

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by _____ D.C.
INTAKE
AUG 03 2007
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

NATIONWIDE RELOCATION SERVICES,)
INC., a Florida corporation,)
)
Plaintiff,)
)
vs.)
)
TIM WALKER, CONSUMERS FIRST CORP.,)
et al.)
)
Defendants.)
)

Civil Case No. 07-60983
Judge Seitz

**DEFENDANT SHARON BAYOLO’S MOTION TO DISMISS
FOR LACK OF PERSONAL JURISDICTION**

I, Defendant Pro Se Sharon Bayolo, respectfully move this Court to dismiss the lawsuit for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2). Plaintiff Nationwide Relocation Services, Inc. takes a “kitchen sink” approach in its Complaint against me, which accuses me of defamation among other far-fetched theories such as false advertising and trademark infringement. In its attempt to show personal jurisdiction, this company resorts to a broad range of unsupported, inconsistent and false allegations grounded only in speculation at best and outright bad faith at worst. The following are the facts about me and are supported by my Affidavit, attached.

Preliminaries

1. I am a resident of New Hartford, New York, where I live with my family. I have resided there since 2006 [year]. I am a music teacher by training and am currently employed as an administrative assistant. I have never lived in Florida. I own no property in Florida. I run no business in Florida. (See attached Affidavit, para. 1)

My Experience With An Unethical Moving Company

2. In July '03 [month, year], I was nearly scammed by an unethical interstate moving company. This company gave me an estimate for moving my household goods from Portland, OR to Virginia of approximately \$ 1300 . However, at destination, they refused to release my belongings unless I paid the company more than \$ 4300 , in cash. Fortunately, after some pressure from my husband and neighbors, the driver of the moving truck eventually relented and unloaded my goods for the agreed-upon price. (Affidavit, para. 2)

My Involvement With MovingScam.com Website

3. After my experience, I went on the Internet and learned about the moving industry and certain practices within it. I found that my experience was not unique, and there were many thousands of consumers across the country who have been (and still are being) extorted in this manner by unethical and fraudulent moving companies and brokers. Typically, the company would quote a certain fee to move the consumers' belongings. The customer would hire this company based on the quoted fee. However, once the customer's belongings were loaded and locked away on the truck, the company would demand a sum of money considerably higher – sometimes thousands of dollars higher – than the agreed-upon price. If the customer refused, the company would drive away with the customer's belongings and threaten to assess storage and other additional fees. (Affidavit, para. 3)

4. One of the websites I encountered during my research of the industry was MovingScam.com. This website features a message board where site visitors can ask questions of each other and provide information and advice about the moving process, moving estimates,

and the like. To date, tens of thousands of messages have been posted by hundreds (likely thousands) of visitors like myself to the site. (Affidavit, para. 4)

5. I post on the message board to answer other visitors' moving-related questions to the best of my ability, provide advice on how best to achieve a successful move, and set out other information that I believe may be of interest to consumers. I do this to help people during one of the most stressful period of their lives, when they are moving to a new residence, often far away. (Affidavit, para. 5)

6. Occasionally, my postings provide information and opinions on certain moving companies. My opinions are formed and based on messages posted by other consumers/site visitors describing their experiences with these companies, as well as information contained in public filings, press releases, and other materials available or disseminated to the public from agencies including the Federal Motor Carrier Safety Administration and the U.S. Attorney's Office, and newspaper articles. (Affidavit, para. 6)

7. I am not involved with the maintenance, management, or direction of the MovingScam.com website. Except for my postings on its message board, I am involved in no other activity associated with the website, including any commercial activity. (Affidavit, para. 7)

8. I receive no money or other compensation from for my involvement with the website from any person or entity, including any of the other defendants named in this lawsuit. (Affidavit, para. 8)

9. All messages posted by me on the website have been posted from my computer at home in New York (and previous to that, from my home in Virginia). (Affidavit, para. 9)

WHEREFORE, I, Sharon Bayolo, respectfully requests that this Court dismiss plaintiff's
Complaint in its entirety.

Dated: July 31, 2007

Sharon Bayolo [signature]

Sharon Bayolo
197 Clinton Rd., #5
New Hartford, NY 13413

Phone: 315-732-3190

AFFIDAVIT OF SHARON BAYOLO

State of New York

County of Oneida

I, Sharon Bayolo, being duly sworn, under penalty of perjury, depose and say:

1. I am a resident of New Hartford, New York, where I live with my family. I have resided there since 2006 [year]. I am a music teacher by training and am currently employed as an administrative assistant. I have never lived in Florida. I own no property in Florida. I run no business in Florida. (See attached Affidavit, para. ___)

2. In July 2003 [month, year], I was nearly scammed by an unethical interstate moving company. This company gave me an estimate for moving my household goods from Portland, OR to Virginia of approximately \$ 1300. However, at destination, they refused to release my belongings unless I paid the company more than \$ 4300, in cash. Fortunately, after some pressure from my husband and neighbors, the driver of the moving truck eventually relented and unloaded my goods for the agreed-upon price.

3. After my experience, I went on the Internet and learned about the moving industry and certain practices within it. I found that my experience was not unique, and there were many thousands of consumers across the country who have been (and still are being) extorted in this manner by unethical and fraudulent moving companies and brokers. Typically, the company would quote a certain fee to move the consumers' belongings. The customer would hire this company based on the quoted fee. However, once the customer's belongings were loaded and locked away on the truck, the company would demand a sum of money considerably higher – sometimes thousands of dollars higher – than the agreed-upon price. If the customer refused, the company would drive away with the customer's belongings and threaten to assess storage and other additional fees.

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8. I receive no money or other compensation from for my involvement with the website from any person or entity, including any of the other defendants named in this lawsuit. (Affidavit, para. 8)

9. All messages posted by me on the website have been posted from my computer at home in New York (and previous to that, from my home in Virginia).

Sharon Bayolo
Sharon Bayolo

Sworn to before me this
21 day of ~~July~~, 2007
August

Linda M Reynolds
Notary Public

LINDA M. REYNOLDS
Notary Public, State of New York
Reg # 01 RE 4983238
Appointed in Oneida County
My Commission Expires 6/24/11

CERTIFICATE OF SERVICE

I, Sharon Bayolo, hereby certify that on Aug 1, 2007 [date], a true and correct copy of the foregoing Motion to Dismiss was served, via U.S. Mail, proper postage prepaid, on the following: Steven I. Peretz, Kluger, Peretz, Kaplan & Berlin, P.I., 201 S. Biscayne Blvd., Miami, FL 33131.

Sharon Bayolo
Sharon Bayolo