

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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In the Matter of an Article 8 Family Offense Proceeding

RIMA MOHAMED ATTAR,

Petitioner,

AFFIRMATION

File No.: 339447

Docket No.: O-14527-25

-against-

SAMIR JIHAD MOUKDAD,

Respondent.

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Elliot Green, Esq., an attorney, and counselor at law duly admitted to the practice of law before the courts of the State of New York, affirms the following to be true pursuant to CPLR §2106:

1. I am the attorney for the PETITIONER RIMA MAHAMED ATTAR, in that capacity, I am fully familiar with all the facts and circumstances surrounding this matter.

2. This Affirmation in Support is based upon information provided by the court file and legal research. All statements are made upon information and belief.

3. This affirmation is submitted in Opposition of Respondent's Notice of Motion seeking the following relief:

that the Family Offense Petition under Docket No. O-14527-25 is dismissed with Prejudice in its entirety pursuant to CPLR 3211(a)(2), (a)(4), and (a)(7), and Family Court Act §812, on the grounds that it fails to allege any facts constituting a family offense, raises issues already within the jurisdiction of the Supreme Court in the parties' matrimonial action, and duplicates matters previously litigated or governed by existing orders.

I. THE COURT SHOULD DENY RESPONDENT'S MOTION TO DIMISS.

4. CPLR 3211(a)(4) states the following:

(a) Motion to dismiss cause of action. A party may move for judgment dismissing one or more causes of action asserted against him on the ground that:

(7) the pleading fails to state a cause of action.

5. On a motion pursuant to CPLR 3211(a)(7) to dismiss for failure to state a cause of action, the court must accept the facts alleged in the complaint as true, accord the plaintiff the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory " (Shah v. Exxis, Inc., 138 A.D.3d 970, 971, 31 N.Y.S.3d 512; see Goshen v. Mutual Life Ins. Co. of N.Y., 98 N.Y.2d at 326, 746 N.Y.S.2d 858, 774 N.E.2d 1190; Leon v. Martinez, 84 N.Y.2d at 87-88, 614 N.Y.S.2d 972, 638 N.E.2d 511).

6. "In opposition to such a motion, a plaintiff may submit affidavits to remedy defects in the complaint and preserve

inartfully pleaded, but potentially meritorious claims " (Cron v. Hargro Fabrics, 91 N.Y.2d 362, 366, 670 N.Y.S.2d 973, 694 N.E.2d 56 [internal quotation marks omitted]; see Nilazra, Inc. v. Karakus, Inc., 136 A.D.3d 994, 995, 25 N.Y.S.3d 650). " Where evidentiary material is submitted and considered on a motion to dismiss a complaint pursuant to CPLR 3211(a)(7), and the motion is not converted into one for summary judgment, the question becomes whether the plaintiff has a cause of action, not whether the plaintiff has stated one, and unless it has been shown that a material fact as claimed by the plaintiff to be one is not a fact at all and unless it can be said that no significant dispute exists regarding it, dismissal should not eventuate " (Rabos v. R & R Bagels & Bakery, Inc., 100 A.D.3d 849, 851-852, 955 N.Y.S.2d 109; see Guggenheimer v. Ginzburg, 43 N.Y.2d 268, 274-275, 401 N.Y.S.2d 182, 372 N.E.2d 17).

7. Initially, Respondent is intentionally attempting to mislead this Court into believing that there are proceedings pending in Kings County Supreme Court and Richmond County Family Court. That is a material misrepresentation to this Honorable Court as there are no present pending proceedings or pending matrimonial action proceedings that are pending in Kings County Supreme Court and further, no family offense petition pending in Richmond County Family Court. In fact, the matter between the parties herein has been marked as disposed with the last Order

to Show Cause Declined/Withdrawn. Furthermore, there are no further scheduled appearances in any Court with the exception of Kings County Family Court. As such, there are no other actions pending between the same parties for the same cause of action and thus no risk of duplicative litigation.

8. Second, Respondent further materially misrepresents to this Honorable Court, regarding the provision requiring the need for the parents to retain a parent coordinator, as provided the So Ordered Stipulation of Settlement dated *June 30, 2022* (not October 31, 2022, as provided in the Respondent's main motion). Pursuant to the stipulation, the parties are only required to retain a parent coordinator when they cannot come to an agreement regarding a major decision, *not* when it comes to a family offense of this nature.

9. Third, the subject petition was not filed in retaliation. The Petitioner and the child, Isabella Moukdad, were traumatized as a result of the respondent's actions, causing the Petitioner still attempted to avoid Court for the sake of the child. Unfortunately, due to the Respondent's continuous actions, the Petitioner had no choice but to seek judicial intervention.

10. Fourth, the Respondent alleges that no violation petition was before the Court. The Respondent fails to

acknowledge that summer visitation dispute was transferred to Supreme Court, Kings County, where Judge Prus did in fact find a violation in the Respondent's actions and further barred the parties, specifically the Respondent, from filing any further Order to Show Causes.

11. Finally, the Respondent asserts that the Family Offense Petition does not state a Family Offense which is simply ludicrous and false. The Family Offense Petition contains the following allegations:

A. On or about March 31, 2025, Respondent struck my hand and my phone fell. Respondent was screaming and agitated. This happened in front of our daughter Isabella at a custodial exchange. There is a police report and video of this incident. (Annexed hereto as Exhibit "A" is a copy of the video").

B. In 2025, Respondent called and texted non-stop, with harassing text messages, and essay length. The texts demand I call him immediately.

C. On or about August 22, 2022, Respondent called Petitioner out of the blue, asking her in sum and substance, why she was taking the subject child to her Petitioner's aunt home instead of staying in their home. Petitioner had not previously told Respondent that she was visiting family, and this phone call caused Petitioner fear and alarm because it seemed like Respondent was tracking her location. This incident caused the Petitioner to fear for her safety and for the safety of the subject child.

D. On or about August 20, 2022, the Respondent texted the Petitioner 'I will not give you another warning and you must give me back the jewelry.' The Petitioner did not respond but, this incident made the Petitioner feel annoyed. The Respondent has been asking for this jewelry from the Petitioner that was gifted to her during the duration of their marriage. The Respondent has continued to contact the Petitioner frequently

asking her to return these items, as well as conducting outreach to third parties such as the Petitioner's family members to inform her of this request.

E. In or around July 2022, the Respondent texted the Petitioner, and she did not respond. Approximately one hour later, the Petitioner was going to a cousin's home, and the Respondent called the Petitioner, asking in sum and substance, 'Why are you going to your cousins house with my daughter an hour and a half away.' The Petitioner had not previously disclosed that she was going to her cousin's home, so this made the Petitioner believe that Respondent was stalking and tracking her. This left the Petitioner feeling fearful for her physical safety as well as for the safety of the subject child.

F. On or about October 2022, the Respondent was arrested for violating an order of protection.

G. The Respondent has engaged in a course of conduct that serves no legitimate purpose and leaves the Petitioner feeling alarmed, annoyed, and fearing for her safety. Respondent will frequently use these FaceTime calls to yell, berate, and say to Petitioner, in sum and substance, 'Watch what is going to happen to you, I am going to destroy you', as well as 'Watch where you are going from now on.' The Respondent will continue to directly speak to the Petitioner and use threatening language such as, in words of sum and substance 'Answer or you will be sorry' in attempts to persuade her to respond to him. The Petitioner will end the phone calls at this time, and the Respondent will continue to text and call her throughout the day, asking for her whereabouts. The Respondent has threatened to expose the Petitioner via social media platforms. The Petitioner is unsure to what effect the Respondent is affirming to expose her.

H. Respondent posted comments about our case on Facebook.

12. On a Motion Dismiss the Court must accept the allegations as true. See. CPLR 3211(a)(7). Moreover, the Court must draw every favorable inference in favor of the Petitioner.

13. Here, the Respondent attempts to mislead this Court by attempting to misguiding the subject petition as a custody and parenting dispute, when in fact, the Petition is in regards to

the Respondent's violent conduct that occurred 4 years after the parties physically separated. Furthermore, the Respondent's conduct was unprovoked, irrational, causing emotional and physical harm towards the Petitioner.

14. Pursuant to the video, there is no dispute that the Respondent was yelling at the Petitioner. Pursuant to the video, there is no dispute that the Respondent walked towards the Petitioner in a menacing manner, intentionally raised his hand with the intent of striking the petitioner.

15. As such, aforementioned incidents, including the most recent incident, are sufficient for the subject family offense petition.

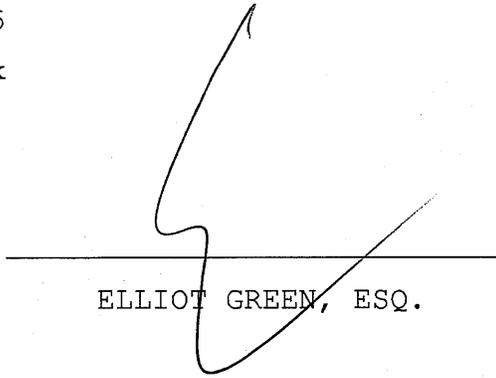
14. Moreover, the very fact that the Respondent attempts to downplay his actions and uses the stipulation of settlement as a clutch to act in this abhorrent manner towards the Petitioner and their daughter.

15. In the present matter, the Respondent's application is without merit and must be denied.

11. No previous application has been made for the relief requested herein.

WHEREFORE, Respondent respectfully requests that Respondent's application be denied in full.

Dated: September 19, 2025
Brooklyn, New York



ELLIOT GREEN, ESQ.

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AFFIRMATION IN OPPOSITION

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To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

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Attorney(s) for
