COMMISSION COUNSEL
BENCH BOOK

IN RE: JUDGE MICHAEL F. MCGUIRE
Judge of the County and Surrogate's Courts, an Acting Judge of the Family Court and Acting Justice of the Supreme Court
Sullivan County, State of New York

PLEADINGS & RULES

A. August 27, 2018 Formal Written Complaint
B. Respondent's October 12, 2018 Verified Answer to the August 27, 2018 Formal Written Complaint
C. Commission Counsel's Witness List

COMMISSION COUNSEL'S EXHIBIT LIST

Charge I

Exhibit No.	Description of Exhibit	Binder
Ex I-1	Certified Sullivan County Family Court File for *O*[redacted] *v R*[redacted]	
Ex I-1a	Court Activity File for the December 18, 2013 proceeding in *O*[redacted] *v R*[redacted]	
Ex I-1b	December 24, 2013 Order in *O*[redacted] *v R*[redacted]	
Ex I-1c	December 24, 2013 Order of Dismissal in *O*[redacted] *v R*[redacted]	
Ex I-2	Certified Sullivan County Family Court Audio recording for the December 18, 2013 proceeding in *O*[redacted]*e v R*[redacted]	

Ex I-2a	Transcript of the audio recording of the December 18, 2013 *O*[redacted] *v R*[redacted] proceeding	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	
Ex I–3a	P. 228, Li. 17-20 and exhibits 28 and 29 from prior testimony to provide context for Exhibits Ex I – 3b and 3c	
Ex I–3b	P. 233, Li. 21-22	
Ex I–3c	P. 234, Li. 2-12	

Charge II

Ex II–1	Certified Sullivan County Court File for *People v Goncalves*	
Ex II-1a	August 28, 2013 Uniform Sentence & Commitment form for *People v Goncalves*	
Ex II–1b	September 24, 2013 Clerk's Sentence Sheet for *People v Goncalves*	
Ex II–2	Certified transcript of the August 28, 2013 court proceeding in *People v Goncalves*	
Ex II-3	Certified transcript of the September 24, 2013 court proceeding in *People v Goncalves*	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

Ex II-4a	P. 305, Li. 18-22 and exhibit 49 from prior testimony to provide context for Exhibits Ex II – 4c - d	
Ex II-4b	P. 309, Li. 19- P. 310, Li. 17	
Ex II-4c	P. 318, Li. 11-13	
Ex II-4d	P. 318, Li. 23-24	

Charge III

Ex III-1	Certified Sullivan County Family Court File for *Z*[redacted] *v F*[redacted]	
Ex III-2	Certified Sullivan County Family Court Audio recording of the October 3, 2012 10:03 a.m. proceeding in *Z*[redacted] *v F*[redacted]	
Ex III-2a	Transcript of the audio recording of the October 3, 2012 10:03 a.m. *Z*[redacted] *v F*[redacted] proceeding	
Ex III-3	Certified Sullivan County Family Court Audio recording of the October 3, 2012, 11:58 a.m. proceeding in *Z*[redacted] *v F*[redacted]	
Ex III-3a	Transcript of the audio recording in the October 3, 2012, 11:58 proceeding in *Z*[redacted] *v F*[redacted]	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	
Ex III-4a	P. 168, Li. 12-19 and prior testimony Exhibits 19 and 20 to provide context for Exhibits III-4b-f	
Ex III-4b	P. 174, Li 21 – P. 175, Li. 4	

Ex III-4c	P. 175, Li. 15-22	
Ex III-4d	P. 180, Li 16-17	
Ex III-4e	P. 183, Li. 21-23	
Ex III-4f	P. 188, Li 15-20	

Charge IV

Ex IV-1	Certified Sullivan County Family Court File for *L*[redacted] *v C*[redacted] *and B*[redacted]	
Ex IV-2	Certified Sullivan County Family Court Audio recording of the June 14, 2013, 10:45 a.m. proceeding in *L*[redacted] *v C*[redacted] *and B*[redacted]	
Ex IV-2a	Transcript of the audio recording of the June 14, 2013, 10:45 a.m. proceeding in *L*[redacted] *v C*[redacted] *and B*[redacted]	
Ex IV–3	Certified Sullivan County Family Court Audio recording of the June 14, 2013, 12:01 p.m. proceeding in *L*[redacted] *v C*[redacted] *and B*[redacted]	
Ex IV-3a	Transcript of the audio recording of the June 14, 2013, 12:01 p.m. proceeding in *L*[redacted] *v C*[redacted] *and B*[redacted]	
Ex IV-4	Certified copy of the June 14, 2013 Aided Report for T[redacted] L[redacted]	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

Ex IV-5a	P. 191, Li. 3-7 and exhibit 21 from prior testimony to provide context for Exhibits IV-5b-e	
Ex IV-5b	P. 194, Li. 16- P. 195, Li 2	
Ex IV-5c	P. 196, Li. 7- 22	
Ex IV-5d	P. 197, Li 2-14	
Ex IV-5e	P. 197, Li. 22-25	

Charge V

Ex V-1	Certified Sullivan County Family Court File for *G*[redacted] *v C*[redacted]	
Ex V-2	Certified Sullivan County Family Court Audio recording of the January 17, 2014, 10:47 a.m. proceeding in *G*[redacted] *v C*[redacted]	
Ex V-2a	Transcript of the audio recording of the January 17, 2014, 10:47 a.m. proceeding in *G*[redacted] *v C*[redacted]	
Ex V-3	Certified Sullivan County Family Court Audio recording of the January 17, 2014, 11:06 a.m. proceeding in *G*[redacted] *v C*[redacted]	
Ex V-3a	Transcript of the audio recording of the January 17, 2014, 11:06 a.m. proceeding in *G*[redacted] *v C*[redacted]	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

Ex V-4a	P. 203, Li. 19-22 and exhibits 24 and 25 from prior testimony to provide context for Exhibits V-4b-e	
Ex V-4b	P. 207, Li. 10-16	
Ex V-4c	P. 208, Li. 12- P. 209, Li. 9	
Ex V-4d	P. 211, Li, 13-18	
Ex V-4e	P. 217, Li 1-2	

Charge VI

Ex VI-1	Certified Sullivan County Family Court File for *F*[redacted] *v K*[redacted] *and K*[redacted]	
Ex VI-2	Certified Sullivan County Family Court Audio recording of the December 2, 2014, 2:05 p.m. proceeding in *F*[redacted] *v K*[redacted] *and K*[redacted]	
Ex VI-2a	Transcript of the audio recording of the December 2, 2014, 2:05 p.m. proceeding in *F*[redacted] *v K*[redacted] *and K*[redacted]	
Ex VI-3	Certified Sullivan County Family Court Audio recording of the December 2, 2014, 3:30 p.m. proceeding in *F*[redacted] *v K*[redacted] *and K*[redacted]	
Ex VI-3a	Transcript of the audio recording of the December 2, 2014, 3:30 p.m. proceeding in *F*[redacted] *v K*[redacted] *and K*[redacted]	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

Ex VI-4a	P. 217, Li. 7-10 and exhibit 26 and 27 from prior testimony to provide context for Exhibits VI-4b-f	
Ex VI-4b	P. 219, Li. 6- p. 220, Li. 4	
Ex VI-4c	P. 221, Li. 19 – p. 222, Li 5	
Ex VI-4d	P. 222, Li 12-18	
Ex VI-4e	P. 224, Li 8-11	
Ex VI-4f	P. 227, Li. 12 – P. 228, Li. 7	

Charge VII

	Documents relating to *P*[redacted] *v P*[redacted] *& R*[redacted]	
EX VII-1	Certified Sullivan County Family Court Audio recording of the January 28, 2013 proceeding in *P*[redacted] *v P*[redacted] *& R*[redacted]	
Ex VII-1a	Transcript of the audio recording of the January 28, 2013 proceeding in *P*[redacted] *v P*[redacted] *& R*[redacted]	
Ex VII-2	Certified Sullivan County Family Court Audio recording of the March 5, 2013, 1:37 p.m. proceeding in *P*[redacted] *v P*[redacted] *& R*[redacted]	
Ex VII-2a	Transcript of the audio recording of the March 5, 2013, 1:37 p.m. proceeding in *P*[redacted] *v P*[redacted] *& R*[redacted]	
Ex VII-3	Certified copy of the January 28, 2013 Aided Report for S[redacted] R[redacted]	
ExVII-4	Certification for Sullivan County Family Court file in *P*[redacted] *v P*[redacted]*/R*[redacted] court file	

Ex VII-4a	Court Activity File for the January 28, 2013 proceeding in *F*[redacted] *v F*[redacted] *& R*[redacted]	
	Documents relating to *DFS v E*[redacted] *and F*[redacted]	
Ex VII-5	Certified Sullivan County Family Court Audio recording of the November 7, 2014, 10:07 a.m. proceeding in *DFS v E*[redacted] *and F*[redacted]	
Ex VII-5a	Transcript of the audio recording of the November 7, 2014, 10:07 a.m. proceeding in *DFS v E*[redacted] *and F*[redacted]	
	Documents relating to *V*[redacted] *v G*[redacted]	
Ex VII-6	Certified Sullivan County Family Court Audio recording of the August 21, 2014, 9:23 a.m. proceeding in *V*[redacted] *v G*[redacted]	
Ex VII-6a	Transcript of the audio recording of the August 21, 2014, 9:23 a.m. proceeding in *V*[redacted] *v G*[redacted]	
Ex VII-7	Certified Sullivan County Family Court Audio recording of the August 21, 2014, 9:58 a.m. proceeding in *V*[redacted] *v G*[redacted]	
Ex VII-7a	Transcript of the audio recording of the August 21, 2014, 9:58 a.m. proceeding in *V*[redacted] *v G*[redacted]	
Ex VII-8	Certification for Sullivan County Family Court file in *V*[redacted] *v G*[redacted]	
Ex VII-8a	Final Order on Petition for Custody in *V*[redacted] *v G*[redacted] dated August 21, 2014	
Ex VII-9	*V*[redacted] *v G*[redacted], 130 AD3d 1215 (3rd Dept)	

	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	
Ex VII-10a	P. 256, Li. 9-12 and Exhibit 36 from prior testimony to give context for Exhibit VII-11b	
Ex VII-10b	P. 264, Li. 4 - 23	

Charge VIII

Ex VIII-1	Certified Copy of the Sullivan County Court January 14, 2015 Criminal Day Calendar	
	Documents relating to *DFS v N*[redacted]	
Ex VIII-2	Certified Sullivan County Family Court Audio recording of the June 29, 2012 proceeding in *DFS v N*[redacted]	
Ex VIII-2a	Transcript of the audio recording of the June 29, 2012 proceeding in *DFS v N*[redacted]	
	Documents relating to *DFS v E*[redacted]	
Ex VIII-3	Certified Sullivan County Family Court Audio recording of the February 25, 2013 proceeding in *DFS v E*[redacted][1]	
Ex VIII-3a	Transcript of the audio recording of the February 25, 2013 proceeding in *DFS v E*[redacted]	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

[1] The court case is also referred to as *H*[redacted] *v B*[redacted].

Ex VIII-4a	P. 82, Li 8-14 and Exhibit 11 to provide context to Exhibits VIII-4b -4c	
Ex VIII-4b	P. 87, Li. 5-12	
Ex VIII-4c	P. 97, Li. 13-16	
Ex VIII-4d	P. 106, Li. 16-21	
Ex VIII-4e	P. 122, Li. 15-17 to provide context to Exhibits 4f-4g	
Ex VIII-4f	P. 127, Li. 20 – P. 128, Li. 4	
Ex VIII-4g	P. 132, Li. 8-14	

Charge IX

Ex IX-1	Certified Sullivan County Family Court File for *M*[redacted] *v H*[redacted]	
Ex IX-2	Certified Sullivan County Family Court Audio recording of the March 10, 2014 proceeding in *M*[redacted] *v H*[redacted]	
Ex IX-2a	Transcript of the audio recording of the March 10, 2014 proceeding in *M*[redacted] *v H*[redacted]	

Charge X

	Documents relating to *People v W[redacted] M[redacted]*	
Ex X-1	Certified Oneonta City Court file in *People v W[redacted] M[redacted]*	
Ex X-1a	December 2, 2012 letter, Notice of Appearance and Affirmation of Actual Engagement in *People v W[redacted] M[redacted]*	
Ex X-1b	December 2, 2012 letter from Respondent to Chief Clerk, City of Oneonta Court in *People v W[redacted] M[redacted]*	
Ex X-1c	December 8, 2012 letter from Respondent to Chief Clerk, City of Oneonta Court in *People v W[redacted] M[redacted]*	
Ex X-1d	April 8, 2013 letter, Notice and Omnibus Motion in *People v W[redacted] M[redacted]*	
Ex X-1e	August 4, 2013 letter and Reply Affirmation in *People v W[redacted] M[redacted]*	
Ex X-1f	Judge Richard W. McVinney Decision and Order in *People v W[redacted] M[redacted]*	
Ex X-1g	Court notes in *People v W[redacted] M[redacted]*	
Ex X-2	Certified Oneonta City Court Audio recording of the February 26, 2013 proceeding in *People v W[redacted] M[redacted]*	
Ex X-2a	Transcript of the audio recording of the February 26, 2013 proceeding in *People v W[redacted] M[redacted]*	
	Documents relating to *People v Corinne McGuire*	

Ex X-3	Certified Town of Wawarsing Justice Court file in *People v Corinne McGuire*	
Ex X-3a	July 25, 2011 letter from Respondent to Judge Charles Dechon in *People v Corinne McGuire*	
	Documents relating to George Matisko	
Ex X-4	March 17, 2010 letter from Respondent to Progressive Insurance regarding George Matisko	
Ex X-5	August 4, 2010 letter from Respondent to Lorraine Grohs regarding George Matisko	
Ex X-6	January 20, 2011 letter from Respondent to Progressive Insurance regarding George Matisko	
EX X-7	January 21, 2011 letter from Progressive Insurance to Respondent regarding George Matisko	
Ex X-8	October 7, 2011 letter from Progressive insurance to Respondent regarding George Matisko	
Ex X-9	October 7, 2011 letter from Progressive Insurance to Respondent regarding George Matisko	
Ex X-10	December 23, 2011 letter from Wendy Weiner to Progressive Insurance and George Matisko's Release	
Ex X-11	January 25, 2012 letter from Respondent to Progressive Insurance regarding George Matisko	

Ex X-12	Insurance claim bank check payable to George Matisko and Respondent	
Ex X-13	Claim Payment Inquiry regarding George Matisko	
Ex X-14	Progressive Insurance activity log	
Ex X-15	November 30, 20111 email between Wendy Weiner and Progressive Insurance	
	Documents relating to the Moore property	
Ex X-16	Ulster County certified copy of Deed, 2014-13069 relating to the Moore property	
Ex X-17	July 30, 2014 letter from Kenneth McGuire relating to the Moore property	
Ex X-18	Residential Contract of Sale relating to the Moore property	
Ex X-19	July 28, 2014 email from Mary Ann Schultz relating to the Moore property	
Ex X-20	August 12, 2014, 1:42 p.m. email from Mary Ann Schultz relating to the Moore property	
Ex X-21	August 12, 2014, 1:59 p.m. email from Mary Ann Schultz relating to the Moore property	
Ex X-22	August 25, 2014, 2:19 p.m. email from Mary Ann Schultz relating to the Moore property	
Ex X-23	August 25, 2014 email, 8:09 p.m. to Mary Ann Schultz relating to the Moore property	
Ex X-24	August 26, 2014, 5:16 a.m. email to Mary Ann Schultz relating to the Moore property	

Ex X-25	August 26, 2014, 8:09 a.m. email to Mary Ann Schultz relating to the Moore property	
Ex X-26	August 25, 2014 through August 26, 2014, email chain between Respondent, Mary Ann Schultz and Jeff Dolfinger relating to the Moore property	
Ex X-27	August 26, 2014, 7:59 a.m. email from Jeff Dolfinger relating to the Moore property	
Ex X-28	August 26, 2014 through September 3, 2014 email chain between Mary Ann Schultz and Respondent relating to the Moore property	
Ex X-29	August 26, 2014 through September 9, 2014 email chain between Mary Ann Schultz and Respondent relating to the Moore property	
Ex X-30	August 26, 2014 through September 19, 2014 email chain between Mary Ann Schultz and Respondent relating to the Moore property	
Ex X-31	August 27, 2014, email from Jeff Dolfinger relating to the Moore property	
Ex X-32	August 27, 2014, through August 28, 2014 email chain between Mary Ann Schultz and obieinky@[redacted]	
Ex X-33	August 27, 2014, through August 28, 2014 email chain between Mary Ann Schultz, Jeff Dolfinger and obieinky@[redacted]	
Ex X-34	September 3, 2014 through September 18, 2014 email chain between Mary Ann Schultz and Respondent relating to the Moore property	

Ex X-35	August 28, 2014 email from Robin DeCarlo relating to the Moore property	
Ex X-36	August 5, 2014 email from Wendy Weiner to Sarah Katzman	
Ex X-37	January 7, 2015 email from Wendy Weiner to Respondent	
	Documents relating to Ricky Pagan	
Ex X-38	Certified Sullivan County record of Mortgage for Instrument No. 2010-56498, Ricky Pagan's property	
Ex X-39	Certified Sullivan County record of Deed for Instrument No. 2013-8812, Ricky Pagan's property	
	Documents relating to *People v Lockwood*	
Ex X-40	Certified Liberty Town Court file in *People v Lockwood*	
Ex X-40a	Traffic ticket regarding *People v Lockwood*	
Ex X-40b	June 19, 2010 letter and Notice of Appearance regarding *People v Lockwood*	
Ex X-40c	January 4, 2011 letter regarding *People v Lockwood*	
Ex X-40d	February 1, 2011 letter regarding *People v Lockwood*	
Ex X-40e	August 5, 2011 letter and attachment regarding *People v Lockwood*	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	

Ex X-41a	P. 19, li. 4-21 and Exhibit 2 from prior testimony to provide context for Exhibit X-39a	
Ex X-41b	P. 13, Li. 9-18	
Ex X-41c	P. 14, Li. 7- 25	
Ex X-41d	P. 24, Li 5 – P. 25, Li. 3	
Ex X-41e	P. 26, li. 2-3	
Ex X-41f	P. 26, Li 6 -19	
Ex X-41g	P. 27, Li. 3-5	
Ex X-41h	P. 27, li 21- P. 28, Li. 5	
Ex X-41i	P. 340, Li. 21- P. 341, Li.12	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to the Moore property	
Ex X-42a	P. 342, Li 16-P. 343, Li. 15	
Ex X-42b	P. 347, Li. 3-15	
Ex X-42c	p. 353, Li. 6-9	
Ex X-42d	Exhibit 63 from prior testimony to provide context for Exhibit X-44n	
Ex X-42e	P. 353, Li. 19-23	
Ex X-42f	Exhibit 66 from prior testimony to provide context for Exhibits X-45g – 45h	
Ex X-42g	P. 355, Li. 11-18	
Ex X-42h	P. 355, Li. 25- P. 356, Li. 7	
Ex X-42i	P. 356, Li. 8-13	

Ex X-42j	Exhibit 67 from prior testimony to provide context for Exhibit X-45k	
Ex X-42k	P. 357, Li 5-16	
Ex X-42l	Exhibit 68 from prior testimony to provide context for Exhibit X-45m	
Ex X-42m	P. 357, Li. 25-P. 358, Li. 11	
Ex X-42n	Exhibit 69 from prior testimony to provide context for Exhibits X-45o and 45p	
Ex X-42o	P. 359, Li. 9-P. 360, Li 1	
Ex X-42p	P. 360, Li. 24-P. 362, Li 8	
Ex X-42q	P. 387, Li 12-15	
Ex X-42r	P. 389, Li 4-21	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Ricky Pagan	
Ex X-43a	Exhibit 80 from prior testimony to provide context for Exhibit X-46b -46d	
Ex X-43b	P. 390, Li 17-23	
Ex X-43c	P. 391, Li 7 – P. 392, Li. 7	
Ex X-43d	P. 392, Li 24 -P. 393, Li 1	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to George Matisko	
Ex X-44a	Exhibit 84 from prior testimony to provide context for Exhibit X-47b	
Ex X-44b	P. 405, Li. 8-17	

Ex X-44c	Exhibit 87 from prior testimony to provide context for Exhibit X-47d	
Ex X-44d	P. 406, Li 23-P. 407, Li 18	
Ex X-44e	Exhibit 95 from prior testimony to provide context for Exhibits X-47f	
Ex X-44f	P. 418, Li, 12-16	
Ex X-44g	Exhibit 96 from prior testimony to provide context for Exhibit X-47h	
Ex X-44h	P. 419, Li. 2-17	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Corinne McGuire	
Ex X-45a	Exhibits 97, 98, 99 and 100 from prior testimony to provide context for Exhibits X-48b	
Ex X-45b	P. 424, Li. 20- P. 425, Li. 5	
Ex X-45c	P. 427, Li. 6 – P. 428, Li. 1	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Christopher Lockwood	
Ex X-46a	P. 431, Li 14-17 and Exhibit 103 to provide context for X-49b through 49d	
Ex X-46b	P. 436, Li. 2-24	
Ex X-46c	P. 437, Li. 11-18	
Ex X-46d	P. 439, Li. 15-17	

	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to *People v W*[redacted] *M*[redacted]	
Ex X-47a	P. 528, Li. 22-25 to provide context for Exhibits X-50b through X-50p	
Ex X-47b	Exhibit 139 to provide context for Exhibit X-50c	
Ex X-47c	P. 532, Li. 9 – P. 533, Li. 23	
Ex X-47d	Exhibit 141 to provide context for Exhibit X-50e	
Ex X-47e	P. 538, Li. 15 – P. 539, Li. 1	
Ex X-47f	Exhibit 142 to provide context for Exhibits X-50g and X-50h	
Ex X-47g	P. 539, Li. 18 – P. 540, Li. 20	
Ex X-47h	P. 541, Li 5-13	
Ex X-47i	Exhibit 143 to provide context for Exhibit X-50j	
Ex X-47j	P. 540, Li. 21 - - P. 541, Li. 4	
Ex X-47k	Exhibit 144 to provide context for Exhibits X-50l and X-50m	
Ex X-47l	P. 541, Li. 14 – P. 542, Li. 22	
Ex X-47m	P. 543, Li. 20 – p. 545, Li. 6	
Ex X-47n	Exhibit 146 to provide context for Exhibits X-50o	
Ex X-47o	P. 546, Li. 1-12	
Ex X-47p	Exhibit 147 to provide context for Exhibits X-50q	

Ex X-47q	P. 547, Li. 17-24	

Charge XI

	Documents relating to W[redacted] M[redacted]	
Ex XI-1	November 21 through November 23, 2012 email chain regarding W[redacted] M[redacted]	
Ex XI-2	November 20 through November 29, 2012 email chain and attachment regarding W[redacted] M[redacted]	
Ex XI-3	November 28 through December 3, 2012 email chain regarding W[redacted] M[redacted]	
Ex XI-4	February 26 through February 28, 2013 email chain regarding W[redacted] M[redacted]	
	Documents relating to *People v Tina P. McTighe*	
Ex XI-5	Certified Richmondville Town Court file for *People v Tina P. McTighe*	
Ex XI-6	October 11, 2012 email and attachment regarding Tina McTighe	
Ex XI-7	October 11 through October 13, 2012 email chain regarding Tina McTighe	
Ex XI-8	November 7 through November 8, 2012 email chain and attachment regarding Tina McTighe	
	Documents relating to *County of Sullivan v Estate of Lydia Fernandez*	

Ex XI -9	Certified Liberty Town Court file for *County of Sullivan v Estate of Lydia Fernandez*	
Ex XI-10	April 19, 2012 emails regarding *County of Sullivan v Estate of Lydia Fernandez*	
Ex XI-11	January 21 through July 3, 2014 email chain and attachments regarding *County of Sullivan v Estate of Lydia Fernandez*	
Ex XI-12	July 29 through July 30, 2014 email chain regarding *County of Sullivan v Estate of Lydia Fernandez*	
Ex XI-13	October 1, 2014 email regarding *County of Sullivan v Estate of Lydia Fernandez*	
	Documents relating to *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex XI-14	Certified Town of Goshen Court file for *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex Xi-14a	October 28, 2014 letter and Notice of Appearance in *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex XI-15	October 27 through December 8, 2014 email chain and attachments regarding *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex XI-16	October 27 through October 31 email chain regarding *Eye Physicians of Orange County v Gerardo Fernandez*	

Ex XI-17	May 26, 2015 email and attachment regarding *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex XI-18	December 11 through December 6, 2015 email chain regarding *Eye Physicians of Orange County v Gerardo Fernandez*	
Ex XI-19	May 28, 2015 email regarding *Eye Physicians of Orange County v Gerardo Fernandez*	
	Documents relating to *People v Amoroso*	
Ex XI-20	Certified Plattekill Town Justice Court file for *People v Amoroso*	
Ex XI-20a	Affidavit in *People v Amoroso*	
Ex XI-21	August 8 through August 10, 2011 email chain and attachment regarding *People v Amoroso*	
Ex XI-22	November 30, 2011 email regarding *People v Amoroso*	
Ex XI-23	April 3, 2012 email and attachment regarding *People v Amoroso*	
Ex XI-24	June 18 through June 19, 2012 email regarding *People v Amoroso*	
	Documents relating to *People v Willie Williams*	
Ex XI-25	Certified Fallsburg Justice Court file in *People v Willie Williams*	
Ex XI-26	May 21 through May 23, 2012 email regarding *People v Willie Williams*	
	Documents relating to Lori Shepish	

Ex XI-27	March 12 through May 28, 2015 email chain regarding Lori Shepish	
	Documents relating to Zachary Kelson, Esq.	
Ex XI-28	October 2015 check to R[redacted] K[redacted]	
	Documents relating to *Massey v Sullivan County Board of Elections*	
Ex XI-29	Certification for Sullivan County Supreme Court file in *Massey v Sullivan County Board of Elections*	
Ex XI-29a	Objections in Point of Law and Verified Answer in *Massey v Sullivan County Board of Elections*	
Ex XI-29b	January 24, 2014 court transcript in *Massey v Sullivan County Board of Elections*	
	Documents relating to *FIA Card Services v Fishbain*	
Ex XI-30	Certification for Sullivan County Supreme Court file in *FIA Card Services v Fishbain*	
Ex XI-30a	May 22, 2014, Answer in *FIA Card Services v Fishbain*	
Ex XI-30b	September 16, 2014 Motion to Amend in *FIA Card Services v Fishbain*	
Ex XI-30c	October 20, 2014 Decision/Order in *FIA Card Services v Fishbain*	
Ex XI-30d	October 30, 2014 Order in *FIA Card Services v Fishbain*	
Ex XI-30e	July 18, 2016 Decision in *FIA Card Services v Fishbain*	

Ex XI-30f	August 1, 2016 Judgment in *FIA Card Services v Fishbain*	
	Documents relating to *Miller v Assessor of the Town of Liberty, Index No. 2013-1906*	
Ex XI-31	Certification for Sullivan County Supreme Court file in *Miller v Assessor of the Town of Liberty, Index No. 2013-1906*	
Ex XI-31a	Notice and Petition for *Miller v Assessor of the Town of Liberty, Index No. 2013-1906*	
Ex XI-31b	September 9, 2013 Tax Assessment Review Proceeding for *Miller v Assessor of the Town of Liberty, Index No. 2013-1906*	
	Documents relating to *Miller v Assessor of the Town of Liberty, Index No. 2014 – 1792*	
Ex XI-32	Certification for Sullivan County Supreme Court file in *Miller v Assessor of the Town of Liberty, Index No. 2014 – 1792*	
Ex XI-32a	Request for Judicial Intervention for *Miller v Assessor of the Town of Liberty, Index No. 2014 - 1792*	
Ex XI-32b	Notice and Petition for *Miller v Assessor of the Town of Liberty, Index No. 2014 - 1792*	
	Documents relating to *Two Sullivan Street v Assessor of the Town of Liberty*	
Ex XI-33	Certification for Sullivan County Supreme Court file in *Two Sullivan Street v Assessor of the Town of Liberty*	
Ex XI-33a	Notice and Petition for *Two Sullivan Street v Assessor of the Town of Liberty*	

Ex XI-33b	September 9, 2013 Tax Assessment Review Proceeding for *Two Sullivan Street v Assessor of the Town of Liberty*	
	Documents relating to *Sam's Towing Recovery v Assessor of the Town of Liberty*	
Ex XI-34	Certification for Sullivan County Supreme Court file in *Sam's Towing Recovery v Assessor of the Town of Liberty*	
Ex XI-34a	Notice and Petition for *Sam's Towing Recovery v Assessor of the Town of Liberty*	
Ex XI-34b	September 9, 2013 Tax Assessment Review Proceeding for *Sam's Towing Recovery v Assessor of the Town of Liberty*	
	Documents relating to *DFS v F[redacted]/P[redacted]*	
Ex XI-35	Certification for Sullivan County Family Court file in *DFS v F[redacted]/P[redacted]*	
Ex XI-35a	December 12, 2013 Order Appointing Attorney for the Child in *DFS v F[redacted]/P[redacted]*	
Ex XI-35b	December 12, 2013 Order (Directing Temporary Removal of Child – After Petition Filed) in *DFS v F[redacted]/P[redacted]*	
Ex XI-35c	August 11, 2014 Determination Upon Fact-Finding in *DFS v F[redacted]/P[redacted]*	
Ex XI-35d	August 11, 2014 Order of Disposition in *DFS v F[redacted]/P[redacted]*	
Ex XI-35e	October 8, 2014 Permanency Hearing Order in *DFS v F[redacted]/P[redacted]*	

Ex XI-35f	October 27, 2014 Permanency Hearing Order in *DFS v F*[redacted]*/P*[redacted]	
Ex XI-35g	April 2, 2015 Permanency Hearing Order in *DFS v F*[redacted]*/P*[redacted]	
Ex XI-35h	July 28, 2015 Permanency Hearing Order in *DFS v F*[redacted]*/P*[redacted]	
Ex XI-35i	December 22, 2015 Permanency Hearing Order in *DFS v F*[redacted]*/P*[redacted]	
Ex XI-36	May 5, 2016 email regarding *DFS v F*[redacted]*/P*[redacted]	
	Documents relating to *DFS v C*[redacted]	
Ex XI-37	Certification for Sullivan County Family Court file in *DFS v C*[redacted]	
Ex XI-37a	April 5, 2013 Order Appointing Attorney for the Child in *DFS v C*[redacted]	
Ex XI-37b	April 23, 2013 Order (Directing Temporary Removal of Child – After Petition Filed) in *DFS v C*[redacted]	
Ex XI-37c	June 11, 2013 Order of Dismissal in *DFS v C*[redacted]	
Ex XI-37d	August 15, 2015 Order to Show Cause in *DFS v C*[redacted]	
Ex XI-37e	November 19, 2013 Order of Disposition in *DFS v C*[redacted]	
Ex XI-37f	April 24, 2013 Judicial subpoena in *DFS v C*[redacted]	
Ex XI-37g	April 24, 2013 Judicial Subpoena in *DFS v C*[redacted]	

Ex XI-37h	March 19, 2016 email and attachments in *DFS v C*[redacted]	
Ex XI-37i	January 30, 2018 Permanency Hearing Order in *DFS v Co*[redacted]	
Ex XI-38	Certified Sullivan County Family Court Audio recording for the October 28, 2014 proceeding in *DFS v C*[redacted] *and C*[redacted]	
Ex XI-38a	Transcript of the audio recording pf the October 28, 2014 proceeding in *DFS v C*[redacted] *and C*[redacted]	
	Documents relating to *Dean v Boyes*	
Ex XI-39	Sullivan County Clerk certified copy of Deed – 3336/242 regarding the Boyes property	
Ex XI-40	Certification for Sullivan County Supreme Court file in *Dean v Boyes*	
Ex XI-40a	February 5, 2013 letter from Henri Shawn to Sarah Katzman regarding *Dean v Boyes*	
Ex XI-40b	April 24, 2014 Decision & Order in *Dean v Boyes*	
Ex XI-41	Sullivan County Court Clerk certified records of the August 22, 2014 Notice of Motion in *Dean v Boyes*	
Ex XI-42	Sullivan County Court Clerk certified records of the August 22, 2014 Affirmation in Support in *Dean v Boyes*	
Ex XI-43	Sullivan County Court Clerk certified records of the August 22, 2014 Affidavit in Support in *Dean v Boyes*	

Ex XI-44	Sullivan County Court Clerk certified records of the October 23, 2014 Decision and Order in *Dean v Boyes*	
Ex XI-45	Certified transcript of the February 13, 2013 court proceeding in *Dean v Boyes*	
Ex XI-46	Checks and proposals regarding work conducted by Boyes & Torrens Construction, Inc for Mary Grace Conneely	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Zachary Kelson	
Ex XI-47a	P. 466, Li. 1-6	
Ex XI-47b	P. 467, Li 16-19	
Ex XI-47c	Exhibit 114 from prior testimony to provide context for Exhibit XI -49d	
Ex XI-47d	P. 468, Li. 6-21	
Ex XI-47e	P. 469, Li. 19-21	
Ex XI-47f	P. 559, Li. 6-21	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Lindsay Amoroso	
Ex XI-48a	P. 474, Li. 25 – P. 474, Li. 3 to provide context for Exhibits XI-50b through XI-50j	
Ex XI-48b	Exhibit 115 to provide context for Exhibits XI-50c through 50f	
Ex XI-48c	P. 476, Li. 3-9	
Ex XI-48d	P. 477, Li. 1-2	

Ex XI-48e	P. 477, Li. 15-18	
Ex XI-48f	P. 478, Li. 3-9	
Ex XI-48g	Exhibit 118 115 to provide context for Exhibit XI-50h	
Ex XI-48h	P. 480, Li. 17-P. 481, Li 7	
Ex XI-48i	Exhibit 121 to provide context for Exhibit XI-50j	
Ex XI-48j	P. 484, Li. 15-P. 485, Li. 1	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Jerry Fernandez	
Ex XI-49a	P. 486, Li. 15-18 to provide context for Exhibits XI-51b through XI 51r	
Ex XI-49b	P. 486, Li. 25-P. 487, Li. 4 to provide context for Exhibits XI-51c through XI-51h	
Ex XI-49c	P. 489, Li. 9-15	
Ex XI-49d	Exhibits 124 and 125 to provide context for Exhibit XI-51e	
Ex XI-49e	P. 491, Li. 3-10	
Ex XI-49f	P. 496, Li. 4-6	
Ex XI-49g	Exhibit 126 to provide context for Exhibit XI-51h	
Ex XI-49h	P. 496, Li 7 – P. 497, Li. 2	
Ex XI-49i	P. 499, Li. 9-13 to provide context for Exhibits XI-51j and XI-51w	
Ex XI-49j	Exhibit 129 to provide context for Exhibits XI-51k and XI-51l	

Ex XI-49k	P. 500, Li. 22 – P. 501, Li. 18	
Ex XI-49l	P. 518, Li 23-P. 519, Li 21	
Ex XI-49m	P. 504, Li. 24 – P. 505, Li. 9	
Ex XI-49n	P. 505, Li..24 – P. 505, Li. 9	
Ex XI-49o	P. 507, Li. 18 - P. 508, Li. 2	
Ex XI-49p	Exhibit 131 to provide context for Exhibits XI-51q and XI-51r	
Ex XI-49q	P. 515, Li. 10- P. 516, Li. 6	
Ex XI-49r	P. 517, Li. 14-20	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Tina McTighe	
Ex XI-50a	P. 520, Li. 14-17 to provide context for Exhibits XI-50b through 50g	
Ex XI-50b	Exhibit 134 to provide context for Exhibit XI-51c	
Ex XI-50c	P. 521, Li. 22 - P. 523, Li. 3	
Ex XI-50d	Exhibit 135 to provide context for Exhibit XI-51e	
Ex XI-50e	P. 523, Li. 8 – P. 524, Li. 2	
Ex XI-50f	Exhibit 137 to provide context for Exhibit XI-51g	
Ex XI-50g	P. 527, Li. 24 – P. 528, Li. 21	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to Willie Williams	

Ex XI-51a	P. 549, Li. 24-25 to provide context for Exhibit XI-52b through XI-52d	
Ex XI-51b	P. 550, Li. 10 - -P. 551. Li. 7	
Ex XI-51c	Exhibit 149 to provide context for Exhibit XI-55d	
Ex XI-51d	P. 552, Li. 18-25	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to *DFS v F*[redacted]*/P*[redacted]	
Ex XI-52	P. 560, Li. 18 – P.561, Li. 10	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to *DFS v C*[redacted]	
Ex XI-53	P. 564, Li. 1-20	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017 relating to *Dean v Boyes*	
Ex XI-54a	P. 570, Li. 18-21 and Exhibit 155 to provide context for Exhibits XI-55b through XI55d	
Ex XI-54b	P. 572, Li. 23 – P. 573, Li. 8	
Ex XI-54c	P. 575, Li. 21 – P. 576, Li. 2	
Ex XI-54d	P. 578, Li. 9-15	

Charge XII

Ex XII-1	2013 Pistol Permits	
Ex XII-1a	September 7, 2013 Pistol Permit Interview Schedule	

Ex XII-2	2014 Pistol Permits	

Charge XIII

Ex XIII -1	February 22, 2011 email from Obieinky to Wendy Weiner	
	Statements from Respondent's testimony on June 12, 2017, June 19, 2017 and June 23, 2017	
Ex XIII-2a	P. 16, Li. 24 -P. 17, Li. 2	
Ex XIII-2b	P. 17, Li 16- P. 18, Li. 1	
Ex XIII-2c	P. 18, Li. 2-5	
Ex XIII-2d	P.23, Li. 11-14	
Ex XIII-2e	P. 74, Li. 0 P. 75, Li. 1	

Photographs

Ex PH-1	Respondent's courtroom in Family Court (Charges I, III – IX)	
Ex PH-2	Respondent's courtroom in Family Court (Charges I, III – IX)	
Ex PH-3	Respondent's courtroom in Family Court (Charges I, III – IX)	

Ex PH-4	Respondent's courtroom in Family Court (Charges I, III – IX)	
Ex PH-5	Hallway from Respondent's chambers to court clerk's office (Charges I, III-IX)	
EX PH-6	Hallway from Respondent's chambers to court clerk's office (Charges I, III-IX)	
Ex PH-7	Area where handcuffed litigants were placed (Charges III – VI)	
Ex PH-8	Area where handcuffed litigants were placed (Charges III – VI)	
EX PH-9	Area where handcuffed litigants were placed (Charges III – VI)	
Ex PH-10	Area where handcuffed litigants were placed (Charges III – VI)	
Ex PH-11	Waiting areas (Charges I, III-IX)	
Ex PH-12	Waiting areas (Charges I, III-IX)	
Ex PH-13	Waiting areas (Charges I, III-IX)	
Ex PH-14	Waiting areas (Charges I, III-IX)	
Ex PH-15	Waiting areas (Charges I, III-IX)	
Ex PH-16	Waiting areas (Charges I, III-IX)	
Ex PH-17	Waiting areas (Charges I, III-IX)	
Ex PH-18	Library (Charges VIII, X-XII)	
Ex PH-19	Library (Charges VIII, X, XII)	
Ex PH-20	Family Court and Government Center (Charges I, III - IX)	

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: JANUARY 3, 2019

RE: O[redacted] V. R[redacted] FF# 15731

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
EX I-1

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/31/2017
Cal. No(s): 16

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-02395-16		Order of Protection	Arraign	12/19/2016		01/31/2017

Pedigree Information (as of 01/31/2017)

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): O-02395-16 (Petr)
Primary Address: [redacted]
Contact Information: (H) [redacted]

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): O-02395-16 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: R[redacted] R[redacted] R[redacted], Issued: 12/19/2016, Expires: 03/31/2017)

I[redacted] S[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): O-02395-16 (Child)

Appearance Detail

Appearance: 01/31/2017 10:30 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Not Present: I[redacted] C[redacted] O[redacted] R[redacted] R[redacted] R[redacted]

Notes: (O-02395-16)
Petr no show DWOP, vacate TOP
(Melinda Sheridan)

Outcomes: Petition Dismissed for Failure to Prosecute (O-02395-16)
Vacate Order of Protection (2016-000437, Against: R[redacted] R[redacted] R[redacted] (DOB: [redacted]), Issued: 12/19/2016) (O-02395-16)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/19/2016
Cal. No(s): 21

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-02395-16		Order of Protection	Walk-in	12/19/2016		

Pedigree Information (as of 12/19/2016)

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): O-02395-16 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): O-02395-16 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: R[redacted] R[redacted] R[redacted], Issued: 12/19/2016, Expires: 03/31/2017)

I[redacted] S[redacted] O[redacted]- DOB: [redacted] Docket(s): O-02395-16 (Child)
R[redacted]

Appearance Detail

Appearance: 12/19/2016 04:30 PM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Present: I[redacted] C[redacted] O[redacted]
Not Present: R[redacted] R[redacted] R[redacted]

Notes: (O-02395-16)
walk in, judge sees

Resp constantly calling her; threatens to kill her; has saved phone msgs, plays for Court; says he'll shoot her with his 45; doesn't see child

Full stay away; no contact

also TOP issued by Judge Scheck
(Melinda Sheridan)

Outcomes: Temporary Order of Protection (2016-000437, Against: R[redacted] R[redacted] R[redacted] (DOB: [redacted]), Expires: 03/31/2017) (O-02395-16)

Future Appr: 01/09/2017 01:30 PM Hon. Michael F. McGuire, PT 2 (TOP exps 3/31/17): Arraign (O-02395-16)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 02/19/2016
Cal. No(s): 11

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-00218-16		Order of Protection	Walk-in	02/18/2016		02/19/2016

Pedigree Information (as of 02/19/2016)

Ij[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): O-00218-16 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): O-00218-16 (Resp)
Primary Address: [redacted]
Contact Information: ([redacted]

I[redacted] S[redacted] O[redacted]- DOB: [redacted] Docket(s): O-00218-16 (Child)
R[redacted]

Appearance Detail

Appearance: 02/19/2016 09:30 AM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Present: I[redacted] C[redacted] O[redacted]
Not Present: R[redacted] R[redacted] R[redacted]

Notes: (O-00218-16)
I[redacted] C[redacted] O[redacted]

This was a walk in from yesterday; O[redacted] has OP against R[redacted] out of village of Monticello in effect until 2019; current order of custody out of this court, saying R[redacted] not to have contact w/child;
O[redacted] wants that added into the order of protection

I[redacted] O[redacted] - R[redacted] went to school to see child; brings hammer to her home; R[redacted] has told school he'll be back w/an order

Court advises that if R[redacted]r shows up at school, school should call police; court cannot do OP for I[redacted] - R[redacted] hasn't done anything towards child. Court highlights the order, advises O[redacted] to give it to school;

If R[redacted] goes back to school, O[redacted] needs to get something from school saying he was there & causing a disruption & Court will then address OP

No relief given; dismiss petition - no change in circumstance

TO DO
Dismissal Order

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 02/19/2016
Cal. No(s): 11

(Melinda Sheridan)

Outcomes: Petition Dismissed without Prejudice (O-00218-16)

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/18/2013
Cal. No(s): 6

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00344-13/13A		Modification of Order of Visitation	Arraign	10/30/2013		12/18/2013

Pedigree Information

R[redacted] R[redacted] R[redacted] DOB [redacted] Docket(s): V-00344-13/13A (Petr)
Primary Address: [redacted]
Contact Information: ([redacted]
Additional Info: Active OP: (Against: R[redacted] R[redacted] R[redacted], Issued: 06/05/2013, Expires: 06/05/2015)

I[redacted] C[redacted] O[redacted] DOB [redacted] Docket(s): V-00344-13/13A (Resp)
Contact Information: [redacted]

[redacted] S[redacted] O[redacted]- DOB: [redacted] Docket(s): V-00344-13/13A (Child)
R[redacted]

Appearance Detail

Appearance: 12/18/2013 11:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: R[redacted] R[redacted] R[redacted]
Not Present: I[redacted] C[redacted] O[redacted]

Notes: (V-00344-13/13A)
mr only one here;
judge explains he was told to provide the aff of service; mh EVAL report; and report of dom violence;

he is saying police were to send the aff of service; not done; judge telss him it is his responsibility

MH eval claims they said judge is to request the report; judge says not going to do that; it is his responsibility to obtain the report;

dom violence treatment??? unknown if it has begun;

he is in jail on a violation of a court order from this court;

choices are to withdraw now and refile when he can get the info required;
or new date provide he had the MH eval and dom violence counseling;

dismiss petn w/o prej

he says on the way out that he knows judges son and wants a new judge;
judge says he has threatened his son

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/18/2013
Cal. No(s): 6

ORDER
add 30 days to whatever time he is serving for judicial contempt
(Andrea Rogers)

Outcomes: Petition Dismissed without Prejudice (V-00344-13/13A)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/02/2013
Cal. No(s): 16

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00344-13/13A		Modification of Order of Visitation	Arraign	10/30/2013		

Pedigree Information

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active OP: (Against: R[redacted] R[redacted] R[redacted], Issued: 06/05/2013, Expires: 06/05/2015)

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

I[redacted] S[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Child)

Appearance Detail

Appearance: 12/02/2013 10:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: R[redacted] R[redacted] R[redacted]
Not Present: I[redacted] C[redacted] O[redacted]

Notes: (V-00344-13/13A)
Mr. is here from the jail.
He states he completed the programs.
He states he gave the papers to the MPD - he ultimately put papers in her mailbox.
Court needs a report regarding his completition of MH and Domestic Violence.
We need an afd of srv.

Produce Mr. We need him to provide afd of srv, report from MH and Domestic violence.

Send respondent a notice of appearance.
(Karen Benson)

Future Appr: 12/18/2013 11:00 AM Hon. Michael F. McGuire, PT 2 (Mr needs to provide an afd of srv and proof of completition of MH and Domestic violence.): Arraign (V-00344-13/13A)

Date print[redacted]

LOG SHEET

STATE OF NEW YORK
FAMILY COURT
HON. MICHAEL F. MCGUIRE

TAPE(S)#: _____ LED#:START: 9:43 END: _____

DOCKET#: _____ FF # 15731 DATE: 6-5-13

TITLE OF ACTION: I[redacted] O[redacted] - R[redacted] R[redacted]
Petitioner Respondent

PETITIONER'S ATTORNEY: John Ferrara

RESPONDENT'S ATTORNEY: _____

LAW GUARDIAN: Jane Bloom.

