

Akhmedova v Akhmedov
2019 NY Slip Op 32877(U)
September 30, 2019
Supreme Court, New York County
Docket Number: 155688/2018
Judge: Debra A. James
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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. DEBRA A. JAMES PART IAS MOTION 59EFM

Justice

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TATIANA AKHMEDOVA,

Plaintiff,

INDEX NO. 155688/2018

MOTION DATE 04/19/2019

MOTION SEQ. NO. 001

- v -

FARKHAD AKHMEDOV, COTOR INVESTMENT, S.A.,
QUBO 1 ESTABLISHMENT, QUBO 2 ESTABLISHMENT,
STRAIGHT ESTABLISHMENT, and AVENGER ASSETS
CORPORATION,

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 24, 31, 32, 33, 34,
35, 36, 37, 38, 39, 40, 41, 43, 44

were read on this motion to/for SUMMARY JUDGMENT in LIEU of COMPLAINT

ORDER

Upon the foregoing documents, it is

ORDERED that the plaintiff's motion for summary judgment in
lieu of complaint is granted pursuant to CPLR 5301, et seq., and,
it is further

ADJUDGED that the Clerk of the Court shall enter judgment in
favor of plaintiff Tatiana Akhmedova and against defendants
Farkhad Akhmedov, Color Investment, S.A., Qubo 1 Establishment,
Qubo 2 Establishment, Straight Establishment, and Avenger Assets
Corporation recognizing that part of the foreign judgment entered
on December 15, 2016 against such defendants by the Family Division
of the English High Court in the sum of \$ GBP £125,569,492 (US
\$166,743,728), with interest from the date of the decision on this

motion, and thereafter at the statutory rate, as calculated by the Clerk, together with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ADJUDGED that the Clerk of the Court shall enter judgment in favor of plaintiff Tatian Akhmedova and against defendant Straight Establishment, recognizing the foreign judgment entered on December 20, 2016 against such defendant by the Family Division of the English High Court in the sum of GBP £396,741,747.60 (US \$487,278,000), with interest from the date of the decision on this motion, and thereafter at the statutory rate, as calculated by the Clerk, together with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs; and it is further

ORDERED that the payments toward either of the foregoing judgments shall reduce pro tanto the amount outstanding on the other foreign judgment; and it is further

ORDERED that the cross motion of defendants to dismiss the plaintiff's motion for summary judgment in lieu of complaint is denied; and it is further

ADJUDGED that the Clerk shall enter judgment in the form of the proposed judgment annexed as Exhibit 3 to the moving papers of the plaintiff.

DECISION

This court finds that plaintiff has sufficiently established that the two foreign money judgments in question,

entered by the Family Division of the English High Court, are each final, conclusive and were enforceable when rendered, and that neither of the CPLR §5403(a) mandatory grounds for non-recognition apply here. Nor have defendants met their burden of persuading the court that it should deny recognition on discretionary grounds.

Defendant does not assert that the English judicial system in general fails to protect litigants' due process rights. Instead, he challenges the British tribunal's application of an exception to his attorney client privilege. Such argument fails because CPLR 5304(a)(1) refers to "a **system** which does not provide impartial tribunals or procedures compatible with the requirements of due process of law", but not to any particular procedure of that tribunal (Harvardsky Prumyslovy Holding, A.S.- V Likvidaci v Kozeny, 166 AD3d 494, 494-495 [1st Dept. 2018][emphasis supplied]). Thus, defendant fails to raise a "non-frivolous" ground for non-recognition, and this court need not ascertain whether it has personal jurisdiction over the defendant. On such basis, this court shall deny defendants' cross motion to dismiss plaintiff's summary judgment motion in lieu of complaint.

Likewise, this court agrees with plaintiff that defendant has not come forward with any evidence of a final and

conflicting Russian judgment, and therefore, his challenge pursuant to CPLR 5304(b) (5) lacks any merit.

Nor, as argued by plaintiff, is there any merit to defendant's argument that the "cause of action on which the judgment is based is repugnant to public policy of this state" under CPRL 5304(b) (4), as the cause of action underlying the English judgments is simply the equitable distribution of the assets of dissolved marital estate of the parties. This court also finds that, in compelling the testimony of defendant's attorney, the English court did not violate any public policy of New York state, as such compunction was based upon the same analysis and/or exceptions found in New York state law (see, e.g., Matter of Bekins Record Storage Co., Inc. v Morgenthau, 62 NY2d 324, 329 [1984]).

9/30/2019
DATE

Debra A. James
DEBRA A. JAMES, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input type="checkbox"/> NON-FINAL DISPOSITION	
	<input checked="" type="checkbox"/> GRANTED		<input type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE