

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

DAN CEVALLOS,

Plaintiff,

-against-

JULIA ASHIROVA,

Defendants.

Index No. 520020/2016

**AFFIDAVIT IN OPPOSITION TO
PLAINTIFF’S MOTION FOR LEAVE
TO AMEND, IN SUPPORT OF
DEFENDANT’S MOTION FOR
SANCTIONS AND DISMISSAL**

JULIA ASHIROVA, being duly sworn, deposes and says:

1. I am the defendant in the above captioned proceeding.
2. I currently reside at 221 79th Street, Brooklyn, New York, 11209 with my two children. Plaintiff is the biological father of my children.
3. Plaintiff and an I have had a long history together, only some of which I will account for here. In the late 1990s, while married to another woman, Plaintiff began courting me. I was not aware at the time that he was still married to another woman
4. Shortly thereafter, we began developing a life together, including being common law spouses, having two children and working together in the same business and office. We were in the business of purchasing (for a lump sum) the rights to periodic payments awarded to lottery winners.
5. Together, we formed two companies engaged in this business called Northeastern Capital Funding LLC (“Northeastern”) and Empire Advance Funding LLC (“Empire”).
6. Our personal and professional time together was temporarily suspended in 2002 when Plaintiff pled guilty to, and served prison time for, wire fraud for selling non-existent vending machines before the Honorable Judge Richard Conway Casey of the United States District Court for the Southern District of New York. A copy of the docket report describing the

events of that criminal action are attached as Exhibit A.

7. As part of his plea bargain, Plaintiff agreed on August 19, 2002 to serve 18 months in jail, to report to his Probation Officer for 36 years after his release and to pay restitution in the amount of \$278,720.50. (Ashirova Ex. A at Docket Entry 21.)

8. This was not Plaintiff's first run-in with authorities based on fraudulent conduct as in December 12, 1997, the Financial Industry Regulatory Authority ("FINRA") which regulates the conduct and practices of member securities brokerage firms, fined Plaintiff \$75,000 and permanently barred him from acting as a broker or otherwise associating with firms that sell securities to the public. (*See* FINRA Broker Qualifications Report (FINRA Report") for Dan Cevallos at p. 7 (Ashirova Decl. Ex. B).)

9. In that case, FINRA found that "in response to repeated inquiries from public customers requesting the sale of stock", Plaintiff "created and issued falsified order tickets and trade confirmations indicating the sale of stock when no such order was entered". (FINRA Report at 7 (Ashirova Ex. B).)

10. While the Plaintiff was serving time in prison, I effectively ran the business by myself until Plaintiff was released from prison. After he was released from prison, Plaintiff and I resumed our personal and professional lives together. We were again living together and our businesses generated substantial profits.

11. However, beginning around 2007, Plaintiff fell in love with another woman and began courting her. Plaintiff would eventually marry that woman in 2008. Presumably, Plaintiff had divorced his first wife by that date.

12. After getting married, Plaintiff began to realize that he could not maintain multiple families and began thinking of ways to get rid of me from his life. Plaintiff began his

campaign in or around August 2011 when, while at work, he hurled a computer monitor at me. He also screamed at me to “get out!” of the office.

13. As a result of these violent actions, I fled the offices of Northeastern and Empire in fear of my safety and health. Based on those violent actions, I was able to obtain a temporary order of protection against Plaintiff in the Kings County Family Court on or about September 30, 2011.

14. Plaintiff then began blocking my access to the company accounts for Northeastern and Empire. For example, he blocked me from interacting with the payroll company, PayChex, with whom I previously interacted regularly in my roles as a co-owner and the person responsible for finances and payroll with Empire and Northeastern.

15. Plaintiff also instructed Empire’s and Northeastern’s vendors, such as Sandra Whittingham from Strategic Capital Corp. to stop dealing with me.

16. What was most troubling, however, was that Plaintiff then caused Empire and Northeastern to stop paying me for my work and to stop issuing me profits from those companies to which I was entitled as an owner of those companies.

