

D.N.: FBT-FA-19-6088163-S) SUPERIOR COURT
CHRISTOPHER AMBROSE) J.D. OF FAIRFIELD
v.) AT BRIDGEPORT
KAREN AMBROSE) NOVEMBER 30, 2021

The undersigned Nancy Aldrich, being duly sworn, does depose and state as follows:

1. I am over the age of 18 years and believe in the obligations of an oath.
2. I have been a member of the Connecticut bar since 1986 and am a partner in the law firm of Aldrich & Aldrich in Westport, Connecticut. I am counsel for Plaintiff Christopher Ambrose in the lawsuit of Ambrose v. Ambrose, FBT FA19 6088163 S, now pending at the Regional Family Trial Court. The Trial began on March 31, 2021, in front of Judge Gerard Adelman.
3. I have read the affidavit filed on 11/24/21 (#385) of Attorney Nickola Cunha, counsel for Defendant, in support of her motion to recuse and disqualify Judge Adelman.
4. Attorney Cunha's Affidavit is difficult to respond to because it is an often inaccurate recitation of the chronology of the case, focused largely on the actions of others and does not specify any grounds for Judge Adelman's recusal. There is little discussion about the judge's attitude, conduct or rulings, and what is mentioned is unsupported by testimony or facts and consists entirely of Attorney Cunha's speculation or unsubstantiated opinions.
5. It is a fundamental principle of law that justice requires any allegation to be supported by facts. With an allegation as serious as judicial disqualification, it is especially important that evidence be presented to determine whether a reasonable person, knowing all the circumstances, might reasonably question the judge's impartiality. Attorney Cunha presents no evidence whatsoever that even suggests that Judge Adelman's demeanor, conduct or rulings indicate a hint of bias against her or her client.
6. I will go through each point of Attorney Cunha's Affidavit to demonstrate the absence of any judicial bias or misconduct by Judge Adelman. The numbers below correspond to the numbered paragraphs in Attorney Cunha's Affidavit:

4-5. These statements are vague and merely unverified assertions of opinion, and Attorney Cunha does not present any facts to substantiate that allegation, or describe which basic human rights were disregarded They do not support a motion to recuse.

6. These are overly broad, unsubstantiated and inaccurate conclusions that do not provide the specific evidence needed for recusal. I will address the assertions regarding finances and the

children in this Affidavit, but the discovery allegations will be dealt with here as Judge Adelman's conduct regarding these matters is important to any consideration of judicial impartiality:

Contrary to Attorney Cunha's vague assertions, discovery requests/issues were not "ignored" by Judge Adelman; in fact, he always allowed her to fully present her often lengthy arguments. The truth is Defendant and her counsel have willfully ignored virtually all discovery rules, obligations and deadlines, and Judge Adelman has given them multiple opportunities to correct their lack of compliance, even when Plaintiff requested a stricter approach. There are numerous examples of such forbearance, which undermines the allegation that he is prejudiced against the defense:

- In February, Plaintiff sent Defendant a Notice of Deposition with a document request (Schedule A). The deposition was re-scheduled twice, affording the Defendant even more time to assemble the requested discovery material.
- By mid-March, defense had not produced any evidence nor did they - at any point - file written objections to any of the requested Schedule A items.
- On March 18, Plaintiff filed a motion to compel documents (#282), and the court ordered Defendant to comply with this request by March 27 (#282.1). Defendant again failed to comply. (Defendant also failed to comply with the TMO deadline of March 26).
- On March 30, Judge Adelman ordered Defendant to appear with the discovery at her deposition, which was scheduled for the first day of trial, March 31 (#302.10).
- On March 31, Defendant again failed to produce any discovery. Rather than imposing consequences, Judge Adelman generously granted Defendant another extension until midnight on March 31 to comply with the TMO (#306). Defendant failed to comply with this deadline as well.
- On April 1, after the extended deadline, the Defendant produced a list of exhibits, and she did not provide any exhibits.
- On April 8, after another full week in which Defendant didn't provide any evidence, Plaintiff raised the issue with the court as the lack of evidence was now impeding his case. Attorney Cunha made her own arguments. Judge Adelman didn't "ignore" either side, but rather than sanction the Defendant for non-compliance, he encouraged the two lawyers to use a four-day break to sort out the discovery issues. This does not suggest a judge who was treating the Defendant unfairly.
- During that break, Plaintiff's Counsel sent multiple emails to Defendant's counsel, who remained uncooperative and didn't provide additional discovery.
- By April 16, the trial was in its third week and, with Defendant's intentional disregard for discovery orders, Plaintiff could not present his case as planned. Plaintiff's counsel filed a Motion for Sanctions (#335). Judge Adelman continued to urge the lawyers to resolve the matter, he didn't rule on the motion, which undermines Defense Counsel's allegations (made in her Affidavit paragraphs 15 and 42) that the lack of a ruling on motions is indicative of the judge's bias against her.
- On July 28, Judge Adelman issued an order regarding the outstanding discovery (#353) stating, "If counsel do not provide the court by the next trial date an affidavit concerning good faith efforts in exchanging discovery, the court will preclude any evidence that counsel have failed to produce to the other side." Plaintiff's Counsel provided an affidavit the

