, the borrower, or anyone authorized to act on the borrower's behalf, shall have the right, during the 45-day period set forth in subsection (2), to cure the default and reinstate the home loan by tendering the amount or performance as specified in this section. However, once a lender has provided two such notices as required by this section, for two separate incidents, a lender is not thereafter required to provide the notice required by this section, and the borrower is not

entitled by this section to cure the default, for a third or subsequent incident for which the lender asserts that grounds exist for acceleration of the loan and repayment in full. Cure of default as provided in this section shall reinstate the borrower to the same position as if the default had not occurred and shall nullify, as of the date of the cure, any acceleration of any obligation under the security instrument or note arising from the default.

12. (2) GROUNDS FOR REINSTATEMENT.--Before any action filed to foreclose upon the home or other action is taken to seize or transfer ownership of the home, a notice of the right to cure the default must be delivered to the borrower at the address of the property upon which any security exists for the home loan by postage prepaid certified United States mail, return receipt requested, which notice is effective upon deposit in the United States mail, and shall inform the borrower:

13. (a) Of the nature of default claimed on the home loan and of the borrower's right to cure the default by paying the sum of money required to cure the default. If the amount necessary to cure the default will change during the 45-day period after the effective date of the notice due to the application of a daily interest rate or the addition of late payment fees, as allowed by this act, the notice shall give sufficient information to enable the borrower to calculate the amount at any point during the 45-day period.

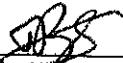
14. H & H Investors violated the law to foreclose on the loan committing Fraud on the Court to get immediate sale on the home. To stop the sale of the home my ex-husband Robert Sarhan had to file for Bankruptcy. Robert Sarhan then won the appeal in the Third District Court of Appeals and feel that the lender should be responsible for all cost of this Bankruptcy and all losses in the Probate case of Robert's mother, Yvonne Sarhan.

15. Due to filing Bankruptcy, the Probate Court could not close the case of Yvonne Sarhan and disburse the settlement to our family, we claim that H & H Investors is responsible for filing the fraudulent foreclosure and should be responsible for all fees incurred.

Wherefore we pray this Honorable Court will agree that H & H Investors has engaged in Predatory Lending is not entitled to foreclose on our home due to a disregard of the laws of the State of Florida and should also be responsible for all cost that the borrows has suffered during the Bankruptcy and Probate Case of Yvonne Sarhan, Roberts mother.

Dated on this 17 day of September 2012,

Respectfully Submitted,


Anabella Souri
22795 SW 212 Ave
Miami, FL 33170
Tel. No. 305-903-0958
bagera_lb@yahoo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was mailed by U.S. Postal Service on this 17 day of September, 2012, to Gastesi & Associates, P. A. 8105 N.W. 155 Street Miami, Lakes, FL. 33016 and to Dolores Sanchez 4701 North Federal Highway Suite 316 Box B-1 Lighthouse Point, FL 33064

Respectfully Submitted,


Anabella Souri
22795 SW 212 Ave
Miami, FL 33170
Tel. No. 305-903-0958
bagera_lb@yahoo.com

Appendix 7

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION
CASE NO: 12-7970

H & H Investors
Plaintiff(s),

vs.

Sarhan et
Soury

Defendant(s),

ORDER
GRANTING/DENYING
PLAINTIFF'S/DEFENDANT'S
ON PLAINTIFF'S MOTION
FOR DEFAULT AGAINST SOURY

THIS CAUSE having come on to be heard on _____
on Plaintiff's/Defendant's Motion

for Default Against

OCTOBER 31, 2012

and the Court having heard arguments of counsel, and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

The Defendant objects to foreclosure it desired to
be at Answer to the Plaintiff. The Plaintiff stipulates that
it is not seeking a monetary deficiency judgment against
Anabella Soury. Defendant does not waive her right
to file further pleadings in this case. Motion for
Default is Denied against Soury

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 31ST

day of

October, 2012.

Conformed Copy

OCT 31 2012

JOHN W. THORNTON, JR.
CIRCUIT COURT JUDGE

R. Scott
CIRCUIT COURT JUDGE

Copies furnished to: Counsel of Record

Appendix 8

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

H&H INVESTORS, INC., a Florida
Corporation,

Plaintiff,
v.

ROBERT SARHAN, ANABELLA
SARHAN A/K/A ANABELLA SOURY
A/K/A ANABELLA AMIN ALHARES
A/K/A ANABELLA HARRIS, et. al.,

Defendants.

GENERAL JURISDICTION DIVISION
CASE NO.: 12-07970 CA 15
FLA. BAR NO.: 825778

THE ORIGINAL
FILED ON
DEC 3 1 2012

IN THE OFFICE OF
CIRCUIT COURT DADE COUNTY

MOTION FOR SUMMARY JUDGMENT

COMES NOW the Plaintiff, H&H INVESTORS, INC. (hereinafter "H&H"), by and through undersigned counsel and pursuant to the Florida Rules of Civil Procedure, and hereby files this Motion for Summary Judgment against the Defendant, ANABELLA SARHAN A/K/A ANABELLA SOURY, and in support thereof states as follows:

1. This is an action to foreclose a First Mortgage on real property located and situated in Miami-Dade County, Florida.
2. The subject property is not homestead of the Defendant, ANABELLA SARHAN A/K/A ANABELLA SOURY.
3. On or about June 23, 2008, ROBERT SARHAN, as Debtor, executed and delivered a Promissory Note (hereinafter "Note") to the Plaintiff. In addition, on or about June 23, 2008, ROBERT SARHAN and ANABELLA SARHAN, as Mortgagors, executed and delivered a First Mortgage (hereinafter "Mortgage") securing the payment of the

Note to the Plaintiff. A copy of the Mortgage and Note are attached to the Complaint as Exhibits "B" and Exhibit "C", respectively. The legal description to the property which is the subject of this foreclosure is:

The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 16, Township 56 South, Range 38 East, Lying and Being Miami-Dade County, Florida.

Address: 22795 S.W. 212th Avenue, Miami, Florida 33170.

Folio No.: 30-6816-000-2170.

The Mortgage was recorded in Official Records Book 26447 at Pages 0045-0047 on June 24, 2008.

4. The Mortgage was recorded in the Official Records of the Public Records of Miami-Dade County, Florida ("all subsequent recording references are to the Public Records of Miami-Dade County, Florida") and mortgages the real and personal property ("property") described therein.
5. H&H is the title owner and holder of the Note and Mortgage.
6. The property is now owned of record by the Defendant, ROBERT SARHAN.
7. As a result of the failure to make the required installment payments and other breaches of the Note and Mortgage, the Plaintiff, H&H, previously filed a mortgage foreclosure action in this Court, styled H&H Investors, Inc. v. Robert Sarhan, et. al. at Case No.: 09-74988 CA 15.
8. Thereafter on or about December 17, 2009, the Plaintiff, H&H, and the Defendants, ROBERT SARHAN and ANABELLA SARHAN, entered into a Stipulation of Settlement (hereinafter "Stipulation"). A copy of the Stipulation is attached to the

Complaint as Exhibit "D."

9. Pursuant to the terms of the Stipulation, the Plaintiff, H&H, and the Defendants, ROBERT SARHAN and ANABELLA SARHAN, agreed that as of February 1, 2011, the Plaintiff was owed the sum of Three Hundred Seventy-One Thousand Four Hundred Thirty-Seven and 50/100 (\$371,437.50) Dollars under the Note and Mortgage.
10. The Stipulation was breached due to the failure to make the required June 1, 2010 payment and all subsequent payments.
11. On August 3, 2010, after conducting an evidentiary hearing, the Court in the case styled *H&H Investors, Inc. v. Robert Sarhan, et. al. at Case No.: 09-74988 CA 15.* held and ruled that the Stipulation was in fact violated as a result of the failure to make the June 1, 2010 and July 1, 2010 payments.
12. In addition, pursuant to the terms of the Stipulation, the Note and Mortgage are in default because the loan ballooned and/or otherwise matured on June 30, 2011. Pursuant to the terms of the Note, Mortgage, and Stipulation, the Defendant, ROBERT SARHAN, was required to pay all outstanding amounts due and owing under the loan to the Plaintiff, H&H, on or before June 30, 2011. Despite repeated demands, said Defendant has failed to payoff the loan.
13. Furthermore, the Note, Mortgage, and Stipulation are in default by virtue of the fact that the Defendant, ROBERT SARHAN, has not paid the real estate property taxes for the years 2010 and 2011 and allowed numerous fines to accumulate on the subject property.

14. The Plaintiff, H&H declares the full amount payable under the Note, Mortgage, and Stipulation to be now due.
15. All conditions precedent to the acceleration of the Note, Mortgage, and Stipulation and to foreclose on the Mortgage has been performed or has occurred.
16. The Plaintiff, H&H, has retained the law firm of Gastesi & Associates, P.A. in this action and is obligated to pay said firm a reasonable fee for its services in bringing this action as well as all costs of collection.
17. The interests of the Defendant, ANABELLA SARHAN A/K/A ANABELLA SOURY, is subject, subordinate, and inferior to the right, title, interest and lien of the Plaintiff's, H&H, Mortgage.

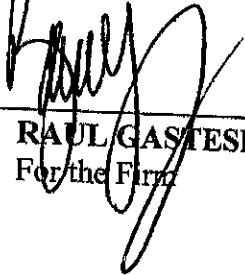
WHEREFORE the Plaintiff, H&H INVESTORS, INC., requests that this Honorable Court enter a Partial Final Summary Judgment that the Defendant, ANABELLA SARHAN A/K/A ANABELLA SOURY, has no interest or right in the property as a matter of law, along with such other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail & U.S. Mail this 19th day of December, 2012 to: Dolores K. Sanchez, Esq., 4701 N. Federal Highway, Suite 316, Box B-1, Lighthouse Point, Florida 33064, Email: Dolores@bizhall.net; and Kenneth U. Pinos, Esq., Law Office of Kenneth U. Pinos, P.A., 12150 S.W. 128th Court, Suite 120, Miami, Florida 33186, Email: kpinos@pinoslaw.com; Robert L. Moore, Esq, 6860 Howard Drive, Miami, Florida 33156 and via email: Rlmoorelaw@gmail.com; and via U.S. Mail to: Waste Services of Florida, Inc., c/o CT Corporation System, Registered Agent, 1200 South Pine Island

Road, Plantation, Florida 33324; Capital One Bank (USA), c/o Kurt S. Browning, Florida Secretary of State, Clifton Building, 2661 Executive Center Circle, Tallahassee, Florida 32301; and Capital One Auto Finance, Inc., c/o Kurt S. Browning, Florida Secretary of State, Clifton Building, 2661 Executive Center Circle, Tallahassee, Florida 32301.

GASTESI & ASSOCIATES, P.A.
8105 N.W. 155th Street
Miami Lakes, FL 33016
Tel: 305-818-9993
Fax: 305-818-9997

By: 

RAUL GASTESI, JR.
For the Firm

Appendix 9

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT AND FOR
MIAMI-DADE COUNTY, FLORIDA

CIRCUIT CIVIL DIVISION
CASE NO: 12-07970 CA-15

H & H Investors

Plaintiff(s),

vs.

SARHAN

Defendant(s),

11TH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY
CIVIL #99

2013 APR 10 PM 4:18

ORDER
GRANTING/DENYING
PLAINTIFF'S/DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT

THIS CAUSE having come on to be heard on April 10, 2013
on Plaintiff's/Defendant's Motion

for Summary Judgment Against
ANABELLA SARHAN

and the Court having heard arguments of counsel, and being otherwise advised in the premises, it is hereupon

ORDERED AND ADJUDGED that said Motion be, and the same is hereby

GRANTED AS TO SUMMARY JUDGMENT
AGAINST ANABELLA SARHAN

DONE AND ORDERED in Chambers at Miami-Dade County, Florida this 10th

day of

APRIL

2013

CIRCUIT COURT JUDGE

ORIGINAL
JUDGE JOSE M. RODRIGUEZ

Copies furnished to: Counsel of Record

117-01-554 3/11

LEILA JOHNSON

Appendix 10

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 2012-007970-CA-01

H & H INVESTORS, INC.,

Plaintiff,

vs.

SARHAN, ROBERT,

Defendant.

-----x
The above-entitled cause came on for hearing
before the Hon. Michael A. Hanzman, Judge of the

above-styled court, at the Dade County Courthouse,

Miami, Florida, on Thursday, June 20, 2019

commencing at 9:41 a.m.

APPEARANCES:

GASTESI LOPEZ & MESTRE, PLLC

8105 Northwest 155th Street

Miami Lakes, Florida 33016

BY: RAUL GASTESI, ESQ.,

and RUTH ACEVEDO, ESQ.

On behalf of the Plaintiff

ARTHUR J. MORBURGER, ESQ.

19 West Flagler Street, Suite 404

Miami, Florida 33130-4419

On behalf of the Defendant

LAW OFFICE OF ROBERT L. MOORE

6860 Howard Drive

Miami, Florida 33156

BY: ROBERT L. MOORE, ESQ.

On behalf of the Anabella Soury

1 THE COURT: All right. Let me have
2 appearances please in H & H Investors versus
3 Robert Sarhan and Anabella Sarhan.

4 MR. GASTESI: Good morning, Your Honor.
5 Raul Gastesi on behalf of the plaintiff. My
6 associate Ruth Acevedo. I had to bring in
7 bankruptcy counsel who represented my client
8 as well, and my assistant Mari Izquierdo.

9 THE COURT: Okay. Very good.

10 MR. GASTESI: My client is out of town,
11 Judge. He had literally flown in for the last
12 hearing. He's on vacation.

13 THE COURT: Okay. I don't deem him
14 necessary for the disposition of this motion.

15 MR. GASTESI: I don't think so either,
16 thank you.

17 THE COURT: Okay. Counsel.

18 MR. MOORE: Your Honor, my name is Robert
19 Moore. I represent Anabella Soury if that's
20 pronounced correctly.

21 MR. MORBURGER: Arthur Morburger on behalf
22 of Robert Sarhan.

23 THE COURT: Okay. So we have two court
24 reporters again? Okay. Very good.

25 MR. GASTESI: First time for me, Judge.

1 THE COURT: I like the fact that the court
2 reporters are making money, it's all good.

3 MR. GASTESI: This is a first for me in
4 this case. Not in this case --

5 THE COURT: Well, it's not a first in this
6 case because we had the same situation what,
7 was it Wednesday? Tuesday was it? When were we
8 here?

9 MR. GASTESI: Monday.

10 THE COURT: Monday, okay. So it looks like
11 you're trying to mend your hold a little bit
12 here now guys, huh? The 1.530 didn't work, the
13 1.540(b) (3) and (4) didn't work, so now we're
14 going with void, right? That's the latest
15 argument to delay this foreclosure, that the
16 final judgment is void, right?

17 MR. MORBURGER: Well Judge, that's --

18 THE COURT: Okay. So let's hear your
19 argument as to why this final judgment is
20 void.

21 MR. GASTESI: Can I address the Court on
22 something, Your Honor?

23 THE COURT: Yeah.

24 MR. GASTESI: Okay. Mr. Morburger just told
25 this Court that he represents Mr. Sarhan.

1 THE COURT: Okay.

2 MR. GASTESI: The pleading in this case is
3 filed by Mr. Morburger and Mr. Moore --

4 THE COURT: Okay.

5 MR. GASTESI: -- on behalf of Ms. Soury.

6 THE COURT: Well, it's certainly not void
7 as to Mr. Sarhan. There's no claim it's void
8 as to Mr. Sarhan. I don't know why he's
9 arguing. It looks to me like it should be Mr.
10 Moore's motion.

11 MR. GASTESI: That's what I seem to think
12 as well, Your Honor.

13 THE COURT: Hasn't Mr. Moore appeared for
14 Ms. Anabella Sarhan?

15 MR. MOORE: Well, the truth of the matter
16 is, Your Honor, I had very little independent
17 recollection of this matter. It was only after
18 I was contacted by Mr. Morburger who discussed
19 the case in greater detail with me, that I was
20 made to understand what the operative
21 principles of law that were at issue and
22 understanding that I agreed to sign off on the
23 motion, but to be completely honest with you
24 this is the man who did the research and --

25 THE COURT: Well --

1 MR. MOORE: -- I think he's more capable --

2 THE COURT: He's also a man who doesn't
3 represent the client, who's alleging the
4 judgment is void, and therefore he's not going
5 to argue it unless he files an appearance on
6 her behalf --

7 MR. MOORE: Well --

8 THE COURT: -- which he's free to do. He
9 can file an appearance on her behalf right now
10 if he wants.

11 MR. MORBURGER: Judge, I'm filing an
12 appearance on behalf of Robert Sarhan. If the
13 judgment is void, it's void against both
14 defendants.

15 THE COURT: No.

16 MR. MORBURGER: Yes.

17 THE COURT: No, it's not. It's void against
18 the defendant who allegedly was denied of due
19 process. It doesn't make the judgment void as
20 to other defendants who were served.

21 MR. MORBURGER: If the judgment is no good
22 against one of the defendants, it's no good
23 against all the defendants.

24 THE COURT: Okay. Well, I disagree. Do you
25 want to appear for Ms. Anabella Sarhan --

1 MR. MORBURGER: No.

2 THE COURT: -- and argue the motion?

3 MR. MORBURGER: No.

4 THE COURT: No? Okay. Mr. Moore, it's your
5 motion, let's proceed.

6 MR. MOORE: Do you have a copy, Judge?

7 THE COURT: I do.

8 MR. MOORE: Okay.

9 THE COURT: Defendant's emergency motion
10 for relief from judgment is void.

11 MR. MOORE: Well, it appears, Judge, that
12 the plaintiffs at some point in time decided
13 to stop serving me and Mrs. Sarhan, his former
14 wife.

15 THE COURT: She doesn't deny that she was
16 served process in this case, does she?

17 MR. MOORE: I don't know the answer to that
18 because I have really, never really had any
19 seriously cogent conversations with her. She
20 was very schizophrenic at the time I dealt
21 with her.

22 THE COURT: Okay.

23 MR. MOORE: I was asked by Judge John
24 Thornton, he knew that I was doing volunteer
25 guardian ad litem work in your court for

1 example and other judges' courts in the
2 children's division, he said why don't you do
3 that for Mrs. Sarhan, it looks like she needs
4 it. I made an evaluation and quickly
5 determined that anybody who was taking the
6 amounts of Haldol that she was taking to
7 control her episodes of schizophrenia was in
8 serious trouble, and among other things sought
9 to have the proceedings halted because she was
10 not competent.

11 THE COURT: So you appeared on her behalf?

12 MR. MOORE: I appeared on her behalf in
13 this case in the beginning and then --

14 THE COURT: Okay. Did you challenge
15 jurisdiction, or did you challenge service of
16 process, or did you appear on her behalf?

17 MR. MOORE: Judge, I filed a -- my initial
18 issues dealing with her were not based on
19 information that she provided to me because
20 she couldn't communicate effectively to me at
21 all.

22 THE COURT: Okay.

23 MR. MOORE: In fact, I was getting e-mails
24 from hell, pardon the phrase, use of the
25 phrase, but they made no sense. They were very

1 demeaning and very mean and nasty. At one
2 point she upped and left and went to Lebanon
3 for a while and then returned. I think Robert,
4 her former husband who's a physician,
5 recognized the extent of her impairment.
6 Although he himself was responsible for taking
7 her to the hospital and having her committed
8 on numerous occasions, she herself would walk
9 into Starbucks --

10 THE COURT: Mr. Moore, Mr. Moore, I'm not
11 really here on a motion to discuss or
12 adjudicate Ms. Sarhan's alleged mental health
13 deficiencies --

14 MR. MOORE: I get it.

15 THE COURT: -- five years ago when she had
16 a summary judgment entered in this case. I
17 asked you very directly whether, when you
18 appeared on her behalf were there any motions
19 challenging service of process or jurisdiction
20 were raised?

21 MR. MOORE: They weren't raised at that
22 time. They would have --

23 THE COURT: Were they raised at anytime
24 prior to final judgment?

25 MR. MOORE: Well, I don't think she ever

1 got a final judgment. I mean certainly the
2 summary judgment was not final, it was
3 interlocutory. The cases that I have looked
4 at, and Mr. Morburger will have to show them
5 to me again to refresh my recollection, say
6 very clearly that you can't just grant a
7 motion for summary judgment without stating
8 why. You have to have a reason for granting
9 it; otherwise, it becomes a simple
10 interlocutory matter that only takes affect
11 when there's a final judgment entered.

12 THE COURT: Well, that's exactly what
13 happened here, isn't it?

14 MR. MOORE: No.

15 THE COURT: It's up to Judge Thornton --

16 MR. MOORE: The final judgment was never
17 served --

18 THE COURT: In 2013 there was a summary
19 judgment entered against Anabella Sarhan, now
20 going on six years ago or six years plus. The
21 case proceeded along and eventually there was
22 a final judgment entered after trial.

23 MR. MOORE: Never served upon her.

24 THE COURT: What was never served upon her?

25 MR. MOORE: The final judgment.

1 THE COURT: Okay.

2 MR. MOORE: To the best of my knowledge it
3 was never served on her.

4 THE COURT: That doesn't make it void.

5 MR. MOORE: Well, what it does is --

6 THE COURT: What makes a judgment --

7 MR. MOORE: -- she has no ability to appeal
8 that interlocutory summary judgment unless she
9 has a final judgment that is served upon her.
10 So she's in effect left in limbo forever --

11 THE COURT: Okay.

12 MR. MOORE: -- in the absence of being
13 served with a final judgment.

14 THE COURT: Okay.

15 MR. MOORE: I mean all the pleadings talk
16 about defendants, defendants, and her name is
17 in the style of every paper that was filed
18 here in this court, and they referred to --

19 THE COURT: She was a defendant. She was
20 sued in this case is my understanding.

21 MR. MOORE: I understand, but the
22 implication -- I'm reading into what you're
23 saying and I could be wrong, Judge, is that
24 you're saying because summary was entered she
25 was no longer a defendant.

1 THE COURT: No, I'm not saying that at all.
2 She was entitled to notice of further
3 proceedings.

4 MR. MOORE: She never got --

5 THE COURT: Well, she doesn't say that in
6 her declaration. All she says in her
7 declaration is she didn't get the amended
8 final judgment of foreclosure. That doesn't
9 make it void. It might make it -- you know,
10 maybe she had a problem and didn't have fair
11 opportunity to appeal, but my understanding is
12 there was a plenary appeal taken from this
13 final judgment in any event by Mr. Sarhan,
14 right?

15 MR. MOORE: That didn't deal with her
16 issues at all and --

17 THE COURT: She was not a party to the
18 appeal?

19 MR. MOORE: No. To the best of my
20 knowledge. I'm telling you that to the best of
21 my knowledge, Judge.

22 THE COURT: Okay.

23 MR. MOORE: There came a time in this case
24 when I no longer participated because my
25 client was nowhere to be --

1 THE COURT: But see, the only thing that
2 could make a final judgment void, there's only
3 a couple of things, right, either the Court
4 lacks subject matter jurisdiction which
5 clearly is not the case here, right?

6 MR. MOORE: Yeah, agreed.

7 THE COURT: Court was not duly constituted
8 which clearly was not the case here. The only
9 other thing that can make a final judgment or
10 a court order void is if there's a lack of due
11 process.

12 MR. MOORE: Well, here there was a lack of
13 due process.

14 THE COURT: In other words, if she didn't
15 know about her trial.

16 MR. MOORE: She wasn't --

17 THE COURT: The fact that she didn't get a
18 copy of a judgment entered does not make it
19 void. If she didn't know about it, she wasn't
20 given notice of her trial --

21 MR. MOORE: I gave instructions for her to
22 be here this morning, Judge. I can tell you
23 her son will testify -- and her husband who's
24 outside, I didn't even want him in the court-
25 room --

1 THE COURT: Okay.

2 MR. MOORE: -- will testify that she was so
3 heavily medicated with Haldol that she could
4 not function this morning, and that although
5 she agreed in principle to go to court today,
6 this morning she wouldn't move.

7 THE COURT: Okay.

8 MR. MOORE: Because she was completely
9 incapacitated.

10 THE COURT: Well, she filed a declaration.

11 MR. MOORE: What I'm saying to the Court is
12 that it's my personal belief, if that's worth
13 anything, that Mr. Sarhan found himself
14 confronted with a terribly mentally ill former
15 wife who was ostensibly going to be living in
16 the streets unless he let her live in the
17 house with him, which he did, and they lived
18 in that house. Even though they had separate
19 rooms they lived together in that house. She
20 drove her son to school every day for six
21 months when she was well. When she wasn't well
22 she couldn't function at all.

23 If I could quote from the Florida Rules of
24 Judicial Administration 2.516 it states, A
25 copy of all orders or judgments must be

1 transmitted by the Court or under its
2 direction to all parties at the time of entry
3 of the order or judgment. That language is in
4 bold; therefore, I presume it's the emphasis
5 of counsel. I could go on, perhaps I should.
6 It says, No service need be made on parties
7 against whom a default has been entered except
8 orders setting an action for trial, which was
9 not served upon her. So she had no notice the
10 case was ever tried or was going to be tried.

11 THE COURT: So Mr. Sarhan who lives with
12 her did not tell her he was going to trial.
13 Kind of kept that to himself?

14 MR. MOORE: I'm not privy to that
15 information, Judge. I was not living in the
16 household and did not overhear their
17 conversations, their private husband and wife
18 conversations.

19 THE COURT: They're legally married?

20 MR. MOORE: Today they're not, but they
21 are, for all intents and purposes, living
22 together as husband and wife.

23 THE COURT: We don't have common law
24 marriages here.

25 MR. MOORE: I understand.

1 THE COURT: Either they're married or
2 they're not.

3 MR. MOORE: I get it. They were divorced.

4 THE COURT: When were they divorced?

5 MR. MOORE: I want to say 2008, 2011,
6 something like that.

7 THE COURT: 2008 or 2011. So before the
8 final judgment was entered here. Pursuant to
9 their divorce decree did she retain any
10 interest in this property?

11 MR. MOORE: Yes.

12 THE COURT: Did they have a settlement?

13 MR. MOORE: Yes, they had a property
14 settlement agreement, and then thereafter Mr.
15 Sarhan believing that the property settlement
16 agreement did not open the door in effect to
17 potential guardians coming in and seizing the
18 only asset that he had that was partially in
19 her name --

20 THE COURT: Mr. Moore, see, I'm asking very
21 direct questions.

22 MR. MOORE: I'm trying, I'm trying.

23 THE COURT: I'm getting like jello on the
24 wall.

25 MR. MOORE: You're getting circuitous

1 answers --

2 THE COURT: Okay. So I asked a very direct
3 question. When they got divorced in 2008 or
4 2011 or whenever you think it was, did they
5 have an agreement with respect to the
6 disposition of this property?

7 MR. MOORE: Yes.

8 THE COURT: Either they did or they did
9 not.

10 MR. MOORE: Yes, they did.

11 THE COURT: And what was the agreement?

12 MR. MOORE: The agreement said that she did
13 not retain an interest in the property and
14 that Robert Sarhan retained an interest in the
15 property.

16 THE COURT: Okay. Then why was she -- then
17 what's the whole point of --

18 MR. MOORE: Because in 2011 --

19 THE COURT: -- that she wasn't around for
20 the foreclosure? She doesn't have any interest
21 in the property --

22 MR. MOORE: She does, Your Honor.

23 THE COURT: -- at the time of the fore-
24 closure.

25 MR. MOORE: May I hand this to your clerk

1 to show -- or may I approach the bench?

2 THE COURT: Sure.

3 MR. MOORE: This is a document in which
4 Robert, out of the goodness of his heart I
5 believe, decided to provide her with a 50
6 percent interest in the household, correcting
7 the error in judgment that he made by
8 excluding her in the marital settlement agree-
9 ment, and that goes back to before this --
10 that's dated I believe at a time before this
11 case was ever filed.

12 THE COURT: And was it recorded?

13 MR. MOORE: I don't know the answer to
14 that, but I would have to say, my
15 inclination --

16 THE COURT: So he gets divorced, he keeps
17 the entire property, and then you're telling
18 me on the 22nd of June 2011 he goes ahead and
19 issues a warranty deed and grants her a 1/2
20 interest in this land --

21 MR. MOORE: Before --

22 THE COURT: -- 22795 Southwest 212th
23 Avenue, a deed prepared by Mr. Morburger in
24 2011.

25 MR. MOORE: Okay. I'd like to say, to my

1 knowledge that preceded the filing of this
2 lawsuit.

3 THE COURT: Okay. Was the deed recorded? In
4 other words, when the lender filed this law-
5 suit was this deed of record?

6 MR. MOORE: I would have to say --

7 THE COURT: I don't see anything that --

8 MR. MOORE: -- to the best of my knowledge
9 the answer is no.

10 THE COURT: I don't see anything suggesting
11 this was a matter of record.

12 MR. MOORE: I don't know that it has to be,
13 Judge.

14 MR. GASTESI: May I see it, Your Honor?

15 THE COURT: Of course.

16 MR. GASTESI: I'm going to approach. Thank
17 you.

18 MR. MOORE: I don't know that it has to be
19 recorded. Certainly would provide third
20 parties with notice if it were, but as between
21 husband and wife she does have a half interest
22 in the property.

23 THE COURT: Okay. Anything else you want to
24 tell me?

25 MR. MOORE: Well, yes. I think since she

1 was denied due process, Your Honor, because
2 she was not provided with a notice of trial,
3 she was not provided with a final judgment.
4 The order on the summary judgment was
5 interlocutory in the sense that it stated no
6 reason whatsoever for why it was granted.
7 There's a 2nd and 3rd DCA case apparently on
8 all fours that says that's not permissible,
9 and that makes such an order not final and
10 therefore interlocutory. So she depended upon
11 notice of the final judgment in order to be
12 able to take her appeal on the issue of
13 whether or not she was denied due process, and
14 clearly I think she was. I mean this isn't
15 just a matter of opinion, Judge, it's a matter
16 of fact. There's no issue -- I mean I think
17 the court record speaks very loudly for itself
18 that she was never served.

19 THE COURT: Well, that's not necessarily
20 true, Mr. Moore, because while you say that in
21 your motion, you say that there was a failure
22 to serve an indispensable party and you cite
23 the Cocolas (phonetic) case, right?

24 MR. MOORE: Right.

25 THE COURT: Right?

1 MR. MOORE: Well, if you say so, yes.

2 THE COURT: But her declaration doesn't say
3 she wasn't served with process in this case.
4 It says, and all it says is that she's now,
5 for the first time today, been provided with
6 and inspected the amended final judgment. It
7 doesn't even say that she never got the
8 initial final judgment, it only speaks to the
9 amended which did nothing but add attorneys'
10 fees. So the declaration, her declaration does
11 not say she was never served, does not say
12 that she wasn't noticed for trial, and does
13 not say she didn't get the July 31st -- oh,
14 she does say for the first time today she's
15 been provided with and inspected the final
16 judgment dated July 31st, okay. So she does
17 say that she didn't get the final judgment,
18 but she never says in this declaration that
19 she wasn't served with process, nor does she
20 say that she didn't get notice of her trial.

21 MR. MOORE: Well, you know, Judge, we did
22 everything in good faith to get her here
23 today. Her son can testify, Robert can come in
24 and testify as to what her condition, mental
25 condition was this morning. She could not

1 literally move out of bed, and I don't know
2 what we're supposed to do under those
3 circumstances.

4 THE COURT: Okay. Let me hear from the
5 opposing counsel.

6 MR. MORBURGER: Judge, I'd just like to
7 object on the record and state that I have a
8 right to be heard, and I object to the --

9 THE COURT: Okay.

10 MR. MORBURGER: -- proceeding.

11 THE COURT: Very good.

12 MR. GASTESI: Thank you, Your Honor.

13 MR. MOORE: That's my only copy, Judge. May
14 I have it back or --

15 THE COURT: The only copy of what, the --

16 MR. GASTESI: I gave it to the gentleman,
17 to the bailiff.

18 MR. MOORE: Can I have that back?

19 THE COURT: Sure.

20 MR. MOORE: Thank you, Judge.

21 THE COURT: It's not of record in this
22 case. You can take it and have it back. Okay.

23 MR. GASTESI: All right, Your Honor.

24 There's so much here. If I --

25 THE COURT: Oh, I'm sure there is.

1 MR. GASTESI: Oh goodness.

2 THE COURT: Was she served with process?

3 MR. GASTESI: Yes, Your Honor, and Mr.
4 Moore appeared on her behalf. He appeared at
5 the hearing on the motion for summary
6 judgment, and I have a transcript of the
7 hearing that I could hand the Court, if I
8 needed to, on April 10th, 2013. It's just so
9 much. I'm going to be a little disjointed and
10 I apologize. I got the motion late Monday, and
11 I was at a hearing all day in Broward
12 yesterday.

