

IN THE CIRCUIT COURT OF THE
17th JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NUMBER:

OSCAR TOLEDANO,

Plaintiff,

CASE NUMBER:

vs.

SIR IVAN BUNCAYO

Defendant.

COMPLAINT FOR BREACH OF CONTRACT, CIVIL THEFT AND CONVERSION

COMES NOW Plaintiff, OSCAR TOLEDANO, by and through the undersigned attorney, and hereby sues Defendant Sir Ivan Buncayo:

FACTUAL BACKGROUND

1. This is an action for both breach of contract, civil theft and conversion.
2. At all times material hereto, Oscar Toledano (hereinafter "Plaintiff") was and is a resident of Broward County, Florida and otherwise sui juris.
3. At all times material hereto, Sir Ivan Buncayo (hereinafter "Defendant") was and is a resident of Broward County, Florida and otherwise sui juris.
4. Plaintiff is a watch dealer and sells watches on consignment.
5. On or about April 11, 2017, Plaintiff provided a Patek Philippe watch model no. 5270R-001 (serial no. 6943193/6092903) to Defendant at Defendant's request based on Defendant's claim that he had a buyer for the watch.
6. The value of the Patek Philippe watch is approximately \$120,000.

7. On or about April 14, 2017, Plaintiff provided a Audemars Piguet Royal Oak Offshore Volcano 26170ST watch (serial no. H19391-11417) to Defendant at Defendant's request based on Defendant's claim that he had a buyer for the watch.

8. The value of the Audemars Piguet watch is approximately \$14,000.

9. Defendant never provided payment for the watches nor did he return the watches to Plaintiff.

10. Plaintiff filed multiple police reports and attempted to negotiate the return of the watches.

11. Defendant provided multiple excuses, and, to the date of this filing, has not reimbursed Plaintiff nor has Defendant returned the watches.

12. Plaintiff attempted to negotiate a resolution without intervention of the judicial system.

13. Plaintiff and Defendant agreed on \$120,000 as a negotiated sum for both watches and both executed a promissory note to that effect. *Exh. A*.

14. Defendant has since defaulted on the promissory note.

COUNT I
BREACH OF CONTRACT

15. Plaintiff re-alleges and re-avers the allegations preceding Count I.

16. The promissory note provides for an initial payment of \$20,000 due on August 16, 2017 and for monthly payments of \$5,000 beginning on September 15, 2017 and due every 30 days until the note has been satisfied.

17. On or about August 18, 2017, Defendant made the \$20,000 payment per the note.

18. Defendant has failed to meet his monthly obligations every month since the date of the August 18, 2017.

19. Defendant has violated the terms of note and has breached the contract.

20. That, as a result of Defendant's breach of contract, Plaintiff has suffered damages in the amount of \$134,000.

21. That Plaintiff has retained the services of the undersigned attorney and is responsible for paying a reasonable attorney's fee and court costs for which Defendant is liable per the promissory note. *See Exh. A.*

22. Plaintiff prays for judgment for damages in his favor with costs, prejudgment interest, and attorney's fees as dictated by the terms of the note and by statute.

WHEREFORE, the Plaintiff prays for judgment for damages in his favor with prejudgment interest, costs, attorney's fees and a trial by jury.

COUNT II
CIVIL THEFT

23. Plaintiff re-alleges and re-avers the allegations preceding Count II.

24. Defendant unlawfully converted both watches that belonged to Plaintiff.

25. This cause of action is independent from the breach of contract claim as it relates to property and is for the combined value of the watches (i.e., \$134,000). *See, e.g. Ginsberg v. Lennar Fla. Holdings Inc.*, 645 So.2d 490, 495 (Fla. 3d DCA 2008); *Walker III v. Figarola*, 59 So.3d 188, 190 (Fla. 3d DCA 2011).

Florida Statute § 772.11(1) provides, in pertinent part, that:

any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of ss. 812.012 has a cause of action for threefold the actual damages sustained and . . . is entitled to . . . reasonable attorney's fees and court costs[.] § 772.11(1) Fla. Stat. (2016)

26. All conditions precedent to the filing of this action have been complied with, met, or otherwise waived. *Exh. B.*

27. Plaintiff prays for judgment for damages in his favor with costs, prejudgment interest, and attorney's fees as dictated by the terms of the note and by statute.

WHEREFORE, the Plaintiff prays for judgment for treble damages in his favor with pre-judgment interest, costs and attorney's fees under Florida Statute § 772.11 and a trial by jury.

COUNT III
CONVERSION

28. Plaintiff re-alleges and re-avers the allegations preceding Count VII.

29. That Plaintiff owned or had the right to possess the property in question at the time that it was taken by Defendant.

30. That Defendant intentionally interfered with Plaintiff's property (i.e., the watches referenced above in ¶¶ 5-8) and exercised dominion and control.

31. That Defendant deprived Plaintiff of the possession and interfered with his use and enjoyment of the property.

32. That the interference by Defendant caused damages to Plaintiff since Defendant illegally took Plaintiff's property and the damages are permanent.

33. **Florida Statute § 768.72(1)**

In any civil action, [a] claim for punitive damages shall be permitted [if] there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages [and] the rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages.

WHEREFORE, the Plaintiff prays for judgment for damages in his favor with pre-judgment interest, costs and attorney's fees under Florida Statute § 627.428 and a trial by jury and additionally the right to plead for punitive damages under Florida Statute § 768.72(1).

