

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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ROY DEN HOLLANDER, Petitioner, Docket No. O-03570/02

-against-

NOTICE TO ADMIT

ALINA SHIPILINA, Respondent, JUDGE: JODY ADAMS

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To: Nicholas J. Mundy

Pursuant to CPLR 3123 and within twenty days after service of this notice, the petitioner requests the respondent to admit, for the purpose of this proceeding only and subject to all pertinent objections to admissibility which may be interposed at the hearing, the truth of the following matters of fact:

1. During October 2001, annulment/divorce proceedings between petitioner and respondent were on going in the Supreme Court of the State of New York in the County of New York before Justice Joan Lobis, Index No. 350091/01.
2. On October 4, 2001, respondent and her attorney, Paulette Detiberiis, attended a compliance conference before Justice Joan Lobis in the annulment/divorce proceedings between petitioner and respondent, Index No. 350091/01.
3. At the compliance conference noted in number 2 above, Justice Lobis in the presence of respondent and Ms. Detiberiis granted petitioner the right to file a motion to set aside the Preliminary Conference Stipulation that stated fault would not be an issue in the annulment/divorce proceeding between petitioner and respondent.
4. Following the compliance conference noted in number 2 above, respondent understood that petitioner's filing of a motion to set aside the Preliminary Conference Stipulation that stated fault would not be an issue in the annulment/divorce proceeding between petitioner and respondent might result in a trail on the issue of fault.
4. A criminal decree was filed against respondent's mother, Inessa Shipilina, by a Krasnodar prosecutor on January 25, 2002, that charged Inessa Shipilina with defaming the petitioner.
5. Respondent has worked as a lap dancer at the topless club called Flash Dancers located at 1674 Broadway in Manhattan.

6. Respondent continues to work as a lap dancer at the topless club called Flash Dancers located at 1674 Broadway in Manhattan.

7. Respondent has worked as a lap dancer at the topless club called Flash Dancers located at 1674 Broadway in Manhattan since July 2000.

Dated: New York, New York

May 17, 2002

Roy Den Hollander

Petitioner

545 East 14th Street, Apt. 10D

New York, NY 10009

212 995 5201

To: Nicholas J. Mundy

Attorney for Respondent

Kuba, Mundy & Associates

321 Broadway

New York, NY 10007

212 732 5050

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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ROY DEN HOLLANDER, Petitioner, Docket No. O-03570/02

-against-

PETITIONER'S FIRST

ALINA SHIPILINA, Respondent, **NOTICE FOR DISCOVERY**

AND INSPECTION

JUDGE: JODY ADAMS

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PLEASE TAKE NOTICE, that, pursuant to the provisions of Rule 3120 of the Civil Practice Law and Rules, petitioner, Roy Den Hollander, demands that respondent, Alina Shipilina, produce for inspection and copying the documents described below at 4:00 p.m. on Friday, June 21, 2001, at the Village Copier, 20 East 13th Street, New York, NY 10003.

PLEASE TAKE FURTHER NOTICE that this Notice is continuing and applies as well to any additional responsive documents that come within defendant's possession or control after the date of production.

INSTRUCTIONS AND DEFINITIONS

1. Unless otherwise specified, all requests cover the period **JANUARY 1, 1996** to the date of production.
2. Requests for documents "since" a certain date means from that date to the date of production.
3. Use of the word "and" means "and/or" and use of the word "or" means the same thing.
4. References to anything "owned" by respondent or "held" in her "name" or by her includes anything owned in whole or in part by respondent, or jointly by her with any others, or in which she has a beneficial interest, provided that respondent's interest is at least 10% of the total, and also any account on which respondent is a named signatory (without regard to the percentage of her legal or beneficial interest and no matter in what capacity she is a signatory).

5. References in the present tense to respondent's ownership of any assets include both past and present ownership during all or part of the period specified, as the case may be.

6. Use of the words "including" and "any" are not restrictive and mean "including without limitation" and "any/or all", respectively.

DOCUMENT DEMANDS

1. With respect to the income, earnings, salaries, wages, commissions, interest, dividends, bonuses, funds, returns of capital, reimbursed expenses, gifts, legacies, loans, advances and other monies or securities received by defendant from all sources, including prostitution; stripping; lap dancing; and erotic and pornography videos, digital recordings and still photographs: all documents reflecting such payments since January 1998.

2. With respect to all checking accounts held in respondent's name individually or jointly with another or others: the checkbooks, checkbook stubs, monthly statements, computer printouts, computer disks and other documents reflecting the status of and activity in such accounts since September 1, 2001.

3. With respect to all cash accounts, savings accounts, certificates of deposit, money market funds, trusts, custodial accounts and other cash deposits held in respondent's name individually or jointly with another or others: the monthly statements, transaction records, computer printouts and computer disks reflecting the status of and activity in such accounts since September 1, 2001.

4. With respect to all mutual funds and brokerage accounts held in respondent's name for transactions in securities of any kind (including stocks and bonds, issued by any entity, foreign or domestic, private or governmental): monthly statements, transaction records, computer printouts and computer disks reflecting the status of and activity in such accounts since September 1, 2001.

5. All Russian international and national passports and any other passports of defendant's in force at any time since 1996.

6. Originals or copies of any complaints respondent filed with the New York City Police Department since January 1, 2002.

7. Originals or copies of any criminal proceedings brought against respondent's mother, Inessa Shipilina, by prosecutors in Krasnodar, Russia.

8. All model photo cards used by respondent since July 1, 2000.

9. Originals or copies of all respondent's work schedules for Flash Dancers Topless Club located at 1674 Broadway in Manhattan.

10. Originals or copies of telephone billing records for the numbers 718 274 4902 and 917 374 4713 for October 2001, February 2002, and March 2002.

