

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MISS UNIVERSE L.P., L.L.L.P.,

Petitioner,

-against-

SHEENA MONNIN,

Respondent.

Case No. 1:12-cv-09174 (JPO)

Civil Action

**DECLARATION OF RESPONDENT
SHEENA MONNIN IN OPPOSITION
TO PETITIONER MISS UNIVERSE
L.P., L.L.L.P.'S PETITION TO
CONFIRM ARBITRATION AWARD
AND IN SUPPORT OF CROSS-
MOTION TO VACATE
ARBITRATION AWARD**

SHEENA MONNIN, declares as follows:

1. I am the respondent in this action. I have personal knowledge of the facts contained herein and respectfully submit this declaration in opposition to the Petition of plaintiff Miss Universe L.P., L.L.L.P. ("Miss Universe") to confirm the arbitration award and in support of my cross-motion to vacate the arbitration award.

Miss Pennsylvania USA Pageant.

2. On Friday, December 2, 2011, I arrived in Pittsburgh, Pennsylvania for the first of three days spent competing in the Miss Pennsylvania USA Pageant ("Miss Pennsylvania Pageant").

3. The Miss Pennsylvania Pageant is a franchise of the Miss Universe organization, a joint venture between Donald Trump and NBC Universal.

4. The winner of the Miss Pennsylvania Pageant, like each of the other fifty franchise pageant winners (Miss Universe has franchises in each state plus the District of Columbia), go on to compete in the Miss USA Pageant. Ultimately, the winner of the Miss USA Pageant competes against pageant winners from around the world in the Miss Universe competition.

5. The franchise for the Miss Pennsylvania Pageant is held by Sanders & Associates, Inc. (“Pageant Associates”), which is owned by Randy Sanders (“Sanders”).

6. I have known Sanders for several years and, as of December 2011, trusted him completely.

7. In fact, the December 2011 competition was my third appearance in the Miss Pennsylvania Pageant, so I had many prior opportunities to speak to Sanders as well as to witness his interactions with the other competitors.

8. For example, each year during orientation Sanders would stress to the candidates that he was the pageant “dad” and that he cared for each contestant as if she were his own daughter.

9. Sanders seemed to be well liked by the other competitors and, more importantly, was trusted by all.

10. That Friday, the other competitors from across Pennsylvania and I checked into the hotel, attended orientation, participated in several rehearsals, and then competed in the opening round of the Miss Pennsylvania Competition.

11. The competition continued on Saturday, December 3, 2012, with an interview by the judges, followed by several more hours of rehearsals and concluding with preliminary swimsuit and evening gown rounds.

12. That night, the contestants had our first opportunity to visit with our families since our arrival in Pittsburgh.

13. On Sunday, December 4, 2012, the contestants awoke early and rehearsed for several hours.

14. After going through final show preparations, the final two-hour show occurred later that afternoon.

15. Ultimately, at the end of a marathon weekend, I was crowned Miss Pennsylvania USA 2012.

16. Immediately after I was crowned, a whirlwind of activities began.

17. For nearly an hour, I remained on stage while hundreds of photos were taken with various persons connected with the pageant.

18. After about an hour of photographs, Sanders escorted me to a small conference room off the stage.

19. Once in the conference room, Sanders told me how glad he was to have me as part of the “family” and how he would be supporting me in the coming year as I prepared for the national Miss USA Pageant 2012.

20. Sanders emphasized how important it was that I “trust” him completely, and that if any problems should arise over the next year I should contact him in confidence.

21. Sanders then stressed that we needed to hurry through some formalities because the pageant’s photographer was waiting to take my official photographs for the Miss Pennsylvania USA website and official Miss Pennsylvania USA Facebook page.

22. While I was literally still in my ball gown, crown, and sash, Sanders handed me three documents, one document that appeared to be a contract concerning the Miss USA Pageant and two contracts that appeared to be between myself and Pageant Associates.

23. Sanders told me that I was required to sign the documents to continue as Miss Pennsylvania and to compete in the Miss USA competition.

