

Hon. Patria Frias-Colón, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
DAVID ARONOV, INDIVIDUALLY AND AS A  
MEMBER OF 290 13TH STREET, LLC SUING ON  
BEHALF OF HIMSELF AND ALL OTHER MEMBERS  
OF 290 13TH STREET, LLC SIMILARLY SITUATED  
AND IN THE RIGHT OF 290 13TH STREET, LLC,

Index No.: 500499/2016

**ORDER TO SHOW CAUSE  
FOR STAY OF TRIAL AND  
TO HOLD DEFENDANTS  
AND DEFENDANTS’  
ATTORNEY IN  
CONTEMPT FOR  
WILLFUL REFUSAL TO  
OBEY COURT ORDER  
AFTER TRIAL AND  
VERDICT**

SPS - P

Plaintiff,

-against-

EUGENE A. KHAVINSON, MIKHAIL KREMERMAN,  
MICHAEL KHAVINSON, VYACHESLAV  
FAYBYSHEV, YANA SOSKIL, VITALY KOCHNEV,  
ARTYOM KIRZHNER, MIKOLA VOLYNSKY,  
ALEXANDER BOGUSLAVSKY, OMNI BUILD INC., and  
290 13<sup>th</sup> STREET, LLC,

Defendants.

-----X

UPON reading and filing the annexed documents submitted on behalf of the Plaintiff, DAVID ARONOV INDIVIDUALLY AND AS A MEMBER OF 290 13TH STREET, LLC SUING ON BEHALF OF HIMSELF AND ALL OTHER MEMBERS OF 290 13TH STREET, LLC SIMILARLY SITUATED AND IN THE RIGHT OF 290 13TH STREET, LLC (hereinafter “David Aronov” or “Plaintiff”), including the affirmation of Raymond R. Grasing, Esq., the attorney for the Plaintiff in the current action, sworn to the 24<sup>th</sup> Day of January, 2024. and the exhibits annexed thereto and cited therein; let the Defendants show cause at ~~a Term~~ Term 31 of this Court, at Room 461, at the Courthouse, 360 Adams Street, Brooklyn, New York, 11201, in the County of Kings, State of New York, on the 25<sup>th</sup> January at 9:30am in the [forenoon] of the day, or as soon thereafter as counsel can be heard, why an Order should not be made staying the Damages Trial of this action, which is

~~scheduled to open on January 25, 2024 before the Hon. Patria Frias-Colon, until at least seven calendar days after Defendants Eugene Khavinson, Mikhail Kremernan, and Vyacheslav Faybyshov, each, submit an accounting for the transactions of 290 13<sup>th</sup> Street LLC, (the "LLC") during such time as each was a managing member of the LLC, as ordered to do so by verdict after the liability portion of the trial finding they each were liable to give such an accounting to the LLC, and an order of the Hon. Patria Frias Colon, stated on the record, after the Verdict was rendered in the liability portion of the trial on December 20, 2023, that the Defendants must provide the aforementioned accounting by January 12, 2024 (note the transcript of the part of the court proceedings of the verdict and the order by the court for the accounting, has been ordered by the Plaintiff but not yet received; a complete copy of that portion of the transcript of the court proceedings will be supplied upon receipt and Plaintiff specifically requests to be able to submit it under separate cover, as an addendum, or in reply in further support of this proposed order to show cause) and which Defendants have failed and refused to provide, and which Defendants have not challenged (though Defendants have made a CPLR 4404(a) motion for judgement notwithstanding the verdict, they do not seek to overturn the finding that the aforementioned defendants are liable for an accounting to the LLC); and, further, to hold the aforementioned Defendants in contempt for their failure to provide the ordered accounting; and to hold defendants' counsel in contempt for refusing to provide an accounting because he claims no such order exists for anything other than the production of bank statements, which Plaintiff's contend are themselves incomplete, and that Defendants attorney has impermissibly attempted to shift the burden of proof of accounting, in which the individual Defendants who managed the LLC and were found to have violated their fiduciary duty to it, have to account for the~~

~~transactions made by the LLC during the time they each respectively managed it, and any transaction they do not establish was proper, just, and allowable, they must give back to the LLC in the form of restitution; and that by doing so, Defendants' attorney has violated his duty of candor to the court, and impeded the administration of justice.~~

~~If the requested relief, or any part of it, is denied, or the motion, or any part of it, is rejected, for any reason, including but not limited to those technical in nature or for any defects in the moving papers, none of which Raymond R. Grasing or The Law Firm of Grasing & Associates, P.C., is aware of at this time, then Raymond R. Grasing and The Law Firm of Grasing & Associates, P.C., asks the court to enlarge its time to bring this motion or to request again any of the demanded relief, to give Raymond R. Grasing or The Law Firm of Grasing & Associates, P.C., a reasonable time to resubmit the motion with the necessary corrections. This requested relief, which is requested if, and only if, it is necessary, is pursuant to CPLR 2004. If necessary, the Plaintiff and the Defendants would have to show why this requested relief should not be granted.~~

~~A good faith effort to resolve the matters herein occurred, as Plaintiff's attorney, Raymond R. Grasing, attempted to confer in good faith with Defendants' attorney Oleg Mestechkin via email on January 22, 2024 but Defendants' attorney refused to provide a sworn accounting, and Plaintiff's attorney Raymond Grasing spoke to Defendants' attorney Oleg Mestechkin by telephone on January 24, 2024, but again no resolution could be reached (this is affirmed in the attached affirmation of Plaintiff's attorney Raymond R. Grasing).~~

~~No previous application for the relief requested herein has been made in any court.~~

ORDERED, that pending the hearing of this petition, the Damages Trial in this matter is

hereby stayed; and ~~it is further~~

~~ORDERED, that oral argument shall be required on the return date of this motion.~~

~~ORDERED that if necessary after oral argument on this motion, a framed issue hearing will be scheduled and held to decide any issues of fact necessary for the court to make a determination of the issues presented herein.~~

SUFFICIENT REASON APPEARING THEREFOR, let service of a copy of this Order, together with the papers upon which it is granted, upon the attorneys for Defendants, by and through NYSCEF and email, or by personal service, on or before the January 25<sup>th</sup>, 2024 be deemed sufficient.

ENTER :



J. S. C.

Hon. Patria Frias-Colón

Dated: January 24, 2024

To: Oleg A. Mestechkin, Esq.  
Mestechkin Law Group, P.C.  
**Counsel for Defendants**  
1733 Sheepshead Bay Rd.  
Suite 29, Brooklyn 11235  
Tel. (212) 256-1113  
Fax. (646) 365-2069  
email: om@lawmlg.com  
(VIA Nyscef & Email)

Raymond R. Grasing, Esq.  
The Law Firm of Grasing & Assoc., P.C.  
**Counsel for Plaintiffs**  
99 Smithtown Blvd,  
Smithtown, New York 11787  
Tel. 631.240.4480  
Fax. 631-295-3380  
email: rgrasing@grasinglaw.com