11. With respect to all credit cards in respondent's name or maintained for her benefit since September 1, 2001: the monthly bills, statements, and vouchers.

12. Electronic address book and any other list of defendant's customers or clients for whom she engaged or engages in prostitution as defined by New York State Penal Law Section 230, and for whom she engaged or engages in erotic performances including lap dancing and stripping in return for economic gain.

Dated: New York, New York
May 17, 2002

Roy Den Hollander
Petitioner
545 East 14th Street, Apt. 10D
New York, NY 10009
212 995 5201

To: Nicholas J. Mundy
Attorney for Respondent
Kuba, Mundy & Associates
321 Broadway
New York, NY 10007
212 732 5050

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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ROY DEN HOLLANDER, Petitioner, Docket No. O-03570/02

-against-

INTERROGATORIES

ALINA SHIPILINA, Respondent, SECOND SET

JUDGE: JODY ADAMS

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To: Nicholas J. Mundy

The petitioner, Roy Den Hollander, requests that the respondent, Alina Shipilina, answer under oath, in accordance with Article 31 of the CPLR, the following interrogatories:

1. State the full name, age, residence and post office addresses, home telephone numbers, business addresses and business telephone numbers and occupation for the man who telephoned Petitioner on behalf of Respondent in October 2001 and left a voicemail at Petitioner's mobile telephone number stating the following:

“Roy Den Hollander, how are you? This is John Madison calling on behalf of Angelina. Your ex or soon to be ex wife (inaudible). Now that she is getting new counsel, and mainly we're going to challenge every answer to your filings, every aspect of this marriage, being that it originated in Russia. And basically try to understand that because of the fact that things didn't work out, your malicious actions are basically going to be very carefully reviewed, not only by the proper authorities, but also under every ledger of the lawyer. We will challenge every single aspect of your filings and of this case. And I assure you one thing; we're not going to basically keep our eyes closed to this issue. We are going to basically be looking at this very carefully, and we will challenge you on every aspect. I assure you of one thing on this arbitration hearing, I will be attending.

And as far as everything else goes, I can tell you first hand with all due respect that I'm disgusted by the way you handled it. And quite frankly, I question every single bit of your motions and your filings. And, I assure you one thing, that this issue is definitely going to be an issue that you're going to have to face up to reality on my friend. So as far as it goes, I will leave you with that. And I will try to reach you at home to see if you are there.

But in the meantime, bear in mind that this case is not going to go basically with her lying down and being abused over this whole issue. And you trying to take advantage of

the situation and try to claim all these (laughter) basic unfounded claims against her. Which basically have no foundation whatsoever. On the other hand, it really reflects on you on how you've handled this, and that a lot of your issues are very questionable. So, never the less, I will be trying to get in touch with you and have yourself a nice day."

2. State the full name, age, residence and post office addresses, home telephone numbers, business addresses and business telephone numbers and occupation for the man who telephoned Petitioner on behalf of Respondent in February 2002 and left a voicemail at Petitioner's mobile telephone number stating the following:

"Mr. Hollander, this is John Pierre, and I left you a message earlier on. And I did speak with you but apparently for whatever reason, you obviously weren't available to talk. I'm giving you a courtesy phone call.

I'm going to tell you to cease and desist with your actions against Angelina. I will tell you right now that what you're doing, I know everything about you. I know exactly what you have been doing and your past history and your record. I know everything about you sir.

I liked to explain to you what's going to happen. If you continue harassing and making this girl's life miserable, I will promise you that everything under the law and under my ability to do so under the law, I will pursue you in every way shape and form imaginable under the law, and make sure that justice is done because right now you disgust me. As a human being, I am just so disgusted with everything about you and what you've done to this girl. More than some pathetic form of display of inhuman treatment—you've gone beyond that sir. I'm very much available! And let me tell you something that I am extremely well known in this city, and I know everything about you. You better get your act together, and I am telling you this under fairness and courtesy—cease and desist with what you are doing to this girl and her family and the way you try to (affect) her in her country. Because you, my friend, are right now going to be under investigation if I hear one more word that this is happening. And it's not going to be by me, but the federal government. And you at this point in time have crossed several boundaries that cause for a lot of red flags to (wave) in the air my friend.

So, quite frankly, right now I would be basically on my good behavior. All I'm telling you do the right thing Mr. Hollander, it obviously is the best thing to do. Be human and be courteous and understanding of other people's feelings and their lives. I think you guys are over and done with. That's it—leave her alone! Have a nice day."

3. State the full name, age, residence and post office addresses, home telephone numbers, business addresses and business telephone numbers and occupation for the man who telephoned Petitioner on behalf of Respondent in March 2002 and stated the following:

Mr. Hollander, this is John Pierre calling on behalf of Angelina. I told you before to cease and desist with your legal actions. I'm warning you do not testify before the INS or we will meet. (In the background, I heard Alina say 'About my mother and the prosecutor.') And do not try to get the case in Russia reopened. We're watching you, have a nice day.

4. State the nature of the relationship between the Respondent and the men whose names were answered in Interrogatories 1, 2 and 3 above.

5. State when, where, how and under what circumstances Respondent met the men whose names were answered in Interrogatories 1,2 and 3 above.

6. State the full name, address and telephone numbers of anyone and everyone Respondent talked with regarding any of the telephone calls cited in Interrogatories 1,2 and 3 above.

7. State all names Respondent has used since 1996, where used and the purpose for using such names.

8. State whether Respondent has ever associated with any criminals in Russia, Cyprus, Italy, Mexico or America and when, where and with whom associated.

9. State reason or reasons Respondent went to the 114th Police Precinct in March 2002 as concerns Petitioner.

10. State with whom Respondent talked at the 114th Police Precinct in March 2002 and the content of those discussions concerning Petitioner.

