

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

KELLY HYMAN and BOUGANVILLA  
INVESTMENTS, INC.,

*Plaintiffs,*

vs.

ARNOLD DAOUD,

*Defendant.*

CASE NO.: 12-44972-CA-01

**PLAINTIFF, KELLY HYMAN'S RESPONSE TO DEFENDANT, ARNOLD DAOUD'S  
MOTION TO COMPEL KELLY HYMAN TO COMPLY WITH SETTLEMENT OR  
AUTHORIZE DEFENDANT TO PLACE FUNDS IN COURT REGISTRY AND  
MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR DAMAGES,  
SPECIFIC PERFORMANCE, AND ATTORNEYS FEES**

Plaintiff, KELLY HYMAN ("Ms. Hyman"), by and through undersigned counsel, files this response to Defendant, ARNOLD DAOUD's ("Defendant") Motion to Compel Kelly Hyman to Comply With Settlement or Authorize Defendant to Place Funds in Court Registry ("Motion"), and moves this Court to enforce the Settlement Agreement executed in this matter on August 3, 2020, between Ms. Hyman and Defendant. Ms. Hyman also requests that Defendant be ordered to pay her attorneys' fees and costs in connection with her attempts to have the Defendant comply with the terms of the Settlement Agreement. As grounds for this motion, Ms. Hyman states as follows:

**INTRODUCTION**

This dispute concerns Defendant's extra-contractual demands and unwillingness to comply with his duties under the Settlement Agreement. Defendant's Motion paints an incomplete picture for this Honorable Court. Following the execution of the Settlement Agreement the parties

continued negotiating the details and terms of an Agreed Order and a Settlement Supplement. Defendant refuses to complete either task. Instead filing a frivolous motion. Rather than raise substantive dispute, Defendant improperly asks this Court to inject new terms into a fully executed settlement and then force Ms. Hyman to perform those interjected terms. Defendant's Motion underscores his own unreasonableness because no such relief is available under Florida law. In reality, Defendant's Motion is a request for injunctive relief for which Defendant fails to meet the threshold necessary to obtain relief.

### **BACKGROUND AND RELEVANT FACTS**

1. On August 3, 2020, the parties entered into a confidential Settlement Agreement.
2. Generally, under the terms of the Settlement Agreement, Defendant had a 90-day option to buy Ms. Hyman's interest in Bouganvilla Investments, Inc. or risk losing his interest in the underlying subject real property.
3. Subsequent to executing the Settlement Agreement the parties began to negotiate the terms of an Agreed Order regarding the settlement.
4. Near the end of the 90-day open period of the option, Defendant expressed his desire to exercise this option. As such, Defendant is required pay Ms. Hyman nearly \$1 million dollars by November 1, 2020. Any delay in this matter is by Defendant's own action.
5. Per the Settlement Agreement, the deadline for Defendant to close the transaction is November 3, 2020.
6. Subsequent to exercising his option in the settlement agreement, the parties began negotiating the details of the closing, Defendant's indemnification of Ms. Hyman, and paying off the mortgage as part of the settlement.

7. Furthermore, the Settlement Agreement includes the requirement that Defendant immediately remove and/or take down all the internet posts and websites related to Ms. Hyman and her husband, Paul Hyman and his children as well as a forward-looking non-disparagement provision. As of the date of this filing, Defendant has not removed or taken down all internet posts or websites related to Ms. Hyman, Paul Hyman and his children.

## ANALYSIS

### I. Legal Standards Applicable to Motions to Enforce Settlement

In the State of Florida, settlement agreements are highly favored and are to be enforced whenever possible. *See Robbie v. City of Miami*, 469 So. 2d 1384, 1385 (Fla. 1985). Where a binding settlement agreement has been found to exist, Florida courts have uniformly enforced the agreement. *See, e.g., Robbie*, 469 So. 2d at 1386 (where the court, after determining that the parties had reached agreement on the essential terms of a settlement agreement, held that the agreement should be enforced); *De Cespedes v. Bolanos*, 711 So. 2d 216, 218 (Fla. 3d DCA 1998) (“[G]iven the fact that the material elements were agreed upon by the parties . . . we conclude that the lower court erred in denying the enforcement of this settlement.”). In that regard, a party may move to enforce a settlement agreement that has not been complied with by another party to the agreement. *See e.g. Spiegel v. H. Allen Holmes, Inc.*, 834 So.2d 295, 298 (Fla. 4th DCA 2002). In ruling on such a motion, the court may consider evidence provided at the hearing and award attorneys’ fees to the movant. *Id.* (Holding that “[a]s the defendant was forced to file a motion... and participate in an evidentiary hearing to enforce the settlement agreement, it is entitled to attorney’s fees.”). Where a party violates the terms of a settlement agreement, the court is required to enter judgment against the breaching party. *Metropolitan Dade County v. Fonte*, 683 So. 2d 1117, 1118 (Fla. 3d DCA 1996).

