



FILED

DEC 09 2016

OFFICE OF THE CIRCUIT CLERK
Circuit Court of St. Louis County
105 South Central Avenue
Clayton, Missouri 63105

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

JOAN M. GILMER
CIRCUIT CLERK

GARY J. KRAUTMANN
LEGAL COUNSEL

December 9, 2016

RE: *Lisa A. Puzder v. Andrew F. Puzder*, Case # 21482862
Lisa A. Puzder v. Andrew F. Puzder, Case # 21546046, -01, & -02
Lisa Henning v. Andrew Puzder, Case # 21577367

To whom it may concern:

You have requested copies of the above-referenced case files.

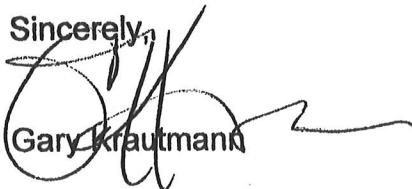
Case number 21482862 cannot be located at this time, and a search for it continues.

That said case numbers 21482862 and 21546046 are both dissolution of marriage cases filed in the 1980's and prior to August 28, 2009. As such, these files are subject to the provisions of §452.430 RSMo, which makes the entire contents of these files not available to the public except for their "interlocutory of final judgment or any modification thereof."

Copies of the judgments in case number 21546046, and its -01, & -02 subparts are attached hereto. Pursuant to §452.430 RSMo, and §509.520 RSMo, full Social Security Numbers, and full financial account numbers, and the birth dates of children, have been redacted from these judgments.

Finally, pursuant to Judge Beach's *Order to Seal* (copy attached) the attached copy of case number 21577367, does not include the exhibits to the *Affidavit of Andrew F. Puzder* filed on July 21, 1988.

Sincerely,


Gary J. Krautmann

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

FILED

DEC 09 2016

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

LISA HENNING,

Plaintiff,

Vs.

ANDREW PUZDER,

Defendant.

Cause No. 21577367

Division No. 6

ORDER TO SEAL

Comes now the Court on its own motion and pursuant to §452.430 RSMo.

In attempting to satisfy requests for access to the contents of this civil file, the Circuit Clerk realized that the exhibits to the *Affidavit of Andrew F. Puzder* filed on July 21, 1988, are copies from case no. 21546046, styled Lisa Puzder vs. Andrew F. Puzder, which is a dissolution of marriage filed prior to August 28, 2009. As such, case no. 21546046, and its contents, are subject to the provisions of §452.430 RSMo.

Accordingly, it is the order of the Court that, pursuant to §452.430 RSMo., the exhibits to the *Affidavit of Andrew F. Puzder* are sealed, and shall not be included in the copies of this case file provided to the public.

SO ORDERED:

Maurice B. McShane
Douglas R. Beach, Judge.
as PT for DW 6

Date: 12/9/16

Circuit Court of St. Louis County, Civil

No. 577367

SIEPHANT J. KRAUS #37558
11 South Meramec, Suite 1330
St. Louis, MO 63105
721-6677
Plff's Atty.
Address
Df's Atty.

MARGULIS & GRANT

\$10.00 Law Library Fee Paid By

\$ 87.00 Deposited By

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\$ 50.00 Applied to Costs 12-27-88

\$ 37.00 Paid By Check No. 151048 1-3-89

Cause of Action

DAMAGES (PIO)

Filed MAY 20TH, 1988

PATRICIA TOBIAS
Circuit Clerk
21st Judicial Circuit
St. Louis County, MO

DATA COLLECTED

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PAID
ON PART OF 1087
JAN 03 1989
Box: 7028
11-6-4-12
PATRICIA TOBIAS
Circuit Clerk
By pm CASHIER

21577367**LISA HENNING V ANDREW PUZDER****Security Level: 1 Public****Case Type:** CC Pers Injury-Other**Case Filing Date:** 20-May-1988**Status:** Uncontested**Disposition:** Uncontested**Disposition Date:** 16-Nov-1988Release/Status
Change DateReason

Plaintiff

LISA HENNING (C21759199)

Attorney for Plaintiff

STEPHANIE KRAUS MORRISON (37558)

Defendant

ANDREW PUZDER (C22403309)Filing DateDescription

20-May-1988

Document FiledDATE CASE FILED. ASSIGNED TO DIVISION 14. COURT AUTOMATED SYSTEM
IMPLEMENTED ON 09/03/96. FOR MINUTES PRIOR TO THAT DATE SEE CASE FILE.

16-Nov-1988

Uncontested

WITHOUT TRIAL-

108
MINUTES OF PROCEEDINGS

3. 2086 Motion Filed

5. 2128 Motion for Summary Judgment

6. 2128 Motion for Summary Judgment

7. 2128 Motion for Summary Judgment

8. 2128 Motion for Summary Judgment

9. 2128 Motion for Summary Judgment

10. 2128 Motion for Summary Judgment

11. 2128 Motion for Summary Judgment

12. 2128 Motion for Summary Judgment

13. 2128 Motion for Summary Judgment

14. 2128 Motion for Summary Judgment

15. 2128 Motion for Summary Judgment

16. 2128 Motion for Summary Judgment

17. 2128 Motion for Summary Judgment

18. 2128 Motion for Summary Judgment

19. 2128 Motion for Summary Judgment

20. 2128 Motion for Summary Judgment

TAXED

000000577367

DATE 11/23/88

PLAINTIFF
DEFENDANTHENNING, LISA
PUZDER, ANDREWLISA HENNING
C/O STEPHANIE J. KRAUS
ATTORNEY-AT-LAW
11 S MERAMEC #1330
CLAYTON MO 63105

PLEASE REMIT \$

PAGE 1

RETURN THIS PORTION WITH YOUR PAYMENT
RETAIN THIS PORTION FOR YOUR RECORDS

CASE # 000000577367

PAGE 1

02 CLERK FEES
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ON PART OF

JAN 03 1989

PATRICIA TOBIAS

RY

Circuit Clerk

CASHIER

** TOTAL PAYMENTS

00

COSTS ACCRUED

60 00

TOTAL COSTS ACCRUED AGAINST PLAINTIFF

DEDUCTIONS

NET COSTS

DEPOSITS

AMOUNT REFUNDED TO

PLAINTIFF

60 00

00

60 00

97 00

37 00

00

PLEASE REMIT TO:

IN THE
CIRCUIT COURT

County of St. Louis, Missouri

Lisa Henning

11/16/88, 19

vs.

