NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

CITIBANK, N.A.	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
CALEB OUEDRAOGO	:	
Appellant	:	No. 2985 EDA 2025

Appeal from the Judgment Entered April 13, 2026
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 240200618

BEFORE: BOWES, J., OLSON, J., and McLAUGHLIN, J.

MEMORANDUM BY BOWES, J.: **FILED NOVEMBER 16, 2026**

Caleb Ouedraogo appeals *pro se* from the judgment entered in favor of Citibank, N.A. ("Citibank") following a nonjury trial. Since we conclude that the judgment was unsupported by record evidence, we reverse the order denying Mr. Ouedraogo's post-trial motion, vacate the judgment, and remand for a new trial.

The trial court set forth the factual history of this case as follows:

> [Mr. Ouedraogo] opened an account for a Citibank Costco credit card in 2021. While the card itself was a Costco Visa credit card, the account was managed by Citibank, as was explicitly highlighted on the heading of the monthly statements for the card. The last payment that [Mr. Ouedraogo] made to the account was on April 7, 2023, with the account being closed later that year.
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> During this time, [Mr. Ouedraogo] received numerous bills showing his account balance and activity in the mail at two of his residences: his previous residence at 11550 Marsden Street in Jamaica, New York, and his current residence at 5116 Cottage Street in Philadelphia, Pennsylvania. On the statements received,

> the heading reads "Costco Anywhere Visa Card by Citi," featuring both the Citibank and Costco Wholesale logos. The final debt accrued on the account amounted to $6,444.99.
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> Citibank filed the initial complaint on February 6, 2024, with [Mr. Ouedraogo] filing his answer and new matter on February 15, 2024. Arbitration concluded on December 13, 2024, with a finding in favor of [Citibank] in the amount of $6,444.99. [Mr. Ouedraogo] filed an appeal against this award on December 18, 2024, and the matter was listed for trial [*de novo*] on December 30, 2024.
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> A pre-trial conference was scheduled for June [4], 2025, for which [Citibank] inadvertently failed to appear. Resultingly, the court entered a judgment of *non-pros* against [Citibank] on June 4, 2025. [Citibank] subsequently filed a motion to strike on July 3, 2025, citing a calendaring error as the reason for failing to appear, and requested the court to vacate and/or open the *praecipe* for the judgment of *non-pros*. [Mr. Ouedraogo] filed his response on July 14, 2025, and the court ordered the *non-pros* stricken on July 30, 2025.
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> The pre-trial conference was completed on September 1[0], 2025, and [Mr. Ouedraogo] filed a motion to compel discovery and for sanctions that same day. A discovery hearing on the motion to compel was heard before The Honorable Joshua Roberts on October 16, 2025. Following this hearing, Judge Roberts denied the motion to compel in an October 17, 2025, order.

Trial Court Opinion, 3/24/26, at 1-2 (cleaned up).

The court conducted a bench trial on October 29, 2025, at which Mr. Ouedraogo appeared *pro se* and Citibank was represented by Michael Lipinski, Esquire.[1] Citibank began with an opening statement, providing the court with a card agreement and a bill showing a balance of

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[1] Although the court questioned Mr. Ouedraogo at the nonjury trial, it failed to swear him in. Despite this being a plain and egregious error, we cannot grant relief on this basis as Mr. Ouedraogo waived any such claim by failing to object. ***See Tecce v. Hally***, 106 A.3d 728, 732-33 (Pa.Super. 2014).

$6,444.99. ***See*** N.T. Trial, 10/29/25, at 5-6. Critically, Citibank marked the documents for identification but did not seek to admit them as exhibits and the court never admitted them. Instead, the court heard Attorney Lipinski's offer of proof and then asked Mr. Ouedraogo about his defense. ***Id***. at 6. Mr. Ouedraogo denied entering into a contract with Citibank and challenged the purported agreement because it lacked an account number. ***Id***. at 6-7.

In response, Citibank argued that the statements were mailed to Mr. Ouedraogo's addresses in New York and Pennsylvania. ***Id***. at 7. While Mr. Ouedraogo confirmed those were his addresses, he claimed to never have received statements at either address for a Citibank card. ***Id***. at 8, 11. Further, while he acknowledged being a Costco member and having an unspecified credit card, he did not agree that he had a Costco credit card. ***Id***. at 8-9. He averred that he did not receive anything regarding a Citibank Costco card until after the underlying complaint was filed. ***Id***. at 10-12. He went on to challenge Citibank's exhibits as unauthenticated hearsay, and argued that Attorney Lipinski worked for a debt collection company that was not authorized to act on behalf of Citibank.[2] ***Id***. at 11-14.

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[2] Many of Mr. Ouedraogo's complaints stem from his insistence that Attorney Lipinski works for a third-party debt collection agency without authority to act on behalf of Citibank in this matter concerning a Costco credit card. ***See e.g.***, Mr. Ouedraogo's brief at 17 ("[T]his action was commenced and prosecuted by a third-party debt collector, RAS LaVrar, LLC."); ***id***. at 18 ("The Complaint filed by the Debt Collector was not accompanied by any power of attorney, affidavit, or other authenticated document from Citibank establishing that Citibank authorized the commencement of this action or that
(Footnote Continued Next Page)

Comparing the instant matter to the trial judge's personal Kohl's card that was managed by Citibank, the court explained to Mr. Ouedraogo that Citibank had the authority to collect the debt as it likewise managed the Costco credit card. ***Id***. at 9, 14. Relying upon Citibank's documents and Attorney Lipinski's arguments, and discrediting the statements made by Mr. Ouedraogo, the court found in favor of Citibank and awarded the amount requested. ***Id***. at 14.

Mr. Ouedraogo filed a post-trial motion pursuant to Pa.R.Civ.P. 227.1, arguing that the nonjury verdict was against the weight and sufficiency of the evidence because "the court relied solely on attorney argument and unauthenticated documents, without testimony from any competent witness or custodian of records." Motion, 11/3/25, at 1 (pagination supplied). As a result, he requested, *inter alia*, that judgment be entered in his favor or a new trial be granted. ***Id***. at 2. Citibank did not file a response and the court denied the motion.

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the Debt Collector possessed authority to act on its behalf."). In an effort to dispel some of his confusion, we take a moment to explain that Attorney Lipinski, from RAS LaVrar law firm, represented his client, Citibank, in the underlying proceedings. Citibank is not a debt collector, though this action is to collect a debt that Mr. Ouedraogo allegedly failed to pay. While Attorney Lipinski's law firm may have the ability to act as a debt collector in other circumstances, here, he acted as Citibank's attorney in presenting Citibank's case to the court. A Citibank employee verified the complaint, which was filed by the law firm on behalf of its client, Citibank. ***See*** N.T. Hearing, 10/16/25, at 8-13.

This appeal followed.[3] Mr. Ouedraogo complied with the court's order to file a concise statement pursuant to Pa.R.A.P. 1925(b).[4] The court submitted a responsive opinion, finding several claims of error waived. In this Court, Mr. Ouedraogo presents the following issues for our consideration:

1. Whether the trial court lacked subject-matter jurisdiction because the prosecuting debt collector failed to establish standing to sue on behalf of the named plaintiff, Citibank, N.A., and because the action was prosecuted under a champertous agreement void as against public policy?

2. Whether the trial court abused its discretion and committed reversible error by relying upon unauthenticated, inadmissible hearsay documents to enter judgment, where no witness testified, no foundation was laid, and the documents were never formally offered or admitted into evidence?

3. Whether the trial court erred in finding [Mr. Ouedraogo] waived review of critical procedural and structural errors, including lack of standing and fraud on the court, when such issues were either properly preserved throughout the proceedings or constitute non-waivable defects that undermine the fairness and integrity of the judicial process?

4. Whether the trial court abused its discretion in granting the motion to strike the judgment of *non-pros* where the debt collector failed to provide a reasonable excuse for its failure to appear and failed to demonstrate a meritorious claim?

5. Whether the debt collector's counsel perpetrated a fraud on the court by knowingly misrepresenting that a Pa.R.Civ.P. 1311.1

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[3] Mr. Ouedraogo initially appealed from the order denying his post-trial motion. By order of this Court, he perfected this appeal by filing a *praecipe* with the trial court prothonotary to enter judgment, which was done on April 13, 2026.

[4] We remind the trial court to include in its orders the address where the statement may be mailed. ***See*** Pa.R.A.P. 1925(b)(3)(iii).

election had been filed to justify the improper admission of evidence?

6. Whether the trial court abandoned its role as a neutral arbiter, violated the Pennsylvania Rules of Evidence, and deprived [Mr. Ouedraogo] of due process by acting as a witness, authenticating documents itself, and relying on personal experiences rather than evidence?

Mr. Ouedraogo's brief at 7-8 (cleaned up).[5]

We begin with Mr. Ouedraogo's second issue, as we find it dispositive. He argues that Citibank offered no witnesses at the bench trial and failed to lay any foundation for the admission of its documentary evidence. ***Id***. at 25. Indeed, he alleges that the documents relied upon by Citibank were never admitted into evidence and the court prevented him from objecting to them. ***Id***. at 26-27. In sum, he contends that the trial "fell far short of the requirements of due process[,]" thereby requiring that the judgment be vacated. ***Id***. at 30.