OTHER'S PRESENT: _____

MIC#1: HON. MICHAEL F. MCGUIRE and WITNESSES

MIC#2: _____ KC Gain
Respondent Counsel

MIC#3: _____ John Ferrara
Petitioner Counsel

_____ Bloom
Law Guardian

MIC#4: _____ _____
Co-Respondent or Non-Respondent parent Counsel

WITNESSES: (ALL ON MIC#1)

1. P[redacted] G[redacted] (LED# 9:48 to 9:59)
2. I[redacted] D[redacted] (LED# 10:00 to 10:15)
3. _____ (LED# 10:39 to 10:46)
4. _____ (LED# _____ to _____)
5. _____ (LED# _____ to _____)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 06/05/2013
Cal. No(s): 3

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00344-13		Custody	Trial	02/28/2013	09/28/2013	06/05/2013

Pedigree Information

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): V-00344-13 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender's Office)

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): V-00344-13 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active OP: (Against: R[redacted] R[redacted] R[redacted], Issued: 06/05/2013, Expires: 06/05/2015)

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] S[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): V-00344-13 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 06/05/2013 09:30 AM, Hon. Michael F. McGuire, PT 2, Trial

Attendance: Present: Jane M. Bloom (Atty)
John Ferrara (Atty)
I[redacted] C[redacted] Od[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)
Not Present: R[redacted] R[redacted] R[redacted]

Notes: (V-00344-13)
Mr not here; KC explains he saw Mr but believes heis not intending to defend this matter; KC does not understand his position; he has had no contact
KC asks to be relieved as he is not able to defend him;

Granted- KC is relieved- Mr not helping to defend his case

matter proceeds to inquest
John calls Ms P[redacted] G[redacted] 9:48 (petrs mother)
john direct 9:48-9:55
Bloo, 9:55-9:59
John 9:59-9:59

John calls Ms O[redacted]- sworn 10:00
direct 10:00-10:15

break
all return to court

Ms O[redacted] resumes the stand
Bloom cross 10:39-10:45
Judge 10:45-10:46

closings Bloom 10:46; John 10:48

FINDINGS placed on the record;

ORDER
sole custody to mom
no contact with dad; until he has a MH eval and start a dom violence program to address issues of impulse control etc, enforce order against dad; no med or school records or photos;
he needs to return to court with proof he has had eval and started to follow recommendations;

full stay away OP; stay away her; home; employ; daycare; school she or child attend; no comm; std lang;

she is advised to use caution allowing child to see paternal side of family;

Bloom to submit
(Andrea Rogers)

Outcomes: Order of Custody (V-00344-13)
Order of Protection (2013-000125, Against: R[redacted] R[redacted] R[redacted] (DOB: [redacted]), Expires: 06/05/2015) (V-00344-13)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 05/20/2013
Cal. No(s): 40, 41

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00342-13		Visitation	Appear	02/25/2013	09/28/2013	05/20/2013
V-00344-13		Custody	Appear	02/28/2013	09/28/2013	

Pedigree Information

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): V-00342-13 (Petr), V-00344-13 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): V-00342-13 (Resp), V-00344-13 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender's Office)

I[redacted] S[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): V-00342-13 (Child), V-00344-13 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 05/20/2013 01:30 PM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present:
Jane M. Bloom (Atty)
John Ferrara (Atty)
I[redacted] C[redacted] O[redacted]
R[redacted] R[redacted] R[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-00342-13, V-00344-13)
continuing order of protection against Mr. R[redacted] out of the Village of Thompson

Resp. states he sees his child between two and three times per week for approximately an hour each visitation -

Ferrara offers - sole custody to Mom with alternate weekends to Dad with SOF&D not acceptable to Petitioner

Mr. R[redacted] withdraws his petition

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 05/20/2013
Cal. No(s): 40, 41

[redacted] O[redacted]s pettiion will go to trial

6/5/13 at 9:30 - trial
(Stacey Benton)

Outcomes: Petition Withdrawn (V-00342-13)

Future Appr: 06/05/2013 09:30 AM Hon. Michael F. McGuire, PT 2: Trial (V-00344-13)

Court Act..ty File Summary - Sullivan County F. .ly Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 04/22/2013
Cal. No(s): 46, 47

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00342-13		Visitation	Appear	02/25/2013	09/28/2013	
V-00344-13		Custody	Appear	02/28/2013	09/28/2013	

Pedigree Information

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): V-00342-13 (Petr), V-00344-13 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): V-00342-13 (Resp), V-00344-13 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender's Office)

I[redacted] S[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): V-00342-13 (Child), V-00344-13 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 04/22/2013 01:30 PM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: Jane M. Bloom (Atty)
John Ferrara (Atty)
I[redacted] C[redacted] O[redacted]
R[redacted] R[redacted] R[redacted]

Not Present: Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-00342-13, V-00344-13)
Mr says he didn't have time to get papers to SLAP:
no atty is here for him

adj for after he is done with school at SCCC

Bloom did not see child yet
(Andrea Rogers)

Future Appr: 05/20/2013 01:30 PM Hon. Michael F. McGuire, PT 2: Appear (V-00342-13, V-00344-13)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 04/01/2013
Cal. No(s): 7, 8

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00342-13		Visitation	Arraign	02/25/2013	09/28/2013	
V-00344-13		Custody	Arraign	02/28/2013	09/28/2013	

Pedigree Information

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): V-00342-13 (Petr), V-00344-13 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): V-00342-13 (Resp), V-00344-13 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

I[redacted] S[redacted] O[redacted]- DOB: [redacted] Docket(s): V-00342-13 (Child), V-00344-13 (Child)
R[redacted]

Appearance Detail

Appearance: 04/01/2013 09:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: I[redacted] C[redacted] O[redacted]
R[redacted] R[redacted] R[redacted]

Notes: (V-00342-13, V-00344-13)
Mr. R[redacted]s petition was received
Ms. O[redacted]s petition is served in Court

both parties given right to counsel - Mr. R[redacted] wishes counsel - FDA given for SLAP
Ms. O[redacted] wishes counsel FDA given for Conflict Panel

attorney for child to be assigned

4/22/13 at 10:00 a.m. -
(Andrea Rogers)

Outcomes: Issue Joined (V-00344-13, V-00342-13)

Future Appr: 04/22/2013 01:30 PM Hon. Michael F. McGuire, PT 2: Appear (V-00342-13, V-00344-13)

 Date printed: 04/01/2013

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 08/16/2012
Assignment Judge: Hon. Mark M. Meddaugh **Cal. No(s):** 17, 18, 19

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01433-12		Order of Protection	Arraign	07/26/2012	02/12/2013	08/16/2012
V-01434-12		Custody	Arraign	07/26/2012	02/12/2013	08/16/2012
V-01472-12		Custody	Control Purposes	08/01/2012	02/12/2013	08/16/2012

Pedigree Information

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): O-01433-12 (Petr), V-01434-12 (Petr), V-01472-12 (Resp)

Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): O-01433-12 (Resp), V-01434-12 (Resp), V-01472-12 (Petr)

Primary Address: [redacted]
Contact Information: [redacted]

I[redacted] O[redacted]- R[redacted] DOB: [redacted] Docket(s): O-01433-12 (Child), V-01434-12 (Child), V-01472-12 (Child)

Appearance Detail

Appearance: 08/16/2012 02:30 PM, Hon. Michael F. McGuire, PT 2, Arraign, Control Purposes

Attendance: Present: I[redacted] C[redacted] O[redacted] R[redacted] R[redacted] R[redacted]

Notes: (O-01433-12, V-01434-12, V-01472-12)
both parties received eachother's pettiions
right to counsel given
Mr. R[redacted]r wishes to have counsel - (he works at Center for Discovery) Resp. lives at home with his father) FDA given to take to SLAP

Petitioner wishes to withdrawn her petitions
Mr. R[redacted] withdraws his petition as well
TOP is vacated
(Stacey Benton)

Outcomes: Petition Withdrawn (V-01472-12, V-01434-12, O-01433-12)
Issue Joined (V-01472-12, V-01434-12, O-01433-12)
Vacate Order of Protection (2012-000236, Against: R[redacted] R[redacted] R[redacted] (DOB: 01/14/1992), Issued: 07/26/2012) (O-01433-12)

Court Activity File Summary - Sullivan County Family Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 07/26/2012
Assignment Judge: Hon. Mark M. Meddaugh

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01433-12		Order of Protection	Walk-in	07/26/2012		
V-01434-12		Custody	Walk-in	07/26/2012		

Pedigree Information

I[redacted] C[redacted] O[redacted] DOB: [redacted] Docket(s): O-01433-12 (Petr), V-01434-12 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] R[redacted] R[redacted] DOB: [redacted] Docket(s): O-01433-12 (Resp), V-01434-12 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: R[redacted] R[redacted] R[redacted], Issued: 07/26/2012, Expires: 09/26/2012)

I[redacted] O[redacted]- R[redacted] DOB: 06/24/2012 Docket(s): O-01433-12 (Child), V-01434-12 (Child)

Appearance Detail

Appearance: 07/26/2012 03:30 PM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Present: I[redacted] C[redacted] O[redacted]
Not Present: R[redacted] R[redacted] R[redacted]

Notes: (O-01433-12, V-01434-12)
Testimony taken of Petitioner, incident happened day before yesterday. He is verbally abusive, he played tug of war with the baby in a parking lot. Caused a commotion

TOP standard language
return date 8/10/12
The parties have not been together since April
(Christina Benson)

Outcomes: Temporary Order of Protection (2012-000236, Against: R[redacted] R[redacted] R[redacted] (DOB: [redacted]), Expires: 09/26/2012) (O-01433-12)

Future Appr: 08/10/2012 02:30 PM Hon. Michael F. McGuire, PT 2: Arraign (O-01433-12, V-01434-12)

TO: Christina Benson
Chief Clerk of The Court
Sullivan County Family Court
100 North Street
Monticello NY 12701

10/24/18

RECEIVED
OCT 29 2018
SULLIVAN COUNTY FAMILY COURT

From: R[redacted] R[redacted] R[redacted]
Inmate ID # [redacted]
Sullivan County Jail
4 Bushnell Avenue
Monticello, N.Y. 12701

RE: File / Court Order

Dear Ms. Benson

Due to my co[illegible]n, I have lost all my personal copies of m[illegible]d the last Court Order issued by Judge Mc[illegible]nd me a full and complete copy, alon[illegible] recently issued Court Order, as I am soon going to be re-opening my File with new petitions. The following information may assist you in locating my file. Thank you very much for your help with this matter, I eagerly anticipate your response.

Correspondence

R[redacted] R[redacted] R[redacted]
D.O.B. [redacted]

[redacted] C[redacted] O[redacted]
D.O.B. [redacted]

Respectfully,

x R[redacted] R[redacted] R[redacted]
R[redacted] R[redacted] R[redacted]

Supplemental Page for All Petitions: FF: 15731

Petitioner:	Respondent:

To whom it may concern:

I would like a copy of my Custody papers.

[redacted]

10/19/18

RECEIVED
OCT 19 2018
SULLIVAN COUNTY FAMILY COURT

_____, being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this _____ day of _____, 20___

_____
(Deputy) Chief Clerk of the Court
Notary Public

X [redacted]
Signature of [redacted]

Supplemental Page for All Petitions: FF: _____

Petitioner: R[redacted] R[redacted]	Respondent:

I R[redacted] R[redacted] would like to recieve orders of dismissals of orders of Protection

RECEIVED
AUG 17 2018
SULLIVAN COUNTY FAMILY COURT

_____, being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 17th day of August, 2018

(Deputy) Chief Clerk of the Court
~~Notary Public~~

X R[redacted]
Signature of Petitioner

Date:	Case Name: R[redacted]	Docket: Family File No.: 15731
1/9	Ms O[redacted] had not served resp when notified of adjmt.	
	new OSC	

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

[redacted] C[redacted] O[redacted],

Respondent.

NOTICE TO APPEAR IN COURT

To: [redacted] C[redacted] O[redacted]
[redacted]
[redacted]
[redacted]

You are hereby notified to appear on:

Date/Time:	December 18, 2013 at 11:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: December 4, 2013

Karen Benson, Sr. Court Office Assistant

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

November 7, 2013

R[redacted] R[redacted] R[redacted]
[redacted]

Re: R[redacted] v R[redacted]
File # 15731
Docket #: V-00344-13/13A

Dear Mr. R[redacted]:

Enclosed herein please find an order to show cause together with petitions and affidavit of service. You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon I[redacted] O[redacted] on or before November 25, 2013, be deemed sufficient service.***

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **December 2, 2013 at 10:00 AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***Who may serve papers***:

1. Person over the age of 18 years, ***other than yourself***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

June 28, 2013

Jane M. Bloom, Esq.
PO Box 209
Monticello, NY 12701

RE: C[redacted] v. R[redacted]
FF#15731

Dear Ms. Bloom:

As per our conversation of yesterday regarding the above-mentioned case, I am returning the order to you for correction. Judge McGuire has directed that you add the language from Attorney Ferrara's letter of June 12, 2013, and then return to the Court for processing.

Thank you.

Melissa A. Slater

Melissa A. Slater
Sr. Ct. Office Assistant

/ms
ENC.

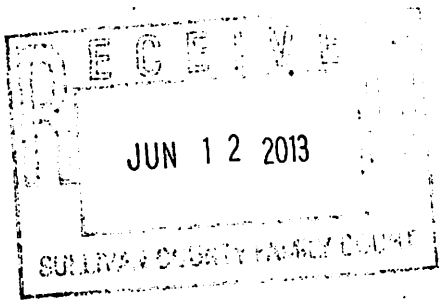
- 98-13 Mailed to Jane Bloom, Esq.

Ferrara & Sullivan
Attorneys at Law
548 Broadway
Monticello, New York 12701
845-794-1303
FAX: 845-746-9054 (not for service)
ferraraandsullivan.com

JOHN FERRARA
845-866-2639
john.ferrara557@gmail.com

CLAIRE SULLIVAN
845-866-1530
claire.sullivan557@gmail.com

June 12, 2013



Hon. Michael F. McGuire
Acting Family Court Judge
Government Center
Monticello, NY 12701

RE: O[redacted] v. R[redacted]
FF 15731

Dear Judge McGuire:

I have the order drafted by Ms. Bloom. As you were clear about it in court, I ask that add the words "this order does not relieve the father of any support obligations he may otherwise have."

Thank you.

Sincerely,

John Ferrara

Cc. Jane Bloom, Esquire
R[redacted] R[redacted]
I[redacted] O[redacted]

Jane M. Bloom
Attorney at Law

34 North Street
P.O. Box 209
Monticello, NY 12701
(845) 791-8167 ***(tel & fax)***

Ms. Christina Benson
Sullivan County Family Court
100 North Street
Monticello, New York 12701

June 7, 2013

Re: O[redacted] v. R[redacted]
File No. 15731

Dear Ms. Benson:

Enclosed please find two copies of an order of custody after trial and a self- addressed, stamped envelope for return of a signed copy.

Thank you for your continuing courtesies.

Respectfully,

Jane M Bloom

Jane M. Bloom

Return Order to Jane
have her add Judge
Per Ferrara Ltr.

Enclosures
Cc: John Ferrara, Esq.
Mr. R[redacted] R[redacted]

Ferrara & Sullivan
Attorneys at Law
548 Broadway
Monticello, New York 12701-0785
(845) 866-2639
www.ferraraandsullivan.com
john.ferrara@gmail.com
claire.sullivan557@gmail.com

JOHN FERRARA **CLAIRE SULLIVAN**

April 22, 2013

Hon. Christina Benson
Family Court Clerk
Government Center
Monticello, NY 12701

Re: R[redacted] v. O[redacted]
FF # 15731

Dear Ms. Benson:

Please find enclosed my statement of rights and responsibilities. I appear though the conflicts panel for Ms. O[redacted].

I understand this matter next to be scheduled on **May 20, 2013 at 1:30 p.m.**

Thank you.

Sincerely,

John Ferrara

STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

Your attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and your attorney please read this document carefully.

If you ever have any questions about these rights, or about the way your case is being handled, do not hesitate to ask your attorney. He or she should be readily available to represent your best interests and keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that are revealed in the course of the relationship.

You are expected to be truthful in all discussions with your attorney, and to provide all relevant information and documentation to enable him or her to competently prepare your case.

You are entitled to be kept informed of the status of your case, and to be provided with copies of correspondence and documents prepared on your behalf or received from the court or your adversary.

You have the right to be present in court at the time that conferences are held.

You are entitled to make the ultimate decision on the objectives to be pursued in your case, and to make the final decision regarding the settlement of your case.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

If you entrust money with an attorney for an escrow deposit in your case, the attorney must safeguard the escrow in a special bank account. You are entitled to a written escrow agreement, a written receipt, and a complete record concerning the escrow. When the terms of the escrow agreement have been performed, the attorney must promptly make payment of the escrow to all persons who are entitled to it.

Receipt Acknowledged: [redacted]

Client

Ferrara & Sullivan

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00342-13
V-00344-13

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ASSIGNMENT OF COUNSEL

To: John Ferrara, Esq.
548 West Broadway
Monticello, NY 12701
(845) 794-1303

You have been assigned to represent I[redacted] C[redacted] O[redacted] in the above proceeding. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	April 22, 2013 at 1:30 PM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Sent

Dated: April 5, 2013

Andrea Schlosser, Court Assistant

CC: Jane M. Bloom, Esq., Attorney for Child
I[redacted] [redacted] O[redacted], Respondent
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00342-13
V-00344-13

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

REFERRAL TO COUNSEL

I[redacted] C[redacted] O[redacted],

Respondent.

To: Sullivan County Legal Aid Panel, Inc.
11 Bank Street
Monticello, NY 12701
(845) 794-4094 ext.

The above referenced Petitioner has been referred to your agency. A Financial Disclosure Affidavit has been provided to the litigant for Sullivan Legal Aid Panel to review and if the litigant is found to be financially eligible, your agency shall be assigned to represent the litigant. If the party is not eligible, please notify the Court immediately.

Please provide this Court with a statement of client's rights and responsibilities if you intend to represent R[redacted] R[redacted] R[redacted]. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	April 22, 2013 at 1:30 PM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Sent

Dated: April 5, 2013

Andrea Schlosser, Court Assistant

CC: John Ferrara, Esq., Conflict Defender's Office
Jane M. Bloom, Esq., Attorney for Child
R[redacted] R[redacted] R[redacted], Petitioner

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

March 1, 2013

[redacted]

Re: O[redacted] v R[redacted]
File # 15731
Docket #: V- 00344-13

Dear Ms. O[redacted]:

Enclosed herein please find an order to show cause together with petitions and affidavit of service. You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon R[redacted] R[redacted] on or before March 18, 2013, be deemed sufficient service.***

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **April 1, 2013 at 9:00AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***Who may serve papers***:

1. Person over the age of 18 years, ***other than yourself***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 28, 2013

R[redacted] R[redacted] R[redacted]
[redacted]

Re: R[redacted] v O[redacted]
File # 15731
Docket #: V- 00342-13

Dear Mr. R[redacted]:

Enclosed herein please find an order to show cause together with petitions and affidavit of service. You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon [redacted] O[redacted] on or before March 18, 2013, be deemed sufficient service.***

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **April 1, 2013 at 9:00AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***Who may serve papers***:

1. Person over the age of 18 years, ***other than yourself***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matters of

I[redacted] C[redacted] C[redacted]
R[redacted] R[redacted] R[redacted]

File #: 15731
Docket #: O-01433-12
V-01434-12

RESCHEDULING NOTICE

To: I[redacted] C[redacted] C[redacted]
[redacted]

R[redacted] R[redacted] R[redacted]
[redacted]

You are hereby notified that the matter previously scheduled for August 10, 2012 has been rescheduled to:

Date/Time:	August 16, 2012 at 2:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: August 7, 2012

Karen L. Benson, Sr. Court Office Assistant

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

August 3, 2012

R[redacted] R[redacted] R[redacted]
[redacted]

Re: R[redacted] v O[redacted]
File # 15731
Docket #: V-01472-12

Dear Mr. R[redacted]:

Enclosed herein please find an order to show cause together with petitions and affidavit of service. You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon I[redacted] O[redacted] on or before August 15, 2012, be deemed sufficient service.***

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **August 27, 2012 at 9:30 AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***Who may serve papers***:

1. Person over the age of 18 years, ***other than yourself***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

I[illegible]estic Violence Registry Information
Order Recap

Requested by: Luz Samuel ; Monday Dec 19 2016 15:54:42

Court: NY052013J - Sullivan County Court (M-B)

Order Number: 2014-000045

File Number: DVS-238W-2013

Case Number: 238W-2013

Defendant: R[redacted] R[redacted] J[redacted]

NICS INDEX: Federally Prohibited

Arrest Charges: PL 215.51 BV EF Crim Contempt-1st:Phy Contact

Convictions: PL 215.51 BV EF Crim Contempt-1st:Phy Contact

ORDER OF PROTECTION

Issue Date	Court Ent. Service Date	Police Entered Service Date	Expiration Date	Judge	
04/11/2014			04/14/2019	Stephan Schick	**Defendant Present in Court**

Applying Party
Name: I[redacted] O[redacted] (Protected Party)
DOB: [redacted]

Sex: **Female** Race: **Black (Non Hispanic)**

Against Party
Name: R[redacted] R[redacted]
DOB: [redacted]
SSN: [redacted] Sex: **Male** Race: **Black (Non Hispanic)**
NYSID: **02990458H**

Address(es):

[redacted]

Relationship(s) between Against Party and Protected Parties:

R[redacted] R[redacted] has a child-in-common with I[redacted] O[redacted]

Terms and Conditions

Stay away from I[redacted] C O[redacted], AND FAMILY;

Stay away from the home of I[redacted] C O[redacted], AND FAMILY;

Stay away from the school of I[redacted] C O[redacted], AND FAMILY;

Stay away from the business of I[redacted] C O[redacted], AND FAMILY;

Stay away from the place of employment of I[redacted] C O[redacted] ,AND FAMILY;

Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with I[redacted] C O[redacted], AND FAMILY;

Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense or interference with the victim

or victims of , or designated witnesses to, the alleged offense and such members of the family or household of such victim(s) or witness(es) as shall be specifically named [redacted] C O[redacted] ,AND FAMILY;

Domestic Violence Registry Information
Order Recap

Requested by: Andrea Rogers ; Monday Apr 22 2013 13:54:51

Court: NY052031J - Monticello Village Court

Order Number: 2013-000005

File Number: DVS-030113

Case Number: 030113

Defendant: R[redacted] R R[redacted]

Arrest Charges: PL 145.00 01 AM Crim Mis:Intent Damage Proprty , PL 260.10 01 AM Act In Manner Injur Child 17 , PL 120.00 01 AM Aslt 3-W/Int Cause Phys Injury

Convictions:

TEMPORARYORDEROFPROTECTION

Issue Date	Court Ent. Service Date	Police Entered Service Date	Expiration Date	Judge	
03/01/2013	03/01/2013		09/01/2013	Josephine V. Finn	**Defendant present in court**

Applying Party

Name: F[redacted] G[redacted] (Protected Party)

Sex: **Female** Race: **Unknown**

Against Party

Name: R[redacted] R R[redacted]

DOB: [redacted] Height: **6'0"** Weight: **185**

Sex: **Male** Race: **Black (Non Hispanic)**

NYSID: **02990458H** Hair: **Black** Eyes: **Brown**

Address(es): [redacted]

Other Protected Parties

[redacted] O[redacted] **DOB:** Unknown

Terms and Conditions

[1A] Stay away from F[redacted] G[redacted] and [redacted] O[redacted];

[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with F[redacted] G[redacted] and [redacted] O[redacted];

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense against F[redacted] G[redacted] and [redacted] Od[redacted];

[99] Observe such other conditions as are necessary to further the purposes of protection: Subject to modification to Family Court/Obstain from strangulation & Obstruction of breathing;

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on January 31, 2017

s/ Christina Benson
Chief Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on January 31, 2017

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Family Offense** Proceeding

File #: 15731
Docket #: O-02395-16

I[redacted] C[redacted] O[redacted],

Petitioner,

ORDER OF DISMISSAL

- against -

R[redacted] R[redacted] R[redacted],

Respondent.

A petition under Article 8 of the Family Court Act, having been filed in this Court on December 19, 2016 for the following: Order of Protection;

And the matter having duly come on to be heard before this Court and no one having appeared:

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to failure of Petitioner to appear; it is therefore

ORDERED that the petition herein is dismissed without prejudice for failure to prosecute and the Temporary Order of Protection, dated December 19, 2016, is hereby vacated.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: January 31, 2017

ENTER

20170201053236MFMCGUIR4349AS72E05F452DABCCBC36B4396B54

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 2/1 Petr
☐ Order received in court on [specify date(s) and to whom given]:

CC: I[redacted] C[redacted] O[redacted], Petitioner

TOP 12

FAMILY PROTECTION REGISTRY
ADDENDUM TO INFORMATION SHEET

Use this form for Vacates, Dismissals, Sealed, Extensions, Violations, Warrants and Service.
A copy of the original order of protection is not required.
******* **ASTERISKED AREAS ARE REQUIRED** *******
DO NOT use this form for Modification or Finalization of Orders of Protection

ORIGINAL ORDER INFORMATION

**COURT ORI No: NY0 52023J **COURT: NYS FAMILY COURT
**ORDER NO: 2016 00437 **COUNTY: SULLIVAN
**DOCKET NO: O-02395-16 Court Contact: Name Christina Benson
**Enjoined Party's Name: B[redacted] Telephone # 845-807-0650
**Applying Party's Name: J[redacted] C[redacted]
Law Enforcement Agency at which Copy of Order is Filed:
**NAME: Sullivan County Sheriff's Department **POLICE ORI: NY0520000

☐ **ORDER SERVED** **Service Date:** _____ **Time:** 10:30 AM
☒ **ORDER VACATED** **Date:** 1/31/17
☐ **CASE DISMISSED** **Date:** _____
☐ **CASE SEALED** **Date:** _____

☐ ORDER EXTENDED

** Date of Extension: _____ ** Judge: _____
** New Expiration Date: _____

**** SERVICE OF EXTENDED ORDER:**

☐ Police to Serve Order ☐ Other
☐ Order Served in Court (Date: _____ Time: _____)
☐ Notification by Mail (Mail Date: _____) ☐ Order Previously Served: (Date: _____)
(No new service to be done.)

☐ VIOLATION

** Date of Filing: _____ **Judge: _____
** Date of Disposition: _____
** Disposition:: ☐ a. Dismissed ☐ b. Resentence ☐ c. Convicted ☐ d. New OP
☐ Gun License Revoked

☐ WARRANT

** Issue Date: _____ ** Name: _____
☐ Warrant Executed: (date: _____)
☐ Return on Warrant: (date: _____)
☐ Warrant Vacated: (date: _____)

1/31
SCSD

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Family Offense** Proceeding

File #: 15731
Docket #: O-02395-16

I[redacted] C[redacted] O[redacted],

Petitioner,

- against -

R[redacted] R[redacted] R[redacted],

Respondent.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: R[redacted] R[redacted] R[redacted]
[redacted]
[redacted]

I[redacted] C[redacted] O[redacted]
[redacted]
[redacted]

Upon the petition of I[redacted] C[redacted] O[redacted] filed on December 19, 2016, annexed hereto, it is

ORDERED that R[redacted] R[redacted] R[redacted] show cause before this Court on

Date/Time:	January 31, 2017 at 10:30 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Order of Protection should not be made and why such other and further relief should not be granted as the Court may determine;

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon R[redacted] R[redacted] R[redacted] on or before January 27, 2017, be deemed sufficient service

Dated: January 9, 2017

ENTER

Hon. Michael F. McGuire

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

8

----------x

In the Matter of a Proceeding under Article(s) 8
of the Family Court Act

[redacted] C. O[redacted]
Petitioner,

-against-

ORDER TO SHOW CAUSE

R[redacted] R R[redacted],
Respondent(s).

----------x

NOTICE: **YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

Upon the petition(s) of [redacted] C. O[redacted], verified the 19th day of December, 2016 annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 9th day of January, 2017 at 1:30 pm in the (after)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it s granted upon above named Respondent(s) on or before the 6th day of January, 2017 to be leemed sufficient service.

Dated: 12/19/16

Handed out in Court

ENTER

HON. Michael F. McGuire
Acting Family Court Judge

Scanned

F.C.A §§ 430, 550, 655, 828, 1029 GF5 12/2013

ORI No: NY052023J
Order No: 2016-000437
NYSID No: _____

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center 100 North St., Monticello, NY 12701, on December 19, 2016

PRESENT: Honorable Michael F. McGuire

In the Matter of a FAMILY OFFENSE Proceeding

File # 15731
Docket # O-02395-16
Temporary Order of Protection

Ex Parte

[redacted] C[redacted] O[redacted] (DOB: [redacted]),
Petitioner

- against -

R[redacted] R[redacted] R[redacted] (DOB: [redacted],
Respondent

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

A petition under Article 8 of the Family Court Act, having been filed on December 19, 2016 in this Court and good cause having been shown, and R[redacted] R[redacted] R[redacted] having been not present in Court.

NOW, THEREFORE, IT IS HEREBY ORDERED that R[redacted] R[redacted] R[redacted] (DOB[redacted]) observe the following conditions of behavior:

[01] Stay away from:

[A] I[redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] [redacted] (DOB: [redacted]);

[B] the home of I[redacted] C[redacted] O[redacted] (DOB[redacted]) and I[redacted] S[redacted] O[redacted] (DOB: [redacted]);

[C] the school of I[redacted] S[redacted] O[redacted] (DOB: [redacted]) or daycare facility;

[E] the place of employment of I[redacted] C[redacted] O[redacted] (DOB[redacted]);

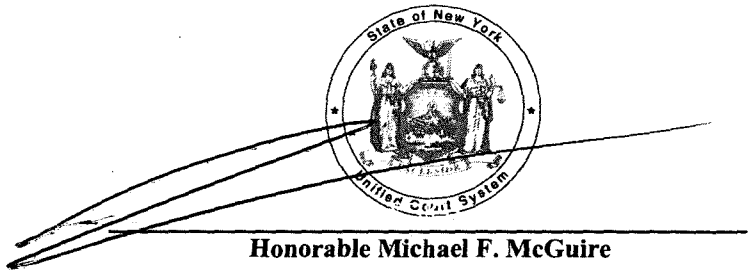
[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with I[redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] [redacted] (DOB: [redacted]);

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against I[redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] O[redacted]r (DOB: [redacted]);

It is further ordered that this temporary order of protection shall remain in force until and including March 31, 2017, but if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

Dated: December 19, 2016

ENTER



Honorable Michael F. McGuire

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires such officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C §§ 2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§ 922(g)(8), 922(g)(9), 2261, 2261A, 2262).

Check Applicable Box(es):

[ ] Party against whom order was issued was advised in Court of issuance and contents of Order

[ ] Order personally served in Court upon party against whom order was issued

[x] Service directed by Police Service

[ ] [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]:

[ ] Warrant issued for party against whom order was issued[specify date]: _____

[ ] ADDITIONAL SERVICE INFORMATION [specify]: _____

F.C.A. §§ 812, 818, 821

Form 8-2
(Family Offense Petition)
(12/2013)

15731
0-2395-16

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF Sullivan

X [redacted] Petitioner

-against-

X [redacted] Respondent

Docket No.

FAMILY OFFENSE PETITION

RECEIVED
DEC 19 2016
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

1. a. I reside at [specify address unless confidential]:[1]

b. The Respondent resides at [specify address unless confidential]: [redacted]

2. a. ☐ The Respondent and I are related as follows [check all applicable box(es)]:

☐ we are married ☐ we were married
☒ we have a child in common ☐ we are parent and child
☐ we are related by blood or marriage [specify how]:
☐ we are in an intimate relationship (NOT casual social or business acquaintances) [describe]:
☒ we were in an intimate relationship (NOT casual social or business acquaintances) [describe]:
☐ we live together ☐ we lived together in the past ☐ we never lived together

b. ☐ Petitioner is a duly authorized agency, association, society or institution and is filing this petition pursuant to F.C.A. §822(b).

c. ☐ I am a peace officer and am filing this petition pursuant to F.C.A. §822(c).

3. The Respondent committed the following family offense(s) against me and/or my children, which constitute(s):

☒ Disorderly conduct ☐ Menacing in the second or third degree
☒ Harassment in the first or second degree ☒ Reckless endangerment
☐ Aggravated harassment in the second degree ☒ Stalking
☐ Assault in the second or third degree ☒ Attempted assault
☐ Criminal mischief ☐ Sexual misconduct
☐ Sexual abuse in the second[2] or third degree ☐ Forcible touching
☒ Strangulation ☐ Criminal obstruction of breathing or

[1] If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. *See* Family Court Act §154-b.

[2] Where victim is incapable of consent for reason other than being under age 17 [Penal Law §130.60(1)].

circulation

☐ Identity theft in 1st, 2nd or 3rd degree ☐ Grand larceny in 3rd or 4th degree
☐ Coercion in 2nd degree [Penal Law §135.60 (1),(2),or (3)]

[Describe each incident; starting with the most recent incident; state date, time and location of each incident; specify all injuries and if any weapons were used. Use additional sheets where necessary]:

[redacted] R[redacted] Threaten to harm my family my child, and myself

4. I ☒ have ☐ have not filed a criminal complaint concerning these incident(s)
[If so, please indicate court, county, date, charge(s) and status, if known]:

2 Criminal Contempt in the First (Felony Class B)

5. [Check applicable box(es)]:

☐ a. I have no children and there are no other children living in my home.

☒ b. The following children live with me [include children who are not yours]:

Name	Date of Birth	Relationship to Me	Relationship to Respondent
[redacted]	[redacted]	[redacted]	Daughter Daughte
[redacted]	[redacted]	[redacted]	niece Nothing
[redacted]	[redacted]	[redacted]	niece Nothing

☐ c. The following children are mine but do not live with me.

Name	Date of Birth	Lives With	Child's Relationship to Respondent, if any

☐ d. The Respondent committed family offenses against the above child or children as follows [describe including name(s) of child or children, nature of offense(s) and date(s)]:[3]

[redacted]

[Check boxes and complete any of the following paragraphs 6-13 that apply to you. Skip any that do not apply to you.]

☒ 6. The Respondent has acted in a way I consider dangerous or threatening to me, my children, a member of my family or household or person with whom I have or had an intimate relationship, in addition to the incident(s) described in question 3, as follows [describe]:

Threaten our lives on several occasions

☐ 7. The Respondent was found to have violated an Order of Protection issued on behalf of me, my children, a member of my family or household or person with whom I have or had an intimate relationship as follows [describe]:

[3] Family offenses, when committed against a member of the same family or household or intimate partner, include the crimes of: assault or attempted assault, aggravated harassment or harassment, disorderly conduct, menacing, reckless endangerment, stalking, sexual abuse, sexual misconduct, forcible touching, strangulation, criminal obstruction of breathing or blood circulation, criminal mischief, grand larceny, identity theft and coercion.

[redacted] [redacted] [redacted] niece Nothing

☐ 8. The Respondent owns or has access to guns as follows [describe]:
Dont Know but he said he was going to Kill me with his 45

9. ☐ a. The Respondent has a gun license or pistol permit for the following gun(s) as follows [describe]:
No

☐ b. The Respondent has a gun license or permit application pending as follows [describe]:
No

☐ c. The Respondent carries a gun on his or her job as follows [describe]:
No, Dont have a job

10. ☐ a. The Respondent threatened [check applicable box(es)]:
☑ me ☑ my child or children [specify]:
☑ a member or members of my household [specify]:
☑ someone with whom I have or had an intimate relationship [specify]:
with a gun or dangerous instrument or object as follows [specify]:
"We all have to go!

☑ b. There is a substantial risk that Respondent would use or threaten to use a firearm or dangerous instrument or object against me, my child(ren), a member of my household or person with whom I have or had an intimate relationship on the basis of the following facts and for the following reasons [describe]:
he said he was going to Kill me w/ his 45

☑ 11. The following court cases are pending between me and the Respondent [specify court, county, docket or index number, nature of action and status, if known]:

☑ 12. The Respondent has the following criminal convictions [specify, including date, crime, sentence and court, if known]:

☐ 13. [Applicable where protection is sought for pet(s)]:
a. The following pets live in my house [specify name(s) and type(s)]:

b. The Respondent injured or tried or threatened to injure pets in my household as follows [describe]:

14. I have not made any previous application to any court or judge for the relief requested in this petition, (except [specify the relief, if any, granted and the date of such relief; delete if inapplicable]:).

WHEREFORE, Petitioner respectfully requests this Court to:
a. adjudge the Respondent to have committed the family offense(s) alleged;

b. enter an order of protection, specifying conditions of behavior to be observed by the Respondent in accordance with Section 842 of the Family Court Act;

c. enter a finding of aggravated circumstances [delete if inapplicable];

d. enter a temporary order of child support in accordance with Family Court Act §828(4) [delete if inapplicable];

e. order such other and further relief as to the Court seems just and proper.

Dated: 12/19/2016

[redacted]

Petitioner: (print or type name) / Signature

Petitioner's Attorney, if any (print or type name) / Signature

Address and telephone number of Attorney, if any

Supplemental Page for All Petitions: FF: _____

Petitioner: J[redacted] O[redacted] Respondent: R[redacted] R[redacted]

On both Dec 16 & 17 2016, I recieved 100+ Restricted phone and 3 voicemails threaten my child as well as my life. Police are very much aware and felt that need to see my Family Court Judge and make him aware of what is going on

J[redacted] O[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 19 day of December, 2016

(Deputy) Chief Clerk of the Court
Notary Public

X J. O[redacted]
Signature of Petitioner

**COURT ORI No: NY052023J
**ORDER No. 2016-000437
**DOCKET/INDEX: O-02395-16

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: 12/19/16
**EXPIRATION DATE: 03/31/17

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Pet. info

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted]
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) [redacted] (ZIP) [redacted]
Phone (home): [redacted] Phone (other _____): ( )
Employers Name: [redacted] Phone (work): ( )
Employers Address: [redacted] Hours of Employment: 40 wk
**DATE OF BIRTH: [redacted] **SEX: ☐ MALE ☒ FEMALE Social Security Number: [redacted]
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN Height: 5'4" Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC Weight: Hair Color: Brown

Other party

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted] NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)*
(CITY) (STATE) (ZIP)
Phone (home): [redacted] Phone (other): Cell [redacted]
Employers Name: — Phone (work): ( )
Employers Address: — Hours of Employment:
**DATE OF BIRTH: **SEX: ☒ MALE ☐ FEMALE Social Security Number:
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN Height: 6'1" Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC Weight: Hair Color: Brown

License Plate Number: State:
Drivers ID: State: Mother's Maiden Name:
Police Caution Advised? If yes, why?

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on February 19, 2016.

Deputy Chief Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on February 19, 2016

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Family Offense** Proceeding

File #: 15731
Docket #: O-00218-16

I[redacted] C[redacted] O[redacted],

Petitioner,

- against -

R[redacted] R[redacted] R[redacted],

Respondent.

ORDER OF DISMISSAL

A petition under Article 8 of the Family Court Act, having been filed in this Court on February 18, 2016 for the following: Order of Protection;

And the matter having duly come on to be heard before this Court and the following having appeared: I[redacted] C[redacted] O[redacted];

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to no change in circumstance; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: February 19, 2016

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 2/19/16 Letter
☐ Order received in court on [specify date(s) and to whom given]:

CC: I[redacted] C[redacted] O[redacted], Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Family Offense** Proceeding

File #: 15731
Docket #: O-00218-16

I[redacted] C[redacted] O[redacted], o/b/o I[redacted] O[redacted]
Petitioner,

- against -

R[redacted] R[redacted] R[redacted],
Respondent.

FAMILY OFFENSE PETITION

RECEIVED
FEB 18 2016
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

I, I[redacted] C[redacted] O[redacted] receives mail at[1] [redacted], and resides at Address Confidential.

The Respondent, R[redacted] R[redacted] R[redacted] resides at [redacted]

The Respondent and I are related in the following way: I have a child-in-common with the Respondent.

The Respondent committed the following family offense against me and/or my children which constitutes Criminal Contempt.

Describe each incident: starting with the most recent incident: February 18, 2018 location of each incident; specify all injuries and if any weapons where used. at Monticello Head Start: The petitioner was brought to Family Court by the Monticello Police Department. There is currently an Order of Protection out of the Village of Monticello Court. The petitioner states that the respondent appeared at the child's school today @ 12:53 pm in violation of the Custody Order and the Order of Protection.

I have not filed a criminal complaint concerning this incident.

The following children live with me [including children that are not mine]:

Name	Date of Birth	Relationship to Me	Relationship to Respondent
I[redacted] S[redacted] O[redacted]	[redacted]	Child	Child

[1] If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov . *See* Family Court Act § 154-b.

The Respondent committed family offenses against the above child or children as follows[2]: The petitioner states that the respondent appeared at the child's school against the Custody Order.

The Respondent has acted in a way which I consider dangerous or threatening to me, my children, a member of my family or household or person with whom I have or had an intimate relationship, in addition to the incident(s) described in above, as follows: The petitioner states that the respondent has threatened her with a hammer in the past.

The Respondent has the following criminal convictions: The petitioner states that the respondent is a convicted felon having served time with DOCCS.

I have not made any previous application to any court or judge for the relief requested in this petition.

WHEREFORE, Petitioner respectfully requests this Court to:

- adjudge the Respondent to have committed the family offense alleged;
- enter an order of protection, specifying conditions of behavior to be observed by the Respondent in accordance with Section 842 of the Family Court Act:
  - The petitioner is seeking an order of protection barring the respondent from any further contact with her or the child.;
- order such other and further relief as the Court deems just and proper.

Dated: February 18, 2016

[redacted] C[redacted] O[redacted], Petitioner

[2]Family offenses, when committed against a member of the same family or household or intimate partner, include the crimes of assault or attempted assault, aggravated harassment or harassment, disorderly conduct, menacing, reckless endangerment, stalking, sexual abuse, sexual misconduct, forcible touching, strangulation, criminal obstruction of breathing or blood circulation, criminal mischief, grand larceny, indentify theft and coercion.

Criminal Form 1
12/2013

ORI No: _____
Order No: _____

At a term of the Monticello Court, County of Sullivan
at the Courthouse at Monticello Village Court, State of New Yo

NYSID No: _____
CJTN No: _____

ORDER OF PROTECTION
Family Offenses - C.P.L. 530.12

PRESENT: Hon. JOSEPHINE V. FINN,

PEOPLE OF THE STATE OF NEW YORK

[redacted], Defendant Date of Birth: _____

☐ Youthful Offender (check if applicable)
Part: _____ Index/Docket No: 150-2002
Indictment No., if any: _____
Charges: Crim Court Docket

[Check box]: ☐ Ex Parte ☒ Defendant Present In Court

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

☐ **TEMPORARY ORDER OF PROTECTION** - Whereas good cause has been shown for the issuance of a temporary order of prote
[as a condition of ☐ recognizance ☐ release on bail ☐ adjournment in contemplation of dismissal]
☒ **ORDER OF PROTECTION** - Whereas defendant has been convicted of [specify crime or violation]: Crim Court Docke
And the Court having made a determination in accordance with section 530.12 of the Criminal Procedure Law,

IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:
[Check applicable paragraphs and subparagraphs]

[01] ☒ Stay away from [A] ☐ [name(s) of protected person(s) or witness(es)]: [redacted] and/or fro
[B] ☐ home of [redacted], [C] ☒ school of _____
[D] ☐ business of _____, [E] ☐ place of employment of _____
[F] ☐ other _____
- ☐ except for contact, communication or access permitted by a subsequent order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding.

[14] ☒ Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means wi
[specify protected person(s)]: [redacted]
- ☐ except for contact, communication or access permitted by a subsequent order issued by a family or supreme court in a custody, visitation or child abuse or neglect proceeding.

[02] ☒ Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against [specify protected person(s), members of such person's family or household, or person(s) with custody of child(ren)]: [redacted]

[15] ☐ Refrain from intentionally injuring or killing without justification the following companion animal(s) (pet(s)) [specify type(s) and, if available, name(s)]: _____

[11] ☐ Permit [specify individual]: _____ to enter the residence at [specify]: _____
during [specify date/time]: / / _____ with [specify law enforcement agency, if any]: _____
to remove personal belongings not in issue in litigation [specify items]: _____

[04] ☐ Refrain from [indicate acts]: _____ th
create an unreasonable risk to the health, safety, or welfare of [specify child(ren), family or household member]: _____

05] ☐ Permit [specify individual(s)]: _____,
entitled by a court order or separation or other written agreement, to visit with [specify child(ren)]: _____
_____ during the following periods of time [specify]: _____
_____, under the following terms and conditions [specify]: _____
_____;

12] ☐ Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including but not limited to, the following _____ and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than [specify date/time]: / / 00:00 at: _____.

] ☐ Promptly return or transfer the following identification documents [specify]: _____
_____ to the party protected by this Order NOT LATER THAN [specify date]:
_____ in the following manner [specify manner or mode of return or transfer]: _____
[Check box(es) if applicable:] ☐ Such documents shall be made available for use as evidence in this judicial proceeding.
☐ [Jointly owned documents or documents in both parties' names only]: the following document(s) may be used as necessary for legitimate use by the defendant [specify]: _____
_____.

99] ☒ Specify other conditions defendant must observe for the purposes of protection: [redacted] O[redacted]
No 3rd Party Contact

T IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or irearms, if any, pursuant to Penal Law §400.00, is hereby [13A] ☐ suspended or [13B] ☐ revoked (note: final order only), and/or 3C] ☐ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes).

T IS FURTHER ORDERED that this order of protection shall remain in force until and including [specify date]: 1/28/19
ut if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

DATED: 1/28/16

JUDGE/JUSTICE
[redacted]

[redacted]
(Defendant's signature)

Defendant advised in Court of issuance and contents of Order.
Order personally served on Defendant in Court

Order to be served by other means [specify]: _____
Warrant issued for Defendant
ADDITIONAL SERVICE INFORMATION: [specify]: _____

he **Criminal Procedure Law** provides that presentation of a copy of this order of protection to any police officer or peace officer acting ursuant to his or her special duties shall authorize and in some situations may require, such officer to arrest a defendant who is alleged to ave violated its terms and to bring him or her before the Court to face penalties authorized by law.

ederal law requires that this order be honored and enforced by state and tribal courts, including courts of a state, the District of olumbia, a commonwealth, territory or possession of the United States, if the person against whom the order is sought is an intimate artner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law ufficient to protect that person's rights (18 USC §§2265, 2266).

is a federal crime to:
ross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
uy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect
Note: there is a limited exception for military or law enforcement officers but only while they are on duty); and
uy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime volving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this rder has expired. (18 U.S.C. §§922(g)(8),922(g)(9), 2261, 2261A,2262).

DRL §§76-h (5), 254; Exec. L. §108;
FCA §§ 154-b; 818; 1015

General Form 21
Address Confidentiality Affidavit
(9/2012)

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF Sullivan

[redacted] [redacted], 0/6/0 Petitioner,
I [redacted] O [redacted]

-against-

R [redacted] R [redacted] Respondent

ADDRESS CONFIDENTIALITY AFFIDAVIT

File # 15731
Docket # O-00218-16

STATE OF NEW YORK)
)ss.:
COUNTY OF Sullivan)

1. I, [specify name]: I [redacted] O [redacted], am the ☒ Petitioner ☐ Respondent in the above-named proceeding.

2. I am requesting address confidentiality because [check applicable boxes] :

☒ Disclosure of my address or other identifying information would pose an unreasonable risk to my health or safety or my child(ren)'s health or safety.

☒ I am in a residential program for victims of domestic violence or a shelter provided for parents accompanying abused or neglected children, or a shelter for homeless persons.

☐ I have an address confidentiality order from [specify court or state agency and date]:

☐ I have been approved for participation in the Address Confidentiality Program of the NYS Department of State. My participation expires on [specify date]:

3. [REQUIRED <u>except for</u> participants in the NYS Department of State Address Confidentiality program]: I designate the following person as the agent for service of process and all papers in this case [specify, Clerk of Court, attorney or other person and address]:[1] CHIEF CLERK, SULLIVAN COUNTY FAMILY COURT, 100 NORTH STREET, MONTICELLO, NY 12701

4. I agree to inform the person named above as the agent for service of process or, if applicable, the NYS Department of State promptly of any change in my address.

J. O [redacted]
Signature

I [redacted], O [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

Sworn to before me this
18th day of February, 2016

~~Notary Public~~
(Deputy) Clerk of the Court

[1] Any person over the age of 18, who is not a party to the proceeding, or the Clerk of the Court may be designated as the agent for service of process and papers.

COURT ORI No: **NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) [redacted] (MIDDLE) (LAST) [redacted]
Alias/or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other _____): ( )
Employers Name: | Phone (work): ( )
Employers Address: | Hours of Employment:
**DATE OF BIRTH: | **SEX: ☐ MALE ☒ FEMALE | Social Security Number:
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: | Eye Color:
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: | Hair Color:

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) NY **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other): _____)
Employers Name: — | Phone (work): ( )
Employers Address: | Hours of Employment:
*DATE OF BIRTH: [redacted] | **SEX: ☒ MALE ☐ FEMALE | Social Security Number:
*RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: | Eye Color: Brown
*ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: | Hair Color: Brown
cense Plate Number: State:
ivers ID: State: | Mother's Maiden Name:
Police Caution Advised? If yes, why?

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-24, 2013
Christine Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 18, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Petitioner having filed a petition to modify an order of visitation dated October 30, 2013 and having appeared in Family Court on December 18, 2013, and it appearing that the Petitioner is incarcerated based on a violation of a Family Court order dated June 5, 2013, and having been charged with Judicial Contempt on December 18, 2013;

NOW, it is hereby

ORDERED that **R[redacted] R[redacted] R[redacted]** is sentenced to an additional thirty (30) days incarceration in the Sullivan County Jail to be added on to the term he is currently serving.

Dated: December 24, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1-2-14 to all encc.
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] R[redacted], Petitioner
Sullivan County Jail

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-24, 2013

Christine Benson

(Deputy) Chief/Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 18, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on October 30, 2013 for the following: Modification of Order of Visitation;

And the matter having duly come on to be heard before this Court and the following having appeared: R[redacted] R[redacted] R[redacted];

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to lack of jurisdiction; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: December 24, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1-2-14 to Petr
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] R[redacted], Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN
PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER TO PRODUCE

Upon a proceeding pending in this Court requiring the presence of **R[redacted] R[redacted] R[redacted]**, DOB: [redacted], who is currently incarcerated at Sullivan County Jail.

NOW THEREFORE, it is hereby

ORDERED that the Sullivan County Sheriff's Department produce **R[redacted] R[redacted] R[redacted]** before the Hon. Michael F. McGuire at Government Center, 100 North St., Monticello, NY 12701 on December 18, 2013 at 11:00 AM in Part 2; and it is further

ORDERED, that the Sullivan County Sheriff's Department, upon completion of the proceedings herein, transport and return **R[redacted] R[redacted] R[redacted]** to the Sullivan County Jail.

Dated: December 4, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN
PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER TO PRODUCE

Upon a proceeding pending in this Court requiring the presence of **R[redacted] R[redacted] R[redacted]**, DOB: [redacted], who is currently incarcerated at Sullivan County Jail.

NOW THEREFORE, it is hereby

ORDERED that the Sullivan County Jail produce **R[redacted] R[redacted] R[redacted]** before the Hon. Michael F. McGuire at Government Center, 100 North St., Monticello, NY 12701 on December 2, 2013 at 10:00 AM in Part 2; and it is further

ORDERED, that the Sullivan County Jail , upon completion of the proceedings herein, transport and return **R[redacted] R[redacted] R[redacted]** to the Sullivan County Jail.

Dated: December 2, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: I[redacted] C[redacted] O[redacted]
[redacted]

R[redacted] R[redacted] R[redacted]
[redacted]

Upon the petition of R[redacted] R[redacted] R[redacted] filed on October 30, 2013, annexed hereto, it is

ORDERED that I[redacted] C[redacted] O[redacted] show cause before this Court on

Date/Time:	December 2, 2013 at 10:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Modification of Order of Visitation should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon I[redacted] C[redacted] O[redacted] on or before November 25, 2013, be deemed sufficient service

Dated: November 7, 2013

ENTER

Hon. Michael F. McGuire

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

12/2
10:00

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
❑Custody ❑Visitation under Article ❑4 ❑5 ❑6
of the Family Court Act or Section 240
of the Domestic Relations Law

R[redacted] R[redacted] R[redacted] Petitioner
Relationship to child: father

-against-

I[redacted] O[redacted] Respondent
Relationship to child: mother

15731

Docket No. modification
PETITION
❑CUSTODY ☒VISITATION

RECEIVED
OCT 30 2013
SULLIVAN COUNTY FAMILY COURT

V-344-13/13A

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
I[redacted] O[redacted]	F	[redacted]	w/ Respondent	I[redacted] O[redacted]

2. a. Petitioner, R[redacted] R[redacted] R[redacted] [check applicable box]: ☑ resides ❑ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: father

3. a. Respondent I[redacted] O[redacted], [check applicable box]: ❑ resides ❑ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254] Address Unknown

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: mother

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
I[redacted] O[redacted]	[redacted] Respondent		I[redacted] O[redacted]	unknown

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: R[redacted] R[redacted] K[redacted]
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
☑ An acknowledgment of paternity was signed on [specify date]: UPON BIRTH AT by [specify who signed and attach a true copy]: CRMC, Harris, NY
❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ❑ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: Child has lived with Respondent from birth

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows:

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ☑ visitation for the following reasons [specify]: I would like to see my daughter I havent seen my daughter in 6moths and I would love to see her I have someone that can pick her up and drop her back off so I will not come in contact with my child mother. Pls. see cont. sheet attached hereto/made part of herein

14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): ❑ against Respondent ☒ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available] x I [redacted] [redacted] [redacted] cant go near I [redacted] do to her having A order protection agaist me

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are not parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ❑ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ❑ custody ☒ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: October 30, , 2013

x R[redacted] R[redacted] R[redacted]
Petitioner

x R[redacted] R[redacted] R[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
COUNTY OF Sullivan) :ss:

R[redacted] R[redacted] R[redacted] being duly sworn, says that (~~s~~)he is the Petitioner in the above-named proceeding and ~~that~~ the foregoing petition is true to (his)~~(her)~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it to be true.

x
Petitioner

Sworn to before me this
30th day of October, , 2013

(Deputy) Clerk of the Court
Notary Public

Supplemental Page for All Petitions: FF: 15731

Petitioner: R[redacted] R[redacted] R[redacted]	Respondent:

Cont. of #13:

I R[redacted] R[redacted] R[redacted] would love to see my daughter I[redacted] O[redacted]. I would lov to be in my child life. I understand I cant be her mother and I dont want to I just want to see my daughter I have someone that will pick my daughter up and return her back to the mother I understand I cant have contact with the mother. This is why I have someone to help me with the visits with my daughter. Im just trying to spend time with my daughter.

Mrs Vanetta Lane is willing to help me with the visits so I will not have any contact with Ms. I[redacted] D[redacted]

R[redacted] R[redacted] R[redacted], being duly sworn, says that (~~s~~)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/~~her~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes to be true.

Sworn to before me this 30th day of October, 2013

~~(Deputy)~~ Chief Clerk of the Court
~~Notary Public~~

X R[redacted] F[redacted]
Signature of Petitioner

At a term of th ily Court of the State of New York, held in and for the County of Sullivan, at the Government Center, 100 North St., Monticello, NY 12701, on June 5, 2013

RECEIVED JUL 2013 SULLIVAN COUNTY FAMILY COURT

PRESENT: Hon. Michael F. McGuire

In the Matter of a Custody/Visitation Proceeding

File #: 15731
Docket #: V-344-13

I[redacted] O[redacted],

Petitioner,

-against-

ORDER OF CUSTODY

R[redacted] R[redacted],

Respondent.