Number 577367

Team A

Andrew J. Pughen

Defendant's Motion for Summary Judgment
heretofore heard and submitted is hereby
sustained.

FILED
DIV. NOV 16 1988 14
PATRICIA TOBIAS
CIRCUIT CLERK, ST. LOUIS COUNTY

SO ORDERED

James R. Hartenbach

Judge
Division 14

Phone _____ Attorney

Phone _____ Attorney

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
21st JUDICIAL CIRCUIT

Lisa Henning PLAINTIFF
VS
Andrew Pender DEFENDANT

DATE 11/16/88
CASE NUMBER 577383
TEAM/DIVISION 14

Defendant's Motion for Summary Judgment
heard and submitted.

FILED
DIV. NOV 16 1988 14
PATRICIA TOBIAS
CIRCUIT CLERK, ST. LOUIS COUNTY

SO ORDERED

MARGULIS & GRANT, P.C.
by Stephanie Thomas
Attorney Bar No.

Address

Phone No.

for Defendant
Attorney Bar No.

Address

Phone No.

Judge/Division

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

LISA A. HENNING,
Plaintiff,
vs.
ANDREW F. PUZDER,
Defendant.

Cause No. 577367

Team A

FILED
DIV. NOV 16 1988 14

MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

PATRICIA TOBIAS
CLERK, ST. LOUIS COUNTY

Prior to March 19, 1987, Plaintiff and Defendant were married to one another. On that date, the Circuit Court of St. Louis County, Missouri entered a decree of dissolution of marriage, dissolving the marriage of Plaintiff and Defendant. In anticipation of the dissolution action, Plaintiff and Defendant entered into and executed a Marital Settlement and Separation Agreement (hereinafter "Settlement Agreement," a true and complete copy of which is attached as "Exhibit 1" to the "Affidavit of Andrew F. Puzder" filed in support of Defendant's Motion), pursuant to which they, inter alia, made provisions for the division of their marital property and non-marital property, for Plaintiff's maintenance, and for child support. By the terms of that Settlement Agreement Plaintiff received, among other things, the following:

- (a) A cash payment of \$20,000.00;
- (b) Maintenance of \$12,000.00 per year for three (3) years;
- (c) Child support of \$17,520.00 per year;
- (d) Over \$6,000.00 from Defendant's profit-sharing plan; and

- (e) Various personal property including an automobile, furniture, jewelry, art work, and housewares.

In the dissolution action Plaintiff was represented by the lawfirm of Rothman, Sokol & Adler. Defendant was represented by the lawfirm of Raskas, Ruthmeyer, Pomerantz & Wynne. The aforesaid Settlement Agreement executed by Plaintiff and Defendant contains the following provision:

"Each of the PARTIES hereby affirms that they are entering into this Agreement freely and voluntarily; that they have ascertained and weighed all of the facts and circumstances likely to influence his or her judgment herein; that they have given due consideration to such provisions and questions; that they have sought independent advice and counsel in regard to all details and particulars of the Agreement and the underlying facts; and that they clearly understand and assent to all the provisions hereof."

(Settlement Agreement, p.18, 1137) .

In her Petition herein, Plaintiff now alleges that on May 22, 1986, Defendant assaulted and battered her.

Defendant has filed his Motion for Summary Judgment in his favor on Plaintiff's Petition herein for the reason that all disputes between Plaintiff and Defendant were fully compromised and settled in the Settlement Agreement, a copy of which is attached to Defendant's Affidavit in support of his Motion for Summary Judgment as "Exhibit 1" and is further incorporated herein by this reference thereto as if fully set forth herein.

The Settlement Agreement was executed after lengthy negotiations between the parties and contained, inter alia, a release of Defendant from all of the claims asserted by Plaintiff in the within action.

THE FACTS

Shortly before filing her Petition for Dissolution of Marriage, Plaintiff filed a claim against Defendant under Missouri's Adult Abuse Act, which claim involved the same purported assault and battery of May 22, 1986, which is the basis for Plaintiff's Petition herein. (A copy of Plaintiff's initial claim is attached to the Affidavit of Andrew F. Puzder as "Exhibit 2") (hereinafter "Puzder Affidavit"). Defendant vigorously opposed Plaintiff's claim, and the matter was settled by the Parties agreeing to a Consent Order which permitted Defendant to return to the family home and reside there with certain limitations on the conduct of both parties. (Puzder Affidavit, Exhibit 3).

The Consent Order entered with respect to Plaintiff's Adult Abuse action was amended by a further Consent Order which was executed at the same time as the Settlement Agreement and is also attached to the Decree and the Settlement Agreement.

In her Petition for Dissolution of Marriage, Plaintiff again alluded to the purported assault and battery of May 22, 1986, alleging that Defendant had "behaved in such a way that [Plaintiff could] not reasonably be expected to live with him." Defendant denied this allegation in his answer and Crossbill.

The purported assault and battery Plaintiff alleges in her Petition was clearly discussed and within the contemplation of the Parties prior to execution of the Settlement Agreement. For example, in a letter from Plaintiff's former counsel (Daniel R. Sokol) to Plaintiff's counsel dated October 22, 1986, Plaintiff's former counsel refers to an "injury suffered during the incident on May 22, 1986." (Puzder Affidavit, Exhibit

6, p.4). Defendant's counsel responded by denying that any supposed injury "would be due to a purported incident which allegedly occurred on May 22, 1986." (Puzder Affidavit, Exhibit 7, p.2).

