

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

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CINDY ANN LAUDER,

Plaintiff,

- against -

PAUL B. GOLDHAMER, individually and as the  
Chief Executive Officer of Kantrowitz, Goldhamer  
& Graifman, P.C., RANDY PERLMUTTER, individually and  
as an agent of Kantrowitz, Goldhamer & Graifman, P.C.,  
KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.,

Defendant( s).

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KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.,

Plaintiff,

- against -

CINDY ANN AYROVAINEN  
a/k/a CINDY ANN LAUDER,

Defendant.

**PLAINTIFF’S NOTICE OF  
DISCOVERY & INSPECTION  
SECOND DEMAND FOR  
PRODUCTION OF  
DOCUMENTS**

Index No.: 031423/13

Action No. 1

**DEFENDANT’S NOTICE OF  
DISCOVERY & INSPECTION  
SECOND DEMAND FOR  
PRODUCTION OF  
DOCUMENTS**

Index No.: 033057/2012

Action No. 2

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**PLEASE TAKE NOTICE** that pursuant to Article 31 of the Civil Practice Law and Rules, defendants in the above captioned ACTION NO. 1 and plaintiff in above captioned ACTION NO. 2 are required to serve a response to the following document requests upon KAREN WINNER, attorney for plaintiff in Action No. #1 and defendant in Action No. #2, within twenty (20) days after the service of a copy of this demand. Please take notice that this is the Second Demand and failure to answer will subject you to potential penalties under CPLR §3126 .

**DEFINITIONS AND INSTRUCTIONS**

Unless specifically indicated, or otherwise required by the context, in which the terms,

names, and instructions are used, the following definitions shall be applicable herein:

1. "The Second Amended Verified Complaint" refers to Plaintiff's Second Amended Verified Complaint, dated July 20, 2013.

2. "You," "yours," "defendants," and or "KGG" refers to the named defendants in the action identified as Action No. 1, captioned above, and as identified in the Defendants' Complaint index number: 031423/13, and "You," "yours," and or "KGG" also refers to the named plaintiff in Action No. 2 with index number # 033057/2012, captioned above.

3. "Defendants" refer to the named defendants in the legal malpractice action, PAUL B. GOLDHAMER, individually and as the Chief Executive Officer of Kantrowitz, Goldhamer & Graifman, P.C.; RANDY PERLMUTTER, individually and as an agent of Kantrowitz, Goldhamer & Graifman, P.C.; and KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C. as identified in Plaintiff's Second Amended Verified Complaint.

4. When the word "Plaintiff" is used in reference to the action captioned as KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C., v. CINDY ANN AYROVAINEN with index number 033057/2012, it refers to KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C. and will be referred as "Plaintiff in Action No. 2."

4. "Writing," "writings," "written," "document," "documents" or "documentation" shall mean any written, printed, typed, or other graphic matter of any kind or nature, however produced or reproduced, all mechanical or electronic recordings or transcripts thereof, including phone recordings, tape recordings, e-mail or electronic computers mail systems, computer files, back-up tapes, computer discs or other data compilations and all photographs in the possession and/or control of the defendants in Action #1 or plaintiff in Action #2 or his representatives, agents, or known by said parties to exist. This definition includes, but is not limited to, letters, correspondence, memoranda, minutes of meetings, notes of telephone conversations, microfilm,

bulletins, brochures, plans, sketches, reports, telegrams, charts, notes, photographs, contracts, business records, ledgers, bill printouts, financial statements, books of account, working paper, desk calendars, appointment books, diaries, logs, movies, tapes for visual or audio reproduction, recordings or materials similar to any foregoing, however denominated and includes writings, drawings, graphs, charts, blueprints, photographs, phone records and data processing results, printouts and/or copies of any of the same by whatever means made. The definition also includes all copies, which are not identical with the original.

5. "Claim" means a demand or assertion, whether oral or written, formal or informal, by a person or entity, for actual or potential monetary payment or the actual or potential undertaking or cessation of action.

6. "Communication" means, without limitation, any oral, written or electronic transmission of information, demands or questions including, but not limited to, conversations, meetings, discussions, telephone calls, telegrams, telecopies, telexes, facsimiles, seminars, conferences, writings, letters, messengers, notes or memoranda.

7. "Documents" also includes, without limitations, all originals and non-identical copies. "Document" includes a copy when the original is not in your possession, custody or control and every non-identical copy of the original.

8. In responding to this request, all designated documents in your possession, custody, or control are to be produced. These include documents in the possession, custody or control of your attorneys, investigators, or any third party or parties to whom you have surrendered possession, custody or control or who upon your request would surrender possession, custody or control to Defendants.

