

At Centralized Motion Part or IAS Part 19
of the Supreme Court State Of New York,
County of Queens located at 88-11 Sutphin
Boulevard, Jamaica, New York on the
_____day of MARCH, 2018

HON. _____ J. S. C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X Index No.: 700820/2016

JUNG-SOOK CHOI,
Plaintiff,

ORDER TO SHOW CAUSE

- against -

MARIA SEREMETIS,
Defendant.

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On the reading and filing the annexed affirmation of **PETER S THOMAS, ESQ.**, duly affirmed on the 27th day of March 2018, the affidavit of JUNG-SOOK CHOI sworn to on the 22nd day of March 2018, and the exhibits annexed hereto, and upon all the prior pleadings and proceedings had herein;

Let the attorneys, DANIELLA LEVI & ASSOCIATES, show cause at the Centralized Motion Part or IAS Part 19 of this Court to be held at the courthouse thereof, Room _____, located at 88-11 Sutphin Boulevard, Jamaica, New York on the _____ day of April 2018 at _____ a.m./p.m. of the day, or as soon thereafter as counsel can be heard, why an Order should not be issued quashing the charging lien and/or retention lien of DANIELLA LEVI &

ASSOCIATES, pursuant to Judiciary Law §475, together with such other and further relief as to this Court seems just and proper;

Sufficient Cause Therefore Appearing,

LET service of a copy of this order to show cause together with the papers upon which it was granted be made upon the law offices of DANIELLA LEVI & ASSOCIATES by personal service at 159-16 Union Turnpike, Suite 200, Fresh Meadows, NY 11366 or FAX to 718-380-1050, on or before _____, 2018 be deemed sufficient.

ENTER:

J.S.C.

JUNG-SOOK CHOI,

Plaintiff,

-against -

**AFFIRMATION IN SUPPORT
OF ORDER TO SHOW CAUSE
DISCHARGING JUDICIAL LIEN**

MARIA SEREMETIS,

Defendant.

-----X

PETER S. THOMAS, Esq. an attorney admitted to practice law in the State of New York, affirms as follows under penalties of perjury:

1. I am the attorney for JUNG-SOOK CHOI, the plaintiff in the above-captioned action, and I am fully familiar with all of the facts relating to this case. I submit this affirmation in support Plaintiff's Order to Show Cause to discharge the judiciary lien of DANIELLA LEVI & ASSOCIATES, the outgoing attorney who was discharged for cause by the Plaintiff.

2. I was retained by the Plaintiff on November 22, 2016 to prosecute her personal injury action, arising from an incident that occurred on December 11, 2015, in which she was struck while a pedestrian in a crosswalk by the Defendant, who was operating her motor vehicle and attempting to make a left turn. (*See Notice of Substitution & Consent to Change Attorney attached herewith as Exhibit "1"*). The action was fully litigated, I filed the note of issue, and the Court placed the matter on the trial calendar marked final for June 4, 2018. Through an agreement with the Defendant's counsel, the parties attended mediation wherein the action was settled for \$950,000.00. I am attaching herewith the settlement agreement executed at the mediation. (*See Settlement Agreement reached at Mediation attached herewith as Exhibit "2"*).

3. Outgoing attorneys, DANIELLA LEVI & ASSOCIATES were terminated for cause, when plaintiff discovered that they e-filed personal information relating to the Plaintiff without redacting her full name, home address, date of birth, home phone number, insurance policy information along with the grossly negligent disclosure of important medical information unrelated to the accident, which, if it were not enough, is in addition to the reckless release of information relating to the Plaintiff's husband and son. See JUNG-SOOK CHOI's sworn affidavit, as it was translated from Korean into English attached herewith.

4. In addition to the gross incompetence reflected above, it is important to also note for the Court that outgoing counsel filed of a ludicrously untenable summary judgment motion for liability and damages prior to depositions being held, and without permitting the Defendant to conduct an Independent Medical Examination of the Plaintiff. This ultimately led to the withdrawal of the Motion approximately six (6) weeks before I was retained, but not without the personal information of the plaintiff, her husband and her son, being published without redaction. Further, Plaintiff alleges in her affidavit that she was not prepared by her then counsel prior to her deposition on November 9, 2016, which led to an outpouring of emotion during her testimony. Mrs. Choi clearly lost confidence in her prior counsel and obviously, very rightfully profoundly displeased with her counsel, and this led to their termination and my retention.

5. I have been practicing in Queens County for more than twenty-five (25) years, where I have tried more than 300 cases to verdict. For the calendar year of 2017, I took 22 jury verdicts. In 2016, I successfully litigated a wrongful death action, which led to a verdict in excess of \$13,500,000.00, the second highest motor vehicle accident verdict in the State of New York for 2016. Plaintiff retained me because of my reputation as a successful and experienced trial attorney.

6. As a result of the work that I put into this case, coupled with my reputation, as well as my stated intention to take this matter to trial, if necessary (which is no idle musing when I say it), I was able to settle the Plaintiff's action for \$950,000.00. In fact, GEICO, the Defendant's insurance company, requested mediation, and in the best interest of my client we attended. Frankly, I was and am surprised that GEICO actually offered fair value, but even a broken clock is right twice a day.

7. It is well settled law that an Attorney who has been discharged for cause is not entitled to compensation or a lien. Schultz vs. Hughes 109 AD 3D 895 (2ND Dept. 2013) (Callaghan v Callaghan, 48 AD3d at 501; see Campagnola v Mulholland, Minion & Roe, 76 NY2d at 44 (Where the discharge is for cause, the attorney has no right to compensation...., notwithstanding a specific retainer agreement); Coccia v Liotti, 70 AD3d at 757; Doviak v Finkelstein & Partners, LLP, 90 AD3d 696, [2d Dept. 2011]).

8. An attorney who violates a disciplinary rule may be discharged for cause and is not entitled to any fees for services rendered (see Quinn v Walsh, 18 AD3d 638 [2005]; Matter of Satin, 265 AD2d 330 [1999]; Yannitelli v Yannitelli & Sons Constr. Corp., 247 AD2d 271, 272 [1998], cert denied sub nom. Heller v Yannitelli, 525 US 1178 [1999]; Pessoni v Rabkin, 220 AD2d 732 [1995]; Matter of Winston, 214 AD2d 677 [1995]). When a Firm's conduct falls below the ordinary and reasonable skill and knowledge commonly possessed by a member of the profession, there can be no explanation or justification for inexcusable procedural errors, filing fruitless motions, failing to prepare client for deposition and disregarding the directives of a proper substitution of counsel.

9. A hearing to determine whether the discharge was for cause is not always required. (Sacarello vs. City of New York, 124 AD3d 617 [2nd Dept. 2015].) When there is no

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