Paragraph 35 on page 17 of the Settlement Agreement states, in part, as follows:

"In consideration of the premises and the mutual covenants and agreements contained herein, each PARTY hereto declares that, at such time as the Decree becomes final, this Agreement shall be a full, complete and final settlement of the claims and rights of every character whatsoever which either PARTY may now have or hereafter might otherwise have against the other (or in and to any property of the other) arising out of or relating to the marriage of the PARTIES or any other matter occurring or existing on or prior to the date the Decree becomes final"

(Puzder Affidavit, Exhibit 1).

Because of Plaintiff's allegations concerning the purported incident of May 22, 1986 throughout the Dissolution proceeding and negotiation of the Settlement Agreement, Defendant would not have signed the Settlement Agreement without the aforesaid Release of all "claims and rights of every character whatsoever . . . arising out of or relating to the marriage of the PARTIES or any other matter occurring or existing on or prior to the date the Decree becomes final . . ." (Puzder Affidavit, Exhibit 1, Settlement Agreement, p.17, 1135).

At all times since March 19, 1987, the Settlement Agreement has remained in full force and effect, and Plaintiff has retained the benefits thereof.

ARGUMENT

Supreme Court Rule 74.04 provides that a defendant may, at any time, move for a summary judgment in his favor if he can show that there

is no genuine issue as to any material fact and that he is entitled to judgment as a matter of law. Assuming, for purposes of this Motion for Summary Judgment only, that all of the averments contained in Plaintiff's Petition are true (which Defendant expressly denies), then there is no genuine issue as to any material fact and Defendant is entitled to judgment in his favor as a matter of law on Plaintiff's Petition herein.

It is well settled law in Missouri that a release executed as a compromise and settlement of a disputed claim is a bar to recovery and may be raised in a motion for summary judgment. Farmer v. Arnold, 371 S.W.2d 265 (Mo. 1963). As noted above, the Settlement Agreement contains the broadest of general release language, releasing Defendant as follows:

"In consideration of the premises and the mutual covenants and agreements contained herein, each PARTY hereto declares that, at such time as the Decree becomes final, this Agreement shall be a full, complete and final settlement of the claims and rights of every character whatsoever which either PARTY may now have or hereafter might otherwise have against the other (or in and to any property of the other) arising out of or relating to the marriage of the PARTIES or any other matter occurring or existing on or prior to the date the Decree becomes final"

(Settlement Agreement, p.17, paragraph 35).

It is also well settled law in Missouri that a general release unrestricted to a particular demand or claim covers all claims. Dill v. Poindexter Tile Company, 451 S.W.2d 365, 374 (Mo. Ct. App. 1970) ("[a] release unrestricted to a particular demand ordinarily covers all claims"); Daniels v. Tip Top Plumbing & Heating, Inc., 409 S.W.2d 741, 745 (Mo. Ct. App. 1966) ("a release not restricted to a particular demand or claim ordinarily covers all claims then due"). Under the terms of the release contained in the Settlement Agreement, Plaintiff released Defendant from

"the claims and rights of every character whatsoever which either PARTY may now have or hereafter might otherwise have against the other . . . arising out of or relating to the marriage of the PARTIES or any other matter occurring or existing on or prior to" March 19, 1987. (Emphasis supplied). Plainly, this release language is not restricted to any particular claim and it is broad enough to encompass the claims now being asserted by the Plaintiff against the Defendant. Accordingly, under the rule enunciated in Dill v. Poindexter Tile Company and Daniels v. Tip Top Plumbing & Heating, Inc., supra, the general release contained in the Settlement Agreement bars Plaintiff's present cause of action.

However, as if that were not enough, Plaintiff's actual knowledge, at the time she executed the Settlement Agreement containing the subject release, of the existence of the claims now being asserted by her drives the final nail into the coffin burying her claims. As will be demonstrated hereinbelow, Plaintiff clearly had knowledge of and was considering, prior to her execution of the Settlement Agreement, the claims which she has now brought in the instant suit. Under the principle that a general release discharges all claims not otherwise excepted therefrom, it is not controlling that Plaintiff knew of the claims now being asserted by her at the time she executed the Settlement Agreement. However, her knowledge of those claims at the time of said signing is all the more reason why the aforesaid release plainly encompasses those claims and serves to discharge Plaintiff therefrom.

In Suckow Borax Mines Consolidated, Inc. v. Borax Consolidated, Ltd., 185 F.2d 196 (9th Cir. 1950), the plaintiffs had filed a prior suit, and in settlement thereof, had executed a general release in favor of the

defendants. The record in the second suit reflected that at the time the plaintiffs executed the release, they at least "suspected" the existence of the claim which formed the basis of their second suit against the defendants. In the second suit the defendants asserted the general release signed in settlement of the first suit as a bar to plaintiffs' second action and contended that the release entitled the defendants to a judgment as a matter of law. The defendants further argued that the general release was all the more binding as a defense to the plaintiffs' second suit because the plaintiffs had known of the existence of the claims being asserted in the second suit at the time they executed the general release and disposed of the first suit. The Court of Appeals agreed with the defendants and held that the general release barred the second suit and constituted a defense to that suit which entitled the defendants to judgment as a matter of law.

That same reasoning controls in the case at bar. Not only did the release given by Plaintiff generally release and discharge Defendant from the claims asserted by Plaintiff in the dissolution action, the release discharged Defendant from all claims "of every character . . . arising out of or relating to the marriage . . . or any other matters" Moreover, at the time that Plaintiff executed the Settlement Agreement and the general release contained therein, she well knew of the claims now being asserted by her.

Plaintiff's knowledge is clearly demonstrated by the following:

1. Plaintiff's filing of an action under Missouri's Adult Abuse Act involving the same purported assault and battery of May 22, 1986 as she alleges in this action (Puzder Affidavit, Exhibit 2);

2. Plaintiff's deposition taken June 17, 20 and 23, 1986 in connection with her purported Adult Abuse claim in which she described the supposed incident in detail, described her supposed injuries, and identified the doctors she had seen, all as a result of the same event alleged in Plaintiff's Petition herein (Deposition of Lisa A. Puzder, Cause No. 21B86-0232); and,

3. Correspondence between Plaintiff's former counsel and Defendant's counsel with respect to settlement of the divorce proceeding which specifically refers to the purported "injury suffered during the incident" alleged in Plaintiff's Petition herein (Puzder Affidavit, Exhibit 6, p.4).