9. Each request for documents to be produced, whether memoranda, reports, letters, or other documents of any description, contemplates production of the document in its entirety,

without abbreviation or expurgation.

10. If any document herein requested was formerly in your possession, custody or control and has been lost or destroyed, you are requested to submit in lieu of each such document a written statement which;

- a. describes in detail the nature of the document and its contents;
- b. identifies the person who prepared or authorized the document and, if applicable, the person or persons to whom the document was sent;
- c. and specifies, if possible, the date on which the document was lost or destroyed, and, if destroyed, the conditions of and reasons for such destruction and the persons requesting and performing the destruction.

11. If there are no responsive documents to a request, state so in writing.

12. "Person" means any entity of any description that has a separate identity, recognized in law or in fact to have legal rights and obligations. The term includes, but is not limited to, any natural person, corporation, partnership, joint venture, associations, company, group, organization, trust, estate, business or governmental entity or agency (public or private).

13. Any reference to a person that is not a natural person includes its present and former officers, executives, partners, directors, trustees, employees, attorneys, agents, representatives and all other persons acting or purporting to act on behalf of the person, and also its subsidiaries, affiliates, divisions, predecessors and successors in interest.

14. "Relating to," "regarding" and "relates to" means consisting of, referring to, describing, discussing, reflecting, citing, pertaining to, regarding, evidencing, concerning, summarizing or analyzing, whether directly or indirectly, the matter discussed.

15. "Representative" means any person, including any attorney, agent or broker, who acts, has acted or has at any time been requested or solicited to act, for the benefit or on the behalf of any other person, with that other person's knowledge, consent or acquiescence.

16. Unless the text clearly requires otherwise, you shall interpret:
  - (a) the singular form of a word to include the plural and vice versa;
  - (b) the conjunctive "and" to include the disjunctive "or" and vice versa;
  - (c) all pronouns to apply to the male, female and neutral genders;
  - (d) the word "any" to include the word "all" and vice versa; and
  - (e) the past tense of a word to include the present and vice versa.
17. If you assert that part of a request for a production is objectionable, produce documents in response to those remaining parts of the request to which you do not object.
18. In responding to a request for production, clearly indicate to which request and subparagraph the documents are responsive.
19. These requests shall be deemed continuing, so as to require supplemental production if defendants receives or generates additional documents in the designated categories between the time of original production and the time of trial.
20. In the event that any document called for by this request is withheld on the basis of a claim of privilege, that document is to be identified in writing, as follows:
  - (a) author, addressee (indicating blind copies);
  - (b) date;
  - (c) subject matter;
  - (d) number of pages, attachment, exhibits, or appendices;
  - (e) all persons to whom distributed, shown, or explained, present custodian;
  - (f) nature of the privilege asserted;
  - (f) and any other information necessary for the Court to determine whether the document is subject to a privilege.

## **DEMAND FOR DOCUMENTS**

1. Resumes of all attorneys who worked on the file in *Ayrovainen v. Ayrovainen*, Index No. 2559/07, along with a statement of their background in matrimonial property division/financial matters including the number of trials brought by Randy Perlmutter in matrimonial matters in which he tried the case from beginning to conclusion resulting in a trial court's determination, (not settlement) and including any dates and case names of such trials, prior to the retention of KGG by Cindy Lauder in January, 2009.
2. A copy of any memoranda prepared by Randy Perlmutter, Paul Goldhamer, or other attorneys working on the *Ayrovainen v. Ayrovainen* matter, along with research notes and computer files and a list of research sources used. (Please do not include memoranda already in the court record or produced by Cindy Lauder in discovery).
3. All Defendants named in Action #1 please provide copies of any and all of your legal malpractice insurance agreements and their contents including but not limited to name and address of insurer, policy limits including coverage, provisions, and how many claims were satisfied and/or outstanding to date.
4. A written summary as to KGG's billing procedures.
5. A copy of all time-logs and/or original time-sheets including dates, phone logs, fax logs, or internal documents generated by Randy Perlmutter or any other KGG employee or partner, and used to create billing statements for Cindy Lauder.
7. Provide all documentary evidence of any mutual decision-making between Paul Goldhamer, individually or as a representative of KGG, and Cindy Lauder, on issues with respect to the following in the underlying action, *Ayrovainen v. Ayrovainen*, Index No. 2559/07:

- a. division of marital assets, and any dollar amounts for proposed or final settlement agreements involving child support calculations, spousal support calculations, arrears calculations, credits or debits owed on proposed property transfers, award of legal fees, the pendente lite award, calculations of Majauskas share of pensions, calculated dollar amounts of credit to husband, Martin Ayrovainen and calculated dollar amount of credit to Cindy Lauder;
- b) to settle or go to trial;
- c) the terms that were set forth in the proposed judgment/ and or counter-judgment submitted to Justice Elaine Slobod for her signature;
- d) using the \$12,500 dollar legal fee award received from Justice Slobod as a “credit” to Ms. Lauder as opposed of direct payment to Ms. Lauder;
- e) reliance on unsworn representations by Martin Ayrovainen with respect to the accuracy regarding the share of marital assets belonging to Cindy Lauder or her children, in his possession.