I[redacted] O[redacted], having filed a petition on or about February 28, 2013, for custody of the minor child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]; and respondent **R[redacted] R[redacted]** having denied the petition; and the parties having been advised of their right to counsel;

And the matter having duly come before this Court for trial on the above date;

And petitioner **I[redacted] O[redacted]** having appeared personally and by and with her attorney, John Ferrara, Esq.; and respondent **R[redacted] R[redacted]** having failed to appear, but his attorney, K.C. Garn, Esq., having appeared on his behalf and upon application, having been relieved as counsel to respondent; and **Jane M. Bloom, Esq.,** having appeared as the attorney for the child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]);

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision;

NOW, after fact finding and upon due deliberation, it is hereby

ORDERED that petitioner **I[redacted] O[redacted]** shall have sole custody of the minor child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]); and it is further

ORDERED that respondent **R[redacted] R[redacted]** shall have no contact whatsoever with the child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]); and shall not be entitled to the child's daycare, school, medical or other records; and it is further

ORDERED that petitioner **I[redacted] O[redacted]** shall enforce the no contact provision of this order with respect to the child and respondent; and it is further

ORDERED that prior to filing a petition for modification of this order, respondent **R[redacted] R[redacted]** shall provide proof to the Court of having completed a mental health evaluation and having enrolled in and commenced a domestic violence treatment program and all other treatment recommendations as a condition precedent to such filing; and it is further

ORDERED that this order does not relieve the father of any support obligations he may otherwise have; and it is further

Dated: ~~June~~ July 2, 2013

SO ORDERED:

S/ _____
HON. MICHAEL F. MCGUIRE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on July 5, 2013

Christina Benoni
~~(Deputy)~~ Chief/Clerk of the Court

Attorney Certification

To the best of my knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document contained herein is not frivolous as defined in 22 NYCRR Sec. 130-1, 1-a.

Dated: June 28, 2013

S/ _____
Jane M. Bloom

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☐ Petitioner	☐ by mail	☐ personal service
☒ Petitioner's Attorney (Ferrara)	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney (GARN)	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Bloom)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

**COURT ORI No: NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) R[redacted] (MIDDLE) R[redacted] (LAST) R[redacted]
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) NY **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): ([redacted] | Phone (other _____): ( )
Employers Name: NONE | Phone (work): ( )
Employers Address: | Hours of Employment:
**DATE OF BIRTH: [redacted] | **SEX: ☒ MALE ☐ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 6'2" | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: | Hair Color: Black

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) J[redacted] (MIDDLE) C[redacted] (LAST) O[redacted] | NYSID:
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: unknown
(CITY) _____ (STATE) _____ **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) _____ (COUNTY) _____
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): ( ) | Phone (other): ( )
Cell [redacted]
Employers Name: | Phone (work): ( )
Employers Address: | Hours of Employment:
**DATE OF BIRTH: [redacted] | **SEX: ☐ MALE ☒ FEMALE | Social Security Number:
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: | Eye Color:
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: | Hair Color:

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:

At a term of th[illegible]mily Court of the State of New York, held in and for the County of Sullivan, at the Government Center, 100 North St., Monticello, NY 12701, on June 5, 2013

RECEIVED JUN 6 2013 FAMILY COURT

PRESENT: Hon. Michael F. McGuire

In the Matter of a Custody/Visitation Proceeding

File #: 15731
Docket #: V-344-13

I[redacted] O[redacted],

Petitioner,

-against-

ORDER OF CUSTODY

R[redacted] R[redacted],

Respondent.

I[redacted] O[redacted], having filed a petition on or about February 28, 2013, for custody of the minor child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]); and respondent **R[redacted] R[redacted]** having denied the petition; and the parties having been advised of their right to counsel;

And the matter having duly come before this Court for trial on the above date;

And petitioner **I[redacted] O[redacted]** having appeared personally and by and with her attorney, John Ferrara, Esq.; and respondent **R[redacted] R[redacted]** having failed to appear, but his attorney, K.C. Garn, Esq., having appeared on his behalf and upon application, having been relieved as counsel to respondent; and **Jane M. Bloom, Esq.,** having appeared as the attorney for the child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]);

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision;

NOW, after fact finding and upon due deliberation, it is hereby

ORDERED that petitioner **I[redacted] O[redacted]** shall have sole custody of the minor child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]); and it is further

ORDERED that respondent **R[redacted] R[redacted]** shall have no contact whatsoever with the child **I[redacted] O[redacted] R[redacted]** (DOB [redacted]); and shall not be entitled to the child's daycare, school, medical or other records; and it is further

ORDERED that petitioner **I[redacted] O[redacted]** shall enforce the no contact provision of this order with respect to the child and respondent; and it is further

ORDERED that prior to filing a petition for modification of this order, respondent **R[redacted] R[redacted]** shall provide proof to the Court of having completed a mental health evaluation and having enrolled in and commenced a domestic violence treatment program and all other treatment recommendations as a condition precedent to such filing; and it is further

ORDERED that this order does not relieve the father of any support obligations he may otherwise have; and it is further

Dated: ~~June~~ July 2, 2013

SO ORDERED,

S/

HON. MICHAEL F. MCGUIRE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on July 5, 2013

Christina Benson

~~(Deputy)~~ Chief/Clerk of the Court

Attorney Certification

To the best of my knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document contained herein is not frivolous as defined in 22 NYCRR Sec. 130-1, 1-a.

Dated: June 28, 2013

S/

Jane M. Bloom

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☐ Petitioner	☐ by mail	☐ personal service
☒ Petitioner's Attorney (Ferrara)	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney (GARN)	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Bloom)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

F.C.A §§ 446, 551, 656, 842 & 1056

ORI No: NY052023J
Order No: 2013-000125
NYSID No: _____

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center 100 North St., Monticello, NY 12701, on June 05, 2013

PRESENT: Honorable Michael F. McGuire

In the Matter of a CUSTODY/VISITATION Proceeding

File # 15731
Docket# V-00344-13

I[redacted] C[redacted] O[redacted] (DOB: [redacted]),
Petitioner,

- against -

R[redacted] R[redacted] R[redacted] (DOB: [redacted]),
Respondent.

Order Of Protection

Upon Default

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT.

A petition under Article 6 of the Family Court Act, having been filed on February 28, 2013 in this Court and after hearing, and R[redacted] R[redacted] R[redacted] having not been present in Court,

NOW, THEREFORE, IT IS HEREBY ORDERED that R[redacted] R[redacted] R[redacted] (DOB: [redacted]) observe the following conditions of behavior:

[01] Stay away from:

[A] I[redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] O[redacted] (DOB: [redacted]);

[B] the home of [redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] O[redacted] (DOB: [redacted]);

[C] the school of [redacted] C[redacted] O[redacted] (DOB: [redacted]) and I[redacted] S[redacted] O[redacted] (DOB: [redacted]);

[E] the place of employment of I[redacted] C[redacted] O[redacted] (DOB: [redacted]);

[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with I[redacted] C[redacted] O[redacted] (DOB [redacted]) and I[redacted] S[redacted] O[redacted] (DOB: [redacted]);

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense against [redacted] C[redacted] C[redacted] (DOB: [redacted]) and [redacted] S[redacted] [redacted] DOB [redacted]);

It is further ordered that this order of protection shall remain in force until and including June 05, 2015;

Dated: June 05, 2013 **ENTER**

Honorable Michael F. McGuire

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess, or transfer a handgun, rifle, shotgun, or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check Applicable Box(es):

[ ] Party against whom order was issued was advised in Court of issuance and contents of Order

[ ] Order personally served in Court upon party against whom order was issued

[X] Service directed by Petitioner to Arrange

[X] [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]: 6-5-13 to Pch & counsel & SCSO

[ ] Warrant issued for party against whom order was issued [specify date]:

[ ] ADDITIONAL SERVICE INFORMATION [specify]:

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on May 23, 2013

(Deputy) Chief/Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on May 20, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00342-13

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on February 25, 2013 for the following: Visitation;

And the matter having duly come on to be heard before this Court and the following having appeared: R[redacted] R[redacted]r and Sullivan County Legal Aid Panel, Inc.; I[redacted] C[redacted] O[redacted] and John Ferrara; Jane M. Bloom;

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to withdrawal of petition; it is therefore

ORDERED that the petition herein is dismissed.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: May 21, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 5/23/13
☐ Order received in court on [specify date(s) and to whom given]:

CC: John Ferrara, Esq., Conflict Defender's Office
Jane M. Bloom, Esq., Attorney for Child
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00342-13
V-00344-13

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Jane M. Bloom, Esq.
34 North Street
PO Box 209
Monticello, NY 12701
(845) 791-8167

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
I[redacted] S[redacted] O[redacted]	[redacted]

and it is further

Ordered that Jane M. Bloom, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Jane M. Bloom, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Jane M. Bloom, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Jane M. Bloom, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Jane M. Bloom, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Jane M. Bloom, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time: April 22, 2013 at 1:30 PM
Purpose: Appear
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

Dated: April 5, 2013

ENTER

Hon. Michael F. McGuire

CC: John Ferrara, Esq., Conflict Defender's Office; R[redacted] R[redacted] R[redacted], Respondent
I[redacted] C[redacted] O[redacted], Petitioner; Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13

I[redacted] C[redacted] O[redacted],

Petitioner,

- against -

R[redacted] R[redacted] R[redacted],

Respondent.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: R[redacted] R[redacted] R[redacted]
[redacted]

I[redacted] C[redacted] O[redacted]
[redacted]

Upon the petition of I[redacted] C[redacted] O[redacted] filed on February 28, 2013, annexed hereto, it is

ORDERED that R[redacted] R[redacted] R[redacted] show cause before this Court on

Date/Time:	April 1, 2013 at 9:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon R[redacted] R[redacted] R[redacted] on or before March 18, 2013, be deemed sufficient service

Dated: March 1, 2013

ENTER

Sent for Sig.

Hon. Michael F. McGuire

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☑ Custody ☐ Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

[redacted]

Petitioner
Relationship to child: Mother

-against-

[redacted]

Respondent
Relationship to child: Father

Docket No. 15431
PETITION
☑ CUSTODY ☐ VISITATION

V-344-13

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	Female	[redacted]	[redacted]	[redacted]

2. a. Petitioner, [redacted] [check applicable box]: ☑ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

3. a. Respondent, [redacted] [check applicable box]: ☑ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	Birth to Present	[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: [redacted]

❑ The father was married to the child(ren)'s mother at the time of the conception or birth.

❑ An order of filiation was made on [specify date and court and attach true copy]:

☒ An acknowledgment of paternity was signed on [specify date]: [redacted] by [specify who signed and attach a true copy]: @CRMC, Haverstraw NY

❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ❑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ❑ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: [redacted] has lived with me since Birth

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows:

13. It would be in the best interests of the child(ren) for Petitioner to have ☑ custody ❑ visitation for the following reasons [specify]: My home is a safe Environment for [redacted] I can take care of her and her Needs.

14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ☒ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]: Monticello Village Court
The ☒ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]: 3/8/13

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection~~ pursuant to Family Court Act §655 because [specify]:

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ❑ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: None

WHEREFORE, Petitioner requests an order awarding ❑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: February 28, , 2013

X [redacted]
Petitioner

X [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF)

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

X [redacted]
Petitioner

Sworn to before me this
28th day of February , 2013

Melissa A. Slater
~~(Deputy) Clerk of the Court~~
Notary Public
Qualified in Sullivan County
Reg. # 2091
Comm. Expires 9/5/2013

**COURT ORI No: NY052023J
**ORDER No. 20 13 000 125
**DOCKET/INDEX: V-344-13

**COURT: NYS FA LY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: 6-5-13
**EXPIRATION DATE: 6-5-15

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☒ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☒ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Yours **APPLYING PARTY** (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted]
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☒ NO
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) [redacted] (ZIP) [redacted]
Phone (home): ( ) | Phone (other Cell): [redacted]
Employers Name: — | Phone (work): ( )
Employers Address: — | Hours of Employment:
**DATE OF BIRTH: [redacted] | **SEX: ☐ MALE ☒ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5'5" | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 180 | Hair Color: Brown

his **ENJOINED PARTY** (Party Against Whom Order Runs)

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)*
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other): Cell ( ) [redacted]
Employers Name: — | Phone (work): ( ) —
Employers Address: — | Hours of Employment: —
**DATE OF BIRTH: | **SEX: ☒ MALE ☐ FEMALE | Social Security Number: —
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 6'2" | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 195 | Hair Color: Brown

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? If yes, why?

Criminal Form # 92008

ORI No: _____
Order No: _____
NYSID No: _____
CJTN No. _____

At a term of the Village Court County of Sullivan
at the Courthouse at (address) Monticello State of New York

Present: Hon Martin S. Miller

ORDER OF PROTECTION
Non-Family Offense – C.P.L. 530.13[1]
(Not involving victims of domestic violence)

☐ Youthful Offender (check if applicable)
Part_____ Index/Docket No._____
Indictment No., if any: _____
Charges Assault 3
(Check one): ☐ Ex parte
☒ Defendant Present in Court

People of the State of New York

[redacted]

Defendant
Date of Birth: [redacted]

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS A TEMPORARY ORDER OF PROTECTION AND YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU REAPPEAR IN COURT.

☒ **TEMPORARY ORDER OF PROTECTION.** Whereas good cause has been shown for the issuance of a temporary order of protection [as a condition of ☐ recognizance ☒ release on bail ☐ adjournment in contemplation of dismissal],
☐ **ORDER OF PROTECTION.** Whereas defendant has been convicted of [specify crime or violation]:

_____

And the Court having made a determination in accordance with section 530.13 of the Criminal Procedure Law,
IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:
(Check applicable paragraphs and subparagraphs):

☒ Stay away from ☒ name(s) of protected person(s) or witness(es): [redacted]
and/or from the ☒ home of AND [redacted]
☒ school of _____
☒ business of _____
☒ place of employment of _____
☒ other [redacted]

☒ Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other means with [specify protected person(s)]:_____;

☐ Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, disorderly conduct, criminal mischief, intimidation, threats or any criminal offense or interference with the victim or victims of , or designated witnesses to, the alleged offense and such members of the family or household of such victim(s) or witness(es) as shall be specifically named [specify]:_____;

☐ Refrain from intentionally injuring or killing without justification the following companion animal(s) (pet(s)) [specify type(s) and, if available, name(s)]: _____;

☐ Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: _____and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but no later than [specify date/time]:_____
at:_____

☐ Specify other conditions defendant must observe for the purposes of protection: _____
_____
_____;

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair , sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby ☐ suspended or ☐ revoked (note: final order only), and/or ☐ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes). **NOTE: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252.**

IT IS FURTHER ORDERED that this order of protection shall remain in effect until [specify date]: 3/8/13.

DATED: 2/23/13

_____
JUDGE / JUSTICE
COURT (COURT SEAL)

☒ Defendant advised in Court of issuance and contents of Order.
☒ Order personally served on Defendant in Court [redacted]
(Defendant's signature)

☐ **Order to be served by other means [specify]:**_____
☐ Warrant issued for Defendant

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a defendant who

Agency	ORI	New York State DOMESTIC INCIDENT REPORT	Sprint # (NYC)	Incident #
MONTICELLO POLICE DEPT	NY05222[illegible]0		5322	MP-001752-1

DATES	Month	Day	Year	Time (24 hrs)	Address of Occurrence	Apt #	Precinct (NYC)/ CTV	Aided # (NYC)	Complaint #
Occ	Feb	23	2013	11:30	22 RICH[illegible]RDSON CT MONTICELLO	11			MP-00191-13
Rpt	Feb	23	2013	11:30					

SAF[illegible] CONTACT INFORMATION

○ Officer-Initiated ○ Radio Run ○ Walk-In

PERSON 1

Name (Last,First,M.I.) / (include aliases): O[redacted] I[redacted] C | Phone: [redacted] | DOB: [redacted] | Age: 22 | ○ Male ⊗ Female

Street & City: [redacted] | Apt #: [redacted] | Zip: [redacted] | If non-English, language: ○ Spanish ○ Chinese ○ Other:

Injured? ○ No ⊗ Yes | Removed to Hospital? ⊗ No ○ Yes | ○ White ⊗ Black ○ Asian ○ American Indian ○ Other: | ○ Hispanic ⊗ Non-Hispanic ○ Unknown | Notes (e.g. special needs, disability, requests)

Describe: 07 APPARENT MINOR INJURY | What hospital?

PERSON 2

Name (Last,First,M.I.) / (include aliases): [redacted] | Phone: [redacted] | DOB: [redacted] | Age: 21 | ⊗ Male ○ Female

Street & City: [redacted] | Apt #: [redacted] | Zip: [redacted] | If non-English, language: ○ Spanish ○ Chinese ○ Other:

Injured? ○ No ⊗ Yes | Removed to Hospital? ⊗ No ○ Yes | ○ White ⊗ Black ○ Asian ○ American Indian ○ Other | ○ Hispanic ⊗ Non-Hispanic ○ Unknown

Describe: 07 APPARENT MINOR INJURY | What hospital?

Prior DV History? ⊗ Yes ○ No
Prior DV Police Report? ○ Yes ⊗ No
Victim fearful? ⊗ Yes ○ No

PERSON 2 present? ⊗ Yes ○ No

LIVING SITUATION
Do parties *currently* live together? ○ Yes ⊗ No
If NO, have they lived *together in the past?* ○ Yes ⊗ No
Do the parties have a *child-in-common?* ⊗ Yes ○ No

RELATIONSHIP: (Person 1 to Person 2)
○ Married ○ Formerly Married
○ Intimate Partner/Dating ⊗ Former Intimate/Dating
○ Child of victim/party 1 ○ Parent of victim/party 1
○ Relative: ○ Other:

PERSON 2:
Access to weapons? ○ Yes ⊗ No
Drug/Alcohol History? ○ Yes ⊗ No
Suicide threat history? ○ Yes ⊗ No

ASSOCIATED PERSONS

Name (Street / Apt# / City, if needed)	Phone No.	DOB Month	Day	Year	Relationship to Person 1
[redacted]	[redacted]	[redacted]			

PERSON 2 ACTIONS (Check all that apply)

○ Biting
⊗ Destroyed Property
○ Forced Entry
○ Forcible Restraint
○ Hair Pulling
○ Homicide
○ Impaired Alcohol/Drugs
○ Injury to Child
○ Injury to Other Persons
○ Injury to Pet/Animal
○ Interference with Phone
○ Intimidation/Coercion
⊗ Kicking
⊗ Punching
⊗ Pushing
○ Sexual Assault
○ Shooting
⊗ Slapping
○ Slamming Body
○ Stabbing
○ Strangulation/"Choking"
○ Suicide or Attempt
○ Threw Items
○ Unwanted Contact
⊗ Verbal Abuse
○ Violated Visitation/ Custody Conditions
○ OTHER Suspect Actions:
○ Threats: (specify)
○ Injure/Kill Persons
○ Injure/Kill Self
○ Injure/Kill Pet/Animal
○ Take Child
○ Destroy/Take Property
○ Other:
○ Threat with weapon
⊗ Weapon used: (specify)
⊗ Blunt Object
○ Gun
○ Motor Vehicle
○ Sharp Instrument
○ Other:

Arrest Made? ○ Yes ⊗ No | **Arrest #** | **Reasons arrest not made on-scene:** ○ No Offense Committed ○ No Probable Cause ○ Suspect Off-Scene ○ Warrant/Criminal Summons to be requested ○ Violation level: not in police presence(no citizen's arrest) ○ Other

OFFENSE & OP

Offenses	Law (e.g. PL)	Section (Sub)	Charges Filed
1			○
2			○
3			○

Offenses Involved: (check all that apply) ○ Felony ○ Misdemeanor ○ Violation ○ Other *(specify)*

Registry Checked? ○ Yes ⊗ No
Order of Protection? ○ Yes ⊗ No
Stay Away Order? ○ Yes ⊗ No
Order Violated? ○ Yes ⊗ No
Any Prior orders? ○ Yes ⊗ No

OP Court Name: ○ Family ○ Criminal ○ Supreme ○ Out of State ○ Tribal

Expiration Date	Month	Day	Year

STOP! ********** COMPLETE STATEMENT ON PAGE 2 NEXT **********

INVESTIGATION

Photos Taken? ○ Yes ⊗ No | If YES, photos taken of: ○ Victim Injuries ○ Suspect Injuries ○ Scene ○ Damaged Property ○ Other: | Other evidence collected? ○ Yes ⊗ No | If YES, describe:

Results of investigation and basis of action taken: *Were excited utterances, spontaneous admissions or spontaneous statements made?* ○ Yes ⊗ No *(Complete 710.30 or other form when applicable)*

I, I[redacted] O[redacted] am 22 years old and live at [redacted]. It is approximately 1210PM and I am knowingly and voluntarily giving this statement to uniformed police Officer H. Mota #633 at the Village of Monticello Police Department in regard to the events that took place today at [redacted] located in [redacted].

On this date at approximately 11:20AM I was in my bedroom with my 7 months old daughter. My ex-boyfriend R[redacted] R[redacted] who is the father of my child had slept

Any Guns in House? ○ Yes ⊗ No | Any Guns Seized? ○ Yes ⊗ No | Household Member Has Pistol Permit? ○ Yes ⊗ No | Permit Seized? ○ Yes ⊗ No
Permit #(s): | Issuing County: | Name on Permit(s):

Is there reasonable cause to suspect a child may be the victim of abuse, neglect, maltreatment or endangerment? ○ Yes ⊗ No
If YES officer must contact the **NYS CHILD ABUSE HOTLINE REGISTRY #1-800-635-1522**

IS PERSON 2 ON PAROLE OR PROBATION? ○ Probation ○ Parole ○ Not Supervised ○ Status Unknown

CONTACTS INITIATED BY POLICE: ○ Domestic Violence Services ○ Child Protective Services (or ACS) ○ Other Agency:

Officer's Signature (& Rank)	PRINT and SIGN)	ID No	Month	Day	Year		Page
R. Mota		633	2	23	2013	*1. Was DIR given to the victim at the scene?* ○ Yes ⊗ No *2. Was Victim Rights Notice given to victim?* ○ Yes ⊗ No	1 of 3
Supervisor's Signature (& Rank)	PRINT and SIGN)					If NO, give reason:	

POLICE COPY (Please make a copy for your DA's office if appropriate) | NYS DOMESTIC HOTLINE ENGLISH: 1-800-942-6906 SPANISH: 1-800-942-6908 | 3221-05/2011 DCJS Copyright © 2011 by NYS DCJS

Agency	ORI	New York State DOMESTIC INCIDENT REPORT	Sprint # (NYC)	Incident #
MONTICELLO POLICE DEPT	NY0522200		5322	MP-001752-13

********** INVESTIGATION - CONTINUE **********

over the night before and was staying downstairs. I told R[redacted] I was going to go and fix the headlight in my car. R[redacted] then got upset because he wanted me to take my car to someone he knew. R[redacted] then took his ball cap and hit me with it. I asked R[redacted] why he hit me. My mother who was watching television downstairs in the livingroom came upstairs to see what was the problem. I told my mother R[redacted] hit me with his ball cap. R[redacted] then told my mother ' i didn't fucking hit her" and hit me with the ball cap again. My mother told R[redacted] why are you doing that. R[redacted] then told my mother if i wanted to hit her i will hit her like this and punched me in the face while i was holding my daughter. I felt backwards with my daughter still in my arms. My mother then grabbed R[redacted] and that's when he turn around pushed her and punchei her in the face. I then put my daughter on the bed and tried to help my mother. R[redacted] then punch me again and I felt on top of my daughter. I was able to turn my body away from daughter while R[redacted] continue to punch me. R[redacted] then grabbed the swing set tray and began to hit me with it. My mother then tried to stop R[redacted]. R[redacted] then stop and walked downstairs. I then call the police.

Officer's Signature (& Rank)	(PRINT and SIGN)	ID No	Month	Day	Year		Page
		633					2 of 3
Supervisor's Signature (& Rank)	(PRINT and SIGN)						

ORI: NY0522200	Incident No.: MP-001752-13	CTV: 5322	Case No.: MP-00191-13

Page 2 of the NYS Domestic Incident Report:

STATEMENT OF ALLEGATIONS / SUPPORTING DEPOSITION

Suspect Name (Last,First,MI)
R[redacted], R[redacted] R,[redacted]

I, O[redacted] I[redacted] C (victim/deponent name), state that on 02/23/2013, (date) at 11:30

(location of incident), in the County/City/Town/Village of MONTICELLO, of the state of New York, the following did occur:

I, I[redacted] O[redacted]e, am 22 years old and live at[redacted]. It is approximately 1210PM and I am knowingly and voluntarily giving this statement to uniformed police Officer H. Mota #633 at the Village of Monticello Police Department in regard to the events that took place today at [redacted] located in [redacted].

On this date at approximately 11:20AM I was in my bedroom with my 7 months old daughter. My ex-boyfriend R[redacted] R[redacted] who is the father of my child had slept over the night before and was staying downstairs. I told R[redacted] I was going to go and fix the headlight in my car. R[redacted] then got upset because he wanted me to take my car to someone he knew. R[redacted] then took his ball cap and hit me with it. I asked R[redacted] why he hit me. My mother who was watching television downstairs in the livingroom came upstairs to see what was the problem. I told my mother R[redacted] hit me with his ball cap. R[redacted] then told my mother ' i didn't fucking hit her" and hit me with the ball cap again. My mother told R[redacted] why are you doing that. R[redacted] then told my mother if i wanted to hit her i will hit her like this and punched me in the face while i was holding my daughter. I felt backwards with my daughter still in my arms. My mother then grabbed R[redacted] and that's when he turn around pushed her and punched her in the face. I then put my daughter on the bed and tried to help my mother. R[redacted] then punch me again and I felt on top of my daughter. I was able to turn my body away from daughter while R[redacted] continue to punch me. R[redacted] then grabbed the swing set tray and began to hit me with it. My mother then tried to stop R[redacted]. R[redacted] then stop and walked downstairs. I then call the police.

False Statements made herein are punishable as a Class A Misdemeanor, pursuant to section 210.45 of the Penal Law.

Victim/Deponent Signature _____ **Date** _____

Interpreter _____ **Date** _____

Witness or Officer _____ **Date** _____

Note:
Whether or not this form is signed, this DIR form will be filed with law enforcement.

MONTICELLO POLICE DEPT
2 PLEASANT STREET
MONTICELLO, NY 12701-
(845)794-4422

Entry/CC#: MP-001752-13 Date: 02/23/2013 Time: 11:30 Tour: 50 Desk Officer: 623

Call Type.....: DOMESTIC Priority..: How Received: TELEPHONE

Caller.....: O[redacted], I[redacted] C
Bus. Name..:
Address....: [redacted]
City/St/Zip: [redacted] Call Back #: [redacted]

Location of Assignment: [redacted]
Cross Street.....:
Business Name.....:
Description.....: GIRLFRIEND/BOYFRIEND
Disposition.....: ARREST

Post: Dispatched: Y Dispatched Date: 02/23/2013 Call Taker: 623

OFFICERS INVOLVED

Serial #:633 Rank:PO Name:HARRY MOTA
Serial #:60 Rank:PO Name:JOHN F RIEGLER
Serial #:611 Rank:LT Name:MARK JOHNSTONE Type:SUPERVISOR

ASSOCIATED NUMBERS

Arrest # :MP-00192-13 Defendant: R[redacted] R R[redacted] [redacted] DOB: [redacted]
Case # :MP-00191-13 Incident Type: DOMESTIC

PERSONS INVOLVED

Name.....: C[redacted], I[redacted] [redacted] DOB: [redacted]
Address.....: [redacted]
City/State/Zip: [redacted], [redacted]
Phone Number..: [redacted]
Mobile Number..: [redacted]
Sex.....: F Race: BLK
Person Type...: COMPLT./VICTIM

Name.....: R[redacted], R[redacted] R [redacted] DOB: [redacted]
Address.....: [redacted]
City/State/Zip: [redacted]
Phone Number..: [redacted]
Mobile Number..: [redacted]
Sex.....: M Race: BLK
Person Type...: SUSPECT

Name.....: [redacted] [redacted] DOB: [redacted]
Address.....: [redacted]
City/State/Zip: [redacted] [redacted]
Phone Number..: [redacted]
Business Number..: [redacted] -
Sex.....: F Race: BLK
Person Type...: PARENT

PROPERTY INVOLVED

Item Descript.: TV STAND
Quantity.....: 1 Value: 50
Plate/Serial #: State: ID # or VIN:
Year.....: Make: Model: Color:
Disposition...: Date: / /
Misc.....:

NARRATIVE

Responded to [redacted], reference to a domestic, arrested the defendant R[redacted] for the following charges:
Assault 3rd
Endangering the welfare of a minor
Criminal mischief in the fourth degree.
R[redacted] arraigned by Judge Miller and committed to SCJ, $150.00 bail to appear, Friday March 1st at 10am.
Complaints signed by the victim.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00342-13

R[redacted] R[redacted] R[redacted],

Petitioner,

ORDER TO SHOW CAUSE

- against -

[redacted] C[redacted] O[redacted],

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: [redacted] C[redacted] O[redacted]
[redacted]
[redacted]

R[redacted] R[redacted] R[redacted]
[redacted]
[redacted]

Upon the petition of R[redacted] R[redacted] R[redacted] filed on February 25, 2013, annexed hereto, it is

ORDERED that [redacted] C[redacted] O[redacted] show cause before this Court on

Date/Time:	April 1, 2013 at 9:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Visitation should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon [redacted] C[redacted] O[redacted] on or before March 18, 2013, be deemed sufficient service

Dated: February 28, 2013

ENTER

Hon. Michael F. McGuire

mt 3/1/13

FCA §§ 467, 549, 651, 652,654; DRL §§75-I, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

41 @ 9

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
❑Custody ❑Visitation under Article ❑4 ❑5 ❑6
of the Family Court Act or Section 240
of the Domestic Relations Law

Petitioner [redacted]
Relationship to child:

15731
Docket No. V-0342-13
PETITION
❑ CUSTODY ☑ VISITATION

-against-

Respondent [redacted]
Relationship to child: [redacted]

FEB 25 2013

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	F	[redacted]	[redacted]	[redacted]

2. a. Petitioner, [redacted] [check applicable box]: ☑ resides ❑ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: father

3. a. Respondent, [redacted], [check applicable box]: ☑ resides ☑ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify N/A

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
x I[redacted] S[redacted] O[redacted]	[redacted]	[redacted] 1 month to present	I[redacted]	C[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Village Court, County, State of [redacted] NY, referring the issue of ❑ custody ☑ visitation to the Family Court of the State of New York in and for the County of [specify]:
Sullivan

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: x R[redacted] R[redacted]
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
☒ An acknowledgment of paternity was signed on [specify date]: June 24, 2012 by [specify who signed and attach a true copy]: R[redacted] R[redacted] @ CRMC, Harris, NY
❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ❑ Petitioner ☑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: The child has resided w/ mom since Birth

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows:

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ❑ visitation for the following reasons [specify]: pls. see cont. sheets attached hereto/made part of herein

14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ❑ against Respondent ☑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]: Nassau court, 3-1-13, pending 3/8/13
The ❑ Order of Protection ☑ Temporary Order of Protection expired or will expire on [specify date]:

5 If litigation occurred in Native-American tribunal, so indicate.

b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ☑ are ❑ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ❑ custody ☑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: Feb 25 , 20 13

R[redacted] R[redacted]
Petitioner

[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

Petitioner

Sworn to before me this
25th day of February, , 2013

Stacy Bush
(Deputy) Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: (1) FF: _____

Petitioner: R[redacted] R[redacted]	Respondent: I[redacted] D[redacted]

on the morning of February 23, 2013 I R[redacted] R[redacted] was engaged in a disagreement with I[redacted] over who she should get to work on her car. The argument started when I[redacted] came home & informed that she had a person in interest to fix her car. She informed me that she would have her friend that was auto body certified work on it. I then said to her how about have someone work on your car that's a mechanic. She then became upset & said that I think "I'm a know it all" and I'm jealous. I replied I'm jealous? for what I have no reason to be jealous I'm just giving my opinion. Still angry I[redacted] then tried to grab the baby and told me to get out or get a ride. I was still holding my daughter when she then started "this is why I don't see my daughter" I replied that you can't just get mad at me and not let me see my daughter. She then said I can't see my daughter for a week. I then got upset and quiet. When I became upset I took my N.Y. Giants Beany hat and turned it upside down and hit her on the head and said you can't just take my baby away when you want. When I said that her mom came upstairs. her mom then asked I[redacted] what happened. upon hearing what happend she then replied its time to go. I tried two more times to explain my self then I pushed her and she fell into the swing set. After the pushing her her mom grabbed my left hand and right shoulder from behind and pulled me & her into the hall. Stand in the room and broke it. I then was enraged because her mom was pushing

put in your own words

_____, being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this day of , 20

_____ X _____

(Deputy) Chief Clerk of the Court
Notary Public

Signature of Petitioner

Supplemental Page for All Petitions: (2) FF: _____

Petitioner: R[redacted] P[redacted]	Respondent: I[redacted] O[redacted]

I was arrested because her mom then began punching me in the side of the face and trying to restrain me on the wall. I walked downstairs when I pushed her mom off of me. when I walked downstairs they stayed upstairs and I heard commotion I only stayed in the residence because I needed my belongings and keys. they did not give me my things and they opened the door as if they were going to let me get my things and when I went outside the police were there. the police immediately interviewed them ~~both~~. ~~the police of the [illegible]~~ without giving me a fair chance at talk. I did tell the officer my injuries and that I filed a domestic incident report in middle town.

R[redacted] P[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 25 day of February, 2013

Stacy [illegible]

(Deputy) Chief Clerk of the Court
~~Notary Public~~

X R[redacted] P[redacted]
Signature of Petitioner

**COURT ORI No: NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FA LY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) R[redacted] (MIDDLE) R[redacted] (LAST) R[redacted]
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other _____): ( )
Employers Name: | Phone (work): ( )
Employers Address: |Hours of Employment:
**DATE OF BIRTH: [redacted] **SEX: ☒ MALE ☐ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☒ BLACK ☒ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 6ft 2in | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 185 | Hair Color: Brown

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) J[redacted] (MIDDLE) C[redacted] (LAST) C[redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): ( ) | Phone (other): _____)
Employers Name: | Phone (work): ( )
Employers Address: |Hours of Employment:
**DATE OF BIRTH: | **SEX: ☐ MALE ☐ FEMALE | Social Security Number:
**RACE: ☐ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN |Height: | Eye Color:
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: | Hair Color:

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
's Police Caution Advised? If yes, why?

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 8/22 20 12

Deputy Chief Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on August 16, 2012

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-01434-12
V-01472-12 and O-01433-12
ORDER OF DISMISSAL

[redacted] C[redacted] O[redacted],

Petitioner,

- against -

R[redacted] R[redacted] R[redacted],

Respondent.

Petitions under Article 6 of the Family Court Act, having been filed in this Court on July 26, 2012 and August 1, 2012 for the following: Custody and a petition under Article 8 having been filed on July 26, 2012;

And the matters having duly come on to be heard before this Court and the following having appeared: I[redacted] C[redacted] O[redacted] and R[redacted] R[redacted] R[redacted];

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petitions are dismissed due to withdrawal of petitions; it is therefore

ORDERED that the petitions herein are dismissed and the temporary order of protection is hereby vacated.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: August 20, 2012

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 8/22/12
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] R[redacted], Respondent
I[redacted] C[redacted] O[redacted], Petitioner

FAMILY PROTECTION REGISTRY
ADDENDUM TO INFORMATION SHEET

Use this form for Vacates, Dismissals, Sealed, Extensions, Violations, Warrants and Service.
A copy of the original order of protection is not required.
******* **ASTERISKED AREAS ARE REQUIRED** *******
DO NOT use this form for Modification or Finalization of Orders of Protection

ORIGINAL ORDER INFORMATION

**COURT ORI No: NY0 52023J **COURT: NYS FAMILY COURT
**ORDER NO: 2001- 000236 **COUNTY: SULLIVAN
**DOCKET NO: O-01433-12
Court Contact: Name Christina Benson
**Enjoined Party's Name: R[redacted] R[redacted]
Telephone # 845-807-0650
**Applying Party's Name: I[redacted] O[redacted]

Law Enforcement Agency at which Copy of Order is Filed:

**NAME: Sullivan County Sheriff's Department **POLICE ORI: NY0520000

☐ **ORDER SERVED Service Date:** _____ **Time:** _____
☒ **ORDER VACATED Date:** 8/16/12
☐ **CASE DISMISSED Date:** _____
☐ **CASE SEALED Date:** _____

☐ ORDER EXTENDED

** Date of Extension: _____ ** Judge: _____
** New Expiration Date: _____

**** SERVICE OF EXTENDED ORDER:**

☐ Police to Serve Order ☐ Other
☐ Order Served in Court (Date: _____ Time: _____)
☐ Notification by Mail (Mail Date: _____) ☐ Order Previously Served: (Date: _____)
(No new service to be done.)

☐ VIOLATION

** Date of Filing: _____ **Judge: _____
** Date of Disposition: _____
** Disposition:: ☐ a. Dismissed ☐ b. Resentence ☐ c. Convicted ☐ d. New OP
☐ Gun License Revoked

☐ WARRANT

** Issue Date: _____ ** Name: _____
☐ Warrant Executed: (date: _____)
☐ Return on Warrant: (date: _____)
☐ Warrant Vacated: (date: _____)

8/17/12 - Sm d

rev. 4/5/11
Q:/FORMS

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-01472-12

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: I[redacted] C[redacted] O[redacted]
[redacted]

R[redacted] R[redacted] R[redacted]
[redacted]

Upon the petition of R[redacted] R[redacted] R[redacted] filed on August 1, 2012, annexed hereto, it is

ORDERED that I[redacted] C[redacted] O[redacted] show cause before this Court on

Date/Time:	August 27, 2012 at 9:30 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon I[redacted] C[redacted] O[redacted] on or before August 15, 2012, be deemed sufficient service

Dated: August 3, 2012

ENTER

Hon. Michael F. McGuire

,6 Sent for Ser

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody,
Visitation)
3/2009

8/27
9:30

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

R[redacted] R[redacted] Petitioner

15731
Docket No. V-1472-12
PETITION
☒ CUSTODY
☐ VISITATION

-against-

J[redacted] O[redacted] espondent

.....

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, R[redacted] R[redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: IM her father

c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

2. a. Respondent, J[redacted] O[redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic

[redacted]

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

Relations Law §254]:

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 3. [Delete if inapplicable]: An order was issued by Court, County, State of , referring the issue of ❑custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Address	Date of Birth
[redacted]	[redacted]	[redacted]

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	6/26/12-current	[redacted]	[redacted]

6. [Check applicable box(es). Delete inapplicable provisions]:

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:

x R[redacted] R[redacted]

☐ The father was married to the child(ren)'s mother at the time of the conception or birth.

☐ An order of filiation was made on [specify date and court and attach true copy]:

☒ An acknowledgment of paternity was signed on [specify date]: UPON CHILD'S BIRTH by [specify who signed and attach a true copy]: AT CRMC, HARRIS, NY

☐ The father is deceased.

---

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition..

OMIT 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 8. [Delete if inapplicable]: Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[4]
If so, specify type of case, capacity of participation, court, location and status of case.

9. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

OMIT 10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

11. ☐ Petitioner ☐ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: ✓ ~~Child~~, has lived with I[redacted] since Birth.
I[redacted]

OMIT 12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The

4 If litigation occurred in Native-American tribunal, so indicate.

permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s)

☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

13. It would be in the best interests of the child(ren) to have custody visitation awarded to the Petitioner for the following reasons: pls. see Cont. sheet attached hereto/made part of herein

OMIT 14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: against Respondent against me in the following criminal,

matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

OMIT 15. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

16. The subject child(ren) are X are not Native-American child(ren) subject to the Indian

Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding custody ☐ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: July 31, 2012

x [redacted]
Petitioner

x R[redacted] R[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted]

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

x
Petitioner

Sworn to before me this
31st day of July 2012

(~~Deputy~~) Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: 15731

Petitioner: R[redacted] R[redacted] | Respondent: I[redacted] C[redacted]

Cont. of #13:

I R[redacted] R[redacted] want joint custody ~~to~~ of my daughter I[redacted] C[redacted] born [redacted]. I have seen my daughter in a week. no phone calls from the mother I[redacted] C[redacted]. I have been calling going to the house texting her and she has not return any calls at all. I have been before and after she was born.

I Also would ~~th~~ like it where there can be provisions where she Cant leave the state with our Child with provisions

R[redacted] R[redacted], being duly sworn, says that (~~s~~)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/~~her~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes to be true.

Sworn to before me this 31st day of July, 2012

(Deputy) Chief Clerk of the Court
Notary Public

X R[redacted] R[redacted]
Signature of Petitioner

COURT ORI No: **NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Yours **APPLYING PARTY** (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) K[redacted] (MIDDLE) (LAST) R[redacted]
Alias or Nickname: (First) [redacted] (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) _____ **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other: [redacted]
Employers Name: [redacted] | Phone (work): ([redacted]
Employers Address: | Hours of Employment: Sometime
**DATE OF BIRTH: [redacted] **SEX: ☒ MALE ☐ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 6' | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 240 | Hair Color: Black

hers **ENJOINED PARTY** (Party Against Whom Order Runs)

**NAME: (FIRST) J[redacted] (MIDDLE) (LAST) O[redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) _____
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): (845) | Phone (other): [redacted] cell
Employers Name: | Phone (work): ( )
Employers Address: | Hours of Employment:
**DATE OF BIRTH: [redacted] | **SEX: ☐ MALE ☒ FEMALE | Social Security Number:
**RACE: ☐ WHITE ☒ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5'5 | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 150 | Hair Color: Brown
License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name: Givens

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 10 of the Family Court Act

I[redacted] O[redacted],
Petitioner,

-against-

R[redacted] R[redacted],
Respondent(s).

----------x

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of I[redacted] O[redacted], verified the 26th day of July, 2012, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 10th day of August, 2012 at 2:30 in the (after)(~~fore~~)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

~~**ORDERED**, that~~ _____

_____

_____;

And the Court having searched the statewide registry of orders of protection, the sex ~~offender re~~gistry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 3rd day of August, 2012 be deemed sufficient service.

Dated: 7/26/12

ENTER

HON. Michael F. McGuire
(Acting) Family Court Judge

F.C.A §§ 430, 550, 655, 828, 1029

ORI No: NY052023J
Order No: 2012-000236
NYSID No: _____

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center 100 North St., Monticello, NY 12701, on July 26, 2012

PRESENT: Honorable Michael F. McGuire

In the Matter of a FAMILY OFFENSE Proceeding

File # 15731
Docket# O-01433-12

I[redacted] C[redacted] O[redacted] (DOB: [redacted]),
Petitioner,

- against -

R[redacted] R[redacted] R[redacted] (DOB: [redacted]),
Respondent.

Temporary Order Of Protection

Ex Parte

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

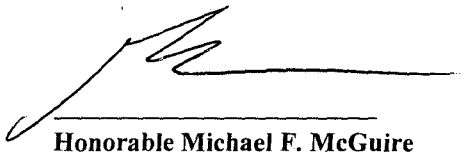
A petition under Article 8 of the Family Court Act, having been filed on July 26, 2012 in this Court and good cause having been shown, and R[redacted] R[redacted] R[redacted] having not been present in Court,

NOW, THEREFORE, IT IS HEREBY ORDERED that R[redacted] R[redacted] R[redacted] (DOB: [redacted]) observe the following conditions of behavior:

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense against I[redacted] C[redacted] C[redacted] (DOB: [redacted]) and I[redacted] S C[redacted] (DOB: [redacted]);

It is further ordered that this temporary order of protection shall remain in force until and including September 26, 2012; but if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

Dated: July 26, 2012 **ENTER**



Honorable Michael F. McGuire

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess, or transfer a handgun, rifle, shotgun, or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check Applicable Box(es):

[ ] Party against whom order was issued was advised in Court of issuance and contents of Order
[ ] Order personally served in Court upon party against whom order was issued
[X] Service directed by Police Service
[ ] [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]:_____
[ ] Warrant issued for party against whom order was issued [specify date]:_____
[ ] ADDITIONAL SERVICE INFORMATION [specify]:_____

F.C.A. §§ 812, 818, 821

Form 8-2
(Family Offense Petition)
(8/2010)

RECEIVED
JUL 26 2012
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

15731

Petitioner [redacted] Docket No. O-01433-1

-against-

FAMILY OFFENSE PETITION

Respondent [redacted]

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

1. a. I reside at [specify address unless confidential]:[1] [redacted]
   b. The Respondent resides at [specify]: [redacted]

2. a. ☐ The Respondent and I are related as follows [check applicable box(es)]:
   - ☐ we are married
   - ☑ we have a child in common
   - ☐ we are related by blood or marriage [specify how]:
   - ☐ we are in an intimate relationship (NOT casual social or business acquaintances) [describe]:
   - ☐ we were in an intimate relationship (NOT casual social or business acquaintances) [describe]:
   - ☐ we were married
   - ☐ we are parent & child

   b. ☐ I am a peace officer.

3. The Respondent committed the following family offense(s) against me and/or my children, which constitute(s):
   - ☐ Disorderly conduct
   - ☑ Harassment in the first or second degree
   - ☐ Aggravated harassment in the second degree
   - ☐ Assault in the second or third degree
   - ☐ Criminal mischief
   - ☐ Sexual abuse in the second[2] or third degree
   - ☐ Strangulation
   - ☐ Menacing in the second or third degree
   - ☐ Reckless endangerment
   - ☐ Stalking
   - ☐ Attempted assault
   - ☐ Sexual misconduct
   - ☐ Forcible touching
   - ☐ Criminal obstruction of breathing or circulation

[1] If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. *See* Family Court Act §154-b.

[2] Where victim is incapable of consent for reason other than being under age 17 [Penal Law §130.60(1)].

[Describe incident, state date, time and place of most recent incident, specify if anyone was injured (how seriously) and if any weapons were used. If there were earlier incidents as well, describe them in additional paragraphs. Use additional sheets where necessary]:

pls. see cont. sheet attached hereto/made part of herein

4. I ☑ have ☐ have not filed a criminal complaint concerning these incident(s) [If so, please indicate status].

5. [Check applicable box(es)]:

☐ a. I have no children and there are no other children living in my home.

☑ b. The following children live with me (include children who are not yours).

Name	Date of Birth	Relationship to Me	Relationship to Respondent
[redacted] S	[redacted]	Daughter	Daughter

☐ c. The following children are mine but do not live with me.

Name	Date of Birth	Lives With	Child's Relationship to Respondent

☑ e. The Respondent committed family offenses against the above child or children as follows [describe including name(s) of child or children, nature of offense(s) and date(s)]:[3]

[Check boxes and complete any of the following paragraphs 6-13 that apply to you. Skip any that do not apply to you.]

☑ 6. The Respondent has acted in a way I consider dangerous or threatening to me, my children or any member of my family, in addition to the incident described in question 3, as follows [describe]:

☐ 7. The Respondent was found to have violated an Order of Protection issued on behalf of me or members of my family or household as follows [describe]:

N/A

☐ 8. The Respondent owns or has access to guns as follows [describe]:

None

[3] Family offenses include the crimes of: assault or attempted assault, aggravated harassment or harassment, disorderly conduct, menacing, reckless endangerment, stalking, sexual abuse, sexual misconduct, forcible touching, strangulation, criminal obstruction of breathing or blood circulation or criminal mischief.

. ❑ a. The Respondent has a gun license or pistol permit for the following gun(s) as follows [describe]: N/A

❑ b. The Respondent has a gun license or permit application pending as follows [describe]:

❑ c. The Respondent carries a gun on his or her job as follows [describe]:

10. ❑ a. The Respondent threatened [check applicable box(es)]:
☑ me ❑ my child or children [specify]:
❑ a member or members of my household [specify]:
with a gun or dangerous instrument or object as follows [specify]:

❑ b. There is a substantial risk that Respondent would use or threaten to use a firearm or dangerous instrument or object against me, my child(ren) or member of my household on the basis of the following facts and for the following reasons [describe]:

❑ 11. The following court cases are pending between me and the Respondent [specify court, docket or index number, nature of action and status, if known]:
None

❑ 12. The Respondent has the following criminal convictions [specify, including date, crime, sentence and court, if known]: None

❑ 13. [Applicable where protection is sought for pet(s)]:
a. The following pets live in my house [specify name(s) and type(s)]:

b. The Respondent injured or tried or threatened to injure pets in my household as follows [describe]:
None

14. I have not made any previous application to any court or judge for the relief requested in this petition, (except [specify the relief, if any, granted and the date of such relief; delete if inapplicable]:).

WHEREFORE, Petitioner respectfully requests this Court to:

a. adjudge the Respondent to have committed the family offense(s) alleged;
b. enter an order of protection, specifying conditions of behavior to be observed by the Respondent in accordance with Section 842 of the Family Court Act;
c. enter a finding of aggravated circumstances [delete if inapplicable];
d. enter a temporary order of child support in accordance with Family Court Act §828(4) [delete if inapplicable];
e. order such other and further relief as to the Court seems just and proper.

Dated: July 26, 2012

[redacted]

Pe[redacted]rint or type name) / Signature

Petitioner's Attorney, if any (print or type name) / Signature

Address and telephone number of Attorney, if any

VERIFICATION

STATE OF NEW YORK)
:ss.:
COUNTY OF)

being duly sworn, says that (he)(she) is the Petitioner(s) in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters stated to be alleged on information and belief and as to those matters (he)(she) believe(s) them to be true.

[redacted]

Petitioner: type or print name / [redacted] Signature

Sworn to before me this
26th day of July, 2012

(Deputy) Clerk of the Court
Notary Public

Supplemental Page for All Petitions: FF: 15731

Petitioner: [redacted]	Respondent: [redacted]

[redacted] is both Physical and Verbal abusive towards I ([redacted]). On 7/24/12 we was in a incident and she acted out over and around my baby ([redacted]), trying to Snatch the Car Seat, which she was in my hands. When [redacted] is Mad she doesn't think at all. [redacted] Doesn't care if the baby is Around or on me.

With the Car Seat incident, I, [redacted] was getting Ready to put the Carseat in the Car and the [redacted] Came Over to me and tried to Snatch it away, I then told [redacted] to Stop we are in public and the baby is in there and he told me "he doesn't Care" to give him the Carseat I then Said no! and he Snatch it from my hands. I Placed my hand back on the CarSeat and he tried to break my finger by bending them back off the Carseat. He then Asked me in my face What am I going to do. He went in the Car and locked my door b/c I told him to get out, I went through the other Side to Unlock the door, he went to hit at me and to protect my self I threw a Cup. People then Seen Ask me if the Cops were needed I said no then [redacted] Came Out the Car Starting w/ the PP and they called the Cops anyway.

