

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA THROUGH RELINQUISHMENT OF
JURISDICTION BY THE DISTRICT COURT OF FLORIDA
SECOND DISTRICT**

U.S. BANK NATIONAL ASSOCIATION,
BUT NOT IN ITS INDIVIDUAL
CAPACITY, BUT SOLELY AS TRUSTEE
FOR THE RMAC TRUST, SERIES 2013-IT,
et al.

Plaintiff/Appellee.

L.T. Case Number:
11-CA-3117

Case Number: 2D15-1925

Vs.

**PLAINTIFF'S MOTION TO QUASH
SUBPOENA**

ERIC WALL,
Defendant/Appellant.

COMES NOW Appellee/Plaintiff, U.S. BANK NATIONAL ASSOCIATION BUT NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2013-IT, by and through the undersigned counsel, and files this Motion to Quash Subpoena issued by Appellant/Defendant as to Juliana Gaita dated September 15, 2015 (hereinafter "JG Subpoena"), and in support thereof states as follows:

1. This is an action in foreclosure filed on July 12, 2011.
2. A trial on this matter took place on September 17, 2014 and a final judgment was entered in favor of Appellee/Plaintiff.
3. Appellant/Defendant filed a Motion to Quash Subpoena of CitiMortgage on September 23, 2014 prior to trial on this matter.
4. Appellee/Plaintiff filed a Memorandum in Opposition to Motion to Quash Subpoena on October 8, 2014.
5. The Court entered an Order Denying Defendant's Motion to Quash Subpoena on September 24, 2014. (Order attached hereto).

6. A Final Judgment of Foreclosure and a Supplement to Judgment were entered in this case on November 12, 2014.
7. As evidenced by the extensive gap between the rendering of final judgment and the Notice of Appeal, (167 days) Appellants filed numerous post-trial motions. From the date of Final Judgment to the present, Appellant filed the following motions to the trial court:
 - a. Motion to Quash Subpoena, Sanctions, and Request for Hearing which was Denied by Judicial Order on September 24, 2014.
 - b. Amended Motion to Quash Subpoena which was Denied by Judicial Order on October 7, 2014.
 - c. Motion for Rehearing which was denied by Judicial Order dated April 1, 2015.
 - d. Motion to Require Witness and Attorneys to Submit to Post Judgment Depositions which was never ruled on.
 - e. Motion to Supplement the Record which was never ruled on.
 - f. Motion to Cancel Sale (granted in part) and Request for Evidentiary Hearing on Motion to Quash in which the sale was Canceled, and the hearing (denied in part) by Judicial Order dated April 7, 2015.
 - g. Emergency Motion to Vacate Final Judgment of Foreclosure and Involuntarily Dismiss the Action in which the court declined to rule due to improper notice of the hearing and because the motion was not deemed an emergency.
8. A Notice of Appeal of the Final Judgment was filed in this case on April 28, 2015.
9. On July 16, 2015, Appellant/Defendant filed a Motion to Relinquish Jurisdiction with the Second District.

10. On August 3, 2015, Appellee/Plaintiff filed its Opposition to Appellant/Defendant's Motion for Relinquishment of Jurisdiction.
11. On August 6, 2015, the Second District granted Appellant/Defendant's Motion to Relinquish Jurisdiction.
12. On August 11, 2015, Appellant/Defendant filed a Motion for Clarification of the August 6, 2015 Order.
13. On August 12, 2015, Appellee/Plaintiff filed a Response to Appellant/Defendant's Motion for Clarification.
14. On September 1, 2015, the Second District Clarified its Order. (Order attached hereto).
15. On September 15, 2015, Appellant/Defendant filed a Notice of Evidentiary Hearing to be held on October 5, 2015. (Notice attached hereto).
16. Appellant/Defendant did not coordinate with Appellee/Plaintiff with the scheduling of the October 5, 2015 hearing.
17. On September 15, 2015, Appellant/Defendant served a subpoena for evidentiary hearing on Attorney Juliana Gaita, the attorney of record on behalf of the Appellee/Plaintiff to appear as a witness for the October 5, 2015 hearing. (Subpoena attached hereto).
18. Appellee/Plaintiff filed a Motion for Clarification in the Appellate Court on September 24, 2015, as to whether Appellant/Defendant is entitled to hold a hearing on this matter.

DISCUSSION

A. Attorney Gaita is Not a Necessary Witness in this Matter and the Subpoena is an Improper Attempt to Further Harass Her and Prolong Litigation Resulting in Increased Costs to Her and Her Client

a. Attorney Gaita is Not a Necessary Witness and Therefore, Should Not be Subpoenaed

Requiring Attorney Gaita to testify would necessitate her withdrawing from this action, which is a tactical maneuver by Appellant/Defendant counsel, evident by his own on-record statement of “you win again Ms. Gaita, you win again...” at the Emergency Hearing which was not heard due to counsel’s disregard for procedure and local rules. “Under R. Regulating Fla. Bar 4-3.7, counsel would be barred from representing a client only if counsel was likely to be (1) a necessary witness (2) on her behalf. A lawyer is not a necessary witness when there are other witnesses available to testify to the same information” *Steinberg v. Winn-Dixie Stores*, 121 So. 3d 622, 624 (Fla. 4th DCA 2013). “The requirement that a lawyer withdraw when he expects to be a witness was not intended to permit an opposing party to call him as a witness and disqualify him from serving as counsel.” *Steinberg*, 121 So. 3d at 625 (quoting *AlliedSignal Recovery Trust v. AlliedSignal, Inc.*, 934 So. 2d 675, 680 (Fla. 2d DCA 2006)). Under the General Principles of the Florida Bar Creed of Professionalism, A lawyer must not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or to unnecessarily prolong litigation or increase litigation expenses.