As such, Plaintiff submits that it is crystal clear that the general release contained in the Settlement Agreement bars Plaintiff's actions.

CONCLUSION

For all of the foregoing reasons, Defendant's Motion for Summary Judgment should be granted.


Respectfully submitted,

RASKAS, RUTHMEYER, POMERANTZ,
WYNNE, GARAVAGLIA & SUSMAN

BY: *Jerome F. Raskas*
JEROME F. RASKAS #17410
1010 Market, Suite 1300
St. Louis, MO 63101-2000
(314) 241-6161
Attorneys for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing was hand-delivered, this ^{15th} ~~1st~~ day
of ~~August~~ ^{November}, 1988, to Stephanie Kraus, Esq., Attorney for Plaintiff.



Jerome F. Raskas

PATRICIA TOBIAS
CIRCUIT CLERK, ST. LOUIS COUNTY

II. ARGUMENT:

A. Statutorily

A written separation agreement contains provisions for maintenance of either spouse, disposition of property owned by either of them, and the custody support and visitation of their children. Section 452.325 R.S.Mo. (Supp. 1984). In the Puzder divorce, the separation agreement was incorporated in the divorce decree. Separation agreements do not traditionally (statutorily) contain provisions concerning intentional torts. Further, at no time during the negotiations that culminated in the Puzder separation agreement and decree was there any discussion between parties and/or counsel concerning the release of defendant for any liability from the assault which occurred on May 22, 1986.

B. Abolishment of Interspousal Immunity

In Townsend v. Townsend, 708 S.W.2d 646 (Mo. banc 1986), the Court abolished the common-law doctrine of interspousal immunity. In an action against her husband, appellant sought damages for personal injuries she suffered when he shot her in the back with a shotgun as he attempted to enter her residence. The allegation was made that the shooting was "intentional and malicious in that [d]efendant acted with a purpose to seriously injure or kill the [p]laintiff by means of a deadly weapon." Id. at 646. The Court stated that appellant should not be limited in recovery to damage to her clothing caused by the shotgun blast, but may also be compensated for the damage to her person. Id. at 649. A cause of action lies for personal injuries inflicted by

one spouse against the other during their marriage. Id. Therefore, plaintiff Lisa Henning has a cause of action for personal injuries inflicted by defendant against her during their marriage.

C. Subsequent Tort Actions

In S.A.V. v. K.G.V., 708 S.W.2d 651 (Mo.banc. 1986), the Court held that tort claims are not duplicative of property settlements and judgments obtained in dissolution of marriage proceedings. In an action against her husband, appellant sought damages for contracting herpes praeputialis during their marriage. The allegation was made that the respondent willfully, recklessly, and negligently transmitted the disease to appellant without informing her of his infection. Id. at 652. Respondent argued that tort claims are duplicative of property settlements and judgment obtained in dissolution of marriage proceedings. The Court, however, stated that "there are distinct differences between the division of marital property between spouses and awards of damages for an injury." Id. at 653. If the conduct of the spouses is taken into account in division of marital property, then the dissolution decree "might be admissible in the subsequent tort action." Id.

Defendant Andrew Puzder, therefore, has not been released of liability for the intentional tort committed against plaintiff during their marriage by the separation agreement and decree of March 19, 1987, for the following reasons: 1) The

negotiations surrounding the Puzder separation agreement and decree did not concern the release of defendant for any liability from the assault which occurred on May 22, 1986, and 2) Plaintiff's tort claim is not duplicative of the parties separation agreement and decree.


III. CONCLUSION:

The Court must dismiss defendant's motion for summary judgment, because plaintiff has a cause of action against defendant for personal injuries committed against her during the parties' marriage. Further, defendant was not released from liability in the parties' separation agreement and decree for personal injuries inflicted upon plaintiff during their marriage, and tort claims are not duplicative of property settlements and judgments obtained in dissolution of marriage proceedings.

Respectfully submitted,

MARGULIS & GRANT, P.C.

By


STEPHANIE J. KRAUS, #37558
11 So. Meramec, Suite 1330
St. Louis, Missouri 63105
721-6677
ATTORNEYS FOR PLAINTIFF

A copy of the foregoing hand-
delivered this 16th day of November,
1988, to: Mr. Jerome Raskas, Attorney
at Law, 1010 Market Street, Suite 1300,
St. Louis, Missouri 63101.

Stephanie A. Kraus

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

LISA A. HENNING,

Plaintiff,

vs.

ANDREW F. PUZDER,

Defendant.

Cause No. 577367

Team A

75 OCT 24 01 54

NOTICE

TO: Arthur S. Margulis and
Stephanie Kraus
Attorneys for Plaintiff
Commerce Bank Building
11 South Meramec, Suite 1330
Clayton, Missouri 63105

Please take notice that Defendant, Andrew F. Puzder, will call up his Motion for Summary Judgment on the 16th of November, 1988, at 9:00 a.m. in Division 14 in the Circuit Court of the County of St. Louis, State of Missouri, or as soon thereafter as agreed upon by the parties.

**RASKAS, RUTHMEYER, POMERANTZ,
WYNNE, GARAVAGLIA & SUSMAN**

BY:

Jerome F. Raskas #17410
1010 Market Street, Suite 1300
St. Louis, Missouri 63101
(314) 241-6161
Attorneys for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing was mailed postage prepaid this 21st day of October, 1988, to: Mr. Arthur S. Margulis and Ms. Stephanie J. Kraus, Commerce Bank Building, 11 South Meramec, Suite 1330, Clayton, Missouri 63105, Attorney for Plaintiff.

for I.R.B.

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
21st JUDICIAL CIRCUIT

Lisa A. Henning PLAINTIFF
VS
Andrew F. Puzder DEFENDANT

DATE August 19, 1988
CASE NUMBER 577367
TEAM/DIVISION A

'88 AUG 19 A9:09

Comes now Defendant and files ~~his~~ proposed
Order granting Summary Judgment in Connection with his
Motion for Summary Judgment.

SO ORDERED

Judge/Division

Robt A. [Signature]
Attorney for Defendant Bar No. 34109
241-6161
Address
Phone No.

Attorney Bar No.
Address
Phone No.

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

LISA A. HENNING,

Plaintiff,

vs.

ANDREW F. PUZDER,

Defendant.

Cause No. 577367

Team A

RECEIVED
CIRCUIT COURT OF
ST. LOUIS

TOB ME 19 A9:09

PATRICIA THOMAS
CIRCUIT CLERK

ORDER

BY 3

The above-entitled cause having come before the Court on Defendant's Motion For Summary Judgment, with both parties appearing by and through their attorneys; and

This Court, having reviewed the Affidavits submitted by both parties and the Pleading, finds that there is no genuine issue as to any material fact and that Defendant is entitled to a judgment in his favor as a matter of law because on or about March 19, 1987, Plaintiff executed a Settlement Agreement which contained a General Release by virtue of which Plaintiff has fully released and discharged Defendant from each and every claim now being asserted by Plaintiff in her Petition.

It is on this _____ day of _____, 1988, ordered, adjudged and decreed that judgment be entered in favor of Defendant, Andrew F. Puzder, and against the Plaintiff, Lisa A. Henning, with court costs to be taxed against Plaintiff.

SO ORDERED

Judge of the Circuit Court of
the County of St. Louis, Missouri

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
21st JUDICIAL CIRCUIT

Lisa Henning

PLAINTIFF

VS

Andrew Puzder

DEFENDANT

DATE 7-29-88

CASE NUMBER

577367
~~577383~~

RECEIVED
CIRCUIT COURT
ST. LOUIS COUNTY

TEAM/DIVISION

A

'88 JUL 29 P4:07

Comes now plaintiff Lisa Henning and files
her affidavit.

BY B

MARGULIS & GRANT, P.C.

by T. Patrick Deater # 30852

Attorney

Bar No.

721-6677

Address

Phone No.

Attorney

Bar No.

Address

Phone No.

SO ORDERED

Judge/Division

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

LISA HENNING,
Plaintiff,
v.
ANDREW PUZDER,
Defendant.

Cause No. 577383

Team A

RECEIVED AND FILED
CIRCUIT COURT OF
ST. LOUIS

'88 JUL 29 P4:07

A F F I D A V I T

Comes now affiant, Lisa Henning, and after being duly sworn upon her oath states as follows:

PATRICIA T. [illegible]
CIRCUIT COURT OF
ST. LOUIS

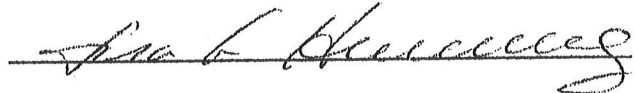
BY: [signature]

1. Defendant Andrew Puzder is my former husband and on May 22, 1986, he physically assaulted me, inflicting serious and permanent personal injuries. Following this incident I filed a motion under the Adult Abuse Statute and also filed a petition for a protective order, as set out in Plaintiff's Exhibit 2(B).
2. The marriage was thereafter dissolved in the Circuit Court of St. Louis County on March 19, 1987. A decree of dissolution was entered and attached thereto is a marital settlement and separation agreement.
3. Affiant Lisa Henning further states that at no time during the negotiations or discussions that culminated in the dissolution agreement was there any reference made by any party or counsel to the physical abuse inflicted upon plaintiff on May 22, 1986, or any other physical abuse inflicting upon plaintiff during the course of the marriage.

Affiant states that said matters were not discussed between her and her attorney Daniel Sokol at the time that said

separation agreement and decree were entered, nor was she a participant in any such discussions between parties or counsel concerning said subject, nor is she aware that any ever occurred.

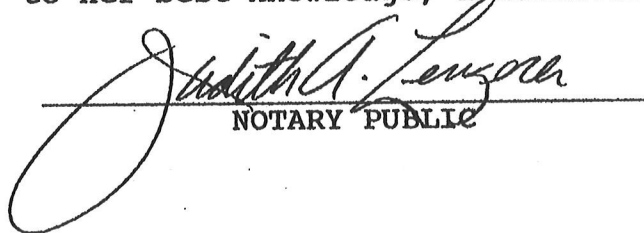
4. Affiant further states that her former attorney, Daniel Sokol, has knowledge of and can provide information concerning these matters.



LISA HENNING

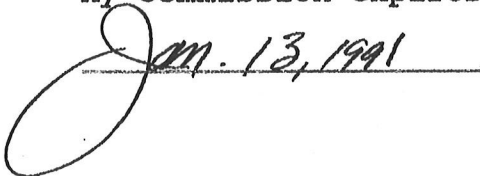
STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this 29th day of July, 1988, before me personally appeared LISA HENNING, and after being duly sworn upon her oath did state that the facts stated in the above and foregoing Affidavit are true and correct according to her best knowledge, information and belief.



NOTARY PUBLIC

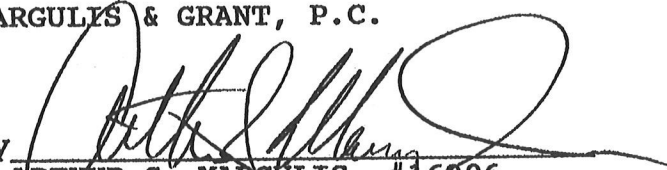
My commission expires:



Jan. 13, 1991

MARGULIS & GRANT, P.C.

By



ARTHUR S. MARGULIS, #16906
STEPHANIE J. KRAUS, #37558
11 South Meramec, Suite 1330
St. Louis, Missouri 63105
721-6677

ATTORNEYS FOR PLAINTIFF

A copy of the foregoing mailed
this 29th day of July, 1988, to:
Jerome F. Raskas, Attorney for
Defendant, 1010 Market, Suite
1300, St. Louis, MO 63101-2000.