24. Sanders said that he would explain the documents to me, but that he would first step out of the room for “a few minutes” to give me a chance to read through the documents. I had no idea of the nature of any other agreements required beyond the documents I had signed to compete in the Miss Pennsylvania Pageant.

25. When Sanders stepped out of the room, I took my first and only look at the documents. The documents were long, single spaced, extremely dense and full of legal terms that I did not understand. In fact, I had barely read through the first few pages of the largest document when Sanders returned just a few minutes later.

26. Upon his return, Sanders asked me if I had any questions about the documents, reiterating that he recognized they were complicated documents, but that he would explain the important parts to me.

27. Sanders did not review each page of the documents with me. Instead, he skipped quickly through them, focusing only on those parts that discussed eligibility for the Miss USA Pageant (i.e. that the contestants cannot have a criminal record, cannot be or have been married, cannot have any children, etc.). Sander's attitude was that the documents were "just a formality" and that I should sign the documents so that we could meet with the waiting photographer and makeup artists.

28. Pressured by the thought of everyone waiting for me, and emotionally and physically tired from the three day process, I put my trust in Sanders and signed the documents without reading or understanding their provisions.

29. Sanders then took the documents I signed with him. Later, Sanders provided me with a signed copy of the two documents I had signed with Pageant Associates as well as an unsigned document that Sanders represented to be the third document I had signed. Having only read the first few pages of the documents, I could not confirm that the third document was an actual copy of the Miss USA agreement I had signed.

The Miss USA Pageant.

30. Miss Universe had advertised to the state pageant winners that it would be a fair and honest competition that would be decided based on voting conducted by preliminary judges and

celebrity judges. Thus, when I arrived in Las Vegas for the June 3, 2012 Miss USA competition, I believed that the process was an open competition in which all of the contestants would have a fair chance of winning.

31. On June 3, 2012, the Miss USA telecast began with the fifty-one contestants onstage. The field was narrowed down to the top 16 contestants based on a previous preliminary round.

32. After the final 16 contestants were announced, the live broadcast went to a commercial break and those competitors who did not advance to the final 16 were dismissed from the stage.

33. The dismissed contestants, who included myself and Miss Florida USA (Karina Brez), stood briefly in the wings of the stage before returning to the dressing rooms.

34. It was at that point that Ms. Brez said to me: "I know who is going to be in the top 5."

35. At first, I thought Ms. Brez was joking or that she was merely expressing her opinion on who she thought would win, so I responded, "who do you think they are?," to which Ms. Brez replied, "I don't think, I know who they are."

36. Ms. Brez elaborated that she saw a paper in a notebook in the back of the stage entitled "final show telecast" earlier in the day. Ms. Brez said that the top 5 contestants were already listed, even though the competition had not yet progressed to the final selection.

37. Ms. Brez then announced the top 5 names she saw.

38. Sure enough, each of the names remained on stage as part of the top 16.

39. I was shaken and dismayed. I immediately texted Sanders about how upset I was to learn that the competition, in my opinion, was rigged. (A true copy of my text message exchange with Sanders is attached hereto as **Exhibit A.**)

40. I did not tell any other contestant what Ms. Brez had said to me. I sat in silence for the remainder of the competition, hoping that Ms. Brez's statement would turn out to be wrong.

41. Unfortunately, when the top 5 contestants were announced, they were the exact women that Ms. Brez had identified earlier and the winner was Miss Rhode Island USA, Olivia Culpo, just as Ms. Brez had stated.

42. I then sent Sanders a second text stating that Ms Brez had seen a list of the top 5 that morning. See Exh. A.

43. In a state of disbelief, I spoke to no one after the show, but instead gathered my belongings and left.

44. I left Las Vegas the following day without having spoken or texted any other contestants about what I was told or had witnessed.

My Resignation.

45. On June 4, 2012, the morning after the pageant, I e-mailed my resignation letter to Sanders and then texted him, stating: "please check your email. I have sent you my final and unchangeable thoughts and my decision. I will not change my mind or be talked out of this decision. Time will not change my decision. I consider my choice to be effective immediately."

Id.

