

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN AND
FOR LEON COUNTY, FLORIDA.

GENERAL JURISDICTION DIVISION

CASE NO. 04-CA-000559

IN RE ASSIGNMENT OF CERTAIN
LOTTERY PAYMENTS OF
CARL DORELIEN

MARIE JEANNE JEAN, Plaintiff,

CASE NO. 04-CA-001525

v.

CARL DORELIEN, Defendant.

**JUDGMENT CREDITOR MARIE JEANNE JEAN'S AGREED MOTION FOR
CLARIFIED ORDER AUTHORIZING AND DIRECTING NORTHERN TRUST TO
PAY THE BALANCE ON DEPOSIT IN THE COURT'S ESCROW ACCOUNT TO
HOLLAND & KNIGHT, LLP, IN TRUST FOR MARIE JEANNE JEAN**

Judgment creditor, Marie Jeanne Jean ("Jean"), by and through her undersigned counsel, hereby moves this Court for an order clarifying this Court's Order Granting Marie Jeanne Jean's Renewed Motion for Enforcement of Money Judgment, rendered on August 17, 2006, to authorize and direct Northern Trust, N.A., f/k/a Northern Trust Bank of Florida, N.A. ("Northern Trust") to pay the balance on deposit in the Court's escrow account to Jean's counsel, Holland & Knight LLP, in trust for Jean. Jean states:

Background

This case commenced in March, 2004, when Petitioner and Judgment Debtor Carl Dorélien filed his Petition for Approval of Assignment of Lottery Prize (the "Petition"). In his Petition, Dorélien asked the Court to approve his assignment of his Florida Lottery prize, which was then payable as an annuity, to his assignee, Lump Sum Capital, LLC ("Lump Sum Capital"), in consideration for a lump sum payment of \$1.3 million.

Two days after Dorélien filed his Petition, Jean filed a motion for leave to intervene, and to enjoin the assignment as a fraudulent transfer. The Court granted Jean's motion for leave to intervene on May 19, 2004.

On June 21, 2004, pursuant to the Florida Uniform Out-of-Country Foreign-Money Judgment Recognition Act, Fla. Stat. § 55.601 (2004), *et. seq.*, Jean filed suit for the recognition of a Haitian money judgment entered in favor of herself and others against Dorélien. (*See Exhibit A, Notice of Recording Foreign Judgment, with copy of Judgment of the Court of First Instance of Gonaïves, Haiti, rendered November 16, 2000, filed in Jean v. Dorélien, Case No. 2004 CA 001525 in the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida.*)

On August 4, 2004, the Court entered an order consolidating Jean's suit for recognition of the Haitian judgment (Case No. 2004 CA 001525) with this case.

Thereafter, on September 8, 2004, the Clerk of the Court issued a certificate, in accordance with Section 55.604(4) certifying that Dorélien had not objected to the recognition of the Haitian judgment as a Florida judgment. (*See Exhibit B, Clerk's Certificate.*)

A. The Creation of the Escrow Account at Northern Trust.

On September 10, 2004, the Court entered an Order approving Dorélien's assignment of his lottery prize to Lump Sum Capital. Later, on September 21, 2004, the Court entered an Amended Order, which is the operative order governing the assignment. Pursuant to the Amended Order, Dorélien's Petition for Approval of Assignment of Lottery Prize was granted, subject to certain conditions, including, the following:

- (11) Assignee [Lump Sum Capital] and Argonne Trust 2003-1 [Lump Sum Capital's assignee] shall pay the sum of \$866,219.33 into a money market checking account with Northern Trust Bank, 2300 Weston Road, Weston, FL 33326, within (10) days after the Florida Department of Lottery acknowledges, in writing, that it will pay the Assigned Payments in

accordance with this order, provided that an extension of the ten (10) day period shall be granted if Argonne Trust 2003-1's standard funding criteria have not been satisfied. Assignee shall be the sole signator to this account. Assignee shall hold the monies in this account in escrow until further order of this Court.

...

- (13) Other than acting as escrow for these monies, upon payment of the sum of \$866,219.33 into the Northern Trust Account, Assignee shall be excused from any further appearance in this case and Argonne Trust 2003-1's interest in the Assigned Payments shall not be disturbed.
- (14) The Court shall retain jurisdiction over and possession of all of the funds paid into the Northern Trust account pending the outcome of Intervenor's pending actions.

(See Exhibit C, Amended Order, at ¶ 2(11), (13), and (14).)