11. State what notice Respondent has of any United States Immigration and Naturalization investigations or proceedings concerning Respondent, the nature of the investigations or proceedings and when notified about them.

PLEASE TAKE FURTHER NOTICE that a copy of such answers must be served upon the undersigned within twenty (20) days after the service of these interrogatories.

Dated: May 23, 2002

New York, New York

Roy Den Hollander

545 East 14th Street, Apt. 10D

New York, NY 10009

(212) 995 5201

FAMILY COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

-----X

ROY DEN HOLLANDER, Petitioner, Docket No. O-03570/02

-against-

INTERROGATORIES

ALINA SHIPILINA, Respondent, JUDGE: JODY ADAMS

-----X

To: Nicholas J. Mundy

The petitioner, Roy Den Hollander, requests that the respondent, Alina Shipilina, answer under oath, in accordance with Article 31 of the CPLR, the following interrogatories:

1. State your full name, age, residence and post office addresses, home telephone numbers, business addresses and business telephone numbers for the past four (4) years.

2. State the names, telephone numbers and addresses of all employers, agents, clients, customers or any other person or entity that provided you with money and the amount or other economic benefit and the monetary value of such, including but not limited to material goods and travel, in return for your providing services that included but were not limited to prostitution, lap dancing, stripping or any other form of sexual activity as defined by New York State Penal Law Section 130 or sexual conduct as defined by New York State Penal Law Section 230 and displaying any portion or all of your body for video, digital or still pictures or a live audience from July 11, 2000, until the

present. Give the date, place, payment, expenses and nature of services provided for each provision of services and reason for termination.

3. As to your present places of work, state:

a. Name and address of owner and manager;

b. Type of work performed, position held and nature of work or business in which you are engaged;

c. Amount of time you have been working at present jobs;

d. Hours of work at each;

e. Rate of pay or earnings, setting forth specifically your gross and net average weekly income, salary, wages, commissions, overtime pay, bonuses and gratuities and itemized expenses;

Attach copies of all evidence of above payments and expenses, including pay stubs, W2 forms, etc. for the past year.

4. State and itemize all deductions from your gross weekly earnings or other emoluments, including but not limited to taxes, insurance, savings, loans, pensions, profit sharing, dues and stock options.

5. State whether you have filed federal, state, local or other income tax returns during the last four (4) years with the appropriate tax authorities for any of the countries in which you earned income, including but not limited to the United States, Russia, Cyprus, Mexico and Italy. If so, indicate the years during which the same was filed and whether federal, state, local or other. If you have not filed a return or returns, state the reason or reasons why.

Attach copies of all such returns filed during the past four (4) years.

6. Itemize all bank, stock or brokerage accounts, certificates of deposit, treasury bills, stock certificates, notes or mortgages in your name or in which you have an interest presently or have had an interest during the past four (4) years, stating for each:

(a) The name and address of each bank, stock brokerage or other depository;

(b) The balance in those accounts as of the date of the service of the summons in this action;

(c) The present balance;

(d) The source of funds for all deposits and purchases made in said accounts;

(e) The name and address in which each account is registered, the account numbers and whether any individual, whether or not listed on said account, has an interest therein.

(f) If you hold any stock certificates, notes, mortgages or commercial paper not included above, itemize them and state the number of shares, their value, the location of the certificate, note, mortgage or other commercial paper and the source of the funds used to acquire them.

Attach copies of the monthly statements of such accounts for the past four (4) years and copies of savings account books or savings books and check registers.

5. State whether you have a safe deposit box or boxes either in your name individually, or in the name of a partnership, or corporation and to which you have access, stating the following:

(a) The location of each box and box number;

(b) The name in which it is registered and who, in addition to yourself, has access to each box;

(c) List the contents of each box since the boxes were rented by you. If the contents have changed over the time of your access to the boxes, then for each box state the approximate date and nature of what was put in and taken from each box.

7. If you have any cash in your possession or under your control in excess of \$500.00, specify;

(a) The amount of cash;

(b) Where it is located;

(c) The source of said cash.

8. State whether you have made any gift of any money and/or personal property to friends, relatives or anyone else during the past four (4) years of a value in excess of \$500.00. If so, state:

(a) The names and address of said person and the relationship of that person to you;

(b) The nature and value of the gift or the amount of money given;

(c) The date each gift was given;

(d) The reason for such gift;

(e) The source of the funds used to purchase such item.

9. What is respondent's current immigration status in the United States?

10. State the names of the employees of Flash Dancers Topless Club with whom respondent associates and any of their telephone numbers if known.

PLEASE TAKE FURTHER NOTICE that a copy of such answers must be served upon the undersigned within twenty (20) days after the service of these interrogatories.

Dated:

New York, New York

Roy Den Hollander

545 East 14th Street, Apt. 10D

New York, NY 10009

(212) 995 5201

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

=====X

ROY DEN HOLLANDER,

Docket No. O-03570/02

Petitioner,

AFFIRMATION IN SUPPORT

-against-

ALINA SHIPILINA,

Assigned to
Judge Jody Adams

Respondent.

=====X

NICHOLAS J. MUNDY, ESQ., an attorney duly admitted to practice before the Courts of the State of New York, affirms the truth of the following matters:

1. I am associated with the law firm of KUBA, MUNDY & ASSOCIATES, attorneys for the Respondent, and as such am fully familiar with the facts and circumstances herein.

2. I make this affirmation in support of the Respondent's motion for a protective order, pursuant to CPLR § 3103.

3. Pursuant to Uniform Rule § 202.17, I have attempted in good faith to resolve the issues raised in this motion without judicial intervention. However, at this time it has become clear that judicial intervention is required.