13 THE COURT: Okay.

14 MR. GASTESI: I woke up at 4:10 this
15 morning.

16 THE COURT: You're a busy man.

17 MR. GASTESI: Yeah.

18 THE COURT: Okay.

19 MR. GASTESI: Let's start with what I
20 believe is the root, the cause of some of Mr.
21 Moore's claims. My understanding as to the way
22 things worked in 2013 is, we started the
23 e-Filing system in other words, and I
24 believe -- that this case was already pending,
25 this was one of the pending cases. So when --

1 I think we were directed, each one of us, for
2 every case you're in, that you had to register
3 with e-Filing. I do not believe that Mr. Moore
4 did that at all. In any event, he was
5 notified, he was at the hearing. The motion
6 for summary judgment hearing, all these
7 arguments that he's raising about her mental
8 issues or whatever, are very old news in this
9 case.

10 MR. MOORE: What? Excuse me, I'm sorry. I
11 didn't hear it.

12 MR. GASTESI: Very old news in this case.
13 The motion for summary judgment had actually
14 been postponed, the hearing, to give him time
15 to do everything he's talking about now, for
16 at least 30 days.

17 THE COURT: Okay. So you're telling me he
18 filed a noticed of appearance on behalf of
19 Mrs. Sarhan.

20 MR. GASTESI: I'm not saying that he filed
21 a notice of appearance. I'm saying that he
22 appeared.

23 THE COURT: Okay, he appeared.

24 MR. GASTESI: He appeared.

25 THE COURT: He appeared of record -- he

1 appeared of record --

2 MR. GASTESI: Exactly.

3 THE COURT: -- at some point. Did he file
4 an answer on her behalf? What pleading was
5 filed on her behalf?

6 MS. ACEVEDO: Your Honor, she filed an
7 objection to the sale that was taken in an
8 order as her answer and then it continued from
9 there.

10 MR. GASTESI: It's all over the place. So I
11 filed a motion for summary judgment just to
12 end all of this. I filed a motion for summary
13 judgment to strike her claims, to do every-
14 thing --

15 THE COURT: But you can't tell me today
16 whether she filed an answer and affirmative
17 defenses or she moved to dismiss. She did not
18 file a pleading?

19 MR. GASTESI: We do not believe that she
20 filed an answer and affirmative defenses. We
21 believe that she filed a very unorthodox
22 objection, what my associate just said.

23 THE COURT: Oh, okay. Is that reflected on
24 the docket sheet somewhere?

25 MR. GASTESI: Yes, it is, Your Honor.

1 THE COURT: Because I'd like to see what
2 she filed.

3 MS. ACEVEDO: The order was entered October
4 31st, 2012. I have --

5 THE COURT: What order?

6 MS. ACEVEDO: The order stating that the,
7 that her --

8 MR. GASTESI: That her --

9 MS. ACEVEDO: Can I read it into the --

10 THE COURT: Sure.

11 MS. ACEVEDO: It says, The defendant
12 objects to foreclosure is deemed to be an
13 answer to the complaint. The plaintiff
14 stipulates that this is, that it is not
15 seeking a monetary deficiency judgment against
16 Anabella Souri. Defendant does not waive her
17 right to file further pleadings in this case.
18 Motion for default is denied against Souri.

19 MR. GASTESI: I had moved for a default.

20 THE COURT: Okay. And that's a court order?

21 MS. ACEVEDO: Yes.

22 THE COURT: All right. I'd like to see a
23 copy of that please. So somebody can go pick
24 it up downstairs or whatever you need to do
25 with it, okay?

1 MR. GASTESI: Maybe with your assistant if
2 that's possible.

3 THE COURT: My assistant doesn't do errands
4 for lawyers.

5 MR. GASTESI: Okay.

6 THE COURT: He's busy enough taking care of
7 my stuff, okay?

8 MR. GASTESI: All right.

9 THE COURT: But I want to see a copy of
10 that order, okay?

11 MR. GASTESI: Yeah. I did the best I could,
12 Judge --

13 THE COURT: Okay. All right.

14 MR. GASTESI: -- based on what's going on
15 here. So --

16 THE COURT: Okay. Excuse me.

17 MR. GASTESI: -- he doesn't register --

18 THE COURT: Hold on, hold on. Do you have a
19 copy of it?

20 MR. MOORE: I have not the copy of the
21 order, but a copy of the motion. It may
22 provide some elucidation to the Court, but
23 it's my only copy. May I bring it up to you?

24 THE COURT: Let me see it.

25 MR. MOORE: It contains sensitive, personal

1 information and I notified the clerk of that,
2 and I believe Mr. Gastesi is partially --

3 THE COURT: Okay. I just want to see the
4 order. I don't need this. Okay.

5 MR. MOORE: All right.

6 THE COURT: Let's proceed, counsel.

7 MR. GASTESI: Mr. Moore doesn't register
8 for e-Filing. So apparently that's part of the
9 problem why he didn't get certain pleadings.
10 At one point another attorney appeared, and
11 I'm -- I'm really not understanding this very
12 well. Another attorney, Raul Morales, happens
13 to be Raul as well, appeared in the case for
14 another defendant and put his name and would
15 send him the vast majority of the pleadings in
16 this case.

17 Before the summary judgment this is what
18 Mr. Moore and Mr. Sarhan, this is the type of
19 conspiracy let's call it, and there's actually
20 going to be a court order that I'm going to
21 mention to you that actually talks about their
22 collusion.

23 MR. MOORE: Excuse me, I have to object to
24 the use of the word conspiracy.

25 THE COURT: Okay. Mr. Moore, he's in

1 argument. You'll get a chance to respond.

2 MR. GASTESI: After Doctor Sarhan and Ms.
3 Souri got divorced, during the pendency of the
4 foreclosure case they went into divorce court,
5 without notifying me, to Judge Echarte, and
6 tried to convince Judge Echarte to set aside
7 their divorce decree and to somehow give her
8 an interest in the property. This is after
9 filing the motion -- this is after filing the
10 foreclosure action, filing the lis pendens.
11 Judge Echarte would have nothing of it, and
12 actually asked me to come to a subsequent
13 hearing where they were all present and he
14 denied their motion to try and set aside their
15 divorce decree, to somehow give her an
16 interest in the property.

17 As far as that deed, I doubt, as an
18 officer of the court I doubt its credibility,
19 I doubt its authenticity. I'm putting it on
20 counsel, on Mr. Morburger. I don't know who to
21 put it on, but I doubt its credibility. As far
22 as I can tell it does not anywhere appear in
23 the record of this case. I moved for summary
24 judgment because of all this going on. The
25 Court entered an order on my summary judgment.

1 During that time these are all, what I'm
2 showing you in this notebook are all of the
3 pleadings that she received in this case, Mr.
4 Moore received in this case by e-mail, all of
5 these, including the notice for trial. It was
6 not just me sending it, it wasn't me sending
7 it, it was the Court.

8 Now, the case was set for trial during
9 that trial period. I have to be very candid
10 with the Court, it was set during the July/
11 August trial period and at some point it got
12 moved around, but Ms. Sarhan nor Mr. Moore
13 ever showed up to the calendar call, ever
14 presented a witness list, ever presented an
15 exhibit list, ever responded to any of the
16 pretrial motions. Never once did anything in
17 the case, as far as I can tell, after the date
18 of the order for summary judgment --

19 THE COURT: Give me one second.

20 MR. GASTESI: Sure.

21 THE COURT: Let me see counsel up here
22 please.

23 (Discussion held off the record)

24 THE COURT: Come on back up.

25 MR. GASTESI: Certainly, Your Honor. All

1 right. So there's a trial order entered that
2 she got through her attorney --

3 THE COURT: Yep.

4 MR. GASTESI: -- without a doubt. The
5 judge's office is certifying that they sent it
6 on top of that. She didn't go to mediation,
7 she didn't go to -- she didn't do any
8 discovery, she didn't do any filings, she has
9 done nothing in this case since, from what I
10 can tell since April 10th, 2013 when she got
11 hit with a summary judgment, not a single
12 thing in over six years.

13 She received the notice of appeal. After
14 the judgment was entered in January of 2018 a
15 notice of appeal was filed. If she had --

16 THE COURT: January of '18? The judgment
17 was entered July 31st, 2017. How was there a
18 notice of appeal filed in January of '18?

19 MR. GASTESI: Motions for hearing,
20 shenanigans, motion for reconsideration, blah,
21 blah, blah.

22 THE COURT: Okay.

23 MR. GASTESI: Yeah, it's just --

24 THE COURT: Okay.

25 MR. GASTESI: Not coincidentally. If you'll

1 recall, on Monday Mr. Moore was here. I don't
2 know if you recall that he introduced himself,
3 and he said you handled the dependency hearing
4 and everything else, nothing was brought up at
5 that time. This is the first I hear of these
6 concerns.

7 On March 21st, 2019 in bankruptcy court
8 they jointly filed a motion seeking --

9 MR. MOORE: Objection to the use of the
10 term they unless it's clarified.

11 THE COURT: Okay. Mr. Moore --

12 MR. MOORE: I'm participating --

13 THE COURT: -- I'm not taking evidence
14 here, have a seat. You'll get your chance to
15 respond.

16 MR. GASTESTI: Mr. Sarhan and Ms. Soury
17 filed a joint motion in bankruptcy court
18 seeking to void the judgment. They accused --
19 thank you. In Paragraph 2 they alleged that
20 they were denied a foreclosure trial, they
21 were denied the right to cross-examine the
22 lender, they were denied an evidentiary
23 hearing, they were denied the right to be
24 heard in state court because of some motions
25 in limine, more predatory loan arguments, and

1 it goes on and on.

2 They accused me of committing fraud on the
3 Court again. They had a problem with the
4 motion in limine. They accused Judge Rodriguez
5 and Judge Smith of treason. They accused my
6 client of duress and undue influence. They
7 accused me and Judge Rodriguez and somebody
8 else of racketeering. They accused me and
9 Judge Rodriguez of bribery. They accused me of
10 collusion with the court reporter, but never
11 once, it's a hundred and ninety-nine page
12 document, did Ms. Sarhan or Souri say that she
13 didn't get any notice of the trial, not once,
14 despite all of these accusations.

15 Now, you'd think if she didn't know about
16 the trial or didn't know what about what was
17 happening in the case itself, that she would
18 have brought that up in bankruptcy court.

19 THE COURT: Okay. You have a copy of this
20 filing for me?

21 MR. GASTESI: I have -- Yes, Your Honor.
22 It's not complete.

23 THE COURT: Let me see the file.

24 MR. GASTESI: I did not attach the
25 exhibits --

1 THE COURT: Okay.

2 MR. GASTESI: -- because it's 200 pages.

3 THE COURT: Okay.

4 MR. GASTESI: Here you go.

5 THE COURT: Okay.

6 MR. GASTESI: My associate seems to tell me
7 that she thinks, she said that she did, didn't
8 get notice in there somewhere. I don't
9 remember seeing that. She got notice of the
10 trial. She got notice of the trial order,
11 didn't do anything. She got notice of the
12 appeal, didn't do anything.

13 She's not entitled to any part of the
14 equity in this property. She was not
15 interested in this property. For six and a
16 half years, she plus years she has
17 disappeared.

18 They never once mentioned what would have
19 been different, in other words, what defense
20 would she have had. What could she have done
21 differently. I'm not saying --

22 THE COURT: Well, that's really not
23 relevant, is it? I mean if a judgment -- it's
24 not a requirement of vacatur of a void
25 judgment that there be meritorious defenses or

1 that there be anything other than the judgment
2 being void.

3 MR. GASTESI: For void judgments --

4 THE COURT: And it can be filed at anytime
5 a motion is to have a judgment determine void,
6 there' no time limitation. So it's not really
7 a, it's not a excusable neglect or meritorious
8 defense inquiry, it's whether or not the Court
9 was duly constituted, had subject matter
10 jurisdiction and the parties were afforded due
11 process, I mean those are the only inquiries.

12 MR. GASTESI: Well, whether she was
13 afforded due process, I think it all goes into
14 whether she had any real interest in the
15 litigation. I'm not seeking --

16 THE COURT: Well, the due process inquiry
17 is not whether the trial was fair, it's not
18 whether she was allowed to present evidence,
19 it's not whether or not a motion in limine was
20 granted, it's whether she got notice, period.
21 Was she afforded notice and an opportunity to
22 be heard, that's it. You're telling me she
23 was.

24 MR. GASTESI: Yes.

25 THE COURT: You're telling me she appeared

1 in the case, she didn't raise lack of service.

2 There was never a motion to quash service or
3 anything of that sort, right? She filed an
4 objection which the Court deemed as an answer.

5 MR. GASTESI: May I approach, Your Honor?

6 THE COURT: Yes.

7 MR. GASTESI: The order that we were
8 talking about earlier?

9 THE COURT: Yes, let me see the order.

10 MR. MOORE: May I see it, Judge?

11 THE COURT: You'll see it after I see it,
12 Mr. Moore.

13 MR. MOORE: Okay, sure.

14 MR. GASTESI: Now, I think it's very
15 interesting to note who the lawyers are in
16 this case and who represents whom.

17 THE COURT: Okay.

18 MR. GASTESI: In the divorce case Mr. Moore
19 represented her. In bankruptcy pleadings they
20 present themselves jointly. Mr. Moore told
21 this Court that he was doing something for
22 them both in dependency court. Mr. Moore has
23 represented Doctor Sarhan in various other
24 matters. Ms. Sarhan has -- there are any
25 number of police reports and incidents at the

1 house with Ms. Sarhan and Doctor Sarhan there.
2 Besides all of these pleadings that I've shown
3 you there are countless e-mails where we are
4 coordinating --

5 THE COURT: Counsel, counsel, the only
6 thing that I'm concerned about, I'm not going
7 to use the word concerned, because I'm not
8 really concerned about anything, but the only
9 thing that I have to know is, she was served
10 process, she filed what the Court deemed to be
11 answer and did not raise any jurisdictional
12 defenses, either lack of personal jurisdiction
13 or insufficiency of process and she was given
14 notice of her trial. You're telling me all
15 three of those things occurred?

16 MR. GASTESI: Yes.

17 THE COURT: Okay. That's all I need to
18 hear, okay? What else?

19 MR. GASTESI: Just one other matter --

20 THE COURT: Okay.

21 MR. GASTESI: -- and I'm done. I would like
22 to hand the Court a copy of the bankruptcy
23 court order that was recently entered in this
24 case. I've got less than two minutes.

25 THE COURT: Okay.

1 MR. GASTESI: I'm sorry, I flipped the
2 pages for you. What's interesting to note,
3 Your Honor, and this is the type of conduct
4 that her and Doctor Sarhan are engaging in,
5 they told the bankruptcy judge that she was
6 dead.

7 MR. MOORE: I object to the use of the term
8 they until I know who they means.

9 MR. GASTESI: Footnote 4 on Page 2, Your
10 Honor.

11 THE COURT: Okay.

12 MR. GASTESI: That is the kind of bad
13 faith --

14 THE COURT: Okay.

15 MR. GASTESI: I don't know how much
16 experience the Court has with bankruptcy. I
17 don't have a lot, but I do understand that a
18 four year prejudice period is very, very
19 atypical and that's what's had to be done in
20 this case by the bankruptcy judge. She called
21 in dead, she called in dead for a hearing
22 where they were going to try to hold her in
23 contempt for misrepresenting to the bankruptcy
24 court.

25 THE COURT: All right. Okay. Mr. Moore,

1 I'll give you the last word.

2 MR. MOORE: Well Judge, the lack of due
3 process that occurred in this case occurred
4 after the entry of the order of summary
5 judgment in which no grounds were stated
6 before it's being granted, rendering it
7 interlocutory, not final. I can cite two
8 decisions from the courts of appeal if you
9 want me to. I have to get them from Mr.
10 Morburger, but I've seen them. This order that
11 you apparently reviewed and was handed to you
12 by Mr. Gastesi appears to be unsigned and has
13 been issued. It is signed, excuse me, by a
14 bankruptcy judge. I did not enter bankruptcy
15 court ever. Never appeared before a bankruptcy
16 judge in my life. So I was not part of any of
17 that, but it is from the granting of the
18 motion for summary judgment forward that we
19 claim that Ms. Anabella Soury was denied due
20 process.

21 Now, aside from her own disabilities which
22 are numerous and very severe and I don't think
23 the Court should ignore them, I know Robert
24 certainly didn't, he did everything within his
25 power to keep her off the streets and in a

1 protected environment because nobody wanted
2 her, nobody wanted her. He was also very
3 concerned because, and this is relevant only
4 to the extent that it shows his motivation,
5 his mother was forced into guardianship and
6 literally medicated to death.