46. Having not heard from Sanders all day, at 4:47pm, I texted Sanders again and said, "I will not keep quiet on this...This was not fair play." An hour later, Sanders finally responded with the following message:

Sheena - I have Received your resignation and will not try to change you [SIC] mind. As in any business relationship we should respect each others position even when we don't agree. I do need to work with you to achieve proper closure to our business relationship. Please let me know when we can discuss the next steps.

[Id.]

My Facebook Posts.

47. On June 4, 2012, I posted on my Facebook page to let my fans know that I was resigning my title as Miss Pennsylvania USA. Specifically, I wrote:

I have decided to resign my position as Miss Pennsylvania USA 2012. Effective immediately I have voluntarily, completely and utterly removed myself from the Miss Universe Organization. In good conscience I can no longer be affiliated in any way with an organization I consider to be fraudulent, lacking in morals, inconsistent, and in many ways trashy. I do not support this system in any way. In my heart I believe in honesty, fair play, a fair opportunity, and high moral integrity, none of which in my opinion are part of this pageant system any longer.

48. The next day, I received a Facebook message from one of the other Miss USA contestants (“Contestant A”).¹ Contestant A wrote: “I’m so proud of you. I was there with you backstage when it all went down. Didn’t Kelly O also confirm the script? So crazy. Love u sista.” (A true copy of Contestant A’s Facebook message is attached as **Exhibit B.**)

49. Another contestant (“Contestant B”), also contacted me, writing in a text message:

Hey girl this is [Contestant B] and I just saw ur post on Facebook and wanted to reach out to you and tell you how much I admire you and applaud you for standing up in ur beliefs. You have my support!
Xoxo.

(A true copy of my text message exchange with Contestant B is attached as **Exhibit C.**)

50. After I responded to thank Contestant B for her support, she replied:

I completely agree and hopefully this brings more awareness to how shady this particular competition really was. I’m hoping that someone from the organization will leak information and shed some light on this issue. And if not hopefully your actions will grab

¹ To protect the privacy of the other contestants, their names are not included in this Declaration and have been redacted from the attached exhibits. If necessary, same will be made available to the Court for inspection upon the Court’s request.

someones attention an you can speak publicly about it. Its just such a disappointment to lose faith in something you've dreamed of for so long. But I'm sending you so many best wishes and please keep in touch.:)

[Id.]

51. Having received encouragement from other contestants and from fans urging me to speak up, I wrote my second and final Facebook post on this issue on June 5, 2012:

I agree that it is my moral obligation to state what I witnessed and what I know to be true. I will relay to you the reasoning behind my resignation. I witnessed another contestant who said she saw the Top 5 BEFORE THE SHOW EVER STARTED proceed to call out in order who the Top 5 were before they were announced on stage. Apparently the morning on June 3rd she saw a folder lying open to a page that said 'FINAL SHOW telecast, June 3, 2012'. After the Top 16 were called and we were standing backstage she hesitantly said to me and another contestant that she knew who the Top 5 were. I said 'who do you think they will be? She said that she didn't 'think' she 'knew' because she saw the list that morning. She relayed whose names were on the list. Then we agreed to wait and see if that was indeed the Top 5 called that night. After it was indeed the Top 5 I knew the show must be rigged; I decided at that moment to distance myself from an organization who did not allow fair play and whose morals did not match my own. That is all I know about this. If this contestant would like to step forward as an eye witness and as being the one who saw the sheet with the Top 5 already selected before the judges ever saw the Top 16, then perhaps action can be taken. As for me, I believe her words and I will not encourage anyone to compete in a system that in my opinion and from what I witnessed was dishonest.

52. As of June 5, 2012, I had approximately 250 "friends" on Facebook.

Miss Universe's Media Blitz.

53. On June 6, 2012, less than 48 hours after my first Facebook post, Miss Universe went on a veritable media frenzy.

54. First, Donald Trump ("Trump") went on Good Morning America and denied the "rigging" charge, claimed that I suffered from "loser's remorse," and stated that if you "looked at

her and compared her to the other people who were in the top 15, you would understand why she was not in the top 15.”