Arthur S. Margulis

cm
7-30

LAW OFFICES
RASKAS, RUTHMEYER, POMERANTZ,
WYNNE, GARAVAGLIA & SUSMAN
SUITE 1300
1010 MARKET STREET
SAINT LOUIS, MISSOURI 63101-2000

JEROME F. RASKAS
BERNARD A. RUTHMEYER
SANFORD E. POMERANTZ
ROBERT J. WYNNE
JOHN C. GARAVAGLIA
BERNARD SUSMAN
ROBERT M. SUSMAN
MARK D. SADOW
PHILLIP A. FRANKLIN
SHELDON D. GRAND
CARL M. WARD
ROBERT A. STRAUSS

TELEPHONE
(314) 241-6161

July 20, 1988
RECEIVED
CIRCUIT COURT OF
ST. LOUIS COUNTY

'88 JUL 25 12:21

PATRICIA TOPP
CIRCUIT CLERK
BY. 

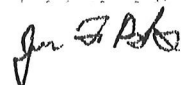
Ms. Stephanie J. Kraus
Attorney at Law
c/o Margulis & Grant, P.C.
Suite 1330, Commerce Bank Bldg.
11 S. Meramec
St. Louis, MO 63105

RE: Henning -vs- Puzder
Cause No. 577367

Dear Ms. Kraus:

Pursuant to your letter of July 19, 1988, I enclose herewith
a copy of the Affidavit you requested.

Very truly yours,



Jerome F. Raskas

JFR/mh

Enclosure

cc: Clerk, Circuit Court
County of St. Louis

COPY

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

LISA A. HENNING,

Plaintiff,

VS.

ANDREW F. PUZDER,

Defendant.

Cause No. 577367

Team A

RECEIVED
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CLERK
ST. LOUIS
MISSOURI

63 11 11 P1:03

AFFIDAVIT OF ANDREW F. PUZDER

COMES NOW Affiant, Andrew F. Puzder, being duly sworn upon his oath, deposes and states that he is the Defendant in the above-captioned cause, and makes this Affidavit in support of his Motion for Summary Judgment. The following facts are relevant to the issues involved in the above-captioned cause.

1. Plaintiff in the above-captioned cause is Affiant's former wife.

2. Plaintiff's Petition in this matter alleges a purported assault and battery which allegedly occurred on May 22, 1986.

3. Plaintiff and Affiant were divorced on March 19, 1987. A copy of the Decree of Dissolution with all attachments (hereinafter "Decree") is attached hereto as Exhibit 1. Attached to the Decree is a "Marital Settlement and Separation Agreement" dated March 19, 1987 (hereinafter "Settlement Agreement"). The Decree specifically incorporates the Settlement Agreement and makes it a part of the Decree.

4. In the Dissolution proceeding, Plaintiff was represented by the firm of Rothman, Sokol & Adler, and Affiant was represented in the Dissolution proceeding by the law firm of Raskas, Ruthmeyer, Pomerantz & Wynne.

5. Shortly before filing her Petition for Dissolution of Marriage, Plaintiff filed a claim against Affiant under Missouri's Adult Abuse Act, which claim involved the same purported assault and battery of May 22, 1986 which is the basis for Plaintiff's Petition herein. A copy of Plaintiff's initial claim is attached hereto as Exhibit 2. Affiant vigorously opposed Plaintiff's claim, and the matter was settled by the Parties agreeing to a Consent Order which permitted Affiant to return to the family home and reside there with certain limitations on the conduct of both parties. The Consent Order is attached hereto as Exhibit 3.

6. The Consent Order entered with respect to Plaintiff's Adult Abuse action was amended by a further Consent Order which was executed at the same time as the Settlement Agreement and is also attached to the Decree and the Settlement Agreement.

7. In her Petition for Dissolution of Marriage, Plaintiff again alluded to the purported assault and battery of May 22, 1986, alleging that Affiant had "behaved in such a way that [Plaintiff could] not reasonably be expected to live with him." Affiant denied such allegation in his Answer and Crossbill. Plaintiff's Petition and Affiant's Answer and Crossbill are attached hereto as Exhibits 4 and 5.

8. The purported assault and battery Plaintiff alleges in her Petition was clearly discussed and within the contemplation of the Parties prior to execution of the Settlement Agreement. For example, in a letter from Plaintiff's former counsel (Daniel R. Sokol) to Affiant's counsel dated October 22, 1986, Plaintiff's former counsel refers to an "injury suffered during the incident on May 22, 1986." (Exhibit 6 hereto, p.4). Affiant's counsel responded by denying that any supposed injury "would be due to a purported incident which allegedly occurred on May 22, 1986." (Exhibit 7 hereto, p.2).

9. Paragraph 35 on page 17 of the Settlement Agreement states, in part, as follows:


"In consideration of the premises and the mutual covenants and agreements contained herein, each PARTY hereto declares that, at such time as the Decree becomes final, this Agreement shall be a full, complete and final settlement of the claims and rights of every character whatsoever which either PARTY may now have or hereafter might otherwise have against the other (or in and to any property of the other) arising out of or relating to the marriage of the PARTIES or any other matter occurring or existing on or prior to the date the Decree becomes final"

10. Because of Plaintiff's allegations concerning the purported incident of May 22, 1986 throughout the Dissolution proceeding and negotiation of the Settlement Agreement, Affiant would not have signed the Settlement Agreement had it not contained the aforesaid Release of all "claims and rights of every character whatsoever . . . arising out of or relating to the marriage of the PARTIES or any other matter occurring or

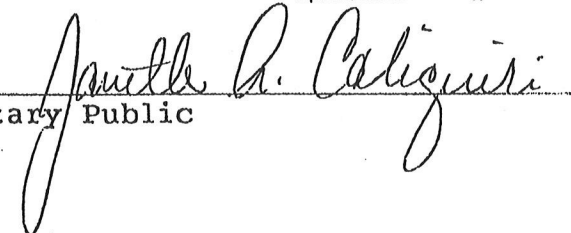
existing on or prior to the date the Decree becomes final
. . . ." (Settlement Agreement, p.17, ¶35).

11. At all times since March 19, 1987, the Settlement Agreement has remained in full force and effect, and Plaintiff has retained the benefits thereof.

The foregoing is true to the best of Affiant's knowledge, information, and belief.


