

Vered Ben Has Big Dreams

Toronto resident Vered Ben, 21, talks about her jewelry business.

Orit Alon, Translation Elad Benari

Vered Ben is 21-years-old and has already been in the business world for two years, selling fashion accessories through her company's website and running a stand at York University.

In the middle of her university studies, Vered decided to take a break, fly to Israel and study Pilates. Today she works both as a personal trainer and also runs her company, Vered Ben Inc. At first she wanted to open a sports accessories company but as there was no room in her home to store the goods,

she chose products that do not take up much space: jewelry and fashion accessories.

Her sister and friend currently serve as models and most of the marketing is done through networking on Facebook.

"At first I was skeptical about the success of online marketing but I received many positive reactions and today most of the advertising of the company's products is done through social media," she explains.

Vered, who was born in Israel and came to Canada at the age of eight, always makes sure to donate some of her profits to charity. "It gives me pleasure and my friends buy the



products and know that some of the proceeds go to a charitable association they chose," she says.

"I started when I was 19 years old and since then I have been combining business with studies," said Vered. "My enthusiasm strengthens my desire to continue to develop, and realize my dream of starting a business from scratch and growing together with it."

Suing an Ontario Defendant – Security for Costs

Tal lives in Tel Aviv. He invests \$500,000 with Allen for a business venture located in Toronto, Canada. An additional \$1,500,000.00 is borrowed and then Allen ignores Tal's calls and refuses to report about the business. Upon investigation, Tal finds out there was no business. Allen refuses to give Tal his money back and a lawsuit is launched. The first hurdle Tal will face is a motion brought by Allen for security for costs.

In Ontario, the loser of the lawsuit is often ordered to pay a portion of the winner's legal costs. Allen argues that if Tal loses his lawsuit there is a concern that any cost order against him would be unenforceable. In cases like this, the Ontario Rules of Civil Procedure provides a mechanism for the Ontario defendant to ask the court to order Tal to provide security for costs (FN1).

Allen will argue that Tal ordinarily resides outside Ontario, that there is good reason to believe that the lawsuit is frivolous and vexatious and/or that Tal has insufficient assets in Ontario to pay the costs of the defendant.

Tal might respond that the reason he has no assets in Ontario is because Allen

took it all for an apparently bogus business deal. Tal will argue that his claim has merit and that Israel has a statute (FN2) that provides for reciprocal enforcement of judgments so the risk of an unpaid cost order is minimized. Further, Tal has a home in Israel which is worth more than enough to satisfy any Ontario court cost order.

Under Ontario law a foreign plaintiff can possibly defeat an order for security by establishing that he has assets that can be used to satisfy a cost order in a reciprocating jurisdiction. However, Allen will argue that under Israeli law (FN3) there are restrictions on the ability to take someone's home away to pay a debt, so Tal should pay the security for costs. What would the court say?

There is a very interesting case relevant to our scenario that was heard by the Superior Court of Justice in Ontario called *Uribe v. Sanchez* (FN 4). In that case, a Florida plaintiff claimed he had no money to pay security for costs and that Florida had legislation permitting the enforcement of foreign money judgments that would include a judgment for costs made in Ontario. So, argued the plaintiff,

there was no risk to the defendant. The judge disagreed.

The problem with the Florida plaintiff's argument was that Florida law exempts a person's primary place of residence from such a judgment. In this case the court ruled that this does not meet the test as to sufficiency and quality of assets in the reciprocating jurisdiction. Despite the merits of the plaintiff's claim, the judge was not satisfied that the plaintiff could not post security or that the plaintiff would be prevented from pursuing a meritorious claim if he were required to do so. Would an Ontario Judge see the Israeli legislation called the "Execution Law" the same way? It provides that a property that is the family home is not to be sold unless the Execution Office is convinced that the family has reasonable alternate accommodation.

This short review of the case law should not be taken as legal advice. Based on my experience in dealing with these cases, they often turn on the specific facts. If you have a legal question relating to something similar, you are best advised to seek out competent legal counsel to determine your best course of action.

Charles B. Wagner is a partner at Wagner Sidlofsky LLP. This Toronto office is a boutique litigation law firm whose practice is focused on estate, commercial and tax litigation.



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What's On This Week

Shalom Centre invites you to a **Tu B'Shevat Seder** with Rabbi Yitzhak Aboudi. Kosher refreshments including dried fruits and wine will be served. Free admission. **Thursday, January 20 at 7:00pm at Shalom Centre, 361 Connie Cres., Concord.**

Shalom Centre invites you to an indoor movie evening, featuring the movie **De-spicable Me** (suitable for all ages). Fruit and chocolate will be served. Free admission. **Saturday, January 22 at 7:00pm at Shalom Centre, 361 Connie Cres., Concord.** For more information call **(905) 760-1888.**

Family Tu BiShvat Seder, Sunday January 23, 1:30pm-3:30pm. Have you ever been to a birthday party for the trees? You are invited to join in the Miles Nadal JCC festivities! For more information e-mail sarahbn@mnjcc.org or call **(416) 924-6211 x277.**

The Centre for **Jewish Education presents a Jewish Day Schools and High Schools Education Fair.** Come learn about the broad range of educational options available for your child in the Greater Toronto Area. A Parent Information Night for affiliated Day schools from across the GTA. **Thursday, January 27, 2011, 7:00-9:00pm at The Tamari Hall in The Lipa Green Centre, 4600 Bathurst Street.** For more information call **(416) 635-5600.**

The History of Jewish Publishing with Rabbi Mordechai Torczyner. Industrial espionage, forgeries, Church censorship! **Mondays, 6:00-7:00pm from January 17 to February 14** (skip Jan. 31) at the **Miles Nadal JCC.** Cost: \$20/series or \$5/lecture. For more information e-mail sharonis@mnjcc.org or call **(416) 924-6211 x154.**

Toronto Jewish Film Society presents **Unstrung Heroes** directed by **Diane Keaton** starring **Andie MacDowell** and **John Turturro** with **Maury Chaykin** and **Michael Richards.** Program dedicated to the memory of **Maury Chaykin** with guest speaker film critic **Kevin Courrier.** **Sunday, January 23 at 4:00 and 7:30pm** at the Al Green Theatre. For more information e-mail esthera@mnjcc.org or call **(416) 924-6211 x606.**

Media Mondays lectures with film clips presents **Surfing the New Waves: Contemporary New Wave Cinema.** Eye Magazine's film critic **Adam Nayman** examines the style and substance of recent art-house films. **Monday January 24 – USA New Wave Films.** Titles discussed include: *Old Joy*, *Wendy and Lucy* and *Ballast.* **7pm-9pm** at the **Miles Nadal JCC.** For more information e-mail esthera@mnjcc.org or call **(416) 924-6211 x606.**

Join Club Aliza for an evening of Israeli sing-along led by **Mickey Lewin** and Israeli dancing led by **Shoshana Frank.** **Saturday, March 5 at 7:30pm at Borochov Centre, 272 Codsell Avenue.** Light refreshments will be served. Admission is \$18 per person.

To see your event listed in this section email elad@shalomtoronto.ca