55. Later that day, Miss Universe’s “special counsel”, Michael Cohen, Esq., called into the television show, TMZ Live, and said that I had 24 hours to retract my statement or that I could “bet [my] a** that [Miss Universe] will sue . . . seeking massive damages.” Cohen also e-mailed me that day asking me to contact him immediately.

56. The next day, Miss Universe’s media campaign continued with Trump appearing on the Today Show. Trump stated that my allegations were “disgraceful” and that Miss Universe was going to bring a lawsuit (not arbitration) against me. Trump further said that Miss Universe had spoken to Miss Florida USA, who Trump claimed denied the allegations.

57. The next day Miss Florida USA appeared on E! and claimed that she did not even remember discussing the list with me, then changed her story stating that she was “joking” about the “rehearsal list” back stage. She further stated that the ultimate winner, Miss Rhode Island USA, was not even on the “rehearsal list” she saw and, therefore, she knew that it could not have been the real list.

The Today Show.

58. After having been attacked in the media, other competitors from the Miss USA Pageant began reaching out to me to show their support.

59. On June 6, 2012, for example, a contestant (“Contestant C”), sent me the following text message:

Hey girl. I’m proud of you for standing up for what you believe in. You are a strong, beautiful, and intelligent woman, don’t let Trump make feel like anything less! I sincerely hope that the truth will come out and it will because of your courage to speak up.

(A true copy of Contestant C’s text message is attached as **Exhibit D.**)

60. Moreover, on June 8, 2012, I received a Facebook message from another contestant (“Contestant D”). Contestant D wrote:

Hey Sheena! It’s [Contestant D]. I’ve been talking with the other girls and we’re all disgusted with how they are trying to turn things against you in the media. We know you didn’t make this up out of no where – a lot of girls knew about that list backstage and are outraged. I personally heard about it straight from the girl who saw the list. I want to thank you for not just sticking up for yourself and your beliefs, but all of us. We want to get behind you on this if we can, if there’s anything we can do let us know!

(A true copy of Contestant D’s Facebook message is attached as **Exhibit E**.)

61. Overwhelmed by the barrage of media attacks on my character, I felt the need to publicly respond. After days of constant media requests for comments, on June 8, 2012 I agreed to be interviewed by Ann Curry on the Today Show.

62. During the interview, I reiterated that I believed Miss Florida USA when she revealed the Top 5 were predetermined. I told Ann Curry that I felt that an injustice had been done and that I wanted to find out the truth for the benefit of future contestants. I made clear, however, that I was not there to “destroy” or to “bad talk” anybody, just to find out the truth.

63. The day after my interview, another contestant (“Contestant E”), text messaged her support to me by writing, among other things: “Wow I can’t believe FL is denying what she said now I back u 100% on what u heard and I am appalled that no one else is speaking up bc SO many others heard the same.” (A true copy of Contestant E’s text message is attached as **Exhibit F**.)

The “Arbitration.”

64. On June 26, 2012, I was served with a copy of the filed Demand for Arbitration and Statement of Claim.

65. I immediately turned the documents over to Richard Klineburger, Esq. (“Klineburger”), whom I had retained to represent me relative to my situation with Miss Universe and Trump.

66. I read in the Statement of Claim that Miss Universe was alleging my Facebook posts were defamatory and were of a breach of my agreement with Miss Universe.

67. The Statement of Claim did not contain anything about my Today Show appearance and I was never told that the arbitration would concern the statements I made on the Today Show or that Miss Universe lost some alleged \$5 million sponsorship from BP America, Inc. (“BP”). I find it very hard to believe that anybody from BP had visited my Facebook page because I only had 250 friends on Facebook, most if not all of whom I actually know, and none of whom are from BP.

68. Klineburger advised me that I was not bound by any agreement to arbitrate for several reasons, that Miss Universe could not compel me to arbitrate, and that I need not respond to any communications from JAMS. He later advised me that I was not required to attend any arbitration hearing, although I was never told (orally or in writing) that any hearing date had been set.