Attorney Gaita is not a necessary witness in this matter and to force her to testify at an evidentiary hearing would cause an undue burden on her as well as her client. Attorney Gaita was not the file attorney on this matter and did not personally send the subpoena to CitiMortgage, that Appellant/Defendant contends was improperly served. It is clear that Appellant/Defendant is using the JG Subpoena as a means of harassment as well as to prolong litigation. Under *Steinberg*, Appellant/Defendant is not entitled to call Attorney Gaita as a witness for the purpose of disqualification or to cause undue burden or hardship on her and her

client. At best, Appellant/Defendant is engaging in a fishing expedition and at worst is using the court process to harass Attorney Gaita. There is no evidence on the case record that testimony of Attorney Gaita could provide that Appellant/Defendant needs to bolster his position. Moreover, any testimony elicited from Attorney Gaita would most likely come under the purview of work product and/or attorney client privilege.

Specifically, Attorney Gaita is not a necessary witness as she was not the attorney who subpoenaed CitiMortgage and she was not the file attorney, nor the attorney who conducted the trial. Subpoenaing Attorney Gaita is the Latest of Several Instances of Provocation by Appellant/Defendant's Counsel in this Matter *Emails*

Appellant/Defendant counsel even admits to barraging Attorney Gaita and her firm with emails, all of which are accusatory in nature and improper given the several motions pending concerning this subject. (Motion to Vacate p. 7). Furthermore, Appellant/Defendant counsel repeatedly interrogated Attorney Gaita via email and in court hearings as to whether she has violated any rules, answers to which would entitle Attorney Gaita to representation. However, that does not stop Appellant/Defendant counsel from tirelessly submitting his commentary to Attorney Gaita's every move.¹ This pattern of harassment should not be continued by allowing Appellant/Defendant counsel to examine Attorney Gaita on the record and therefore, the subpoena should be quashed.

B. Appellee/Plaintiff is Willing to Vacate the Judgment with No Findings of Fact Made, So the Subpoena Should be Quashed Because the Purposes Behind it is Moot.

¹ After Attorney Gaita filed her client's Opposition to Appellant's Motion for Relinquishment of Jurisdiction with the Second District, Appellant/Defendant counsel sent her an email commentary in response to the motion. (Email attached hereto).

Finally, the need to subpoena Attorney Gaita is moot because her client is willing to consent to a vacation of judgment with no findings of fact made, should this issue not be resolved. Because Appellant/Defendant is successfully making every effort to prolong litigation and increase costs, Appellee/Plaintiff is willing to vacate the judgment if that means that a resolution can finally be reached in this case. "Disqualification of a party's chosen attorney is an extraordinary remedy that should be resorted to only sparingly." *Steinberg*, 121 So. 3d at 624. By allowing the subpoena of Attorney Gaita to stand, she would be forced to hire counsel on short notice and most likely disqualify her from this case as her testimony could create a conflict of interest between her and her client. For that reason, Appellee/Plaintiff is willing to vacate the judgement if need be, although this cause has been tried and judgment entered in its favor. Appellee/Plaintiff is willing to retry and again obtain judgment. Therefore, this Honorable Court should quash the subpoenas. (See attached correspondence sent to Appellant/Defendant counsel dated___).

Appellant/Defendant has Already Moved to Quash the Offending CitiMortgage Subpoena Multiple Times and This Court Entered an Order Denying and Judgement for Appellee/Plaintiff. Therefore, Appellant/Defendant is not Entitled to Subpoena Attorney Gaita

C. On September 23, 2014, Appellant/Defendant filed a Motion to Quash Subpoena based on the same facts alleged in the subject Motion to Vacate Judgment. On September 24, 2014, this Court entered an Order denying Appellant/Defendant's Motion to Quash Subpoena. On September 29, 2014, Appellant/Defendant filed a Renewed Verified Motion to Quash Subpoena. Again, the Renewed Motion alleged the same facts and issues as previously alleged in the Motion to Quash and in the subject Motion to Vacate.

Appellee/Plaintiff filed a Memorandum in Opposition to Motion to Quash on October 8, 2014. Appellant/Defendant has already had multiple bites at the apple as to this issue, yet has alleged the same facts and issues at law in multiple motions on the court (tolling the time from final judgment to notice of appeal 167 days).

i. Res Judicata

Res judicata has been defined as a principal that precludes subsequent action on the same issues raised in previous pleadings or actions and ruled upon by the court. *Tyson v. Viacom, Inc.*, 890 So. 2d 1205, 1208-09 (Fla. Dist. Ct. App. 2005) (Citing *Huff Groves Trust v. Caulkins Indiantown Citrus Co.*, 810 So. 2d 1049, 1050 (Fla. 4th DCA 2002) (quoting *Kimbrell v. Paige*, 448 So. 2d 1009, 1012 (Fla. 1984)). Res Judicata will not apply in matters where the issue being raised is different and unique from previous matters. *Tyson v. Viacom, Inc.*, 890 So. 2d 1205, 1208-09 (Fla. Dist. Ct. App. 2005). Res Judicata may also be applied in Florida to subsequent pleadings in the same case where there has already been a final order. *See Sibley v. Sibley*, 885 So. 2d 980, 982 (Fla. Dist. Ct. App. 2004) (Citing *Utterback v. Starkey*, 669 So. 2d 304, 305 (Fla. 3d DCA 1996)).