Courts in this jurisdiction have universally held that settlement agreements are governed by the law of contracts. *See Robbie*, 469 So. 2d at 1385 (citing *Dorson v. Dorson*, 393 So. 2d 632 (Fla. 4th DCA 1981)). Therefore, remedies available for breach of a settlement agreement are damages or specific performance. *See Beefy Trail, Inc. v. Beefy King Int'l, Inc.*, 267 So. 2d 853, 856 (Fla. 4th DCA 1972). Further, when a contracting party commits a breach of the contract, the counter party is discharged of its obligations under the contract, and the breaching party is restricted from enforcing the breached contract. *See, e.g., Colucci v. Kar Kare Auto. Group, Inc.*, 918 So. 2d 431, 437 (Fla. 4th DCA 2006).

## **II. Defendant Essentially Seeks Specific Performance or A Permanent Injunction In Violation of Florida Law**

In essence, Defendant is seeking permanent injunctive relief that will forever alter the status quo of the parties relationship to the subject real property. Instead of complying with the terms of the existing settlement, the Defendant is requesting that the Court step in and rewrite certain terms the Settlement Agreement – freeing the Defendant of obligations thereunder. The Defendant is obligated to 1) remove all relevant internet material, 2) indemnify the Plaintiff for claims arising from his control of the property during his lifetime, and 3) assure payment of the existing mortgage, which the Plaintiff has personally guaranteed.

Permanent injunctions are not available via motion under Florida law. *See Scarbrough v. Meeks*, 582 So. 2d 95 (Fla. 1st DCA 1991) (“While a temporary injunction may be obtained on mere notice, and in certain circumstances even without notice, a permanent injunction cannot be properly granted in a suit simply on notice, without process duly issued and served, and without formality of pleading, or presentation of proof, in the absence of waiver.”); *Rieder v. Rieder*, 197 So. 3d 1258 (Fla. 2d DCA 2016); *Alabau v. Town of Lake Park*, 617 So. 2d 872 (Fla. 4th DCA 1993) (“The provisions in the civil rules requiring pleadings and the proper setting of trials on the

merits are not merely a convenience for the trial judge and parties to dispense with over the objection of an adverse party. They are mandatory unless waived, and here they were not.”).

There is no emergency, and no basis for an emergent injunction. Obtaining such relief would require an evidentiary hearing wherein missing evidence, including but not limited to, statements needed by the parties to the real estate transaction, would need to be introduced and argued. As such, this Court should deny Defendant’s Motion on this procedural failure alone.

**III. The Defendant has failed to make reasonable efforts to resolve the disputes referenced In the Defendant’s Motion.**

**1) The Defendant’s Proposed Order Regarding Internet Issues is Unacceptable**

At the Eleventh Hour the Defendant is attempting to retreat from the settlement to which he agreed. The terms of the settlement agreement require Daoud or those acting under his direction to take certain steps that Daoud agreed to take regarding websites Daoud and others created. Daoud’s proposed orders limit the scope of that term by excluding certain persons involved in the creation of the website. That exclusion is not acceptable and allows for continued abuse of the Plaintiff. An order acceptable to the Plaintiff is attached hereto as Exhibit “A”. If Daoud is concerned about his ability to remove websites or internet material, he can execute a limited power of attorney and provide written permission for the Plaintiff to do so on his behalf.