ANDREW F. PUZDER

Subscribed and sworn to before me this 16th day of June, 1988.


Notary Public

My Commission Expires:
JANETTE A. CALIGIURI
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES 11/22/90
ST. LOUIS COUNTY

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI
21st JUDICIAL CIRCUIT

Lisa A. Henning PLAINTIFF
VS
Andrew F. Puzder DEFENDANT

DATE July 14 1988
CASE NUMBER 14 A931 577367
TEAM/DIVISION A

Comes now Defendant and files his Motion
to Dismiss and Notice of Hearing of the same.

SO ORDERED

Robt. A. [Signature] 34109
Attorney Bar No.
1010 Market Suite 1300
Address
St Louis Mo. 63101 2416161
Phone No.

Attorney Bar No.
Address
Phone No.

Judge/Division

STATE OF MISSOURI)
)SS
COUNTY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

LISA A. HENNING,

Plaintiff,

-VS-

ANDREW F. PUZDER,

Defendant.

Cause No. 577367

Team A

83 JUL 14 A9:37

NOTICE OF HEARING

YOU ARE HEREBY GIVEN NOTICE that counsel for Defendant will call up for Hearing its Motion for Summary Judgment, in the above cause, in Division No. 14 of the Circuit Court of the County of St. Louis, on August 1, 1988, at 9:00 a.m. or as soon thereafter as counsel may be heard.

RASKAS, RUTHMEYER, POMERANTZ,
WYNNE, GARAVAGLIA & SUSMAN

BY: Jerome F. Raskas
Jerome F. Raskas #17410
1010 Market, Suite 1300
St. Louis, MO 63101-2000
(314) 241-6161
Attorneys for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing, mailed postage prepaid, this 14th day of July, 1988, to: Ms. Stephanie Strauss, Attorney for Plaintiff, Commerce Bank Bldg., 11 S. Meramec, Suite 1330, St. Louis, MO 63105.

Jerome F. Raskas
Jerome F. Raskas

STATE OF MISSOURI)
)SS
COUNTY OF ST. LOUIS)

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

LISA A. HENNING,

Plaintiff,

-VS-

ANDREW F. PUZDER,

Defendant.

Cause No. 577367

Team A

03 JUL 14 09:38

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Comes now Defendant Andrew F. Puzder, and pursuant to Supreme Court Rule 74.04 moves the Court to enter Summary Judgment in his favor with respect to Plaintiff's Petition herein, and as grounds and reasons therefore, states as follows:

1. On or about March 19, 1987, Plaintiff executed a Settlement Agreement which contained a General Release by virtue of which Plaintiff has fully released and discharged Defendant from each and every claim now being asserted by her in her Petition herein.

2. A review of the pleadings, and the Affidavit of Andrew F. Puzder, attached hereto as Exhibit A and incorporated herein by reference thereto as if fully set forth herein, shows there is no genuine issue as to any material fact relative to the claims asserted by Plaintiff in her Petition herein, and that Defendant Andrew F. Puzder is entitled to a judgment in his favor on Plaintiff's Petition herein as a matter of law.

WHEREFORE, the premises considered, Defendant Andrew F. Puzder prays this Court to enter Judgment in his favor on Plaintiff's Petition herein.

RASKAS, RUTHMEYER, POMERANTZ,
WYNNE, GARAVAGLIA & SUSMAN

BY: Jerome F. Raskas
Jerome F. Raskas #17410
1010 Market, Suite 1300
St. Louis, MO 63101-2000
241-6161
Attorneys for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing was hand delivered, this 14th day of June, 1988, to: Ms. Stephanie Strauss, Attorney for Plaintiff, Commerce Bank Bldg., 11 S. Meramec, Suite 1330, St. Louis, MO 63105.

Jerome F. Raskas
Jerome F. Raskas

Circuit Court of St. Louis County

State of Missouri

LISA--HENNING--

..... PLAINTIFF.....

577367
No. Div.

vs.

ANDREW--PUZZER--

..... DEFENDANT.....

S U M M O N S

THE STATE OF MISSOURI TO:

1) ANDREW--PUZZER--

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

STEPHANIE J KRAUS

attorney for the PLAINTIFF whose address is

11 SOUTH HERAMEC SUITE 1330, ST LOUIS, MO. 63105

, all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the petition.

WITNESS, Patricia Tobias, Clerk of said Court with the seal thereof hereunto affixed at Clayton, Missouri, this 24 day of MAY 19 88.

(SEAL) PAGE 1 OF 1



Patricia Tobias
Circuit Clerk

By *James S. Mickes* Deputy Clerk

CITY OF ST LOUIS

Sheriff of

County

CIVIL

577367

No.

Div.

SUMMONS

LISA--HENNING--

PLAINTIFF

vs.

ANDREW--PUZZER--

DEFENDANT

1) ANDREW--PUZZER--

711 WASHINGTON AVENUE
ST LOUIS, MO. 63101

[Handwritten signature]

FILED
JUN 24 1988
PATRICIA TOBIAS
CIRCUIT CLERK, ST. LOUIS COUNTY

MARGULIS & GRANT, P.C.

Attorneys at Law

ARTHUR S. MARGULIS*
WILLIAM P. GRANT

RICHARD J. EISEN**
T: PATRICK DEATON**

SUITE 1330
COMMERCE BANK BUILDING
11 SOUTH MERAMEC
ST. LOUIS, MISSOURI 63105
(314) 721-6677

*MEMBER FLORIDA BAR

**MEMBER ILLINOIS BAR

May 25, 1988

St. Louis Sheriff
11 North 11th Street
St. Louis, Missouri 63101

Re: Henning v. Puzder
St. Louis County Circuit Court No. 577367

Dear Sir:

Would you please serve the enclosed Summons and Petition for Damages on defendant Andrew Puzder at 911 Washington, St. Louis, Missouri 63101. Enclosed is our check in the amount of \$5.00 for this service.

Thank you for your cooperation.