_____, being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 26th day of July, 2012

(~~Deputy~~) Chief Clerk of the Court
~~Notary~~ Public

x [redacted]
Signature of Petitioner

Agency: TWPD | [redacted] | NEW YORK STATE **DOMESTIC INCIDENT REPORT** | print # (NYC) | Incident # 12803-12

DATES

	Month	Day	Year	Time (24 hrs)	Address of Occurrence	APT #	Precinct (NYC) / CTV	Aided # (NYC)	Complaint #
Occurred	07	24	12	2343	Buffalo Wild Wings 567 RT 211E				
Report	07	24	12	2343	[redacted]				

○ Officer-Initiated ☒ Radio Run ○ Walk-In

VICTIM/PARTY1 (P1)

Name (Last, First, M.I.) / (include aliases): [redacted] C

DOB: [redacted] ○ Male ☒ Female

If non-English, language: ○ Spanish ○ Chinese ○ Other: _____

Injured? ☒ No ○ Yes — Describe: _____

Removed to Hospital? ☒ No ○ Yes *If yes,* what hospital? _____

○ White ☒ Black ○ Asian ○ American Indian ○ Other: _____

○ Hispanic ☒ Non-Hispanic ○ Unknown

[redacted]

SUSPECT / PARTY2 (P2)

Name (Last, First, M.I.) / (include aliases): [redacted] R

Phone: [redacted] DOB: [redacted] ☒ Male ○ Female

Street & City: [redacted] APT #: _____ Zip: [redacted]

If non-English, language: ○ Spanish ○ Chinese ○ Other: _____

Injured? ☒ No ○ Yes — Describe: _____

Removed to Hospital? ☒ No ○ Yes *If yes,* what hospital? _____

○ White ☒ Black ○ Asian ○ American Indian ○ Other: _____

○ Hispanic ☒ Non-Hispanic ○ Unknown

Prior DV History? ☒ Yes ○ No
Prior DV police report? ☒ Yes ○ No
Victim fearful? ○ Yes ○ No
Suspect:
Access to weapons? ○ Yes ☒ No
Drug/Alcohol history? ○ Yes ☒ No
Suicide threat history? ○ Yes ☒ No

SUSPECT/P2 *present?* ☒ Yes ○ No

LIVING SITUATION
Do parties *currently* live together? ○ Yes ☒ No
IF NO, have they lived together *in the past?* ○ Yes ☒ No
Do the parties have a *child-in-common?* ☒ Yes ○ No

RELATIONSHIP: (SUSPECT / P2 to VICTIM / P1)
○ Married ○ Formerly Married
☒ Intimate Partner/Dating ○ Former Intimate/Dating
○ Child of victim/party 1 ○ Parent of victim/party 1
○ Relative: _____ ○ Other: _____

ASSOCIATED PERSONS

[redacted]

SUSPECT ACTIONS *(Check all that apply)*

○ Biting
○ Destroyed Property (Estimated $ _____)
○ Forced Entry
○ Forcible Restraint
○ Hair Pulling
○ Homicide
○ Impaired Alcohol/Drugs
○ Injury to Child
○ Injury to Other Persons
○ Injury to Pet/Animal
○ Interference with Phone
○ Intimidation/Coercion
○ Kicking
○ Punching
○ Pushing
○ Sexual Assault
○ Shooting
○ Slapping
○ Slamming Body
○ Stabbing
○ Strangulation/"Choking"
○ Suicide or Attempt
☒ Threw Items
○ Unwanted Contact
☒ Verbal Abuse
○ Violated Visitation/ Custody Conditions
○ OTHER Suspect Actions: _____

○ **Threats:** *(specify)* ○ Injure/Kill Persons ○ Injure/Kill Self ○ Injure/Kill Pet/Animal ○ Take Child ○ Destroy/Take Property ○ Other: _____

○ **Threat with weapon**
○ **Weapons used:** *(specify)* ○ Blunt Object ○ Gun ○ Motor Vehicle ○ Sharp Instrument ○ Other: _____

ARREST

Arrest Made? ○ Yes ☒ No — *Arrest #*

Reasons arrest not made on-scene: ☒ No Offense Committed ○ No Probable Cause ○ Suspect Off-Scene ○ Warrant/Criminal Summons to be requested ☒ Violation level: not in police presence (no citizen's arrest) ○ Other: _____

OFFENSES & OP

	Offenses	*Law (e.g. PL)*	*Section (Sub)*	*Charges Filed*
1.	Harassment	PL	240.26	○
2.				○
3.				○

Offenses Involved: *(check all that apply)* ○ Felony ○ Misdemeanor ○ Violation ○ Other *(Specify)* _____

Registry Checked? ☒ Yes ○ No
Order of Protection? ○ Yes ○ No
Stay Away Order? ○ Yes ○ No
Order Violated? ○ Yes ○ No
Any PRIOR orders? ○ Yes ○ No

OP Court Name: _____
○ Family ○ Criminal ○ Supreme ○ Out of State ○ Tribal

Expiration Date	Month	Day	Year

STOP! ********** **COMPLETE STATEMENT ON PAGE 2 NEXT** **********

Photos Taken? ○ Yes ○ No — IF YES, **photos taken of:** ○ Victim Injuries ○ Suspect Injuries ○ Scene ○ Damaged Property ○ Other: _____

Other evidence collected? ○ Yes ○ No — *IF YES, describe:*

Results of investigation and basis of action taken. *(Were excited utterances, spontaneous admissions or spontaneous statements made?)* ○ Yes ○ No *(Complete 710.30 or other form when applicable).* VI stated that SU and VI argued after a drink cup had been knocked over inside of the restaurant. SU then exited the restaurant. VI then exited the restaurant with their child seated in a car seat. SU then grabbed the car seat from VI. SU then placed the child into the vehicle. VI stated that SU approached her aggressively and acted as if he would strike her. VI then threw a plastic cup at SU. Both parties stated no injuries. SU received a five hour fine as the guilty other than VI. [redacted]

Any Guns in House? ○ Yes ○ No — Any Guns Seized? ○ Yes ○ No — Household Member Has Pistol Permit? ○ Yes ○ No — Permit Seized? ○ Yes ○ No

Permit #(s): _____ Issuing County: _____ Name on Permit(s): _____

Is there reasonable cause to suspect a child may be the victim of abuse, neglect, maltreatment, or endangerment? ○ **Yes** ○ **No**
IF **YES**, officer must contact the **NYS CHILD ABUSE HOTLINE REGISTRY # 1-800-635-1522**

IS SUSPECT ON PAROLE OR PROBATION? ○ Probation ○ Parole ○ Not Supervised ○ Status Unknown

CONTACTS INITIATED BY POLICE: ○ Domestic Violence Services ○ Child Protective Services (or ACS) ○ Other Agency: _____

Officer's Signature (& Rank)	(PRINT and SIGN)	I.D.	Month	Day	Year	*1. Was DIR given to the victim at the scene?* ○ Yes ○ No *2. Was Victim Rights Notice given to victim?* ○ Yes ○ No	Page 1
		60	07	24	12		
Supervisor's Signature (& Rank)	(PRINT and SIGN)					**IF NO,** give reason:	of 2

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

X Petitioner [redacted] Docket No. V-01434-12
PETITION
☒ CUSTODY
☐ VISITATION

-against-

X Respondent [redacted]

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, X [redacted] applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

2. a. Respondent, X [redacted], [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential pursuant to Family Court Act §154-b(2) or Domestic [redacted]

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

Relations Law §254]: ☒

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: ☒ father

c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[3]

☐ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 3. [Delete if inapplicable]: An order was issued by Court, County, State of , referring the issue of ☐ custody ☐ visitation to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Address	Date of Birth
X [redacted] S	[redacted]	[redacted]

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
X [redacted]	[redacted]	Birth-Present	[redacted]	[redacted]

X 6. [Check applicable box(es). Delete inapplicable provisions]:

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: X [redacted] R [redacted]

☐ The father was married to the child(ren)'s mother at the time of the conception or birth.

☐ An order of filiation was made on [specify date and court and attach true copy]:

~~☐ An~~ acknowledgment of paternity was signed on [specify date]: [redacted] 6-24-12 by [specify who signed and attach a true copy]: @ CRMC, Harris, NY

☐ The father is deceased.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition..

OMIT 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 8. [Delete if inapplicable]: Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[4]
If so, specify type of case, capacity of participation, court, location and status of case.

9. A custody or visitation proceeding concerning the same child(ren) ☐ is ☑ is not pending in New York State. [If pending, give court docket number and status of case]:

OMIT 10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

11. ☐ Petitioner ☐ Respondent obtained custody of the child(ren) on [specify date]: , as follows: x [redacted] has lived with me since birth.

OMIT 12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The

4 If litigation occurred in Native-American tribunal, so indicate.

permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s)

☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

13. It would be in the best interests of the child(ren) to have custody visitation awarded to the Petitioner for the following reasons: My home is a safe environment for [redacted], I can take care of her and her needs

14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): against Respondent against me in the following criminal, matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

15. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]: Applied for today's date

16. The subject child(ren) are X are not Native-American child(ren) subject to the Indian

Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding custody ☐ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: July 26, 2012

[redacted]

Petitioner

[redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Suffolk)

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]

Petitioner

Sworn to before me this
26th day of July 2012

(~~Deputy~~) Clerk of the Court
~~Notary~~ Public

**COURT ORI No: NY052023J **COUNTY: SULLIVAN
**ORDER No. 20_____ **DATE OF ISSUANCE: _____
**DOCKET/INDEX: _____ **EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) [redacted] (MIDDLE) [redacted] (LAST) [redacted]
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☑ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) (STATE) (ZIP)
Phone ~~(home)~~ Cell: [redacted] | Phone (other _____): ( )
Employers Name: N/A | Phone (work): ( )
Employers Address: N/A | Hours of Employment: N/A
**DATE OF BIRTH: [redacted] **SEX: ☐ MALE ☑ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☑ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5'5 | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 150 | Hair Color: Dark Brown

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) R[redacted] (MIDDLE) R[redacted] (LAST) R[redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* —
(CITY) — (STATE) — (ZIP) —
Phone ~~(home)~~ Cell: [redacted] | Phone (other): _____)
Employers Name: [redacted] | Phone (work): ( ) N/A
Employers Address: [redacted] | Hours of Employment: N/A 40 week
**DATE OF BIRTH [redacted] | **SEX: ☑ MALE ☐ FEMALE | Social Security Number: [redacted]
**RACE: ☐ WHITE ☑ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 6'3 | Eye Color: Brown
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 196 | Hair Color: Brown

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? If yes, why?

Court Acti;' File Summary - Sullivan County Fa' 'y Court

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/18/2013
Cal. No(s): 6

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00344-13/13A		Modification of Order of Visitation	Arraign	10/30/2013		12/18/2013

Pedigree Information

[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Petr)
Primary Address: [redacted]
Contact Information: (C) [redacted]
Additional Info: Active OP: (Against: [redacted], Issued: 06/05/2013, Expires: 06/05/2015)

[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Resp)
Contact Information: (H) [redacted]

[redacted] DOB: [redacted] Docket(s): V-00344-13/13A (Child)

Appearance Detail

Appearance: 12/18/2013 11:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: [redacted]
Not Present: [redacted]

Notes: (V-00344-13/13A)
mr only one here;
judge explains he was told to provide the aff of service; mh EVAL report; and report of dom violence;

he is saying police were to send the aff of service; not done; judge telss him it is his responsibility

MH eval claims they said judge is to request the report; judge says not going to do that; it is his responsibility to obtain the report;

dom violence treatment??? unknown if it has begun;

he is in jail on a violation of a court order from this court;

choices are to withdraw now and refile when he can get the info required;
or new date provide he had the MH eval and dom violence counseling;

dismiss petn w/o prej

he says on the way out that he knows judges son and wants a new judge;
judge says he has threatened his son

File No: 15731 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/18/2013
Cal. No(s): 6

ORDER
add 30 days to whatever time he is serving for judicial contempt
(Andrea Rogers)

Outcomes: Petition Dismissed without Prejudice (V-00344-13/13A)

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-24, 2013
Christine Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 18, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

I[redacted] C[redacted] O[redacted],

Respondent.

ORDER

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Petitioner having filed a petition to modify an order of visitation dated October 30, 2013 and having appeared in Family Court on December 18, 2013, and it appearing that the Petitioner is incarcerated based on a violation of a Family Court order dated June 5, 2013, and having been charged with Judicial Contempt on December 18, 2013;

NOW, it is hereby

ORDERED that R[redacted] R[redacted] R[redacted] is sentenced to an additional thirty (30) days incarceration in the Sullivan County Jail to be added on to the term he is currently serving.

Dated: December 24, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1-2-14 to all-encc:
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted]n [redacted]y [redacted], Petitioner
Sullivan County Jail

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-1b

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-24, 2013
Christine Benson
(Deputy) Chief/Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 18, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

- against -

ORDER OF DISMISSAL

I[redacted] G[redacted] G[redacted],

Respondent.

A petition under Article 6 of the Family Court Act, having been filed in this Court on October 30, 2013 for the following: Modification of Order of Visitation;

And the matter having duly come on to be heard before this Court and the following having appeared: R[redacted] R[redacted] R[redacted]

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to lack of jurisdiction; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: December 24, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1-2-14 to Peti
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] R[redacted], Petitioner

EXHIBIT
Comm
Ex I-1c
PENGAD 800-631-6989

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 3, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

R[redacted] R[redacted] R[redacted] v. I[redacted] C[redacted] C[redacted]
Family File # 15731
Date of recording - December 18, 2013
11:14 - 11:22

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/1/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-2

SULLIVAN COUNTY

Hon. Michael McGuire

FF # 15731

12/18/13

11:14 ~ 11:22

EXHIBIT
Comm
Ex I-2

PENGAD 800-631-6989

B[redacted] v. O[redacted]

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

R[redacted]v. O[redacted]

December 18, 2013
11:14 A.M.

:

PENGAD 800-631-6989
EXHIBIT
Comm
EXI-2a

1 COURT OFFICER: McGuire presiding.

2 JUDGE MCGUIRE: All right. Good morning.

3 Thank you. You can be seated. Deputies, good morning.

4 DEPUTY 1: Good morning.

5 DEPUTY 2: Good morning, Your Honor.

6 JUDGE MCGUIRE: All right. This is Case 6 on the

7 docket, the *Matters of R[redacted] -- R[redacted] and C[redacted]*.

8 Note for the record the appearance of Mr. R[redacted]. Mr.

9 R[redacted], when we were here on December the 2nd, I told you

10 that I needed for you to file three things: proof of service,

11 your mental health evaluation, and proof that you had

12 commenced your domestic violence program. I said that

13 you could eliminate the affidavit of service if Ms. C[redacted]

14 was here. She's not here. Do you have an affidavit of

15 service?

16 MR. R[redacted]: I have no way. I asked the police,

17 and I never got a--

18 JUDGE MCGUIRE: Okay. It's not my

19 responsibility. You don't have an affidavit of service, do

20 you have a Mental Health report?

21 MR. R[redacted]: I signed the HIPPA form and they

22 can release --

23 JUDGE MCGUIRE: No, that's not my

24 responsibility.

25 MR. R[redacted]: That's-- that's what they said.

1 They--

2 JUDGE MCGUIRE: That's not my responsibility.
3 You need to get a letter. I was very, very clear the last time
4 we were here, you need to get a letter saying that you had an
5 evaluation and that you've been following their
6 recommendations. You need to get that, not me. You need
7 to get that, okay, and some kind of proof that you started a
8 domestic violence program.

9 MR. R[redacted] I'm incarcerated.

10 JUDGE MCGUIRE: Do you have that?

11 MR. R[redacted] I'm in--

12 JUDGE MCGUIRE: Okay. So, what you probably--
13 you know how long you're going to be incarcerated?

14 MR. R[redacted] No, I do not, but I asked the
15 Mental Health people, and what they said was, "You can
16 request for"--

17 JUDGE MCGUIRE: Yeah, but I'm not going to do
18 that. I'm not going to-- See, Mr. R[redacted] I know that this is
19 frustrating to you, but let me put it in an analogy. Do you
20 know what an analogy is?

21 MR. R[redacted]: I understand completely what an
22 analogy is.

23 JUDGE MCGUIRE: Okay. Your-- you have
24 criminal charges pending?

25 MR. R[redacted] Yes, sir.

1 JUDGE MCGUIRE: Okay. What-- what are you
2 charged with?
3 MR. R[redacted]: Criminal contempt of a court
4 order.
5 JUDGE MCGUIRE: All right. The burden of proof
6 in that case is on the district attorney, right? They are not
7 going to-- the judge isn't going to say to you, "Was there a
8 court order, and did you violate it," because you have a
9 right to remain silent, right? The burden of proof is on the
10 district attorney, not on the court, not on the defendant. Do
11 we agree there?
12 MR. R[redacted]: [No response]
13 JUDGE MCGUIRE: You're in a civil court now.
14 The burden of proof is on you, because you're bringing a
15 lawsuit, so it's your responsibility to prove your case. It's
16 not my responsibility to prove your case, and it's not Ms.
17 O[redacted]'s responsibility. You may not like that, but that's
18 the law. I'm bound by that. That's the law. I'm bound by
19 that. There's nothing I can do about it, just like I may want
20 to compel you to testify against yourself, but I can't. I'm
21 bound by it. So-- and I respect it. And that's the law we
22 follow. So, I'm not going to go and get your report from
23 Mental Health. That's your responsibility. The fact that
24 you're incarcerated is regrettable, but that's also not my
25 doing, and it may not be your doing. You're presumed

1 innocent. And I assume that you're in on a bail issue, so the
2 question I have for you is-- by the way, what court order is
3 it alleged that you violated?
4 MR. R[redacted]: Your court order.
5 JUDGE MCGUIRE: Ah, okay. Well, by going to
6 serve-- to try to serve her, right? Is that the alleg-- I only
7 want to know the allegation, I don't care what--
8 MR. R[redacted]: Kind of--
9 JUDGE MCGUIRE: --All right, all right--
10 MR. R[redacted]: --Because you could've--
11 JUDGE MCGUIRE: --That's fine. Don't say
12 another word. Don't say another word, because you have
13 the right to not say anything, and you don't have an attorney
14 with you. I can do one of two things for you: I can either
15 dismiss your petition without prejudice, and when you have
16 got your criminal matters resolved, then you'll be-- it'll be
17 easier for you to move about the area to gather the things
18 that you need to gather--
19 MR. R[redacted]: I haven't seen my child in five
20 months, so, like, can you grant me some type of visitation
21 for my child? That's what this matter is over.
22 JUDGE MCGUIRE: No, because I already made a
23 finding--
24 MR. R[redacted]: I'm behind bars, I'm not a threat
25 to society. I'm not--

1 JUDGE MCGUIRE: I am not going to modify the
2 order when, number one, I don't have the other party that
3 you've served. How about this? How about if the police
4 just came and arrested you and threw you in state prison for
5 four years without ever telling you what you were charged
6 with and giving you an opportunity to defend yourself?
7 How would that be?
8 MR. R[redacted]: That would be against an
9 amendment.
10 JUDGE MCGUIRE: Yeah, well, so would me
11 ordering visitation, because I don't have Ms. O[redacted] here
12 to be heard, I can't do it and I won't do it--
13 MR. R[redacted]: But I wasn't--
14 JUDGE MCGUIRE: -- Because I don't know
15 anything right now other than the passage of time that has
16 changed from when I entered the order on June 5th. So,
17 your choices--
18 MR. R[redacted]: So, how does that--
19 JUDGE MCGUIRE: --Your-- I'm not debating with
20 you.
21 MR. R[redacted]: I'm asking you a question.
22 JUDGE MCGUIRE: I'm not debating with you.
23 Your choices are two: you can withdraw your petition
24 without prejudice, which means that you can get your
25 criminal issues resolved and refile when you will be able to

1 go up to SCATIS (Phonetic) or whatever, get the reports,
2 get the documents that you need, get her served, get the
3 affidavit of service, or-- or you can get another date by
4 which, again, you'll have to provide me with proof of
5 service, proof that you had a Mental Health evaluation, and
6 proof that you've commenced your treatment.
7 MR. R[redacted]: Why do I have to have domestic
8 violence counseling if I was never convicted of domestic
9 violence charges?
10 JUDGE MCGUIRE: Is that your answer to my
11 question?
12 MR. R[redacted]: [No response]
13 JUDGE MCGUIRE: Is that your answer to my
14 question?
15 MR. R[redacted]: What is your question?
16 JUDGE MCGUIRE: I asked it twice. The question
17 is, would you like another date to return--
18 MR. R[redacted]: Yes, I would--
19 JUDGE MCGUIRE: -- And provide for me--
20 MR. R[redacted]: --But I need to-- I need to
21 understand that, because I don't understand how I have to
22 go to domestic violence counseling-- like, the Mental
23 Health evaluation, I understand that completely, but the
24 domestic violence counseling, that has-- I have not been
25 convicted of domestic violence.

1 JUDGE MCGUIRE: Petition is dismissed without
2 prejudice.
3 MR. R[redacted]: I just said I wanted another date,
4 so how did you dismiss it?
5 JUDGE MCGUIRE: Dismissed without prejudice.
6 Thank you, folks.
7 COURT OFFICER: Thank you, folks. Gentlemen,
8 you're going--
9 MR. R[redacted]: I-- I know your son, so can you
10 recuse yourself from my case, please, and assign me another
11 judge?
12 JUDGE MCGUIRE: Come here. Bring him back
13 here.
14 MR. R[redacted]: I just need another judge.
15 JUDGE MCGUIRE: Bring him back here. You got
16 30 days judicial contempt--
17 MR. R[redacted] How is that contempt?
18 JUDGE MCGUIRE: --Tacked on top of whatever
19 you got.
20 MR. R[redacted]: How is that contempt?
21 JUDGE MCGUIRE: Open your mouth again.
22 COURT OFFICER: You're disrespecting the judge
23 right now.
24 JUDGE MCGUIRE: Thirty days. You-- Ay, come
25 here a minute. You making a threat against my son?

1 MR. R[redacted]: I just asked you to recuse--
2 JUDGE MCGUIRE: Are you threatening my son?
3 MR. R[redacted] No, I'm not.
4 JUDGE MCGUIRE: Officer, this gentleman just
5 threatened my son.
6 MR. R[redacted]: I just asked him to recuse himself
7 (unintelligible). I need a record.
8 JUDGE MCGUIRE: Try that again. You got 30
9 days judicial contempt. Try that again.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 18, 2013.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17 Q. I'm going to show you what is marked Commission Exhibit 28. And
18 this is a transcript of a proceeding in *R*[redacted] *v. O*[redacted] December
19 18, 2013, 11:14 A.M. Did you preside over the case on this day?
20 A. I did.
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-3a

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

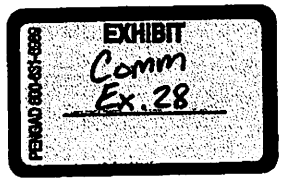
a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

R[redacted] *v. O*[redacted]

December 18, 2013
11:14 A.M.

:



1 COURT OFFICER: McGuire presiding.

2 JUDGE MCGUIRE: All right. Good morning.

3 Thank you. You can be seated. Deputies, good morning.

4 DEPUTY 1: Good morning.

5 DEPUTY 2: Good morning, Your Honor.

6 JUDGE MCGUIRE: All right. This is Case 6 on the

7 docket, the *Matters of R*[redacted]*-- R*[redacted] *and C*[redacted]

8 Note for the record the appearance of Mr. R[redacted]. Mr.

9 R[redacted], when we were here on December the 2nd, I told you

10 that I needed for you to file three things: proof of service,

11 your mental health evaluation, and proof that you had

12 commenced your domestic violence program. I said that

13 you could eliminate the affidavit of service if Ms. C[redacted]

14 was here. She's not here. Do you have an affidavit of

15 service?

16 MR. R[redacted]: I have no way. I asked the police,

17 and I never got a--

18 JUDGE MCGUIRE: Okay. It's not my

19 responsibility. You don't have an affidavit of service, do

20 you have a Mental Health report?

21 MR. R[redacted]: I sign the HIPPA form at their

22 convenience.

23 JUDGE MCGUIRE: No, that's not my

24 responsibility.

25 MR. R[redacted]: That's-- that's what they said.

1 They--

2 JUDGE MCGUIRE: That's not my responsibility.
3 You need to get a letter. I was very, very clear the last time
4 we were here, you need to get a letter saying that you had an
5 evaluation and that you've been following their
6 recommendations. You need to get that, not me. You need
7 to get that, okay, and some kind of proof that you started a
8 domestic violence program.

9 MR. R[redacted]: I'm incarcerated.

10 JUDGE MCGUIRE: Do you have that?

11 MR. R[redacted]: I'm in--

12 JUDGE MCGUIRE: Okay. So, what you probably--
13 you know how long you're going to be incarcerated?

14 MR. R[redacted]: No, I do not, but I asked the
15 Mental Health people, and what they said was, "You can
16 request for"--

17 JUDGE MCGUIRE: Yeah, but I'm not going to do
18 that. I'm not going to-- See, Mr. R[redacted], I know that this is
19 frustrating to you, but let me put it in an analogy. Do you
20 know what an analogy is?

21 MR. R[redacted]: I understand completely what an
22 analogy is.

23 JUDGE MCGUIRE: Okay. Your-- you have
24 criminal charges pending?

25 MR. R[redacted]: Yes, sir.

1 JUDGE MCGUIRE: Okay. What-- what are you
2 charged with?
3 MR. R[redacted]: Criminal contempt of a court
4 order.
5 JUDGE MCGUIRE: All right. The burden of proof
6 in that case is on the district attorney, right? They are not
7 going to-- the judge isn't going to say to you, "Was there a
8 court order, and did you violate it," because you have a
9 right to remain silent, right? The burden of proof is on the
10 district attorney, not on the court, not on the defendant. Do
11 we agree there?
12 MR. R[redacted]: [No response]
13 JUDGE MCGUIRE: You're in a civil court now.
14 The burden of proof is on you, because you're bringing a
15 lawsuit, so it's your responsibility to prove your case. It's
16 not my responsibility to prove your case, and it's not Ms.
17 O[redacted]'s responsibility. You may not like that, but that's
18 the law. I'm bound by that. That's the law. I'm bound by
19 that. There's nothing I can do about it, just like I may want
20 to compel you to testify against yourself, but I can't. I'm
21 bound by it. So-- and I respect it. And that's the law we
22 follow. So, I'm not going to go and get your report from
23 Mental Health. That's your responsibility. The fact that
24 you're incarcerated is regrettable, but that's also not my
25 doing, and it may not be your doing. You're presumed

1 innocent. And I assume that you're in on a bail issue, so the
2 question I have for you is-- by the way, what court order is
3 it alleged that you violated?
4 MR. R[redacted]: Your court order.
5 JUDGE MCGUIRE: Ah, okay. Well, by going to
6 serve-- to try to serve her, right? Is that the alleg-- I only
7 want to know the allegation, I don't care what--
8 MR. R[redacted]: Kind of--
9 JUDGE MCGUIRE: --All right, all right--
10 MR. R[redacted]: --Because you could've--
11 JUDGE MCGUIRE: --That's fine. Don't say
12 another word. Don't say another word, because you have
13 the right to not say anything, and you don't have an attorney
14 with you. I can do one of two things for you: I can either
15 dismiss your petition without prejudice, and when you have
16 got your criminal matters resolved, then you'll be-- it'll be
17 easier for you to move about the area to gather the things
18 that you need to gather--
19 MR. R[redacted]: I haven't seen my child in five
20 months, so, like, can you grant me some type of visitation
21 for my child? That's what this matter is over.
22 JUDGE MCGUIRE: No, because I already made a
23 finding--
24 MR. R[redacted]: I'm behind bars, I'm not a threat
25 to society. I'm not--

1 JUDGE MCGUIRE: I am not going to modify the
2 order when, number one, I don't have the other party that
3 you've served. How about this? How about if the police
4 just came and arrested you and threw you in state prison for
5 four years without ever telling you what you were charged
6 with and giving you an opportunity to defend yourself?
7 How would that be?
8 MR. R[redacted] That would be against an
9 amendment.
10 JUDGE MCGUIRE: Yeah, well, so would me
11 ordering visitation, because I don't have Ms. O[redacted]here
12 to be heard, I can't do it and I won't do it--
13 MR. R[redacted] But I wasn't--
14 JUDGE MCGUIRE: -- Because I don't know
15 anything right now other than the passage of time that has
16 changed from when I entered the order on June 5th. So,
17 your choices--
18 MR. R[redacted] So, how does that--
19 JUDGE MCGUIRE: --Your-- I'm not debating with
20 you.
21 MR. R[redacted] I'm asking you a question.
22 JUDGE MCGUIRE: I'm not debating with you.
23 Your choices are two: you can withdraw your petition
24 without prejudice, which means that you can get your
25 criminal issues resolved and refile when you will be able to

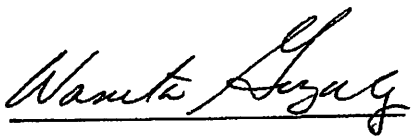
1 go up to SCATIS (Phonetic) or whatever, get the reports,
2 get the documents that you need, get her served, get the
3 affidavit of service, or-- or you can get another date by
4 which, again, you'll have to provide me with proof of
5 service, proof that you had a Mental Health evaluation, and
6 proof that you've commenced your treatment.
7 MR. R[redacted]: Why do I have to have domestic
8 violence counseling if I was never convicted of domestic
9 violence charges?
10 JUDGE MCGUIRE: Is that your answer to my
11 question?
12 MR. R[redacted]: [No response]
13 JUDGE MCGUIRE: Is that your answer to my
14 question?
15 MR. R[redacted]: What is your question?
16 JUDGE MCGUIRE: I asked it twice. The question
17 is, would you like another date to return--
18 MR. R[redacted]: Yes, I would--
19 JUDGE MCGUIRE: -- And provide for me--
20 MR. R[redacted] --But I need to-- I need to
21 understand that, because I don't understand how I have to
22 go to domestic violence counseling-- like, the Mental
23 Health evaluation, I understand that completely, but the
24 domestic violence counseling, that has-- I have not been
25 convicted of domestic violence.

1 JUDGE MCGUIRE: Petition is dismissed without
2 prejudice.
3 MR. R[redacted] I just said I wanted another date,
4 so how did you dismiss it?
5 JUDGE MCGUIRE: Dismissed without prejudice.
6 Thank you, folks.
7 COURT OFFICER: Thank you, folks. Gentlemen,
8 you're going--
9 MR. R[redacted] I-- I know your son, so can you
10 recuse yourself from my case, please, and assign me another
11 judge?
12 JUDGE MCGUIRE: Come here. Bring him back
13 here.
14 MR. R[redacted] I just need another judge.
15 JUDGE MCGUIRE: Bring him back here. You got
16 30 days judicial contempt--
17 MR. R[redacted] How is that contempt?
18 JUDGE MCGUIRE: --Jacked on top of whatever
19 you got.
20 MR. R[redacted] How is that contempt?
21 JUDGE MCGUIRE: Open your mouth again.
22 COURT OFFICER: You're disrespecting the judge
23 right now.
24 JUDGE MCGUIRE: Thirty days. You-- Ay, come
25 here a minute. You making a threat against my son?

1 MR. R[redacted] I just asked you to recuse--
2 JUDGE MCGUIRE: Are you threatening my son?
3 MR. R[redacted]: No, I'm not.
4 JUDGE MCGUIRE: Officer, this gentleman just
5 threatened my son.
6 MR. R[redacted] I just asked him to recuse himself
7 (unintelligible). I need a record.
8 JUDGE MCGUIRE: Try that again. You got 30
9 days judicial contempt. Try that again.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 18, 2013.
7
8
9 Dated: January 23, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-24, 2013
Christine Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 18, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 15731
Docket #: V-00344-13/13A

R[redacted] R[redacted] R[redacted],

Petitioner,

ORDER

- against -

[redacted] O[redacted] O[redacted],

Respondent.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Petitioner having filed a petition to modify an order of visitation dated October 30, 2013 and having appeared in Family Court on December 18, 2013, and it appearing that the Petitioner is incarcerated based on a violation of a Family Court order dated June 5, 2013, and having been charged with Judicial Contempt on December 18, 2013;

NOW, it is hereby

ORDERED that R[redacted] R[redacted] R[redacted] is sentenced to an additional thirty (30) days incarceration in the Sullivan County Jail to be added on to the term he is currently serving.

Dated: December 24, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1-2-14 to all encc.
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] R[redacted], Petitioner
Sullivan County Jail
Cert stamped

EXHIBIT
Comm
Ex. 29
PENGAD 800-631-6989

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. Did you get him an attorney?
22 A. I did not.
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-3b

1

2 Q. I'm going to show you what is marked Commission Exhibit 29.

3 JUDGE SHEA: Thank you.

4 BY MS. TISHMAN:

5 Q. And if you can look at this. It's an order, *P[redacted] P[redacted] P[redacted] against*

6 *Ms. O[redacted]*--

7 A. -- O[redacted], O[redacted]

8 Q. O[redacted]-- thank you, dated December 24, 2013. Did you-- looking at this,

9 was this your signature?

10 A. It was. I stand corrected. I didn't know that I-- I didn't recall that I

11 had executed that order. That's definitely my signature, and definitely

12 my order, and he was sentenced to 30 days. I stand corrected.

13

14

15

16

17

18

19

20

21

22

23

24

25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-3c

Q. When you were holding people in contempt, did you review these sections, the three sections I showed you: Commission Exhibit 16, 17 and 18, during that time period?

A. I didn't, because the time periods were so brief, and my intention was really to give them a cooling off and let them understand that they can't behave that way in a court of law and bring them back in. So, this was not a situation where anybody ever was taken out of the court complex, or ever taken to the jail, or served 30 days.

Q. But they were handcuffed?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-3d

1 A. They were handcuffed.
2 Q. Now, Commission Exhibit 7-- Judiciary -- Commission Exhibit 18,
3 Judiciary Law [§] 755, does that indicate that a judge must do
4 something when it holds someone in summary contempt?
5 A. It-- it does. And this is really what *Sweat* focuses on. When someone
6 is held in summary contempt, there needs to be a statement put on the
7 record by the judge of why they were held in summary contempt.
8 The record speaks for itself, but I neglected to actually put a statement
9 on the record. Because my intent, though they were handcuffed, my
10 intent was to defuse an escalating situation, not to have somebody
11 taken to the jail.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THOMSON REUTERS
WESTLAW New York Codes, Rules and Regulations

22 CRR-NY 701.2
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 22. JUDICIARY
SUBTITLE B. COURTS
CHAPTER IV. SUPREME COURT
SUBCHAPTER B. SECOND JUDICIAL DEPARTMENT
ARTICLE 1. APPELLATE DIVISION
SUBARTICLE B. SPECIAL RULES
PART 701. EXERCISE OF THE JUDICIAL CONTEMPT POWER

22 CRR-NY 701.2
22 CRR-NY 701.2

701.2 Exercise of the summary contempt power.

(a) The power of the court to punish summarily any contempt committed in its immediate view and presence shall be exercised only in exceptional and necessitous circumstances, as follows:

(1) Where the offending conduct disrupts or threatens to disrupt proceedings actually in progress; or

(2) where the offending conduct destroys or undermines or tends seriously to destroy or undermine the dignity and authority of the court in a manner and to the extent that it appears unlikely that the court will be able to continue to conduct its normal business in an appropriate way, provided that in either case the court reasonably believes that a prompt summary adjudication of contempt may aid in maintaining or restoring and maintaining proper order and decorum.

(b) Wherever practical, punishment should be determined and imposed at the time of the adjudication of contempt. However, where the court deems it advisable the determination and imposition of punishment may be deferred following a prompt summary adjudication of contempt which satisfies the necessity for immediate judicial corrective or disciplinary action.

(c) Before any summary adjudication of contempt the accused shall be given a reasonable opportunity to make a statement in his defense or in extenuation of his conduct.

22 CRR-NY 701.2
Current through April 15, 2017

END OF DOCUMENT

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

© 2017 Thomson Reuters

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
Judiciary Law (Refs & Annos)
Chapter 30. Of the Consolidated Laws
Article 19. Contempts (Refs & Annos)

McKinney's Judiciary Law § 750

§ 750. Power of courts to punish for criminal contempts

Currentness

A. A court of record has power to punish for a criminal contempt, a person guilty of any of the following acts, and no others:

1. Disorderly, contemptuous, or insolent behavior, committed during its sitting, in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due to its authority.

2. Breach of the peace, noise, or other disturbance, directly tending to interrupt its proceedings.

3. Wilful disobedience to its lawful mandate.

4. Resistance wilfully offered to its lawful mandate.

5. Contumacious and unlawful refusal to be sworn as a witness; or, after being sworn, to answer any legal and proper interrogatory.

6. Publication of a false, or grossly inaccurate report of its proceedings. But a court can not punish as a contempt, the publication of a true, full, and fair report of a trial, argument, decision, or other proceeding therein.

7. Wilful failure to obey any mandate, process or notice issued pursuant to articles sixteen, seventeen, eighteen, eighteen-a or eighteen-b of the judiciary law, or to rules adopted pursuant thereto, or to any other statute relating thereto, or refusal to be sworn as provided therein, or subjection of an employee to discharge or penalty on account of his absence from employment by reason of jury or subpoenaed witness service in violation of this chapter or section 215.11 of the penal law. Applications to punish the accused for a contempt specified in this subdivision may be made by notice of motion or by order to show cause, and shall be made returnable at the term of the supreme court at which contested motions are heard, or of the county court if the supreme court is not in session.

B. In addition to the power to punish for a criminal contempt as set forth in subdivision A, the supreme court has power under this section to punish for a criminal contempt any person who unlawfully practices or assumes to practice law; and a proceeding under this subdivision may be instituted on the court's own motion or on the motion of any officer

WESTLAW © 2011 Thomson Reuters. No claim to original U.S. Government Works.

EXHIBIT Comm Ex. 17

charged with the duty of investigating or prosecuting unlawful practice of law, or by any bar association incorporated under the laws of this state.

C. A court not of record has only such power to punish for a criminal contempt as is specifically granted to it by statute and no other.

Credits
(L.1909, c. 35. Amended L.1937, c. 311, § 2; L.1940, c. 202, § 15; L.1943, c. 538, § 1; L.1947, c. 900, § 1; L.1954, c. 305, § 318; L.1965, c. 864, § 13; L.1966, c. 102, § 3; L.1982, c. 823, § 2.)

McKinney's Judiciary Law § 750, NY JUD § 750
Current through L.2017, chapters 1 to 23.

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

McKinney's Consolidated Laws of New York Annotated
Judiciary Law (Refs & Annos)
Chapter 30. Of the Consolidated Laws
Article 19. Contempts (Refs & Annos)

McKinney's Judiciary Law § 755

§ 755. When punishment may be summary

Currentness

Where the offense is committed in the immediate view and presence of the court, or of the judge or referee, upon a trial or hearing, it may be punished summarily. For that purpose, an order must be made by the court, judge, or referee, stating the facts which constitute the offense and which bring the case within the provisions of this section, and plainly and specifically prescribing the punishment to be inflicted therefor. Such order is reviewable by a proceeding under article seventy-eight of the civil practice law and rules.

Credits
(L.1909, c. 35. Amended L.1947, c. 900, § 4; L.1962, c. 310, § 241.)

McKinney's Judiciary Law § 755, NY JUD § 755
Current through L.2017, chapters 1 to 23.

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.

1
2
3 Q. Did you use contempt and custody as a way to manage people?
4 A. There was probably-- there was probably something to that. Again,
5 probably coming from 17 years in a classroom and putting someone in
6 a time out, or sending someone to the dean's office, or-- as a coach,
7 sitting someone on the bench. There probably is a part of that,
8 although putting someone in handcuffs is certainly more serious than
9 putting someone in a time out, or putting your child in a time out. But
10 while I don't know that I would give it a percentage, like that was my
11 goal. There probably is-- was something to that, some portion in the
12 mix, in me again formulating the way that I would try to manage my
13 courtroom.
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex I-3e

State of New York
Supreme and County Courts
Lawrence H. Cooke Sullivan County
Courthouse
414 Broadway
Monticello, New York 12701
Telephone #:845-791-3540
Fax #:845-476-3653
sullivansupremeandcounty@nycourts.gov

SARAH KATZMAN
Chief Clerk

ANNE SCHELHORN
Deputy Chief Clerk

January 2, 2019

NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006
Attn: Pamela Tishman

Re: People vs. Natasha Goncalves
SCI #: 14W-2013

Dear Ms. Tishman,

Enclosed please find copies of the file of defendant Natasha Goncalves you requested. Also attached is a certification for the file in our Court Clerk's Office.

If you need anything further, please let me know.

Very truly yours,

Sarah Katzman
Sarah Katzman
Chief Clerk

Enclosures

RECEIVED
JAN - 7 2019
NYS COMMISSION ON
JUDICIAL CONDUCT NYC

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II-1

RECEIVED
JAN - 7 2016
NYS COMMISSION ON
JUDICIAL CONDUCT NYC

State of New York
Supreme and County Courts
Lawrence H. Cooke Sullivan County
Courthouse
414 Broadway
Monticello, New York 12701
Telephone #:845-791-3540
Fax #:845-476-3653
sullivansupremeandcounty@nycourts.gov

SARAH KATZMAN
Chief Clerk

ANNE SCHELHORN
Deputy Chief Clerk

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL

FROM: SULLIVAN SUPREME & COUNTY COURT

DATE: JANUARY 2, 2019

SUBJECT: PEOPLE VS. NATASHA GONCALVES
SCI#: 14W-13

THIS IS TO CERTIFY THAT THIS IS A TRUE COPY OF THE ORIGINAL PAPERS FILED IN THIS OFFICE.

Sarah Katzman

SARAH KATZMAN - CHIEF CLERK
SUPREME & COUNTY COURT
COURT CLERK'S OFFICE
NO FEE - OFFICIAL USE

INDEX NUMBER 337-13

SEALED X Portion

THE PEOPLE OF THE STATE OF NEW YORK

VS

DRUG COURT -OUT

Natasha Goncalves

INDICTMENT/
SUPERIOR COURT INFORMATION
NUMBER 14W-13

	DOCUMENTS FILED	DATE FILED
1.	Superior Court Information	1-30-13
2.	Order to Probation	1-31-13
3.	Pre-trial Release	1-30-13
4.	Bench Warrant	2-26-13
5.	Letter	3-22-13
6.	J/Liberty Ct. Papers: Divestiture; Felony	
7.	Complaints (3); Informations (7); Stmts. (3);	
8.	Orders of Protection (3); Securing Order; Order	
9.	Assigning Counsel; UCS-540(3); Fax	2-15-13
10.	PSR	4-15-13
11.	Participation Agreement	4-19-13
12.	Order	5-10-13
13.	Bench Warrant	7-9-13
14.	Fax	8-21-13
16.	Sentence & Commitment (Judicial Contempt)	8-28-13
17.	Notice of Int w/Respect to Appeal	
18.	Clerks Sentence Sheet; DNA Consent	
19.	Sentence & Commitment; 540A	9-24-13
20.	Restitution Order	9-24-13
21.	Letter	11-18-13
22.	Letter	2-7-14
23.	Drug Court File	10/29/14
24.	Sentencing Minutes	10-23-13
25.	Sentence - Judicial contempt 8-28-13	12-19-14

COUNTY COURT :
COUNTY OF SULLIVAN: STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

NATASHA GONCALVES,
DOB: [redacted]
NYSID #01724417M

Defendant
----------X

SUPERIOR COURT
INFORMATION

Case # 14W-2013
Court Cont. # 65821487K

BE IT KNOWN THAT I, JAMES R. FARRELL, District Attorney of the County of Sullivan, State of New York, by this Superior Court Information, accuse the defendant, NATASHA GONCALVES, of the crime of GRAND LARCENY IN THE FOURTH DEGREE, a Class E Felony, in violation of New York State Penal Law Section 155.30(4), committed as follows:

On or about December 5, 2012, at approximately 9:50 a.m., at Peck's Market on Main St. in the Town of Rockland, County of Sullivan, State of New York, the defendant, NATASHA GONCALVES, did steal property and that property consisted of a credit card or debit card, to wit: on the aforesaid date, time and place, said defendant, NATASHA GONCALVES, did steal a Hudson Valley Credit Union debit card and did use said card to purchase property at multiple locations in the Town of Liberty, including the Family Dollar, Dollar General, Mobil and to purchase minutes for a cellular device, knowing she had no authority to use said card.

[New York State Penal Law Section 155.30(4)]

Dated: Monticello, New York
January 25, 2013

JAMES R. FARRELL
District Attorney

RECEIVED
OFFICE OF THE COURT CLERK
2013 JAN 30 PM 12: 31

COUNTY COURT :
COUNTY OF SULLIVAN: STATE OF NEW YORK

RECEIVED
OFFICE OF COURT CLERK
2013 JAN 30 PM 12: 32

----------X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NATASHA GONCALVES,

Defendant

----------X

WAIVER OF INDICTMENT
& WAIVER OF APPEAL

Case # 14W-2013

WHEREAS, the defendant, NATASHA GONCALVES, was arraigned on or about December 20, 2012, for the Town of Liberty Justice Court, charging her with GRAND LARCENY IN THE FOURTH DEGREE, BURGLARY IN THE THIRD DEGREE, CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FOURTH DEGREE and numerous misdemeanors; and

WHEREAS, the defendant waived further proceedings in the Town of Liberty Justice Court;

NOW, THEREFORE, said defendant appears before the Sullivan County Court waiving further justice court proceedings and acknowledges that:

1. She understands that, under the Constitution of the State of New York, she has the absolute right to be prosecuted on said charges by an Indictment filed by a Grand Jury.

2. She hereby waives such right, pursuant to Criminal Procedure Law Section 180.10(2), and consents to be prosecuted by a Superior Court Information to be filed by the District Attorney of Sullivan County, pursuant to CPL Section 190.40.

3. She understands that such Superior Court Information, when filed by the District Attorney, will have the same force and effect as an Indictment filed by a Grand Jury.

4. She understands that the Superior Court Information to be filed against her will charge the crime of GRAND LARCENY IN THE FOURTH DEGREE, a Class E Felony, as having

been committed on or about December 5, 2012, in the Town of Rockland, County of Sullivan, State of New York.

5. She understands that as a condition of this plea, she voluntarily waives the right to appeal, pursuant to *People v Alan Seaburg,* 74 NY2d 1.

IN WITNESS WHEREOF, said defendant, after conferring with her attorney in open court, voluntarily executes this Waiver of Indictment and Waiver of Appeal in open court, in the presence of her attorney this 30th day of January, 2013.

Natasha Goncalves
NATASHA GONCALVES
Defendant

WITNESS:

JOEL M. PROYECT, ESQ.
Attorney for Defendant

CONSENT OF THE DISTRICT ATTORNEY

I, JAMES R. FARRELL, District Attorney of Sullivan County, New York, hereby consent to the filing of the above Waiver of Indictment.

Dated: Monticello, NY
January 30, 2013

By: _____
ROBERT L. ZANGLA
Assistant District Attorney

APPROVAL BY THE COURT

The above named defendant now appearing before me with her attorney and having acknowledged that she has voluntarily executed the above Waiver of Indictment and Waiver of Appeal; and the District Attorney of Sullivan County having consented to the filing thereof; and the Court being satisfied that said Waiver complies with the provisions of Article 195 of the Criminal Procedure Law of the State of New York; it is hereby

ORDERED that the above Waiver of Indictment and Waiver of Appeal is hereby approved and is directed to be filed with the Clerk of the Court.

Dated: Monticello, NY
January 30, 2013

HON. MICHAEL F. MCGUIRE
County Court Judge

COUNTY COURT:
COUNTY OF SULLIVAN: STATE OF NEW YORK

RECEIVED
OFFICE OF COURT CLERK
2013 JAN 30 PM 12: 32

----------X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

WAIVER OF RIGHT
TO APPEAL
SCI # 14W-2013

NATASHA GONCALVES,
DOB: [redacted]
NYSID # 01724417M

Defendant.

----------X

I, the undersigned defendant, in consideration of and as part of the favorable plea and sentencing agreement being entered into, hereby acknowledge that I have been advised of, and waive, all of the rights below.

I also understand and agree that the waiver of my appellate rights is separate and distinct from those rights I automatically forfeited upon my plea of guilty.

I acknowledge that I have been advised of, and waive, my right to appeal from the judgment of conviction or sentence. This includes, but is not limited to my right to prosecute the appeal as a poor person and to have an attorney assigned in the event that I am indigent, and to submit a brief and/or have argument before the appellate court on any issues related to the conviction and sentence.

This waiver applies to all issues that may validly be waived. This includes but is not limited to any issue regarding the effectiveness of counsel prior to my plea in this case and any issue that may arise with regard to the imposition of sentence. I also waive any issue that may arise, if applicable, with regard to my adjudication as a second felony offender, second violent felony offender, second felony drug offender, persistent felony offender or persistent violent felony offender. I also understand that if I fail to live up to the conditions imposed by the court pending sentencing or as part of the sentence itself, I could receive an increased sentence, and I hereby waive any issue that may arise regarding the imposition or terms of the of the increased sentence.

In addition, to the above issues, my waiver also includes, but is not limited to:

1) the form, content and legal sufficiency of the indictment(s)/superior court information;

2) any decision and/or order of the Court on any motions made, or pending;

3) the voluntariness of any statements made by myself or the constitutionality of any identification procedure conducted;

4) the sufficiency of the plea allocution;

5) any other matters which I may have an appeal as of right or otherwise in any State or Federal Court or may collaterally attack in any State or Federal Court, specifically, that I have been advised of and waive my right to file motions to vacate my conviction and to set aside my sentence under CPL Article 440 and 330, my rights to file habeas corpus petitions to challenge my conviction in state and federal court, Writs of Coram Nobis and any right I may have to file any motions or application attacking my conviction in state or federal court. This waiver applies to all issues that may validly be waived.

I waive all these rights voluntarily, knowingly and intelligently and without coercion by anyone, after being duly informed of them by my attorney standing beside me in open court. I have had a full opportunity to discuss these matters with my attorney and to raise them with the court, and any questions I may have, have been answered to my satisfaction. I am waiving my right to appeal to mark the end of my case.

Defendant: Natasha Gonzalez Date 1-30-2013

Attorney: [illegible] Date 1/30/13

The above named defendant appeared before this Court on this date and in open court, in the presence of this Court and her attorney and with the approval of this Court and with the advice and consent of her attorney in open court, signed the foregoing waiver of her rights.

Judge: [illegible] Date: 1-30-13

STATE OF NEW YORK

COURT ORDER FOR INVESTIGATION AND REPORT

DATE: 1-31-13

TO: SULLIVAN COUNTY PROBATION DEPT
(NAME OF PROBATION AGENCY)

FROM: Hon. Michael F. McGuire (JUDGE) COUNTY (COURT) 2 (PART) 14W-13 (DOCKET NO./INDICTMENT NO./ PETITION NO.)

DEFENDANT'S/RESPONDENT'S NAME: Goncalves (LAST) Natasha (FIRST) (M.I.)

ADDRESS: c/o [redacted] (STREET) (APT#) [redacted] (CITY/BOROUGH/VILLAGE)

DOB: [redacted] SOC. SEC. NO.: PHONE NO.: [redacted]

CJTN: (FORMERLY CCN) 65821487K NYSID# 01724417M

CONVICTED OF: Grand Larceny 4th PL 155.30(4) E Felony (CRIMINAL MATTERS)

OR

ADJUDICATED AS: (FAMILY/CRIMINAL COURT MATTERS)

RECEIVED JAN 31 AM 11:24 CLERK OF COURT

DATE OF CONVICTION/ ADJUDICATION 1-30-13 CONVICTED BY: x PLEA ___ TRIAL ___ ADJUDICATION

CUSTODY STATUS: Released to ATI ___ BAIL ___ R.O.R. ___ DETENTION

RETURN DATE: **4-12-13(4-16-13)** COUNSEL'S NAME: Joel Proyect, Esq.

TYPE OF INVESTIGATION AND REPORT REQUESTED:

___ PRE-PLEA (WAIVER REQUIRED) ___ PRE-DISPOSISTION OTHER (SPECIFY):

x PRE-SENTENCE

SPECIFIC INSTRUCTIONS: Defendant plead guilty to the information. The People will recommend five years probation with drug and alcohol conditions; fines and surcharges; $500 restitution. The defendant waived her rights to appeal.