7 MR. GASTESI: Objection, Your Honor.

8 MR. MOORE: Because of that, because of
9 that the family lost ostensibly all of its
10 assets in guardianship court and it was all
11 awarded to the lawyers who had volunteered to
12 do work in the case, and so Bob Sarhan himself
13 was ostensibly stripped of all of his
14 inheritance because of that. Fearful that that
15 would occur with his wife having an ownership
16 interest in the house that might explain why
17 it wasn't recorded. I use the word might
18 because I don't really know what the reason
19 was. I didn't prepare the document and I
20 didn't provide any instructions as to how it
21 should be handled. I can only say that I
22 didn't get notice from anybody about what
23 occurred after the motion for summary judgment
24 was granted apparently. I only know that
25 because he said so.

1 THE COURT: All right. Mr. Moore, I have
2 heard enough in this case. Have a seat.

3 MR. MOORE: Thank you.

4 THE COURT: Okay.

5 MR. MOORE: Can I just add in closing one
6 sentence and that is, simply because Mr.
7 Gastesi said something occurred doesn't mean
8 that it occurred. The record should speak for
9 itself.

10 THE COURT: Okay. All right. I'm going to
11 be entering my own order in this matter
12 denying the motion and finding that there's
13 nothing about this final judgment that's void
14 in any way, shape or form as to any defendant,
15 including Anabella Souri. The Court was duly
16 constituted, the Court had subject matter
17 jurisdiction over this foreclosure, and Ms.
18 Anabella Souri was given due process at every
19 stage of the proceeding. She filed what was
20 deemed an answer. She was subjected to a
21 motion for summary judgment that counsel
22 appeared for and argued, which was granted.
23 She was properly notified of all further
24 proceedings, and this is nothing other than
25 Mr. Sarhan's latest attempt to delay and deny

1 the administration of justice in this cause
2 and basically mislead the Court into error,
3 and it's a pattern that he has and apparently
4 his lawyers are unable to stop him, and
5 they're unwilling to discontinue participating
6 in these shenanigans, but this is the last
7 motion the Court's hearing in this respect.

8 This foreclosure sale is going forward
9 next Tuesday as scheduled, and I will be
10 entering a detailed written order containing
11 my findings and denying this latest motion
12 under 1.540(b). I think Mr. Sarhan now has
13 gone through Rule 1.530, he's gone through
14 Rule 1.540(b) (3) claiming that there was fraud
15 in connection with this final judgment, and
16 now he is trodding out the argument that it is
17 somehow void and it's not, and that's the end
18 of it. Mr. Sarhan's legal maneuvering has
19 reach the end of the line.

20 I can't order counsel not to file any
21 further motions, but I'm going to tell you
22 this: If you do and I find that they're
23 nothing other than a continuation of this
24 vexatious litigation designed to obstruct the
25 administration of justice and mislead this

1 Court, I will be issuing orders to show cause,
2 and they can be directed at both Mr. Sarhan
3 and his counsel who engage in any further
4 dilatory filings in an effort to delay this
5 matter. I'm not tolerating it anymore. He's
6 filed two removals in the United States
7 District Court, multiple bankruptcies,
8 multiple frivolous motions under our rules of
9 civil procedure all to delay a foreclosure
10 sale on property that he's been in default in
11 for close to a decade, and this matter's
12 coming to an end and it's coming to an end
13 now. We are in recess.

14 MR. GASTESI: Thank you, Your Honor.

15 (Thereupon, the hearing was concluded
16 10:23 a.m.)

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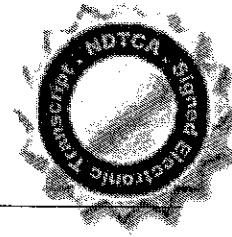
CERTIFICATE OF REGISTERED PROFESSIONAL REPORTER

STATE OF FLORIDA:
SS.
COUNTY OF MIAMI-DADE:

I, JEFFREY M. GOLDSTEIN and Registered Professional Reporter, do hereby certify that the case of H & H Investors, Inc. vs. Sarhan, Robert pending in the above-styled court, was heard before the Hon. Michael A. Hanzman, as Judge, on Thursday, June 20, 2019, and that the foregoing pages, numbered from 1 to 43 inclusive, constitute a true and correct transcription of my shorthand report of the proceedings.

IN WITNESS WHEREOF I have hereunto affixed my
hand this 26th day of June 2019.

Jeffrey M. Goldstein
Court Reporter



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Appendix 11

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CASE NO. 12-07970 CA 15

H & H INVESTORS, INC., a Florida
Corporation,

Plaintiff,

-VS-

ROBERT SARHAN, ANABELLA SARHAN
a/k/a ANABELLA SOURY a/k/a
ANABELLA AMIN ALHARES a/k/a
ANABELLA HARRIS, et al.,

Defendants.

/

TRANSCRIPT OF HEARING PROCEEDINGS

DATE TAKEN: Monday, June 17, 2019
TIME: 9:49 a.m.
PLACE: MIAMI-DADE COUNTY COURTHOUSE
73 West Flagler Street
Miami, Florida 33130
BEFORE: MICHAEL HANZMAN, Circuit Judge

This cause came on to be heard at the time and place
aforesaid, when and where the following proceedings were
stenographically reported by:

JEANNETTE ALVAREZ

1 APPEARANCES:

2
3 On behalf of the Plaintiff:
4 GASTESI, LOPEN & MESTRE, PLLC
5 8105 Northwest 155th Street
6 Miami Lakes, Florida 33016
7 (305) 818-9993
8 BY: RAUL GASTESI, JR., ESQUIRE
rgastesi@glmlegal.com
9 RUTH ACEVEDO, ESQUIRE
racevedo@gastesi@glmlegal.com

10 On behalf of the Defendants:

11 LAW OFFICE OF ARTHUR J. MORBURGER
12 19 West Flagler Street
Suite 404
13 Miami, Florida 33130
(305) 374-3373
14 BY: ARTHUR J. MORBURGER, ESQUIRE
amorburger@bellsouth.net

15 ALSO PRESENT:

16 RALPH HALIM

17

18

19

20

21

22

23

24

25

1 Thereupon,

2 the following proceedings began at 9:49 a.m.:

3 THE BAILIFF: We have two court reporters.

4 THE COURT: Why is that?

5 MR. GASTESI: Because they sued my last
6 court reporter, Your Honor. Believe it or not.

7 THE COURT: Oh.

8 MR. MORBURGER: Judge, we want to have our
9 court reporter. It's our motion.

10 THE COURT: Pardon?

11 MR. MORBURGER: It's our motion. We would
12 like to have the court reporter.

13 THE COURT: Okay.

14 All right. Let me have appearances,
15 please, on H & H Investors versus Sarhan, et al.

16 MR. GASTESI: Raul Gastesi for the
17 Plaintiff, Your Honor, my associate, Ruth Acevedo,
18 Ralph Halim, the principal of H & H.

19 THE COURT: Very good.

20 For the defense.

21 MR. MORBURGER: Arthur Morburger for Robert
22 Sarhan.

23 MR. SARHAN: Robert Sarhan.

24 THE COURT: How were you all able to secure
25 a two-hour hearing on this?

1 MR. MORBURGER: Judge, we had --

2 THE COURT: Judge Smith gave you two hours
3 on this?

4 MR. MORBURGER: Yes.

5 We had a previous hearing. And there was a
6 court reporter. We got a transcript.

7 Unfortunately, we did not know that Judge Smith
8 was not going to be here today. So we would have
9 gotten the transcript so you would know what it
10 is.

11 THE COURT: I read your motion. I don't
12 see what could possibly take anywhere close to two
13 hours. I didn't even see what I would consider to
14 be a legally sufficient motion. It's unsworn. I
15 saw his affidavit. It's all just conclusionary.
16 I haven't seen any specific piece of evidence that
17 was allegedly hidden or any false testimony that
18 was allegedly given. It looks like the matter
19 went up on appeal, not once but twice.

20 MR. MORBURGER: There was testimony at the
21 previous hearing that Judge Smith heard. And
22 based on that testimony, they decided to have a
23 long hearing.

24 THE COURT: What rule are you moving on,
25 the 1.540 (b) 3 and 4?

1 MR. MORBURGER: Judge, before I do that, I
2 would like to mention to you, remind you, of the
3 fact that you had a previous hearing with Robert
4 Sarhan.

5 THE COURT: When was that?

6 MR. SARHAN: April 15th. April 15th, 2019.

7 THE COURT: I had a hearing with you on
8 April 15th?

9 MR. SARHAN: No. Judge Rodney Smith.

10 Oh, oh, with me. Yes, Your Honor. You
11 don't remember. That's my son, which he grew
12 about two feet since you have seen him.

13 THE COURT: Okay.

14 MR. SARHAN: You were -- this is Bob Moore,
15 attorney Bob Moore, that was representing. You
16 were in juvenile.

17 THE COURT: You are talking about
18 dependency court.

19 MR. SARHAN: Yes. Juvenile dependency
20 court. You remember my son, Robert.

21 THE COURT: Okay.

22 MR. SARHAN: You don't remember him, but
23 Robert Sarhan.

24 THE COURT: Okay.

25 MR. SARHAN: And Bob Moore was the guardian

1 ad litem.

2 THE COURT: Okay.

3 MR. SARHAN: And you were -- we appreciate
4 your --

5 THE COURT: Okay. And the significance of
6 that is? Just wanted to bring it to my attention?

7 MR. MORBURGER: Just bring it to your
8 attention.

9 THE COURT: Okay. All right. Very good.

10 So tell me what particular provision of
11 Rule 1.540 we are here on today, Mr. Morburger.

12 MR. MORBURGER: I will be answering that,
13 but I would like to have the hearing be postponed
14 because from what I understand, Judge Bailey
15 notified Mr. Gastesi's associate that the hearing
16 was going to be before Your Honor last week and
17 asked Mr. Gastesi's associate to notify me. I was
18 never notified. I come in today. I'm expecting
19 to have Judge Smith.

20 THE COURT: What difference does it make?

21 MR. MORBURGER: Because I would have gotten
22 a transcript of what happened at the last hearing
23 so that Your Honor would be aware of why I had the
24 hearing today and what was heard at the previous
25 hearing. And I think that is just --

1 THE COURT: I'm going to let you have your
2 hearing, Mr. Morburger. I mean, whatever grounds
3 you were going to proceed on this morning in front
4 of Judge Smith you are free to proceed on before
5 me. I'm not delaying the hearing. I don't know
6 why you weren't told of this switch. But Judge
7 Smith is, obviously, unavailable to handle this
8 matter.

9 MR. MORBURGER: That's right.

10 THE COURT: So I have been asked to handle
11 it. I'm going to handle it.

12 My understanding is you have a foreclosure
13 sale set next week, right?

14 MR. MORBURGER: That's correct, Your Honor.

15 THE COURT: Okay.

16 MR. MORBURGER: Now, in answer to your
17 question, I would like to go over some of the
18 things that happened earlier on in the case so it
19 gives you an idea of the procedural background.

20 THE COURT: Okay. But before you do that,
21 tell me what provision under 1.540(b) you are
22 seeking relief under.

23 MR. MORBURGER: What I need to mention to
24 Your Honor is it's 1.530, not 1.540(b). And the
25 reason --

1 THE COURT: Well, 1.530 has a 15-day
2 limitation.

3 MR. MORBURGER: That's right. That's
4 exactly correct.

5 THE COURT: Did you move for
6 reconsideration? Because I'm looking at your
7 motion, emergency motion to vacate judgment. It
8 cites 1.540(b)3 and 4. It doesn't cite 1.530 at
9 all.

10 MR. MORBURGER: It is a motion for
11 rehearing that was filed within 15 days. And that
12 motion --

13 THE COURT: Of the 2017 foreclosure
14 judgment?

15 MR. MORBURGER: It was not a 20017
16 foreclosure judgment. It was December 2018
17 amended judgment that was entered. Here is the
18 amended final judgment.

19 THE COURT: Okay. When was the initial
20 final judgment entered in this case?

21 MR. MORBURGER: In July of 2017.

22 THE COURT: And it went up on appeal,
23 correct?

24 MR. MORBURGER: No. It was July -- it was
25 a December 2018 judgment that went up on appeal.

1 THE COURT: December 2018 judgment has been
2 appealed?

3 MR. MORBURGER: Yes.

4 THE COURT: I looked at the appellate
5 order. That was the fastest appeal I have ever
6 seen. They denied reconsideration in February of
7 2019. You are telling me they disposed the whole
8 appeal in six weeks?

9 MR. MORBURGER: I think so. I think so.

10 THE COURT: You think so?

11 MR. MORBURGER: Yes.

12 THE COURT: I have never known the
13 appellate court to dispose of an entire appeal in
14 six weeks. I thought what went up on appeal was
15 the 2017 judgment.

16 MR. MORBURGER: Let me see. I have the
17 initial brief.

18 THE COURT: The initial brief.

19 MR. MORBURGER: Was filed --

20 THE COURT: Which was filed by -- I guess
21 I'm looking at the --

22 MR. MORBURGER: April 24, 2018.

23 THE COURT: Well, then, obviously, it
24 wasn't December of 2018 judgment --

25 MR. MORBURGER: That's right.

1 THE COURT: -- that went up on appeal.

2 MR. MORBURGER: That's right. That's
3 right.

4 THE COURT: It was the 2017 judgment.

5 MR. MORBURGER: Right.

6 THE COURT: Right?

7 MR. MORBURGER: Right.

8 THE COURT: And that was affirmed.

9 MR. MORBURGER: Right. But --

10 THE COURT: Okay.

11 MR. MORBURGER: But there was in the
12 interim an amended judgment that was entered.

13 THE COURT: Okay. What was the purpose of
14 amended judgment, just to change some figures to
15 update the amount due?

16 MR. MORBURGER: I have no idea. I have no
17 idea.

18 MR. GASTESI: It was attorney's fees, Your
19 Honor.

20 THE COURT: Attorney's fees.

21 MR. GASTESI: Attorney's fees.

22 THE COURT: Okay.

23 MR. MORBURGER: So the amount was changed.

24 THE COURT: So you believe that when they
25 changed the amended final judgment to permit

1 attorney's fees that you had the right to file
2 another motion for reconsideration under 1.530
3 even after a plenary appeal.

4 MR. MORBURGER: Not only that, but --
5 that's right. But that's -- what happened is we
6 filed a motion within 15 days. We filed a motion
7 to allow the Third District -- have the Third
8 District enter an order allowing the lower court
9 to rule on the motion for rehearing while the
10 appeal was pending.

11 The Third District denied that motion.
12 Here. And then Judge Smith entered an order
13 saying the hearing on the motion for rehearing may
14 be heard at a later date based on the Third
15 District Court of Appeals' ruling on appellant's
16 motion for lower court to hear motion seeking
17 rehearing regarding fraud on the court claim.

18 THE COURT: So Mr. Morburger, let me save
19 you some time. I'm not entertaining any Rule
20 1.530 motion.

21 The judgment was entered back in 2017. It
22 was appealed. There was a plenary appeal. The
23 judgment was affirmed. The entry of an amended
24 final judgment which simply added attorney's fees
25 does not give you grounds to move again under

1 1.530 unless you are challenging the attorney's
2 fees portion of the judgment, which is the only
3 thing, my understanding is, was amended.

4 So are you challenging the attorney's fees
5 portion of the judgment or are you seeking to
6 vacate the judgment for other reasons?

7 MR. MORBURGER: Well, if we are seeking to
8 attack the attorney's fee part of the judgment,
9 the foreclosure sale is taking the foreclosure
10 sale based on the amount of the judgment.

11 THE COURT: Where is your motion for
12 reconsideration under 1.530? Do you have a copy
13 there?

14 MR. MORBURGER: Right here.

15 THE COURT: Okay. This is the same motion
16 I read.

17 MR. MORBURGER: That's right.

18 THE COURT: And it says you are seeking to
19 vacate the judgment due to fraud on the court
20 under 1.540.

21 MR. MORBURGER: Yes. That's true.

22 THE COURT: Okay. Where is your motion
23 under 1.530? Is there another motion that I
24 haven't seen?

25 MR. MORBURGER: I have it right here.

1 Right here.

2 THE COURT: Let me see that.

3 MR. GASTESI: Do you have a copy for me,
4 Art?

5 MR. MORBURGER: No.

6 THE COURT: Okay. This single page motion,
7 which is undated, unverified, does not cite to
8 Rule 1.530 or any other rule of civil procedure at
9 all is denied. So the motion for rehearing of the
10 amended final judgment of foreclosure is denied.

