

4. It is submitted that I did not until the submission of this motion have any 2023 tax information for my wife.

5. I have never refused to provide the Plaintiff with access to any of our financial documents. All financial documents were available in our shared home located at 34 Stonybrook Drive, until the submission to my wife's attorney's office in connection with discovery. Any documents that were available and requested by the Plaintiff were provided to my attorney and ultimately to Ms. Chen's attorney in response to their voluminous discovery demands of which I provided two (2) boxes of documents and which my attorney advises me were hand-delivered to the Plaintiff's attorney's office.

6. In 2022, the first year that I taught Yoga, I taught multiple classes, however, that was untenable with my schedule and other obligations. I currently teach one (1) Yoga class a week at Jai Yoga School that pays \$40.00 per class and one (1) class at Bethlehem Public Library for which I am compensated \$40.00 per month. I earn currently approximately \$213.00 per month from my Yoga instruction.

7. It is true that I was the sole income earner for the family up until 2012. After that, Ms. Chen began working and began providing your Deponent with sums to cover our living expenses. By 2019 the Plaintiff and I had worked out a financial plan whereby Plaintiff contributed approximately one-half (1/2) of our living expenses each month or approximately \$1,300.00.

8. I dispute the characterization that I "control the purse strings". I never withheld funds as a form of punishment or control or in any manner.

9. Like many couples who are struggling financially, we assessed our finances and came up with a way in which we could meet our monthly financial obligations and how both your Deponent and the Plaintiff could contribute so that we could meet those obligations and still survive financially.

10. Ultimately, since 2019 and until the commencement of this Action, the Plaintiff was contributing approximately one-half (1/2) of all expenses to the household.

11. Once the parties began talking about divorce, Ms. Chen began to decrease her contributions. It was she that was withholding funds from me and the household, not the other way around, and your Deponent saw this as a form of punishment and control.

12. Since January of 2024, Plaintiff only contributed \$1,400.00 towards any household expenses and that was only in the month of June of 2024.

13. It is true that Plaintiff has held various jobs during our marriage. In 2012 Plaintiff started a business. Your Deponent and the Plaintiff had discussed this matter and initially her earned income was very low and below the earning threshold for reporting to the IRS. However, as she continued to develop and master her business, her earnings increased. By 2019 she reported to me that her earnings were over the threshold required for reporting to the IRS so I discussed with her registering her business and filing taxes so we did not have issues with NYS Taxation and Finance or the Internal Revenue Service.

14. Upon information and belief, she did register the business and she did report her taxes. While I am unaware of the specific amounts of what she earned, I can only attest to what she reported to me.

15. It is submitted that the business is not a business that she owns with her brother, but a sole proprietorship, in which she is the sole person doing business as Apollo Exports. (Attached hereto (as Exhibit "B") is a copy of her DBA Certificate filed in 2019 and approved in 2020).

16. It is important to point out that on or about December 2023, during a discussion about spousal maintenance between the parties, Ms. Chen submits she stopped doing business. However, I am now aware that she continued to operate the business and that the business is still in full operation today.

17. It is submitted that while the Plaintiff filed a Certificate of Discontinuance with Albany County, she never ended her business. She never sold the business to her brother. There is no record of conspicuously absent from the submission by Plaintiff and her attorney. There is no record of bulk sale. There is no document that shows the business had been signed over to her brother. The business continues to operate under the same name as it has since 2019 and it currently sells over 30,000 products a year and has the past reported earning record of approximately \$128,000.00 annually. (Attached hereto as Exhibit "C" are the 2021 and 2022 tax returns).

18. Ms. Chen now says that she has a limited understanding of English. Ms. Chen is an extremely intelligent person. She has two certificates in English, she has an associate's degree at an American taught college, taught only in English and an additional Certificate in Accounting.

19. She and I have been married for over twenty (20) years and we have a son who speaks only English.

20. Ms. Chen and I have resided in the United States for over ten (10) years. It is submitted that Ms. Chen understands English quite well and utilizes the excuse of a limited knowledge of English only to her advantage when she does not want to address certain issues.