69. On July 11, 2012, two weeks after I received the Statement of Claim, JAMS sent me an e-mail asking for payment of their fees. They explicitly stated in their e-mail that “*the arbitration cannot move further without payment,*” which confirmed for me what Klineburger had told me. (A true copy of JAMS’ July 11, 2012 e-mail to me is attached as **Exhibit G.**)

70. Thereafter, Klineburger continued to reassure me that I did not need to respond to any of JAMS’ correspondence, that I was not subject to any arbitration agreement with Miss Universe, and that I need not participate in any arbitration proceeding.

71. For approximately two months (early September through early November), I did not receive any communications from Klineburger or JAMS. On November 2, 2012, I received a brief

e-mail from Klineburger stating that he had spoken with Miss Universe and that my recantation was required to resolve this matter. Klineburger also attached a draft complaint to be filed by me against Trump.

72. On November 12, 2012 I e-mailed Klineburger to ask what we should do moving forward. (A true copy of my November 12, 2012 e-mail is attached as **Exhibit H.**)

73. Klineburger did not respond to my November 12, 2012 e-mail.

74. After the passage of another month, I concluded that Klineburger's efforts on my behalf had been successful and the dispute had been resolved.

75. Thus, on December 10, 2012, my father wrote to Klineburger and stated:

First, I want to thank you on behalf of Sheena and our family for successfully removing the [Miss Universe] threat of arbitration.
We did not know what to do an your help was appreciated very much
....

(A true copy of my father's December 10, 2012 e-mail is attached as **Exhibit I.**)

76. Klineburger also did not immediately respond to my father's December 10, 2012 e-mail.

77. Unbeknownst to me, on November 5, 2012 the arbitration had proceeded before Arbitrator Katz. Having no notice of the hearing and having been counseled the arbitration was improper, I obviously did not attend.

78. I was not made aware by any means from anyone of the arbitration hearing date, or even that an arbitration hearing date was being scheduled, until December 13, 2012, when I received two letters from my attorney regarding the arbitration. Apparently a hearing had been held in my absence and thus no defense was interposed on my behalf.

79. Had I known that Arbitrator Katz ruled that I was required to participate in this proceeding and that a hearing had been scheduled on November 5, 2012, I certainly would have appeared to present all of the defenses I had to Miss Universe's false charges.

80. In his first communication with me concerning this matter in over a month (and only the second communication in three months), Klineburger copied me on a letter to JAMS, in which he stated:

I never requested to go forward with arbitration in the above captioned matter. For some strange reason, you people think by sending me bills and correspondence relating to a matter in which I had no involvement, somehow or another makes me responsibility [SIC]. Let me make this clear: **I do not represent Ms. Monnin with regard to this matter. I did not sign any documentation subjecting either myself or Ms. Monnin through this process.** Please stop bothering me. This is annoying. I owe nothing.

(A true copy of Klineburger's December 13, 2012 letter to JAMS is attached as **Exhibit J.**)

81. That same day, Klineburger wrote to me, stating:

It seems that despite evert [SIC] effort on my part in indicating that we were not proceeding with the arbitration, the attorneys for Miss Universe and Donald Trump went ahead and had arbitration without anyone present on your behalf. I am not licensed to practice law in the State of New York. Therefore, I cannot give you advice on this arbitration matter.

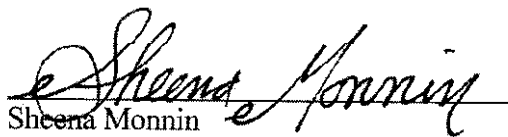
82. Needless to say I was shocked to receive Klineburger's letters stating that an arbitration hearing had been held in my absence, that he did not represent me in that matter, and that he allegedly did not possess the requisite license to do so.

83. I requested copies of all the papers filed with JAMS as well as a transcript of the hearing. (A true copy of the transcript of the November 5, 2012 arbitration proceedings is attached as **Exhibit K.**) I also requested and eventually received a copy of Klineburger's file.

84. Based on the foregoing, it is with the utmost respect that I request this Court dismiss the Petition and grant my cross-motion to vacate the Final Arbitration Award so that I am afforded the opportunity to defend against claims I did not know were made against me at a hearing I did not know occurred. Please do not enter a judgment that will financially devastate me for the rest of my life based on this record.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: February 5, 2013


Sheena Monnin