4. The Petitioner ROY DEN HOLLANDER commenced this action against the Respondent to obtain a permanent order of protection. Petitioner alleges Respondent engaged in conduct that was intended to threaten and harass the Petitioner, and that he received a harassing telephone call from a male caller in which he heard the Respondent's voice in the background. A copy of the Petition is

annexed as Exhibit A.

5. The Respondent vehemently deny the Petitioner's allegations.

6. The Petitioner has served demands for discovery and inspection, together with a first and second set of interrogatories. He has also served Subpoenas upon the Verizon and the Federal Bureau of Investigation (FBI). Copies of Petitioner's various discovery demands and subpoenas are annexed hereto as Exhibit B.

7. From the outset, it has appeared to your affiant's firm that the Petitioner's demands were outrageous in the context of this litigation, and were objectionable in many ways.

8. Nonetheless, the Respondent, uninterested in protracted litigation and continuing legal fees, advised the undersigned that she preferred to resolve the instant proceeding forthwith by consenting to a one year order of protection by stipulation. Thus, Petitioner's outrageous discovery demands became mute.

9. However, on July 2, 2002, before the Honorable Jody Adams, the Petitioner refused to accept a Stipulation granting him the very one year order of protection which he seeks, and demanded a full merits hearing. Thus, the instant motion for a protective order became necessary.

10. It is apparent that this Court should issue an order, pursuant to CPLR § 3103, protecting the Respondents from Petitioner's improper demands.

11. The protective order is the Court's perpetual guard against discovery abuses." D. Siegel, New York Practice § 353 (2nd

Ed., 1991).

12. On its own or on motion of any party or witness, the Court may, at any time, make a protective order denying, limiting, conditioning, or regulating the use of any disclosure device. The order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts. CPLR § 3103(a).

13. The broad terms of CPLR § 3103(a) indicate that the Court has discretion to make whatever protective order is appropriate under the particular circumstances.

14. No time limit is provided for in CPLR § 3103 for making a motion to obtain a protective order. CPLR § 3103 states that the motion may be made "at any time". The exception is that as to certain items demanded (i.e., notices for discovery and inspection and physical exams, etc.) to which the motion should be made within ten days. CPLR § 3122.

15. Nevertheless, the Courts have allowed the motion to be made at any time where the discovery demanded is palpably improper. See: e.g., *Wood v. Sardi's Restaurant*, 47 AD2d 870, 366 NYS2d 150 (1975).

16. On July 2, 2002, Respondent had every reason to believe that the instant proceeding was to be settled in its entirety. The Petitioner's unreasonable refusal to stipulate to settlement wherein Respondent has agreed to a one year order of protection is additional evidence of the fact that Petitioner seeks only to harass and annoy the Respondent with continued litigation, and is the sole reason that this instant motion became necessary.

17. In light of the foregoing, the motion should be entertained as to all discovery demanded by Petitioner. Furthermore, the mere making of the motion herein by Respondent has served to suspend disclosure of the matters in dispute. CPLR § 3103.

18. The Respondent's position is that ALL of the Petitioner's demands are objectionable. While this may appear at first glance to be an unreasonable position, even a cursory review of the Petitioner's demands make it clear that this is indeed, a fact. His discovery demands are not only unduly burdensome and objectionable, they are offensive to the Respondent, and should be offensive to the Court. There can hardly be a greater example of discovery abuse before this Court.

19. As an example of the blatant impropriety of the Petitioner's discovery demands and interrogatories the court should note that Petitioner has demanded, *inter alia*:

- State what notice Respondent has of any United States Immigration and Naturalization investigations or proceedings concerning the Respondent, the nature of the investigations or proceedings and when notified about them.

- State whether Respondent has ever associated with any criminals in Russia, Cyprus, Italy, Mexico or America and when, where and with whom associated.

20. Clearly, these demands are irrelevant, overbroad and unduly burdensome, and as previously stated herein, offensive. It would be waste of time to reproduce the objectionable demands made by the Petitioner in this motion, because as previously stated,

EVERY REQUEST MADE BY THE PETITIONER IS OUTRAGEOUS AND OBJECTIONABLE.

21. The information demanded and the tactics employed by the Petitioner amount to nothing more than harassment, and are thus improper. Indeed, they appear calculated to do nothing more than embarrass, annoy and harass the Respondent. Petitioner's demand for personal information that is irrelevant to these proceedings is actually shocking.

22. The Petitioner has demanded, *inter alia*: copies of passports, police complaint reports filed by the Respondent, "model photo cards", work schedules, credit card statements, "list of customers or clients for whom she engaged or engages in prostitution".

23. Obviously, the Court can read through the demands, interrogatories and the notices and can see that they are palpably improper. They utilize the use of the words "any and all" and call for extraneous and unnecessary personal information. They are filled with innuendo and insult intended to embarrass and offend the Respondent in a public forum, such as naming her a prostitute.

24. Much of the information demanded is so outrageous and palpably irrelevant as to constitute grounds for sanctions. Nevertheless, Respondents are not requesting sanctions, but rather are seeking to stop the harassment at this time.

25. It is well established that proper procedure requires that a party first ascertain whether the requested materials exist and if so, whether they are arguably pertinent. Thereafter, the party serve a notice for discovery and inspection calling for the

production of specifically identified documents. Only at such time can the right to discover and inspect such documents be intelligently adjudicated. [See: *Ribs v. Donovan*, 21 AD2d 409, 413-414, 250 NYS2d 818, 822-823, (1st Dept., 1984); *Wood v. Sardi's Restaurant*, 47 AD2d 870, 366 NYS2d 150 (1975); *Agricultural v. Chemical*, 462 NYS2d 667, 94 AD2d 671;

26. This Court is vested with the authority to "regulate" the use of disclosure devices pursuant to the explicit wording of CPLR § 3103. See also, *Barouh v. IBM*, 76 AD2d 873, 429 NYS2d 33 (2nd Dept., 1980). The court should do so, particularly where as here, substantial abuse would otherwise take place, and parties will be unduly burdened (in all likelihood for no reason).