In the instant case, Appellant/Defendant has filed successive motions based on the same facts and issues at law, and due to the well established doctrines of res judicata, **is prohibited from seeking relief on this basis once again**. By denying the first Motion to Quash Subpoena, this Court found that any alleged error in issuing the subpoena duces tecum would have amounted to harmless error. In following the maxim *equity regards substance over form*, equity is not served by allowing Appellant/Defendant to file the same motions under different headings. This Honorable Court should not entertain Appellant/Defendant's flagrant disregard for well established doctrines such as res judicata and quash the frivolous subpoenas.

ii. Judicial Economy

It is important to note that in Appellant/Defendant's several motions before this Court alleging an error in the CitiMortgage subpoena processes, Appellant/Defendant classifies the error as "Fruit of the Poisonous Tree." The Fruit of the Poisonous Tree doctrine is within the scope of the Exclusionary Rule, in which it mandates that evidence obtained from an illegal arrest, unreasonable search, or coercive interrogation shall not be admissible in trial. *See Silverthorne Lumber Co. v. United States*, 251 U.S. 385 (1920). This criminal law doctrine is limited to violations committed by government actors against private citizens that violate rights prescribed under the Fourth Amendment. It is outrageous that a Florida Bar-admitted attorney would present this doctrine over and over again in foreclosure proceedings, when a second-year law student would know better. However, Appellant/Defendant counsel sees it fit to systematically allege that Appellee/Plaintiff has violated Appellant/Defendant's Fourth Amendment rights via an error in the subpoena process. The numerous motions filed by Appellant/Defendant have resulted in tremendous costs as well as a drain on time on Appellee/Plaintiff, on Attorney Gaita and her staff, and most importantly, on this Court. Therefore, Attorney Gaita's Subpoena should be quashed due to the fact that it is unnecessary as Appellant/Defendant has already pursued this issue (numerous times) and has had judgment entered against him and because of Appellant/Defendant's flagrant disregard for judicial economy by pursuing this issue under a criminal law exclusive doctrine.

D. Appellant/Defendant is Not Entitled to Hold an Evidentiary Hearing Because the Order Relinquishing Jurisdiction does not Allow for a Hearing

The Order that the Second District rendered in its decision to grant relinquishment contains the following language:

The appellant's motion to relinquish jurisdiction is granted to the extent that jurisdiction is relinquished for 45 days from the date of this order, during which the judge currently presiding in the division in which this case was tried shall enter an order on the appellant's motion to vacate the final judgment of foreclosure.

Accordingly, during the 45-day relinquishment period, this Court is limited to rendering a ruling on Appellant/Defendant's motion and nothing else. Under Florida Rule of Appellate Procedure 9.600(b), the appellate court can relinquish jurisdiction to the trial court to proceed with specifically stated matters while the appeal is pending. When the jurisdiction of the lower tribunal has been divested by an appeal from a final order, the court by order may permit the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Fla. R. App. P. 9.600(b). If the appellate court relinquishes jurisdiction for a specific purpose, the trial court has no jurisdiction to go beyond the scope of that specifically stated matter. *Hoffman v. Crosby*, 908 So.2d 1111 (Fla. 1st DCA 2005); *Palm Beach County v. Boca Development Associates, Ltd.*, 485 So.2d 449 (Fla. 4th DCA 1986). This argument is further outlined in Appellee/Plaintiff's Motion to Cancel Evidentiary Hearing.

This Court is bound by the parameters of the Order granting relinquishment of jurisdiction rendered by the Second District. To allow this hearing to go forward would be in direct violation of the Order. The Second District did not intend to allow for such proceedings, and in fact, did not articulate any leave to conduct hearings in the subject Order – even in its Order Clarifying the Order for Relinquishment—and therefore this Court is without jurisdiction

to hold such hearings. Appellee/Plaintiff has filed a Motion for Clarification with the Second District as to this issue, and as such, no hearing or subpoena should take effect until the appellate court clarifies its Order granting relinquishment of jurisdiction. (See Motion for Clarification attached hereto).

E. Appellant/Defendant Claims in His Motion to Vacate Judgment that trial Witness Relied on Inadmissible Hearsay Evidence Which Resulted in Judgment Against Appellant/Defendant, However That is a Legal Impossibility

The two business records identified by Appellant/Defendant as improperly subpoenaed in his Motion to Vacate were the collection notes and payment history. (Plaintiff's Exhibits 6 and 7). Specifically, Appellant/Defendant referred to the documents as "nothing but rank hearsay, secretly obtained, secretly used against the defendant who had no opportunity to cross examine" (Motion to Vacate Judgment p. 3). However, Appellant/Defendant fails to cite to an element of the business records hearsay exception that Appellee/Plaintiff failed to prove at trial when introducing these documents into evidence.² Furthermore, section 90.803(6), *Florida Statutes*, states that a business record may be admitted if the proponent of the evidence demonstrates the following through a qualified witness:

- (1) the record was made by or from a person with knowledge; at or near the time of the event; (2) was made by or from information transmitted by a person with knowledge; (3) was kept in the ordinary course of a regularly conducted business activity; and (4) that it was a regular practice of that business to make such a record.

Nowhere in Appellant/Defendant's Motion to Vacate Judgment does he cite to authority that demands that business records which are subpoenaed to strictly comply with Florida Rules of Civil Procedure to be admissible under the business records

² See Trial Trans. Pages 102 and 112 for full foundation and admittance into evidence.

exception to hearsay in Florida. Therefore, Appellee/Plaintiff again wishes to bring to this Court's attention that any error in subpoena procedure in this case was *harmless* and therefore, the subpoenas should be quashed because no evidence offered on this issue is legally relevant and Appellant/Defendant is not entitled to bring this issue forward yet again. Further, dispute Appellant/Defendant's contention that he had no opportunity to cross examine as to the subpoenaed documents, that is not the case. Appellee/Plaintiff counsel repeatedly requested Appellant/Defendant's trial exhibits prior to trial and Appellant/Defendant counsel refused to send them.³

WHEREFORE, Appellee/Plaintiff, U.S. BANK NATIONAL ASSOCIATION, BUT NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2013-IT, et al, respectfully requests this Honorable Court Quash the subpoenas of Attorney Juliana Gaita, and any other relief this Honorable Court finds just and proper.