**2) The Defendant Seeks Information That is Not Necessary to the Consummation of the Transaction and Have Apparently Placed the Funds in an Unknown Escrow.**

The Defendant, through his agents, has advised that the funds are currently being “escrowed” due to the existence of the disagreements set out herein. Plaintiff has not agreed to any such escrow and has no idea what the terms of the escrow are. Plaintiff does not agree to pay the funds to the Court registry either. The appropriate documents should be prepared, and the

funds should be paid directly to the Plaintiff. Defendant's agents have demanded that the Plaintiff provide her social security number and resident address in order to consummate the transaction<sup>1</sup>. That information is not necessary. The Plaintiff can provide the Defendant with a post office box for use as an address on the deed. The Trustee would be the appropriate person to issue any tax forms in any event. The Plaintiff's Spouse is a Federal Judge. Both the Plaintiff her Spouse have been subjected by the Defendant to well documented instances of malicious behavior in the past and providing additional personal information which the Defendant can exploit to continue that behavior defeats the very purpose of the settlement. The Defendant has obtained and used social security numbers of others in the past to engage in illicit transactions, and simply providing the Defendant with that information is not required by the terms of the settlement.

**3) The Defendant must indemnify the Plaintiff and Provide a Guarantee that the Mortgage will be paid off**

Finally, the Settlement Agreement and relevant orders relating thereto would require a "clean break" between the parties. To that end the Defendant and Plaintiff have to agree to the form of a short agreement accomplishing those ends. The Plaintiff is the guarantor of the current mortgage on the property, and cannot continue to be indebted to the lender, subject to a deficiency judgment, or otherwise bear the negative effects if Daoud elects not to pay off the existing mortgage.

Next, Daoud's behavior has resulted in incidents on the property which present potential issues of premises liability, among other things. Daoud has been in sole control of the property

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<sup>1</sup> The settlement agreement provides that the Defendant will purchase the Plaintiff's interest in the corporate entity. However, Counsel for the Defendant appears to be approaching the transaction as a sale of real estate, which is improper and not consistent with the agreement. By way of example, the Plaintiff has been presented with a quit claim deed in which she is the grantor and Daoud individually is the grantee. It would seem the Trustee would be the appropriate person to prepare and handle the necessary documents transferring the interest in the corporate entity.

during the relevant period and will continue to do so. Absent an indemnification agreement covering past and potential future liability relating to the property, there cannot be any resolution of this case.

### **CONCLUSION**

Defendant has willfully breached the terms of the Settlement Agreement into which it entered with Ms. Hyman. The Defendant should be required to specifically perform the terms of the Settlement Agreement. Finally, pursuant to the terms of the Settlement Agreement, the Defendant should be required to pay Ms. Hyman her reasonable attorney's fees and costs in connection to her enforcement of the Settlement Agreement.

**WHEREFORE**, Plaintiff, KELLY HYMAN, respectfully requests this Honorable Court enter an order denying Defendant's Motion in its entirety, granting this Motion in its entirety, and for any and all other relief this Court may deem just and proper.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed via Florida E-Portal and furnished to all parties this 30th day of October, 2020.

#### **REID BURMAN LEBEDEKER XENICK PEPIN**

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**“A”**

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

CASE NO. 12-44972 CA 40

KELLY HYMAN,

Plaintiff,

v.

ARNOLD DAOUD,  
a Florida resident, *et al.*

Defendants.

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**AGREED ORDER TO TAKE DOWN INTERNET POSTING RELATED TO KELLY  
HYMAN, PAUL G. HYMAN, JR., KAYLEE HYMAN AND ZACHARY HYMAN**

THIS CAUSE came before the Court on the settlement agreement of the parties and the Court's Order of August 21, 2020, and the Court being fully apprised in its premises, it is hereby

ORDERED AND ADJUDGED that within five (5) days of the date of entry of this Order, Defendant (Arnold A. Daoud), and those acting at his direction (hereinafter referred to as "Daoud") shall remove from the internet and from all social media and from any other place in which Daoud has posted or is responsible for posting or was posted at his direction any references to Kelly Hyman (aka Kelly Daoud aka Kelly Alexandra Hyman, aka Kelly Daoud Hyman aka Kelly Mohre) Paul G. Hyman, Jr., ( aka Paul Hyman, aka Paul Hyman, Jr. ) Kaylee Hyman ( aka Kaylee Rose Hyman) and Zachary Hyman ( aka Zachary Paul Hyman) (collectively referred to as "Hyman"), including without limitation, all text, websites, postings, photographs and videos.

ORDERED AND ADJUDGED that this order requires the taking down or deletion of any

posting in private or public forum including, but not limited to websites, posts, videos, comments, google ads, related to or mentioning Kelly Hyman, Paul G. Hyman, Jr., Kaylee Hyman and Zachary Hyman.