11 Now let's get on with the 1.540 motion.

12 MR. MORBURGER: Judge, there was a second
13 page. I don't have the second page.

14 THE COURT: Well, I was just looking at
15 your signature line.

16 MR. MORBURGER: No.

17 THE COURT: It says Arthur Morburger at the
18 bottom of the first page.

19 MR. MORBURGER: I don't have a second page.

20 THE COURT: It doesn't cite Rule 1.530. It
21 doesn't have a date on which it was filed.

22 MR. MORBURGER: It was filed --

23 THE COURT: And it doesn't --

24 MR. MORBURGER: -- December 27, 2018.

25 THE COURT: And it sets forth no legally

1 recognizable grounds for reconsideration, nor does
2 it address the attorney's fees, which is the only
3 thing that was amended in the judgment.

4 The judgment was issued in 2017. It was
5 affirmed on plenary appeal, and I'm not
6 entertaining any 1.530 motion to revisit it.

7 So the 1.530 motion for reconsideration or
8 rehearing is denied.

9 Now let's talk about your 1.540 motion.

10 Now, what grounds are you moving under 1.540?

11 MR. MORBURGER: Under 1.540 we are claiming
12 that the judgment that we entered was entered as a
13 result of fraud.

14 THE COURT: Fraud on the court.

15 MR. MORBURGER: Yes. 1.540(b)3 allows for
16 a motion for relief from judgment based on fraud.

17 THE COURT: Within one year.

18 MR. MORBURGER: Within one year. And it
19 was within one year.

20 THE COURT: And when did you file this
21 motion to vacate for fraud on the court?

22 MR. MORBURGER: In April of 2019.

23 THE COURT: And how is that within a year?

24 MR. MORBURGER: That's within one year of
25 the amended judgment.

1 THE COURT: So you think amending the final
2 judgment to add attorney's fees starts the clock
3 again --

4 MR. MORBURGER: Yes, it does.

5 THE COURT: -- on a 1.540(b)3 motion?

6 MR. MORBURGER: Absolutely.

7 THE COURT: Okay.

8 MR. MORBURGER: It may not do it under a
9 motion for rehearing, but certainly it would do it
10 under Rule 1.540 on an amended judgment.

11 THE COURT: Okay. So you believe if a
12 court enters a final judgment, it is not
13 challenged within a year under 1.540, and then
14 later the court amends the judgment simply to add
15 attorney's fees that that starts the 1.540 clock
16 again?

17 MR. MORBURGER: Yes.

18 THE COURT: Do you have any authority that
19 supports that proposition by any chance?

20 MR. MORBURGER: No. I don't have any
21 authority with me.

22 THE COURT: Okay. And what is the other --

23 MR. MORBURGER: But it seems to me that the
24 rule is clear on its face. The rule says its from
25 the judgment.

1 THE COURT: Well, what judgment was
2 allegedly -- when I read your motion, the judgment
3 you are claiming was procured by fraud is not the
4 2019 amended judgement, but the 2017 judgment.
5 That's where you say the fraud occurred, in the
6 trial of the 2017 case.

7 MR. MORBURGER: That's true.

8 THE COURT: Okay. So wouldn't you have an
9 obligation to bring your 1.540 motion within a
10 year of that judgment?

11 MR. MORBURGER: No. Because the judgment
12 was amended in the interim.

13 THE COURT: So you will try to find me some
14 authority that addresses that proposition.

15 MR. SARHAN: It's June 18th, 2016.

16 THE COURT: Mr. Sarhan, have a seat. You
17 are not a lawyer. You are not representing
18 yourself in this case.

19 Okay. You are free to communicate with
20 your counsel, not with the Court. Have a seat.

21 Anything you want to add to that,
22 Mr. Morburger?

23 MR. MORBURGER: I did file a -- yes. I did
24 file this yesterday. Really -- is that the -- I'm
25 sorry. Is that the --

1 THE COURT: Okay.

2 MR. MORBURGER: Here it is. I'm sorry.

3 I'm sorry, Judge. This is it.

4 THE COURT: Okay.

5 So, Counsel, you wish to be heard on the
6 timeliness of this motion?

7 MR. GASTESI: Yes, Your Honor.

8 I think the Court is right on point in your
9 argument.

10 THE COURT: Well, I don't make argument.

11 MR. GASTESI: Poor choice of words.

12 THE COURT: I make observations, but --

13 MR. GASTESI: Poor choice of words on my
14 part.

15 THE COURT: I'm not here to argue. That's
16 your job.

17 MR. GASTESI: Definitely poor choice of
18 words on my part. And I apologize. I have a
19 cold. That's why my --

20 THE COURT: Okay.

21 MR. GASTESI: Your Honor, this is -- this
22 case has been pending for seven and a half years.
23 I have filed this case in December 2012. He has
24 filed four bankruptcies. This case was tried by
25 the Court.

1 I'm going to take a quick step back. My
2 client issues two loans to the gentleman, one
3 right around --

4 THE COURT: I read all that.

5 MR. GASTESI: Okay.

6 THE COURT: I know about the 2009 case,
7 2012 case, Judge Reyes's ruling, the first appeal.
8 I have read your papers. I want you to address
9 the timeliness of this 1.540 motion.

10 MR. GASTESI: It's outside of the time
11 periods. The only thing that was -- they
12 consented to the entry of the judgment in terms of
13 the form. And I have an e-mail from Mr. Cotzen
14 where he didn't object to the form of the
15 judgment.

16 THE COURT: The 2017 judgment.

17 MR. GASTESI: Yes, Your Honor. He didn't
18 agree, you know. But he consented to the form of
19 the judgment.

20 Then when we went to that hearing on the
21 attorney's fees motion I have the transcript where
22 Mr. Morburger says, "I can't oppose it. I can't
23 oppose the entry of the judgment in good faith."

24 Every single item they asked me to take off
25 on attorney's fees, every single dollar to the

1 penny --

2 THE COURT: This amended final judgment did
3 nothing to alter the judgment other than to add
4 attorney's fees?

5 MR. GASTESI: That is my understanding,
6 Your Honor.

7 THE COURT: So all it did was increase the
8 amount of the judgment by adding the attorney's
9 fees.

10 MR. GASTESI: And some interest, et cetera.

11 THE COURT: Didn't contain any findings of
12 fact or conclusions of law that were not set forth
13 in the first judgment?

14 MR. GASTESI: No. Nothing was argued. The
15 transcript is like --

16 THE COURT: And there was no Rule 1.540
17 motion filed within a year of the initial
18 judgment?

19 MR. GASTESI: Not that I know of, Your
20 Honor.

21 Not only that, but he tried to do this, and
22 the Third District Court of Appeal said no. And I
23 believe it's Exhibit A and B to mine.

24 THE COURT: I saw the order.

25 MR. GASTESI: Yeah. So, Your Honor, my

1 bigger problem with all of this is what is going
2 on here. They are filing notices of removal
3 without cause. Mr. Morburger --

4 THE COURT: Removal for where?

5 MR. GASTESI: To federal court twice
6 without jurisdiction. He does it every time.
7 This is the -- I have a bigger problem than all of
8 this. And I have to get this off my chest, Your
9 Honor. This is the only place I can say it.

10 I do not -- I did not know my client until
11 2000 -- late 2011, 2012. I had nothing to do with
12 the 2008, 2009 loans. I was not a witness. I
13 didn't represent them. I didn't have anything to
14 do with it.

15 We litigate for seven and a half years. In
16 30 years of me practicing law no one has ever
17 filed a motion saying that I committed fraud on
18 this court. And I have been deferential to
19 Mr. Morburger for any number of reasons. And I
20 have -- I have never actually said anything
21 untoward towards him. His client I have no
22 respect for. That's my own personal opinion.

23 But Mr. Morburger, I have a real problem
24 with him putting on a motion in this court that I
25 committed a fraud on this court. I wasn't

1 involved in any way, shape, or form. That should
2 be stricken. Mr. Sarhan has --

6 MR. GASTESI: Neither do I.

19 They filed notices of -- what Mr. Sarhan
20 does is what Mr. Morburger won't file, he files.
21 In other words, Mr. Morburger is his attorney, but
22 he still files stuff pro se. He went --

23 | THE COURT: Not in this court.

24 MR. GASTESI: Not yet. Not yet. He has
25 twice cancelled the sale by filing frivolous

1 notice of removal to federal court, which he can't
2 file. So then I have got to litigate three to
3 six months in federal court, get it thrown out of
4 federal court, have to come back. And he does it
5 on the eve of the sale.

6 The case law is very clear that this Court
7 has the powers to hold Mr. Sarhan in contempt. He
8 has sued Judge Rodriguez, he sued Judge Smith, he
9 sued the court reporter, he sued me, he sued the
10 governor, he sued the director of the FBI, he sued
11 two FBI agents. He sued -- I can't think of who
12 else he sued.

13 All of this is improper moves just to
14 delay. In the meantime, he has taken the palm
15 trees. He has taken dirt from -- and all this is
16 calculated. He has filed four bankruptcies. He
17 brings his son into court, which borders on child
18 abuse. He is going to get up here in five minutes
19 and start crying to you about saving his house.

20 This is par for the course. He does this
21 every single time. And I'm at my wits end as to
22 what to do to stop these delays. I don't know
23 what else I can do. I do everything properly,
24 timely. And I really take offense to being
25 accused of committing a fraud on this court.

1 Never once in my file I have done anything
2 like that, and I would never do it. And for
3 Mr. Morburger to sit there and put that in a
4 pleading -- because before Mr. Sarhan was putting
5 it in pleadings, and I was ignoring it. But now
6 Mr. Morburger is letting himself be -- have those
7 pleadings used.

8 Mr. Sarhan and that lady over there, a
9 disbarred lawyer, are putting these pleadings
10 together, and Mr. Morburger is putting his
11 signature on it.

12 SPEAKER: Why are you pointing the finger
13 at me?

14 MR. SARHAN: Your Honor --

15 THE COURT: Sit down. Have a seat.

16 MR. SARHAN: I want to speak, sir.

17 THE COURT: Have a seat.

18 Let me tell you something, Mr. Morburger.
19 You better tell your client this is not going to
20 turn into a circus. I don't know what has been
21 going on in this case before for the last 10
22 years, but it is not going to turn into a circus
23 today. Okay?

24 MR. SARHAN: Your Honor, I'm not.

25 THE COURT: Because --

1 MR. SARHAN: No disrespect to Your Honor,
2 but I want to speak myself --

3 THE COURT: Mr. Sarhan, Mr. Sarhan --

4 MR. SARHAN: -- please.

5 THE COURT: -- I am ordering you to not
6 say another word. If you violate that order, you
7 will been taken out of here in handcuffs. Do you
8 understand me?

9 MR. SARHAN: Yes, sir.

10 THE COURT: Not another word until and
11 unless you are on the witness stand testifying.
12 Do you understand me?

13 MR. SARHAN: Yes, Your Honor.

14 THE COURT: Okay. Now, Mr. Morburger, I
15 find that your Rule 1.540 motion under (b) 3 and 4
16 is clearly untimely.

17 MR. MORBURGER: Judge, can I make a comment
18 on that? I didn't answer the question you
19 previously asked. I would like to answer the
20 question.

21 THE COURT: Okay. The judgment in this
22 case was in July of 2017. The entry of an amended
23 judgment adding attorney's fees does not start the
24 clock again under Rule 1.504(b) 3 or 4 for your
25 motion. I find it untimely. It will be denied on

1 that basis.

2 Now, I will let you go forward so I can
3 hear what the merits were going to be. And maybe
4 I will deny it alternatively on the merits as well
5 so you will have all the issues preserved. But it
6 is an untimely Rule 1.540(b) motion. It was not
7 filed within a year of the entry of the judgment
8 that it challenges.

9 And like I said before, the entry of an
10 amended judgment simply adding attorney's fees
11 does not start the clock over again. Your client
12 had one year to file a 1.540(b) motion. He did
13 not do it. And I have no jurisdiction to
14 entertain it at this point.

15 The only motion I can entertain after a
16 year would be claiming the judgment is void, which
17 this was clearly not. So that disposes with the
18 1.540(b) motion.

19 What do you want to tell me?

20 MR. MORBURGER: I just wanted to tell you
21 that the motion for rehearing and the motion to
22 vacate the judgment were both based on the same
23 grounds. They were both based on a statement that
24 was made in the answer brief on appeal. The
25 answer brief was filed less than a year before the

1 motion for rehearing was filed.

2 THE COURT: Rule 1.540 is not directed to
3 answer briefs. It's corrected to final judgments
4 and orders of the court. And you have one year to
5 file it from the entry of the final judgment or
6 order that is being attacked. It doesn't have --
7 there is no rule of civil procedure for fraud in
8 an answer brief.

9 MR. MORBURGER: That may be the case. But
10 if that is the case that there is no procedure
11 that you can follow in order to file a motion for
12 rehearing for fraud that that would be
13 unconstitutional, it would be denial of due
14 process to do that since we are entitled, it seems
15 to me, to have a court hear a case without fraud.
16 If there is fraud, fraud is the basis to have the
17 judgment set aside if it's based on fraud.

18 And that would be --

19 THE COURT: So tell me what -- I disagree
20 with you. But tell me -- since I read this motion
21 and I have read it carefully I think two or three
22 times, this 11-page motion -- what is the fraud
23 that allegedly occurred here.

24 MR. MORBURGER: The fraud that allegedly
25 occurred is the fraud in the answer brief that

1 begins on Page 1.

2 THE COURT: Fraud in an answer brief.

3 MR. MORBURGER: Yes.

4 THE COURT: Okay. And what is the
5 fraudulent statement in the answer brief?

6 MR. MORBURGER: In 2006, the appellant, H &
7 H Investors provided a commercial second mortgage
8 loan to Dr. Robert Sarhan for his tree farm for
9 the purpose of repairing the sprinkler system,
10 installing a new drip system, and investing in
11 additional tree stock. That is fraud. Because
12 the funds that were provided were provided for
13 improving the home, making repairs on the home.
14 And none of that money was used for the purpose
15 mentioned in the brief.

16 And what is the significance of that, the
17 significance of that is --

18 THE COURT: Do you have any authority that
19 says I could set aside -- even assuming it were
20 timely, do you have authority suggesting that I
21 can set aside a final judgment of this court under
22 1.540(b)3 for what you claim to be a misstatement
23 contained in an appellate brief?

24 MR. MORBURGER: No, I don't.

25 THE COURT: Because, obviously, the

1 statement made in the appellate brief did not
2 constitute or form this Court's final judgment
3 since it wasn't even made at the time.

4 MR. MORBURGER: But you cannot file such a
5 motion in the Third District. So there is no
6 place to file it other than in circuit court.

7 THE COURT: Okay.

8 MR. MORBURGER: That's the problem.

9 THE COURT: If that's the basis of your
10 motion, it's denied both as untimely and on the
11 merits. The record is now preserved.

12 Okay. What else do we have for today?

13 MR. GASTESI: Your Honor.

14 THE COURT: We have foreclosure going
15 forward on July 25th. What else is set for today?
16 You have a motion --

17 MR. GASTESI: I have a motion.

18 THE COURT: -- to declare Mr. Sarhan a
19 vexatious litigant?

20 MR. GASTESI: Yes, Your Honor. I have
21 never filed such a motion.

22 THE COURT: Okay. He is represented by
23 counsel in this case, is he not?

24 MR. GASTESI: In this case. But what he
25 does is he does something different. In other

1 words, if he is going to file something through
2 counsel, that's one thing. If he is going to file
3 something through counsel, that's one thing. My
4 problem with it is if he is going to file
5 something himself. Because he does it by himself.
6 He files these notices of removal. Mr. Morburger
7 --

8 THE COURT: Has he filed anything before me
9 by himself? I mean, the notice of removal is
10 filed where?

11 MR. GASTESI: Here.

12 THE COURT: It's filed here.

13 MR. GASTESI: Yes. In your court. He has
14 done it twice. What he does is -- what happens is
15 because of the rules, when you file a notice of
16 removal, the Court pretty much loses jurisdiction.
17 And I have got to go back to federal court. And
18 unless and until I go back to federal court I
19 can't come back here and get my sale set. He has
20 done it twice without basis.

21 The case law is clear in federal court that
22 this court has jurisdiction, but it comes back.
23 To hold him in contempt for doing that. And
24 also --

25 THE COURT: Well, I can't hold him in

1 contempt unless he violates one of my orders.

2 MR. GASTESI: Well, no, no, no.

3 THE COURT: How do I hold him in contempt
4 for filing a motion to remove a case, a removal?
5 If he violates an order of this court I can find
6 him in contempt --

7 MR. GASTESI: Well, no.

8 THE COURT: -- by issuing an order to show
9 cause and going through appropriate procedures.
10 But I can't just because he filed a removal notice
11 in federal court hold him in contempt.

