

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

Case No. 12-44972-CA-40

General Jurisdiction Div.

KELLY HYMAN, a Florida resident,  
BOUGANVILLA INVESTMENTS, INC.,  
a Florida corporation,

Plaintiffs,

vs.

ARNOLD DAOUD, a Florida  
resident,

Defendant.

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HEARING

Transcript of the proceedings had and  
testimony taken in the above-entitled matter  
before the Honorable John Thornton, Circuit  
Court Judge, Dade County Courthouse, 73 West  
Flagler Street, 10th Floor, Miami, Florida, on  
Thursday, December 5, 2013, commencing at  
2:30 p.m.

Reported by:

LARRY ABRAMSON

APPEARANCES:

For the Plaintiffs:

BURSTEIN & ASSOCIATES, P.A.  
by BERNARDO BURSTEIN, ESQ.  
13744 Biscayne Boulevard  
North Miami Beach, Florida 33181

For the Defendant:

ZARCO, EINHORN, SALKOWSKI & BRITO, P.A.  
by ALEJANDRO BRITO, ESQ.  
100 Southeast 2nd Street  
Miami Tower  
Suite 2700  
Miami, Florida 33131

On behalf of ALEXANDER DAOUD

MICHAEL LANDEN  
201 South Biscayne Boulevard  
Suite 1700  
Miami, Florida 33131

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Also Present:

MRS. KELLY HYMAN

MR. PAUL HYMAN

1           WHEREUPON, the following proceedings  
2 were had:

3           THE COURT: Good afternoon.

4           We are here in the matter of Hyman vs.  
5 Daoud, 12-44972.

6           Let me have the appearances, please.

7           MR. BURSTEIN: Bernardo Burstein, on  
8 behalf of the Plaintiffs, who are with me here.

9           MRS. HYMAN: Good afternoon, your  
10 Honor.

11          THE COURT: Good afternoon.

12          MR. BRITO: Alex Brito, on behalf of  
13 the Defendant, Arnold Daoud, who is sitting to  
14 my far left.

15          MR. LANDEN: Good afternoon, your  
16 Honor.

17          Mike Landen, on behalf of Alexander  
18 Daoud.

19          THE COURT: Good afternoon.

20          All right.

21          Let me see.

22          You've got three Motions for Summary  
23 Judgment, so I will leave it to you as to who  
24 wants to argue first.

25          I am going to give you fifteen minutes

1 each, so you tell me who wants to go ahead and  
2 go first.

3 Are you ready to proceed, Mr. Brito?

4 MR. BRITO: I am, your Honor.

5 May it please the Court.

6 As I believe your Honor had indicated,  
7 you would like both to be addressed, the Motion  
8 that was filed by the Defendant, as well as to  
9 deal with the issues that were raised by the  
10 Plaintiff.

11 I believe there were two Summary  
12 Judgment Motions.

13 I will try to do so in as a  
14 comprehensive fashion as I can.

15 With respect to the Motion filed by the  
16 Defendant, your Honor, it's a Motion that seeks  
17 the entry of Summary Judgment as to Counts 1 and  
18 2 of the Fourth Amended Complaint.

19 Counts 1 and 2 of the Fourth Amended  
20 Complaint deal with the breach of judiciary duty  
21 claim.

22 Count 1 is brought on behalf of both  
23 Plaintiffs, and Count 2 is brought on behalf of  
24 Mrs. Hyman, individually.

25 As a preliminary matter, your Honor, I

1 have.

2 MRS. HYMAN: May I say something?

3 THE COURT: No.

4 Please.

5 I will let you talk at trial, but not  
6 before the mediation.

7 Is there anything else?

8 MR. BURSTEIN: As far as the  
9 bifurcation, we do not want to delay the trial,  
10 and --

11 THE COURT: I need to see, you know,  
12 written Motions to respond in reaching an  
13 agreement of all three parties.

14 Then, I will most likely go along with  
15 something like that, but that's something that I  
16 want you all to talk about.

17 What else?

18 MR. BURSTEIN: Do you know when trial  
19 might be?

20 THE COURT: We will talk about that on  
21 Monday.

22 MR. BURSTEIN: Tuesday.

23 THE COURT: All right, Tuesday.

24 Anything else on the issues for today?

25 MR. BRITO: We have an agreement that

1 we will not bring up the tax returns for  
2 purposes of Summary Judgement. We are past  
3 that.

4 We are still awaiting on Mrs. Hyman's  
5 tax returns.

6 MR. BURSTEIN: We also submitted those  
7 to the Court.

8 THE COURT: Now, I will have an answer  
9 for that by Tuesday.

10 All right.

11 I am sure that as your philosophy is, I  
12 am sure that their philosophy is also trust,  
13 and --

14 MR. BURSTEIN: I will take a look at  
15 it.

16 THE COURT: I have no doubt,  
17 Mr. Burstein, that you are telling me the truth,  
18 but I do want to look at it.

19 MR. HYMAN: We are talking about the  
20 2012 tax returns, and they will be returned when  
21 you are done?

22 THE COURT: I've got to look at that.  
23 I've got to see what the issue is.

24 I am not sure that --

25 My humble opinion is --

1                   MR. HYMAN: We can redact the page, but  
2 what are you going to do with the redacted page,  
3 and --

4                   THE COURT: If I find that there is no  
5 issue here, then --

6                   We will discuss it then.

7                   Thank you.

8                   (Thereupon, this Hearing was  
9 concluded.)

## CERTIFICATE

1

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3 STATE OF FLORIDA

4 COUNTY OF DADE

5 I, the undersigned, do hereby certify

6 that the foregoing transcript, Pages 1 through

7 79, inclusive, constitutes a true and correct

8 record of the proceedings had and testimony

9 taken in the foregoing cause, in re: KELLY

10 HYMAN, a Florida resident, BOUGANVILLA

11 INVESTMENTS, INC., a Florida corporation, are

12 the Plaintiffs, and ARNOLD DAOUD, a Florida

13 resident, is the Defendant, Circuit Court Case

14 Number 12-44972-CA-40, held before the Honorable

15 John Thornton, Circuit Court Judge, Miami,

16 Florida, at the time and place stated in the

17 caption thereof.

18 IN WITNESS WHEREOF I hereunto set my

19 hand and official seal in the City of Miami,

20 County of Dade, State of Florida, this 14th day

21 of March, 2015.

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LARRY ABRAMSON,  
Court Reporter and  
Notary Public for the  
State of Florida at Large

My Commission expires: May 18, 2015  
My Commission Number : EE 089443