This issue encompasses the admissibility and weight of the evidence.[6] Regarding the former, our standard of review requires us to "acknowledge that decisions on admissibility are within the sound discretion of the trial court and will not be overturned absent an abuse of discretion or misapplication of

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[5] We note with displeasure that Citibank neglected to file an appellee's brief.

[6] Although Mr. Ouedraogo also challenged the sufficiency of the evidence in his post-trial motion and on appeal, he waived that claim by failing to raise it at the conclusion of the nonjury trial. ***See Haan v. Wells***, 103 A.3d 60, 68 (Pa.Super. 2014) (reiterating that "in order to preserve a challenge to the sufficiency of the evidence, the Haans first were required in this nonjury trial to move either for a nonsuit or a directed verdict" whereas they did not need to preserve a weight challenge at trial (cleaned up)).

law." ***CreditOne, LLC v. Schofield***, 131 A.3d 75, 77 (Pa.Super. 2016) (cleaned up). For an evidentiary error to be reversible, the "ruling must not only be erroneous, but also prejudicial to the complaining party." ***Gaston v. Minhas***, 938 A.2d 453, 455 (Pa.Super. 2007) (cleaned up). As for the latter, we are also mindful of the following principles:

> Appellate review of a weight claim is a review of the trial court's exercise of discretion, not of the underlying question of whether the verdict is against the weight of the evidence. Because the trial judge has had the opportunity to hear and see the evidence presented, an appellate court will give the gravest consideration to the findings and reasons advanced by the trial judge when reviewing a trial court's determination that the verdict is against the weight of the evidence. One of the least assailable reasons for granting or denying a new trial is the lower court's conviction that the verdict was or was not against the weight of the evidence and that a new trial should be granted in the interest of justice.
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> The factfinder is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses.

Haan v. Wells, 103 A.3d 60, 70 (Pa.Super. 2014) (cleaned up).

In its Rule 1925(a) opinion, the trial court maintained that it "was within its discretion to admit the evidence presented and committed no legal error in doing so." Trial Court Opinion, 3/24/26, at 14. Additionally, the court maintained that it properly denied Mr. Ouedraogo's weight claim in his post-trial motion because Citibank "provided ample, competent evidence demonstrating debt ownership, contractual liability, account accuracy, and [Citibank]'s ability to manage and prosecute the debt . . . as the original creditor." ***Id***. at 15.

As detailed hereinabove, the entire bench trial, which was transcribed in fourteen pages, consisted of Citibank's opening statement and the court's questioning of Mr. Ouedraogo and Attorney Lipinski. Contrary to the court's recitation, Mr. Ouedraogo admitted neither to having a **Costco** credit card nor to receiving bills for the underlying credit account at either his New York or Pennsylvania address, insisting instead that he never contracted with Citibank for a credit card and only received the proffered documentation about the alleged account from Attorney Lipinski after the complaint was filed. ***Compare*** Trial Court Opinion, 3/24/26, at 13, ***with*** N.T. Trial, 10/29/25, at 8-12.

With respect to the documentary evidence, Attorney Lipinski never moved to admit his exhibits, and the court did not admit them. It is axiomatic that "exhibits that are merely marked for identification and submitted by the offering party do not constitute evidence on which a finder of fact can rely." ***Commonwealth v. Jones***, 271 A.3d 452, 456 (Pa.Super. 2021) (cleaned up) (distinguishing and permitting a video recording to be considered evidence of record, despite the lack of formal admission, where it was determined to be admissible and then played for the finder of fact).

Nevertheless, Mr. Ouedraogo still attempted to object to them during Attorney Lipinski's initial explanation of the documents, and subsequently did object based on lack of authentication and hearsay. Rather than ruling on the objection, and notwithstanding that Citibank bore the burden to establish its

case, the court expressed its bafflement as to how Mr. Ouedraogo could prove that he did not receive the statements. ***See*** N.T. Trial, 10/29/25, at 11-12.

Since no admissibility rulings were made, we have no discretion to review in that regard. However, we conclude that the trial court abused its discretion in denying Mr. Ouedraogo's weight claim where its judgment in favor of Citibank was premised upon counsel's unsworn proffer, documents that were never admitted into evidence, and the court's own experience with a Citibank-managed credit card, and where Mr. Ouedraogo's statements did not establish the elements of Citibank's cause of action. ***See Ney v. Ney***, 917 A.2d 863, 866 (Pa.Super. 2007) ("A trial court may not consider evidence outside of the record in making its determination. Nor may this Court uphold a trial court's order on the basis of off-the-record facts." (cleaned up)).

Accordingly, we reverse the order denying Mr. Ouedraogo's post-trial motion, vacate the judgment entered in favor of Citibank, and remand for a new trial.

Order reversed. Judgment vacated. Case remanded. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/16/2026