

orig.

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

Bank of New York Mellon,
as Trustee,

CIRCUIT CIVIL DIVISION
CASE NO.: 2009-87096 CA (22)

Plaintiffs,

v.

ORDER

Ryan Atkin, et. al.,

Defendant.

_____ /

THIS CAUSE is before the Court upon” (a) “Defendant’s Motion for Determination of Entitlement to Prevailing Party Attorney’s Fees and Rehearing”; and (b) “Defendant’s Motion for an Award of Attorney’s Fees and Costs and for Order Determining Entitlement of Multiplier.” Upon review of said motions and Plaintiff’s responses, it is hereby **ORDERED**:

1. This Court previously denied Defendant’s Motion for Rehearing of its Order dated June 27, 2019. The Court, however, does have jurisdiction to entertain Defendant’s claim for attorney’s fees and costs brought pursuant to Fla. R. Civ. P. 1.420(d) and Florida Statute § 57.105(7).


2. In both his May 3, 2019 “Motion for an Award of Attorney’s Fees and Costs and for Order Denying Entitlement to Multiplier,” and his July 14, 2019 (misdated July 14, 2018) “Motion for Determination of Entitlement to Prevailing Party Attorney’s Fees and Rehearing,” Defendant claims an entitlement to attorney’s fees and costs pursuant to Fla. R. Civ. P. 1.420(d) and Florida Statute §57.105(7).

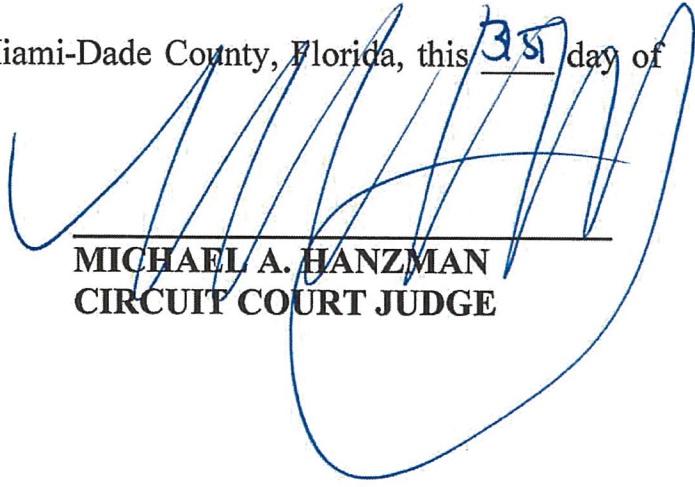
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Ivan Lui-kwan

Defendant, however, never pled any entitlement to – or requested – attorney’s fees. Thus, pursuant to controlling authority Defendant failed to cite, his motion for fees is **DENIED**. *Concrete & Lumber Enterprises Corp. v. Guar. Bus. Credit Corp.*, 829 So. 2d 247 (Fla. 3d DCA 2002); *Lopez v. Bank of Am., N.A.*, 136 So. 3d 603 (Fla. 2d DCA 2014); *Stockman v. Downs*, 573 So. 2d 835 (Fla. 1991); *Green v. Sun Harbor Homeowners' Ass'n, Inc.*, 730 So. 2d 1261 (Fla. 1998).¹ The Court will, however, award Defendant costs to be set after a subsequent hearing.

DONE and ORDERED in Miami-Dade County, Florida, this 35 day of

 _____, 2019.



**MICHAEL A. HANZMAN
CIRCUIT COURT JUDGE**

**Copies furnished to:
D. Brian O’Dell, Esquire
Bruce Jacobs, Esquire
Miguel M. Cordano, Esquire
Bridgette Elizabeth Bonet, Esquire
Laura Carbo, Esquire
Tonya Avery, Esquire**

¹ Apparently Defendant’s counsel – Bruce Jacobs - has not gotten the message or been deterred by our appellate court’s issuance of an Order to Show Cause based upon its finding of “a reasonable basis to conclude Mr. Jacobs violated his duty of candor to the tribunal . . . by failing to disclose to this court controlling adverse law,” *Aquasol Condo. Ass’n, Inc. v. HSBC Bank USA*, 43 Fla. L. Weekly D2271 (Fla. 3d DCA Sept. 26, 2018), or its later “Order Imposing Sanctions” and referral to the Florida Bar for appropriate disciplinary proceedings based – in part – on Mr. Jacobs’ “extraordinary and corrosive” attacks “on the integrity of the trial court and this court.” *Aquasol Condo. Ass’n, Inc. v. HSBC Bank USA, Nat’l Ass’n*, 43 Fla. L. Weekly D2699 (Fla. 3d DCA Dec. 5, 2018). Despite the appellate court’s findings and Bar referral, Mr. Jacobs’ recently filed a scurrilous motion to disqualify this Court and once again violated Rule 4-8.2(a) of the Rules and Regulation of the Florida Bar by impugning the integrity of this Court, and he has once again failed to cite controlling authorities. In sum, Mr. Jacobs is unrepentant, undeterred and continues to engage in the exact same behavior he was sanctioned for and which is now presumably being investigated by the Bar. Accordingly, this Order will be sent to the Florida Bar so it may be considered as part of any disciplinary proceeding.