27. Simply put, the Petitioner's demands are without sufficient basis and are overbroad and unduly burdensome. They are offensive, and in many instances, shockingly outrageous and abusive.

28. The Court can plainly see how onerous the demands are. They ask for information of such a personal nature, that there can be no doubt that they were simply drafted as a harassment tactic by the Petitioner.

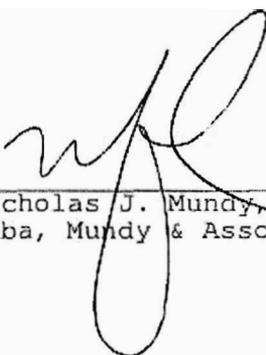
29. Burdensome, oppressive, and in many parts inappropriate interrogatories and requests for documents warrant a vacation of the interrogatories and requests, rather than pruning them. *Aeron v. Chemco Intern.*, 498 NYS2d 49, 117 AD2d 573 (AD, 2nd Dept., 1986); *Spancrete Northeast v. Elite Associates*, 539 NYS2d 441, 148 AD2d 694 (AD, 2nd Dept., 1989); .

30. No previous request for the relief prayed for herein has

been made.

31. Wherefore, for all the foregoing reasons, the Respondent's motion should be granted in its entirety. The Petitioner's discovery demands should be stricken in their entirety as per the CPLR, and the completion of discovery should take place in accordance with the Court's direction in its order.

Dated: July 11, 2002
New York, New York



Nicholas J. Mundy, Esq.
Kuba, Mundy & Associates

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ROY DEN HOLLANDER, Petitioner,

-against-

ALINA SHIPILINA, Respondent,

Docket No. O-03570/02

**AFFIRMATION IN
OPPOSITION
TO RESPONDENT’S
MOTION FOR DISCOVERY
PROTECTIVE ORDER
AND VACATING DISCOVERY
REQUESTS**

JUDGE: HELEN C. STRUM

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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROY DEN HOLLANDER, ESQ., an attorney duly admitted to practice law before the courts of the state of New York affirms the following to be true:

1. That I am an attorney representing myself, Petitioner, in the above captioned matter and am fully familiar with all the facts and circumstances to which this affirmation pertains.
2. I submit this affirmation in opposition to Respondent’s motion for a protective order regarding discovery requests and vacating of discovery requests.

Argument

3. Discovery proceedings of the CPLR are applicable to Family Court proceedings.
Russo v. Hardy, 1972, 68 Misc.2d 1057, 328 N.Y.S.2d 425.
4. “CPLR 3101(a) broadly mandates full pre-trial disclosure by the parties of all matter or data that is material and necessary in the action....” New York Civil Practice, Weinstein Korn and Miller, Section 3101:03, page 31-14.

5. “The broad circumference of pretrial disclosure is enunciated in CPLR 3101 which in essence reflects legislative policy favoring the forthright exchange of information by parties in advance of trial in civil actions. That policy is implemented by the procedures set forth in CPLR 3102 pertaining to the disclosure menu and methodology embodied in CPLR 3102.” Id. at Section 3102.01, page 31-255.
6. “CPLR 3102 does not specifically limit a party seeking disclosure to a choice of any one or more of the methods on its menu. There is no express limit on the number of times a device may be used.” Id., page 256.
7. “The responding party no longer bears the burden of moving to strike interrogatories or demands for documents and things to which that party has an objection. Instead, under [CPLR 3103(a), 3122 and 3133], the responding party **must** within twenty days of service of the demand for production ‘serve a response which shall state with reasonable particularity the reasons for each objection,’ and within twenty days of the service of interrogatories, **must** serve ‘a copy of the answer to each interrogatory except one to which the party objects, in which event the reasons for the objection shall be stated with reasonable particularity.’” Id. Section 3103.07, pages 31-309, 310 (emphasis added).
8. The first set of discovery papers were served by mail on Respondent’s attorney, Nicholas J. Mundy, on May 17, 2002. See attached Exhibit 1, Affidavit of Service. This beginning “flood” of papers, as characterized by Mr. Mundy, weighing significantly less than a pound, consisted of interrogatories, a request for inspection and copying of documents and notice for admissions. Under the CPLR, Mr. Mundy had until June 17, 2002, to provide answers to the interrogatories or merely note his

objections—overly broad, burdensome, intrusive, etc.—next the questions he believed inappropriate under Section 165 of the Family Court Act or CPLR 3101 *et seq.* As to the request for inspection, Mr. Mundy had until June 21, 2002, to produce the documents or, as with the interrogatories, merely note his objections. With the request for admissions, all Mr. Mundy needed to do was note “not admitted.” Mr. Mundy, however, chose to do nothing—not a telephone call, not a letter—nothing. He chose to ignore the rules of civil procedure and not even make an attempt to resolve the discovery issues without involving the Court.

