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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

CITIBANK, N.A.,

Plaintiff and Respondent,

v.

TERESA ARASHEBEN,

Defendant and Appellant.

B269184

(Los Angeles County  
Super. Ct. No. PC056695)

APPEAL from an order of the Superior Court of Los Angeles County, Stephen P. Pfahler, Judge. Reversed.

Teresa Arasheben, in pro. per., for Defendant and Appellant.

Wolfe & Wyman and Cathy L. Granger, for Plaintiff and Respondent.

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Appellant Teresa Arasheben appeals from the entry of a permanent restraining order against her, based on a stipulation signed solely by a lawyer purporting to represent her. Because the stipulation impaired appellant's substantial rights and deprived her of any ability to defend herself, the judgment is reversed.

### **FACTUAL AND PROCEDURAL SUMMARY**

Respondent Citibank, N.A. filed a complaint for preliminary and permanent injunction against Arasheben on October 28, 2015. On that same date, it appeared *ex parte* and obtained a temporary restraining order; the court scheduled an order to show cause for a preliminary injunction for November 19, 2015. None of the documents submitted in support of the *ex parte* are contained in the record before this court.<sup>1</sup> Arasheben responded on October 30, denying the allegations. On November 16, Citibank filed a notice of non-opposition to its motion for preliminary injunction, and on November 19, it filed a stipulation for permanent injunction signed by its counsel and by counsel for Arasheben; no party signed the stipulation.

In all prior proceedings in the matter, Arasheben had been self-represented; the record contains no appearance by counsel on

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<sup>1</sup> The Clerk's Transcript submitted by appellant was limited in scope. We granted Respondent's motion to augment the record, but respondent did not include the documents pertaining to its *ex parte* motion in that request. The record also does not include what appears to have been a successful peremptory challenge by respondent, challenging the judge to whom the matter was initially assigned.

her behalf. The court accepted the stipulation, placed the hearing scheduled for that date off-calendar and entered the permanent injunction. Citibank served notice of entry of judgment on December 1, 2015 on counsel and on Arasheben, noting on the proof of service that she was “In Pro Per.” Arasheben appealed.

## DISCUSSION

On appeal, Arasheben is self-represented. Her opening brief specifically argues that she did not consent to the stipulation on which the judgment was based. Respondent asserts that appellant has failed to cite relevant facts or any case authority in her brief, and further asserts that the stipulation on which the judgment was based waived Arasheben’s rights. However, the only facts relevant to the determination of this appeal, the stipulation and judgment, were contained in the record provided by appellant, who also cited legal authority in support of her argument.

While we cannot determine from the record whether the attorney who signed the stipulation in fact represented Arasheben in this matter, a question cast into further doubt by respondent’s treatment of Arasheben as self-represented in serving the judgment, we need not determine that issue. Even were we to agree with Citibank that Arasheben has failed to establish that the lawyer did not represent her at the time he signed the stipulation, counsel of record is not authorized to “impair the client’s substantial rights or the cause of action itself.” (*Blanton v. Womancare, Inc.* (1985) 38 Cal.3d 396, 404 [quoting *Linsk v. Linsk* (1969) 70 Cal.2d 272, 276].) *Blanton* distinguished carefully between those actions which counsel is

authorized to take, which are tactical and procedural in nature, and those which counsel is not authorized to take, on which counsel's signature cannot bind the client. Included in the latter actions are settlement and compromise of claims, stipulations to matters which eliminate critical defenses, and waiver of the right to appeal. (*Blanton, supra*, 38 Cal.3d at pp. 404-405.)

In *Blanton*, the Supreme Court considered, and specifically rejected, the claim that counsel was authorized to agree to binding arbitration, finding no apparent authority for a lawyer to do so. (*Id.* at pp. 407-408.) Much more is at issue here. Here, the stipulation gave up all defenses to the complaint, agreed to a broad permanent injunction prohibiting Arasheben from coming within 100 yards of any location occupied by Citibank in Los Angeles County, and waived her rights to appeal. Those acts go well beyond those prohibited by the *Blanton* court, and later decisions following the rule set forth in that case.

In *Levy v. Superior Court* (1995) 10 Cal.4th 578, the Supreme Court considered whether Code of Civil Procedure section 664.6, which creates an expedited procedure for entry of judgment based on a stipulated settlement, requires the signature of the party, or could be satisfied by the attorney's signature alone. In concluding that the party must sign personally, the court explained: "Unlike the steps an attorney may take on behalf of the client that are incidental to the management of a lawsuit, such as making or opposing motions, seeking continuances, or conducting discovery, the settlement of a lawsuit is not incidental to the management of the lawsuit; it ends the lawsuit. Accordingly, settlement is such a serious step that it requires the client's knowledge and express consent. [Citation.]" (*Levy, supra*, 10 Cal.4th at p. 583.) *Levy's* reasoning

applies no less here, even though the ex parte request for judgment here did not cite section 664.6.<sup>2</sup>

Finally, in *Maddox v. City of Costa Mesa* (2011) 193 Cal.App.4th 1098, the court found that Government Code section 68097.2, addressing the issuance of subpoenas, bound both parties and their attorneys, because that statute “does not affect the substantial rights of the parties.” (*Id.* at 1101-1102.) The court agreed with *Blanton* and *Levy* that the relevant inquiry is the impact of the stipulation or document on the party litigant.

The application of the rule established by the Supreme Court can lead only to one conclusion in this case: a stipulation that results in the entry of judgment against a party, encompassing a broad injunction, and waiving appellate rights, directly affects the substantial rights of that party. The signature of counsel alone was insufficient. Because there is no evidence in this record other than the stipulation supporting the injunction, we reverse.

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<sup>2</sup> We invited the parties to submit supplemental briefing on the impact of *Levy* in this matter. Respondent asserted that *Levy* is inapposite, because this case does not involve a section 664.6 motion. Respondent also cited *Stewart v. Preston Pipeline, Inc.* (2005) 134 Cal.App.4th 1565, a case upholding a stipulation signed by counsel alone waiving mediation confidentiality. Although Citibank argues that *Stewart* found a settlement agreement enforceable despite the lack of a client signature, in fact *Stewart* specifically relied on the distinction in *Levy* between a stipulation that impacts the substantial rights of the party and one that does not, concluding a waiver of confidentiality does not impact such substantial rights. (*Stewart, supra*, 134 Cal.App.4th at pp. 1582-1583.)

## **DISPOSITION**

The judgment is reversed and the injunction dissolved.  
Appellant is to recover her costs on appeal.

ZELON, J.

We concur:

PERLUSS, P. J.

BENSINGER, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.