

Maryland Lawyer

News and analysis of legal matters in Maryland

Mother owes \$23K for thwarting visitation

Verdict follows 2008 decision recognizing interference as a tort

BY CARYN TAMBER

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A Montgomery County jury has awarded \$23,000 in compensatory damages to a father whose ex-wife defied a court order granting him visitation with their son.

The verdict may be the first monetary award for intentionally interfering with child custody or visitation since the **Court of Appeals** held last year that Maryland recognizes such interference as a tort.

The lawyer who won the most recent case, *Aydanian v. Aydanian*, said the verdict gives parents who are being denied visitation a remedy other than repeatedly asking a judge to find the other parent in contempt. Contempt findings often do nothing to change the custodial parent's behavior, but financial sanctions might, said the lawyer, Jamie Maxwell.

"It... potentially could change the options available to visitation parents, noncustodial parents who are frustrated and tired of going back to court," said Maxwell, of **Maxwell & Barke LLC**.

Stephen J. Cullen, who argued the winning side in the 2008 Court of Appeals case, *Khalifa et al. v. Shannon*, said he was pleased to hear of the result in the Montgomery County case.

"This is what we were hoping would happen," Cullen said.

In *Khalifa*, the state's top court upheld a \$3 million verdict in favor of a father whose ex-wife and mother-in-law abducted their two children to Egypt.

Cullen, of **Miles & Stockbridge**



RICH DENNISON

Jamie Maxwell represents a noncustodial father whose ex-wife sent their son out of the country for two summers running.

P.C., said that the *Khalifa* case was an extreme example of interference with child access, and that he was hoping lower courts would also start awarding damages in less dramatic cases, such as *Aydanian*. He has been keeping an eye on such cases around the state and believes *Aydanian* to be the first to produce a verdict for damages.

Maxwell said he thinks the case may also be the first in the country in which a jury awarded damages in a case that did not involve one parent abducting a child. In preparing for trial, he was unable to find any appellate decisions on the topic, he said.

According to Maxwell, the Aydanians are native Bulgarians who

met in Vienna while both were seeking political asylum in the U.S.

Marius Aydanian was granted asylum and, eventually, both moved to Indianapolis.

In 1998, when Antonina Aydanian was pregnant with their son, she moved to Maryland to pursue a Ph.D. at the Johns Hopkins University. She remained here and obtained a Bulgarian divorce in 2005 without Marius Aydanian's knowledge, Maxwell said.

A U.S. court ordered that Marius Aydanian, who still lives in Indianapolis, get visitation with his son every summer and two days a month, but Antonina instead sent the boy to

Bulgaria for two summers running, Maxwell said.

A jury returned the verdict for compensatory damages July 1, after a two-and-a-half day trial. It rejected Marius Aydanian's request for punitive damages.

Antonina Aydanian's lawyer, Roger N. Powell, did not return a call for comment.

'It's punitive'

University of Baltimore School of Law Professor Barbara A. Babb, who directs the **Center for Families, Children and the Courts**, said she does not think monetary damages are a productive way to address visitation disputes.

"We believe that courts in family law matters ought to help the parties, and when you're doing something like assessing monetary damages, it's punitive," Babb said. "I wonder, from my perspective, what the therapeutic value of this is. How is this helping the families, especially the children?"

AYDANIAN V. AYDANIAN

Court: Montgomery County Circuit Court

Case No: 310398V

Proceedings: Jury trial

Judge: Joseph A. Dugan Jr.

Outcome: Counter-plaintiff

Dates: Suit filed: March 18, 2009

Disposition: July 1, 2009

Counter-plaintiff's Attorney: Jamie Maxwell of Maxwell & Barke LLC in Rockville

Counter-defendant's Attorney: Roger N. Powell of the Law Offices of Roger N.

Powell in Pikesville

Counts: Tortious interference with visitation

Award: \$23,000

Maxwell said the underlying custody and visitation case is still being litigated in the **Montgomery County Circuit Court's** family division. It was severed from the tort claim.

Maxwell said his client may never see the \$23,000.

"The point of this case, frankly, was,

from the father's standpoint, was to provide a disincentive to ignore the order," he said. "This was not a case to collect money."

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