Respectfully Submitted,

JULIANA GAITA, P.A.

By: /s/ Juliana Gaita, Esq.
Juliana Gaita, Esq.
Florida Bar No. 76893
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431
T: 561-869-3703
F: 866-292-0295
Eservice@gllawcenter.com

³ No Order from the trial court existed requiring parties to disclose all exhibits prior to trial.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail, where available, and U. S. first class mail, on this 24rd day of September, 2015.

MATTHEW D. WEIDNER, Esq.
WeidnerLaw, P.A.
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
service@mattweidnerlaw.com

Respectfully Submitted,
JULIANA GAITA, P.A.
By: /s/ Juliana Gaita, Esq.
Juliana Gaita, Esq.
FBN 76893
eservice@gllawcenter.com

IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT IN AND FOR
PASCO COUNTY, FLORIDA
CIVIL DIVISION

U.S. Bank National Association,
Plaintiff,

Case #: 51-2011-CA-003117-ES
Section: J4

v.

Eric Wall, et al.
Defendants.

_____ /

ORDER DENYING

THIS MATTER came before the Court on Defendant's Motion to Quash Subpoena/Motion to Strike Trial Testimony and Evidence. After consideration of the same it is therefore,

ORDERED and ADJUDGED that the Motion is **DENIED**.

DONE AND ORDERED in Chambers, in Dade City, Pasco County, Florida,
this _____ day of _____, 2014.

SIGNED AND DATED

SEP 24 2014

WAYNE L. COBB
CIRCUIT JUDGE

Circuit Judge Wayne L. Cobb

Copies to:
WeidnerLaw, P.A., Attorney for Defendant
250 Mirror Lake Dr N
St Petersburg, FL 33701

Juliana Gaita, Esq., Attorney for Plaintiff
2701 NW Boca Raton Blvd, Suite 107
Boca Raton, FL 33431-6698

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

U.S. BANK NATIONAL ASSOCIATION,

CASE NO. 2011-CA-3117-ES-J4

PLAINTIFF,

v.

ERIC WALL,

DEFENDANT.

_____ /

DEFENDANT'S NOTICE OF EVIDENTIARY HEARING

PLEASE TAKE NOTICE that the undersigned counsel will call up for hearing the following:

MATTER: Defendant's Motion to Vacate Final Judgment of Foreclosure
DATE: October 05, 2015
TIME: 12:00 p.m.
PLACE: Honorable Linda Babb
38053 Live Oak Avenue
Room 106D
Dade City, Fl 33523

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact New Port Richey (813) 847-8110; Dade City (352) 521-4274 Extension 8110; TDD 1-800-955-8771 via Florida Relay Service at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time scheduled appearance is less than 7 days.

*****NOTICE TESTIMONY AND EVIDENCE MAY BE TAKEN AT THIS HEARING*****

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email on this 15th day of September, 2015 to **Juliana Gaita, Esq.**, at Juliana@gllawcenter.com and eservice@gllawcenter.com and **Francis E. Friscia, Esq.**, at fiscia@frpalegal.com

By: /s/ Matthew D. Weidner
MATTHEW D. WEIDNER, Esq.
WeidnerLaw, P.A.
Attorney for Defendant(s)
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
(727) 954-8752
service@mattweidnerlaw.com
FBN: 0185957

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

September 1, 2015

CASE NO.: 2D15-1925

L.T. No. : 11-CA-3117

Eric Wall

v.

U. S. Bank National Association

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Upon consideration of the appellant's motion for clarification and the appellees' response, the appellant's motion for clarification is granted to the extent that the order rendered on August 6, 2015, is rescinded, and the following is substituted in its place. In all other respects the appellant's motion is denied.

The appellant's motion to relinquish jurisdiction is granted to the extent that jurisdiction is relinquished for 45 days from the date of this order, during which the judge currently presiding in the division in which this cause was tried shall enter an order on appellant's motion to vacate the final judgment of foreclosure. See Paladin v. Family Investment Enterprises, 952 So.2d 560, 562 (Fla. 2d DCA 2007). The clerk of the circuit court shall supplement the record with the order within 10 days of its entry. The appellant shall file a status report within 45 days of this order.

A party aggrieved by any order entered by the trial court must file a notice of appeal within 30 days of its rendition. See Fla. R. App. P. 9.110(b); 9.130(b). If the present appeal survives, the parties should consider moving for its consolidation with the new appeal.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.


Served:

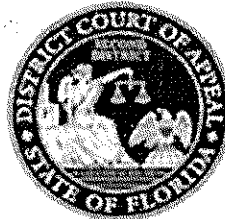
Michael P. Fuino, Esq.
Paula S. O'Neil, Clerk

Francis E. Friscia, Esq.
Hon. Kimberly Sharpe Byrd

Juliana Gaita, Esq.

ec


Christina McAdams
Interim Clerk



**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

U.S. BANK NATIONAL ASSOCIATION,

CASE NO. 2011-CA-3117-ES-J4

PLAINTIFF,

v.

ERIC WALL,

DEFENDANT.

SUBPOENA FOR EVIDENTIARY HEARING

THE STATE OF FLORIDA:

TO: Juliana Gaita, Esq.
JULIANA GAITA, P.A.
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431

YOU ARE COMMANDED to appear before the Honorable Linda Babb, Judge of the Court, at the Robert D. Sumner Judicial Center, 38053 Live Oak Avenue, Room 106D, Dade City, Fl 33523 on October 5, 2015 at 12:00 p.m., to testify in this action. **If you fail to appear, you may be in contempt of court.**

You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED on September 15, 2015

Matthew D. Weidner, Esq.
For the Court

By: /s/ Matthew D. Weidner
Matthew D. Weidner, Esq.
WeidnerLaw, P.A.
Attorney for Defendants
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
(727) 954-8752
service@mattweidnerlaw.com
FBN: 0185957

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact New Port Richey (813) 847-8110; Dade City (352) 521-4274 Extension 8110; TDD 1-800-955-8771 via Florida Relay Service at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time scheduled appearance is less than 7 days.

CERTIFICATE OF SERVICE AND FILING

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this September 15, 2015 to all parties on the attached service list. Service was by email to all parties not exempt from Rule 2.516 Fla. R. Jud. Admin. at the indicated email address on the service list, and by U.S. Mail to any other parties.

Weidner Law, P.A.
Counsel for Defendant
250 Mirror Lake Dr., N.
St. Petersburg, FL 33701
Telephone: (727) 954-8752
Designated Email for Service:
service@mattweidnerlaw.com

By: s/ Matthew D. Weidner
Matthew D. Weidner, Esq.
Florida Bar No. 0185957

SERVICE LIST

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Law Office of
GARY GASSEL, P.A.
2191 RINGLING BOULEVARD
SARASOTA, FLORIDA 34237
TELEPHONE (941) 952-9322 FACSIMILE (941) 365-0907

August 5, 2015

Matthew Weidner, Esquire
250 Mirror Lake Drive N
St Petersburg FL 33701

Re: U.S. Bank National Association v. Eric Wall Et. Al
Case No. 2011 CA-003117

Dear Matthew:

I have been asked to write you on this file by the Plaintiff. You and I have been in discussions for the last several months in a good faith effort to resolve this matter. Plaintiff has made one repeated offer after another to resolve this matter. As each offer is made the same is initially received and then rejected.

It seems that your client only wants to litigate this matter and will reject even the most advantageous offer which is contrary to a fair resolution.

With that said my client will consent to the entry of an order that will vacate the Final judgment and supplemental order entered in the trial court. The appeal would then be moot and dismissed. Thereafter the matter will then be reset for trial.

There is no base for you to refuse this offer and failure to accept to the same will be further evidence that your client is intent on continuing the litigation at any cost and will be evidence of our intent to resolve the matter and used in opposition to any claim for attorney's fees on behalf of Mr. Wall.

Upon receipt, if you have any further questions please feel free to call me. I remain

Very truly yours,

Gary I. Gassel

GIG:rd
cc Plaintiff
Juliana Gaita, Esquire

**IN THE THE DISTRICT COURT OF FLORIDA
SECOND DISTRICT**

ERIC WALL,
Appellant,

Case Number: 2D15-1925

Vs.

L.T. Case Number:
11-CA-3117

U.S. BANK NATIONAL
ASSOCIATION, BUT NOT IN ITS
INDIVIDUAL CAPACITY, BUT
SOLELY AS TRUSTEE FOR THE
RMAC TRUST, SERIES 2013-IT, et al.
Appellee.

**APPELLEES' MOTION FOR
CLARIFICATION**

COMES NOW Appellee, U.S. BANK NATIONAL ASSOCIATION BUT NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2013-IT, by and through the undersigned counsel, and files this Motion to for Clarification of the Order entered on September 1, 2015, and in support thereof states as follows:

1. A Final Judgment of Foreclosure and a Supplement to Judgment were entered in this case on November 12, 2014 by the Honorable Judge Cobb.
2. A Notice of Appeal of the Final Judgment was filed in this case on April 28, 2015.
3. On July 16, 2015, Appellant filed a Motion to Relinquish Jurisdiction.
4. On August 3, 2015, Appellee filed its Opposition to Appellant's Motion for Relinquishment of Jurisdiction.

5. On August 6, 2015, the Second District granted Appellant's Motion to Relinquish Jurisdiction.
6. On August 11, 2015, Appellant filed a Motion for Clarification of the August 6, 2015 Order.
7. On August 12, 2015, Appellee filed a Response to Appellant's Motion for Clarification.
8. On September 1, 2015, the Second District Clarified its Order. (Order attached hereto).
9. The Clarified Order provided for the division judge enter an order on Appellant's outstanding Motion to Vacate Judgment.
10. On September 15, 2015, Appellant unilaterally filed a Notice of Evidentiary Hearing to be held on October 5, 2015. (Notice attached hereto).
11. Appellant did not coordinate with Appellee with the scheduling of the October 5, 2015 hearing.
12. The Order did not state that Appellant was entitled to a hearing on this matter during the period of relinquished jurisdiction.
13. On September 15, 2015, Appellant served a subpoena for evidentiary hearing on Attorney Juliana Gaita, the attorney of record on behalf of the Appellee to appear as a witness for the October 5, 2015 hearing. (Subpoena attached hereto).

DISCUSSION

Appellant filed the subject Motion to Vacate Judgment dated April 15, 2015. Appellant unilaterally set an emergency hearing date for April 20, 2015 on the subject motion. However, the motion was not heard due to several reasons. First, the hearing was improperly noticed. Second, the motion was improperly classified as an “emergency”. Third, the motion was not set in front of the judge assigned to the case. Fourth, Appellant misrepresented to the court that Appellee agreed to the hearing, however, in reality, the Appellee simply did not file an opposition to the subject motion and Appellant interpreted that as consent to the hearing. Finally, the motion was set for a 15 minute hearing which was not enough time for the motion to be heard.

Appellant then filed an appeal of the Final Judgment. After requesting the Second District to relinquish jurisdiction, and the appeals court so granting (see Orders attached), Appellant unilaterally set an evidentiary hearing post-judgment and is attempting to elicit testimony not only from Appellee, but Appellee’s counsel as well.

A. This Court’s Order does not Specifically Relinquish Jurisdiction to Hold an Evidentiary Hearing, but Simply for the Judge to Make a Ruling on the Motion

The Order that the Second District rendered in its decision to grant relinquishment contains the following language:

The appellant's motion to relinquish jurisdiction is granted to the extent that jurisdiction is relinquished for 45 days from the date of this order, during which the judge currently presiding in the division in which this case was tried shall enter an order on the appellant's motion to vacate the final judgment of foreclosure.

Accordingly, during the 45-day relinquishment period, this Court is limited to rendering a ruling on Appellant's motion and nothing else. Under Florida Rule of Appellate Procedure 9.600(b), the appellate court can relinquish jurisdiction to the trial court to proceed with specifically stated matters while the appeal is pending. When the jurisdiction of the lower tribunal has been divested by an appeal from a final order, the court by order may permit the lower tribunal to proceed with specifically stated matters during the pendency of the appeal. Fla. R. App. P. 9.600(b). If the appellate court relinquishes jurisdiction for a specific purpose, the trial court has no jurisdiction to go beyond the scope of that specifically stated matter. *Hoffman v. Crosby*, 908 So.2d 1111 (Fla. 1st DCA 2005); *Palm Beach County v. Boca Development Associates, Ltd.*, 485 So.2d 449 (Fla. 4th DCA 1986).

Numerous cases allow for a trial court to conduct an evidentiary hearing on relinquished jurisdiction from the district courts of appeal. However, it is because the courts explicitly granted such hearings. In *King v. Cutter Lab.*, the Florida

2D15-1925

L.T. Case Number: 11-CA-3117

Supreme Court held “We only relinquish jurisdiction for the purpose of this limited evidentiary hearing. Upon the entry of its order making a determination of whether the market share alternate theory of liability applies, either party may seek review of the trial court's decision in this Court.” 714 So. 2d 351, 353 (Fla. 1998). In *Berry v. Scotty's, Inc.*, the Second District held:

Accordingly, in granting Mr. Berry's motion for attorneys' fees, we relinquish jurisdiction of the matter to the appeals referee for thirty days. In the event the parties are able to stipulate to an amount, they shall file that stipulation with this court. If the parties cannot stipulate to an award, then the appeals referee shall hold an evidentiary hearing, and thereafter file with this court a recommended order, with findings and conclusions consistent with the Rowe principles. If it appears that the proceedings will require more than thirty days, then the parties shall notify this court of the status. Upon receiving the parties' stipulation or the appeals referee's recommended order, this court, consistent with our statutory duty to "fix" the amount, will issue an order setting the amount of the award.

789 So. 2d 1008 (Fla. 2d DCA 1998). In *Shamrock Jewelers, Inc. v. Robert L. Schillaci, RLS, Inc.*, the Fourth District held:

We follow that procedure in this case, and relinquish jurisdiction to the circuit court for 60 days to obtain a final order and file a copy of it with this court. Failure to do so will result in a sua sponte dismissal of this appeal. If Shamrock obtains a final order, an amended notice of appeal shall be filed in the circuit court. We note that on remand, the trial court is not required to enter a final order of dismissal; rather, the court is free to take a closer look at the record and reconsider whether there was "record activity" within the meaning of Rule 1.420(e).

126 So. 3d 1073 (Fla. 4th DCA 2011). Finally, in *Carraher v. State*, the Fifth District held: “[W]e grant the motion for a second evidentiary hearing

and again relinquish jurisdiction to the trial court for forty-five days so that the trial court can conduct a properly noticed evidentiary hearing and make findings of fact on the record regarding Carraher's claim of prior indigency” 401 So. 2d 889 (Fla. 5th DCA 1981).

As previously discussed, in Appellee’s Opposition to Relinquishment, a hearing on the subject motion is improper in this case because Appellant has had several bites of the apple as to the issue and has now subpoenaed Appellee counsel Attorney Juliana Gaita in the evidentiary hearing set on this matter. To allow a hearing to go forward would be a drain on judicial resources, as well as a means for Appellant counsel to examine Attorney Gaita on the record. This Court was correct in its Order directing the trial court to only make a ruling on the outstanding motion. Appellant should not be entitled to unilaterally set a evidentiary hearing, not consult with Appellee counsel, and then subpoena Attorney Gaita and non resident witness (not yet served but subpoena filed attached hereto a Texas resident). In order to reach a timely resolution in this matter, Appellee respectfully requests this Court to Clarify its previous Order directing the trial court to only make a ruling on the outstanding motion and not allow Appellant to conduct a hearing on this matter.

B. The Order Should Be Clarified as to which Judge Should make the Ruling on Appellant's Motion.

The first Order entered Appellant's Motion to Relinquish Jurisdiction stated that Judge Byrd would rule on the outstanding motion. Next, the Order of Clarification stated that the division judge would make the ruling on Appellant's outstanding motion. However, Senior Judge Cobb has been the judge presiding over this matter from the beginning and is still presiding over foreclosure cases. To assign this motion to a judge who has never heard a portion of this matter is contrary to judicial economy. As the Judge familiar with the entire case, Judge Cobb is much more appropriate to make a ruling on the subject motion than Judge Babb, whose basis for a ruling will be limited to motion or the evidentiary hearing if the Court so clarifies that an evidentiary hearing should be held.

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WHEREFORE Appellee, U.S. BANK NATIONAL ASSOCIATION BUT NOT IN ITS INDIVIDUAL CAPACITY, BUT SOLELY AS TRUSTEE FOR THE RMAC TRUST, SERIES 2013-IT, respectfully requests this Honorable Court to Clarify its Order entered on September 1, 2015, and any other relief deemed just and proper.

Respectfully Submitted,
JULIANA GAITA, P.A.

By: /s/ Juliana Gaita, Esq.
Juliana Gaita, Esq.
Florida Bar No. 76893
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431
T: 561-869-3703
F: 866-292-0295
Eservice@gllawcenter.com

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this motion is written in 14 point “Times New Roman” font.