Select One: X TO AWAIT CONTACT BY PROBATION DEPARTMENT

___ INSTRUCTED TO REPORT TO PROBATION DEPARTMENT ON ___ (DATE) at ___ (TIME) A.M. P.M.

Sarah Katzman (CLERK OF THE COURT) By Sarah Katzman (SIGNATURE) Chief Clerk (TITLE)

Note: Please Attach Copy of Information/Petition, Statement, ROR Report, Fingerprint Record, etc.

337-13

COUNTY COURT: STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

RECEIVED
COURT CLERK
2013 FEB 26 PM 4:44

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NATASHA GONCALVES
DOB: [redacted]
CRT. CON # 65821487K Defendant

----------X

BENCH
WARRANT
SCI # 14W-2013

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

TO ANY POLICE OFFICER IN THE STATE OF NEW YORK:

The above named defendant plead guilty on January 30, 2013 to Grand Larceny in the Fourth Degree, released from the Sullivan County Jail and placed on Pretrial Release Program pending sentencing on April 16, 2013 and as a condition of her release the defendant to abide by all terms and conditions of Pretrial Release and the defendant has failed to abide the terms and conditions by being re-arrested and having pending charges in the Village of Monticello Justice Court as well as the defendant admitting on February 20, 2013 to using heroine the prior evening and was instructed to report immediately to the Crisis Unit and during the evening hours of February 22, 2013, the defendant left treatment and her whereabouts are unknown, and the Court having directed that a Bench Warrant be issued for her arrest;

YOU ARE THEREFORE COMMANDED FORTHWITH TO ARREST THE DEFENDANT, NATASHA GONCALVES, and bring her before the Court to answer the charges, or if the Court has adjourned for the term, that you deliver her into the custody of the Sheriff of the County of Sullivan.

Dated: Monticello, New York
February 26, 2013

HON. MICHAEL F. MCGUIRE
County Court Judge

Scanned to Angel Hannold 1-30-13

RECEIVED
OFFICE OF COURT CLERK
2013 JAN 30 PM 12: 30

SULLIVAN COUNTY
ALTERNATIVES TO INCARCERATION

100 North Street
Monticello NY 12701-5192
TEL: (845) 794-3000 EXT 3400
fax: (845) 794-0900

Defendant Nataska Goncalves NYSID#: _____

Charge Gr. Larceny 4th P(155.30(4))

Bail/Release Status RoR'd.

Defendant's Address/Telephone c/o [redacted]

Comments/Conditions: _____

☒ Drug and alcohol conditions/evaluation and follow all recommendations.

☐ Mental health conditions/evaluation and follow all recommendations.

☐ Drivers license suspended/revoked

☐ Urine Screening

Next court date 4-16-13 Time 9:00

Magistrate's Signature

1/30/13
Date

TRANSMISSION VERIFICATION REPORT

TIME : 01/30/2013 12:44
NAME : COURT CLERK
FAX : 8457916170
TEL : 8457944066
SER.# : BROK1J740588

DATE,TIME	01/30 12:44
FAX NO./NAME	PROBATION
DURATION	00:00:22
PAGE(S)	01
RESULT	OK
MODE	STANDARD ECM

Jeffrey Mulinelli
Director of Probation II

Tel. (845) 807-0351
Fax. (845) 807-0384

SULLIVAN COUNTY PROBATION DEPARTMENT

County Government Center
100 North Street- P.O. Box 5012
Monticello, N.Y. 12701-5012

March 21, 2013

RECEIVED
2013 MAR 22 AM 11:48

Hon. Michael F. McGuire
Sullivan County Court
414 Broadway
Monticello, NY 12701

Re: Natasha Goncalves
DOB: [redacted]
SCI # 14W-2013
Pre-Sentence Investigation & Report

Dear Judge McGuire:

This department received your Order to conduct and prepare a Pre-Sentence Investigation and Report, regarding the above referenced defendant on February 1, 2013. A warrant was subsequently issued for the defendant following notification of her failure to comply with the conditions of her Pre-Trail Release on February 27, 2013. This department sent a letter closing our interest in this matter as the defendant's whereabouts were unknown on March 19, 2013.

The defendant was subsequently arrested on the bench warrant on March 20, 2013, and Goncalves remains detained at the Sullivan County Jail. As such, we are rescinding our close interest letter dated March 19, 2013, and will proceed with her Pre-Sentence Investigation and Report per Court Order dated January 31, 2013.

Sincerely,

Jeffrey Mulinelli
Director of Probation II

By:

Janet D. Myers
Probation Officer

Approved by:

Louis J. Setren
Probation Supervisor

Sarah Katzman - FW: Natasha Goncalves

From: "Myers, Janet D." <[redacted]@co.sullivan.ny.us>
To: "Sarah Katzman ([redacted]@courts.state.ny.us)" <[redacted]@courts.state.ny.us>
Date: 3/22/2013 9:11 AM
Subject: FW: Natasha Goncalves
CC: "Setren, Louis J." <[redacted]@co.sullivan.ny.us>
Attachments: Probation20130322080531.pdf

Sarah,

Please see attached.

Thank-you,

Janet

From: Myers, Janet D.
Sent: Friday, March 22, 2013 8:22 AM
To: Michael F. McGuire ([redacted]@courts.state.ny.us); Wendy Weiner ([redacted]@courts.state.ny.us)
Cc: Setren, Louis J.
Subject: Natasha Goncalves

Please see attached letter rescinding our prior "PSI closing interest letter" dated March 19, 2013, since Natasha Goncalves was remanded to the Sullivan County Jail yesterday. The original letter will be forwarded by interoffice mail.

Thank-you,

Janet

Janet D. Myers
Probation Officer
Sullivan County Probation Department
100 North Street
Monticello, NY 12701
[redacted]@co.sullivan.ny.us
[redacted]
845-807-0384 Fax

33713

Divestiture to Superior Court (170 CPL)

STATE OF NEW YORK
COUNTY OF Sullivan

Liberty Town Court

Hon. Harold J. Bauman

THE PEOPLE OF THE STATE OF NEW YORK

-VS-

Natasha Goncalves

___ORDERED Hold for Grand Jury on
/ /
___Divestiture After Indictment/SCI Notice

Indictment/SCI#:
Date Transmitted: 02/11/2013

LOCAL COURT INFORMATION

Docket#: 13010142 **CC#:** 65821487K **Arraign date:** 12/20/2012

DEFENDANT INFORMATION F White [redacted] 01724417M
Sex **Race** **DOB** **NYSID NUMBER**

12/05/2012 SP 845-292-0451
Arrest Date **Agency** **Defense Counsel & Phone #, if known:**

Defandant's Address:

Bail Posted: N
Bail Amount $: 100,000
Bail Type(C/B): C/B

RECEIVED
NOTICE OF COURT CLERK
2013 FEB 15 AM 9:54

CHARGES HELD FOR ACTION OF THE GRAND JURY:

PL 155.25 - PETIT LARCENY
PL 155.25 - PETIT LARCENY
PL 155.25 - PETIT LARCENY
PL 155.25 - PETIT LARCENY
PL 155.25 - PETIT LARCENY
PL 155.25 - PETIT LARCENY
PL 155.30 - GRAND LARCENY 4
PL 165.45 - CPSP 4

The following are being forwarded to: Sullivan County Court
(Please check all that apply)

✓ Felony Complaint (mandatory)
✓ Supporting Deposition (mandatory)
✓ UCS 540
___501 Card
___Arrest Report
___Other (DWI refusal, appearance ticket, etc.

___Bail Papers
✓ Securing Order
___Notice of Appearance
___UTT's
✓ DCJS Report

___License Forwarded to Albany
02/11/2013
Date Forwarded

___(number enclosed)

Submit this form along with originals of the appropriate papers as provided in CPL 180.70(1) to the address of the appropriate court.

Until such time that these papers are received, this action is deemed to be still pending in the local criminal court.

____ Please notify this court if an indictment has not been filed within 90 () days, or a request has not been made to return this case to the lower criminal court.

DATED: February 11, 2013

By: Lillian Rubio
SIGNATURE

Court Clerk
TITLE

STATE OF NEW YORK) ( )NTY OF SULLIVAN

TOWN COURT TOWN of THOMPSON

Defendant: NA (Relationship to alleged victim)

Alleged Victim: NA (Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this FELONY COMPLAINT, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the FELONY, of CPSP-4TH:POSS CREDIT CARD in violation of Section 165.45, Subdivision 02 of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 12:37 PM

in the TOWN of THOMPSON, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the felony of CRIMINAL POSSESSION STOLEN PROPERTY-4TH:POSSESSION CREDIT CARD. A person is guilty of criminal possession of stolen property in the fourth degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, and when:2. The property consists of a credit card, debit card or public benefit card;Criminal possession of stolen property in the fourth degree is a class E felony.

FACTS

TO WIT: On the aforementioned date, time and place, being Walmart, Anawana Lake Road, Town of Thompson, County of Sullivan, State of New York, said defendant did possess stolen Hudson Valley Credit Union Debit Card 4130-2200-0371-9902. All contrary to the above statute of law made and provided for herein.

RECEIVED 2013 FEB 15 AM 9:45 COURT CLERK

The above allegations of fact are made by the Complainant herein on DIRECT KNOWLEDGE

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

COMPLAINANT -

IAW 24666

STATE OF NEW YORK

TOWN COURT

)NTY OF SULLIVAN

TOWN of THOMPSON

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this FELONY COMPLAINT, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the FELONY, of BURG-3:ILLEG ENTRY WITH INTENT in violation of Section 140.20, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 12:30 PM

in the TOWN of THOMPSON, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the felony of BURGLARY-3RD DEGREE: ILLEGAL ENTRY WITH INTENT TO COMMIT A CRIME. A person is guilty of burglary in the third degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein. Burglary in the third degree is a class D felony.

RECEIVED
2013 FEB 15 AM 9:55
COURT CLERK

FACTS

TO WIT: On the aforementioned date, time and place, being Walmart, Anawana Lake Road, Town of Thompson, County of Sullivan, State of New York, said defendant did unlawfully enter said building and steal approximately $107.70 worth of merchandise. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: AMANDA MILLER

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

Det. Det. DS [illegible]

COMPLAINANT -

Det. [illegible] 8/1/666

STATE OF NEW YORK

COUNTY OF SULLIVAN

TOWN COURT

TOWN of ROCKLAND

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this FELONY COMPLAINT, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the FELONY, of GRAND LARCENY-4TH:CREDIT CARD in violation of Section 155.30 2cts., Subdivision 04 of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 09:50 AM

in the TOWN of ROCKLAND, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the felony of GRAND LARCENY-4TH:CREDIT CARD. A person is guilty of grand larceny in the fourth degree when he steals property and when:4. The property consists of a credit card or debit card;Grand larceny in the fourth degree is a class E felony.

FACTS

TO WIT: On the aforementioned date, time and place, being, Peck's Market, Main Street, Town of Rockland, County of Sullivan, State of New York, said defendant did steal a Coach wristlet containing Victoria's Secret credit card 5856-3751-0874-3303 and Hudson Valley Credit Union debit card 4130-2200-0371-9902. All contrary to the above statute of law made and provided for herein.

RECEIVED
2013 FEB 5 AM 9:54
COURT CLERK

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

COMPLAINANT -

STATE OF NEW YORK

TOWN COURT

)UNTY OF SULLIVAN

TOWN of THOMPSON

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 12:37 PM

in the TOWN of THOMPSON, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property.Petit larceny is a class A misdemeanor.

RECEIVED
2013 FEB 15 AM 9:55
OFFICE OF COURT CLERK

FACTS

TO WIT: On the aforementioned date, time and place, being, Walmart, Anawana Lake Road, Town of Thompson, County of Sullivan, State of New York, said defendant did steal approximately $107.70 worth of merchandise which included but is not limited to: sweatpants, sweatshirt, Ritz crackers and a long sleeve tee-shirt. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: AMANDA MILLER

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER , 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

INV. FOR. DS Myers #466

COMPLAINANT -

INV. DS #466

STATE OF NEW YORK)

)NTY OF SULLIVAN

TOWN COURT

TOWN of ROCKLAND

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 09:50 AM

in the TOWN of ROCKLAND, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property. Petit larceny is a class A misdemeanor.

RECEIVED
COURT CLERK
01 FEB 15 AM 9:54

FACTS

To Wit: On the aforementioned date, time and place, being Peck's Market, Main Street, Town of Rockland, County of Sullivan, State of New York, said defendant did steal one liquid eye liner and one pressed powder cosmetics made by Color Mates, worth approximately $3.00. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on DIRECT KNOWLEDGE

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

COMPLAINANT -

Inv.

STATE OF NEW YORK) ( )NTY OF SULLIVAN

TOWN COURT TOWN of LIBERTY

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

	Date of Birth
NATASHA GONCALVES	[redacted]
	Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 10:05 AM

in the TOWN of LIBERTY, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property.Petit larceny is a class A misdemeanor.

FACTS

TO WIT: On the aforementioned date and time, while in the Town of Liberty, County of Sullivan State of New York, said defendant did use a stolen debit card to purchase approximately $55.00 worth of Verizon minutes for a cellular device. All contrary to the above statute of law made and provided for herein.

RECEIVED
2012 FEB 15 AM 9:54
COUNTY CLERK

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

Inv. Tar. DJ Myers #661

COMPLAINANT -

Inv. #661

STATE OF NEW YORK

COUNTY OF SULLIVAN

TOWN COURT

TOWN of LIBERTY

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 10:10 AM

in the TOWN of LIBERTY, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property. Petit larceny is a class A misdemeanor.

RECEIVED
2013 FEB 15 AM 9:54
TOWN OF LIBERTY COURT CLERK

FACTS

TO WIT: On the aforementioned date, between 10:10am and 12:15pm, said defendant did purchase approximately $132.23 worth of merchandise from Family Dollar, North Main Village of Liberty, County of Sullivan State of New York, via a stolen debit card. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

COMPLAINANT -

STATE OF NEW YORK ( ) COUNTY OF SULLIVAN

TOWN COURT TOWN of LIBERTY

Defendant: NA (Relationship to alleged victim)

Alleged Victim: NA (Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 10:10 AM

in the TOWN of LIBERTY, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property.Petit larceny is a class A misdemeanor.

RECEIVED
TOWN COURT CLERK
2013 FEB 15 AM 9:57

FACTS

TO WIT: On the aforementioned date, between 10:10am and 12:15pm, said defendant did purchase approximately $146.18 worth of merchandise from Dollar General, 1860 State Route 52, Village of Liberty, County of Sullivan State of New York, via a stolen debit card. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

Inv. for. DS Myers #466

COMPLAINANT -

Inv. [signature] #466

STATE OF NEW YORK

TOWN COURT

COUNTY OF SULLIVAN

TOWN of LIBERTY

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 10:10 AM

in the TOWN of LIBERTY, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property. Petit larceny is a class A misdemeanor.

RECEIVED
2013 FEB 15 AM 9:54
COURT CLERK

FACTS

TO WIT: On the aforementioned date, between 10:10am and 12:15pm, said defendant did purchase approximately $7.36 worth of merchandise from MOBIL, Main Village of Liberty, County of Sullivan State of New York, via a stolen debit card. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

Tan. For. DS [illegible]

COMPLAINANT -

Tan. [illegible]

STATE OF NEW YORK

TOWN COURT

COUNTY OF SULLIVAN

TOWN of LIBERTY

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-- VS.--

Date of Birth

NATASHA GONCALVES [redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, DAVID J MYERS, as the Complainant herein, STATIONED at SP LIBERTY, accuses the above mentioned Defendant(s), with having COMMITTED the MISDEMEANOR, of PETIT LARCENY in violation of Section 155.25, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 12/05/2012 at about 10:10 AM

in the TOWN of LIBERTY, County of SULLIVAN, the defendant(s)

did intentionally, knowingly and unlawfully commit the misdemeanor of PETIT LARCENY. A person is guilty of petit larceny when he steals property.Petit larceny is a class A misdemeanor.

RECEIVED
TOWN COURT CLERK
2013 FEB 15 AM 9:54

FACTS

TO WIT: On the aforementioned date and time, while in the Town of Liberty, County of Sullivan State of New York, said defendant did use a stolen debit card to purchase approximately $50.00 worth of Inmate phone minutes for a cellular device. All contrary to the above statute of law made and provided for herein.

The above allegations of fact are made by the Complainant herein on direct knowledge and/or upon infomation and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of: KELLEY KETCHAM

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. **(PL 210.45)**

Affirmed under penalty of perjury

this 20 TH day of DECEMBER, 2012

--OR--

Subscribes and sworn to before me this _____ day of _____, 20 _____

Inv. Tac. DS [illegible]

COMPLAINANT -

[illegible]

GENL-4 (03/05)

New York State Police

SUPPORTING DEPOSITION (CPL § 100.20)

THE PEOPLE OF THE STATE OF NEW YORK
— VS.

Goncalves, Natasha [redacted]

DEFENDANT(S)

LOCATION OF INCIDENT:

STATE OF NEW YORK Local Criminal COURT

COUNTY OF Sullivan

Town OF Thompson

LOCATION OF DEPOSITION:

STATE OF NEW YORK

COUNTY OF Sullivan

Town OF Thompson

On DATE: 12/11/12 at TIME STARTED: 11:28 p.m. I, FULL NAME: Amanda C. Miller

state the following: While assisting the New York State Police with an investigation, I observed Natasha Goncalves on video surveillance at Walmart in Monticello. The video was from December 5, 2012 at approximately 12:25 p.m. I have personal knowledge that Natasha is not supposed to be in Walmart. A trespass affidavit for Natasha was filed on June 22, 2012. I also saw Natasha steal approximately $107.70 of merchandise on the video as well. On behalf of Walmart, I want Natasha Goncalves arrested for trespass and stealing. AMM

RECEIVED
2013 FEB 15 AM 9:55
COURT CLERK

NOTICE
(Penal Law § 210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor. AMM

Affirmed under penalty of perjury
this 11th day of December, 2012.

- OR -

* Subscribed and Sworn to before me
this _____ day of _____, _____.

* This form need be sworn to only when specifically required by the court

x (SIGNATURE OF DEPONENT) 1138 pm 12-11-12

(WITNESS) Inv. Myers #4668

(NAME OF PERSON TAKING DEPOSITION)

TIME ENDED: 11:38 pm.

Page 1 ORIGINAL Page 2 COPY Page 3 COPY Page 4 COPY

NEW YORK STATE POLICE

THE PEOPLE OF THE STATE OF NEW YORK
-- vs.

NATASHA M GONCALVES
Defendant(s)

INCIDENT LOCATION:	LOCATION OF DEPOSITION:
STATE OF NEW YORK LOCAL CRIMINAL COURT	STATE OF NEW YORK
COUNTY OF SULLIVAN	COUNTY OF SULLIVAN
TOWN of ROCKLAND	TOWN of ROCKLAND

On Date 12/5/2012 at Time Started 05:52 AM I, Full Name: EVAN IRWIN

State The Following:

On 12/05/2012 while working as manager at Pecks Market on Main Street in Livingston Manor, I was approached by fellow employee Kelly A. Ketcham who stated that her wallet was stolen from her duffel bag while she was doing inventory for the store. While reviewing the video surveillance, I noticed Natasha M. Goncalves whom I know from Livingston Manor. I could see Natasha M. Goncalves open the duffel bag and remove a small wallet. Goncalves also took two makeup items and then left Pecks Market. X EI

RECEIVED
2013 FEB 15 AM 9:54
CLERK

Notice
(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury
this 05TH day of DECEMBER , 201

(SIGNATURE OF DEPONENT)

- OR -

(WITNESS)

* Subscribed and Sworn to before me
this _____ day of _____

(NAME OF PERSON TAKING DEPOSITION)

Time Ended 12/20/2012 09:17 AM

* This form need be sworn to only when specifically required by the court

SUPPORTING DEPOSITION (CPL §100.20)

NEW YORK STATE POLICE

THE PEOPLE OF THE STATE OF NEW YORK
-- vs.

NATASHA GONCALVES
Defendant(s)

INCIDENT LOCATION:	LOCATION OF DEPOSITION:
STATE OF NEW YORK LOCAL CRIMINAL COURT	STATE OF NEW YORK
COUNTY OF SULLIVAN	COUNTY OF SULLIVAN
TOWN of ROCKLAND	TOWN of LIBERTY

On Date 12/16/2012 at Time Started 04:27 PM I, Full Name: KELLEY A KETCHAM

State The Following:

On December 5, 2012, I was working at Peck's Market in Livingston Manor. I stock the shelves there. While I was working I had my book bag sitting in the aisle. Within my book bag, I had a coach wristlet. Inside the wristlet I had my driver license, social security card, my health insurance card and some credit cards. At 12:45pm, I checked my bank account with my iPhone and I saw a charge for $55.00 from Verizon wireless at 10:05am. I didn't make that charge. I called my bank right away They shut my card off. I then got a phone call from my bank notifying me of suspicious charges. I checked my book bag and looked everywhere for my wristlet. I couldn't find it anywhere. I called the State Police and told them my purse was stolen. I talked to Gary, the Manager at Peck's and he saw the person who stole my wristlet on a security video. I did not give Natasha Gonclaves or any other person permission to take my wristlet, credit cards or other personal belongings. I did not authorized any person to use my bank card. I want Natasha Goncalves or any other person involved in the stealing of my belongings to be arrested. x KK

x Kelley Ketcham

RECEIVED
COURT CLERK
2013 FEB 15 AM 9:55

Notice
(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor. x KK

Affirmed under penalty of perjury
this 16TH day of DECEMBER , 201

x Kelley Ketcham
(SIGNATURE OF DEPONENT)

- OR -

* Subscribed and Sworn to before me
this _____ day of _____

(WITNESS)

Tw. Myers #666
(NAME OF PERSON TAKING DEPOSITION)

Time Ended 12/16/2012 04:39 PM

#666

* This form need be sworn to only when specifically required by the court

ORI No: NY052051J
Order No:
NYSID No:
Present: Honorable BRIAN P. ROURKE

At a term of the Town Court, County of Sullivan, Town of Liberty at the Courthouse at 120 North Main Street, State of New York

ORDER OF PROTECTION
Non-Family Offense--C.P.L 530.13[1]
(Not involving victims of Domestic Violence)
☐ Youthful Offender (check if applicable)
Part Crim Index/Docket No 13010142
Indictment No, if any:
Charges: Grand Larceny 4
(Check One): ☐ Ex Parte
☑ Defendant Present in Court

----------X

PEOPLE OF THE STATE OF NEW YORK
-against-

NATASHA GONCALVES Defendant,
Date of Birth: [redacted]

----------X

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS ATEMPORARY ORDER OF PROTECTION AND YOUFAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU REAPPEAR IN COURT.

☑ **TEMPORARY ORDER OF PROTECTION.** Whereas good cause has been shown for the issuance of a temporary order of protection [as a condition of ☐ recognizance ☐ release on bail ☐ adjournment in contemplation of dismissal],
☐ **ORDER OF PROTECTION.** Whereas defendant has been convicted of [specify crime or violation]:
and the Court having made a determination in accordance with section 530.13 of the Criminal Procedure Law,

IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:

☑ Stay away from and or from the
☑ [name(s) of protected person(s) or witness(es)]: Kelly Ketcham
☑ home of Kelly Ketcham
☑ school of Kelly Ketcham
☑ business of Kelly Ketcham
☑ place of employment of Kelly Ketcham
☐ other

☑ Refrain from communication or any other contact by mail, telephone, e-mail voice-mail or other means with [specify protected person(s)]: ; Kelly Ketcham

☑ Refrain from assault, stalking, harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, intimidation,
threats or any criminal offense or interference with the victim or victims of, or designated witnesses to, the alleged offense and such members of the family or household of such victims(s) or witness(es) as shall be specifically named: ; Kelly Ketcham

☐ Surender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following:
Such surrender shall take place immediately, but no later than [specify date/time]: at

☐ Specify other conditions defendant must observe

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby ☐ suspended or ☐ revoked (note: final order only), and/or ☐ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes). **NOTE: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252**

IT IS FURTHER ORDERED that this order of protection shall remain in effect until 3/3/2013

Dated: 12/20/12

JUDGE/JUSTICE

RECEIVED
2013 FEB 15 AM 9:55
CLERK OF COURT

☐ Defendant advised in Court of issuance of Order.
Received by Defendant _____
(signature)

☒ Service Executed on (date) _____ at (time) _____ ☐ Warrant issued for Defendant

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer actin pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a defendant who has violated its terms and to bring him or her before the Court to face whatever penalities may be imposed therefore.

Federal Law provides that this order must be honored and enforced by state an tribal courts, including courts of a state, the District of Columbia a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal offense to: cross state lines to violate an order of protection; cross state lines to engage in stalking, harassment or domestic violence; possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or to the firearm or ammunition following a conviction of domestic violence misdemeanor involving the use or attempted use of physical force or a deadly weapon; or (except for military or law enforcement officers while on duty) possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or other firearm or ammunition while an order of protection, issued after notice and an opportunity to be heard, that protects an intimate partner from assault, harassment, threatening, and/or stalking, remains in effect (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

[1] Use of this form for non-family offense orders of protection, issued pursuant to CPL §530.13, that are not issued to protect victims of domestic violence, as defined by Social Services Law §459-a and thus are not entered onto the statewide domestic violence registry. See Exec. L. §221-a(1); CPL §530.13.

ORI No: NY052051J
Order No:
NYSID No:
Present: Honorable BRIAN P. ROURKE

At a term of the Town Court, County of Sullivan, Town of Liberty at the Courthouse at 120 North Main Street, State of New York

ORDER OF PROTECTION
Non-Family Offense--C.P.L 530.13[1]
(Not involving victims of Domestic Violence)
☐ Youthful Offender (check if applicable)
Part Crim Index/Docket No 1301042
Indictment No., if any:
Charges: Grand Larceny
(Check One): ☐ Ex Parte
☐ Defendant Present in Court

----------X

PEOPLE OF THE STATE OF NEW YORK
-against-

Natasha Goncalves Defendant,
Date of Birth: [redacted]

----------X

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS ATEMPORARY ORDER OF PROTECTION AND YOUFAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU REAPPEAR IN COURT.

☐ **TEMPORARY ORDER OF PROTECTION.** Whereas good cause has been shown for the issuance of a temporary order of protection [as a condition of ☐ recognizance ☐ release on bail ☐ adjournment in contemplation of dismissal],
☐ **ORDER OF PROTECTION.** Whereas defendant has been convicted of [specify crime or violation]:
and the Court having made a determination in accordance with section 530.13 of the Criminal Procedure Law,

IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:

☑ Stay away from and or from the
☑ [name(s) of protected person(s) or witness(es)]: Evan Irwin
☑ home of EVAN IRWIN
☑ school of EVAN IRWIN
☑ business of EVAN IRWIN
☑ place of employment of EVAN IRWIN
☐ other

☑ Refrain from communication or any other contact by mail, telephone, e-mail voice-mail or other means with [specify protected person(s)]: ; Evan Irwin

☑ Refrain from assault, stalking, harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, intimidation,
threats or any criminal offense or interference with the victim or victims of, or designated witnesses to, the alleged offense and such members of the family or household of such victims(s) or witness(es) as shall be specifically named: ; Evan Irwin

☐ Surender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following:
Such surrender shall take place immediately, but no later than [specify date/time]: at

☐ Specify other conditions defendant must observe

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby ☐ suspended or ☐ revoked (note: final order only), and/or ☐ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes). **NOTE: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252**

IT IS FURTHER ORDERED that this order of protection shall remain in effect until 3/31/13

Dated: 12/20/12

JUDGE/JUSTICE

RECEIVED
2013 FEB 15 AM 9:55
COURT CLERK

☐ Defendant advised in Court of issuance of Order.
Received by Defendant _____
(signature)

☒ Service Executed on (date) _____ at (time) _____ ☐ Warrant issued for Defendant

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer actin pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a defendant who has violated its terms and to bring him or her before the Court to face whatever penalities may be imposed therefore.

Federal Law provides that this order must be honored and enforced by state an tribal courts, including courts of a state, the District of Columbia a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal offense to: cross state lines to violate an order of protection; cross state lines to engage in stalking, harassment or domestic violence; possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or to the firearm or ammunition following a conviction of domestic violence misdemeanor involving the use or attempted use of physical force or a deadly weapon; or (except for military or law enforcement officers while on duty) possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or other firearm or ammunition while an order of protection, issued after notice and an opportunity to be heard, that protects an intimate partner from assault, harassment, threatening, and/or stalking, remains in effect (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

[1] Use of this form for non-family offense orders of protection, issued pursuant to CPL §530.13, that are not issued to protect victims of domestic violence, as defined by Social Services Law §459-a and thus are not entered onto the statewide domestic violence registry. See Exec. L. §221-a(1); CPL §530.13.

ORI No: NY052051J
Order No:
NYSID No:
Present: Honorable BRIAN P. ROURKE

At a term of the Town Court, County of Sullivan, Town of Liberty at the Courthouse at 120 North Main Street, State of New York

ORDER OF PROTECTION
Non-Family Offense--C.P.L 530.13[1]
(Not involving victims of Domestic Violence)
☐ Youthful Offender (check if applicable)
Part Crim Index/Docket No 13010142
Indictment No., if any:
Charges: Grand larceny 4
(Check One): ☐ Ex Parte
☑ Defendant Present in Court

PEOPLE OF THE STATE OF NEW YORK
-against-

Natasha Goncalves Defendant
Date of Birth: [redacted]

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CONTEMPT OF COURT. IF THIS IS ATEMPORARY ORDER OF PROTECTION AND YOUFAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND CONTINUE IN EFFECT UNTIL YOU REAPPEAR IN COURT.

☑ **TEMPORARY ORDER OF PROTECTION.** Whereas good cause has been shown for the issuance of a temporary order of protection [as a condition of ☐ recognizance ☐ release on bail ☐ adjournment in contemplation of dismissal],
☐ **ORDER OF PROTECTION.** Whereas defendant has been convicted of [specify crime or violation]:
and the Court having made a determination in accordance with section 530.13 of the Criminal Procedure Law,
IT IS HEREBY ORDERED that the above-named defendant observe the following conditions of behavior:

☑ Stay away from and or from the
☑ [name(s) of protected person(s) or witness(es)]: Amanda Milles
☑ home of Amanda Milles
☑ school of Amanda Milles
☑ business of Amanda Milles
☑ place of employment of Amanda Milles
☐ other

☑ Refrain from communication or any other contact by mail, telephone, e-mail voice-mail or other means with [specify protected person(s)]: ; Amanda Milles

☑ Refrain from assault, stalking, harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, intimidation,
threats or any criminal offense or interference with the victim or victims of, or designated witnesses to, the alleged offense and such members of the family or household of such victims(s) or witness(es) as shall be specifically named: ; Amanda Milles

☐ Surender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following:
Such surrender shall take place immediately, but no later than [specify date/time]: at

☐ Specify other conditions defendant must observe

IT IS FURTHER ORDERED that the above-named Defendant's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is hereby ☐ suspended or ☐ revoked (note: final order only), and/or ☐ the Defendant shall remain ineligible to receive a firearm license during the period of this order. (Check all applicable boxes). **NOTE: If this paragraph is checked, a copy of this form must be sent to: New York State Police, Pistol Permit Section, State Campus Building #22, 1220 Washington Avenue, Albany, New York 12226-2252**

IT IS FURTHER ORDERED that this order of protection ~~shall~~ remain in effect until 3/13/13

Dated: 12/20/12

JUDGE/JUSTICE

RECEIVED
2012 FEB 7 AM 9:55
TOWN COURT CLERK

☐ Defendant advised in Court of issuance of Order.
Received by Defendant _____
(signature)

☒ Service Executed on (date) _____ at (time) _____ ☐ Warrant issued for Defendant

The Criminal Procedure Law provides that presentation of a copy of this order of protection to any police officer or peace officer actin pursuant to his or her special duties shall authorize, and in some situations may require, such officer to arrest a defendant who has violated its terms and to bring him or her before the Court to face whatever penalities may be imposed therefore.

Federal Law provides that this order must be honored and enforced by state an tribal courts, including courts of a state, the District of Columbia a commonwealth, territory or possession of the United States, if it is established that the person against whom the order is sought an intimate partner of the protected party and has been or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect that person's rights (18 U.S.C. §§2265, 2266).

It is a federal offense to: cross state lines to violate an order of protection; cross state lines to engage in stalking, harassment or domestic violence; possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or to the firearm or ammunition following a conviction of domestic violence misdemeanor involving the use or attempted use of physical force or a deadly weapon; or (except for military or law enforcement officers while on duty) possess, purchase, ship, transfer or receive a handgun, rifle, shotgun or other firearm or ammunition while an order of protection, issued after notice and an opportunity to be heard, that protects an intimate partner from assault, harassment, threatening, and/or stalking, remains in effect (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

[1] Use of this form for non-family offense orders of protection, issued pursuant to CPL §530.13, that are not issued to protect victims of domestic violence, as defined by Social Services Law §459-a and thus are not entered onto the statewide domestic violence registry. See Exec. L. §221-a(1); CPL §530.13.

STATE OF NEW YORK
COUNTY OF Sullivan
TOWN COURT OF LIBERTY NEW YORK

SECURING ORDER
DOCKET # 13010142
DATE OF BIRTH [redacted]
NYSID #

The People of the State of New York

v.

Natasha Goncalves, Defendant

The above named defendant having appeared before the undersigned on a (ACCUSATORY INSTRUMENT)/(WARRANT),charging the defendant with the most serious offense of BURGLARY 3 in violation of Section 140.20 of the PL Law a (Class D Felony)

AND (Check one box only)
☑ further court attendance being required on the ~~1/29/13~~ 2/5/13 at 10AM before the Liberty Town Court
OR ☐ the matter having been transferred for action of the Grand Jury

Now therefore, it is **ORDERED** that the defendant be

☐ **RELEASED** (Check one box only)
☐ on bail fixed in the amount of $ _____ and received by this Court;
OR ☐ Other (Explain)

OR ☑ **REMANDED** to the custody of County Sheriff/Commissioner of Correction until his appearance is required as set forth, (Check one box only)
OR ☑ until bail is posted in the amount of $100,000 CASH OR $100,000 BOND Secured
OR ☐ until bail in an amount fixed by a Superior Court has been posted.
OR ☐ without bail

Specify Type

RECEIVED
2013 FEB 15 AM 9:35

AND that this ORDER includes the lesser offense(s) of:

SPECIAL ORDERS/INSTRUCTIONS

☐ CPL 730 (competency) Exam ordered (UCS#16-A Attached)
☐ Local Mental Health Referral
☐ Additional Comments

DATED: 1/22/13 Harold J. Bauman (PRINT OR TYPE NAME) (JUDGE OR JUSTICE SIGNATURE)

RELEASE INFORMATION
It is hereby ORDERED that the defendant (Check one box only)

☐ be released from custody having been **CONVICTED**of the most serious offense of _____ in violation of Section _____ Sub Div_____ of the _____ Law a (Class_____Misd) (Violation) (Infraction) **AND SENTENCED TO TIME SERVE**
OR ☐ be released from custody (OTHER)

DATED: _____

Harold J. Bauman
(PRINT OR TYPE NAME) (JUDGE OR JUSTICE SIGNATURE)

STATE OF NEW YORK
COUNTY OF Sullivan
Justice Court, Town/~~Village~~ of Liberty

14 pgs.

THE PEOPLE OF THE STATE OF NEW YORK

-against-

Natasha Goncalves
Defendant

ORDER

Assignment of Counsel

(Upon Issuing a Securing Order Fixing Bail Or Ordering Defendant Held Without Bail)

[22 NYCRR Section 200.26(c)]

Docket/Case No. _____

The defendant having been brought before the Court on 12/20/12 [*Date*] at 12:15 PM [*Time*] for arraignment on an accusatory instrument filed with the Court, and it appearing that the defendant is financially unable to obtain counsel, the Court makes the following assignment of counsel, pursuant to County Law section 722:

☑ Jason Sautter [*indicate Public Defender Office, Conflict or Alternate Defender Office, Legal Aid Society or named attorney, as appropriate*] is assigned to represent the defendant; or

☐ _____ [*enter name of Administrator of Assigned Counsel Program*] is directed to, without delay, select and assign an appropriate attorney to represent the defendant from the Administrator's list of eligible attorneys.

RECEIVED
2013 FEB 15 AM 9:55
OFFICE OF COURT CLERK

CHARGE(S) AGAINST DEFENDANT: attached -

NAME(S) OF CO-DEFENDANT(S): _____

BAIL AMOUNT: $100,000

TERM(S) OF SECURING ORDER [*e.g., cash bail, insurance co. bond*]: C/B

DATE AND TIME OF NEXT COURT APPEARANCE: 1/8/13 10 AM

OTHER: Rob Zangla wants to Keep T. of Thompson T. of Rockland Charges

☒ A copy of the accusatory instrument(s) is/are attached.

☐ The defendant has been provided, in writing, with the name, business address and telephone number of assigned counsel.

☐ The appropriate pre-trial services agency or pre-trial services unit of the County Probation Department (if any) has been notified of this assignment by telephone, and by faxed (or other) delivery of a copy of this order of assignment, in accordance with 22 NYCRR 200.26(c). [Do NOT send copy of accusatory instrument to pre-trial services agency or pre-trial services unit of Probation Department.]

DATED: 1/3/13

L. Rubio Court Clerk
Town/~~Village Justice~~

Pursuant to 22 NYCRR § 200.26(c): Assigned counsel and pre-trial services agency/unit (if any) to be notified of this assignment by telephone, and by faxed (or other) delivery of a copy of this order of assignment, upon issuance of securing order or, if not practicable, within 24 hours thereafter, but not later than 48 hours thereafter if extraordinary circumstances so require.

11-February-2013

Local Court Criminal Disposition Report UCS-540-sei.

NY052051J - 345217N Harold J. Bauman, Liberty Town Court

CPY 1: **1_r** CPY 2: CPY 3: CPY 4:

SERIAL: **99402828**

DEF LNAME/F /M: **Goncalves, Natasha** DOB: [redacted] DOCKET #: **13010142**

501#: **65821487K** NYSID#: **01724417M** ARST AGENCY ORI: **NY1520100** ID:

AKA: ARST DT: **12/05/12** ARN DT: **12/20/12** C TYP: **AS**

INT DIS DT 1: / / CODE: INT DIS DT 2: / / CODE:

INT DIS DT 3: / / CODE: INT DIS DT 4: / / CODE:

INT DIS DT 5: / / CODE: INT DIS DT 6: / / CODE:

DISPO COV CASE(S) IN: CT CD: DKT:

CT CD: DKT:

C01: **PL -155.25** **-N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C02: **PL -155.25** **-N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C03: **PL -155.25** **-N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C04: **PL -155.25** **-N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

REMARKS:

DEFENDANT: **Natasha Goncalves**

RECEIVED
2013 FEB 15 AM 9:55
COURT CLERK

ORDERED BY: **Harold J. Bauman**

DATE: **02/11/2013**

AUTHORIZED SIGNATURE: _____

11-February-2013

Local Court Criminal Disposition Report UCS-540-sei.

NY052051J - 345217N Harold J. Bauman, Liberty Town Court

CPY 1: **1_r** CPY 2: CPY 3: CPY 4:

SERIAL: **99402828**

DEF LNAME/F /M: **Goncalves, Natasha** DOB: [redacted] DOCKET #: **13010142**

501#: **65821487K** NYSID#: **01724417M** ARST AGENCY ORI: **NY1520100** ID:

AKA: ARST DT: **12/05/12** ARN DT: **12/20/12** C TYP: **AS**

C05: **PL -155.25 -N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C06: **PL -155.30 -N-002** DESC: **-EF4- GRAND LARCENY 4**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C07: **PL -155.25 -N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C08: **PL -165.45 -N-001** DESC: **-EF4- CPSP 4**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

C09: **PL -140.20 -N-001** DESC: **-DF3- BURGLARY 3**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

REMARKS:

RECEIVED
2013 FEB 5 AM 9:55
COURT CLERK

ORDERED BY: **Harold J. Bauman**

DATE: **02/11/2013**

AUTHORIZED SIGNATURE: _____

11-February-2013

Local Court Criminal Disposition Report UCS-540-sei.

NY052051J - 345217N Harold J. Bauman, Liberty Town Court

CPY 1: **1_r** CPY 2: CPY 3: CPY 4:

SERIAL: **99402828**

DEF LNAME/F /M: **Goncalves, Natasha** DOB: [redacted] DOCKET #: **13010142**

501#: **65821487K** NYSID#: **01724417M** ARST AGENCY ORI: **NY1520100** ID:

AKA: ARST DT: **12/05/12** ARN DT: **12/20/12** C TYP: **AS**

C10: **PL -155.25 -N-001** DESC: **-AM0- PETIT LARCENY**

RED: - - - - DESC: - -

DDT: **02/11/13** DCODE: **GJ** ACD: / / CDE: DKT: RC:

SDT: / / SCODE: CUST/TIME: PROB: DR L: T:

CST: OPT: SEAL STAT:

FINE: STAT: SURCHARGE: STAT: T: CVAF: STAT:

RECEIVED
JUSTICE COURT CLERK
2013 FEB 15 AM 9:55

REMARKS:

ORDERED BY: **Harold J. Bauman**

DATE: **02/11/2013**

AUTHORIZED SIGNATURE: _____

SULLIVAN LEGAL AID PANEL, INC.
11 Bank Street
Monticello, New York 12701
(845) 794-4094 ~ Fax: (845) 794-0119

Stephan Schick, Esq.
Executive Director

January 4, 2013

VIA FACSIMILE 292-2562

Hon. Harold Bauman
Town of Liberty Justice Court
120 North Main Street
Liberty, New York 12754

Re: People of the State of New York v. Natasha Goncalves

Dear Judge Bauman:

This office has been assigned to represent Natasha Goncalves in a matter pending before the Court. Ms. Goncalves has been a co-defendant in other matters where Legal Aid was disqualified. I respectfully ask that different counsel be appointed.

Very truly yours,

TIM L. HAVAS

TLH:sms
cc: Jason Sautter, Esq.
Robert L. Zangla, Esq.
(via facsimile 794-3646)

RECEIVED
OFFICE OF COURT CLERK
2013 FEB 15 AM 9:55

SULLIVAN COUNTY ADULT DRUG COURT
COUNY OF SULLIVAN, STATE OF NEW YORK
PARTICIPATION AGREEMENT

I, NATASHA GONCALVES, with a birth date of [redacted], have plead guilty **GRAND LARCENY IN THE FOURTH DEGREE** in the Sullivan County Drug Court.

1. I understand that by entering the Drug Treatment Court Program, I agree to participate for a minimum period of twelve months and a maximum period of eighteen months with graduation thereafter in accordance with graduation requirements. Time in violation of the participation agreement will not count toward the eighteen months.

   I understand that if I do not successfully complete the Drug Treatment Program, I will receive an agreed upon sentence of ONE AND ONE-THIRD YEARS IN STATE PRISON and $500.00RESTITUTION.

RECEIVED
2013 APR 19 PM 12: 18

2. I understand that if I successfully complete the Drug Court Treatment Program, I will receive a reduction of my charges to a PETIT LARCENY and an agreed upon sentence of THREE YEARS PROBATION AND DRUG AND ALCOHOL CONDITIONS and $500.00 RESTITUTION.

3. If the Court cannot go along with the sentence, whether the defendant is positively or negatively discharged from the Drug Court Program the People may to opt out of the plea agreement and proceed with the case to Grand Jury on the original charges, while using the defendant's allocution against him.

4. I understand that the staff of the Drug Court, which may include the Judge presiding over my case, will be meeting at regularly scheduled staffings to discuss my ongoing progress and participation in the Drug Court Program, and that such meetings may include my substance abuse treatment provider. I understand that my attorney is invited to these staffings and may or may not attend them in his or her discretion. I agree that any non-appearance by my attorney at a staffing shall be deemed a waiver of his or her participation for that particular staffing. I further understand and agree that communications during these staffings may take place in the absence of myself or my attorney and that the judge may consider such communications.

5. I understand that to participate in the Drug Treatment Court Program, I must sign a release of information consenting to communication among Division of Health and Family Services, SCADAS, treatment providers and members of the Drug Court Treatment Program, including the presiding Judge, representatives of the Office of the District Attorney, the Office of Legal Aid Bureau, assigned and retained counsel and the Probation Department.

6. I understand that the information regarding my ongoing treatment, including results of drug testing may be disclosed and discussed in open court, which means that members of the public and the media are not barred.
7. I understand that I will be required to sign a separate release of information which will extend past the Drug Court Treatment Program so that the evaluation team may monitor my progress.

8. I hereby knowingly, intelligently, and voluntarily waive my constitutional and statutory rights to a speedy sentencing so long as I am enrolled in the Drug Court Treatment Program. I make this waiver after consulting with my attorney. I understand that if I fail to complete the program my case will be returned to Sullivan County Court for sentencing.

9. I herby knowingly, intelligently and voluntarily waive the right to pursue any pending or possible motions, waive the right to appeal and waive the right to bring any post-judgment motions. This waiver is intended to be as broad as the law allows and encompasses all issues arising from this criminal proceeding.

10. I understand that while enrolled in the Drug Treatment Court Program I agree to comply with the following conditions:

    Pre-registration of all prescribed medication with the Drug Treatment Court Program.

    Attendance at all scheduled court appearances.

    Regular attendance and active participation at the assigned treatment program including all related aspects of the program.

    Abstain from all alcohol, marijuana and drug use and submit to any recognized tests to determine the use of either alcohol or illegal substances by treatment providers, the Probation Department or the Court.

    To accept the results of properly administered tests used to determine the presence of alcohol and/or illegal substances as conclusive.

    To remain within the jurisdiction of the court and notify the court of any change of address.

    Observance of all local, state and federal criminal statutes.

    To remain in full compliance of my treatment program.

    Notify Probation Officer and case worker of any police contact within twenty-four hours.

    Remain from entering any establishment where the primary business is the sale or serving of alcoholic beverages unless approved by a Drug Treatment Case Manager.

11. I understand that after graduation from the Drug Treatment Court Program I agree to comply with the following conditions:

    No arrest on a violation of Penal Law Article 220- or 221 and/or Vehicle and Traffic Law Article 1192 for a period of one year for misdemeanors and three years for felonies.

No use and/or possession of illegal substances and/or alcohol for a period of one year for misdemeanors and three years for felonies.

Be available as a Drug Court Mentor.

Provide thirty hours of service as deemed appropriate by the Drug Treatment Court Team.

To be subject to substance use monitoring for a period of conditional discharge at the discretion of the judge.

12. I understand that any new arrest while I am in the Drug Treatment Court Program must be reported to the Drug Treatment Court Program and, if based on reasonable cause, will be grounds for immediate termination from the Drug Treatment Court Program in the discretion of the Court. Furthermore, in the event that I am arrested for reasonable cause, the District Attorney is no longer bound by the requirements outlined herein, including withdrawal of plea and sentencing recommendations.

13. I understand that any violation of the above conditions, including arrest on any new charges, may result in the revocation of my release status by the court and possible remand to the Sullivan County Jail.

14. I understand that any contested issue regarding successful completion of the program will be resolved by the Court at a hearing pursuant to the procedures set forth in CPL 410.70(3). Furthermore, the Drug Treatment Court Program Judge alone will determine whether I have complied with or failed to comply with the terms of this program.

15. I understand that I will be give random drug/alcohol testing at any time by the Court, a ~~police officer, probation officer, my treatment provider or any agency designated by the~~ court. I agree to submit to the random periodic testing and any refusal may result in automatic termination from the program. I also agree to inspections, including inspections of my residence, upon direction of the Drug Treatment Court Program.

16. I understand that if I violate the terms of this contract the Drug Treatment Court will respond to the violation in some way, including but not limited to, in-court admonishment, writing assignments, additional treatment additional court appearances, more intensive supervision, extended time in the Drug Treatment Court Program, residential placement, community service, a period of incarceration or termination from the Drug Treatment Court Program and sentencing on the conviction.
17. I understand that the Drug Court Team representatives may make unannounced home visits.

18. I understand that if I successfully complete the Drug Treatment Court Program a graduation ceremony may be held which will be open to the public, including the media, if I do not wish to be photographed during the graduation I agree to notify the Drug Treatment Court Team beforehand.

19. I understand that my attorney will be present today, at my sentencing and at any hearings or possible violations.

20. I knowingly waive or give up my right to have my attorney present at regularly scheduled Drug Treatment Court appearances or when I initiate contact with the Drug Treatment Court Judge. I understand that I can request an adjournment at any proceeding to have my attorney contacted or present or to obtain counsel.

21. I have read and fully understand the above agreement and execute it of my own fee will. No threat or promise of any kind has been made to me by anyone.

22. I agree to pay all probation fees pursuant to Local Law No. 1 of 1997 and No. 5 of 1998 Amended-Court Law Chapter 117-2. On DWI cases pursuant to Section 257-C of the NYS Executive Law and Local law No. 2 of 1993.

23. Upon my successful completion of the Drug Treatment Court Program:

24. My charge of GRAND LARCENY IN THE FOURTH DEGREE will be reduced to PETIT LARCENY and will result in a sentence of THREE YEARS PROBATION WITH DRUG AND ALCOHOL CONDITIONS and $500.00 RESTITUTION.

25. If I am unsuccessful in the Drug Treatment Court Program:

    My sentence on my plea of GRAND LARCENY IN THE FOURTH DEGREE will be ONE AND ONE-THIRD TO FOUR YEARS IN PRISON and $500.00 RESTITUTION.

26. I further understand and consent to the taking of a DNA sample to be conducted following my plea and prior to sentencing for the purpose of being submitted to the New York State DNA registry.

Natasha Gonzalez — 4/19/13
Participant's Signature — Date

4/19/13
Defense Counsel — Date

4/19/13
District Attorney — Date

4-18-13
Judge — Date

337-13

COUNTY COURT
COUNTY OF SULLIVAN: STATE OF NEW YORK

RECEIVED
OFFICE OF COURT CLERK
13 MAY 10 AM 8:59

----------X

THE PEOPLE OF THE STATE OF NEW YORK

ORDER

-against-

NATASHA GONCALVES

Defendant.

----------X

WHEREAS, defendant was arraigned in the Village of Monticello Justice Court on a charges of Grand Larceny in the Fourth Degree and Possession of Hypodermic Instrument; and

WHEREAS, bail was set at two thousand five hundred dollars ($2,500); and

WHEREAS, it is the intention of this Court that defendant receive substantial inpatient treatment for drug and/or alcohol abuse, and this Court has so ordered defendant to enter an inpatient treatment facility with respect to charges of Grand Larceny in the Fourth Degree and Possession of Hypodermic Instrument pending before this Court; it is now

ORDERED, that, with respect all charges pending against defendant before the Village of Monticello Justice Court, defendant is hereby to be released directly to an inpatient facility or a representative thereof; and it is further

ORDERED, that, should defendant be so released, she is to abide with the following treatment requirements:

1. Defendant must enroll in an inpatient treatment facility within the State of New York;
2. Defendant must remain in an inpatient treatment facility unless a designated representative of the treatment facility approves her exit there from based upon positive completion of the program, at which time defendant must follow all aftercare treatment recommendations from said treatment facility;
3. Defendant must maintain contact with her attorney, signing all required waivers for her attorney to receive reports directly from any treatment providers;
4. Defendant must make all required court appearances, unless her appearance is excused due to her participation in an inpatient rehabilitation regimen; and
5. Defendant must avoid any further violations of law and any and all negative police contact;
6. Should defendant leave said inpatient facility without a positive discharge therefrom

RECEIVED
OFFICE OF COURT CLERK
13 MAY 10 AM 8:59

or be negatively discharged and forced to leave said facility under any circumstances, including those evincing a failure to comply with treatment recommendations and facility requirements, she is to report directly to the Sullivan County Jail and be remanded to the care and custody of the Sullivan County Sheriff pending further action of this Court or the Village of Monticello Justice Court.

