

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA

BANK OF AMERICA, N.A.,  
a national banking association,

CASE NO.: 08-21917-CIV-GOLD/MCALILEY

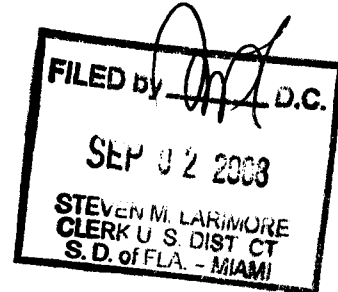
Plaintiff;

**MOTION TO VACATE VOID JUDGMENT;**

v.

THE UNITED CITIES GROUP, INC  
a global banking association,  
Angel Cruz, Individually,  
Harry William Marrero, Individually,  
Gladstone Gardner, Individually, et al;

Defendants,



**AUTHORITIES**

Know All Men By These Presents In Commerce, that in accord with, and in substantial compliance with Ancient Custom, Law, Statute, Rules, Regulations, Public Policy, and all other applicable International Treaties, including, but not limited to, the Uniform Commercial Code as adopted and enacted en toto, the Party identified below hereby gives notice to all whom it may concern of the claims and demands made herein, and performs the following acts herewith, as follows, to wit:

**MOTION TO VACATE VOID JUDGMENT**

Comes now The United Cities Group, Inc, and Angel Cruz©, a Natural man, in commerce, and for himself and no others and Gladstone Gardner©, a Natural man, in commerce, and for himself and no others, and Harry William Marrero©, a Natural man, in commerce, and for himself and no others; and which by way of this document hereby gives notice to all whom it may concern, that they hereby petition this court to vacate void judgments made against them by way of Special Appearance in the above entitled action, reserving all rights and admitting to no jurisdiction of any kind whatsoever. Please take notice that hereinafter, Angel Cruz© shall be

referred to as Mr. Cruz; Please take notice that hereinafter, Gladstone Gardner© shall be referred to as Mr. Gardner; Please take notice that hereinafter, Harry William Marrero© shall be referred to as Mr. Marrero;

Come now defendants The United Cities Group, Inc, Mr. Cruz, Mr. Marrero, and Mr. Gardner to petition this court to vacate void judgments made by this court on 07/25/08 - Order granting Motion for Preliminary Injunction filed by Plaintiff Bank of America, on 07/25/08 - Order OF REFERRAL to Magistrate Judge McAliley to take all necessary and proper action re: Notice of Violation of TRO filed by Plaintiff Bank of America, N.A., signed by Judge Alan S. Gold on 07/25/08, on 08/06/08 – Order Setting Evidentiary Hearing on 08/15/08 on Plaintiff Notice of Violation of Temporary Restraining Order and Motion for Sanctions, as the record shows said judgment is contrary to the facts and the evidence, was made without personal and subject matter jurisdiction, is in disregard of due process requirements, and was procured by extrinsic or collateral fraud.

The record shows this court lacked inherent power to enter the particular judgment, as this court was given NOTICE of Special Appearance, Challenge to Jurisdiction, JUDICIAL NOTICE of Claim of Rights and BOND filing for the penal sum of Fifteen Billion Two Hundred Fifty Million for Case # 08-21917-CIV-GOLD by The United Cities Group, Inc on 7/18/2008, and by The United Cities Group, Inc. Once a Challenge to Jurisdiction is received it must be treated as a motion to dismiss.

The record shows this court was given Notice by the Plaintiff of a contract Plaintiff has entered with Defendant, THE UNITED CITIES GROUP, INC, in which Plaintiff agreed with Defendant failure to respond as required by the authorities therein will constitute acquiescence as to the claims and demands of the Aggrieved Parties as presented therein. Furthermore, any such failure to respond shall constitute a waiver of any and all defenses and counterclaims of the Adverse Parties by way of Estoppel by Silence as to the claims and demands presented therein. The record shows this court interfered with Intervenor's contract rights by issuing said judgment, and that Mary Leslie Smith, Florida Bar No: 774243 and Christi R. Adams, Florida Bar No: 0498351

with FOLEY & LARDNER LLP, as fiduciary has a duty to close the case, as they had knowledge of the settlement. The record shows on 07/29/08 H. William Marrero©, ACCEPTED FOR VALUE the above entitled matter, establishing the intervenor has a superior claim to the property belonging to the Defendant. The record shows the Intervenor holds the payment bond on this case.

The record shows this court had knowledge of these facts when it issued its judgments and issued said judgments as a mere semblance that is based on simulated facts; therefore, Defendants petitions this court to vacate said judgments, which is void on its face.

### **Void Judgments**


Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process. Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A. Const. Amend. 5- Klugh v. U.S., 620 F. Supp. 892 (D.S.C. 1985). Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in a manner inconsistent with due process of law. Eckel v. MacNeal, 628 N.E. 2d 741 (Ill. App. 1993). A void judgment is one which has mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, Henderson v. Henderson, 59 S.E. 2d 227, (N.C. 1950). A void judgment is one in which the judgment is facially invalid because the court lacked jurisdiction or authority or to render the judgment. State v. Richie, 20 S.W. 3d 624 (Tenn. 2000). Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, City of Lufkin v. McVicker, 510 S.W. 2d 141 (Tex. Civ. App. – Beaumont 1973). A void judgment is one which shows upon face of record a want of jurisdiction in court assuming to render the judgment, Underwood v. Brown, 244 S.W. 2d 168 (Tenn. 1951). A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over subject matter or the parties, Rook v. Rook, 353 S.E. 2d 756 (Va. 1987). A

void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, In re Adoption of E.L., 733 N.E. 2d 846, (Ill App. 1 Dist. 2000). Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of the three elements of jurisdiction was absent: (1) jurisdiction over the parties, (2) jurisdiction over subject matter, or (3) jurisdiction power to pronounce particular judgment that was rendered, B & C Investments, Inc. v. F & M Nat. Bank & Trust, 903 P. 2d 339 (Okl. App. Div. 3, 1995).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Orner v. Shalala, 30 F. 3d 1307, (Colo. 1994).

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Wherefore, The United Cities Group, Inc, Mr. Cruz, individually, Mr. Marrero, individually and Mr. Gardner, individually hereby demands of the Court that it hold in abeyance any further actions it may take in the instant matter until the issues of jurisdiction and standing have been dealt with on the record.

  
Gladstone Gardner©, UCC 1.308  
as Authorized Representative,  
The United Cities Group, Inc  
147 Alhambra Circle, Suite 100  
Coral Gables, Florida 33134

