

IN THE CIRCUIT COURT FOR THE
TWELFTH JUDICIAL CIRCUIT IN AND
FOR SARASOTA COUNTY, FLORIDA

SAMUEL J. MAIO, JR.,
as Executor of the ESTATE OF
SAMUEL J. MAIO, SR.,

Plaintiff,

CASE NO. 2010-CA-012383-NC

vs.

RAYMOND EARL MILLER,

Defendant.

FILED IN OPEN COURT ~~7:00~~ 24 DAY OF
August, 2011
KAREN E. RUSHING, CLERK OF COURT
BY: [Signature] DEPUTY CLERK

FINAL JUDGMENT AGAINST RAYMOND EARL MILLER

THIS CAUSE having come before the Court on upon the Plaintiff's Motion for Final Summary Judgment against the Defendant, Raymond Earl Miller, pursuant to Fla. R. Civ. P. 1.510, and the Court, having reviewed the summary judgment evidence and having heard argument of counsel, and having been fully advised in the premises, makes the following

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Plaintiff's Motion for Final Summary Judgment is based on the pleadings on file herein and the admissions of the Defendant, which show as follows:
 - a. The Plaintiff is Samuel J. Maio, Jr. (hereinafter, the "Plaintiff" or "Executor") as the duly appointed executor of the Estate of Samuel J. Maio, Sr. (hereinafter "Maio"), who died on February 28, 2010.
 - b. Defendant Raymond E. Miller ("Miller") was Maio's Florida attorney.
 - c. Miller represented Maio in certain mortgage transactions and placed



payments collected on those several mortgages in his Florida Bar Trust Account.

- d. In an October 17, 2006 letter regarding a final mortgagor payoff, Miller advised Maio that he is holding in his attorney's trust account the sum of \$116,695.59 for Maio and enclosed his trust ledger for Maio's account reflecting that amount.
- e. On February 9, 2009, Miller was disbarred.
- f. In May of 2010, the State of Florida initiated a criminal action against Miller for Larceny/Grand Theft in the First Degree for over \$100,000.00, alleging Miller stole from his clients. At the subsequent sentencing hearing held on January 26, 2011, Miller through counsel admitted in open court that he owed Maio's Estate the sum of \$120,774.19.

2. A motion for summary judgment is appropriate when the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. Fla. R. Civ. P. 1.510; Johnson v. Johnson, 845 So.2d 217, 219 (Fla. 2d DCA 2003); Butler v. Butler, 870 So.2d 239, 240 (Fla. 2d DCA 2004).

3. Plaintiff has established that there is no genuine issue of material fact and that Plaintiff, as a matter of law, is entitled to a judgment, including pre-judgment interest and costs, pursuant to the Affidavit of Costs. Accordingly, it is


ORDERED AND ADJUDGED as follows:

- 1. The Plaintiff, Samuel J. Maio, Jr., as Executor of the Estate of Samuel J.

Maio, Sr., 553 White Springs Road, Geneva, NY 14456, recover from Defendant, Raymond Earl Miller, 516 Venezia Park, Venice, FL 34285, c/o Department of Corrections, the sum of ONE HUNDRED TWENTY THOUSAND SEVEN HUNDRED SEVENTY-SEVEN DOLLARS AND NINETEEN CENTS (\$120,774.19), together with pre-judgment interest in the amount of FOUR THOUSAND ONE HUNDRED SIXTY-EIGHT DOLLARS AND SIXTEEN CENTS (\$4,168.16) from January 26, 2011 through August 24, 2011, and costs in the amount of SIX HUNDRED SIXTY-SIX DOLLARS AND FIFTY CENTS (\$666.50), making a total of ONE HUNDRED TWENTY-FIVE THOUSAND SIX HUNDRED EIGHT DOLLARS AND EIGHTY-FIVE (\$125,608.85), which sum shall bear interest at the applicable statutory rate of 6% a year until paid, for which amount let execution issue.

It is further ORDERED and ADJUDGED that the judgment debtor shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the judgment creditor's attorney, within 45 days from the date of this final judgment, unless the final judgment is satisfied or post-judgment discovery is stayed.

DONE AND ORDERED in Sarasota County, Florida on this 24 day of August, 2011.


Honorable Charles E. Roberts
Circuit Court Judge

cc: James L. Essenson, Esquire
Robert N. Harrison, Esquire
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