Dated: Monticello, New York
May 9, 2013

ENTER:

HON. FRANK J. LABUDA
County Court Judge

COUNTY COURT: STATE OF NEW YORK
COUNTY OF SULLIVAN

RECEIVED
OFFICE OF COURT CLERK
13 JUL -9 PM 3:34

----------X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NATASHA GONCALVES,
DOB: [redacted]
NYSID # 2276936K
Defendant

----------X

BENCH
WARRANT
SCI # 14W-2013
CRT. CON # 658214871C

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

TO ANY POLICE OFFICER IN THE STATE OF NEW YORK:

The above named defendant having pled guilty on January 30, 2013 to the charge of Grand Larceny in the Fourth Degree, and defendant having entered Drug Court on April 19, 2013 and having violated the terms and conditions of Drug Court Program and the Court having directed a Bench Warrant be issued for her arrest;

YOU ARE THEREFORE COMMANDED FORTHWITH TO ARREST THE DEFENDANT, NATASHA GONCALVES, and bring her before the Court to answer the charges, or if the Court has adjourned for the term, that you deliver her into the custody of the Sheriff of the County of Sullivan.

Dated: Monticello, New York
July 9, 2013

Frank J. LaBuda

HON. FRANK J. LABUDA
County Court Judge

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 *FAX: 845 791-6252*

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

August 21, 2013

SERVED ONLY BY FAX

RECEIVED
OFFICE OF COURT OF ERK
13 AUG 21 AM 11:02

Joel M. Proyect, Esq.
Via Fax: (845) 292-2601

Robert Zangla, Esq.
Assistant District Attorney
Sullivan County District Attorney's Office
Via Fax: (845) 794-3646

Re: People v Natasha ~~Congloves~~ Goncalves
Indictment No.: 14W-2013

Counsel:

Please take notice that sentencing in the above matter has been scheduled for **Wednesday, August 28, 2013 at 9:00 a.m.** Sentencing will be held at Sullivan County Court located at 414 Broadway, Monticello, New York.

Kindly mark your records accordingly.

Very truly yours,

Wendy Weiner

Wendy Weiner
Confidential Secretary to the
Hon. Michael F. McGuire

cc: **Sarah Katzman, Chief Clerk**
Via Fax: (845) 791-6170

Print Form

UNIFORM SENTENCE & COMMITMENT

UCS-854 (8/2011)

STATE OF NEW YORK
County _____ COURT, COUNTY OF Sullivan
PRESENT: HON Michael F. McGuire

Court Part: 2
Court Reporter: Georgette Sayers
Superior Ct. Case #: Judicial Contempt (14W-13)

The People of the State of New York
-vs-
Natasha Goncalves
Defendant

SEX	D.O.B.	NYSID NUMBER	CRIMINAL JUSTICE TRACKING NUMBER
Femal	[redacted]	0 1 7 2 4 4 1 7 M	

Accusatory Instrument Charge(s): Law/Section & Subdivision:
1 _____
2 _____
3 _____
4 _____

Date(s) of Offense: 8-28-13
To _____

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [◉PLEA *OR* ○VERDICT], THE MOST SERIOUS OFFENSE BEING A [◉FELONY *OR* ○MISDEMEANOR *OR* ○VIOLATION], IS HEREBY SENTENCED TO:

Crime	Count No.	Law Section and Subdivision	SMF, Hate or Terror	Minimum Period	Maximum Term	☐Definite (circle: D, M or Y) ☐Determinate (in years) **	Post-Release Supervision
1 Judicial Contempt				years	years	30 days	years
2				years	years	years	years
3				years	years	years	years
4				years	years	years	years
5				years	years	years	years

** NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

☐ Counts _____ shall run CONCURRENTLY with each other ☐ Count(s) _____ shall run CONSECUTIVELY to count(s) _____

☐ Sentence imposed herein shall run CONCURRENTLY with _____, and/or CONSECUTIVELY to _____

☐ Sentence imposed herein shall include a CONSECUTIVE _____ term of [○PROBATION *OR* ○CONDITIONAL DISCHARGE], with an Ignition Interlock Device condition, that shall commence upon the defendant's release from imprisonment [PL § 60.21]

☐ Conviction includes: WEAPON TYPE: _____ and/or DRUG TYPE: _____

☐ Charged as a JUVENILE OFFENDER — age at time crime committed: _____ years

☐ Adjudicated a YOUTHFUL OFFENDER [CPL § 720.20] ☐ Court certified the Defendant a SEX OFFENDER [Cor. L § 168-d]

☐ Execute as a sentence of PAROLE SUPERVISION [CPL § 410.91] ☐ CASAT ordered [PL § 60.04(6)]

☐ Re-sentenced as a PROBATION VIOLATOR [CPL § 410.70] ☐ SHOCK INCARCERATION ordered [PL § 60.04(7)]

As a: ○ Second ○ Second Violent ○ Second Drug ○ Second Drug w/prior VFO ○ Predicate Sex Offender ○ Predicate Sex Offender w/prior VFO ○ Second Child Sexual Assault ○ Persistent ○ Persistent Violent FELONY OFFENDER

Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])			Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])		
○	◉	○	Mandatory Surcharge	$	○	◉	○	Crime Victim Assistance Fee	$
○	○	○	Fine	$	○	○	○	Restitution	$
○	○	○	DNA Fee	$	○	○	○	Sex Offender Registration Fee	$
○	○	○	DWI/Other:	$	○	○	○	Supplemental Sex Off. Victim Fee	$

THE DEFENDANT SHALL BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE:

○ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of NYSDOCS, the [○COUNTY SHERIFF *OR* ○NEW YORK CITY DEPARTMENT OF CORRECTION] is directed to deliver the defendant to the custody of NYSDOCS as provided in 7 NYCRR Part 103.

○ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYSDOCS, defendant shall remain in the custody of NYSDOCS.

○ NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.

◉ Sullivan County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS: Defendant sentenced to Judicial Contempt due to conduct in the court room.

[redacted]

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated:
_____ Official Name
_____ Shield No.

Pre-Sentence Investigation Report Attached: ○YES ◉NO ☐ Amended Commitment:
Order of Protection Issued: ○YES ◉NO Original Sentence Date _____
Order of Protection Attached: ○YES ◉NO

8-28-13	Sarah Katzman	by: Sarah Katzman	Chief Clerk
Date	Clerk of the Court	Signature	Title

THIRD JUDICIAL DEPARTMENT

drug court case terminated out on 8/27/13

PEOPLE OF THE STATE OF NEW YORK

VS.

Natasha Gonzalez

140-13

NOTICE OF INTENTION WITH RESPECT TO APPEAL

plead 1-30-13

TO: COUNTY COURT, SULLIVAN COUNTY:

My counsel, Joel Prospect / Jared Hart, Esq.

has advised me of my right to appeal from the judgment dated 9-24, 2013, convicting me of the crime of Ct 1 Gr Larceny 4th PL 155.30 (4) Felony and sentencing me to 1 1/3 - 4 years State Prison + $1,000 fine out of any prison pay, $50 DNA + $500 Restitution to Hudson Valley Credit Union Surcharge is waived

☐ Drug and alcohol conditions

☐ Mental health conditions/evaluation and follow all recommendations

☐ Drivers license suspended/revoked

He has also advised me that appeal must be taken within thirty (30) days from the judgment, and has explained to me the manner of instituting an appeal, of obtaining a transcript of the testimony, and of my right to request the appellate court to assign counsel to prosecute my appeal.

RECEIVED 2013 SEP 27 AM 10: 21

I ~~do~~ do not wish to appeal.

(Circle applicable word or words and cross out inapplicable word or words.)

Dated: 9-24, 2013.

Natasha Gonzalez
Defendant

In presence of:

Attorney for Defendant

NOTICE TO DEFENDANT

Rule 9 of the Rules of the Administrative Board provides as follows:

It shall be the duty of counsel assigned to the defense of an indigent defendant upon the trial of a criminal action or proceeding, to accept the said assignment and to represent the defendant to the best of his ability until the matter has been terminated either by acquittal or dismissal of the indictment or by sentence if the defendant is found guilty.

It shall also be assigned counsel's duty, after a finding of guilty following trial and after sentence has been pronounced, to advise the defendant as to his right of appeal, the time limitations involved and the manner of instituting an appeal and of obtaining a transcript of the testimony. He shall ascertain whether his client desires to appeal, and if he so desires and so states in writing, counsel shall serve and file the necessary notices of appeal, after which his duties as assigned counsel shall be ended.

Clerk's Sentence Sheet

(drug court case terminated out on 8/27/13)

Date 9/24/13
Convened 9:06 AM
Recessed

County Court of the State of New York
Sullivan County

Name Natasha Goncalves
a/k/a
Date of Birth [redacted]
Address [redacted]

Judge Michael F. McGuire
Stenographer Georgette Sayers
Clerk Sarah Katzman
DA Rob Zangla
Defense Jared Hart Joel Rayject
☐ Assigned ☐ Retained ☐ Legal Aid ☒ Conflict Panel
Interpreter

~~Ind~~/SCI# 14W-13
Date of Plea/~~Verdict~~ 1-30-13
Crime Date 12-5-12
☐ Youthful Offender
Date Adjudicated

Charges Convicted Of:

Count 1: Grand Larceny 4th PL 155.30(4) E felony
Count 2:
Count 3: Judicial Contempt - sentenced 30 days on 8/28/13
Count 4:
Count 5:
Count 6:
Count 7:

Case Not Heard - Adjourned to

Sentence

Second Felony Offender ☐

☐ County Jail Year Months Days Weekends: To Start
☒ State Prison 1 1/3 - 4 years
☐ Concurrent ☐ Consecutive

+ Restitution $500. to Hudson Valley Credit Union + 10% surcharge $550. total

☐ Probation - With conditions as shown on the order and conditions of probation.
☐ 5 years ☐ 3 years ☐

Crime Victims Fee $	25	to be paid	waived
Surcharge $	300	to be paid	waived
DWI Fine $		to be paid	
Spcl DWI Surcharge $		to be paid	
Fine $	1,000	to be paid	
DNA Fee $	50	to be paid	
Sex Registry Fee $		to be paid	

☐ Defendant waived his right to appeal
☐ Defendant advised of right to appeal

☐ In Custody ☐ Remanded Forthwith ☒ In Custody of Sullivan County Sheriffs

☐ Defendant Not in Custody

Signed agreement before Hon McGuire on 4-19-13 - Mr. Zangla stated def. terminated out of drug ct on 8/27/13.

STATE OF NEW YORK

COUNTY COURT: COUNTY OF SULLIVAN__

THE PEOPLE OF THE STATE OF NEW YORK

v.

Natasha Gonzalves Defendant.

WAIVER AND CONSENT FOR DNA SAMPLE IN CONNECTION WITH PLEA AGREEMENT

Indictment # 140-13
Index # 337-13
CJTN # 65821487K

I, Natasha Gonzalves, DOB [redacted] NYSID # 01724417H residing at [redacted], after having read this document and discussed it with my attorney, hereby consent to providing an oral swab for DNA testing as part of the negotiated disposition of the charges against me. I agree that my DNA sample may be submitted for a forensic DNA profile analysis and I consent to its use for law enforcement purposes.

I further consent to the resulting DNA profile being entered into, and stored in, the State and national DNA Databanks for comparison with other DNA profiles obtained in connection with criminal investigations.

I waive any right that I may have to expunction of my DNA profile from the DNA Databank as part of any negotiated disposition of the charges pending against me. I understand, however, that I may apply to the Division of Criminal Justice Services for expunction of my forensic DNA profile from the DNA Databank if all judgments of conviction based on guilty pleas entered as part of this negotiated disposition are reversed on appeal or included in a Governor's Pardon, or such guilty pleas are otherwise vacated.

RECEIVED 13 SEP 24 AM 10: 21

Dated this 24 day of September 2013

Natasha Gonzalves
Defendant

Witnessed this 24th day of September 2013

Counsel for Defendant

So Ordered:
Hon. Michael F. McGuire

Print Form

UNIFORM SENTENCE & COMMITMENT

UCS-854 (8/2011)

STATE OF NEW YORK
County _____ COURT, COUNTY OF Sullivan
PRESENT: HON Michael F. McGuire

Court Part: 2
Court Reporter: Georgette Sayers
Superior Ct. Case #: 014W-2013

The People of the State of New York
-vs-
Natasha Goncalves
Defendant

SEX	D.O.B.	NYSID NUMBER	CRIMINAL JUSTICE TRACKING NUMBER
Femal	[redacted]	0 1 7 2 4 4 1 7 M	6 5 8 2 1 4 8 7 K

Accusatory Instrument Charge(s):	Law/Section & Subdivision:
1 Grand Larceny 4th	PL 155.30(4)
2	
3	
4	

Date(s) of Offense: 12-05-2012
To

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [◉PLEA *OR* ○VERDICT], THE MOST SERIOUS OFFENSE BEING A [◉FELONY *OR* ○MISDEMEANOR *OR* ○VIOLATION], IS HEREBY SENTENCED TO:

Crime	Count No.	Law Section and Subdivision	SMF, Hate or Terror	Minimum Period	Maximum Term	☐Definite (circle: D, M or Y) ☐Determinate (in years) **	Post-Release Supervision
1 Grand Larceny 4th	1	PL 155.30(4)		1 1/3 years	4 years	years	years
2				years	years	years	years
3				years	years	years	years
4				years	years	years	years
5				years	years	years	years

** NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

☐ Counts _____ shall run CONCURRENTLY with each other ☐ Count(s) _____ shall run CONSECUTIVELY to count(s) _____

☐ Sentence imposed herein shall run CONCURRENTLY with _____, and/or CONSECUTIVELY to _____

☐ Sentence imposed herein shall include a CONSECUTIVE _____ term of [○PROBATION *OR* ○CONDITIONAL DISCHARGE], with an Ignition Interlock Device condition, that shall commence upon the defendant's release from imprisonment [PL § 60.21]

☐ Conviction includes: WEAPON TYPE: _____ and/or DRUG TYPE: _____

☐ Charged as a JUVENILE OFFENDER — age at time crime committed: _____ years

☐ Adjudicated a YOUTHFUL OFFENDER [CPL § 720.20] ☐ Court certified the Defendant a SEX OFFENDER [Cor. L § 168-d]

☐ Execute as a sentence of PAROLE SUPERVISION [CPL § 410.91] ☐ CASAT ordered [PL § 60.04(6)]

☐ Re-sentenced as a PROBATION VIOLATOR [CPL § 410.70] ☐ SHOCK INCARCERATION ordered [PL § 60.04(7)]

As a: ○ Second ○ Second Violent ○ Second Drug ○ Second Drug w/prior VFO ○ Predicate Sex Offender ○ Predicate Sex Offender w/prior VFO ○ Second Child Sexual Assault ○ Persistent ○ Persistent Violent FELONY OFFENDER

Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])			Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])		
○	◉	○	Mandatory Surcharge	$ waived	○	◉	○	Crime Victim Assistance Fee	$ waived
○	◉	○	Fine	$ 1000	○	◉	○	Restitution	$ 500
○	◉	○	DNA Fee	$ 50	○	○	○	Sex Offender Registration Fee	$
○	○	○	DWI/Other: _____	$	○	○	○	Supplemental Sex Off. Victim Fee	$

THE DEFENDANT SHALL BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE:

◉ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of NYSDOCS, the [◉COUNTY SHERIFF *OR* ○NEW YORK CITY DEPARTMENT OF CORRECTION] is directed to deliver the defendant to the custody of NYSDOCS as provided in 7 NYCRR Part 103.

○ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYSDOCS, defendant shall remain in the custody of NYSDOCS.

○ NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.

○ _____ County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS: DNA Order attached.

[redacted]

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated:
_____
Official Name
_____
Shield No.

Pre-Sentence Investigation Report Attached: ○YES ◉NO ☐ Amended Commitment:
Order of Protection Issued: ○YES ◉NO Original Sentence Date _____
Order of Protection Attached: ○YES ◉NO

09-24-2013	Sarah Katzman	by: Sarah Katzman	Chief Clerk
Date	Clerk of the Court	Signature	Title

SUPERIOR COURT CRIMINAL DISPOSITION REPORT (UCS-540A)
315222P SULLIVAN COUNTY CRIMINAL COURT

SERIAL #97268338 SEX: F RACE: W ETH: DEFT FEL STATUS:

DEF LNAME/F/M:GONCALVES NATASHA IND/SCI#:2013-014W 0
DEF ADDRESS: [redacted]
501#:65821487K NYSID #:01724417M DOB:[redacted]
AKA: ARST DT:12-05-2012 ARN DT:01-30-2013 C TYPE:AS

GJ ACTION: GJ DATE: TRANS TO:

INT DIS DT:02-26-2013 CODE:BW INT DIS DT:03-21-2013 CODE:ROW
INT DIS DT:07-09-2013 CODE:BW INT DIS DT: CODE:

C: PL-155.30-04 -EF--N-1 DESC: 4-GRAND LARCENY-4TH:CREDIT CA
RED: DESC:
D DT:01-30-2013D CODE:PG ACD COV BY: R CT:
S DT:09-24-2013S CODE:C,R FINE: 1050.00 PAID:N
PROB: CUST/TIME:1Y4M-4Y YO: DR L: TIME:

C: DESC:
RED: DESC:
D DT: D CODE: ACD COV BY: R CT:
S DT: S CODE: FINE: .00 PAID:
PROB: CUST/TIME: YO:2 DR L: TIME:

C: DESC:
RED: DESC:
D DT: D CODE: ACD COV BY: R CT:
S DT: S CODE: FINE: .00 PAID:
PROB: CUST/TIME: YO: DR L: TIME:

C: DESC:
RED: DESC:
D DT: D CODE: ACD COV BY: R CT:
S DT: S CODE: FINE: .00 PAID:
PROB: CUST/TIME: YO: DR L: TIME:

C: DESC:
RED: DESC:
D DT: D CODE: ACD COV BY: R CT:
S DT: S CODE: FINE: .00 PAID:
PROB: CUST/TIME: YO: DR L: TIME:

SEAL ORDER: ATTY/DEFT: JOEL PROYECT, ESQ.
ADDRESS:
CITY/ST/ZIP:
SEALED CPL: SEALED DATE: ORDERED BY:
AUTHORIZED SIGNATURE:_____

REMARKS: LCT #: 13010142
FAM OFF: REL TO COMP: REL TO VICT:

CONT. SHEET?

COUNTY COURT
COUNTY OF SULLIVAN: STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK

-against-

RESTITUTION ORDER
SCI # 14W-2013
CRT. CON # 65821487K

NATASHA GONCALVES
DOB [redacted]

Defendant
----------X

RECEIVED
13 SEP 24 AM 10: 21

TO: NATASHA GONCALVES
[redacted]

The above defendant having pled guilty on January 30, 2013 to GRAND LARCENY IN THE FOURTH DEGREE and sentenced on September 24, 2013 to 1 1/3 to 4 years in the Department of Corrections and as a condition of which the defendant is ordered to pay restitution.

In accordance with Section 60.27 of the Penal Law, you are hereby ordered to pay restitution in the principal sum of $ 500.00 plus a 10% surcharge of $ 50.00 for a total of $ 550.00 to be paid at the rate of $ 100 monthly.

The New York State Department of Corrections, New York State Division of Parole and/or the Sullivan County Probation Department are designated as the agencies who are hereby directed to collect payments.

New York State Department of Corrections is hereby directed to collect restitution from any prison pay, work release pay or any other monies or deposit into his/her commissary account or other prison account. Should the defendant be released from DOCS prior to his/her full payment of restitution, the New York State Division of Parole is designated to collect restitution payments consistent with this order. Should the defendant be discharged from Parole prior to his/her full payment of restitution, the Sullivan County Department of Probation is designated to collect any remaining payment in accordance with this order.

The beneficiary of the restitution is as follows:

BENEFICIARY #1
Hudson Valley Federal Credit Union

Principal sum to be paid: $ 500.00

The office of the District Attorney is directed to file a certified copy of the

Restitution Order with the County Clerk of Sullivan County as specified in Section 420.10(6), and the County Clerk is directed to enter the order in the same manner as a judgment in a civil action, in the principal sum designated for each beneficiary specified herein, in favor of each beneficiary as judgment creditor.

THE COURT ORDERS THAT THE DEFENDANT IS NOT TO BE RELEASED FROM PAROLE WITHOUT NOTICE TO THIS COURT AND THE SULLIVAN COUNTY DISTRICT ATTORNEY'S OFFICE.

Dated this 24 day of September, 2013 at Monticello, New York

ENTER

HONORABLE MICHAEL F. MCGUIRE
COUNTY COURT JUDGE

WARNING: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN A FINE OR IMPRISONMENT OR BOTH.

337-13

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

LAKEVIEW SHOCK INCARCERATION
P.O. BOX T
BROCTON, N.Y. 14716-0679
716-792-7100
(FAX) 716-792-7100 Ext. 2099

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

MALCOLM R. CULLY
SUPERINTENDENT

RECEIVED
OFFICE OF COURT CLERK
13 NOV 18 PM 3:27

Honorable Judge McGuire
Sullivan County Court

Sullivan County District Attorney

Defense Attorney: Joel Proyect, Esq.

DATE: November 15, 2013
RE: GONCALVES, Natasha
DIN#: 13-G-0827
NYSID#: 01724 417M
INDICT#: 14W-13

Dear Sir/Madam:

The above mentioned inmate was convicted of:

OFFENSE	DATE	SENTENCE	COUNTY
Grand Larceny-Not Auto 4th (E)	9/24/13	1-4-0/4-0-0	Sullivan

This individual is participating in the Department of Corrections Shock Incarceration Program. This program is highly structured and involves inmate participation in a strict daily routine of discipline, military regimentation, exercise and work. Inmates in this program are also required to participate in substance abuse workshops, educational programs, pre-release counseling and self-improvement classes. Successful completion of the program results in the inmate becoming eligible for parole release consideration prior to expiration of the minimum term.

Should this inmate successfully complete the Shock Program, he/she may be released to parole supervision as early as **5/1/14.**

Factors that will be considered by the Board before a release program is rendered for this inmate may include legal, personal and social history, psychiatric or psychological and medical reports and the recommendations of the sentencing Judge, District Attorney and the victim of this crime.

The Board is requesting a statement and/or recommendation from you regarding this individual. A response is requested **ASAP**. Without a response, the Board may have to make a decision without your input.

YOUR RESPONSE WILL BE KEPT CONFIDENTIAL IF YOU SO REQUEST.

The District Attorney receiving this letter may wish to advise any victim in this case that they may have their opinions known to the Board by writing to: **Office of Victim Assistance, NYSDOCCS-Victim Assistance, 1220 Washington Ave, Building 2, Albany, NY 12224.**

The District Attorney is also requested to advise the Board if there was any Order of Protection obtained against this inmate by any victims in this case.

Kindly respond to:
Address above

Yours Truly,
T. Leid (MC)
T. Leid
Supervisor Offender Rehabilitation Coordinator

337-13

STATE OF NEW YORK

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

LAKEVIEW SHOCK INCARCERATION

P.O BOX T

BROCTON, NEW YORK 14716-0679

716-792-7100
(FAX) 716-792-7100 Ext 2099

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

MALCOLM R. CULLY
SUPERINTENDENT

Date: 2-4-14

RECEIVED
OFFICE OF COURT CLERK
14 FEB -7 AM 11:44

Sullivan County Court
Sullivan County Courthouse
414 Broadway
Monticello, NY 12701

RE: Goncalves, Natasha
DIN: 13G0827
NYSID: 01724417m
INDICT: 14W-13

Released:

Dear Sir/Madam:

Pursuant to Section 60.35 of the NYS Penal Law, the following monies have been collected from the above mentioned inmate based on the mandatory surcharge, fine, DNA fee, DWI/other, crime victim assistance fee, sex offender registration fee, and/or supplemental fee, and restitution ordered by your court:

	Amount Ordered	Paid In Full	Deferred	Amount Paid	Amount Owed
Mandatory Surcharge:	$_____	☐	☐	$_____	$_____
Fine:	$_____	☐	☐	$_____	$_____
DNA Fee:	$_____	☑	☐	$ 50.00	$_____
DWI/Other:	$_____	☐	☐	$_____	$_____
Crime Victim Assistance Fee:	$_____	☐	☐	$_____	$_____
Sex Offender Registration Fee:	$_____	☐	☐	$_____	$_____
Supplemental Sex Offender Victim Fee:	$_____	☐	☐	$_____	$_____
Restitution:	$_____	☐	☐	$_____	$_____

Sincerely,

Deb Sword/bz
Inmate Records Coordinator

1A-49
cc: File
Parole

Portion Sealed

~~DRUG COURT~~ out

INDEX# 337-13

THE PEOPLE OF THE
STATE OF NEW YORK
-VS-
Vatasha Goncalves

District Attorney Zangla
Defendant Counsel Proyect

Phone#

COUNTY COURT
SULLIVAN COUNTY, NEW YORK

HON. HON. MICHAEL F. McGUIRE

INDICTMENT/INFORMATION

t/Inf.# 14W-13
te
arges
il
ibation Report Filed 4-15-13

PRELIMINARY PROCEEDINGS

Hearing

Date

PLEA

Date 1-30-13
Charge Convicted Gr Larceny 4th
PL 155.30(4) E felony

TRIAL

Jury Selected

Date Convicted-Verdict-

Charge Convicted Of

SENTENCE

Date 9-24-13
Sentence 1 1/3-4 years prison; $1000 fine; $50. DNA
$500. restitution; discharge waived

VIOLATION OF PROBATION

Date
Hearing
Sentence

Genevieve W. Dainack
Director of Probation II

Tel. (8454) 794-3000
Ext. 3400
Fax. (845)794-0900

SULLIVAN COUNTY PROBATION DEPARTMENT

County Government Center
100 North Street- P.O. Box 5012
Monticello, N.Y. 12701-5012

Hon. Frank J. LaBuda
Sullivan County Court
Courthouse
Monticello, NY 12701

RE:

Dear Judge LaBuda:

Pursuant to your previous order, enclosed is the completed Pre-Sentence Report. If the subject is sentenced to a period of probation, this department is required by Rule 351.4 (New York State Division of Probation and Correctional Alternatives) to see the probationer within five (5) business days of receipt of court notification of disposition.

Accordingly please complete the lower portions of this letter and return to the Probation Department as soon as possible.

Respectfully, By:

Director of Probation I Probation Officer

FROM: Sullivan County **COURT**

RE: Natasha Goncalves

DATE OF DISPOSTION: 9-24-13

DISPOSITION: 1½-4 years prism

SPECIAL CONDITIONS: (if any)

CLERK'S **SIGNATURE:** Anne Schelhorn

Defendant's Information Sheet

Defendant's Name Natasha Goncalves

Address [redacted]

Mailing Address

Telephone No. [redacted]

Attorney Info: Assigned: ☐ Retained: ☐ Date of Birth [redacted]

Legal Aid: ☑

sealed

3-28-13

Natasha Gonsalves

Victim Impact Stmt

Cover Sheet

337-13

CLERK/S MINUTES FOR COUNTY COURT

Date 1/25/13
Convened 10:50 AM
Recessed
Ind/SCI #

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Meagan Gilligan
D.A.

Joel Proyect
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☒ Conflict

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☒ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☐ Frank J. Labuda ☒ Michael F. McGuire ☐
Reporter: ☒ GSayers / ☐ B. VanBlarcum ☐
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☒ Case Not heard - Adjourned to 1-30-13 @ 9:00 SCI/plea
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of: ☒ Sheriff ☐ DOCS

Remarks: another In Thompson

CLERK/S MINUTES FOR COUNTY COURT

Date 1-30-13
Convened
Recessed
~~Ind~~/SCI # 1400-13

PEOPLE OF THE STATE OF NY
vs
Natasha Gonzalez

DA Rob Zangla

Defendant's Attorney Joel Prosper ☐ Assign ☐ Retained ☐ LA ☒ Conflict

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender Telephone [redacted]
DOB [redacted] Defendant's address [redacted]

☐ Arraignment ☐ Reading of Ind/Complaint waived
☒ Plea ☒ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing
☐ Extradition - State of
☐ Bail Application

Judge: ☐ Frank J. Labuda ☒ Michael F. McGuire ☐
Reporter: ☐ GSayers / ☐ B. VanBlarcum ☒ Kim Rochford
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter :

☒ Pre Trial Release ☒ Curfew 7:PM ☒ Drug & Alcohol ☐ Urine Screen Other lives with mom Michelle Gonzalez
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to
☐ Motion date @ AM/PM ☐ Conference date @ AM/PM

Charged with:
Count 1:
Count 2:
Count 3:
Count 4:
Count 5:
Count 6:
Count 7:
Count 8:

Plea Recommendation: ☒ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☒ Probation 5 yrs	☒ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☒ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☒ Waiver of Right to Appeal

☐ In satisfaction of
☐ County Jail
☐ DOCS
☐ Restitution
☐ VOP (Original charges plead to
☒ Other $500 Restitution

Charges Plead to: Ct1: Gr Larceny 4th PL 155.30(4) E felony

SENTENCE DATE: 4-16-13 @ 9:00AM.

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of : ☒ Sheriff ☐ DOCS

Remarks:

CLERK/S MINUTES FOR COUNTY COURT

Date 3-21-13
Convened
Recessed
Ind/SCI # 1441-13

PEOPLE OF THE STATE OF NY
vs
Natasha Gonzalez

Bonnie Metzner
DA

Joel Brovject
Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

BW ☒ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☐ Frank J. Labuda ☒ Michael F. McGuire ☐ _____
Reporter: ☒ GSayers / ☐ B. VanBlarcum ☐
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☒ Pre Trial Release 1-2013 ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☒ Conference date 3-28-13 @ 9:00 AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: BW. Parker x. Bail violation

CLERK'S MINUTES FOR COUNTY COURT

Date 3/28/13
Convened 9:31 AM
Recessed 9:
Ind/SCI # 1410-13

PEOPLE OF THE STATE OF NY
vs
Natasha Gonzalez

Meagan Galligan
DA

Joel Proyect
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☒ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☒ Bail Application revoked –

Judge: ☐ Frank J. Labuda ☒ Michael F. McGuire ☐ _____
Reporter: ☒ GSayers / ☐ B. VanBlarcum ☐ _____
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other revoked ATI status
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
(Counsel will look into this unless a long term inpatient program is available.)
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☒ Conference ☒ On the Record ☐ At Bench ☐ On Justice Court Case
☒ Case ~~Not~~ heard - Adjourned to 4/4/13 @ 9:00 conf update for drug court.
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of: ☒ Sheriff ☐ DOCS

Remarks: def. rearrested – 3/22/13 Village of Monticello
Mr. Proyect stated possible potential drug court evaluation needed. Mr. Farrell stated to give def a drug court staff chance @ drug court.

CLERK/S MINUTES FOR COUNTY COURT

Date 4-4-13
Convened
Recessed
Ind/SCI # 14W43

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Meagan Galligan
DA

Joel Froyect
Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☑ Conflict Panel

☑ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☐ Frank J. Labuda ☑ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☑ B. VanBlarcum ☐ _____
Clerk: ☐ S Katzman/ ☑ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter : _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☑ Conference ☑ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date 4-19-13 @ 11:30 AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☑ Defendant remanded to the custody of ☑ Sheriff ☐ DOCS

Remarks: anticipated drug court agreement

CLERK/S MINUTES FOR COUNTY COURT

Date 4-16-13
Convened
Recessed
Ind/SCI # 140-13

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Meagan Gallagher
DA

Joel Proyect
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☒ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☐ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☐ B. VanBlarcum ☐ _____
Clerk: ☐ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☒ Case ~~Not~~ heard - Adjourned to 4-19-13 @ 11:30 sent/ drug court conf.
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of ☒ Sheriff ☐ DOCS

Remarks: possible drug court
daytop needs to evaluated. longterm daytop 18 months.
sentence adjourned.

CLERK'S MINUTES FOR COUNTY COURT

Date 4-19-13
Convened
Recessed
Ind/SCI #

PEOPLE OF THE STATE OF NY
vs
Natasha Gonzalez

Joey Drellings
DA

Jared Hart
Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender ____ Telephone ____
DOB ____ Defendant's address ____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☒ Sentencing
☐ Hearing ____
☐ Extradition - State of ____
☐ Bail Application ____

Judge: ☐ Frank J. Labuda ☒ Michael F. McGuire ☐ ____
Reporter: ☒ G Sayers / ☐ B. VanBlarcum ☐ ____
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: ____

☐ Pre Trial Release ☐ Curfew ____ ☐ Drug & Alcohol ☐ Urine Screen Other ____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other ____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case ~~Not~~ heard - Adjourned to ____ to report to drug court program on Tuesday
☐ Motion date ____ @ ____ AM/PM ☐ Conference date ____ @ ____ AM/PM 5-7-13

Charged with:
Count 1: ____
Count 2: ____
Count 3: ____
Count 4: ____
Count 5: ____
Count 6: ____
Count 7: ____
Count 8: ____

Plea Recommendation: ☒ Defendant Sworn drug court plea

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☒ Probation 3 yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of ____
☐ County Jail ____
☐ DOCS ____
☒ Restitution $817.07 total restitution
☐ VOP (Original charges plead to ____
☐ Other ____

Charges Plead to: G. Larceny 4th (to be reduced to Petit Larceny if successful

SENTENCE DATE: ____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service
to be released only to treatment program longterm when bed is available
☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of: ☒ Sheriff ☐ DOCS

Remarks: def wishes to enter drug ct program - agreement signed in court today. Offer if successful 3 yrs probation reduction to Petit Larceny. if not successful 1 1/3-4 yrs. $500. (total restitution $817.07)

CLERK/S MINUTES FOR COUNTY COURT

Date Convened 5-7-13
Recessed
Ind/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Joey Dullings
DA

Joel Proyect
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☒ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☒ Bail Application released to inpatient facility

Judge: ☒ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☐ B. VanBlarcum ☒ JCorrao
Clerk: ☐ S Katzman/ ☒ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended

☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____

☒ Conference ☒ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of: ☒ Sheriff ☐ DOCS

Remarks: _____

CLERK'S MINUTES FOR COUNTY COURT

Joey Dullings
DA

Date Convened 7-2-13
Recessed
~~Ind~~/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☐ Defendant present / ☒ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☒ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☒ B. VanBlarcum ☐
Clerk: ☐ S Katzman/ ☒ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: warrant ordered - ran off when Daytop van arrived here

CLERK/S MINUTES FOR COUNTY COURT

Date Convened 7-3-13
Recessed
Ind/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Joey Duelling
DA
Jim Havas
Defendant's Attorney

☐ Assign ☐ Retained ☒ LA ☐ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☒ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☒ B. VanBlarcum ☐
Clerk: ☐ S Katzman / ☒ A Schelhorn / ☐ T. Hirsch
☐ V Fuller / ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☒ Other Roll
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date 7-9-13 @ 10:30 AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: defendant in crisis, drug court searching for new long term program

warrant vacated

CLERK'S MINUTES FOR COUNTY COURT

Joey Dellengs
DA

Date Convened 7-9-13
Recessed
~~Ind~~/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Gonçalves

Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☐ Defendant present ☒ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☒ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☒ B. VanBlarcum ☐
Clerk: ☐ S Katzman/ ☒ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: def climbed out of window @ Recovery Center
Bench warrant ordered

CLERK/S MINUTES FOR COUNTY COURT

Date Convened 7-15-13
Recessed
Ind/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Goncalves

Joey Dullings
DA

Not present
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☐ Conflict Panel

☑ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☑ Bail Application no bail

Judge: ☑ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☑ B. VanBlarcum ☐
Clerk: ☐ S Katzman/ ☑ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date 7-17-13 @ 10:00 AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: _____

Page 11 of 31

CLERK'S MINUTES FOR COUNTY COURT

Date Convened 7-17-13
Recessed
~~Ind~~/SCI # 14W43

PEOPLE OF THE STATE OF NY
vs
Natasha Gonçalves

Joey Dellings
DA

Joel Proyect
Defendant's Attorney ☐ Assign ☐ Retained ☐ LA ☑ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☑ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☐ GSayers / ☑ B. VanBlarcum ☐
Clerk: ☐ S Katzman / ☑ A Schelhorn / ☐ T. Hirsch
☐ V Fuller / ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended

☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____

☒ Conference ☒ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date 7-30-13 @ 10:30 AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☑ Defendant remanded to the custody of: ☑ Sheriff ☐ DOCS

Remarks: release to New Hope inpatient program

CLERK/S MINUTES FOR COUNTY COURT

Date 8-27-13
Convened
Recessed 11:00AM
Ind/SCI # 14W-13

PEOPLE OF THE STATE OF NY
VS
Natasha Goncalves

Meagan Galligan
DA

Joel Proyect
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☒ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☐ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☒ Bail Application No Bail

Judge: ☒ Frank J. Labuda ☐ Michael F. McGuire ☐ _____
Reporter: ☒ GSayers / ☐ B. VanBlarcum ☐
Clerk: ☐ S Katzman/. ☐ A Schelhorn / ☒ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter : _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☒ Conference ☒ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to _____
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: _____
Count 2: _____
Count 3: _____
Count 4: _____
Count 5: _____
Count 6: _____
Count 7: _____
Count 8: _____

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges Plead to: _____

SENTENCE DATE: _____

Sentenced to: ☐ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service

☐ Advised of right to appeal ☐ Defendant not in custody ☒ Defendant remanded to the custody of : ☒ Sheriff ☐ DOCS

Remarks: Ms. Goncalves does not wish to complete the Drug Court Program. The matter has been scheduled for sentencing before Hon. McGuire on 8-28-13 at 9AM.

CLERK/S MINUTES FOR COUNTY COURT

Date 8/28/13
Convened 9:06AM
Recessed 9:18AM
Ind/SCI # 14W-13

PEOPLE OF THE STATE OF NY
vs
Natasha Gonzalez

Rob Zarzyla
DA

Jared Hart
Defendant's Attorney

☐ Assign ☐ Retained ☐ LA ☒ Conflict Panel

☒ Defendant present ☐ Defendant not present ☐ Youthful Offender _____ Telephone _____
DOB _____ Defendant's address _____

☐ Arraignment ☐ Reading of Ind/Complaint waived
☐ Plea ☐ Guilty ☐ Not Guilty
☒ Sentencing
☐ Hearing _____
☐ Extradition - State of _____
☐ Bail Application _____

Judge: ☐ Frank J. Labuda ☐ ☒ Michael F. McGuire ☐ _____
Reporter: ☒ G Sayers / ☐ B. VanBlarcum ☐
Clerk: ☒ S Katzman/ ☐ A Schelhorn / ☐ T. Hirsch
☐ V Fuller/ ☐ M. Adiong
Interpreter: _____

☐ Pre Trial Release ☐ Curfew _____ ☐ Drug & Alcohol ☐ Urine Screen Other _____
☐ SCADAS ☐ Mental Health Eval ☐ License Revoked/suspended
☐ Violation of Probation
☐ Grand Jury Report ☐ Impanelment of Grand Jury
☐ Other _____
☐ Conference ☐ On the Record ☐ At Bench ☐ On Justice Court Case
☐ Case Not heard - Adjourned to 9/24/13 @ 9:00 Sent
☐ Motion date _____ @ _____ AM/PM ☐ Conference date _____ @ _____ AM/PM

Charged with:
Count 1: Judicial Contempt
Count 2:
Count 3:
Count 4:
Count 5:
Count 6:
Count 7:
Count 8:

Plea Recommendation: ☐ Defendant Sworn

☐ Counts	☐ SCADAS Evaluation	☐ Willard Program
☐ Probation _____ yrs	☐ Alcohol & Drug Conditions	☐ CASAT ☐ Shock
☐ Youthful Offender	☐ Second Felony Offender	☐ CVIP ☐ Hicks Warnings
☐ Community Service	☐ Fine & Surcharges	☐ Parker Warnings
☐ Mental Health Evaluation	☐ Concurrent / ☐ Consecutive	☐ Waiver of Right to Appeal

☐ In satisfaction of _____
☐ County Jail _____
☐ DOCS _____
☐ Restitution _____
☐ VOP (Original charges plead to _____
☐ Other _____

Charges ~~Plead to~~: Judicial Contempt

SENTENCE DATE: 8/28/13

Sentenced to: ☒ County Jail ☐ State Prison ☐ Cont. Probation ☐ Time Tolled ☐ Weekends ☐ Community Service
30 days for Judicial Contempt

☐ Advised of right to appeal ☐ Defendant not in custody ☐ Defendant remanded to the custody of: ☐ Sheriff ☐ DOCS

Remarks: Defendant stated harsh words to the Court. The Judge adjourned sentence on CPCS 7th to 9/24/13 @ 9:00.
Judge sentence defendant on Judicial Contempt to 30 days.

Natasha Goncalves

PSR

4-15-13

Sealed
PreSentence
Report
4-15-13

Not copied

Ind 337-13

Goncalves, Natasha
DTC 114W - 2013
4/19/2013
closed 8/27/13 - case returned to Hon. M. McGuire caseload for sentencing

Sealed
DRUG TREATMENT FILE
CLosed

NotCopied

STATE OF NEW YORK
COUNTY COURT : COUNTY OF SULLIVAN

PEOPLE OF THE STATE OF NEW YORK,

-against- Indictment #14W-13

NATASHA GONCALVES,

Defendant.

RECEIVED
OFFICE OF COURT CLERK
2016 DEC 19 A 10:48

SENTENCE

Lawrence H. Cooke
Sullivan County Courthouse
Monticello, New York 12701
August 28, 2013

B E F O R E:

HONORABLE MICHAEL F. McGUIRE,
County Court Judge.

APPEARANCES:

JAMES R. FARRELL
District Attorney, Sullivan County
Sullivan County Courthouse
Monticello, New York 12701
BY: ROBERT L. ZANGLA, ESQ.

JARED K. HART, ESQ.
Attorney for Defendant

(Defendant present.)

Georgette H. Sayers, RMR,
Senior Court Reporter.

Judicial Contempt Sentence 8/28/13

1 P R O C E E D I N G S
2 THE COURT OFFICER: Number 1, People
3 of the State of New York versus Natasha
4 Goncalves on for sentencing.
5 THE COURT: All right. The last
6 time that I had Miss Goncalves in court
7 was back in April, April 19th. At that
8 time we signed Drug Court contracts and
9 Miss Goncalves was going to go to long
10 term inpatient treatment. I told her at
11 that time what a incredible opportunity
12 she had, what an outstanding job her
13 attorneys had done and what compassion the
14 District Attorney's office had shown in
15 affording her this opportunity to once
16 again return to being a parent or for
17 really the first time to be a parent. In
18 the event that she was not successful in
19 Drug Court, she would get a sentence of
20 one and a third to four years in prison
21 with all applicable fines and fees and
22 surcharges. If she was successful she'd
23 have a conviction for Petit Larceny with
24 three years probation and drug and alcohol
25 conditions. Is everybody -- are we all on

1 P R O C E E D I N G S
2 the same page in terms of our notes?
3 MR. HART: We are, Judge.
4 MR. ZANGLA: Yes, Judge.
5 THE COURT: So Mr. Zangla, where are
6 we at?
7 MR. ZANGLA: Judge, it's my
8 understanding that since that plea date,
9 there have been at least a couple of
10 appearances. A bench warrant had to be
11 signed back in July, again in July, and
12 then in July she was released to New Hope.
13 At this point, Judge, I believe where we
14 are is after an appearance yesterday with
15 Mr. Proyect, Judge LaBuda and Ms. Galligan
16 from my office, it would be understood
17 she'd be on today for sentencing. That
18 sentencing to come from the participation
19 agreement, and the sentencing to come from
20 the agreement if she were to not
21 successfully complete Drug Court which is
22 where I believe we are today. That's my
23 understanding. If that is the case, the
24 agreement were she to not complete drug
25 treatment was one and a third to four

1 P R O C E E D I N G S
2 years in state prison.
3 THE COURT: All right. Mr. Hart.
4 MR. HART: Judge, that's actually
5 our understanding as well. My client did
6 not fare well in Drug Court and obviously
7 now that she's going to be discharged from
8 Drug Court, that was the agreement, one
9 and a third to four years. So we're
10 prepared obviously for sentence -- for
11 that sentencing today.
12 THE COURT: All right. Miss
13 Goncalves?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: Anything you want me to
16 know before I sentence you?
17 THE DEFENDANT: I tried the Drug
18 Court thing, and --
19 THE COURT: Just too much work?
20 THE DEFENDANT: Not really. I just
21 don't want to waste anybody's time, not
22 even my own.
23 THE COURT: You just anxious to get
24 out and get high?
25 THE DEFENDANT: No, no, sir.

1 P R O C E E D I N G S
2 THE COURT: Why -- what's the issue?
3 THE DEFENDANT: When I came to jail
4 I wasn't -- this time I wasn't high, sir.
5 I did run, I did have a problem. I got
6 scared, I don't -- I don't know. I don't
7 know. I just -- I want this just to be
8 over with. It's --
9 THE COURT: Think how your children
10 feel, if they even know who you are.
11 THE DEFENDANT: They absolutely do.
12 I was a good mother to my daughter.
13 THE COURT: What's that?
14 THE DEFENDANT: My children know who
15 I am.
16 THE COURT: Really?
17 THE DEFENDANT: Absolutely.
18 THE COURT: Do they know what a
19 mother is?
20 THE DEFENDANT: Absolutely.
21 THE COURT: How do they know that,
22 from your mother?
23 THE DEFENDANT: 'Cause I was a good
24 mom until I relapsed.
25 THE COURT: When were you clean?

1 P R O C E E D I N G S
2 THE DEFENDANT: When I gave birth to
3 my daughter.
4 THE COURT: The one that was born
5 with marijuana in her system or was that
6 your son?
7 THE DEFENDANT: That was my son.
8 THE COURT: So you were not a good
9 mother to your son.
10 (The defendant shakes head
11 negatively.)
12 THE COURT: So when you gave birth
13 to your daughter, you were clean?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: You know, this may be
16 one of the saddest cases there are -- not
17 for you, 'cause you've chosen to throw
18 your life away, that's your decision to
19 do. Frankly it would be my desire to
20 sentence you to life without parole
21 because you really have demonstrated you
22 have no desire or intention to ever be a
23 productive member of society, to ever be a
24 parent, to ever be anything that resembles
25 a mother. You merely gave birth to the

1 P R O C E E D I N G S
2 children but then you -- you have
3 emotionally abandoned them. And I
4 understand the addiction and the disease
5 that is addiction. I do understand it,
6 and I do have compassion. But I have no
7 tolerance for people who have no interest
8 in taking the more difficult route to
9 success. I just have no tolerance for
10 that. You know, it's been said that
11 opportunities look a lot like hard work.
12 And at every opportunity that's been
13 presented to you, you have chosen the
14 easier way out. I'll go sit in state
15 prison, hang out, meet some people, enjoy
16 myself, won't be there for my children for
17 another four years, another couple of
18 years anyway with parole, then I'll come
19 out and I won't have to worry about being
20 answerable to anyone. And that's what
21 makes this one of the saddest cases that I
22 can imagine because the work that Mr. Hart
23 and Mr. Proyect did to get somebody with
24 your background and your rather extensive
25 criminal history: 21 arrests, most of

1 P R O C E E D I N G S
2 them related to theft or drugs or both,
3 convicted of -- 14 times of misdemeanors
4 and other low level offenses, and you're
5 only 27 years old. Twice you've been
6 sentenced to probation, twice you were
7 unsuccessful in probation, twice you were
8 violated. Each time you've been on
9 probation you tested positive for drugs.
10 You've been rearrested. You were placed
11 on ATI in this case. You're rearrested
12 again. During evaluations you've admitted
13 that you've used heroin. At the Recovery
14 Center you tested positive for heroin,
15 Suboxone, marijuana, cocaine. You were
16 admitted to the Recovery Center in
17 February and you left against medical
18 orders.
19 Now I said that I understand the
20 addiction cycle, but please don't -- don't
21 blame this on an addiction. This is a
22 conscious decision on your part to abandon
23 your children to be totally self-absorbed
24 in your own world. It has nothing to do
25 with the addiction to drugs. Twice on

1 P R O C E E D I N G S
2 probation, twice you failed. I'm sure
3 probation was not forbidding you from
4 going into a long term program to get
5 yourself clean years ago. Frankly, to
6 consider yourself a good mother because
7 you gave birth to half of your children at
8 a time when you were not involved with
9 drugs is pathetic.
10 THE DEFENDANT: That's your opinion.
11 THE COURT: Well, I don't know who
12 would have any different opinion. I don't
13 know who could have any different opinion.
14 I mean, unless you're a baseball player
15 batting 500 that you gave birth to one of
16 your two children that was not born with
17 drugs in their system and thinking that
18 that is a measure of something good is
19 pathetic.
20 THE DEFENDANT: That's your opinion.
21 Can we just get this over with? I'm not
22 going to sit here and listen to this man
23 shoot me down. I do this to myself every
24 day and I don't need you --
25 THE COURT: Yes, you are.

1 P R O C E E D I N G S
2 THE DEFENDANT: -- to tell me
3 anything but sentence me so I can get out
4 of this fucking courtroom.
5 MR. HART: Don't do that.
6 THE DEFENDANT: I don't care. He's
7 not going to sit here and tell me nothing.
8 My kids --
9 THE COURT: I tell you what I'm
10 going to do. I'm going to sentence you to
11 30 days for judicial contempt and we'll
12 come back here in about three weeks and
13 we'll continue with sentencing. Okay. 30
14 days judicial contempt.
15 Take her. Let's get another date
16 for sentencing.
17 THE CLERK: You can do it on the
18 24th, Judge.
19 THE COURT: 24th?
20 THE CLERK: Yeah.
21 THE COURT: 24th.
22 MR. HART: 9:00 o'clock?
23 THE COURT: Yup.
24 * * * * * * *
25

1 P R O C E E D I N G S

2 C E R T I F I C A T I O N

3 Certified to be a true and correct

4 transcript of the proceedings held above.

5 Georgette H Sayers

6 Georgette H. Sayers, RMR,

7 Senior Court Reporter.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Received via
E-mail
10-23-13 TH

1

2 STATE OF NEW YORK
COUNTY COURT : COUNTY OF SULLIVAN

3 ---

4 PEOPLE OF THE STATE OF NEW YORK,

5 -against- Indictment #14W-2013

6 NATASHA GONCALVES,

7 Defendant.

8 ---

9 INDETERMINATE SENTENCE

10

11 Lawrence H. Cooke
Sullivan County Courthouse

12 Monticello, New York 12701
September 24, 2013

13 B E F O R E:

14 HONORABLE MICHAEL F. MCGUIRE,

15 County Court Judge.

16 APPEARANCES:

17

18 JAMES R. FARRELL
District Attorney, Sullivan County

19 Sullivan County Courthouse
Monticello, New York 12701
BY: BONNIE M. MITZNER, ESQ.

20

21 JOEL M. PROYECT, ESQ.
Attorney for Defendant

22 (Defendant present.)