9. The second, even lighter, set of discovery papers was served by mail on May 24 and due June 24, 2002. See attached Exhibit 2, Affidavit of Service. These papers consisted of eleven interrogatories on six sheets of paper. Once again Mr. Mundy did nothing and made no attempt to resolve the issues without motion practice.
10. Petitioner filed three motions to compel Mr. Mundy to play by the rules of discovery. Two other motions to compel discovery from non-parties were directed at the Federal Bureau of Investigation and Verizon in an effort to discover the identity of the man making the threatening telephone calls to Petitioner at the instigation of Respondent.
11. Had Petitioner not filed the motions to compel discovery from Respondent, Mr. Mundy would have most assuredly argued to the court that Petitioner’s silence constituted relinquishment of his right to discovery. As witnessed at the July 2, 2002, proceeding, Mr. Mundy’s arguments appear to carry great weight with the Court when before even providing the Petitioner a meaningful hearing on his motions to compel discovery, the Court decided Petitioner’s discovery requests intrusive and instructed Mr. Mundy to file a motion for a protective order—no doubt the motion

will be granted. As such, the filing of the motion papers for a protective order appears more a matter of form than substance, since the Court in its own words has already made its decision.

12. The court's articulation of its discovery decision came at the beginning of the hearing when the court first addressed Mr. Mundy even though the issue involved the Petitioner's motions to compel discovery, which normally infers the court would have initiated the proceeding by questioning Petitioner. But of course, the court has wide discretion. Still the tenor, flow and length of the court's discussion with Mr. Mundy appeared to Petitioner as a continuation of previous ex parte talks. Before the hearing began, Mr. Mundy had been situated in the courtroom while Petitioner was instructed to wait in the hallway outside. The same situation occurred at the May 6, 2002, preliminary conference where Mr. Mundy also had free ingress and egress to the courtroom while the pro se Petitioner did not.

13. In any event, when a court considers a motion for a protective order, it will normally assume that the allegations of the pleadings are true. Green v. Sleznick, 220 A.D. 12, 221 N.Y.S. 63 (4th Dept. 1927); Balducci v. Zenner, 203 Misc. 40, 113 N.Y.S.2d 178 (Sup. Ct. Onondoga Co. 1951).

14. Mr. Mundy makes in his Notice of Motion and Affirmation a number of misrepresentations, dissemblances, half-truths and prevarications in a sophistic effort to obfuscate Petitioner's allegations and the facts in order to mislead the Court.

15. In the third paragraph of Respondent's Notice of Motion, Mr. Mundy says, "A good faith attempt has been made to resolve these issues without motion practices..." and in paragraph 3 of Respondent's Affirmation, Mr. Mundy says, "I have attempted in

good faith to resolve the issues in this motion without judicial intervention.” Mr. Mundy’s “good faith attempt” consisted of doing nothing in violation of the CPLR 3103(a), 3122 and 3133.

16. Paragraph 4 of Mr. Mundy’s Affirmation dissembles by implying Petitioner received only one threatening and harassing telephone call when the Petition cited by Mr. Mundy clearly states “several”.
17. In paragraph 8 of Mr. Mundy’s Affirmation, he falsely implies that Petitioner made his discovery requests while a settlement offer was pending. Nothing could be further from the truth. On May 6, 2002, the Court made an offer to Mr. Mundy in open court for his client to agree to a one-year protection order against Respondent—Mr. Mundy refused. Petitioner served his discovery requests on May 17 and 24, 2002. It wasn’t until fifteen minutes before the July 2, 2002, hearing that Petitioner learned of the settlement offer when Judge Sturm’s law clerk told Petitioner that Mr. Mundy was offering a one-year order of protection with no admissions by Respondent. Petitioner exercised his constitutional right and did not accept the belated offer.
18. Paragraph 9 of Mr. Mundy’s Affirmation misrepresents and misleads when it states “Petitioner refused to accept a Stipulation granting him the very one year order of protection he seeks....” Here Mr. Mundy failed to state the full details of the settlement offer that included Respondent not admitting to any wrong doing, which would make the order in this situation a meaningless deterrent, since it concerns a respondent steeped in the culture of Chechnya where she grew up and one who will most likely use her many homeland connections to carry out the threats communicated to Petitioner.

19. A one-year order of protection with out admission of wrong doing fails to provide sufficient protection for Petitioner, since it also does not disclose the identity of the man making the telephone calls. The man, as FBI agent Vadim Thomas opined, is probably an organized crime member that works at “Flash Dancer Topless Club”, which is the very same club where Respondent has worked as a stripper for the past two years.
20. Mr. Mundy also failed to note in his deceptive efforts to discredit Petitioner’s refusal of a settlement offer that the Family Court has the power to grant a three-year order of protection when there is exposure of Petitioner to physical injury.
21. If Mr. Mundy would listen to the two audiotapes in his possession of two of the threatening telephone calls made to Petitioner, even he would conclude that they carry the threat of physical injury. Add in the common knowledge among international law enforcement officials and private security and intelligence firms that deal with Chechnya and Russia (Petitioner served as Acting Country Manager of Russia for Kroll Associates) and any reasonable person would conclude that threats originating from a Russian with money, Respondent earns tax free an estimated \$12,000 or more a month, require an effective deterrence.
22. It is difficult to convey to the Court the matter-of-fact brutality and utter disregard for court decisions that constitute business as usual in Russia and Chechnya. Disputes are more likely to be resolved with money and guns than by the courts in these two intertwined cultures. Unfortunately, many immigrants bring with them to America their traditional ways for handling disputes. Respondent has both the means in terms

of money and the connections with Russian and Chechen organized crime to employ traditional Russian and Chechen methods to achieve her ends.