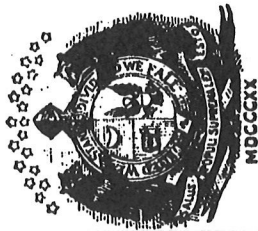
Very truly yours,



Stephanie J. Kraus

SJK:ck

Enc.



GORDON D. SCHWEITZER

SHERIFF

CITY OF ST. LOUIS
CIVIL COURTS BUILDING
12TH AND CHESTNUT STREETS
ST. LOUIS, MISSOURI 63101

622-3664

Executed this writ in the City of St. Louis, Missouri, this _____ day of

6-14-88 19__ by delivering a copy of the writ and petition

as furnished by the Clerk to Andrew C. Corder defendant herein.

911 Washington

GORDON D. SCHWEITZER
Sheriff

By *[Signature]* Deputy

Circuit Court of St. Louis County

State of Missouri

LISA--HENNING--

PLAINTIFF

vs.

ANDREW--PUZDER--

DEFENDANT

577367
No. A Div.

S U M M O N S

THE STATE OF MISSOURI TO:

1) ANDREW--PUZDER--

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

STEPHANIE J KRAUS

attorney for the PLAINTIFF

whose address is

11 SOUTH HERAMED SUITE 1330, ST LOUIS, MO. 63105

, all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the petition.

WITNESS, Patricia Tobias, Clerk of said Court with the seal thereof hereunto affixed at Clayton, Missouri, this 24 day of MAY 19 88,



(SEAL) PAGE 1 OF 1

Patricia Tobias
Circuit Clerk

By *[Signature]* Deputy Clerk

CITY OF ST LOUIS
County
CIVIL
577367
No. A Div.

SUMMONS

LISA--HENNING--
PLAINTIFF

vs.

ANDREW--PUZDER--
DEFENDANT

1) ANDREW--PUZDER--
911 WASHINGTON AVENUE
ST LOUIS, MO. 63101

IN THE
CIRCUIT COURT

County of St. Louis, Missouri

LISA HENNING

May 20 _____, 19 88

577367

vs.

Number _____

Team _____

ANDREW PUZDER

A

Please serve defendant Andrew Puzder at: Stolar Partner-
ship, 911 Washington Avenue, St. Louis, Missouri 63101.

Stephanie J. Kraus

STEPHANIE J. KRAUS #37558
11 South Meramec, Suite 1330
St. Louis, Missouri 63105
721-6677
ATTORNEY FOR PLAINTIFF

SO ORDERED

Judge _____
Division _____

Attorney
Phone _____

Attorney
Phone _____

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

577367

LISA HENNING,
Plaintiff,
v.
ANDREW PUZDER,
Defendant.

RECEIVED AND FILED
CIRCUIT COURT OF
ST. LOUIS COUNTY

Cause No.
Team/Division

'88 MAY 20 P1:11

PATRICIA TOBIAS
CIRCUIT CLERK

BY

PETITION FOR DAMAGES

Comes now Plaintiff Lisa Henning and for her Petition
for Damages against Defendant Andrew Puzder states:

1. At all times mentioned herein, Defendant was a resident of St. Louis County, Missouri.
2. At all times mentioned herein, Plaintiff's cause of action accrued in St. Louis County, Missouri.
3. On or about May 22, 1986, Defendant assaulted and battered Plaintiff by striking her violently about the face, chest, back, shoulders and neck, without provocation or cause.
4. The actions of Defendant, as aforesaid, were reckless, malicious and in wanton disregard for Plaintiff's safety, entitling Plaintiff to punitive damages from Defendant.
5. As a direct result of the aforesaid acts of Defendant, Plaintiff suffered severe and permanent injuries, to-wit:
 - a. Bruises and contusions to the chest, back, shoulders and neck;
 - b. All of the muscles, bones, ligaments and soft tissue of the face, chest, back, shoulders,

and neck were violently wrenched, strained, swollen, contused and otherwise injured;

c. Two ruptured discs and two bulging discs;

d. All of Plaintiff's injuries are painful, progressive and permanent.

6. Defendant proceeded to confirm his malicious and wanton intentions towards Plaintiff by applying vituperative and insulting language to her.

7. As a direct result of Defendant's acts, as aforesaid, Plaintiff has sustained medical expenses and shall continue to incur medical expenses, and has sustained and suffered loss of wages and earnings.

WHEREFORE, the premises considered, Plaintiff prays for judgment against Defendant in the sum of One Hundred Thousand (\$100,000.00) Dollars in actual damages, and for punitive damages in the sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars, for her costs expended herein, and for such further orders as to the Court may seem meet, just and proper.

Respectfully submitted,



STEPHANIE J. KRAUS, #37558
11 South Meramec, Suite 1330
St. Louis, Missouri 63105
721-6677
ATTORNEY FOR PLAINTIFF

MARGULIS & GRANT, P.C.
Attorneys at Law

ARTHUR S. MARGULIS*
WILLIAM P. GRANT
RICHARD J. EISEN**
T. PATRICK DEATON**

SUITE 1330
COMMERCE BANK BUILDING
11 SOUTH MERAMEC
ST. LOUIS, MISSOURI 63105
(314) 721-6677

*MEMBER FLORIDA BAR
**MEMBER ILLINOIS BAR

July 19, 1988

RECEIVED AND FILED
CIRCUIT COURT OF
ST. LOUIS COUNTY

'88 JUL 20 10:23

PATRICIA THOMAS
CIRCUIT CLERK

BY. _____

Mr. Jerome F. Raskas
Attorney at Law
1010 Market, Suite 1300
St. Louis, MO 63101

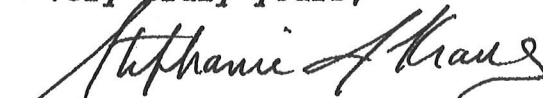
Re: Henning v. Puzder
Cause No. 577367

Dear Mr. Raskas:

I have your Motion for Summary Judgment filed on behalf of the defendant, however, there was no affidavit attached thereto as purported in your pleading.

Would you please forward me a copy of same.

Very truly yours,


STEPHANIE J. KRAUS

SJK:ck

cc: Clerk of the Circuit Court