8. Provide all documents concerning records, memoranda, notes, letters, tape recordings, emails or any other written or recorded communications of or by Randy Perlmutter and Stewart A. Rosenwasser that were deemed private in whole or part, that either named or referred Cindy Lauder or involved subject matter related to the case, Ayrovainen v. Ayrovainen, Index No. 2559/07

9. Provide all documentary evidence of trial notebooks or the contents of such notebooks used in Ayrovainen v. Ayrovainen, Index No. 2559/07

10. Provide all documentary evidence of subpoenas for any witnesses for trial dates in Ayrovainen v. Ayrovainen, Index No. 2559/07.

11. Provide any and all worksheets, notes for calculations of interest amounts owed but

not paid and accruing to Cindy Lauder in the Ayrovainen v. Ayrovainen matter.

12. Provide a copy of Randy Perlmutter's work calendar for the week of August 17<sup>th</sup>, 2009 through October 31, 2009.

13. Provide any and all witness lists for trial dates.

14. Provide any and all documentation regarding any legal research or analysis performed by you to determine the appropriate divisions of the Majauskas share of IRA/401(K)s or pensions for the Plaintiff's matrimonial case.

15. Provide any and all documentation regarding any legal research or analysis performed by you to determine the appropriate dollar-amounts allocated to Cindy Lauder for her share of equitable distribution in the Ayrovainen v. Ayrovainen case, Index No. 2559/07 with respect to the following:

a. Roth IRA Account Number Ending in #6815

b. IRA Account Number Ending in #6821

c. IRA Account Number Ending in #9431

d. Money Market Account Ending #1738

16. Please provide any and all demand letters or writings by you to Marty Ayrovainen or his attorney for repayment of \$14,000 reported as missing from the Schwab account, and reported to be withdrawn in July of 2007.

17. Please provide documentary evidence of any demand letter or writings by you to Martin Ayrovainen to pay legal fees totaling \$12,500 awarded to Cindy Lauder.

18. Please provide documentary evidence of any demand letter or writings by you to Martin Ayrovainen for payment of the penalty on late school tax bill on the marital residence in the Ayrovainen case.



19. Please provide documentary evidence of any demand letter or writings by you to Martin Ayrovainen or his attorney to account for funds missing from any accounts.

20. Please provide drafts or writings of the proposed judgments and/or counter judgments by you in the underlying Ayrovainen v. Ayrovainen case -- including any writings evidencing approval by Paul Goldhamer.

21. Provide all documentary evidence including dates of the receipt of information by KGG or its agents, with respect to the following in the Ayrovainen v. Ayrovainen case, Index No. 2559/07, and covering the years of 2009, 2010, 2011, 2012:

- a. the Konica Minolta pension or subsequent accounts derived from it;
- b. life insurance policy of husband;
- c. copies of any plan summaries or statements of account for any pensions and/or savings plans subject to QDROs or QDRO-like division;

Please provide all documentary evidence of:

- a. Any and all written settlement negotiations or proposals (include only those by you not already turned over in discovery by Cindy Lauder);
- b. Writings including dates evidencing approval and/or informed consent by Cindy Lauder of those terms put forth in the final settlement agreement of October 2, 2009.
- c. any writings on which you based the final calculation of maintenance articulated in the settlement record of October 2, 2009.

22. Copies of any checks to Cindy Lauder from anyone (party or nonparty) in the Ayrovainen v. Ayrovainen case.

23. Copies of checks from Cindy Lauder to KGG or its agents for any payments made to the KGG during the course of representation of Cindy Lauder.

24. Any write-offs by KGG for unpaid legal fees of Cindy Lauder.

**WHEREFORE** these demands shall be deemed to continue during the pendency of this action and apply to any of the above items, which are subsequently obtained by defendants in Action #1 and plaintiff and or plaintiffs' counsel. Failure to comply will subject plaintiff to the penalties and remedies set forth in CPLR §3126.

Dated: January 23, 2014  
New York, New York



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KAREN WINNER, ESQ  
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TO: WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
Attorneys for  
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