23 Georgette H. Sayers, RMR,
Senior Court Reporter.

24

1 P R O C E E D I N G S
2 THE COURT OFFICER: Number 5,
3 Natasha Goncalves.
4 THE COURT: All right. We had Miss
5 Goncalves here on August the 28th, at that
6 time she wasn't pleased with what the
7 Court had to say and made some very
8 inappropriate comments and served the last
9 30 days on a judicial contempt.
10 At this point, Miss Mitzner, the
11 People going to move sentencing?
12 MS. MITZNER: The People are moving
13 sentencing, your Honor.
14 THE COURT: Okay. Miss Mitzner.
15 MS. MITZNER: Your Honor, this was
16 originally a Drug Court contract, the
17 People are bound by that contract as the
18 defendant should be as well. Originally
19 she was given an opportunity to
20 participate in Drug Court and result in
21 not obtaining a felony conviction.
22 However, she's been violated from the Drug
23 Court, she then absconded, warrant had to
24 be issued for her, and there's just been a
25 substantial amount of time invested in

1 P R O C E E D I N G S
2 this case. I'll note for the Court record
3 she entered her plea on January 30th of
4 2013 and now we're here September 24th,
5 2013, and there's been repeated and
6 numerous appearances on this matter of the
7 defendant refusing to go into drug --
8 different and various treatment programs
9 that have been offered to her. So I would
10 ask the Court to follow the agreement that
11 the defendant signed in open court when
12 she entered the Drug Court. It was clear
13 by that agreement that the defendant
14 having -- if she failed to successfully
15 complete Drug Court, would be sentenced to
16 a term of state prison of one and a third
17 to four years. I would ask the Court to
18 impose that sentence.
19 It should be no surprise to the
20 defendant as this has been regularly
21 explained to her and you have her signed
22 signature as part of the Drug Court
23 contract. In addition, I would ask the
24 Court to order her to pay $500 restitution
25 to the Hudson Valley financial institution

1 P R O C E E D I N G S
2 that -- where she took the monies from on
3 her plea. We have a restitution order
4 being prepared for your Honor's
5 signature.
6 THE COURT: That's the Valley Credit
7 Union.
8 MS. MITZNER: Yes, correct, that's
9 the Hudson Valley Federal Credit Union.
10 THE COURT: M-m h-m-m.
11 MS. MITZNER: And that would be our
12 recommendation, your Honor, and that
13 probation -- restitution should be paid
14 from any prison wages that she obtains.
15 THE COURT: All right, Miss Mitzner,
16 thank you very much.
17 MS. MITZNER: Thank you.
18 THE COURT: Mr. Proyect?
19 MR. PROYECT: I join in Miss
20 Mitzner's application. It's an accurate
21 reflection of our plea bargain and the
22 events that preceded this.
23 THE COURT: Miss Goncalves, anything
24 you want the Court to know?
25 THE DEFENDANT: No.

1 P R O C E E D I N G S
2 THE COURT: All right. I'm going to
3 be very short. I tried to put some
4 comments out there to give you some pause
5 for thought, but you continue to just
6 think the world is out to get you and that
7 the world somehow owes you something. It
8 does not. You demonstrated a consist
9 disregard for all attempts to help you,
10 and based on that, it is the sentence of
11 this Court that you serve a term of one
12 and a third to four years in state
13 prison. I will impose a order of
14 restitution, that you pay $500 in
15 restitution. The law does permit me to
16 fine you up to $500 -- $5,000. I'm going
17 to fine you $1,000, and that along with
18 the restitution is to come from any prison
19 pay that you earn. I will waive the
20 mandatory surcharge in light of the
21 restitution being paid. There's a $50 DNA
22 data bank fee that is to be paid, and
23 you're to provide a DNA sample for
24 inclusion in the DNA data bank. My only
25 hope is that you have ample time to

1 P R O C E E D I N G S
2 reflect and maybe have some attitude
3 change so that you can come back and
4 attempt to be something that resembles a
5 parent, but it would appear from your own
6 body language right now that you're quite
7 honestly bored by all this, so hopefully
8 your children are well cared for. That's
9 it.
10 MR. PROYECT: Thank you, your Honor.
11 THE COURT: Thank you.
12 * * * * * * *
13 C E R T I F I C A T I O N
14 Certified to be a true and correct
15 transcript of the proceedings held above.
16 Georgette H. Sayers
17 Georgette H. Sayers, RMR,
18 Senior Court Reporter.
19
20
21
22
23
24
25

Print Form

UNIFORM SENTENCE & COMMITMENT

UCS-854 (8/2011)

STATE OF NEW YORK
County COURT, COUNTY OF Sullivan
PRESENT: HON. Michael F. McGuire

Court Part: 2
Court Reporter: Georgette Sayers
Superior Ct. Case #: Judicial Contempt (14W-13)

The People of the State of New York
-vs-
Natasha Goncalves
Defendant

SEX	D.O.B.	NYSID NUMBER	CRIMINAL JUSTICE TRACKING NUMBER
Femal	[redacted]		

Accusatory Instrument Charge(s): Law/Section & Subdivision:
1 ____ ____
2 ____ ____
3 ____ ____
4 ____ ____

Date(s) of Offense: 8-28-13
To ____

THE ABOVE NAMED DEFENDANT HAVING BEEN CONVICTED BY [⊙PLEA *OR* ○VERDICT], THE MOST SERIOUS OFFENSE BEING A [⊙FELONY *OR* ○MISDEMEANOR *OR* ○VIOLATION], IS HEREBY SENTENCED TO:

Crime	Count No.	Law Section and Subdivision	SMF, Hate or Terror	Minimum Period	Maximum Term	☒Definite (circle: D, M or Y) ☐Determinate (in years) **	Post-Release Supervision
1 Judicial Contempt				years	years	30 days	years
2				years	years	years	years
3				years	years	years	years
4				years	years	years	years
5				years	years	years	years

** NOTE: For each DETERMINATE SENTENCE imposed, a corresponding period of POST-RELEASE SUPERVISION MUST be indicated [PL § 70.45].

☐ Counts ____ shall run **CONCURRENTLY** with each other ☐ Count(s) ____ shall run **CONSECUTIVELY** to count(s) ____

☐ Sentence imposed herein shall run **CONCURRENTLY** with ____, and/or **CONSECUTIVELY** to ____

☐ Sentence imposed herein shall include a **CONSECUTIVE** ____ term of [○**PROBATION** *OR* ○**CONDITIONAL DISCHARGE**], with an Ignition Interlock Device condition, that shall commence upon the defendant's release from imprisonment [PL § 60.21]

☐ Conviction includes: **WEAPON TYPE**: ____ and/or **DRUG TYPE**: ____

☐ Charged as a **JUVENILE OFFENDER** — age at time crime committed: ____ years

☐ Adjudicated a **YOUTHFUL OFFENDER** [CPL § 720.20] ☐ Court certified the Defendant a **SEX OFFENDER** [Cor. L § 168-d]

☐ Execute as a sentence of **PAROLE SUPERVISION** [CPL § 410.91] ☐ **CASAT** ordered [PL § 60.04(6)]

☐ Re-sentenced as a **PROBATION VIOLATOR** [CPL § 410.70] ☐ **SHOCK INCARCERATION** ordered [PL § 60.04(7)]

As a: ○ Second ○ Second Violent ○ Second Drug ○ Second Drug w/prior VFO ○ Predicate Sex Offender ○ Predicate Sex Offender w/prior VFO ○ Second Child Sexual Assault ○ Persistent ○ Persistent Violent **FELONY OFFENDER**

Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])		Paid	Not Paid	Deferred (If deferred, court must file written order [CPL § 420.40(5)])	
○	⊙	○	Mandatory Surcharge $	○	⊙	○	Crime Victim Assistance Fee $
○	○	○	Fine $	○	○	○	Restitution $
○	○	○	DNA Fee $	○	○	○	Sex Offender Registration Fee $
○	○	○	DWI/Other: $	○	○	○	Supplemental Sex Off. Victim Fee $

THE DEFENDANT SHALL BE AND HEREBY IS COMMITTED TO THE CUSTODY OF THE:

○ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older not presently in the custody of NYSDOCS, the [○**COUNTY SHERIFF** *OR* ○**NEW YORK CITY DEPARTMENT OF CORRECTION**] is directed to deliver the defendant to the custody of NYSDOCS as provided in 7 NYCRR Part 103.

○ NYS Department of Correctional Services (NYSDOCS) until released in accordance with the law, and being a person sixteen (16) years or older presently in the custody of NYSDOCS, defendant shall remain in the custody of NYSDOCS.

○ NYS Office of Children and Family Services in accordance with the law, being a person less than sixteen (16) years of age at the time the crime was committed.

⊙ Sullivan County Jail/Correctional Facility

TO BE HELD UNTIL THE JUDGMENT OF THIS COURT IS SATISFIED.

REMARKS: Defendant sentenced to Judicial Contempt due to conduct in the court room.

[redacted]

Commitment, Order of Protection & Pre-Sentence Report received by Correctional Authority as indicated:
Official Name
Shield No.

Pre-Sentence Investigation Report Attached: ○YES ⊙NO ☐ **Amended Commitment:**
Order of Protection Issued: ○YES ⊙NO Original Sentence Date ____
Order of Protection Attached: ○YES ⊙NO

8-28-13	Sarah Katzman	by: Sarah Katzman	Chief Clerk
Date	Clerk of the Court	Signature	Title

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II-1a

Page 2 of 6

Clerk's Sentence Sheet

(drug-court case terminated out on 8/27/13)

Date 9/24/13
Convened 9:06 AM
Recessed

County Court of the State of New York
Sullivan County

Name Natasha Gonçalves
a/k/a
Date of Birth [redacted]
Address

Judge Michael F. McGuire
Stenographer Georgette Sayers
Clerk Sarah Katzman
DA Rob Zangla
Defense Jared Hart Joel Rupert
☐ Assigned ☐ Retained ☐ Legal Aid ☒ Conflict Panel

Ind/SCI# 14W-13
Interpreter
Date of Plea/Verdict 1-30-13
Crime Date 12-5-12
☐ Youthful Offender
Date Adjudicated

Charges Convicted Of:

Count 1: Grand Larceny 4th PL 155.30(4) E felony
Count 2:
Count 3: Judicial Contempt - sentenced 30 days on 8/28/
Count 4:
Count 5:
Count 6:
Count 7:

Case Not Heard - Adjourned to
Sentence

Second Felony Offender ☐

☐ County Jail ____ Year ____ Months ____ Days ____ Weekends: To Start
☒ State Prison 1 1/3 - 4 years
☐ Concurrent ☐ Consecutive

+ Restitution $500. to Hudson Valley Credit Union + 10% surcharge $550. total

☐ Probation - With conditions as shown on the order and conditions of probation
☐ 5 years ☐ 3 years ☐

Crime Victims Fee $	25	to be paid	waived
Surcharge $	300	to be paid	Waived
DWI Fine $		to be paid	
Spcl DWI Surcharge $		to be paid	
Fine $	1,000	to be paid	
DNA Fee $	50	to be paid	
Sex Registry Fee $		to be paid	

☐ Defendant waived his right to appeal ☐ Defendant advised of right to appeal
☐ In Custody ☐ Remanded Forthwith ☒ In Custody of Sullivan County Sheriffs
☐ Defendant Not in Custody

Signed agreement before Hon McGuire on 4-19-13 - Ms. Zangla stated def. terminated out of drug ct on 8/27/13.

EXHIBIT
Comm
Ex II-16

PENGAD 800-631-6989

STATE OF NEW YORK }
}ss.:
SULLIVAN COUNTY CLERK'S OFFICE }

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Sentence with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 7th day of January A.D., 2019

Sarah Katzman
SARAH KATZMAN
Acting Deputy County Clerk

ENDORSED, FILED.

12-19-16

DANIEL L. BRIGGS
COUNTY CLERK

EXHIBIT
Comm
Ex II-2
PENGAD 800-631-6989

STATE OF NEW YORK
COUNTY COURT : COUNTY OF SULLIVAN

PEOPLE OF THE STATE OF NEW YORK,

-against- Indictment #14W-13

NATASHA GONCALVES,

Defendant.

RECEIVED
OFFICE OF COURT CLERK
2016 DEC 19 A 10:48

SENTENCE

Lawrence H. Cooke
Sullivan County Courthouse
Monticello, New York 12701
August 28, 2013

B E F O R E:

HONORABLE MICHAEL F. McGUIRE,
County Court Judge.

APPEARANCES:

JAMES R. FARRELL
District Attorney, Sullivan County
Sullivan County Courthouse
Monticello, New York 12701
BY: ROBERT L. ZANGLA, ESQ.

JARED K. HART, ESQ.
Attorney for Defendant

(Defendant present.)

Georgette H. Sayers, RMR,
Senior Court Reporter.

Judicial Contempt Sentence 8/28/13

1 P R O C E E D I N G S
2 THE COURT OFFICER: Number 1, People
3 of the State of New York versus Natasha
4 Goncalves on for sentencing.
5 THE COURT: All right. The last
6 time that I had Miss Goncalves in court
7 was back in April, April 19th. At that
8 time we signed Drug Court contracts and
9 Miss Goncalves was going to go to long
10 term inpatient treatment. I told her at
11 that time what a incredible opportunity
12 she had, what an outstanding job her
13 attorneys had done and what compassion the
14 District Attorney's office had shown in
15 affording her this opportunity to once
16 again return to being a parent or for
17 really the first time to be a parent. In
18 the event that she was not successful in
19 Drug Court, she would get a sentence of
20 one and a third to four years in prison
21 with all applicable fines and fees and
22 surcharges. If she was successful she'd
23 have a conviction for Petit Larceny with
24 three years probation and drug and alcohol
25 conditions. Is everybody -- are we all on

1 P R O C E E D I N G S
2 the same page in terms of our notes?
3 MR. HART: We are, Judge.
4 MR. ZANGLA: Yes, Judge.
5 THE COURT: So Mr. Zangla, where are
6 we at?
7 MR. ZANGLA: Judge, it's my
8 understanding that since that plea date,
9 there have been at least a couple of
10 appearances. A bench warrant had to be
11 signed back in July, again in July, and
12 then in July she was released to New Hope.
13 At this point, Judge, I believe where we
14 are is after an appearance yesterday with
15 Mr. Proyect, Judge LaBuda and Ms. Galligan
16 from my office, it would be understood
17 she'd be on today for sentencing. That
18 sentencing to come from the participation
19 agreement, and the sentencing to come from
20 the agreement if she were to not
21 successfully complete Drug Court which is
22 where I believe we are today. That's my
23 understanding. If that is the case, the
24 agreement were she to not complete drug
25 treatment was one and a third to four

1 P R O C E E D I N G S
2 years in state prison.
3 THE COURT: All right. Mr. Hart.
4 MR. HART: Judge, that's actually
5 our understanding as well. My client did
6 not fare well in Drug Court and obviously
7 now that she's going to be discharged from
8 Drug Court, that was the agreement, one
9 and a third to four years. So we're
10 prepared obviously for sentence -- for
11 that sentencing today.
12 THE COURT: All right. Miss
13 Goncalves?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: Anything you want me to
16 know before I sentence you?
17 THE DEFENDANT: I tried the Drug
18 Court thing, and --
19 THE COURT: Just too much work?
20 THE DEFENDANT: Not really. I just
21 don't want to waste anybody's time, not
22 even my own.
23 THE COURT: You just anxious to get
24 out and get high?
25 THE DEFENDANT: No, no, sir.

1 P R O C E E D I N G S
2 THE COURT: Why -- what's the issue?
3 THE DEFENDANT: When I came to jail
4 I wasn't -- this time I wasn't high, sir.
5 I did run, I did have a problem. I got
6 scared, I don't -- I don't know. I don't
7 know. I just -- I want this just to be
8 over with. It's --
9 THE COURT: Think how your children
10 feel, if they even know who you are.
11 THE DEFENDANT: They absolutely do.
12 I was a good mother to my daughter.
13 THE COURT: What's that?
14 THE DEFENDANT: My children know who
15 I am.
16 THE COURT: Really?
17 THE DEFENDANT: Absolutely.
18 THE COURT: Do they know what a
19 mother is?
20 THE DEFENDANT: Absolutely.
21 THE COURT: How do they know that,
22 from your mother?
23 THE DEFENDANT: 'Cause I was a good
24 mom until I relapsed.
25 THE COURT: When were you clean?

1 P R O C E E D I N G S
2 THE DEFENDANT: When I gave birth to
3 my daughter.
4 THE COURT: The one that was born
5 with marijuana in her system or was that
6 your son?
7 THE DEFENDANT: That was my son.
8 THE COURT: So you were not a good
9 mother to your son.
10 (The defendant shakes head
11 negatively.)
12 THE COURT: So when you gave birth
13 to your daughter, you were clean?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: You know, this may be
16 one of the saddest cases there are -- not
17 for you, 'cause you've chosen to throw
18 your life away, that's your decision to
19 do. Frankly it would be my desire to
20 sentence you to life without parole
21 because you really have demonstrated you
22 have no desire or intention to ever be a
23 productive member of society, to ever be a
24 parent, to ever be anything that resembles
25 a mother. You merely gave birth to the

1 P R O C E E D I N G S
2 children but then you -- you have
3 emotionally abandoned them. And I
4 understand the addiction and the disease
5 that is addiction. I do understand it,
6 and I do have compassion. But I have no
7 tolerance for people who have no interest
8 in taking the more difficult route to
9 success. I just have no tolerance for
10 that. You know, it's been said that
11 opportunities look a lot like hard work.
12 And at every opportunity that's been
13 presented to you, you have chosen the
14 easier way out. I'll go sit in state
15 prison, hang out, meet some people, enjoy
16 myself, won't be there for my children for
17 another four years, another couple of
18 years anyway with parole, then I'll come
19 out and I won't have to worry about being
20 answerable to anyone. And that's what
21 makes this one of the saddest cases that I
22 can imagine because the work that Mr. Hart
23 and Mr. Proyect did to get somebody with
24 your background and your rather extensive
25 criminal history: 21 arrests, most of

1 P R O C E E D I N G S
2 them related to theft or drugs or both,
3 convicted of -- 14 times of misdemeanors
4 and other low level offenses, and you're
5 only 27 years old. Twice you've been
6 sentenced to probation, twice you were
7 unsuccessful in probation, twice you were
8 violated. Each time you've been on
9 probation you tested positive for drugs.
10 You've been rearrested. You were placed
11 on ATI in this case. You're rearrested
12 again. During evaluations you've admitted
13 that you've used heroin. At the Recovery
14 Center you tested positive for heroin,
15 Suboxone, marijuana, cocaine. You were
16 admitted to the Recovery Center in
17 February and you left against medical
18 orders.
19 Now I said that I understand the
20 addiction cycle, but please don't -- don't
21 blame this on an addiction. This is a
22 conscious decision on your part to abandon
23 your children to be totally self-absorbed
24 in your own world. It has nothing to do
25 with the addiction to drugs. Twice on

1 P R O C E E D I N G S
2 probation, twice you failed. I'm sure
3 probation was not forbidding you from
4 going into a long term program to get
5 yourself clean years ago. Frankly, to
6 consider yourself a good mother because
7 you gave birth to half of your children at
8 a time when you were not involved with
9 drugs is pathetic.
10 THE DEFENDANT: That's your opinion.
11 THE COURT: Well, I don't know who
12 would have any different opinion. I don't
13 know who could have any different opinion.
14 I mean, unless you're a baseball player
15 batting 500 that you gave birth to one of
16 your two children that was not born with
17 drugs in their system and thinking that
18 that is a measure of something good is
19 pathetic.
20 THE DEFENDANT: That's your opinion.
21 Can we just get this over with? I'm not
22 going to sit here and listen to this man
23 shoot me down. I do this to myself every
24 day and I don't need you --
25 THE COURT: Yes, you are.

1 P R O C E E D I N G S
2 THE DEFENDANT: -- to tell me
3 anything but sentence me so I can get out
4 of this fucking courtroom.
5 MR. HART: Don't do that.
6 THE DEFENDANT: I don't care. He's
7 not going to sit here and tell me nothing.
8 My kids --
9 THE COURT: I tell you what I'm
10 going to do. I'm going to sentence you to
11 30 days for judicial contempt and we'll
12 come back here in about three weeks and
13 we'll continue with sentencing. Okay. 30
14 days judicial contempt.
15 Take her. Let's get another date
16 for sentencing.
17 THE CLERK: You can do it on the
18 24th, Judge.
19 THE COURT: 24th?
20 THE CLERK: Yeah.
21 THE COURT: 24th.
22 MR. HART: 9:00 o'clock?
23 THE COURT: Yup.
24 * * * * * * *
25

1 P R O C E E D I N G S
2 C E R T I F I C A T I O N
3 Certified to be a true and correct
4 transcript of the proceedings held above.
5 Georgette H Sayers
6 Georgette H. Sayers, RMR,
7 Senior Court Reporter.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK }
}ss.:
SULLIVAN COUNTY CLERK'S OFFICE }

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Indeterminate Sentence with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 7th day of January A.D., 2019

Sarah Katzman
SARAH KATZMAN
Acting Deputy County Clerk

ENDORSED, FILED.
9-24-13

DANIEL L. BRIGGS
COUNTY CLERK

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II-3

Received via
E-mail
10-23-13 TH

1

2 STATE OF NEW YORK
COUNTY COURT : COUNTY OF SULLIVAN

3 ---

4 PEOPLE OF THE STATE OF NEW YORK,

5 -against- Indictment #14W-2013

6 NATASHA GONCALVES,

7 Defendant.

8 ---

9 INDETERMINATE SENTENCE

10

11 Lawrence H. Cooke
Sullivan County Courthouse
12 Monticello, New York 12701
September 24, 2013

13 B E F O R E:

14 HONORABLE MICHAEL F. MCGUIRE,
15 County Court Judge.

16 APPEARANCES:

17

18 JAMES R. FARRELL
District Attorney, Sullivan County
Sullivan County Courthouse
19 Monticello, New York 12701
BY: BONNIE M. MITZNER, ESQ.

20

21 JOEL M. PROYECT, ESQ.
Attorney for Defendant

22 (Defendant present.)

23 Georgette H. Sayers, RMR,
Senior Court Reporter.

24

1 P R O C E E D I N G S
2 THE COURT OFFICER: Number 5,
3 Natasha Goncalves.
4 THE COURT: All right. We had Miss
5 Goncalves here on August the 28th, at that
6 time she wasn't pleased with what the
7 Court had to say and made some very
8 inappropriate comments and served the last
9 30 days on a judicial contempt.
10 At this point, Miss Mitzner, the
11 People going to move sentencing?
12 MS. MITZNER: The People are moving
13 sentencing, your Honor.
14 THE COURT: Okay. Miss Mitzner.
15 MS. MITZNER: Your Honor, this was
16 originally a Drug Court contract, the
17 People are bound by that contract as the
18 defendant should be as well. Originally
19 she was given an opportunity to
20 participate in Drug Court and result in
21 not obtaining a felony conviction.
22 However, she's been violated from the Drug
23 Court, she then absconded, warrant had to
24 be issued for her, and there's just been a
25 substantial amount of time invested in

1 P R O C E E D I N G S
2 this case. I'll note for the Court record
3 she entered her plea on January 30th of
4 2013 and now we're here September 24th,
5 2013, and there's been repeated and
6 numerous appearances on this matter of the
7 defendant refusing to go into drug --
8 different and various treatment programs
9 that have been offered to her. So I would
10 ask the Court to follow the agreement that
11 the defendant signed in open court when
12 she entered the Drug Court. It was clear
13 by that agreement that the defendant
14 having -- if she failed to successfully
15 complete Drug Court, would be sentenced to
16 a term of state prison of one and a third
17 to four years. I would ask the Court to
18 impose that sentence.
19 It should be no surprise to the
20 defendant as this has been regularly
21 explained to her and you have her signed
22 signature as part of the Drug Court
23 contract. In addition, I would ask the
24 Court to order her to pay $500 restitution
25 to the Hudson Valley financial institution

1 P R O C E E D I N G S
2 that -- where she took the monies from on
3 her plea. We have a restitution order
4 being prepared for your Honor's
5 signature.
6 THE COURT: That's the Valley Credit
7 Union.
8 MS. MITZNER: Yes, correct, that's
9 the Hudson Valley Federal Credit Union.
10 THE COURT: M-m h-m-m.
11 MS. MITZNER: And that would be our
12 recommendation, your Honor, and that
13 probation -- restitution should be paid
14 from any prison wages that she obtains.
15 THE COURT: All right, Miss Mitzner,
16 thank you very much.
17 MS. MITZNER: Thank you.
18 THE COURT: Mr. Proyect?
19 MR. PROYECT: I join in Miss
20 Mitzner's application. It's an accurate
21 reflection of our plea bargain and the
22 events that preceded this.
23 THE COURT: Miss Goncalves, anything
24 you want the Court to know?
25 THE DEFENDANT: No.

1 P R O C E E D I N G S
2 THE COURT: All right. I'm going to
3 be very short. I tried to put some
4 comments out there to give you some pause
5 for thought, but you continue to just
6 think the world is out to get you and that
7 the world somehow owes you something. It
8 does not. You demonstrated a consist
9 disregard for all attempts to help you,
10 and based on that, it is the sentence of
11 this Court that you serve a term of one
12 and a third to four years in state
13 prison. I will impose a order of
14 restitution, that you pay $500 in
15 restitution. The law does permit me to
16 fine you up to $500 -- $5,000. I'm going
17 to fine you $1,000, and that along with
18 the restitution is to come from any prison
19 pay that you earn. I will waive the
20 mandatory surcharge in light of the
21 restitution being paid. There's a $50 DNA
22 data bank fee that is to be paid, and
23 you're to provide a DNA sample for
24 inclusion in the DNA data bank. My only
25 hope is that you have ample time to

P R O C E E D I N G S

reflect and maybe have some attitude change so that you can come back and attempt to be something that resembles a parent, but it would appear from your own body language right now that you're quite honestly bored by all this, so hopefully your children are well cared for. That's it.

MR. PROYECT: Thank you, your Honor.

THE COURT: Thank you.

* * * * * * *

C E R T I F I C A T I O N

Certified to be a true and correct transcript of the proceedings held above.

Georgette H. Sayers

Georgette H. Sayers, RMR,
Senior Court Reporter.

Q. Now, I'm going to show you what is marked Commission Exhibit 49. This is a transcript, *People v. Natasha Goncalves*, August 28, 2013 in front of Judge McGuire. This is a County Court case. Were you presiding over the matter on that day?

A. I was.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II-49

1

2 STATE OF NEW YORK
COUNTY COURT : COUNTY OF SULLIVAN

3 ---

4 PEOPLE OF THE STATE OF NEW YORK,

5 -against- Indictment #14W-13

6 NATASHA GONCALVES,

7 Defendant.

8 ---

9 SENTENCE

10

11 Lawrence H. Cooke
Sullivan County Courthouse

12 Monticello, New York 12701
August 28, 2013

13 B E F O R E:

14 HONORABLE MICHAEL F. McGUIRE,

15 County Court Judge.

16 APPEARANCES:

17

18 JAMES R. FARRELL
District Attorney, Sullivan County
Sullivan County Courthouse

19 Monticello, New York 12701
BY: ROBERT L. ZANGLA, ESQ.

20

21 JARED K. HART, ESQ.
Attorney for Defendant

22 (Defendant present.)

23 Georgette H. Sayers, RMR,
Senior Court Reporter.

24

25

1 P R O C E E D I N G S
2 THE COURT OFFICER: Number 1, People
3 of the State of New York versus Natasha
4 Goncalves on for sentencing.
5 THE COURT: All right. The last
6 time that I had Miss Goncalves in court
7 was back in April, April 19th. At that
8 time we signed Drug Court contracts and
9 Miss Goncalves was going to go to long
10 term inpatient treatment. I told her at
11 that time what a incredible opportunity
12 she had, what an outstanding job her
13 attorneys had done and what compassion the
14 District Attorney's office had shown in
15 affording her this opportunity to once
16 again return to being a parent or for
17 really the first time to be a parent. In
18 the event that she was not successful in
19 Drug Court, she would get a sentence of
20 one and a third to four years in prison
21 with all applicable fines and fees and
22 surcharges. If she was successful she'd
23 have a conviction for Petit Larceny with
24 three years probation and drug and alcohol
25 conditions. Is everybody -- are we all on

1 P R O C E E D I N G S
2 the same page in terms of our notes?
3 MR. HART: We are, Judge.
4 MR. ZANGLA: Yes, Judge.
5 THE COURT: So Mr. Zangla, where are
6 we at?
7 MR. ZANGLA: Judge, it's my
8 understanding that since that plea date,
9 there have been at least a couple of
10 appearances. A bench warrant had to be
11 signed back in July, again in July, and
12 then in July she was released to New Hope.
13 At this point, Judge, I believe where we
14 are is after an appearance yesterday with
15 Mr. Proyect, Judge LaBuda and Ms. Galligan
16 from my office, it would be understood
17 she'd be on today for sentencing. That
18 sentencing to come from the participation
19 agreement, and the sentencing to come from
20 the agreement if she were to not
21 successfully complete Drug Court which is
22 where I believe we are today. That's my
23 understanding. If that is the case, the
24 agreement were she to not complete drug
25 treatment was one and a third to four

1 P R O C E E D I N G S
2 years in state prison.
3 THE COURT: All right. Mr. Hart.
4 MR. HART: Judge, that's actually
5 our understanding as well. My client did
6 not fare well in Drug Court and obviously
7 now that she's going to be discharged from
8 Drug Court, that was the agreement, one
9 and a third to four years. So we're
10 prepared obviously for sentence -- for
11 that sentencing today.
12 THE COURT: All right. Miss
13 Goncalves?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: Anything you want me to
16 know before I sentence you?
17 THE DEFENDANT: I tried the Drug
18 Court thing, and --
19 THE COURT: Just too much work?
20 THE DEFENDANT: Not really. I just
21 don't want to waste anybody's time, not
22 even my own.
23 THE COURT: You just anxious to get
24 out and get high?
25 THE DEFENDANT: No, no, sir.

1 P R O C E E D I N G S
2 THE COURT: Why -- what's the issue?
3 THE DEFENDANT: When I came to jail
4 I wasn't -- this time I wasn't high, sir.
5 I did run, I did have a problem. I got
6 scared, I don't -- I don't know. I don't
7 know. I just -- I want this just to be
8 over with. It's --
9 THE COURT: Think how your children
10 feel, if they even know who you are.
11 THE DEFENDANT: They absolutely do.
12 I was a good mother to my daughter.
13 THE COURT: What's that?
14 THE DEFENDANT: My children know who
15 I am.
16 THE COURT: Really?
17 THE DEFENDANT: Absolutely.
18 THE COURT: Do they know what a
19 mother is?
20 THE DEFENDANT: Absolutely.
21 THE COURT: How do they know that,
22 from your mother?
23 THE DEFENDANT: 'Cause I was a good
24 mom until I relapsed.
25 THE COURT: When were you clean?

1 P R O C E E D I N G S
2 THE DEFENDANT: When I gave birth to
3 my daughter.
4 THE COURT: The one that was born
5 with marijuana in her system or was that
6 your son?
7 THE DEFENDANT: That was my son.
8 THE COURT: So you were not a good
9 mother to your son.
10 (The defendant shakes head
11 negatively.)
12 THE COURT: So when you gave birth
13 to your daughter, you were clean?
14 THE DEFENDANT: Yes, sir.
15 THE COURT: You know, this may be
16 one of the saddest cases there are -- not
17 for you, 'cause you've chosen to throw
18 your life away, that's your decision to
19 do. Frankly it would be my desire to
20 sentence you to life without parole
21 because you really have demonstrated you
22 have no desire or intention to ever be a
23 productive member of society, to ever be a
24 parent, to ever be anything that resembles
25 a mother. You merely gave birth to the

1 P R O C E E D I N G S
2 children but then you -- you have
3 emotionally abandoned them. And I
4 understand the addiction and the disease
5 that is addiction. I do understand it,
6 and I do have compassion. But I have no
7 tolerance for people who have no interest
8 in taking the more difficult route to
9 success. I just have no tolerance for
10 that. You know, it's been said that
11 opportunities look a lot like hard work.
12 And at every opportunity that's been
13 presented to you, you have chosen the
14 easier way out. I'll go sit in state
15 prison, hang out, meet some people, enjoy
16 myself, won't be there for my children for
17 another four years, another couple of
18 years anyway with parole, then I'll come
19 out and I won't have to worry about being
20 answerable to anyone. And that's what
21 makes this one of the saddest cases that I
22 can imagine because the work that Mr. Hart
23 and Mr. Proyect did to get somebody with
24 your background and your rather extensive
25 criminal history: 21 arrests, most of

1 P R O C E E D I N G S
2 them related to theft or drugs or both,
3 convicted of -- 14 times of misdemeanors
4 and other low level offenses, and you're
5 only 27 years old. Twice you've been
6 sentenced to probation, twice you were
7 unsuccessful in probation, twice you were
8 violated. Each time you've been on
9 probation you tested positive for drugs.
10 You've been rearrested. You were placed
11 on ATI in this case. You're rearrested
12 again. During evaluations you've admitted
13 that you've used heroin. At the Recovery
14 Center you tested positive for heroin,
15 Suboxone, marijuana, cocaine. You were
16 admitted to the Recovery Center in
17 February and you left against medical
18 orders.
19 Now I said that I understand the
20 addiction cycle, but please don't -- don't
21 blame this on an addiction. This is a
22 conscious decision on your part to abandon
23 your children to be totally self-absorbed
24 in your own world. It has nothing to do
25 with the addiction to drugs. Twice on

1 P R O C E E D I N G S
2 probation, twice you failed. I'm sure
3 probation was not forbidding you from
4 going into a long term program to get
5 yourself clean years ago. Frankly, to
6 consider yourself a good mother because
7 you gave birth to half of your children at
8 a time when you were not involved with
9 drugs is pathetic.
10 THE DEFENDANT: That's your opinion.
11 THE COURT: Well, I don't know who
12 would have any different opinion. I don't
13 know who could have any different opinion.
14 I mean, unless you're a baseball player
15 batting 500 that you gave birth to one of
16 your two children that was not born with
17 drugs in their system and thinking that
18 that is a measure of something good is
19 pathetic.
20 THE DEFENDANT: That's your opinion.
21 Can we just get this over with? I'm not
22 going to sit here and listen to this man
23 shoot me down. I do this to myself every
24 day and I don't need you --
25 THE COURT: Yes, you are.

1 P R O C E E D I N G S
2 THE DEFENDANT: -- to tell me
3 anything but sentence me so I can get out
4 of this fucking courtroom.
5 MR. HART: Don't do that.
6 THE DEFENDANT: I don't care. He's
7 not going to sit here and tell me nothing.
8 My kids --
9 THE COURT: I tell you what I'm
10 going to do. I'm going to sentence you to
11 30 days for judicial contempt and we'll
12 come back here in about three weeks and
13 we'll continue with sentencing. Okay. 30
14 days judicial contempt.
15 Take her. Let's get another date
16 for sentencing.
17 THE CLERK: You can do it on the
18 24th, Judge.
19 THE COURT: 24th?
20 THE CLERK: Yeah.
21 THE COURT: 24th.
22 MR. HART: 9:00 o'clock?
23 THE COURT: Yup.
24 * * * * * * *
25

1 P R O C E E D I N G S

2 C E R T I F I C A T I O N

3 Certified to be a true and correct

4 transcript of the proceedings held above.

5 Georgette H Sayers

6 Georgette H. Sayers, RMR,

7 Senior Court Reporter.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 Q. Page 5, line 9 reading on to line 24.
20 A. Yes. Yes.
21 Q. Have you read that?
22 A. I have.
23 Q. So page 5, line 9.
24 The Court: Think how your children feel, if they even know who you are.
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II -4b

1 The Defendant: They absolutely do. I was a
2 good mother to my daughter.

3 The Court: What's that?

4 The Defendant: My children know who I am.

5 The Court: Really?

6 The Defendant: Absolutely.

7

8 Do you think at that time you were being respectful to the defendant?
9 A. I think at that time, under the circumstances, I was trying to reach a
10 defendant who had made a decision to go to prison rather than go to
11 treatment for a year, year and a half to go to prison for four years, and
12 be that much more away from their children, because apparently she
13 didn't want to be in treatment. Quite frankly, the hope was that maybe
14 I'd get her to say, "You know what? You're right. I do want to go to
15 treatment." That's the hope. It has no place from a judge. I recognize
16 that now. I don't think it was inappropriate because at that time--
17 because my motives were appropriate.
18
19
20
21
22
23
24
25

Q. Did you warn her? After she used the word "fucking," did you warn her not to curse in court?

A. I did not.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II-4c

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 Q. Did you draft an order that gave the facts of what she had done?
24 A. I did not.
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex II -4d

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: JANUARY 3, 2019

RE: Z[redacted] V. F[redacted] FF#13096

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III - 1

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/09/2015
Cal. No(s): 2

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12/15B		Modification of Order of Custody	Trial	05/28/2015	12/26/2015	10/09/2015

Pedigree Information (as of 10/09/2015)

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

Sullivan County Department of Family Services Docket(s): V-01874-12/15B (Int Pty)
Contact Information: (W) (845) 292-0100

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 10/09/2015 09:00 AM, Hon. Michael F. McGuire, PT 2, Trial

Attendance:
Present:
John Ferrara (Atty)
T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
Sullivan County Legal Aid Panel, Inc. (Atty)
Not Present:
R[redacted] L[redacted] Z[redacted]
Sullivan County Department of Family Services

Notes:
(V-01874-12/15B)
Garn - legal aid
Ferrara
Leibowtiz
Ms. F[redacted] here
Mr. Z[redacted] not present

On for trial

Ferrara - does not know where his client is; can go forward w/o him

Garn - client says she and Resp are in agreement she visits child on Saturdays until 4:00 pm before she goes to work; wants to leave everything as is and continue on;

Ferrara - does not have authority to agree to this; has not spoken to client in some time; subpeona'd CPS which could be change in circumstance; suspects his client would agree to settlement; Ferrara will attempt to call client - all parties step out - 9:08

SECOND CALL 9:14
Ferrara - client agrees; Court calls client to put him on the record

F[redacted] - currently not in treatment; 8/7 ltr from SCADAS; urine neg; followup appt on 8/11/15

Z[redacted] - satisified resp has no drug/alcohol issues

Parties sworn - all agree - attys agree

MODIFY ORDER
joint legal custody; physical to dad; mom parenting time Saturdays & Sundays, in accordance w/moms work schedule; child is allowed to stay over on sunday nights; SOF&D as parties can agree; CBRs; continue w/alternating holidays; no smoking/drugs in the home & around child; no third parties shall have drugs/alcohol/smoking; both residences should be drug/alcohol free

Leibowtiz to submit
(Melinda Sheridan)

Outcomes: Order of Custody Modified (V-01874-12/15B)

Court Acti y File Summary - Sullivan County F(ily Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 08/25/2015
Cal. No(s): 9

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12/15B	1	Modification of Order of Custody	Motion	08/12/2015	12/26/2015	

Pedigree Information (as of 08/26/2015)

R[redacted] L[redacted] Z[redacted]y DOB: [redacted] Docket(s): V-01874-12/15B (Petr)
Primary Address: [redacted]
Contact Information: ([redacted]

Attorney: John Ferrara (Conflict Defender)

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

Sullivan County Department of Family Services Docket(s): V-01874-12/15B (Int Pty)
Contact Information: (W) (845) 292-0100

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 08/25/2015 09:00 AM, Hon. Michael F. McGuire, PT 2, Motion

Attendance: Not Present:
John Ferrara (Atty)
T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
R[redacted] L[redacted] Z[redacted]
Sullivan County Department of Family Services
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-01874-12/15B, 1)
Motion granted, subpoena signed by judge
(Melinda Sheridan)

Outcomes: Motion Granted (V-01874-12/15B)

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 08/25/2015
Cal. No(s): 9

Future Appr: 10/09/2015 09:00 AM Hon. Michael F. McGuire, PT 2: Trial (V-01874-12/15B)

Court Acti(' File Summary - Sullivan County F(ily Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 08/10/2015
Cal. No(s): 50

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12/15B		Modification of Order of Custody	Appear	05/28/2015	12/26/2015	

Pedigree Information (as of 08/12/2015)

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

Sullivan County Department of Family Services Docket(s): V-01874-12/15B (Int Pty)
Contact Information: (W) (845) 292-0100

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 08/10/2015 01:30 PM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present:
John Ferrara (Atty)
T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
R[redacted] L[redacted] Z[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Not Present: Sullivan County Department of Family Services

Notes: (V-01874-12/15B)
Garn - legal aid
Ferrara - conflict
Leibowitz - AFC
both parties present

Currently have 10/23/12 Order in place; joint legal/physical custody; Mr. Z[redacted] seeking to

modify this order

Child is currently w/dad; temp order custody to dad; visits w/mom

No eval on Ms. F[redacted] from SCADAS; she did not go to Commty Srvcs
CPS report received; 3 hotline calls, most recent 7/7/15
Referral to Preventive Services was done

Garn - client went to SCADAS on 8/7 & has appt 8/12/15; rapid test done was neg; visitation going well

Ferrara - visitation not going well; no one comms w/him when mom has child; doesn't come home at 5:00 pm, comes home later than 5:00 pm

Leibowitz - E[redacted] doing fine at dad's house; says drinking at mom's house;

TEMP ORDER
remains in place, add that E[redacted] (boyfriend) not to drive child

Leibowtiz to submit

No settlement - go to trial

10/9/15 9:00 am TR
(Melinda Sheridan)

Future Appr: 10/09/2015 09:00 AM Hon. Michael F. McGuire, PT 2: Trial (V-01874-12/15B)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 07/13/2015
Cal. No(s): 35

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12/15B		Modification of Order of Custody	Appear	05/28/2015	12/26/2015	

Pedigree Information (as of 07/17/2015)

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

Sullivan County Department of Family Services Docket(s): V-01874-12/15B (Int Pty)
Contact Information: (W) (845) 292-0100

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 07/13/2015 11:00 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present:
John Ferrara (Atty)
T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
R[redacted] L[redacted] Z[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Not Present:
Sullivan County Department of Family Services

Notes:
(V-01874-12/15B)
Ferrara - Z[redacted]
Garn - Legal aid - F[redacted]
Leibowtiz - AFC

Z[redacted] has had child full time

 Date printed: 07/17/2015

Ferrara - looking for sole custody; child not enrolled in Medicaid; dad can't enroll child in medicaid since it's joint custody; schooling is an issue; concerned w/mom's current boyfriend; client ok w/parenting time if boyfriend not present & F[redacted] is sober

Garn - father doesn't like new boyfriend;

Leibowitz - will see child this Wed; CPS investigation going on; school filed hotline report on mom who was intoxicated; Ms. Conklin is CPS caseworker; Ms. F[redacted] living in hotel at moment wants drug & alcohol eval for mom

Garn - client ok with drug/alcohol eval

Ferrara - wants for CPS report

Currently following October 2012 order

TEMP ORDER
Mom to have parenting time each Saturday at 9:30 am w/return at Sunday at 5:00 pm; no alcohol to be around child

Leibowitz to submit

8/10/15 1:30 pm AP

TO DO
Order CPS report
Drug & Alcohol eval for F[redacted]
Report from Castle Point on Mr. Z[redacted] goes to Dr. Ramani
call Castle point to see what they want us to do
(Melinda Sheridan)

Future Appr: 08/10/2015 01:30 PM Hon. Michael F. McGuire, PT 2: Appear (V-01874-12/15B)

Court Acti[illegible]y File Summary - Sullivan County F[illegible]ily Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 06/29/2015
Cal. No(s): 2

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12/15B		Modification of Order of Custody	Arraign	05/28/2015	12/26/2015	

Pedigree Information (as of 06/29/2015)

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Petr)
Primary Address: [redacted]
Contact Information: ([redacted]

Attorney: John Ferrara (Conflict Defender)

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Resp)
Primary Address: [redacted]
Contact Information: ([redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

Sullivan County Department of Family Services Docket(s): V-01874-12/15B (Int Pty)
Contact Information: (W) (845) 292-0100

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12/15B (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 06/29/2015 09:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: T[redacted] M[redacted] F[redacted]
R[redacted] L[redacted] Z[redacted]

Not Present: John Ferrara (Atty)
Patti Joy Leibowitz (Atty)
Sullivan County Department of Family Services
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-01874-12/15B)
Petr wants to modify 10/2012 order of custody

Dad has full custody since CPS is now involved

Resp acknolwedges receipt of petition - seeks atty - FDA given in court - assign SLAP

 Date printed: 06/[redacted]

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 06/29/2015
Cal. No(s): 2

Petr - waives counsel

AFC to be assign

Current order remains in effect

Z[redacted] brought in FDA later in afternoon - assign Conflict

TO DO
Assign AFC ✓
Assign SLAP - F[redacted] ✓
Assign CONFLICT - Z[redacted] ✓
(Melinda Sheridan)

Outcomes: Issue Joined (V-01874-12/15B)

Future Appr: 07/13/2015 11:00 AM Hon. Michael F. McGuire, PT 2: Appear (V-01874-12/15B)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 08/13/2013
Cal. No(s): 6, 7

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01220-13		Order of Protection	Inquest	07/11/2013	02/09/2014	08/13/2013
V-01874-12/13A		Violation of Order of Visitation	Inquest	07/11/2013	02/09/2014	08/13/2013

Pedigree Information

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Petr), V-01874-12/13A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Resp), V-01874-12/13A (Resp)
Primary Address: [redacted]
Contact Information: ([redacted]

B[redacted] D[redacted] DOB: 1[redacted] Docket(s): O-01220-13 (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

A[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

D[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

J[redacted] [redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child), V-01874-12/13A (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 08/13/2013 02:00 PM, Hon. Michael F. McGuire, PT 2, Inquest

Attendance: Present: T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
Present Outside: R[redacted] L[redacted] Z[redacted]

Notes: (O-01220-13, V-01874-12/13A)

mr is or wqas here came in shorts and would not go to change clothes;

ready for inquest
she is sworn; testimony taken
she says her boyfriend can come to testify

there were new allegations on tues 8/5 but no petn filed about those;
today was trial;
judge's turn- no evidence of fam off; dismiss w/ prejudice;
re violation petn; filed 7/12/13 dismiss w/ prej
(Andrea Rogers)

Outcomes: Issue Joined (V-01874-12/13A, O-01220-13)
Petition Dismissed with Prejudice (V-01874-12/13A, O-01220-13)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 07/29/2013
Cal. No(s): 20, 21

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01220-13		Order of Protection	Arraign	07/11/2013		
V-01874-12/13A		Violation of Order of Visitation	Arraign	07/11/2013		

Pedigree Information

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Petr), V-01874-12/13A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Resp), V-01874-12/13A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

B[redacted] D[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

A[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

D[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

J[redacted] Y[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child), V-01874-12/13A (Child)

Appearance Detail

Appearance: 07/29/2013 11:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: T[redacted] M[redacted] F[redacted]
Not Present: R[redacted] L[redacted] Z[redacted]

Notes: (O-01220-13, V-01874-12/13A)
Mr. was served but a no show. Afd of srv filled out incorrectly.
She is read her rights -waives
Re-Assign LG.
~~(Andrea Rogers)~~ Karen B.

Future Appr: 08/13/2013 02:00 PM Hon. Michael F. McGuire, PT 2: Inquest (O-01220-13, V-01874-12/13A)

 Date printed: 07/29/2013

Court A[illegible]ty File Summary - Sullivan County Fa[illegible]y Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 07/12/2013
Cal. No(s): 11, 12

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01220-13		Order of Protection	Walk-in	07/11/2013		
V-01874-12/13A		Violation of Order of Visitation	Walk-in	07/11/2013		

Pedigree Information

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Petr), V-01874-12/13A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Resp), V-01874-12/13A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

B[redacted] D[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

A[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

D[redacted] F[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

J[redacted] Y[redacted] [redacted] DOB: [redacted] Docket(s): O-01220-13 (Child)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01220-13 (Child), V-01874-12/13A (Child)

Appearance Detail

Appearance: 07/12/2013 10:00 AM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Not Present: R[redacted] L[redacted] Z[redacted]
Present Outside: T[redacted] M[redacted] F[redacted]

Notes: (O-01220-13, V-01874-12/13A)
not seen in court; issue OSC
(Andrea Rogers)

Future Appr: 07/29/2013 11:00 AM Hon. Michael F. McGuire, PT 2: Arraign (O-01220-13, V-01874-12/13A)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/23/2012
Cal. No(s): 3, 4

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01773-12		Order of Protection	Appear	09/17/2012	04/01/2013	10/23/2012
V-01874-12		Visitation	Appear	10/02/2012	04/01/2013	10/23/2012

Pedigree Information

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Petr), V-01874-12 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01773-12 (Resp), V-01874-12 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Child), V-01874-12 (Child)

Attorney: Patti Joy Leibowitz (Attorney for Child)

Appearance Detail

Appearance: 10/23/2012 01:30 PM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: T[redacted] M[redacted] F[redacted]
Patti Joy Leibowitz (Atty)
R[redacted] L[redacted] Z[redacted]
Not Present: Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (O-01773-12, V-01874-12)
visits going really well with dad; parties are happy
resolved

joint custody with joint physical custody; no alc or drug use at all and will not allow 3rd parties around child who are using substances; no smoking around child; visits to remain as in temp; dad to visit thurs after school to mon to school; if mon school holiday dad to keep child and return on tues; parties to arrange holiday visits; dad to have thanksgiving in even years and dad xmas eve in even years 12/22 after school to 12/24 at 10 pm and then to mom 12/24 to 12/26; mom easter in even years; OFD as agreed;
Fam Off w/d and dismissed
patti to submit

parties sworn. examined on order, both continue to waive counsel; entered on consent; registry results;
notice explained to parties;

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/23/2012
Cal. No(s): 3, 4

(Andrea Rogers)

Outcomes: Order of Visitation (V-01874-12)
Vacate Order of Protection (2012-000301, Against: T[redacted] M[redacted] F[redacted] (DOB: [redacted]), Issued: 10/03/2012) (O-01773-12)
Petition Withdrawn (O-01773-12)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/03/2012
Cal. No(s): 1, 2, 3

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01773-12		Order of Protection	Arraign	09/17/2012	04/01/2013	
V-01775-12		Custody	Arraign	09/18/2012	04/01/2013	10/03/2012
V-01874-12		Visitation	Arraign	10/02/2012	04/01/2013	

Pedigree Information

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Petr), V-01775-12 (Petr), V-01874-12 (Petr)

Primary Address: [redacted]
Contact Information: [redacted]

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01773-12 (Resp), V-01775-12 (Resp), V-01874-12 (Resp)

Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: T[redacted] M[redacted] F[redacted] Issued: 10/03/2012, Expires: 12/28/2012)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Child), V-01775-12 (Child), V-01874-12 (Child)

Appearance Detail

Appearance: 10/03/2012 09:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: T[redacted] M[redacted] F[redacted]
R[redacted] L[redacted] Z[redacted]

Notes: (V-01775-12)
Respondent received all three petitions

rights given to Respondent - Resp. wishes counsel FDA given for SLAP
rights given to Petitioner - Petitioner waives counsel

Petitioner's first custody petition V-1775-12 - is withdrawn

attorney for child to be assigned

Respondent - wont let Petitioner see the child because he has a TOP against her and she wont let him see the child because he has bed bugs which Petitioner denies

Petitioner states he use to see the child all the time and overnights

9/17/12 TOP modified to allow parties to meet to exchange the child
Mr. Z[redacted] will have parenting time each week from Thursday after school until Monday when

he drops the child off at school; Resp. will have the child from Monday after school until Thursday after school

Resp. wont stop disrupting the proceedings - Court orders her to be held in contempt

Resp. brought back into and handcuffs removed

10/23/12 at 1:30 p.m...