12 MR. GASTESI: I disagree with that, Your
13 Honor. And let me tell you why. And I don't make
14 a living telling you, Judge, I disagree just like
15 that. But I do in this case. The case law is
16 clear that if a defendant abuses the notice of
17 removal statute that the court, the state court,
18 can hold him in contempt for having filed
19 frivolous pleadings and denied, you know, due
20 process in the court.

21 THE COURT: Without issuing an order to
22 show cause.

23 MR. GASTESI: Okay. Okay. Fair enough.

24 THE COURT: I can just say, you are in
25 contempt for filing a removal petition.

1 MR. GASTESI: That's different, Your Honor.

2 I see your point. Now I see your point. Yes. I
3 believe the Court has to issue an order to show
4 cause to give him a chance to show cause why he
5 shouldn't be held in contempt.

6 But in the meantime because of his conduct
7 -- and I can -- Judge, I can go through 25 minutes
8 of misconduct in this court and things he has
9 done -- I believe the Court should tell him --

10 THE COURT: But tell me the relief you are
11 seeking today. You want -- you are filed a
12 motion --

13 MR. GASTESI: I want two things.

14 THE COURT: -- I think it's to declare him
15 a vexatious litigant.

16 MR. GASTESI: Yes, Your Honor.

17 THE COURT: And what does that do? Let's
18 assume that you were to prevail on that, and I
19 were to declare Mr. Sarhan to be a vexatious
20 litigant, what would the relief be?

21 MR. GASTESI: He cannot file a pleading
22 unless he is represented by counsel on the
23 attorney files. That's all I want, Your Honor.
24 It's a very simple thing. He has got to do it
25 through an attorney. Because an attorney won't do

1 what he asks him to do. Because it would be
2 unethical and he would get disbarred for it.

3 I have a huge issue with Mr. Morburger just
4 did. But much less, going forward, he is going to
5 do it again. He has filed I don't know how much
6 frivolous claims, lawsuits, and everything else.
7 All of them, all of them without the assistance of
8 counsel -- or counsel, at least, admitted to the
9 Florida Bar. Let's put it that way. That's what
10 he is going to do.

11 THE COURT: So you want an order finding
12 him to be a vexatious litigant and enjoining him
13 from filing any pro se pleadings in this court.

14 MR. GASTESI: Yes, Your Honor.

15 THE COURT: Okay. I mean, I don't think I
16 can enjoin him from filing pleadings in other
17 courts. How do I do that?

18 MR. GASTESI: I don't disagree with you.

19 THE COURT: I have no jurisdiction to say
20 he can't file a federal lawsuit.

21 MR. GASTESI: I don't disagree.

22 THE COURT: If the District Court feels he
23 is vexatious and they want to preclude him from
24 filing actions in federal court, that's up to
25 them. I can't --

1 MR. GASTESI: I agree.

2 THE COURT: -- enjoin somebody from filing
3 something other than in our court.

4 MR. GASTESI: Yes. If he wants to go file
5 something in federal court again, then I don't
6 believe this court has the power to do that. But
7 to file something in this court in this case, it
8 has to be through an attorney. It's time.

9 Enough. It's been seven and a half years of
10 foreclosure pleadings.

11 I had a judgment over two and a half years
12 ago. And by the way, this case got appealed once.
13 I don't know if you the Court remembers, this case
14 -- this is a 2012 case. There is a 2009 case.

15 . What happened was that he entered into a
16 stipulation in the 2009 case. The stipulation did
17 not say, unfortunately --

18 THE COURT: There is no retention of
19 jurisdiction.

20 MR. GASTESI: No retention of jurisdiction
21 to foreclose.

22 THE COURT: So the appeal was -- the order
23 was reversed on the procedural, right?

24 MR. GASTESI: Exactly.

25 THE COURT: He came back and brought a

1 foreclosure action.

2 MR. GASTESI: We are 10 plus years into
3 this. Enough.

4 THE COURT: Okay.

5 MR. GASTESI: So that's what I would like
6 to do.

7 THE COURT: So tell me what kind of
8 evidence you want to present? How do you see this
9 hearing going on your motion to declare him a
10 vexatious litigant and enjoin him from filing
11 pleadings in the court? Is this an evidentiary
12 hearing.

13 MR. GASTESI: I would believe so.

14 THE COURT: You have attached a number of
15 court orders, a number of filings, a number of
16 final judgments.

17 MR. GASTESI: I think the Court can take --

18 THE COURT: I don't know if I can take
19 judicial notice of those or not. But do you
20 foresee this being an evidentiary hearing?

21 MR. GASTESI: Yes, Your Honor. If we are
22 going to have him declared a vexatious litigant,
23 yes. This has to stop.

24 I know how unpleasant it is. I have never
25 had to do this before. But I'm telling you, if

1 not, we are going to be right back here between
2 now and 25th on God knows what motion. Not filed
3 by Mr. Morburger, but filed by Mr. Sarhan and God
4 knows who else is helping him back there, none of
5 which will sign the pleading.

6 That's the reason why we are here.

7 THE COURT: All right. So you want to go
8 forward on your motion.

9 MR. GASTESI: I would like to have him
10 declared a vexatious litigant.

11 MR. MORBURGER: Judge, on that --

12 THE COURT: Mr. Morburger.

13 MR. MORBURGER: -- I think that Mr. Sarhan
14 has the ability to speak for himself.

15 MR. GASTESI: When he takes the stand.

16 THE COURT: No. He is represented in this
17 case.

18 MR. MORBURGER: But in this case they are
19 asking him not to appear pro se; that he is a
20 vexatious litigant. He should be able to be heard
21 on that point.

22 THE COURT: Not if he is represented by
23 counsel on that matter. Are you defending him on
24 the motion?

25 MR. MORBURGER: No. I'm not defending him

1 on that motion. That's a motion that he has to
2 have heard himself.

3 THE COURT: You are his counsel.

4 MR. MORBURGER: Not on that motion.

5 THE COURT: You are his counsel of record.
6 People -- lawyers don't appear for --

7 MR. MORBURGER: I'm not --

8 THE COURT: I'm representing him on some
9 motion, not the next motion.

10 Either withdraw or represent him. He is
11 your client in this case. I don't allow lawyers
12 to go in and out of cases motion by motion,
13 Mr. Morburger. You are either his counsel or you
14 are not.

15 MR. MORBURGER: The trouble is that they
16 are arguing that he can't appear pro se, pro se.

17 THE COURT: Correct.

18 MR. MORBURGER: Which means without
19 counsel.

20 THE COURT: Right.

21 MR. MORBURGER: So he should be able to
22 argue.

23 THE COURT: You can defend his right to
24 appear pro se.

25 First of all, first of all, he clearly

1 can't appear pro se when he has counsel in the
2 action.

3 MR. MORBURGER: That's true.

4 THE COURT: So either he has to discharge
5 you and then decide whether he wants to represent
6 himself pro se and defend his right to do so.

7 MR. MORBURGER: Right.

8 THE COURT: As long as he has you as
9 counsel in this case, he is not pro se. He has
10 counsel. And counsel will represent him.

11 MR. MORBURGER: If he were to discharge me
12 as the attorney, then he would appear pro se. And
13 if --

14 THE COURT: If and when he discharges you
15 as his attorney, he can defend himself pro se
16 against this motion. While you are his attorney
17 of record, you will defend him on this motion.

18 MR. MORBURGER: Well, then that motion that
19 he is making that he is a vexatious litigant is
20 moot because I'm representing him.

21 THE COURT: Well, I'm told -- and you tell
22 me if I'm wrong -- that despite your
23 representation of him in this case, he filed
24 things on his own. Is that not true? Has he not
25 filed removal petitions in an attempt to devest

1 this court on his own while he was represented by
2 counsel.

3 MR. MORBURGER: That was filed in federal
4 court, those vexatious --

5 THE COURT: No. Notices of removal are
6 filed in this court.

7 MR. MORBURGER: They are filed in this
8 court only because they were filed in federal
9 court.

10 THE COURT: They are still filed in this
11 court. A notice of removal is filed in the
12 Clerk's Office of this court. Now, is he filing
13 notices and pleadings in this court on his own
14 while you are his counsel? Has that been
15 happening?

16 MR. MORBURGER: As far as I know, he has
17 not.

18 THE COURT: Has that been happening?

19 MR. MORBURGER: As far as I know, he has
20 not.

21 THE COURT: As far as you know, he has not.
22 So you are not aware -- hold on.

23 MR. MORBURGER: No.

24 THE COURT: You are representing to me that
25 you are not aware of any filings that Mr. Sarhan.

1 has made on his own during the time in which you
2 have represented him as counsel.

3 MR. MORBURGER: Right.

4 THE COURT: Okay.

5 MR. MORBURGER: I have no idea.

6 THE COURT: Since Mr. Morburger has been
7 representing him as counsel in this case, has
8 Mr. Sarhan filed any pleadings or notices on his
9 own pro se?

10 MR. GASTESI: Yes. He has filed notices of
11 removal. Either that or --

12 THE COURT: During the time Mr. Morburger
13 has been counsel of record?

14 MR. GASTESI: Yes. In addition --

15 THE COURT: Okay. So what about that,
16 Mr. Morburger? Are you claiming to me that you
17 are just ignorant of those? You don't know that
18 your client has been filing notices of removal
19 while you are counsel of record in this case?

20 MR. MORBURGER: Obviously, he hasn't been
21 serving me with copies.

22 THE COURT: He hasn't. So you are not
23 aware of these notices of removal. No?

24 MR. MORBURGER: No.

25 MR. GASTESI: Wow, Your Honor. I'm in

1 shock. I'm in shock.

2 THE COURT: Mr. Sarhan.

3 MR. SARHAN: Yes, Your Honor.

4 THE COURT: I told you before, if you say
5 one word to me --

6 MR. SARHAN: Yes, sir.

7 THE COURT: -- other than when you take the
8 stand while you are represented by counsel --

9 MR. SARHAN: Yes, Your Honor.

10 THE COURT: -- I'm holding you in
11 contempt.

12 MR. SARHAN: I apologize.

13 THE COURT: Sit down.

14 MR. SARHAN: Yes, sir.

15 MR. GASTESI: Okay. A couple of things,
16 Your Honor.

17 THE COURT: Now, where are the notices of
18 removal? Do you have copies of them? I would
19 like to see the dates on which they were filed and
20 see if Mr. Morburger --

21 MR. GASTESI: We would have to pull them up
22 on the docket, Your Honor. I had no idea that
23 this was ever --

24 THE COURT: What dates were they filed?
25 Don't you have the docket?

1 MR. GASTESI: Okay. I have one here, Your
2 Honor. Sorry. I did not anticipate this,
3 something as basic as this. I have a notice of
4 removal filed --

5 THE COURT: When?

6 MR. GASTESI: It looks like it was filed
7 January 28, 2019 in federal court.

8 THE COURT: The notice of removal?

9 MR. GASTESI: Yes, Your Honor. It was
10 filed on --

11 THE COURT: Filed with the Clerk's Office
12 here.

13 MR. GASTESI: No. This is the one that --
14 it's so unorthodox the way he does it, it's hard
15 for me to explain.

16 THE COURT: Well, it has to be on our
17 docket sheet.

18 MR. GASTESI: It should be, Your Honor. I
19 am trying to pull it up. I didn't expect I would
20 have to argue this.

21 I really never would have anticipated that
22 Mr. Morburger would deny something like that. I
23 can't tell you how much in shock I am.

24 He has also filed pleadings -- let me
25 explain what else Mr. Sarhan has done when

1 Mr. Cotzen was representing him. Mr. Morburger is
2 his third lawyer on this file alone, plus two
3 others before.

4 THE COURT: I'm not worried about that. I
5 want to know if Mr. Sarhan has been filing pro se
6 notices and filings during the time Mr. Morburger
7 was his counsel of record.

8 MR. GASTESI: Okay.

9 THE COURT: That's what I want to know.

10 MR. GASTESI: I can assure this Court that
11 he was filing them. We are looking them up as we
12 speak. But there is also one other filing that he
13 made when he was being represented in this case by
14 another attorney. He filed -- what happened was
15 we won at trial. Judge Rodriguez granted our
16 motion in limine to bar presentation of evidence
17 about fraud, about his home, about everything
18 else.

19 THE COURT: Through stipulation.

20 MR. GASTESI: Exactly.

21 THE COURT: Okay.

22 MR. GASTESI: So then when Judge Rodriguez
23 does that, they filed a motion for rehearing. In
24 the pendency between the date of the motion, the
25 date of the final judgment -- the date of the

1 filing of something, I forgot what it was, and the
2 motion for rehearing, Mr. Sarhan wanted Judge
3 Rodriguez recused because I'm Cuban, he is Cuban,
4 and God knows what ridiculous statement he was
5 basing it on.

6 He walked over to Judge Bailey's chambers,
7 told Judge Bailey that Judge Rodriguez needed to
8 be recused. Then walked over to Judge Rodriguez's
9 chambers and told Judge Rodriguez that Judge
10 Bailey said you have to recuse yourself. This is
11 all on this motion for recusal of Judge Rodriguez
12 that Mr. Sarhan filed. Not Mr. Cotzen.

13 Mr. Cotzen would never file anything like that.

14 Then Judge Rodriguez has to recuse himself
15 not so much because of the motion, but because he
16 was so angry at the baseless and false accusations
17 that were contained in that motion about me and
18 Judge Rodriguez.

19 So he has filed another ridiculously
20 baseless motion in this court while represented by
21 counsel, which triggered Judge Rodriguez removing
22 himself or recusing himself from the case delaying
23 the case.

24 THE COURT: Let me ask you a question. Why
25 would I have to find him to be a vexatious

1 litigant in order to enjoin him from filing pro se
2 matters while he is represented by counsel? Isn't
3 that the law; that if you are represented by
4 counsel, your filings only go through your lawyer?

5 MR. GASTESI: I believe that to be the
6 case.

7 THE COURT: I think so.

8 MR. GASTESI: But he does it anyway.

9 THE COURT: He does it anyway.

10 MR. GASTESI: Does it anyway.

11 THE COURT: Well, if enjoin him from doing
12 it, if I said to him today, "I'm ordering that you
13 not file anything pro se at any time while you are
14 represented by counsel," and he violates that,
15 then he could be in contempt, correct?

16 MR. GASTESI: Yes. But then he will fire

17 --

18 THE COURT: Then he will theoretically be
19 in indirect criminal contempt.

20 MR. GASTESI: Yes.

21 THE COURT: He can theoretically served up
22 to a year in jail, correct?

23 MR. GASTESI: Yes.

24 THE COURT: Okay. So getting back to my
25 question then, why do I have to decide whether he

1 is a vexatious litigant? If he is represented by
2 counsel, whether he is a vexatious litigant or
3 not, he is precluded from filing pro se filings.

4 MR. GASTESI: Fair enough. As long as --

5 THE COURT: So why do I have to go down the
6 road of whether he is vexatious or not?

7 MR. GASTESI: Let me explain. Because my
8 concern is -- and I will tell you what my concern
9 is, and I will tell you what I think the solution
10 is. My concern is that when we walk outside that
11 door, he going to fire Mr. Morburger. He is going
12 to fire him. Now --

13 THE COURT: Okay.

14 MR. GASTESI: What I would like is
15 Mr. Morburger stays in this case until a proper
16 motion to withdraw is filed and a proper order
17 granting the motion to withdraw.

18 THE COURT: No lawyer can get out of a case
19 without my order.

20 MR. GASTESI: Thank you.

21 THE COURT: Clients can't just get layers.
22 They can purport to terminate lawyers. But
23 whether a lawyer is allowed to withdraw in a case
24 is up to me.

25 MR. GASTESI: Thank you.

1 THE COURT: So I do I need to determine
2 whether he is a vexatious litigant at this
3 point --

4 MR. GASTESI: Not --

5 THE COURT: -- while he is not representing
6 himself pro se?

7 MR. GASTESI: This is my response to that.
8 I will keep -- I don't think you need to make a
9 decision today as long as it's not interpreted in
10 the record that I'm withdrawing the motion. But
11 if the Court -- if we enter an order that the
12 Court states that he cannot file any motion, that
13 he cannot file any pleadings or motions without
14 them being filed by his lawyer, until his lawyer
15 withdraws, and he is enjoined from doing it based
16 on your instructions earlier, I'm okay. And I
17 don't believe we need to go forward with the
18 vexatious litigation hearing.