following day (#355); to date, Defendant's Counsel has not provided such an affidavit and Defendant has yet to provide the evidence requested in Schedule A.

As is clear, Judge Adelman didn't ignore discovery issues. If he were biased against the defense, their misconduct provided him many chances to sanction them; instead, he was measured in his responses and offered multiple opportunities to comply with the rule and court orders. There are no grounds for recusal based on the judge's handling of discovery.

There was an especially egregious discovery incident that undermines Attorney Cunha's accusations against the judge. Judge Adelman had ordered Defendant to bring her laptop to court as there were concerns it had been used to violate existing orders. Attorney Cunha objected, filed a motion opposing this order (#303) and was fully heard. Judge Adelman didn't ignore her motion, he ruled on it (#303.10). It is important to note that an adverse ruling is not by itself evidence of judicial bias against a litigant.

Defendant failed to bring the computer to court on March 31, but she assured the judge it was at her home, and promised to bring the device to court. Yet on April 6, she still hadn't complied. After hearing arguments from both sides, Judge Adelman issued an order requiring Defendant to deliver the laptop to a Discovery Special Master on April 7 so it could be reviewed for three narrowly prescribed issues. (#317) This order provided that Plaintiff pay all related costs. Given that the DSM was required due to Defendant's refusal to provide evidence, the judge could have assigned the cost to Defendant; his decision suggests he was not biased against the defendant. Again, Attorney Cunha opposed this order, was fully heard and filed a motion to vacate the DSM's appointment (#319), which, again contrary to Attorney Cunha's allegations, Judge Adelman did not ignore but ruled on (#319.10).

But Defendant didn't deliver the laptop to the DSM, and on April 8, she was forced to admit - for the first time - that she had destroyed the laptop on April 1. So for more than a week, Defendant allowed many hours of court resources (and legal fees) to be squandered discussing her laptop, knowing the entire time that she had already destroyed it - and all the evidence on it.

Plaintiff requested sanctions for this outrageous conduct (#328). In addition to perjury, Defendant had committed flagrant spoliation of evidence and a naked contempt for the court. But Judge Adelman was measured in his ruling, he granted the motion for contempt for not producing the laptop/evidence (#328.10) and ruled that Defendant was precluded from introducing any exhibits that would have been available on her computer which she destroyed (#328.20).

Judge Adelman's measured response to such egregious conduct demonstrates that he did not want to hinder the flow of information to him, even though the rules gave him the opportunity to do so. He wanted his decision to be informed by fully articulated positions from each side. Respectfully, Defendant and her counsel should be grateful for Judge Adelman's attitude regarding discovery rather than trying to have him removed because of it.

7-8 These statements deal with incidents that occurred before Judge Adelman was involved with the case.

9 -10. Attorney Cunha objected to the cost of the GAL attending the trial every day, but as she acknowledges, Judge Adelman didn't ignore her concerns, he merely disagreed with them. He felt it important for the GAL to hear all the evidence before making her recommendations. Not only is this a rational basis for a decision, but an adverse ruling by itself is not evidence of judicial bias.

11 - 12 This is another situation where there are disconnected topics, which are difficult to address. The allegations that Judge Adelman did not uphold the law, the integrity of the court, etc. are not substantiated by the evidence and so do not support a claim for recusal. The comments about the Defendant's financial situation are equally vague, but will be dealt with herein. However, Attorney Cunha's allegations that Judge Adelman is the cause of the slow pace of this trial are hubris in the extreme and should be addressed.