23. A settlement that provides for a two or three year protective order where it is on the record that Respondent admits to her intent, reasons and actions taken in arranging for some man to make the threatening telephone calls will provide sufficient deterrence to protect Petitioner from Respondent hiring some Russian or Chechen hoodlum who charges the going rate of \$5,000, plus airfare and hotel expenses, for disposing of a foreigner because the FBI will have a record sufficient for them to act upon. Such a settlement would also avoid protracted litigation and continuing legal fees.
24. Mr. Mundy's Affirmation arrogantly argues that Petitioner had no right to refuse Mr. Mundy's settlement. Since it is Petitioner and not Mr. Mundy who has been threatened with the clear message of grave bodily harm, Petitioner, and not Mr. Mundy, has at least some right to decide whether a settlement offer is more likely to effectively deter Respondent in the future so that Petitioner may be restored to the peace of mind and freedom from fear he possessed before these threats began in October 2001.
25. Mr. Mundy's Affirmation regularly omits pertinent facts such as in paragraph 16 where it states, "On July 2, 2002, Respondent had every reason to believe that the instant proceeding was to be settled in its entirety." Mr. Mundy, apparently prone to hyperbole, failed to state any of the "every reason" that led Respondent to expect a settlement.
26. Also in paragraph 16, Mr. Mundy refers to "additional evidence" that Petitioner is trying to harass Respondent, but Mr. Mundy fails to provide any. Mr. Mundy has

apparently forgotten the issue in this case is threatening and harassing telephone calls made to Petitioner. Petitioner's exercise of his constitutional right to petition an American court for protection from an alien resident and her associates is not harassment.

27. Mr. Mundy verbalizes his mask of righteous indignation at Petitioner's discovery requests by calling them "outrageous" in paragraph 7 of his affirmation. If they were so outrageous, why didn't he respond as provided for under CPLR 3103 (a), 3122 and 3133 rather than doing nothing that necessitated Petitioner to file motions to compel?
28. Mr. Mundy didn't respond because he wanted to avoid any discovery whatsoever, as he admits in paragraph 18 of his Affirmation—a not very subtle way of violating Petitioner's rights under the CPLR and thwarting legislative policy. Mr. Mundy goes so far in his twisted logic for preventing all discovery that the standard he advocates for the Court to use in determining the appropriateness of a discovery request is to make a "cursory review" of the demands and then throw them all out.
29. Furthermore, Mr. Mundy cites old law in paragraph 25 of his affirmation relying on Rios v. Donovan, 21 AD2d 409, 250 N.Y.S.2d 818 (1st Dept 1964) for the rule that a notice for discovery and inspection must call "for the production of specifically identified documents." (Emphasis by Mr. Mundy) According to New York Civil Practice, Weinstein, Korn and Miller, Section 3120.17, page 31-494, in 1993, CPLR 3120 (a)(1) was amended to eliminate the requirement that the notice to produce documents specifically identify the documents being requested. (Emphasis by Petitioner)

30. Mr. Mundy's objections are clearly overbroad in that he objects to every demand without any specificity and provides only conclusory statements that merely regurgitate a litany of adjectives without providing any argument as to why the adjectives apply.
31. Mr. Mundy only provides a small number of examples of what he considers are improper discovery requests by Petitioner.
32. In paragraph 19 of Mr. Mundy's Affirmation he objects to Petitioner's interrogatory concerning Respondent's notice of United States Immigration and Naturalization Proceedings (INS) concerning her. Petitioner alleges that part of the purpose for at least two of the three threatening telephone calls was to prevent him from providing information to the INS. If Respondent is the subject of an INS investigation or proceeding than that provides one bit of evidence towards showing that Respondent had a motive for instigating the threatening telephone calls.
33. Also in paragraph 19 is Mr. Mundy's objection to whether Respondent associated with any criminals in Russia (which technically includes Chechnya), Cyprus, Italy, Mexico or America. Respondent worked as a prostitute in all of the first four countries and apparently in America. (The truth, sadly, is what it is, and Petitioner is willing to provided proof.) The netherworld of the sex industry commonly includes organized criminals who make threats and break bones as part of their trade. If Respondent regularly associates with such persons, then that provides a piece of evidence towards showing means in that Respondent had access to the type of people who make a living, in part, from threatening others.

34. In paragraphs 21-23 & 28, Mr. Mundy once again throws about conclusory statements in an effort to pander to false gender stereotypes in order to rally the Court with knee jerk emotionalism against Petitioner's requests for information that Mr. Mundy characterizes as "personal" along with other descriptions for which he provides no support.
35. Mr. Mundy only revealed a handful of specific objections concerning requests for what he calls "personal" information, the parameters of which he didn't define, but apparently believes include any information concerning Respondent's means, motives and activities in conspiring to threaten Petitioner with grave bodily harm. Mr. Mundy seeks to set a new standard for discovery whereby the mere invocation of the word "personal" bans all discovery of relevant evidence.
36. Mr. Mundy specifically objects to the following requests as improper because they concern "personal" information:
- a. Copies of passports and model photo cards. In the threatening telephone calls, the man making the threats always starts by saying he is "calling on behalf of Angelina." Respondent's full legal name is Alina Alexandrovna Shipilina, but when she began working as a prostitute and lap dancer she adopted the stage name "Angelina". Logically, Petitioner needs to provide evidence that Respondent uses the name Angelina. Since Respondent has two Russian passports, one for traveling to the United States and another for other travels, this second passport may show her name as "Angelina". In addition, Respondent had model photo cards shot using the name "Angelina".

- b. Work schedules and list of customers. Respondent works five nights a week as a lap dancer at Flash Dancers Topless Club. The club issues a work schedule to each stripper on a weekly basis. The average lap dancer nets \$500 a night at Flash Dancers for \$10,500 a month, Exhibit 3, Club Reviews by Dancers, which infers Respondent has the cash to hire a hoodlum to make and carry out threats. The income from Respondent's prostitution clients also infers means.
- c. List of customers. Logically, there exists a significant likelihood that the man making the threatening telephones is one of Respondents customers.
- d. Credit card statements. May show a series of payments to a "doing business as" that is the man making the threatening telephone calls.