21. I am not quite sure that I understand the calculations set forth in Plaintiff's application. Your Deponent works for New York State. Pursuant to the terms and conditions of New York State, a 37.5 hours per week is considered full-time job with the state. However, I understand that this job may be a temporary position with NYS Taxation & Finance, it is, however, a full-time position, and the calculations of 37.5 per week at \$17.75 dollars per hour results in an annual income of \$34,612.50 per year, not \$19,015.00 annually. While I understand that Ms. Chen may not have worked the entire year, therefore that may be what she expects to earn for 2024. Her annual income or salary works out to \$34,612.50 per year.

22. Additionally, Ms. Chen receives \$800.00 per month from her parents each and every year. This has been going on since December 2019.

23. There is no income listed for her business which it is submitted is still in full operation based on information previously published on her website and the 2020 tax return estimated annual sales are in excess of \$500,000.00 a year. She has reported annual sales on her 2020 tax return at \$128,665.00. (See attached Exhibit "C")

24. Ms. Chen states that we reside together at 34 Stonybrook Drive, Selkirk, New York. That is simply not true, we have not resided together since February of 2024. Despite the fact that Ms. Chen had previously been contributing \$1,300.00 to our household expenses on a monthly basis, she advised me that her attorney advised her not to contribute to any household expenses. As heretofore set forth, since January 2024, she has only contributed \$1,400.00 toward our monthly household obligations of \$2,788.00. Your Deponent is attempting to keep up with electric, internet, garbage, water and mortgage bills in a home in which I am not residing and have been unable to do so based on my current income and no contributions whatsoever from the Plaintiff.

25. I certainly do not want my credit to decline by late payments, but at some point, based on the fact that I am stretched so thin financially that has happened. We have approximately \$100,000.00 in equity in our marital residence and your Deponent would not risk losing that equity to foreclosure.

26. The parties have been in negotiations to sell the house, in an effort to avoid foreclosure, and it is hopeful that this will be finalized in the next week so that we may address the issue of the home at this point, without risking foreclosure or loss of substantial equity.

27. It is proposed that that agreement address the payment of our household bills until such time as the sale has taken place.

28. As hereinbefore set forth, your Deponent has not resided in the marital residence since February of 2024 at the request of Ms. Chen.

29. The only time that I have returned to the home is when there is to repair, clean

something or to obtain personal items from the marital residence.

30. When I do return, upon notice to the Plaintiff, I am met with hostility, aggression and accusations.

31. It is based on this behavior that I left the marital residence so that neither Ms. Chen or I would have to deal with the stress of this while the divorce is pending.

32. It is submitted that the Plaintiff is self-sufficient and capable of self-support. Her current income, plus her business income, plus the assistance she receives from her parents will not equalize our income, but make her the primary earner in our family, and it is submitted that she should not receive spousal support from your Deponent.

33. As heretofore set forth, the parties are in the process of readying our home for sale and as such each will have additional sums as and for our support in an effort to obtain separate housing and maintain a standard of living acceptable to both of us.

34. With respect to the issue of attorneys fees. It is my understanding that my Wife utilized \$7,500.00 of money from our son to pay for her attorney. This money was originally set aside for our son Max's college education expenses. Because Ms. Chen utilized this money that was set aside for Max, he did not have enough money to pay for college dorm fees or his meal plan. He is currently attending Colorado College in Colorado Springs, Colorado.

35. Your Deponent is the one who has paid these sums, paying the amount of \$14,943.00 as and for our son to supplement his expenses since the commencement of this Action. In the Spring of 2024, your Deponent \$3,300.00 as and for Max's meal plan and \$3,632.00 as and for Max's room and board. Additionally, for the Fall semester, your Deponent paid \$3,546.00 as and for Max's meal plan and \$4,465.00 for his room and board.

36. Upon information and belief, the Defendant has utilized sums from our son and has made no contribution to any of his college expenses. It is your Deponent's intention to continue

to help pay his expenses as I am able and does not believe that Ms. Chen will assist in any manner or form financially.

WHEREFORE, it is respectfully requested that the application of Ms. Chen be denied in all respects, together with such other and further relief as the Court may seem just and proper.



DANIEL MAY

Sworn to before me this
18 day of October, 2024


Notary Public

COLLEEN A. HUMMEL
Notary Public, State of New York
Qualified in Albany County
No. 01HU6081493
Commission Expires July 16, 2027

Yours, etc.

LAW OFFICE OF PAIGE E. CRABLE, PLLC

By _____

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