B. The August 17, 2006 Order Authorizing Enforcement of the Judgment against the Escrow Account.

On December 3, 2004, the Court rendered its Order Recognizing Foreign Judgment, which recognized the Haitian judgment (attached as Exhibit A) as an enforceable Florida judgment. (See Exhibit D, Order Recognizing Foreign Judgment.)

On August 17, 2006, the Court rendered its Order Granting Marie Jeanne Jean's Renewed Motion for Enforcement of Money Judgment and Denying Dorélien's Motion for Relief from Judgment (the "August 17 Order"). In its August 17 Order, the Court authorized Jean to enforce her judgment against Dorélien by presenting her judgment to the financial institution holding the funds in escrow, set up pursuant to subparagraphs 2(11), (13), and (14) of the Court's Amended Order, attached as Exhibit C. In particular, the August 17 Order provides:

the Court **DENIES** the Motion for Relief from Judgment of Dorélien, and **GRANTS** the Renewed Motion for Enforcement of Money Judgment against Dorélien. Jean may enforce the judgment by presentation of the judgment to the financial institution holding the funds in escrow for payment.

(See Exhibit E, August 17 Order, at p. 4.)

C. Northern Trust's Concerns Regarding the August 17, 2006 Order Authorizing Enforcement of the Judgment.

On August 29, 2006, Jean attempted to enforce her judgment against the escrow account by sending a copy of the August 17 Order, together with: Jean's Notice of Recording Foreign Judgment (Exhibit A); the Clerk's Certificate (Exhibit B); the Order Recognizing Foreign Judgment (Exhibit D); and the August 17 Order (Exhibit E), to Northern Trust's counsel. Jean asked Northern Trust to comply with the August 17 Order, by paying the balance of the escrow account to Holland & Knight LLP, in trust. (See Exhibit F, Letter dated August 29, 2006, from Holland & Knight LLP to Camner, Lipsitz and Poller, P.A.)

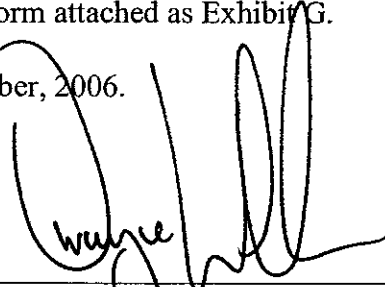
Northern Trust is not prepared to release the escrow account to Holland & Knight, in trust for Jean because, it says, the August 17 Order is vague. In particular, Northern Trust is concerned that the August 17 Order does not clearly identify the judgment that is being enforced, the financial institution or the account name or number, and that it may be subject to claims by Lump Sum Capital, Dorélien, or others, if it pays the escrow funds to Jean pursuant to the Court's August 17 Order. Northern Trust is also concerned that the October 14, 2004 Writ of Garnishment issued in favor of Jean remains open.

Request for Relief

In view of Northern Trust's concerns, Jean has agreed to file the instant motion, requesting an agreed clarified order in the form attached as Exhibit G. Northern Trust's counsel has reviewed and approved this motion and the proposed clarified order attached as Exhibit G. Further, Jean and Northern Trust have agreed that Northern Trust may retain the sum of \$1,000.00 as full and final reimbursement for its legal fees and costs incurred in connection with this motion and that the garnishment proceeding which has apparently merged with this proceeding be quashed.

WHEREFORE, Jean requests an order in the form attached as Exhibit G.

Respectfully submitted this 24th day of October, 2006.



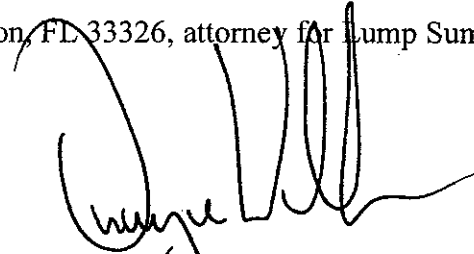
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. mail, this 24th day of October, 2006 to: Kurt R. Klaus, Esq., Law Offices of Kurt R. Klaus, Jr., 3191 Coral Way, Suite 402-A, Miami, FL 33145 and Christian N. Scholin, Esq., 505 S. Flagler Drive, Suite 400, West Palm Beach, FL 33401, attorneys for Carl Dorélien; and Scott M. Behren, Esq., 2853 Executive Park Drive, Suite 103, Weston, FL 33326, attorney for Lump Sum Capital, LLC and Argonne Trust 2003-1.



Dwayne E. Williams, Esq.