This Order shall apply to, but not be limited to, the following sites and/or internet addresses (collectively referred to as the “Sites”; individually referred to as “Site”):

[www. atrociousattorney.com](http://www.atrociousattorney.com);

[www.avariciousadultress.com](http://www.avariciousadultress.com)

[www.despicabledaughter.com](http://www.despicabledaughter.com);

[www. shamefulproductions.com](http://www.shamefulproductions.com)

[www. phoneyhyman.com](http://www.phoneyhyman.com);

[www. mayorsdaughter.com](http://www.mayorsdaughter.com);

[www. kelly.hyman.wtf](http://www.kelly.hyman.wtf);

[www.tragicmess.com](http://www.tragicmess.com)

<http://www.sinsofsouthbeach.com/news/id/25>

<https://www.shamefulproductions.com/the-shameful-past-of-attorney-kelly-hyman-a-timeline/>

<https://www.bitchute.com/video/n0HyDExsXeli/>

[http://docshare.tips/kelly-hyman-eviction-notice\\_57512e86b6d87f7fb08b4d49.html](http://docshare.tips/kelly-hyman-eviction-notice_57512e86b6d87f7fb08b4d49.html)

<https://fraudonthecourt.blogspot.com/2007/10/complaint-against-judge-hyman.html>- and

the comment- Kellie Daoud said...

It seems like birds of a feather flock together. Judge Paul Hyman's wife, Attorney Kellie Hyman, is tied up in a nasty legal battle with her father, former Miami Beach Mayor Alex Daoud. She is trying to take away his house and evict him! Here is a website that details the whole tragic drama. It's a very good read! TragicMess.com

<https://twitter.com/despicedaughter>

[https://twitter.com/DespicDaughter/with\\_replies](https://twitter.com/DespicDaughter/with_replies)

[https://www.google.com/imgres?imgurl=https%3A%2F%2Fwww.despicabledaughter.com%2Fwp-content%2Fuploads%2F2015%2F01%2FKelly-Hyman-and-father-Alex-Daoud.png&imgrefurl=https%3A%2F%2Fwww.despicabledaughter.com%2Fauthor%2Falex%2Fpage%2F5%2F&tbnid=EUQgJmw5hVHZCM&vet=12ahUKEwjxcnn1\\_DqAhXOJc0KHQu9ACgQMygGegUIARCCaQ..i&docid=QGIRy7NDdFCXuM&w=1204&h=726&itg=1&q=kelly%20hyman%20and%20alex%20daoud&ved=2ahUKEwjxcnn1\\_DqAhXOJc0KHQu9ACgQMygGegUIARCCaQ](https://www.google.com/imgres?imgurl=https%3A%2F%2Fwww.despicabledaughter.com%2Fwp-content%2Fuploads%2F2015%2F01%2FKelly-Hyman-and-father-Alex-Daoud.png&imgrefurl=https%3A%2F%2Fwww.despicabledaughter.com%2Fauthor%2Falex%2Fpage%2F5%2F&tbnid=EUQgJmw5hVHZCM&vet=12ahUKEwjxcnn1_DqAhXOJc0KHQu9ACgQMygGegUIARCCaQ..i&docid=QGIRy7NDdFCXuM&w=1204&h=726&itg=1&q=kelly%20hyman%20and%20alex%20daoud&ved=2ahUKEwjxcnn1_DqAhXOJc0KHQu9ACgQMygGegUIARCCaQ)

<https://www.google.com/url?sa=i&url=https%3A%2F%2Fwww.dailymotion.com%2Fvideo%2Fx7o0ne4&psig=AOvVaw3KQV5xpbJmvor5B11aAGZn&ust=1596058666906000&source=images&cd=vfc&ved=0CDcOr4kDahcKEwjIiJKp9PDqAhUAAAAAHQAAAAAQAg>

<https://www.mayorsdaughter.com/wp-content/uploads/2020/05/Judge-Paul-G-Hyman-JR-FINAL-Ethics-Complaint.pdf>

<https://www.mayorsdaughter.com/wp-content/uploads/2020/05/Kelly-Hyman-excerpt-2013-12-5-Hearing.pdf>

<https://www.mayorsdaughter.com/wp-content/uploads/2020/05/Case-Attorney-Kelly-Hyman-v-Alex-Daoud.pdf>

<https://phoneyhyman.com/wp-content/uploads/2020/05/Attorney-Kelly-Hyman-Lost-Appeal-80x80.png>