19 THE COURT: Well, I would like you to tell
20 me whether it is, in fact, the law or the rules of
21 this Court that litigants represented by counsel
22 are not permitted to file pro se filings. There
23 has to be some Bar rule or case or something on
24 that, doesn't there?

25 MR. GASTESI: I don't know that answer off

1 the top of my head, Your Honor.

2 THE COURT: I'm pretty sure that is, but I
3 would like it confirmed.

4 MR. GASTESI: No. I believe that is the
5 law.

6 THE COURT: You have people that can help
7 you with some research.

8 MR. GASTESI: I believe --

9 THE COURT: Why don't you take a look at
10 it. Okay?

11 MR. GASTESI: If we can -- we can do that.

12 THE COURT: Mr. Morburger, does your client
13 intend to file pro se pleadings while you are his
14 counsel of record?

15 MR. MOREBURGER: I can't --

16 THE COURT: If he does, I'm going to enter
17 an order precluding that.

18 MR. MOREBURGER: I can't speak for him. But
19 certainly as far as I'm concerned, I would
20 instruct him not to do so.

21 THE COURT: Now I want to make clear of
22 something, Mr. Morburger. You are telling me as
23 an officer of this court that you are unaware of
24 your client having filed pro se filings, including
25 removal petitions in this court, while you have

1 been his counsel of record. That is your
2 representation to me?

3 MR. MORBURGER: As best I can recall.

4 THE COURT: As best you can recall.

5 MR. MORBURGER: Yes.

6 THE COURT: So when did you find out that
7 your client had filed pro se removal petitions
8 during the time in which you represented him?

9 MR. MORBURGER: I knew that there had been
10 removal petitions filed previously. But I did not
11 recall him having filed a notice of removal while
12 I represented him. I'm sure that there was a
13 notice of removal filed with regard to one of the
14 petitions for removal. But whether it was done --

15 THE COURT: How long have you been counsel
16 of record this in case?

17 MR. MORBURGER: I don't know.

18 THE COURT: When did you appear in this
19 case?

20 MR. MORBURGER: I think a year.

21 THE COURT: A year?

22 MR. MORBURGER: I don't know.

23 THE COURT: Mr. Sarhan, I asked your lawyer
24 something.

25 He is not going to be happy until I have

1 him cuffed and hauled out of here, are you?

2 | Sit down.

10 THE COURT: In the Third District.

13 THE COURT: Okay.

14 MR. GASTESI: Your Honor, if you look at
15 . the docket on January 9, 2018, it seems to be
16 pleading Number 127 -- wait -- 128 I believe it
17 is. The removal to federal court was filed in
18 this court.

19 THE COURT: On what date?

20 MR. GASTESI: That appears to be --

21 THE COURT: January 28th.

22 MR. GASTESI: January 9, 2018.

23 THE COURT: 2018?

24 MR. GASTESI: Yes. I am looking at it
25 right here.

1 MR. MORBURGER: Which was not served by me.

2 THE COURT: Would that be when he was
3 represented by Mr. Morburger?

4 MR. GASTESI: He was represented. Yes, he
5 was.

6 MR. MORBURGER: I was representing him.

7 MR. GASTESI: Mr. Morburger -- I'm sorry,
8 Your Honor. This is uncomfortable for me. And I
9 really wish that Mr. Morburger would reconsider
10 his answers to the Court.

11 I think you have a golden opportunity to
12 reconsider your answers. That Mr. Morburger -- I
13 don't want to talk to Mr. Morburger. I want to do
14 it through the Court.

15 I really think Mr. Morburger should
16 reconsider his answers to the Court, Your Honor.
17 It's just not candid. And I don't take that
18 lightly, Your Honor. I don't. I have never done
19 this in a courtroom before, accusing another
20 lawyer of something like this. But this was
21 ridiculous. This is just completely out of bounce
22 and out of line, what is going on here. He has
23 filed two of them in this case.

24 THE COURT: Two notices of removal?

25 MR. GASTESI: Yes, Your Honor. He really

1 has.

2 THE COURT: One in '18 and one in '19.

3 MR. GASTESI: Yes, Your Honor.

4 THE COURT: You told me about one in
5 January 28, 2019.

6 MR. GASTESI: Yeah. But he filed another
7 one before that.

8 THE COURT: In 2018.

9 MR. GASTESI: He has done it to us twice.

10 MR. MORBURGER: I don't think I was
11 representing him in regard to the first one. I
12 don't think I was representing.

13 MS. ACEVEDO: Your Honor, if I may,
14 Mr. Morburger started representing Mr. Sarhan
15 shortly after the final judgment was entered and
16 the case was still before Judge Rodriguez.

17 MR. GASTESI: Yes.

18 MS. ACEVEDO: So the case -- this has been
19 almost three years, and Mr. Morburger has
20 commenced representing him by --

21 THE COURT: And Mr. Morburger filed the
22 recusal motions you mentioned to me earlier or
23 were those --

24 MR. GASTESI: No.

25 THE COURT: -- filed pro se?

1 MR. GASTESI: No. Those were filed by
2 Mr. Sarhan.

3 THE COURT: Pro se. So we have a pattern
4 in this case --

5 MR. GASTESI: Yes.

6 THE COURT: -- of Mr. Sarhan filing
7 proceedings and motions pro se while he is
8 represented by counsel.

9 MR. GASTESI: Yes, Your Honor.

10 THE COURT: Okay. Well, that's going to
11 come to an end.

12 MR. GASTESI: Thank you.

13 THE COURT: Now, Mr. Morburger --

14 MR. MORBURGER: I was not representing him
15 at the time.

16 THE COURT: -- I am entered an order that
17 Mr. Sarhan is enjoined from filing any motions,
18 pleadings, correspondence or other materials in
19 this court during which time he is represented by
20 counsel. While he is represented by your office,
21 all filings, pleadings, motions, letters of any
22 type that are filed in this case in this court are
23 to be under your letterhead. Is that understood?

24 MR. MORBURGER: That's perfectly --

25 THE COURT: That is a direct order to

1 Mr. Sarhan. If he violates that order, I will
2 issue an order to show cause as to why he should
3 not be held in indirect criminal contempt. And if
4 I find him in contempt for willfully violating the
5 order and he does not present any excusing or
6 mitigating circumstances, he faces up to one year
7 in the Dade County Jail.

8 And I'm sure you will make him well aware
9 of that. So while you are counsel of record,
10 there better not be any filings in this court,
11 whether they be removal petitions, recusal
12 motions, correspondence, pleadings, motions for
13 rehearing. Any filings in this court are to be
14 under your letterhead. Understood?

15 MR. MORBURGER: Perfectly understood.

16 THE COURT: And you make it very clear to
17 Mr. Sarhan who is here today that if he files one
18 thing in this court that is not on your
19 letterhead, he will be met with an order to show
20 cause as to why he shouldn't be held in indirect
21 criminal contempt. And you will explain to him
22 what the consequences of that are. Okay?

23 MR. MORBURGER: Yes, Your Honor.

24 THE COURT: Now, the motion for relief
25 under 1.530 is denied. The motion for relief

1 under 1.540 is also denied.

2 The Court finds both motions to be
3 untimely. They were not filed within the time
4 prescribed by the Rules of Civil Procedure. And
5 the entry of an amended final judgment of
6 foreclosure post appeal does not restart the
7 clock.

8 The motions are also denied on the merits
9 as being legally insufficient on their face.

10 So all post motions -- all postjudgment
11 motions are denied both as untimely and on the
12 merits.

13 The foreclosure sale of this property
14 scheduled for July 25th will go forward. And
15 there will be no activity in this court taken in
16 an effort to impair, delay that foreclosure sale.

17 If there are activities taken by Mr. Sarhan
18 in any way, shape, or form designed to interfere
19 with this Court's final judgment of foreclosure,
20 they will be met with an order to show cause.

21 Okay. Anything else for the good of the
22 order today?

23 MR. GASTESI: Your Honor, I was going to
24 get a blank order and have it written up right
25 now. I can take it to your chambers. However the

1 court --

2 THE COURT: However you want to do it. My
3 ruling is on the record. But it in an order. And
4 the order will advise the Clerk's Office that they
5 are to accept no filings from Mr. Sarhan of any
6 type while he is represented by counsel.

7 SPEAKER: Your Honor, may I speak?

8 THE COURT: Who are you?

9 SPEAKER: I'm a court watcher.

10 THE COURT: You are a what?

11 SPEAKER: I'm a court watcher.

12 THE COURT: You're a court watcher.

13 SPEAKER: Yes.

14 THE COURT: Okay. I don't hear from court
15 watchers.

16 MR. SARHAN: I'm discharging my attorney.
17 Can I please speak for a minute. I'm discharging
18 him. Can I please -- give me one minute.

19 THE COURT: You are discharging your
20 attorney.

21 MR. SARHAN: Please. Please.

22 THE COURT: Okay. You are discharging.

23 We will be in recess for a minute. You
24 decide what you want to do.

25 MR. SARHAN: I did already.

1 THE COURT: If we --

2 MR. SARHAN: If you won't let me speak,

3 then I want to discharge him because I have

4 something very important to say.

5 THE COURT: If you discharge your lawyer --

6 MR. SARHAN: Please.

7 THE COURT: Let me explain something.

8 MR. SARHAN: Can I just explain to you what

9 the truth is?

10 THE COURT: Mr. Sarhan, let me explain

11 something to you.

12 I'm going to take a recess. If you

13 discharge your lawyer, we are going to go forward

14 with counsel's motion to have you declared a

15 vexatious litigant and preclude you from

16 representing yourself.

17 Now, if you decide to discharge him, I'm

18 not delaying any orders of this court based upon

19 your decision. It is not going to delay your

20 foreclosure sale. It is not going to impact these

21 proceedings. I will either let you proceed pro

22 se, or if I declare you to be a vexatious

23 litigant, I will preclude you from doing that.

24 But it's not going to affect the outcome of the

25 foreclosure sale. Do you understand me?

1 MR. SARHAN: Yes, Your Honor.

2 THE COURT: So you have to be very careful
3 when you make your decision. We will take a
4 recess.

5 MR. SARHAN: No, Your Honor.

6 THE COURT: I will be back in --

7 MR. SARHAN: I don't need a recess, Your
8 Honor. I just want to say one thing.

9 THE COURT: I need a recess, and we are
10 going to take one.

11 Now, if you decide you want to discharge
12 your lawyer --

13 MR. SARHAN: Yes.

14 THE COURT: -- keep in mind you may not be
15 able to hire another one. And if I declare that
16 you are a vexatious litigant and cannot represent
17 yourself pro se, that's the end of the ball game.
18 You are done. Okay? So you be very -- you think
19 about it during the recess whether you want to
20 fire your lawyer. And I will be back in 10
21 minutes.

22 We will be in recess for 10 minutes.

23 (Recess in Proceedings from 10:37 a.m. to 10:51 a.m.)

24 MS. REED: I'm Patty Reed, and I would like
25 for the record to reflect that in the interest of

1 justice, we feel you should disqualify yourself.

2 The people have voted, and we have all teamed --

3 THE COURT: Ms. Reed, Ms. Reed, have a
4 seat.

5 Okay. Mr. Sarhan.

6 MR. SARHAN: Yes, sir. Can I speak?

7 THE COURT: Do you wish to terminate your
8 counsel?

9 MR. SARHAN: Yes. Well, Your Honor, I
10 would like to ask you a question first.

11 THE COURT: Before you do that --

12 MR. SARHAN: May I ask you a question
13 first?

14 THE COURT: Before you make a decision to
15 terminate your counsel?

16 MR. SARHAN: Yes. I want to ask you a
17 question.

18 THE COURT: You want to ask me a question?

19 MR. SARHAN: Yes, sir. Yes, Your Honor.

20 THE COURT: What is your question?

21 MR. SARHAN: Okay, Your Honor. The
22 question is simple. I want to call you to the
23 stand, sort to say, because you were my judge
24 about eight years or nine years ago in this case.
25 I mean, in the case of the guardianship case of my

1 son. You were the judge. And you have records.

2 THE COURT: What is your question,

3 Mr. Sarhan?

4 MR. SARHAN: I'm getting to it. You were
5 represented -- you were the judge in my case in
6 the juvenile court. And in those records show
7 that same address was my home. What I'm trying to
8 ask you is this: If these people -- if you won't
9 give me a chance to speak, this whole time you
10 won't let me speak, these people are committing
11 fraud in your court against you. They are lying,
12 and I can prove it if you give me the chance. All
13 I'm asking for is my home of 25 years. Just give
14 me a five minutes to explain. I can prove
15 everything to you.

16 THE COURT: Mr. Sarhan, are you discharging
17 your counsel or not?

18 MR. SARHAN: I'm a little scared to because
19 you threatened me. You threatened to say that if
20 I do discard him -- I don't understand why he
21 can't be my counsel and you don't allow me to
22 speak. Because I think that he as a counsel would
23 give me the right to speak. But you won't allow
24 me to speak.

25 THE COURT: Mr. Sarhan.

1 MR. SARHAN: I'm trying to defend my home.

2 THE COURT: I'm not denying your right to
3 speak.

4 MR. SARHAN: But you are denying --

5 THE COURT: I have denied your motions as
6 both being untimely, and I have denied them on the
7 merits.

8 MR. SARHAN: Okay.

9 THE COURT: Now, do you wish to discharge
10 your lawyer? I have told you --

11 MR. SARHAN: I would like to --

12 THE COURT: I have told you that if you
13 discharge your lawyer and I conclude that you are
14 a vexatious litigant and are not entitled to
15 represent yourself, then you will be without any
16 form of representation in this case.

17 MR. SARHAN: Okay.

18 THE COURT: You have rights not only now,
19 but postforeclosure, including rights of
20 redemption, possible rights to surplus money in
21 the event this house brings more than the debt.
22 So you have to be very careful about being in a
23 position where you have no representation.

24 I don't want to see your chart. I'm asking
25 you a question. Are you terminating Mr. Morburger

1 and representing yourself or not?

2 MR. SARHAN: Okay. Can I just ask one more
3 question and then I will answer you?

4 If there is a fraud on the court, which I
5 can prove it easily -- you see, they are saying I
6 don't live in my home. And you in your court --
7 when it was in your court, you have the documents
8 that show that we did live in our home. This
9 attorney here -- stand up. This is attorney Bob
10 Moore. He was the attorney in the case. And he
11 can represent that he has come to my home.

12 So these people, the fraud that they are
13 committing is saying that I don't live in my home
14 and it's not a predatory loan.

15 THE COURT: That is a matter --

16 MR. SARHAN: I would never have been able
17 to defend myself.

18 THE COURT: That is a matter that needed to
19 be litigated --

20 MR. SARHAN: But I was never allowed to --

21 THE COURT: -- before the final judgment
22 was entered.

23 MR. SARHAN: Because they granted the
24 motion in limine, I never had a foreclosure trial.
25 I was denied a foreclosure trial.

1 THE COURT: If the motions in limine were
2 granted improperly, that's why we have appellate
3 courts.

4 I want you to go back to counsel's table
5 and I want you to answer my question whether you
6 are terminating your lawyer or not.

7 Go back to counsel's table.

8 MR. SARHAN: Please let me finish, Your
9 Honor.

10 THE COURT: Mr. Sarhan, go back to
11 counsel's table.

12 MR. MOORE: Excuse me, Your Honor. I
13 understand what is going on. And I don't want to
14 inject myself into this equation here. But I do
15 want to just say one thing for the record for your
16 information only. And that is while you were
17 considering his son who had been commended to your
18 division by the Department of Juvenile Services or
19 whoever, I was appointed by the Guardian Ad Litem
20 Department to go out and visit their residence to
21 determine, 1, whether they lived there, 2, what
22 the condition of the home was, and 3, what their
23 life-style was.

24 And during my visit there -- and I went
25 there on behalf -- actually, as a representative

1 of the court in certain -- depending on how you
2 look at what a guardian ad litem's role is. And I
3 saw the father --

4 THE COURT: Mr. Moore, Mr. Moore, it makes
5 no difference if he lives there. Do you
6 understand me? If he had a defense to this
7 foreclosure based upon homestead or anything else,
8 it was required to be raised in defense of the
9 final judgment and on appeal. The matter has been
10 adjudicated on the merits, and I have found that
11 there is no basis for Rule 1.543 --

12 MR. MOORE: I heard you.

13 THE COURT: -- or 1.540 relief. The matter
14 is concluded.

15 Now, I appreciate your wanting to assist
16 Mr. Sarhan. But there is no basis to collaterally
17 challenge the final judgment. And it's not being
18 vacated or set aside or for anything else.