37. Petitioner did not think about requesting sanctions until Mr. Mundy raised the issue in paragraph 24 of his Affirmation. Mr. Mundy's palpably outrageous and improper conduct in stonewalling the discovery process by intentionally doing nothing after he received Petitioner's discovery requests violated CPLR 3103(a), 3122 and 3133 which constitutes grounds for sanctions. Nevertheless, Petitioner is not requesting sanctions, but rather discovery of all data material and necessary for Petitioner to obtain a meaningful order of protection that will dispel the ever-present fear and danger of physical harm from some shadowy figure that telephones "on behalf of Angelina".

38. Wherefore, for all the foregoing reasons, the Court should not deny Petitioner the right to conduct discovery by vacating all of Petitioner's discovery demands.

Dated: July 17, 2002
New York, New York

Roy Den Hollander
545 East 14th Street, Apt. 10D
New York, NY 10009
212 995 5201

At a Term of the Family Court of
the State of New York, held in
and for the County of New York,
60 Lafayette Street, New York, New York,
on July 29, 2002

PRESENT:

HON. HELEN C. STURM
Judge of the Family Court

ORDER DIRECTING DISCOVERY

ROY DEN HOLLANDER

Petitioner,

Against-

Docket No.: O-03570/02

ALINA SHIPILINA

Respondent.

STURM, J:

Based upon the submissions of the parties and the applicable law, it is hereby
ORDERED that Petitioner's Motion to Compel Discovery is granted with respect to:

Document Requests

- 1) Document request number six seeking complaints Respondent filed with the New York City Police Department since January 1, 2002.
- 2) Document request number 10 seeking originals or copies of telephone billing records for the numbers 718-274-4902 and 917-374-4713 for October 2001, February 2002, and March 2002 if Respondent in fact has these documents.

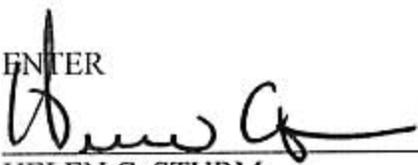
Interrogatories

- 1) Interrogatory item one of Interrogatory Set Two seeking the name and other identifying information about the man who allegedly left Petitioner a message in October 2001.
- 2) Interrogatory item two of Interrogatory Set Two seeking the name and other identifying information about the man who allegedly left Petitioner a message in February 2002.

- 3) Interrogatory item three of Interrogatory Set Two seeking the name and other identifying information about the man who allegedly left Petitioner a message in March 2002.
- 4) Interrogatory item four of Interrogatory Set Two inquiring as to the nature of Respondent's relationship with these individuals.
- 5) Interrogatory item five of Interrogatory Set Two inquiring as to conversations Respondent has had regarding the alleged telephone calls prior to the date of Petitioner's request for an Order of Protection.

Petitioner's Motion to Compel Discovery is denied with respect to all other items not specified above.

ORDERED that Respondent provide Petitioner with the requested information by August 2, 2002.

ENTER

HELEN C. STURM
Judge of the Family Court

Dated: New York, N.Y.
July , 2002



FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
=====X
ROY DEN HOLLANDER,

Docket No.: 0-03570/02

Petitioner,

**Respondent's Response
to Petitioner's Notice for
Discovery & Inspection
and Interrogatories**

-against-

ALINA SHIPILINA,

Respondent.
=====X

Pursuant to Article 31 of the CPLR and the Order Directing Discovery by the Honorable Helen C. Sturm, dated July 29, 2002, the Respondent, ALINA SHIPILINA, responds to the Petitioner's Notice for Discovery and Inspection, and Interrogatories, as set forth herein (for purposes of this response the answers contained herein shall correspond to the numbered questions as set forth in the Order dated July 29, 2002):

Document Requests

1. Without waiver of any rights to supplement this response up to and at the time of trial, Respondent states that she is not aware of any complaints Respondent filed with the New York City Police Department since January 1, 2002.

2. At this time, Respondent is not in possession of any originals or copies of telephone billing records for the numbers 718-274-4902 and 917-374-4713 for October 2001, February 2002, and March 2002. However, the

Respondent reserves her right to supplement such response up to and at the time of trial.

Interrogatories

1. Without waiver of any rights to supplement this response up to and at the time of trial, the Respondent denies information and/or knowledge with respect to the full name, age, residence and post office addresses, home telephone numbers, businesses addresses and business telephone numbers and occupation for the man who allegedly telephoned Petitioner on behalf of Respondent in October 2001 and left a voicemail at Petitioner's mobile telephone number.

2. Without waiver of any rights to supplement this response up to and at the time of trial, the Respondent denies information and/or knowledge with respect to the full name, age, residence and post office addresses, home telephone numbers, businesses addresses and business telephone numbers and occupation for the man who allegedly telephoned Petitioner on behalf of Respondent in February 2002 and left a voicemail at Petitioner's mobile telephone number.

3. Without waiver of any rights to supplement this response up to and at the time of trial, the Respondent denies information and/or knowledge with respect to the full name, age, residence and post office addresses, home telephone numbers, businesses addresses and business telephone numbers

and occupation for the man who allegedly telephoned Petitioner on behalf of Respondent in March 2002.

4. Without waiver of any rights to supplement this response up to and at the time of trial, the Respondent denies information and/or knowledge with respect to the relationship between the Respondent and the men who allegedly telephoned the Petitioner as alleged in Interrogatory item one, two and three of Interrogatory Set Two.

5. Without waiver of any rights to supplement this response up to and at the time of trial, the Respondent denies that she has had any conversations regarding the alleged telephone calls prior to the date of Petitioner's request for an Order of Protection.

Dated: July 31, 2002
New York, New York


KUBA, MUNDY & ASSOCIATES
By: Paulette DeTiberis, Esq.