<https://phoneyhyman.com/wp-content/uploads/2020/05/judge-paul-hyman-complaint-730x882-1-394x218.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/05/sleepy-kelly-hyman-deposition-288x180.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/05/judge-paul-hyman-complaint-730x882-1-394x218.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/05/sleepy-kelly-hyman-deposition-288x180.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/04/Kelly-Hyman-Statement-1024x555-1-288x180.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/05/judge-paul-hyman-complaint-730x882-1.png>  
<https://www.mayorsdaughter.com/wp-content/uploads/2020/05/Case-Attorney-Kelly-Hyman-v-Alex-Daoud.pdf>  
<https://www.mayorsdaughter.com/wp-content/uploads/2020/05/Judge-Paul-G-Hyman-JR-FINAL-Ethics-Complaint.pdf>  
<https://phoneyhyman.com/wp-content/uploads/2020/04/Kelly-Hyman-Statement-1024x555-1-288x180.png>  
<https://phoneyhyman.com/wp-content/uploads/2020/05/judge-paul-hyman-complaint-730x882-1.png>  
  
<https://www.bing.com/images/search?view=detailV2&ccid=ZgvG3Zou&id=F6850262D4FF9993E98F3F68997C58B34A6592ED&thid=OIP.ZgvG3ZouQ80apTgrVWrZLgHaFj&mediaurl=https%3a%2f%2fi.ytimg.com%2fvi%2fQ1wSUN8VySU%2fhqdefault.jpg&exph=360&expw=480&q=kelly+hyman+and+phoneyhyman&simid=608017006876098833&ck=F3C3796672B6F7B881479060721488E8&selectedIndex=2&FORM=IRPRST&ajaxhist=0>  
  
<https://www.despicabledaughter.com/wp-content/uploads/2015/01/Kelly-Hyman-Alex-Daoud-Alexander-Daoud.png>  
<https://www.youtube.com/watch?v=Q1wSUN8VySU>

FURTHER ORDERED AND ADJUDGED that within ten (10) of being furnished a copy of this Order any internet-related services, internet service provider, host provider and/or search engine shall

(i) remove and cause to be removed from any Site (including the web sites themselves and all URLs and links, even if they change) all statements, posts, social media, or videos or documents related to directly or indirectly to this lawsuit, and/or Kelly Hyman, Paul G. Hyman, Jr., Kaylee Hyman and Zachary Hyman and/or any website or posting defamatory, slander, or any statements against Kelly Hyman, Paul G. Hyman, Jr., Kaylee Hyman and Zachary Hyman on the internet, television, radio, print or any other forms of media including, but not limited to the Sites.

(ii) remove and cause to be removed any derogatory references to Kelly Hyman including, but not limited to any reference to Hyman as an “adulteress,” “blackmailer,” “whore,” “despicable,” “liar,” and/or any derogatory and/or negative comment about Kelly Hyman.

(iii) remove or cause to be removed any derogatory reference to Paul G. Hyman, Jr., including, but not limited to any reference to him as “prenup paul,” any judicial complaint and/or any derogatory comment about him including but not limited to any alleged misconduct.

(iv) remove and cause to be removed statements, documents, videos, and/or postings about this lawsuit, Kelly Hyman v. Arnold Daoud; related to the house located at 1750 Michigan Ave, Miami Beach, Florida; any communication between Kelly Hyman and Arnold “Alex” Daoud; and/or any libelous, defamatory, and/or slanderous websites, videos, internet posts and/or social media posts about Kelly Hyman, Paul G. Hyman, Jr., Kaylee Hyman or Zachary Hyman, which was or is created directly or indirectly by Daoud.

FURTHER ORDERED AND ADJUDGED that Daoud, directly or indirectly, shall not create any new alias, nor use any old alias, to post, host, or make available any statement regarding Kelly Hyman, Paul G. Hyman, Jr., Kaylee Hyman and Zachary Hyman via the internet, television, radio, print or any other forms of media.

FURTHER ORDERED AND ADJUDGED that this Order does not modify or alter the settlement agreement of the parties or any prior order of this Court, and that the settlement agreement and all prior orders of this Court remain in full force and effect. This order along with any court documents related directly or indirectly to this matter is prohibited from being posted

including, but not limited to any website, and/or social media and/or internet. This Court retains jurisdiction to enforce this order.

DONE AND ORDERED in Chambers in Miami-Dade County, Florida, on this \_\_ day of September 2020.

\_\_\_\_\_  
Circuit Court Judge

cc: Counsel of record