19 MR. MOORE: I do know this much. There was
20 apparently a motion in limine granted which formed
21 the basis by which this Court entered its
22 foreclosure judgment.

23 THE COURT: Maybe. Maybe.

24 MR. MOORE: I don't see how that can be the
25 case, but --

1 THE COURT: And guess what, when trial
2 judges improperly grant motions in limine and
3 somebody claims legal error, that's why we have
4 appellate courts to fix it. This matter went up
5 on a plenary appeal. The final judgment was
6 affirmed. And the foreclosure sale is proceeding.
7 Okay?

8 Now, I appreciate your input.

9 MR. MOORE: Thank for your time.

10 THE COURT: Thank you. Okay.

11 SPEAKER: There is a body of law, Your
12 Honor.

13 THE COURT: Ma'am, I'm not hearing from
14 court watchers. Have a seat.

15 THE BAILIFF: Have a seat.

16 THE COURT: Now, Mr. Sarhan --

17 MR. SARHAN: Yes, Your Honor.

18 THE COURT: -- are you terminating
19 Mr. Morburger's representation?

20 MR. SARHAN: I just want to say one thing.
21 So you are allowing these people to get away with
22 stealing my home of 25 years, making my son and I
23 homeless because they committed fraud. And the
24 fraud was less than a year. It was in the -- what
25 they are saying is that this is strictly

1 agricultural land and we don't live there. And
2 the reason why I brought these charts in is to
3 show that he is my neighbor. He lives here and I
4 live here.

5 THE COURT: Mr. Sarhan, I'm going to ask
6 you the question --

7 MR. SARHAN: Your Honor, I'm begging you.

8 THE COURT: I'm going to ask you the
9 question one more time --

10 MR. SARHAN: This is my home.

11 THE COURT: -- and then I'm going to
12 terminate these proceedings. Are you terminating
13 Mr. Morburger and representing yourself pro se or
14 is he your lawyer?

15 MR. SARHAN: No, Your Honor. I'm not. But
16 I don't you are fair to me.

17 THE COURT: This matter is concluded.
18 Everybody have a nice day.

19 MR. GASTESI: Thank you, Your Honor.

20 THE COURT: Okay.

21 MR. GASTESI: I'm just writing up the
22 order.

23 THE COURT: Okay.

24 (Thereupon, the proceedings were concluded
25 at 10:58 a.m.)

COURT CERTIFICATE

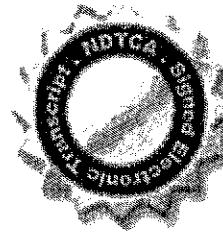
STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

I, JEANNETTE ALVAREZ, Registered
Court Reporter, State of Florida at Large,
I was authorized to and did stenographically
regoing proceedings and that the transcript
complete record of my stenographic notes.

Dated this 11th day of July, 2019.

JEANNETTE ALVAREZ



A <p> a.m 1:16 3:2 57:23 57:23 65:25 a/k/a 1:8,8,8 ability 35:14 able 3:24 35:20 36:21 57:15 61:16 Absolutely 15:6 abuse 22:18 abuses 30:16 accept 55:5 accusations 43:16 accused 22:25 accusing 50:19 Acevedo 2:6 3:17 51:13,18 action 34:1 37:2 actions 32:24 activities 54:17 activity 54:15 ad 6:1 62:19 63:2 add 15:2,14 16:21 19:3 added 11:24 adding 19:8 24:23 25:10 addition 39:14 additional 27:11 address 14:2 18:8 59:7 addresses 16:14 adjudicated 63:10 admitted 32:8 advise 55:4 affect 56:24 affidavit 4:15 affirmed 10:8 11:23 14:5 64:6 aforesaid 1:23 agents 22:11 ago 33:12 58:24 agree 18:18 33:1 agricultural 65:1 al 1:9 3:15 ALHARES 1:8 allegation 21:5 allegedly 4:17,18 16:2 21:13 26:23 26:24 allow 11:7 36:11 59:21,23 allowed 45:23 61:20 allowing 11:8 64:21 </p>	allows 14:15 alter 19:3 alternatively 25:4 ALVAREZ 1:24 66:8,18 amended 8:17,18 10:12,14,25 11:23 12:3 13:10 14:3,25 15:10 16:4,12 19:2 24:22 25:10 54:5 amending 15:1 amends 15:14 AMIN 1:8 amorburger@bells... 2:11 amount 10:15,23 12:10 19:8 ANABELLA 1:7,8,8 1:9 angry 43:16 answer 7:16 24:18,19 25:24,25 26:3,8,25 27:2,5 46:25 61:3 62:5 answering 6:12 answers 50:10,12,16 anticipate 41:2 anticipated 41:21 anyway 44:8,9,10 apologize 17:18 40:12 apparently 63:20 appeal 4:19 8:22,25 9:5,8,13,14 10:1 11:3,10,22 14:5 18:7 19:22 21:9 25:24 33:22 54:6 63:9 64:5 appealed 9:2 11:22 33:12 Appeals' 11:15 appear 35:19 36:6,16 36:24 37:1,12 48:18 appearances 2:1 3:14 appears 49:20 appellant 27:6 appellant's 11:15 appellate 9:4,13 27:23 28:1 62:2 64:4 appointed 62:19 appreciate 6:3 63:15	64:8 appropriate 30:9 April 5:6,6,8 9:22 14:22 argue 17:15 36:22 41:20 argued 19:14 arguing 36:16 argument 17:9,10 Art 13:4 Arthur 2:8,11 3:21 13:17 ascertain 21:13 aside 26:17 27:19,21 63:18 asked 6:17 7:10 18:24 24:19 48:23 asking 35:19 59:13 60:24 asks 32:1 assist 63:15 assistance 32:7 associate 3:17 6:15 6:17 assume 31:18 assuming 27:19 assure 42:10 Atlas 21:11 attached 34:14 attack 12:8 attacked 26:6 attempt 37:25 attention 6:6,8 attorney 5:15 21:21 31:23,25,25 33:8 37:12,15,16 42:14 55:16,20 61:9,9,10 attorney's 10:18,20 10:21 11:1,24 12:1 12:4,8 14:2 15:2,15 18:21,25 19:4,8 24:23 25:10 authority 15:18,21 16:14 27:18,20 authorized 66:10 aware 6:23 38:22,25 39:23 49:6,8 53:8	33:25 35:1,4 44:24 57:6,20 62:4,7,10 background 7:19 Bailey 6:14 43:7,10 Bailey's 43:6 BAILIFF 3:3 64:15 ball 57:17 bankruptcies 17:24 22:16 bar 32:9 42:16 46:23 based 4:22 11:14 12:10 14:16 25:22 25:23 26:17 46:15 56:18 63:7 baseless 43:16,20 basic 41:3 basing 43:5 basis 25:1 26:16 28:9 29:20 63:11,16,21 began 3:2 begging 65:7 begins 27:1 behalf 2:2,8 62:25 believe 3:6 10:24 15:11 19:23 31:3,9 33:6 34:13 44:5 46:17 47:4,8 49:16 best 48:3,4 better 23:19 53:10 bigger 20:1,7 blank 54:24 boarders 22:17 Bob 5:14,15,25 61:9 body 64:11 bottom 13:18 bounce 50:21 brief 9:17,18 25:24 25:25 26:8,25 27:2 27:5,15,23 28:1 briefs 26:3 bring 6:6,7 16:9 brings 22:17 60:21 brought 33:25 65:2 bunch 21:8
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Appendix 12

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

H & H Investors, Inc.,

Plaintiffs,

v.

Robert Sarhan, et. al.,

Defendant.

CIRCUIT CIVIL DIVISION
CASE NO.: 12-7970 CA 22)

2019 JUN 21 PM 12:04
FILED FOR RECORD

ORDER

Before the Court is the latest filing orchestrated by Defendant Robert Sarhan (“Sarhan”) in an attempt to obstruct the administration of justice in this cause and once again derail an impending foreclosure sale. Through this most recent motion Sarhan’s ex-wife, Anabella Sarhan a/k/a Anabella Soury (“Soury”), insists that the July 31, 2017 Final Judgment of Foreclosure entered against her is void and that she is therefore entitled to relief pursuant to Fla. R. Civ. P. 1.540(b)(4). Like Sarhan’s previous Rule 1.540 motion, this one is totally devoid of merit.

Plaintiff, H & H Investors, Inc. (“Plaintiff”), has been attempting to foreclose the property securing this long-defaulted loan for a decade, having commenced a prior proceeding in 2009. Soury, who divorced Sarhan at or about 2008, and who – as part of that divorce – relinquished any interest she had in this property, was nevertheless served with process in this re-filed 2012 case and appeared through

counsel, Robert Moore, Esquire. The Court’s predecessor thereafter entered an Order deeming her “objection to foreclosure” an “Answer to the Complaint,” and confirming that Plaintiff was “not seeking a monetary deficiency judgment against” her. *See* October 31, 2012 Order. Six months later – on April 10, 2013 – the Court’s predecessor – after conducting a hearing that was attended by her counsel – granted Plaintiff’s Motion for Summary Judgment against Soury. Prior to that – and presumably because she had no interest in the property and was not exposed to a money judgment – Soury elected not to participate in the case and *never* contested personal jurisdiction or service of process. Four years after the summary judgment against Soury was entered the Court’s predecessor tried the remaining claims and entered its July 31, 2017 Final Judgment of Foreclosure.¹

After unsuccessfully seeking post-judgment relief, Defendants appealed the Final Judgment. The Third District affirmed. In the interim the Court’s predecessor had entered an “Amended Final Judgment of Foreclosure” which increased the amount due by incorporating post judgment expenses, including attorney’s fees. No substantive revisions were made and – in normal circumstances – the property would have then been sold. This case, however, is far from normal because Sarhan and Soury – unconstrained by counsel – have repeatedly done everything in their power

¹ Sarhan and Soury now say that Soury’s divestiture of any interest in the property was unwound when, in 2011, Sarhan executed a warranty deed re-conveying her a 50% interest. That deed, assuming it is not fabricated, was never recorded and is not in the record. And even if it were it would make no difference, as whatever interest Soury possessed was properly foreclosed.

to delay the matter.

First, and in attempt to forestall entry of a Final Judgment, Sarhan and Souri filed no less than four (4) bankruptcies for the sole purpose of triggering an automatic stay of this proceeding. *See* case numbers 10-45979 BKC-AJC; 14-31441 BKC- RAM; 15-26341- BKC-LMI; and 17-10159- BKC-RAM. This ultimately resulted in Judge Mark's entry of an order granting Plaintiff prospective *in rem* stay relief for a two-year period commencing February 25, 2017. Sarhan, however, was undeterred and via *pro se* filings he twice "removed" the case to the United States District Court for the Southern District of Florida on the eve of foreclosure sales. Those unauthorized and frivolous filings accomplished their intended purpose and the scheduled sales were delayed until the federal court remanded the case.

Still undeterred Sarhan – together with Souri – then filed another bankruptcy case (number 19-11214- BKC-LMI) and sought relief from Judge Mark's 2017 Order granting Plaintiff prospective stay relief. Judge Isicoff conducted a hearing on that motion on March 27, 2019 and concluded that Sarhan and Souri have repeatedly "used tandem and strategic bankruptcy filings to hinder, delay, or defraud [Plaintiff] from foreclosing on the Property." *See* April 24, 2019 Order. As a result, Judge Isicoff entered an order granting prospective stay relief for four (4) years. Sarhan and Souri then unsuccessfully claimed that order was void. *Id.*

Having exhausted their fatuous federal filings, Sarhan and Souri next turned

their attention back to this Court. On April 15, 2019 Sarhan filed a rambling and incoherent “Emergency Motion to Vacate Judgment of Foreclosure Due to Fraud on the Court.” The Court heard the motion on June 17, 2019 and denied it as untimely *and* on the merits. The motion was untimely because it was not filed within a year of the July 31, 2017 Final Judgment that was allegedly procured by fraud, and the entry of the Amended Final Judgment updating the amount owed did not re-set Rule 1.540(b)’s one year clock. And aside from being untimely the motion was baseless. When the Court asked counsel what fraud had allegedly been perpetrated (a question that had to be asked because the written motion was incomprehensible) he pointed to *one* thing: a factual statement made in the answer brief Plaintiff filed in the plenary appeal. That statement, even assuming its falsity (and it was in fact true), obviously could not – and did not – induce entry of the Final Judgment. These Defendants, however, do not know when to quit. So two (2) days after the Court denied Sarhan’s Rule 1.540(b)(3) motion, both Sarham and Souri filed “Defendants’ Emergency Motion for Relief from Judgment as Void,” claiming an entitlement to relief under Rule 1.540(b)(4). They are once again incorrect.

As this Court has pointed out many times before, a judgment is not void unless either: (a) the court entering it was not legally organized; (b) the court entering it lacked subject matter jurisdiction; or (c) the litigant challenging the judgment was illegally deprived of an opportunity to be heard. *See, e.g., Hart v. Lincoln Fields,*

24 Fla. L. Weekly Supp. 940 (11th Jud. Cir., Jan. 20, 2017) (Hanzman, J.); *Britt v. Progressive Waste Solutions of FL, Inc.*, 26 Fla. L. Weekly Supp. 292 (11th Jud. Cir., April 10, 2018) (Hanzman, J.); *Shanghai Shengyun Freight & Forwarding Co., Ltd. v. Pure Nature*, 26 Fla. L. Weekly Supp. 491(11th Jud. Cir., August 2, 2018) (Hanzman, J.). There is no doubt here that the court which entered the initial and amended Final Judgment of Foreclosure was legally organized and that it possessed constitutional subject matter jurisdiction. The record also conclusively establishes that: (a) Soury was served with process; (b) she appeared through counsel and filed an objection that was deemed an “answer” to Plaintiff’s complaint; (c) that this “answer” did not challenge personal jurisdiction or service of process; and (d) Soury never challenged jurisdiction or process throughout the proceedings. The record also establishes that the summary judgment against her was entered after her counsel was given notice and an opportunity to appear and be heard on the matter. Soury also was notified of the later trial (though a summary judgment had been entered against her years earlier) and *all* other proceedings.

Soury in fact does not even claim that she was denied notice and an opportunity to be heard before judgment was entered against her. Rather, her incoherent motion starts out by criticizing the order granting summary judgment because it is “silent” and did not elucidate upon the basis for the ruling. Of course the order was not required to elucidate anything at all, and even if its failure to do so

was legal error (and its not) this error still would not render the order – or the resulting Final Judgment – void. *See, e.g., Curbelo v. Ullman*, 571 So. 2d 443 (Fla. 1990) (“[i]t is well settled that . . . errors, irregularities or wrongdoing in proceedings, short of illegal deprivation of opportunity to be heard, will not render the judgment void”). Souri then claims that although she remained a party to the case after summary judgment was entered against her, she was never served with a copy of the Final Judgment or Amended Final Judgment, as required by Fla. R. Jud. Admin. 2.516. That claim also is belied by the record and, even if true, also would not render the Final Judgment void.

For whatever reason these Defendants and their counsel believe that this case is immortal and that the Court will continue to waste its valuable judicial resources and time entertaining their vexatious filings. They are again wrong, and this case will now be brought to a swift conclusion. *See, e.g., Bros. Inc. v. W. E. Grace Mfg. Co.*, 320 F.2d 594 (5th Cir. 1963) (citing Justice Story's apothegm that “it is for the public interest and policy to make an end to litigation . . . so that . . . suits may not be immortal, while men are mortal . . .”). The Court will not hear *any* further post-trial motions collaterally attacking the Final Judgment or Amended Final Judgment entered by its predecessor, and the Clerk is directed to proceed with the scheduled June 25th, 2019 sale of this property *regardless* of whether any further motions or legal challenges are filed by Defendants either in this or *any* other forum. Defendant

Sarhan is also reminded of this Court's prior Order prohibiting him from submitting any *pro se* filings. If that Order is violated the Court will initiate indirect criminal contempt proceedings.

Defendants' Emergency Motion for Relief from Judgment as Void is
DENIED.

DONE and **ORDERED** in Miami-Dade County, Florida, this 20th day of June, 2019.



MICHAEL A. HANZMAN
CIRCUIT COURT JUDGE

Copies furnished to:

Honorable Jennifer Bailey
Robert Moore, Esquire
rlmoorelaw@gmail.com
Arthur Morburger, Esquire
amorburger@bellsouth.net
Altanese Phenelus, Esquire
altanes@miamidade.gov
Abigail Price-Williams, Esquire
apw1@miamidade.gov
Raul Gastesi, Jr., Esquire
rgastesi@gastesi.com