Respectfully Submitted,
JULIANA GAITA, P.A.
By: /s/ Juliana Gaita, Esq.
Juliana Gaita, Esq.
FBN 76893

2D15-1925

L.T. Case Number: 11-CA-3117

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail, where available, and U. S. first class mail, on this 24th day of September, 2015.

MATTHEW D. WEIDNER, Esq.
WeidnerLaw, P.A.
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
service@mattweidnerlaw.com

Respectfully Submitted,
JULIANA GAITA, P.A.
By: /s/ Juliana Gaita, Esq.
Juliana Gaita, Esq.
FBN 76893
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431
Tel.: 561-869-3703
Fax: 866-292-0295
eservice@gllawcenter.com

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

September 1, 2015

CASE NO.: 2D15-1925

L.T. No. : 11-CA-3117

Eric Wall

v.

U. S. Bank National Association

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Upon consideration of the appellant's motion for clarification and the appellees' response, the appellant's motion for clarification is granted to the extent that the order rendered on August 6, 2015, is rescinded, and the following is substituted in its place. In all other respects the appellant's motion is denied.

The appellant's motion to relinquish jurisdiction is granted to the extent that jurisdiction is relinquished for 45 days from the date of this order, during which the judge currently presiding in the division in which this cause was tried shall enter an order on appellant's motion to vacate the final judgment of foreclosure. See Paladin v. Family Investment Enterprises, 952 So.2d 560, 562 (Fla. 2d DCA 2007). The clerk of the circuit court shall supplement the record with the order within 10 days of its entry. The appellant shall file a status report within 45 days of this order.

A party aggrieved by any order entered by the trial court must file a notice of appeal within 30 days of its rendition. See Fla. R. App. P. 9.110(b); 9.130(b). If the present appeal survives, the parties should consider moving for its consolidation with the new appeal.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.


Served:

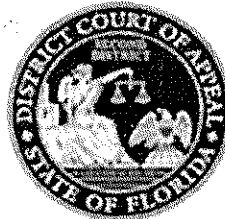
Michael P. Fuino, Esq.
Paula S. O'Neil, Clerk

Francis E. Friscia, Esq.
Hon. Kimberly Sharpe Byrd

Juliana Gaita, Esq.

ec


Christina McAdams
Interim Clerk



**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

U.S. BANK NATIONAL ASSOCIATION,

CASE NO. 2011-CA-3117-ES-J4

PLAINTIFF,

v.

ERIC WALL,

DEFENDANT.

_____ /

DEFENDANT'S NOTICE OF EVIDENTIARY HEARING

PLEASE TAKE NOTICE that the undersigned counsel will call up for hearing the following:

MATTER: Defendant's Motion to Vacate Final Judgment of Foreclosure
DATE: October 05, 2015
TIME: 12:00 p.m.
PLACE: Honorable Linda Babb
38053 Live Oak Avenue
Room 106D
Dade City, Fl 33523

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact New Port Richey (813) 847-8110; Dade City (352) 521-4274 Extension 8110; TDD 1-800-955-8771 via Florida Relay Service at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time scheduled appearance is less than 7 days.

*****NOTICE TESTIMONY AND EVIDENCE MAY BE TAKEN AT THIS HEARING*****

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by email on this 15th day of September, 2015 to **Juliana Gaita, Esq.**, at Juliana@gllawcenter.com and eservice@gllawcenter.com and **Francis E. Friscia, Esq.**, at fiscia@frpalegal.com

By: /s/ Matthew D. Weidner
MATTHEW D. WEIDNER, Esq.
WeidnerLaw, P.A.
Attorney for Defendant(s)
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
(727) 954-8752
service@mattweidnerlaw.com
FBN: 0185957

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

U.S. BANK NATIONAL ASSOCIATION,

CASE NO. 2011-CA-3117-ES-J4

PLAINTIFF,

v.

ERIC WALL,

DEFENDANT.

SUBPOENA FOR EVIDENTIARY HEARING

THE STATE OF FLORIDA:

TO: Juliana Gaita, Esq.
JULIANA GAITA, P.A.
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431

YOU ARE COMMANDED to appear before the Honorable Linda Babb, Judge of the Court, at the Robert D. Sumner Judicial Center, 38053 Live Oak Avenue, Room 106D, Dade City, Fl 33523 on October 5, 2015 at 12:00 p.m., to testify in this action. **If you fail to appear, you may be in contempt of court.**

You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED on September 15, 2015

Matthew D. Weidner, Esq.
For the Court

By: /s/ Matthew D. Weidner
Matthew D. Weidner, Esq.
WeidnerLaw, P.A.
Attorney for Defendants
250 Mirror Lake Dr. N.
St. Petersburg, FL 33701
(727) 954-8752
service@mattweidnerlaw.com
FBN: 0185957

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact New Port Richey (813) 847-8110; Dade City (352) 521-4274 Extension 8110; TDD 1-800-955-8771 via Florida Relay Service at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time scheduled appearance is less than 7 days.

CERTIFICATE OF SERVICE AND FILING

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this September 15, 2015 to all parties on the attached service list. Service was by email to all parties not exempt from Rule 2.516 Fla. R. Jud. Admin. at the indicated email address on the service list, and by U.S. Mail to any other parties.

Weidner Law, P.A.
Counsel for Defendant
250 Mirror Lake Dr., N.
St. Petersburg, FL 33701
Telephone: (727) 954-8752
Designated Email for Service:
service@mattweidnerlaw.com

By: s/ Matthew D. Weidner
Matthew D. Weidner, Esq.
Florida Bar No. 0185957

SERVICE LIST

Juliana Gaita, Esq.
JULIANA GAITA, P.A.
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431
eservice@glawcenter.com

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

August 6, 2015

CASE NO.: 2D15-1925

L.T. No. : 11-CA-3117

Eric Wall

v. U. S. Bank National Association

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

The appellant's motion to relinquish jurisdiction is granted to the extent that jurisdiction is relinquished for 45 days, during which Judge Kimberly Sharpe Byrd shall enter an order on appellant's motion to vacate final judgment of foreclosure. The clerk of the circuit court shall supplement the record with the order within 10 days of its entry. The appellant shall file a status report within 45 days of this order.