Dated this 18th day of September, 2018

/s/ Gregory N. Greenberg
GREGORY N. GREENBERG, ESQUIRE
Florida Bar Number: 95978
Mandell Law, P.A.
P.O. Box 2229
Winter Park, FL 32789
Tele: (407) 956-1180
Fax: (407) 386-9550

PROMISSORY NOTE

\$120,000
August 15 2017

FOR VALUABLE CONSIDERATION of \$5.00, the undersigned, SIR IVAN BUNCAYO, (the "Maker") hereby promises to pay to the order of OSCAR TOLEDANO (the "Payee"), at 3173 Vista Del Mar, Margate, Florida 33063 or at such other place as may be designated in writing by the holder hereof, the sum of ONE HUNDRED AND TWENTY THOUSAND dollars and 00 CENTS (\$120,000), in lawful money of the United States of America.

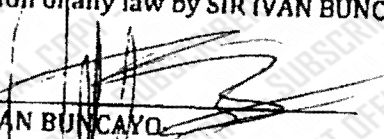
This sum shall be paid as follows: (1) First payment of ~~\$25,000~~ ^{20,000.00 for OT} to be due on August 16, 2017; (2) Monthly payments in the amount of \$5,000 to be paid in installments on the first of each of month starting ~~September 01, 2017~~ ^{09/15/17} and to be paid at the rate of \$5,000 per month until the balance has been paid in full. There is no interest paid to the Payee during the payment of this sum. ^{CC for OT}

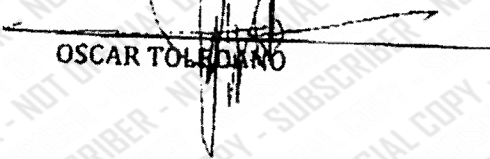
Notwithstanding anything to the contrary contained herein, in no event shall the maker be required to pay interest hereunder at a rate in excess of the maximum rate permitted by applicable law.

If default be made in the payment of any installment under this Note, and if such default is not made good within 5 days after notice to the Maker of the default of certified funds, the entire sum shall at once become due and payable without notice at the option of the holder of this Note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at a later time for the same default or for any subsequent default. In the event of default in the payment of this Note, and if the same is placed in the hands of an attorney at law for collection, the undersigned hereby agrees to pay all costs of collection, including a reasonable attorney's fee and court costs incurred in said collection. Present, protest and notice are hereby waived.

This Note shall be governed by, an interpreted in accordance with, the laws of the State of Florida and the Maker and endorser hereof consents to the jurisdiction of the Federal and State courts of such state for all purposes in connection with this Note.

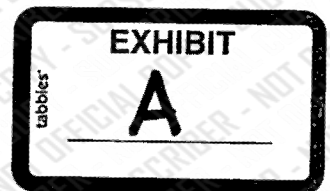
This Promissory Note shall in no way be deemed an admission to any criminal act or violation of any law by SIR IVAN BUNCAYO, (the "Maker").


SIR IVAN BUNCAYO


OSCAR TOLEDANO

8/18/17
Date

8-15-2017
Date





MANDELL LAW, P.A.

Robert I. Mandell, *Esquire*
Steven J. Parton, *Esquire*

Gregory N. Greenberg, *Esquire*
Samira Espaillat, *Paralegal*

VIA CERTIFIED MAIL:
12 SE 7th St.
#700
Fort Lauderdale, FL 33301

November 30, 2017

RE: Sir Ivan Buncayo

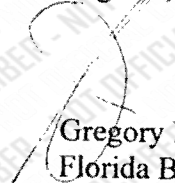
To Whom It May Concern:

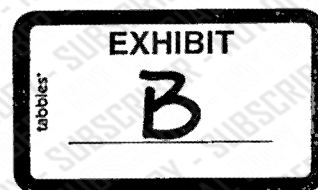
Please be advised that your client, Sir Ivan Buncayo, has unlawfully converted two watches valued at \$134,000 belonging to our client, Oscar Toledano. As we have discussed, there is ample evidence of said conversion, including text messages from your client acknowledging the converted property and the debt he owes as a result.

Florida State Statute § 772.11(1) provides that the victim of civil theft is entitled to recover treble damages as well as attorney's fees. Please be advised that this letter constitutes a formal demand to Mr. Buncayo to immediately furnish \$402,000 to Oscar Toledano. In the event payment is not received by my client within thirty (30) days from the date of this notice, we will advise our client to immediately bring legal proceedings against Mr. Buncayo after the expiration of the thirty (30) day time period wherein our client will seek reimbursement of his attorney's fees and costs as well as treble damages as described above.

PLEASE GOVERN YOURSELF ACCORDINGLY WITH THIS NOTICE,

Regards,


Gregory Neal Greenberg
Florida Bar 95978



**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**

Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

FORT LAUDERDALE FL 33301

Postage	\$2.75	0598
Certified Fee	\$0.00	08
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$6.59	USPS 12/04/2017

Sent To Kenneth Parlowitz
 Street & Apt. No.,
 or PO Box No. 12 SE 7th St
 City, State, ZIP+4
Fort Lauderdale FL 33301
 PS Form 3800, July 2014 See Reverse for Instructions

7015 0920 0002 2206 5340

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Kenneth Parlowitz
12 S.E. 7th St.
#700
Fort Lauderdale, FL
33301



9590 9402 2896 7094 6646 45

2. Article Number (Transfer from service label)

7015 0920 0002 2206 5340

PS Form 3811, July 2015 PSN 7530-02-000-8053

COMPLETE THIS SECTION ON DELIVERY

A. Signature [Signature] Agent Addressee

B. Received by (Printed Name) C. Date of Delivery 12/11

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Priority Mail Express®
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise
 - Signature Confirmation™
 - Signature Confirmation Restricted Delivery

Domestic Return Receipt