Defense Counsel has requested - and Judge Adelman has granted - 15 continuances. These continuances have impeded - by months - the progress of our case. Judge Adelman is acutely aware of this, as is the Plaintiff, but as will be explained, he has indulged Defense counsel's requests only after careful consideration of the Defendant's situation, which cuts against any suggestion of bias.

Despite Attorney Cunha's frequent need for accommodations, Judge Adelman always treated her with respect and acceded to her many requests; hardly the actions of a biased judge. At one point for a few consecutive days, Defense Counsel informed the court that a family member was dying and she asked for continuances, all of which were granted without question by Judge Adelman. Later, it was learned that the dying family member was a pet. Had Judge Adelman been inclined against her, this revelation might prompt at least a challenge to counsel's disingenuous representation of facts. But Judge Adelman only expressed sympathy.

On another occasion, when Attorney Cunha asked for a continuance and offered a reason that (charitably) sounded suspect, Judge Adelman remained respectful, saying that he trusts that she, as an officer of the court, tells the truth. Case closed. This is not the ruling of a judge who is prejudiced against the defense.

Further evidence of Judge Adelman's lack of bias toward the defense is evident in his October 20 ruling (#377), where he explained his rationale for granting Defense Counsel so many continuances (paraphrasing): Since the trial impacts Defendant's contact with the children, any delays are to her detriment. Since the children are safe and stable in the sole custody of the father, if Defendant requests a continuance under those circumstances he will oblige. The unspoken corollary is that he would not so indulge the Plaintiff with multiple delays because doing so would negatively impact the Defendant regarding the children. These are not the sentiments of a judge who is biased against a defendant.

Judge Adelman's also accommodated the Defendant even when it inconvenienced the Plaintiff. For example, Defense Counsel claimed that Defendant's psychiatrist "may" be on vacation when she was scheduled to testify during the Defendant's case. Counsel wanted to call the doctor to the stand, even though Plaintiff was in the middle of his case in chief. Over the Plaintiff's Counsel's objections, Judge Adelman allowed the doctor to testify out of order, disrupting the Plaintiff's case for two days. This is not the ruling of a jurist who is prejudiced against the Defendant. It's worth noting that nearly 5 months later, Defendant has yet to begin her case; Defense Counsel's scheduling concerns were misguided at best.

13-15 These statements involve Attorney Cunha's motion to disqualify Plaintiff's Counsel (#298) before trial started, which set a hostile tone before we even stepped into the courtroom. Attorney Cunha seems to assert that Judge Adelman's failure to rule on this motion suggests bias. We posit that the reasoning in the motion was specious and did not require action; moreover, the motion was filed on March 29, Attorney Cunha has had months to request the court to act on her motion. In any event, this incident offers no basis for recusing the judge.

The defense has betrayed a pattern of seeking to remove individuals who challenge them, which is important as we now consider whether the attempt to remove Judge Adelman is being done in good faith or merely as a legal strategy.

On April 7, barely a week into the trial, Defense Counsel filed a motion to have Judge Adelman recused (#321). Attorney Cunha filed another motion to remove the GAL (#319), alleging, as she does here, bias. The arguments articulated were sophistic and seemed designed more to intimidate than to serve any valid, legal concern.

The Defendant has claimed that others in the case are biased against her. Since the case started in July 2019, she has changed attorneys 6 times and filed a malpractice suit against the custody evaluator. Given this pattern, it is critically important to ask whether the claims now being made against Judge Adelman are in good faith or if Defendant, aided by her counsel, is merely trying to dismiss yet another professional if rulings don't go her way. We argue strongly that the latter is the case here.

16 -20. Many of these statements are over-broad conclusions that are unsubstantiated and do not provide the factual basis necessary to determine whether a reasonable person knowing all the circumstances might reasonably question the judge's impartiality.

21-22 These statements contain misrepresentations and/or contain material omissions that make them largely inaccurate. They also don't even mention Judge Adelman's role, and so are irrelevant here.

23. This statement - that Plaintiff, GAL, custody evaluator and the reunification psychologist have conspired and "manipulated" DCF - is not substantiated with any evidence; in fact, all existing testimony contradicts the assertion. This allegation is incendiary, baseless and in bad faith.