A party aggrieved by any order entered by the trial court must file a notice of appeal within 30 days of its rendition. See Fla. R. App. P. 9.110(b); 9.130(b). If the present appeal survives, the parties should consider moving for its consolidation with the new appeal.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Michael P. Fuino, Esq.
Paula S. O'Neil, Clerk

Francis E. Friscia, Esq.
Hon. Kimberly Sharpe Byrd

Juliana Gaita, Esq.

ds


James Birkhold
Clerk



Info

From: Juliana Gaita
Sent: Wednesday, September 23, 2015 4:29 PM
To: Info
Subject: FW: Wall v. Arch Bay; Pasco 11-CA-3117-ES+;

From: Matthew Weidner [<mailto:weidner@mattweidnerlaw.com>]

Sent: Sunday, August 02, 2015 12:35 PM

To: Juliana Gaita

Subject: Wall v. Arch Bay; Pasco 11-CA-3117-ES+;

Received your response. Interesting. So if I had to sum your position up (as articulated in the motion) it would be, "we got away with it, so nothing that this appellate court (or the trial court) can do about it. (ha ha...we win)"

Interesting that you continue to ignore or avoid entirely the substantive issues.

Whether it's granted or not really doesn't matter a whole lot to me...at the end of the day, this is all going to culminate in oral arguments before the 2nd DCA....

The real issue of course is just how complicit in all this your client was/is.

And no matter what happens with this instant case, there remains the ancillary 1.540 vacate for fraud motion. This is going to keep going for a very long time....and at the end of the day, this all comes down to your failure to come clean and accept responsibility for very real wrong that was done here.....

Info

From: Juliana Gaita
Sent: Wednesday, September 23, 2015 4:31 PM
To: Info
Subject: FW: WALL v. Arch Bay; Pasco 11-CA-3117-ES;

From: Matthew Weidner [<mailto:weidner@mattweidnerlaw.com>]
Sent: Monday, November 24, 2014 10:59 AM
To: Juliana Gaita
Cc: Gabriela Vidaurre-Arevalo; 'Michael Fuino'
Subject: RE: WALL v. Arch Bay; Pasco 11-CA-3117-ES;

The central, and most serious, "allegation" is my assertion that Rushmore issued third party subpoenas but did not provide the required notice, that Rushmore received documents pursuant to those subpoenas, and that Rushmore used those documents at trial, without advising me.

In months of back and forth on this, both in formal pleadings and in emails, you have not disputed those "allegations" So, one last time....do you deny my, "allegations"?

From: Juliana Gaita [<mailto:juliana@gllawcenter.com>]
Sent: Monday, November 24, 2014 9:34 AM
To: Matthew Weidner
Cc: Gabriela Vidaurre-Arevalo; Michael Fuino
Subject: Re: WALL v. Arch Bay; Pasco 11-CA-3117-ES;

Do what you have to do Mr. Weidner, but your baseless allegations and accusations are not going to be taken lightly, by myself or my client.

Sent from my iPhone

On Nov 24, 2014, at 9:18 AM, "Matthew Weidner" <weidner@mattweidnerlaw.com> wrote:

Normally I offer opposing counsel a heartfelt congratulations when they secure a win. But not in this case....where your win came as a result of cheating. You cheated. Plain and simple. You obtained records in violation of the Rules of Procedure and then used them at trial. The most important question right now is what your witness, the former General Counsel at Citi Compliance knew about those records and what else he knew and when he knew it. We will ultimately find out the answers to those questions. I will exhaust all options in this case. Rehearing, Motion to Vacate for Fraud on the Court, and then appeal. Everhome did not just cheat my client, Everhome committed fraud on the court when they presented to the court records they had obtained through improper means. That is the primary issue I will focus on in all my motions and briefing. Perhaps you get away with this sort of thing down there in south Florida. And perhaps this judge chose to ignore. All I need is one appellate judge to recognize the gravity of this...I will hope every day until then that I get the opportunity to explain this in oral arguments.

From: Gabriela Vidaurre-Arevalo [<mailto:gabriela@gllawcenter.com>]
Sent: Monday, November 17, 2014 2:41 PM
To: 'Matthew Weidner'; Juliana Gaita
Cc: 'Michael Fuino'
Subject: RE: WALL v. Arch Bay; Pasco 11-CA-3117-ES;

Good afternoon Mr. Weidner:

Per our client's instructions, please have your client respond to/complete the attached, as soon as possible. Thanks

Gabriela Vidaurre-Arevalo
Legal Assistant

Juliana Gaita, P.A.
2701 Boca Raton Blvd., Suite 107
Boca Raton, FL 33431
T: 561-869-3703
F: 866-292-0295
Email: Gabriela@GLlawcenter.com

E-SERVICE:

Our firm's primary designated email address for electronic document service is: Eservice@GLlawcenter.com
Please direct the service of ALL pleadings, notices and required service documents to this designated email address. Documents or items requiring electronic service that may be sent or delivered to any other email address shall not be deemed received by the law offices of Juliana Gaita, P.A., or its attorneys pursuant to the rules governing electronic document service.

PRIVATE & CONFIDENTIAL COMMUNICATION:

The e-mail message and any attachment(s) to this e-mail message may contain privileged and confidential information intended only for the viewing and use of the individual or entity of the intended recipient(s). If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication and any attachments(s) is strictly prohibited. If you receive this communication in error, please notify the sender by return e-mail and delete this message.