17. To top that off, Plaintiff began withholding his financial support for our two children, so much so that I had no alternative but to sue for parental support in Family Court, in proceedings entitled *In re Julia Ashirova v. Dan Cevallos*, Docket No. F-24175-11 (New York State Family Court Kings County).

18. In retaliation for my family court petition, and in furtherance of his campaign to drive me out of his life and deprive me of my livelihood, Plaintiff and his brother then decided to sue me in separate cases to obtain my interests in four properties that I owned, in proceedings entitled *John Cevallos v. Julia Ashirova*, No. 650451/2012 (Supreme Court New York County)

and *Dan Cevallos v. Julia Ashirova*, No. 19308/2011 (Supreme Court Kings County).

19. I eventually was forced to settle these cases (including the family law case) by stipulation in which I transferred three of those properties to Dan Cevallos in exchange for their full value to be paid in periodic installments. A copy of that settlement is attached as Exhibit C.

20. A separate agreement, specifically, the agreement under which Plaintiff purports to bring his proposed breach of contract claim was intended to settle my family court petition for child support. The amount agreed to, \$7,916.67 per month, matched precisely the amount of the mortgage (including real estate taxes and home owners insurance premium) for my home at 221 79th Street, Brooklyn, New York, 11209, in which I and our children live and for the house located at 9 Cedar Lane, Swan Lake, NY 12783, which I transferred to the Plaintiff in 2012, pursuant to the Stipulation of Settlement executed by the Plaintiff and myself in the scope of the settlement reach in *Dan Cevallos v. Julia Ashirova*, No. 19308/2011 (Supreme Court Kings County).

21. As I understand now, instead of doing the right thing and simply executing an agreement to help house his children, Plaintiff (aware that the amount of his restitution from his criminal plea bargain was tied to his income, including income from his business) decided to cheat the government by drafting his agreement to pay a maintenance as a marketing consulting agreement between me and his business so that he could report that agreement as a business expense and lower the income that he reported to them from his business.

22. The agreement itself, on the form and content of which the Plaintiff's attorney insisted at the time of the settlement discussions, contains no obligations whatsoever on my part. Further, a marketing consulting agreement would have made no sense whatsoever since by the time Plaintiff entered into the agreement on September 26, 2012, Plaintiff wanted nothing to do

with me.

23. By the time he entered into the agreement, Plaintiff had already thrown me out of the offices in which we worked together, locked me out of the accounts in which I transacted business for those companies, caused me to stop receiving salary and profits from the companies at which I worked and which I owned, and was living with his second wife.

24. During Plaintiff's assault on my welfare and that of my children, I was emotionally distraught over losing my family and potentially losing my livelihood. I agreed to have Plaintiff draft the maintenance agreement as a marketing consulting agreement because it accomplished what I needed it to accomplish: it ensured that I would be receiving monthly payments to pay for the mortgage of the house in which I was raising our two children.

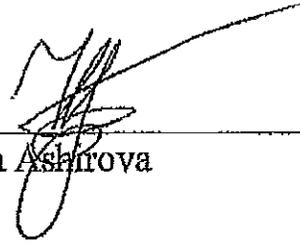
25. For the Plaintiff now to allege that I have breached this agreement is simply not supported by the agreement and flies in the face of what happened between us in our lives and in our court proceedings.

26. To be clear. There are no obligations under that agreement for me to perform services.

27. The only reason Plaintiff is bringing this claim is to avoid paying the monthly payments he contracted to pay through 2028, to spite me because I recently got married to another man, and to continue his campaign to harass and abuse me.

28. For these reasons, I respectfully ask the court to grant my motion to dismiss Plaintiff's complaint in its entirety, deny his motion to amend his complaint and order sanctions against Plaintiff for his continued harassment against me.

29. I declare, under penalty of perjury, that the foregoing statements and facts are true and correct.



Julia Ashirova

State of New York
County of Kings } ss.:

On this, the 5th day of JANUARY 2017, before me a notary public, the undersigned officer, personally appeared **JULIA ASHIROVA**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

OLEG A. MESTECHKIN
Notary Public – State of New York
No. 02ME6233728
Qualified in Richmond County
My Commission Expires 1/3/2019



NOTARY PUBLIC