24. These statements are inaccurate and will be discussed further below.

25-31 Like so many of Attorney Cunha's statements, these are inaccurate misrepresentations that omit critical information or flatly contradict testimony. Attorney Cunha should know this as she solicited some of the testimony herself, even though it was not the narrative she sought. That she is engaging in such naked misrepresentation of facts is disturbing. However, since none of the information contained herein discusses any conduct or rulings that suggest Judge Adelman should be recused, we will not take the time to correct the inaccuracies and falsehoods.

32-37 Attorney Cunha cross-examined all of the individuals she references here yet her portrayal here misrepresents or materially omits important parts of their testimony. This is done to such an extent as to indicate bad faith. For example, it's extremely deceptive to represent that the police and DCF officer were worried about the children's safety, but then not make it clear that every single one of these individuals testified that their concerns were completely assuaged after thorough investigations. Despite what Attorney Cunha claims, Judge Adelman didn't ignore any of this testimony; in fact, he listened intently and months later he's been able to recall details about what was discussed. Again, we respectfully remind Attorney Cunha that an unfavorable determination is not indicative of bias or grounds for recusal, especially when such determination is so squarely supported by the testimony.

38. Throughout her Affidavit, Attorney Cunha falsely insists that Judge Adelman has "purposefully allowed the defendant to be in a continuous state of financial disrepair," even claiming that she is "penniless". We will not go into detail, but correct basic falsehoods to demonstrate that Judge Adelman has not in any way acted to financially compromise Defendant and so has betrayed no prejudice in this arena.

Through April 2021, Plaintiff paid Defendant's \$3500/month rent, all credit card bills and any other bills Defendant submitted to him (utilities, doctor co-pays, etc.). He never refused to pay a bill she presented, even extravagances like \$2400 concert tickets.

In May 2021, at Defense Counsel's request, Judge Adelman ordered that Plaintiff pay "alimony" in the amount of \$4500/month (#346). In July, in response to Defendant's request, the judge ordered Plaintiff to pay an additional \$2500 for her moving expenses (#354). These rulings undermine the claims that Judge Adelman defers financial matters to the Plaintiff's discretion and that Plaintiff has not complied with the alimony orders. Beginning in August and continuing through September, Plaintiff alerted Defendant to the fact that they would have to sell stock for living expenses, including Defendant's October alimony. A sale would require Defendant's signature; however, despite over a dozen email entreaties and more texts, Defendant refused to sign or provide a coherent reason for her refusal.

Attorney Cunha's client is not in financial "disrepair" and has considerable resources. In September 2020, Defendant received approximately \$200,000 as her share of the proceeds of the couple's home (an estimated \$40,000 may be unavailable because Defendant is in mediation with a prior attorney). In July, under cross examination, Defendant admitted that she had recently unilaterally

sold a pension fund (a marital asset), which may have netted her \$250,000. Attorney Cunha is also aware that Plaintiff pays all expenses for the three children and Defendant pays only for herself. So her claims that her client is struggling financially because Judge Adelman is negligent or conspiring with Plaintiff are not accurate, in short, beyond mere false insinuation, there is no evidence offered that the judge has financially abused Defendant.

39. Again, Attorney Cunha was able to fully present her argument in court and file her motion. An adverse ruling by itself, which is all that is offered here, is not enough to demonstrate a lack of judicial impartiality.

40. Defense has repeatedly and falsely alleged that Plaintiff has neglected and/or abused the children and that Judge Adelman has allowed it to happen. Uncontroverted testimony from various professionals has shown these accusations are baseless, and Attorney Cunha should not be repeatedly making such inflammatory statements she knows have long been disproved.

41. This statement is confusing. In any event it doesn't offer grounds for recusal.

42. As explained, Judge Adelman has acted timely on many motions for both Defendant and Plaintiff. While Attorney Cunha may be able to point to a few motions that the court has not ruled on, Plaintiff can do the same. But both counsel have had the opportunity to ask the judge to review such motions and more importantly here, this unsubstantiated allegation not offer a reason for disqualification.

43. Attorney Cunha's statements provide no evidence of judicial bias against women or persons with disabilities, nor has there been any testimony about these topics. It's worth noting that Plaintiff's Counsel and the GAL are women, who do not feel any judicial prejudice. Though Defense Counsel alludes to a 2017 hearing regarding Judge Adelman, she provides no explanation for how that applies to her motion to recuse.

44. As with individuals who oppose them, when the defense doesn't get a satisfactory result in one court, they seek to move to another forum. Attorney Cunha inevitably claims there is a rationale for a change in venue, but her reasoning is open to debate. In any event, her statement here doesn't involve Judge Adelman and so it need not be further discussed, except to say that this sort of forum shopping - not to mention her earlier motion to recuse the judge - might inspire resentment with any judge. However, Judge Adelman has always kept his focus solely on what happens in his courtroom. He has not betrayed any displeasure, let alone bias, against the defense for their many legal frolics and detours to other courts.

45. We strongly disagree with Attorney Cunha's analysis of this memorandum, and once again respectfully remind her that unfavorable decisions alone are not sufficient to support a claim of judicial disqualification.

46 - 51 Attorney Cunha's statements are filled with such material omissions and misrepresentations about what was a very brief court session, they demand correction.

After a nearly three month hiatus due to Attorney Cunha's multiple continuances, the trial was scheduled to resume on October 20. Defendant didn't show up on the Zoom session without any warning or communication with the court (and based on the transcript, she may not have notified Attorney Cunha). When Judge Adleman inquired, Attorney Cunha immediately blamed Plaintiff, claiming that the missed October alimony payment (caused by her client's refusal to cooperate) prevented defendant from paying her monthly phone bill and so she couldn't join the session. Attorney Cunha also railed against the judge, alleging he had permitted this supposed "financial abuse" and stated that she will continue to do whatever she has to "to stop the crimes that are occurring in this case that you [Adelman] are allowing to occur."

Judge Adelman expressed rare and justified frustration. As he was well aware, only three months prior, Defendant testified that she had received at least \$250,000 from the sale of a pension fund. So Attorney Cunha's claims that her client couldn't pay a phone bill because of a single missed alimony payment strained credulity. It should be noted that a phone isn't required to access Zoom.

After Attorney Cunha interrupted Plaintiff's counsel several times and persisted with her baseless allegations, Judge Adelman canceled the remaining court dates, but immediately stated that she could let him know when she and her client were ready to proceed. (The next day, this offer was extended to Plaintiff as well in a written order, #375.10) While this was the most animated Judge Adelman ever appeared, it was little more than a brief flash of frustration, unaccompanied by invective or even a raised voice. Despite Defense Counsel's claim, Judge Adelman never "berated" her. Perhaps Attorney Cunha was surprised because it had been the court's habit to politely indulge her lengthy, often incendiary speeches without interruption.

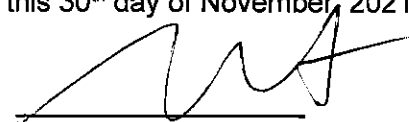
But discretion is the better part of valor, and Judge Adelman's decision to end the session early prevented a heated situation from becoming more charged. While the session ended quickly, the judge subsequently issued rulings so it was clear that he never abdicated his responsibilities. This very brief, and entirely understandable, display of judicial exasperation inspired by a difficult defense attorney and her absent client falls far short of a reasonable cause for disqualification based on bias or misconduct.

52. Defense counsel maintains that Judge Adelman's order compelling Defendant to sign the tax returns leaves her client without the ability to verify the information contained therein. This is untrue. Plaintiff first provided Defendant with the professionally completed returns on March 25. In numerous emails/texts, Defendant represented that her accountant, Stephen Linker, reviewed the returns. In emailed/texted responses, over the next 6 months, Plaintiff invited Linker, Defendant or her attorney to ask any questions they have; none of them did. Plaintiff had filed for an extension to file, but that deadline (Oct 15) was fast approaching, so Plaintiff filed a motion to compel the Defendant to sign the returns (#363.00), which was intended to keep the family from incurring more late fees and get a refund which would help the parties. Again, an unfavorable ruling doesn't support an allegation of bias.

53 - 56 Attorney Cunha's representation of the status conference does not provide the specific facts or testimony required to support a motion for judicial disqualification based on misconduct or prejudice.

The undersigned swears to the foregoing statements as true and accurate to the best of the knowledge and belief of the undersigned.

Signed this 30th day of November, 2021



Attorney Nancy Aldrich



Notary/ Commissioner of the Superior Court

John Aldrich, Esq.