10/23/12 at 1:30 p.m..
(Stacey Benton)

(O-01773-12, V-01874-12)
Respondent received all three petitions

rights given to Respondent - Resp. wishes counsel FDA given for SLAP
rights given to Petitioner - Petitioner waives counsel

Petitioner's first custody petition V-1775-12 - is withdrawn

attorney for child to be assigned

Respondent - wont let Petitioner see the child because he has a TOP against her and she wont let him see the child because he has bed bugs which Petitioner denies

Petitioner states he use to see the child all the time and overnights

9/17/12 TOP modified to allow parties to meet to exchange the child
Mr. Z[redacted] will have parenting time each week from Thursday after school until Monday when he drops the child off at school; Resp. will have the child from Monday after school until Thursday after school

Resp. wont stop disrupting the proceedings - Court orders her to be held in contempt

10/23/12 at 1:30 p.m...

10/23/12 at 1:30 p.m..
(Stacey Benton)

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/03/2012
Cal. No(s): 1, 2, 3

Outcomes: Petition Withdrawn (V-01775-12)
Issue Joined (V-01775-12, O-01773-12, V-01874-12)
Temporary Order of Protection Modified (2012-000301, Against: T[redacted] M[redacted] F[redacted] (DOB: [redacted]), Expires: 12/28/2012) (O-01773-12)
Vacate Order of Protection (2012-000276, Against: T[redacted] M[redacted] F[redacted] (DOB: [redacted]), Issued: 09/18/2012) (O-01773-12)

Future Appr: 10/23/2012 01:30 PM Hon. Michael F. McGuire, PT 2: Appear (O-01773-12, V-01874-12)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/02/2012
Cal. No(s): 10

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01874-12		Visitation	Walk-in	10/02/2012		

Pedigree Information

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): V-01874-12 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: T[redacted] M[redacted] F[redacted] Issued: 09/18/2012, Expires: 12/26/2012)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): V-01874-12 (Child)

Appearance Detail

Appearance: 10/02/2012 01:30 PM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Not Present: T[redacted] M[redacted] F[redacted]
Present Outside: R[redacted] L[redacted] Z[redacted]

Notes: (V-01874-12)
Petitioner requesting to see Judge - Resp. not allowing him to see or talk to his daughter

OSC issued to be returnable tomorrow, 10/3/12 at 9:00 a.m.
(Stacey Benton)

Future Appr: 10/03/2012 09:00 AM Hon. Michael F. McGuire, PT 2: Arraign (V-01874-12)

Court Activity File Summary - Sullivan County Family Court

File No: 13096 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 09/18/2012
Cal. No(s): 21, 22

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
O-01773-12		Order of Protection	Walk-in	09/17/2012		
V-01775-12		Custody	Walk-in	09/18/2012		

Pedigree Information

R[redacted] L[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Petr), V-01775-12 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

T[redacted] M[redacted] F[redacted] DOB: [redacted] Docket(s): O-01773-12 (Resp), V-01775-12 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]
Additional Info: Active TOP: (Against: T[redacted] M[redacted] F[redacted] Issued: 09/18/2012, Expires: 12/26/2012)

E[redacted] Z[redacted] DOB: [redacted] Docket(s): O-01773-12 (Child), V-01775-12 (Child)

Appearance Detail

Appearance: 09/18/2012 09:30 AM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Present: R[redacted] L[redacted] Z[redacted]
Not Present: T[redacted] M[redacted] F[redacted]

Notes: (O-01773-12)
Petitioner sworn, works at [redacted] states he was getting phone calls from her asking for money for support, states ther is no support order he just gives her cash. He states he sees the child daily. Dad states Mom is living w boyfriend they are into drugs and alcohol. States he gives her 50.00 every Friday.

States she needs more money for cigarettes alcohol, and drugs.
States she came to his job and slapped her from behind stating that she thought he was dating someonelse. States he keeps going back to her. She is dating someonelse who lives in the home and is drinking constantly. States his child is surronded by cigarette smoke also. States Mom takes the child in a home where people are using crack.

Parties do not have a custody agreement for the child. Petitioner thought that is what he filed. Mr Advised to file a custody petition and return to do both things today.

TOP - full stay way no contact w Mr stay away home employment any schools he may be attending. Provide for limited contact for the purpose of exchanging E[redacted] for visits.
(Judy Yates)

(V-01775-12)
Petitioner sworn, works at [redacted] states he was getting phone calls from her asking for

money for support, states ther is no support order he just gives her cash. He states he sees the child daily. Dad states Mom is living w boyfriend they are into drugs and alcohol. States he gives her 50.00 every Friday.

States she needs more money for cigarettes alcohol, and drugs.
States she came to his job and slapped her from behind stating that she thought he was dating someonelse. States he keeps going back to her. She is dating someonelse who lives in the home and is drinking constantly. States his child is surronded by cigarette smoke also. States Mom takes the child in a home where people are using crack.

Parties do not have a custody agreement for the child. Petitioner thought that is what he filed. Mr Advised to file a custody petition and return to do both things today.

TOP - full stay way no contact w Mr stay away home employment any schools he may be attending. Provide for limited contact for the purpose of exchanging E[redacted] for visits. (Karen Benson)

Outcomes: Temporary Order of Protection (2012-000276, Against: T[redacted] M[redacted] F[redacted] (DOB: [redacted]), Expires: 12/26/2012) (O-01773-12)

Future Appr: 10/15/2012 10:00 AM Hon. Michael F. McGuire, PT 2: Arraign (O-01773-12, V-01775-12)

Law Office of John Ferrara
548 Broadway
Monticello, New York 12701
845-794-1303
cell: [redacted]
[redacted]@gmail.com
FAX: 845-746-9054 (not for service)
thelawofficeofjohnferrara.com

August 11, 2015

Hon. Christina Benson
Family Court Clerk
Government Center
Monticello, NY 12701

Re: Z[redacted] v. F[redacted]
FF # 13096

Dear Ms. Benson:

I enclose my client's statement of client's rights.

I understand this matter to be scheduled for trial on **October 9, 2015 at 9~~0~~ a.m.**

Thank you.

Sincerely,

John Ferrara

STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

AUG 1 2015 COUNTY FINANCE

Your attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and your attorney please read this document carefully.

If you ever have any questions about these rights, or about the way your case is being handled, do not hesitate to ask your attorney. He or she should be readily available to represent your best interests and keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that are revealed in the course of the relationship.

You are expected to be truthful in all discussions with your attorney, and to provide all relevant information and documentation to enable him or her to competently prepare your case.

You are entitled to be kept informed of the status of your case, and to be provided with copies of correspondence and documents prepared on your behalf or received from the court or your adversary.

You have the right to be present in court at the time that conferences are held.

You are entitled to make the ultimate decision on the objectives to be pursued in your case, and to make the final decision regarding the settlement of your case.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

If you entrust money with an attorney for an escrow deposit in your case, the attorney must safeguard the escrow in a special bank account. You are entitled to a written escrow agreement, a written receipt, and a complete record concerning the escrow. When the terms of the escrow agreement have been performed, the attorney must promptly make payment of the escrow to all persons who are entitled to it.

Receipt Acknowledged:

[redacted]

Client

Attorney

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01874-12/15B

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

ASSIGNMENT OF COUNSEL - CONFLICT

To: John Ferrara, Esq.
548 West Broadway
Monticello, NY 12701
(845) 794-1303

You have been assigned as Conflict to represent R[redacted] L[redacted] Z[redacted] in the above proceeding. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	July 13, 2015 at 11:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: June 29, 2015

Melinda Sheridan, Court Assistant

CC: R[redacted] L[redacted] Z[redacted] Petitioner

Sent 6/29

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01874-12/15B

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

REFERRAL OF COUNSEL

To: Sullivan County Legal Aid Panel, Inc.
11 Bank Street
Monticello, NY 12701
(845) 794-4094 ext.

The above referenced Respondent has been referred to your agency. A Financial Disclosure Affidavit has been provided to the litigant for Sullivan Legal Aid Panel to review and if the litigant is found to be financially eligible, your agency shall be assigned to represent the litigant. If the party is not eligible, please notify the Court immediately.

Please provide this Court with a statement of client's rights and responsibilities if you intend to represent T[redacted] M[redacted] Fi[redacted] Copy of the petition(s) attached.

This matter has been scheduled for:

Date/Time:	July 13, 2015 at 11:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: June 29, 2015

Melinda Sheridan, Court Assistant

CC: T[redacted] M[redacted] Fi[redacted] Respondent

Sent 6/30

Secs. 413, 424-a F.C.A.
236 D.R.L.

7/13/15
MFM

Form 4-17
(Support)
8/89

FAMILY COURT
of the
STATE OF NEW YORK
COUNTY OF SULLIVAN

ole

In the Matter of a Proceeding for Support
Under Article 4 of the Family Court Act

R[redacted] L Z[redacted]
Petitioner

against

T[redacted] F[redacted]
Respondent

RECEIVED
JUN 29 2015
FAMILY COURT

Docket No.
Family File No. 13096

FINANCIAL DISCLOSURE
AFFIDAVIT[1]
SHORT FORM

STATE OF NEW YORK)
)ss:
COUNTY OF SULLIVAN)

R[redacted] L Z[redacted], the (Petitioner)(Respondent) herein, being duly sworn, deposes and says that the following is an accurate statement of my net worth (assets of whatsoever kind and nature and wherever situated minus liabilities), statement of income from all sources and statement of assets transferred of whatsoever kind and nature and wherever situated:

That I reside at [redacted]

I. INCOME

(a) Employer (state if self-employed) _____
(b) Employer's address _____
(c) Social Security Number [redacted]
(d) Number of Dependents Claimed -0-
(e) Number of Members of Household 2
(f) Hours worked per week -0-
(g) Weekly Gross Salary or Wages -0-
(h) Weekly Deductions -0-
1. Social Security _____
2. New York State Tax _____
3. Federal Tax _____
4. Other Payroll Deductions (specify) _____
5. Total Payroll Deduction _____
(i) Weekly Net Salary or Wages -0-
(j) Income From Other Sources - (specify) $733.00/mthly
(for example: part-time job, tips, rents, pension, dividends, unemployment insurance, disability, worker's comp., social security, veteran's benefits, fellowships, stipends, annuities, etc.)
(k) Total Gross Income Last Year under $000
(l) Income of Other Members of Household: (specify)
1. Weekly Gross Salary or Wages -0-
2. Weekly Net Salary or Wages -0-

[1] YOU ARE REQUIRED TO ATTACH A CURRENT AND REPRESENTATIVE PAYCHECK STUB AND MOST RECENTLY FILED STATE AND FEDERAL INCOME TAX RETURNS TO THIS FORM. YOU MAY BE REQUIRED TO FURNISH PAST AND PRESENT INCOME TAX RETURNS; EMPLOYER STATEMENTS; PAY STUBS; CORPORATE, BUSINESS OR PARTNERSHIP BOOKS AND RECORDS; CORPORATE AND BUSINESS TAX RETURNS; AND RECEIPTS FOR EXPENSES OR SUCH OTHER MEANS OF VERIFICATION AS THE COURT DETERMINES APPROPRIATE.

IV. LIABILITIES, LOANS & DEBITS

MONTHLY PAYMENTS

(a) Owed to whom N/A
1. Purpose
2. Date Incurred
3. Total Balance Due

(b) Owed to whom
1. Purpose
2. Date Incurred N/A
3. Total Balance Due

(c) Owed to whom
1. Purpose
2. Date Incurred N/A
3. Total Balance Due

(d) Owed to whom
1. Purpose
2. Date Incurred N/A
3. Total Balance Due

TOTAL MONTHLY PAYMENTS

Other financial data that should be brought to the attention of the Court (Include amount of public assistance, supplemental security income, NYC or Yonkers tax paid):

Disabled SSI $733.00 Month
Food Stamp's $200.00 Month

The foregoing statement has been carefully read by the undersigned who states that it is true and correct.

[redacted]
(Petitioner) (Respondent)

Sworn to before me this
24th day of June, 2015

(Deputy) Clerk of the Court
~~Notary Public~~

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

June 2, 2015

R[redacted] L[redacted] Z[redacted]
[redacted]

Re: Z[redacted] v F[redacted]
File #13096
Dkt.:V-01874-12/15B

Enclosed herein please find an order to show cause together with petitions and affidavit of service. <u>You must make arrangements to have one copy of these papers ***served by Personal Service upon T[redacted] F[redacted] on or before June 24, 2015, be deemed sufficient service.***</u>

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **June 29, 2015 at 9:00AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***<u>Who may serve papers</u>***:

1. Person over the age of 18 years, ***<u>other than yourself</u>***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Family Offense** Proceeding

File #: 13096
Docket #: O-01220-13

T[redacted] M[redacted] F[redacted]

Petitioner,

- against -

R[redacted] L[redacted] Za[redacted]

Respondent.

NOTICE TO APPEAR IN COURT
INQUEST

To: R[redacted] L[redacted] Z[redacted]
[redacted]

This matter was originally scheduled for July 29, 2013 at which time you failed to appear and an affidavit of personal service having been presented to the Court, your default of appearance has been noted for the record.

This matter is now scheduled for an inquest before the Hon. Michael F. McGuire at which time you are hereby directed to appear. The matter will proceed whether you are in attendance or not.

You are hereby notified to appear on:

Date/Time:	August 13, 2013 at 2:00 PM
Purpose:	Inquest
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Please bring this notice with you and check in with the Court Officer in the Part.

Dated: August 2, 2013

Andrea Schlosser, Court Assistant

CC: Patti Joy Leibowitz, Esq., Attorney for Child
T[redacted] M[redacted] F[redacted] Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01775-12
V-01874-12
0-01773-12

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

REFERRAL OF COUNSEL

To: Sullivan County Legal Aid Panel, Inc.
11 Bank Street
Monticello, NY 12701
(845) 794-4094 ext.

The above referenced Respondent has been referred to your agency. A Financial Disclosure Affidavit has been provided to the litigant for Sullivan Legal Aid Panel to review and if the litigant is found to be financially eligible, your agency shall be assigned to represent the litigant. If the party is not eligible, please notify the Court immediately.

Please provide this Court with a statement of client's rights and responsibilities if you intend to represent T[redacted] Fi[redacted] A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	October 23, 2012 at 1:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: October 3, 2012

Stacey Benton, Deputy Clerk of Court

CC: Patti Joy Leibowitz, Esq., Attorney for Child
T[redacted] M[redacted] Fi[redacted] Respondent

Custody/Visitation Registry Check Search Results
Sullivan County Family Court

Printed: 11/05/2015

File: 13096 **Docket:** V-01874-12/15B

Name(s) Searched:

SOR

F[redacted] T[redacted] M[redacted] ([redacted]) NRF

Registry Check Status - Results

Completed - Results Found (11/05/2015)

Results For: F[redacted] T[redacted] M[redacted] ([redacted])

Review Status	Court	File	Name	AKA	Search Results
	Sullivan-Family	1118	F[redacted] T[redacted] ([redacted]	X	Article 10 History Found
	Sullivan-Family	1118	F[redacted] T[redacted] M[redacted] ([redacted])		Article 10 History Found

Custody/Visitation Registry Check Search Results
Sullivan County Family Court

Printed: 11/05/2015

File: 13096 **Docket:** V-01874-12/15B

Name(s) Searched:	Registry Check Status - Results
Za[redacted] E[redacted] ([redacted])	Completed - No Results Found (11/05/2015)
Za[redacted] R[redacted] L[redacted] ([redacted])	Completed - No Results Found (11/05/2015)

Sur

NRF

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for CANNABI:
THC CUTOFF:>/=50ng/mL
Unconfirmed screening results must not be used for non-medical purposes (e.g., employment testing, legal testing)

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for OPIATES:
OPIATE CUTOFF:>/=300ng/mL
Unconfirmed screening results must not be used for non-medical purposes (e.g., employment testing, legal testing).

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for AMPH-UR:
AMPHETAMINES CUTOFF:>/=1000ng/ml
Unconfirmed screening results must not be used for non-medical purposes (e.g. employmnet testing, legal testing)

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for METD-CP:
METHADONE CUTOFF: >/=300 ng/ml
Unconfirmed screening results must not be used for non-medical purposes (e.g. employment testing, legal testing)

If drug screen confirmation is required, the physician MUST place a lab order and telephone Castle Point lab at ext 5303.

Ordering Provider: Muhammad Rehmani MD
Report Released..: Aug 28, 2015@17:02
Performing Lab...: VA HUDSON VALLEY HEALTH CARE - CASTLE POINT DIVISION [CLIA# 33D0987197]
41 CASTLE POINT ROAD WAPPINGER FALLS, NY 12590-7004

---- BLOOD BANK ----

*** [LEGACY VISTA BLOOD BANK REPORT] ***

The following historical information comes from the Legacy VISTA Blood Bank System

It represents data collected prior to the installation of VBECS. Some of the information

Lab Results

Printed On Oct 7, 2015

---- DRUGS - URINE ----

URINE	Aug 28 2015 11:25	Units	Reference Ranges
CANNABI	NEG	NEG/POS	Ref: NEG
ETOH	NEG	NEG/POS	Ref: NEG
BARBS			Ref: NEG
OPIATES	NEG	NEG/POS	Ref: NEG
COCAINE	NEG	NEG/POS	Ref: NEG
AMPH-UR	NEG	NEG/POS	Ref: NEG
METHADO			Ref: NEG
BENZODI	NEG	NEG/POS	Ref: NEG
Q CANNA		NG/ML	Ref: <=99.99
Q ETOH		MG/DL	Ref: <=29.99
Q OPIAT		NG/ML	Ref: <=299.99
Q COCAI		NG/ML	Ref: <=299.99
Q BENZO		NG/ML	Ref: <=199.99
NORDIAZ			
OXAZEPA			
NOR GC			
OXPCONF			
OH-ALPM			
BENZ-UR			
ALPRCF			
METD-CP	NEG	NEG/POS	Ref: NEG
OXY-CP		NEG/POS	Ref: NEG
Comments:	a		

This information has been disclosed to you form records whose confidentiality is protected by Federal Law. Federal Regulations (42CFR Part 2) prohibits you from making any further disclosures of it without the specific written consent of the person to whom the information pertains, or as otherwise permitted by such regulation. A general authorization for the release of medical or other information is NOT sufficient for this purpose.

This information is released subject to the "CONFIDENTIALITY" provision of section 408 of Public Law 92-255.

This information is released subject to the "CONFIDENTIALITY" provision of section 122 of Public Law 93-282.

a. Evaluation for ETOH:
ETHANOL CUTOFF:>/=25mg/dL
Urine ethanol results may be affected by a prolonged delay in testing.
Unconfirmed screening results must not be used for non-medical purposes (e.g., employment testing, legal testing).

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for COCAINE:
COCAINE CUTOFF:>/=300ng/mL
Unconfirmed screening results must not be used for non-medical purposes(e.g., employment testing, legal testing)

If drug sceen confirmation is required, the physician MUST place lab order and telephone Castle Point lab at ext 5303.
Evaluation for BENZODI:
BENZODIAZEPINE CUTOFF:>/=200ng/mL
Unconfirmed screening results must not be used for non-medical purposes (e.g., employment testing, legal testing).

Melissa Stickle
Deputy Director

Joseph A Todora
Acting Commissioner

LOCAL GOVERNMENT UNIT
MENTAL HEALTH CLINIC

ALCOHOL & DRUG ABUSE SERVICES
ADULT & CHILDREN CASE MANAGEMENT
ADULT & CHILDREN SPOA

COUNTY OF SULLIVAN
DEPARTMENT OF COMMUNITY SERVICES

DIVISION OF HEALTH & FAMILY SERVICES
MENTAL HEALTH, MENTAL RETARDATION, ALCOHOL & DRUG ABUSE SERVICES
PO BOX 716; 20 COMMUNITY LANE
LIBERTY, NY 12754-0716
845-292-8770 FAX # 845-513-2110 & 845-513-2111
www.scgnet.us

Honorable McGuire
Sullivan County Family Court
Sullivan County Government Center
100 North St.
Monticello NY 12701

RE: T[redacted] F[redacted]
File #: 13096
DOB: [redacted]

August 4, 2015

Your honor,

This is to inform the court that T[redacted] F[redacted] has not come to Community Services to receive an evaluation. We received the court order on 7/20/2015 and the return date is 8/6/2015. This client has not responded to a letter of invitation and has not been able to be reached by phone.

If you have any questions, please call me at 845-513-2086.

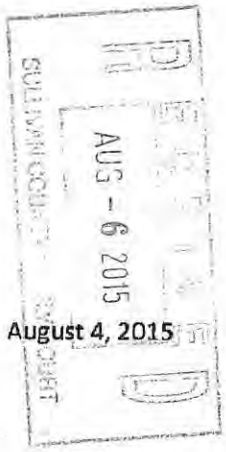
Rebecca Ellis
Engagement Specialist

3

JOSEPH A. TODORA
ACTING COMMISSIONER

TEL. 845-292-0100
FAX 845-292-1320

COUNTY OF SULLIVAN
Division of Health and Family Services
Department of Family Services
SULLIVAN COUNTY HUMAN SERVICES COMPLEX
COMMUNITY LANE
PO BOX 231
Liberty, NY 12754



August 4, 2015

Honorable Michael F. McGuire
Sullivan County Family Court
100 North Street
Monticello, NY 12701

Re: Z[redacted] vs F[redacted]
FF# - 13096

Dear Judge McGuire:

The court requested that the Sullivan County Department of Family Services provide a report of their investigation pursuant to FCA Sec. 255 based on the following allegations: Inadequate Guardianship, Lack of Supervision, Lacerations, Bruises, Welts and Parent's Drug/Alcohol Misuse.

On Monday, May 18, 2015 senior caseworker Hammett received a hotline report from the State Central Register alleging:
"Yesterday (5/17/15) the mother, T[redacted] her paramour, [redacted] and the biological father, R[redacted] had a verbal dispute in the presence of E[redacted] E[redacted] tried to come between the adults to end the verbal argument, at which point the mother grabbed her by her shirt, yanking her arm and shoving her out of the way. The mother's actions were excessive and caused a laceration to E[redacted]'s left arm. The role of the father and paramour is unknown."

On Sunday, July 5, 2015 senior caseworker Hammett received another hotline report from the State Central Register alleging:
"On 7/5/15, mother (T[redacted] was passed out in the parking lot of the motel where the family is presently staying at. Mother was so intoxicated that she was unable to provide A[redacted] and E[redacted] with the minimum degree of care. Parent substitute [redacted] was present and was drinking as well. This is an ongoing situation. Mother becomes belligerent when

Scanned

intoxicated and has engaged in physical domestic violence against [redacted] in the presence of the children. [redacted] has an unknown role at this time."

On Tuesday, July 7, 2015 senior caseworker Hammett received a third hotline report from the State Central Register alleging:
"A[redacted], age 10 and her 5 year old sister (name unknown) reside with their father (R[redacted] but have regular visitation with the mother (T[redacted] The mother routinely leaves the children unsupervised and allows them to walk about town alone. Currently the children are swimming in a river unsupervised. The mother also drinks to intoxication while the children are in her care."

Sullivan County Child Protective Services is currently investigating the above mentioned hotline reports. Ms. F[redacted] is currently employed at the [redacted] in Ferndale, N.Y. and residing at the [redacted], (DOB [redacted]). They have been residing at this location for approximately three months and are actively checking locally posted ads in an effort to find a more permanent residence.

While interviewing Ms. F[redacted] she admits to being involved in the dispute between Mr. R[redacted] Z[redacted] and Mr. [redacted] on May 17, 2015. However, she denies ever grabbing E[redacted] in an aggressive manor. Ms. F[redacted] further admits that on July 5, 2015 she did drink to the point of intoxication and passed out in her car, however she did not have any of her children in her care on that day. Regarding the allegations that the children were swimming in the river unsupervised, the girls were in Mr. Z[redacted]'s care at the time because Ms. F[redacted] leaves for work by 3:30 pm and the girls reported that they were swimming with their (16) year old cousin.

When senior caseworker Hammett initially became involved with the family, E[redacted] was found to be uninsured and in need of medical care. Mr. Z[redacted] expressed frustration with the situation saying that if he had custody of [redacted], he could insure her under his veteran's policy. Although she was unable to provide an answer as to why E[redacted] was without health insurance, Ms. F[redacted] immediately scheduled an appointment with a Fidelis Care representative after she was confronted. On July 7, 2015, directly following the health insurance policy inception date, Ms. F[redacted] brought E[redacted] to be seen at the clinic affiliated with Catskill Regional Medical Center, located in Livingston Manor.

Senior caseworker Hammett observed a small scratch located under E[redacted]'s left arm during the initial meeting with her. When asked what happened, she reported that her mother scratched her with her fingernail as she grabbed her under her arms to take her out of the truck the night of the reported altercation. E[redacted] denies that her mother intentionally scratched her, she just grabbed her as she was arguing with [redacted]'s father. E[redacted] also reported that during the same incident, her mother threw a glass beer bottle at Mr. Z[redacted] When

questioned about domestic violence and alcohol consumption while in her mother's care, E[redacted] reports that her mother and Mr. K[redacted] argue a lot and she has seen them push one another, however she denies seeing them hit one another or throw things. She went on to say that these arguments do not scare her anymore, but they used to. E[redacted] denies that her mother drinks alcohol in her presence because of "the court order", but she reports that Mr. [redacted] drinks a six pack a day. When asked about Mr. K[redacted], and if she prefers it when he is around or not around, E[redacted] answered "he's awesome, he's really good at math, helps us with our homework and is really funny". When asked how she feels about staying with her father, Mr. Z[redacted] E[redacted] said that she feels safe there and likes spending time with him, however she prefers staying with her mother. She said there isn't a lot of food at her father's house and he "smokes a bowl of marijuana every day". When further questioned about this, E[redacted] described the bowl as being brown, made out of wood and in the shape of a dolphin. She said that she knows it's marijuana in the bowl because she hears her father talking about it. She denies that her father acts differently after smoking from the bowl.

A referral was made and Preventive Services began working with Mr. Z[redacted] on May 21, 2015 in an effort to assistance him with navigating the system and applying for food stamps. His caseworker brought Mr. Z[redacted] to several local food pantries to pick up food and help him with registering for future involvement.

Although NY State Police and Sullivan County Sheriff Department both responded to the domestic dispute on May 17, 2015, no arrests were made. Since 2010 records from the NY State Police reflect (3) domestic disputes between Ms. F[redacted] and Mr. Z[redacted] Mr. Z[redacted] was arrested on another occasion for Assault 3rd and Endangering the Welfare because he hit Ms. F[redacted] while she was holding one of the children in her arms. There are (3) domestic disputes between Ms. F[redacted] and Mr. K[redacted], and they were both also arrested for Harassment 2nd with Mr. Z[redacted] being the victim. None of the subjects have had any involvement with law enforcement since the incident reported in May. This investigation is ongoing.

Ms. F[redacted] has **(11)** indicated reports, **(2)** of which are for **Parent's Drug/Alcohol Misuse** and Mr. Z[redacted] has **(2)** indicated reports, **(1)** of which is for **Parent's Drug/Alcohol Misuse.**

Respectfully Submitted,

Tiffany Hammett
Senior Caseworker
CPS/FVRT

MaryEllen Lazarus
Supervisor
CPS/FVRT

At a term of the Family Court
in the State of New York, held
in and for the County of Sullivan at
Monticello, New York, on the 9th day of
October, 2015.

PRESENT: HON. MICHAEL F. McGUIRE
Acting Family Court Judge

In the Matter of a Proceeding Under
Article 6 of the Family Court Act,

R[redacted] ZA[redacted]

Petitioner,

-against-

T[redacted] M[redacted] F[redacted]

Respondent.

ORDER

FF# 13096

RECEIVED
OCT 20 2015
SULLIVAN COUNTY FAMILY COURT

The above entitled matter having come on to be heard before this Court, Petitioner not having appeared in person, but having appeared by his attorney The Conflict Panel of Sullivan County, Inc., John Ferrara, Esq., of counsel, and the Respondent, having appeared in person, with her attorney, The Legal Aid Panel, Inc., K.C. Garn, Esq., of counsel, and the Attorney for the Child, Patti J. Leibowitz, Esq. having appeared on behalf of the child and the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision; and by agreement of the parties and by direction of the Court, it is hereby:

ORDERED, that that parties shall share joint legal custody with physical custody to the Petitioner; and it is further

ORDERED, that the Respondent shall have parenting time with the child, E[redacted] Z[redacted] d.o.b. [redacted], on every weekend, commencing, from Saturday morning until 4:00 PM and Sunday morning until 4:00 PM; and it is further

ORDERED, that both parties shall be drug and alcohol free and that there shall be no drugs, except those legally prescribed by a physician, or alcohol around the child nor any smoking around the child by the parties or third parties, and that their residences shall be drug and alcohol free; and it is further

ORDERED, that holidays and birthdays shall be alternated as fol;lows: Thanksgiving in even years to Dad, odd years to Mom, Christmas Eve in even years to Dad, from after school on December 22nd until 10:00 PM on December 24th then to Mom through December 26th, Mom shall have odd years, Easter in odd years to Dad , even years to Mom; and it is further

ORDERED, that there shall be such other, further, and different parenting time as the parties may agree; and it is further

ORDERED, that the parties shall abide by the attached "CHILDREN'S BILL OF RIGHTS".

Dated: ~~October~~ Nov 9, 2015
Monticello, NY

ENTER

HON. MICHAEL F. McGUIRE
ACTING FAMILY COURT JUDGE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on November 19, 2015

Christina Benoni

~~(Deputy)~~ Chief/Clerk of the Court

11/10/15 Rec'd. to P.J. Leibowitz, Esq. 10-9-[redacted]

ADDENDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive, whichever shall be deemed incorporated into any existing Order of Custody/Parenting time(visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT**: All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.
2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.
3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of the parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.
4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.
5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.
6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.
7. **RECORDS:** Each parent regardless of custodial status, is authorized to access all of the child's educational, medical or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.
8. **SCHOOL WORK:** Each parent shall preserve for the other parent's periodic review all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from school with the children.
9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight out of the are, the other parent shall be provided with a travel itinerary and contact phone number. Unless the parent has filed a request to have their address remain confidential with this Court.
10. **PROMPTNESS**: The parent picking up or dropping off a child for the exercising of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.
11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without prior consent of the affected parent.
2. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations.. Corporal punishment shall not be used to discipline a child.
3. **GENERAL WELFARE:** The children shall at all times be properly supervised, They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

At a term of the Family Court
in the State of New York, held
in and for the County of Sullivan at
Monticello, New York, on the 13th day of
July, 2015.

PRESENT: HON. MICHAEL F. McGUIRE
Acting Family Court Judge

In the Matter of a Proceeding Under
Article 6 of the Family Court Act,

R[redacted] ZA[redacted]

Petitioner,

-against-

T[redacted] M[redacted] F[redacted]

Respondent.

TEMPORARY ORDER

FF# 13096

AUG 10 2015

The above entitled matter having come on to be heard before this Court Petitioner, having appeared in person, with his attorney The Conflict Panel of Sullivan County, Inc., John Ferrara, Esq., of counsel, and the Respondent, having appeared in person, with her attorney, The Legal Aid Panel, Inc., K.C. Garn, Esq., of counsel, and the Attorney for the Child, Patti J. Leibowitz, Esq. having appeared on behalf of the child and the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision; and by agreement of the parties and by direction of the Court, it is hereby:

ORDERED, that the Respondent shall have parenting time with the child, E[redacted] Z[redacted] d.o.b. [redacted], on every weekend, commencing, from Friday at 9:30 AM until Sunday at 5:30 PM; and it is further

ORDERED, that both parties shall be drug and alcohol free and that their residences shall be drug and alcohol free; and it is further

ORDERED, that the parties and counsel shall return to the Sullivan County Family Court for a conference on August 10, 2015 at 1:30 PM.

Dated: August 26, 2015
Monticello, NY

ENTER

HON. MICHAEL F. McGUIRE
ACTING FAMILY COURT JUDGE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on August 27, 2015

Christina Benson

~~(Deputy)~~ **Chief/Clerk of the Court**

Patti J. Leibowitz, Esq.

Court House
Ph # 791 3523

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on
July 13, 2015

PRESENT: HON. MICHAEL F. MCGUIRE
Judge

----------x

In the Matter of a Proceeding Under Article 6
of the Family Court Act

R[redacted] L[redacted] Z[redacted], Petitioner,

-against-

T[redacted] M[redacted] Y[redacted], Respondent.

----------x

DOCKET # V-01874-12/15 B
FAMILY FILE # 13096

ORDER FOR REPORT

This matter having come on to be heard this date and all parties and counsel having appeared;

NOW, upon the Court's own motion, it is

ORDERED, that [redacted] submit a written report thereof to this Court **on or before** August 7, 2015 regarding **(the Petitioner) (the Respondent)** (R[redacted] L[redacted] Z[redacted]); and it is further

ORDERED, that the above parties shall sign any releases requested; and it is

ORDERED, that any agency or other institution receiving a copy of this order shall provide such information, assistance and cooperation as required by the provisions of the Family Court Act, §255.

Dated: 7/13/2015

ENTER

Hon. MICHAEL F. MCGUIRE
Acting Family Court Judge

[redacted]

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name	Date of Birth	Social Security Number
[redacted]	[redacted]	[redacted]
Patient Address [redacted]		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information: [redacted]

8. Name and address of person(s) or category of person to whom this information will be sent:
Sullivan County Family Court Monticello NY 12701

9(a). Specific information to be released:

- ☐ Medical Record from (insert date) _____ to (insert date) _____
- ☐ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- ☒ Other: _____

Include: (*Indicate by Initialing*)

- X **Alcohol/Drug Treatment**
- _____ **Mental Health Information**
- _____ **HIV-Related Information**

Authorization to Discuss Health Information

(b) ☐ By initialing here _____ (Initials) I authorize _____ (Name of individual health care provider)
to discuss my health information with my attorney, or a governmental agency, listed here:
_____
(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:	11. Date or event on which this authorization will expire:
☐ At request of individual ☒ Other: Hon Michael F. McGuire	Pending Completion of Case
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient: N/A

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

[redacted]
Signature of patient or representative authorized by law.

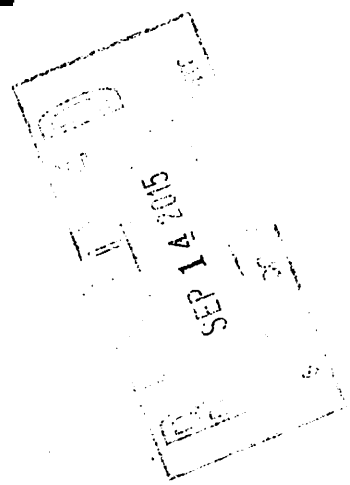
Date: 7-13-15

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

VA Hudson Valley HCS
Castle Point Campus - 41 Castle Point Rd,
Mail Stop: 136C
WAPPINGERS FALLS, 12590

DEPARTMENT OF VETERANS AFFAIRS

DATE: 9/9/2015
In Reply Refer To: 136C
SSN: [redacted]



SULLIVAN COUNTY FAMILY COURT
HON. MICHAEL F. MCGUIRE
100 NORTH STREET
MONTICELLO, NY 12701

RE: ROI Plus Request for R[redacted] L[redacted] Z[redacted]

Dear SULLIVAN COUNTY FAMILY COURT:

Please specify what records are needed.

Sincerely,

ROSA AULET - Release of Information

5

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

R[redacted] Z[redacted]
Petitioner,

- against -

T[redacted] F[redacted]
Respondent.

FF # 13096

Notice of Motion
Docket # V-1874

AUG 12 2015

Please take notice that upon the annexed affirmation of John Ferrara, Ra[redacted] will move this court located at the Government Center, Monticello, New York, on the 25th day of August, 2015 at 9:00 o'clock in the forenoon or as soon thereafter as counsel can be heard for an order pursuant to Social Services Law § 422.4 (A) (e) that Tiffany Hammett, Senior Caseworker of the Department of Family Services provide testimony and bring her notes and records to the court proceeding and for such other and further relief as this court deems just and proper.

Dated: Monticello, NY
Aug 11, 2015

John Ferrara
Attorney for Petitioner
548 Broadway
Monticello, NY 12701
845 794-1303

Scanned

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

R[redacted] Z[redacted]
Petitioner,

FF # 13096

- against -

AFFIRMATION

T[redacted] F[redacted]
Respondent.

JOHN FERRARA, duly sworn, affirms as follows:

1. I am the attorney retained/assigned to represent R[redacted] Z[redacted] in this case.

2. I make this affirmation in support of the annexed motion.

3. Today I reviewed a CPS report ordered in this case.

4. Tiffany Hammett prepared that report. From her report, I cannot tell if any of the present investigations will be indicated. However, the reports states that Ms. F[redacted] has 11 indicated reports and Mr. Z[redacted] has 2 indicated reports. What these were about is unstated. But this information seems highly relevant in a child custody case.

5. Further, the report contains statements by the child that the court may or may not find to be admissible under FCA 1046. (*Matter of Gardner v Gardner,* 69 A.D.3d 1243).

6. The report also contains information about alcohol abuse.

7. Social Services Law § 422.4 (A) (e) provides:

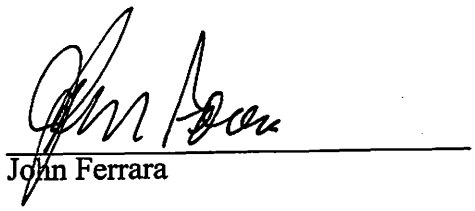
> Reports made pursuant to this title as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the department, local departments, or the commission on quality of care for the mentally disabled, shall be confidential and shall only be made available to *** a court, upon a finding that the information in the record is necessary for the determination of an issue before the court

8. We respectfully submit that all of the information contained in the report is necessary for a court to determine a custody case.

WHEREFORE, I ask that the court pursuant to Social Services Law § 422.4 (A) (e) order the Department of Family Services to make Tiffany Hammett available to testify about her investigation and to have with her all reports, notes and other documents necessary for her to refresh her recollection so

that she can testify accurately, and to grant such other further and relief as this court deems just and proper.

Dated: Monticello, NY
Aug 11, 2015



John Ferrara

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

R[redacted] Z[redacted]
Petitioner,

- against -

T[redacted] F[redacted]
Respondent.

Docket **No.**
FF # 13096

Subpoena

THE PEOPLE OF THE STATE OF NEW YORK

To: Tiffany Hammett. Senior Caseworker

We command you to attend before one of the Justices of this Court located at **The Sullivan County Government Center, Annex, Monticello, NY 12701 on the 9th day of October, 2015 at 9:00 o'clock a.m.,** and at any recessed or adjourned date to give testimony in this action on the part of R[redacted] Z[redacted] and that you bring with you and produce at that time the following items now in your custody:

1. All reports and other documentation gathered or made pertaining to all indicated reports against either R[redacted] Z[redacted] or T[redacted] F[redacted]

2. All reports and other documentation gathered or made pertaining to any pending CPS investigation against either R[redacted] Z[redacted] or T[redacted] F[redacted]

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

The information in the record is necessary for the determination to be made by this court.

Dated: Monticello, NY
Aug 11, 2015

John Ferrara
548 Broadway
Monticello, NY 12701
845 794 1303

SO ORDERED:

Hon. Michael F. McGuire
Acting Family Court Judge

8/26 Original to
John Ferrara

AFFIRMATION OF SERVICE

STATE OF NEW YORK
COUNTY OF SULLIVAN

John Ferrara, an attorney duly admitted to practice law in the State of New York, affirms under penalties of perjury the following to be true:

1. I am not a party to the action to which this affirmation of service is attached.

2. I am over 18 years of age.

3. On Aug 11, 2015, I served the attached papers, more particularly described as a motion in the case of R[redacted] Z[redacted] v. T[redacted] F[redacted] (FF 13096), by the following method:

(X) by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following at the last known address set forth after each name:

Colleen Cunningham, Esquire
DFS Attorney
Government Center
Monticello, NY 12701

KC Garn, Esquire
10 Saint John Street
Monticello, NY 12701

Patti Leibowitz, Esquire (personally)

R[redacted] Z[redacted]
[redacted]

Dated: Monticello, New York
Aug 11, 2015

John Ferrara

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

R[redacted] L[redacted] Z[redacted]

Petitioner,-

-against-

T[redacted] M[redacted] F[redacted]

Respondent.

----------x

Docket # V-1874-12/15B

Judicial Subpoena
Duces Tecum

RECEIVED
AUG 11 2015
SULLIVAN COUNTY FAMILY COURT

THE PEOPLE OF THE STATE OF NEW YORK

To: Livingston Manor CSD, 19 School Street, Livingston Manor, NY 12758

We command you to attend before one of the Justices of this Court located at **The Sullivan County Government Center, 100 North Street, Family Court, Monticello, NY 12701 on the 11th day of September, 2015 at 9:00 o'clock a.m.,** and at any recessed or adjourned date to give testimony in this action on the part of R[redacted] Z[redacted] and that you bring with you and produce at that time the following items now in your custody:

CERTIFIED COPIES of ANY and ALL RECORDS concerning E[redacted] Z[redacted] born on [redacted], including particularly her grades, attendance records, and 504 committee minutes and reports.

now in your custody, and all other deeds, evidences and writings which you have in your custody or power concerning the premises

YOU NEED **NOT** BE PRESENT

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

Dated: Monticello, NY
August 11, 2015

John Ferrara
548 Broadway
Monticello, NY 12701
845 794 1303

SO ORDERED:

Hon. Michael F. McGuire
Acting FCJ

Scanned

RECORDS CERTIFICATION

STATE OF NEW YORK

COUNTY OF SULLIVAN

I, _____
(Name) (Title)

of the [redacted], or person delegated to make this certificate, hereby certify pursuant to Rule 4518 of the Civil Practice Law and Rules that the attached record ins the full and complete school record of E[redacted] Z[redacted] born on [redacted], from September 1, 2013 to September 11, 2015; that such record was made in the ordinary course of business of this school; and that it was the regular course of business of this school to make such record at the time of the occurrence, or within a reasonable time thereafter.

Dated:

_____
(Sign and insert name)

_____
(Insert title)

Sworn to this ____ day of _____, 2015

_____
Notary Public

DELEGATION OF AUTHORITY TO CERTIFY RECORDS

STATE OF NEW YORK

COUNTY OF SULLIVAN

I, _____
(Name) (Title)

of the [redacted], and a person authorized to delegate authority to certify records as kept in the ordinary course of business of business to the [redacted].

I have authorized _____, whose signature also appears below, to make such certification in my stead.

_____ _____
(signature) (Title)

Delegate:

_____ _____
(signature) (Title)

Sworn to this ____ day of _____, 2015

_____
Notary Public

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on
July 13, 2015

PRESENT: HON. MICHAEL F. MCGUIRE
Judge

----------x

In the Matter of a Proceeding Under Article 6
of the Family Court Act

ORDER FOR REPORT
SSL § 422-4(A)(e)

R[redacted] L[redacted] Z[redacted]
Petitioner,

DOCKET # V-01874-12/15B
FAMILY FILE # 13096

-against-

T[redacted] M[redacted] T[redacted],
Respondent

----------x

The above matter having come on to be heard this day and having been adjourned, and the court having made a finding that the information in the CPS record is necessary for the determination of an issue before this Court. If the investigation is not yet complete the Sullivan County Department of Family Services shall provide this court with a current safety assessment of the household,

NOW, IT IS HEREBY

ORDERED, upon the Court's own motion, the Sullivan County Department of Family Services shall, pursuant to Social Services Law § 422-4(A)(e), provide to this Court a summary of their investigation in lieu of their records which summary should include a safety assessment of the investigation they have conducted with regard to allegations of abuse and/or neglect concerning

T[redacted] M[redacted] T[redacted]

based on the allegations as set forth in the attached petition and/or reports; and it is further

ORDERED, that the report shall be submitted to this court for in camera inspection within 30 days; and it is further

ORDERED, that this matter is scheduled on, August 10, 2015

Dated: 7/13/2015

ENTER

HON. MICHAEL F. MCGUIRE

7/17

Hotline call made by School personnel with regards to Ms [redacted] and possible intoxication. Ms Conklin is CPS Caseworker

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on
July 13.

PRESENT: HON. MICHAEL F. MCGUIRE
Judge

----------x

In the Matter of a Proceeding Under
Article(s) 6 of the Family Court Act

R[redacted] L[redacted] Z[redacted],
Petitioner

- against -

I[redacted] M[redacted] Z[redacted],
Respondent.

----------x

ORDER FOR EXAMINATION
(Drug & Alcohol)

DOCKET# V-01874-12/15 B
FAMILY FILE# 13096

ORDERED, that the above named parties ~~and~~ I[redacted] M[redacted] Z[redacted] report to the Sullivan County Department of Community Services at such times as directed for an evaluation for drug and /or alcohol abuse; and it is further

ORDERED, that the Sullivan County Department of Community Services will submit a written report thereof to this Court **on or before** August 6, 2015; and it is further

ORDERED, that the above parties shall sign any medical releases requested by the Sullivan County Department of Community Services; and it is

ORDERED, that the above named parties shall also submit to whatever tests and evaluations are requested by the Sullivan County Department of Community Services; and it is

ORDERED, that any agency or other institution receiving a copy of this order shall provide such information, assistance and cooperation as required by the provisions of the Family Court Act, §255;and it is further

( ) ORDERED, that the parties have stipulated that the report(s) prepared pursuant to this order shall be entered into evidence subject to the right of cross-examination.

Dated: 7/13/15

ENTER

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

7/17/15

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on
July 13, 2015

PRESENT: HON. MICHAEL F. MCGUIRE
Judge

----------x

In the Matter of a Proceeding Under Article 6
of the Family Court Act

R[redacted] L[redacted] Z[redacted] Petitioner,

DOCKET # V-01874-12/15 B
FAMILY FILE # 13096

-against-

I[redacted] M[redacted] T[redacted], Respondent.

ORDER FOR REPORT

----------x

This matter having come on to be heard this date and all parties and counsel having appeared;

NOW, upon the Court's own motion, it is

ORDERED, that [redacted] submit a written report thereof to this Court **on or before** August 7, 2015 regarding **(the Petitioner) (the Respondent)**(R[redacted] L[redacted] Z[redacted]); and it is further

ORDERED, that the above parties shall sign any releases requested; and it is

ORDERED, that any agency or other institution receiving a copy of this order shall provide such information, assistance and cooperation as required by the provisions of the Family Court Act, §255.

Dated: 7/13/2015

ENTER

Hon. MICHAEL F. MCGUIRE
Acting Family Court Judge

Sent 7/17/15

[redacted]

AUTHORIZATION FOR RE[illegible]ASE OF HEALTH INFORMATION PU[illegible]UANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name	Date of Birth	Social Security Number
R[redacted] Z[redacted] Z[redacted]	[redacted]	[redacted]
Patient [redacted]		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information: [redacted]

8. Name and address of person(s) or category of person to whom this information will be sent:
Sullivan County Family Court Monticello NY 12701

9(a). Specific information to be released:

- ☐ Medical Record from (insert date) _____ to (insert date) _____
- ☐ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- ☐ Other: _____

Include: (*Indicate by Initialing*)

- X **Alcohol/Drug Treatment**
- _____ **Mental Health Information**
- _____ **HIV-Related Information**

Authorization to Discuss Health Information

(b) ☐ By initialing here _____ (Initials) I authorize _____ (Name of individual health care provider) to discuss my health information with my attorney, or a governmental agency, listed here:

_____ (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:	11. Date or event on which this authorization will expire:
☐ At request of individual ☒ Other: Hon Michael F. McGuire	Pending Completion of Case
12. If not the patient, name of person signing form:	**13. Authority to sign on behalf of patient:**
	N/A

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

[redacted]
Signature of patient or representative authorized by law.

Date: 7-13-15

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01874-12/15B

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Patti Joy Leibowitz, Esq.
548 Broadway
Monticello, NY 12701
(845) 794-4607

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] Z[redacted]	[redacted]

and it is further

Ordered that Patti Joy Leibowitz, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Patti Joy Leibowitz, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Patti Joy Leibowitz, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Patti Joy Leibowitz, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Patti Joy Leibowitz, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Patti Joy Leibowitz, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	July 13, 2015 at 11:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: June 29, 2015

ENTER

Hon. Michael F. McGuire

2nd 6/30

CC: T[redacted] M[redacted] F[redacted] Respondent, R[redacted] L[redacted] Z[redacted] Petitioner

FAMILY COURT OF THE ST/ E OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01874-12/15B

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: T[redacted] M[redacted] F[redacted]
[redacted]

R[redacted] L[redacted] Z[redacted]
[redacted]

Upon the petition of R[redacted] L[redacted] Z[redacted] filed on May 28, 2015, annexed hereto, it is

ORDERED that T[redacted] M[redacted] F[redacted] show cause before this Court on

Date/Time: June 29, 2015 at 9:00 AM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Modification of Order of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon T[redacted] M[redacted] F[redacted] on or before June 24, 2015, be deemed sufficient service

Dated: June 2, 2015

ENTER

Hon. Michael F. McGuire

14/15 Sent for SW

Scanned

6/29
9:00

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation –Family or Supreme Court) [1]
3/2009

FILED
MAY 28 2015
ULSTER COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

Docket No. 13096 V-01874-12/15B

R[redacted] L Z[redacted] Petitioner,

-against-

T[redacted] F[redacted] Respondent

PETITION FOR
MODIFICATION OF ORDER OF
☒ Custody ☐ Visitation
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: father of [specify child(ren)'s name(s)]: E[redacted] [redacted] Z[redacted]
I am seeking to modify an order of [check applicable box(es)]: ☒ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2] [redacted]
Petitioner: [redacted]

Respondent: [redacted]

3. Petitioner is R[redacted] Z[redacted] and was the Petitioner in an action filed in
☐ Supreme Court of the State of New York, [redacted] County, Index No. [specify]:
☐ Family Court of the State of New York, County, Docket No. [specify]:
entitled

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]:

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

likely to affect custody or visitation, if at all]:[3]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

b. Respondent [check applicable box]:
is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[4]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

5. a. A judgment order, dated , was entered in the action directing the Respondent Petitioner to [specify terms]: Custody (Thur - Monday)

A true copy of the judgment order is attached and made a part of this Petition.

b. [Applicable where the judgment or order had been entered in conjunction with a child protective dispositional or permanency hearing order directing custody with a relative or other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:
(i) The judgment order was issued in conjunction with the following child protective or permanency proceeding [specify Family Court, county and docket #]:

(ii) The judgment order provided that the following local department of social services [specify]: Sullivan County and the following attorney for the child(ren)[specify]: S
must be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the judgment or order.

6. The names, addresses and dates of birth of all children affected by this order are:

Name	Address[5]	Date of Birth
E[redacted] Z[redacted]	[redacted]	

[3] Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

[4] Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

[5] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

7. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the judgment order, the Supreme Court has not retained exclusive jurisdiction to modify the judgment order.

8. (Upon information and belief) Since the entry of the judgment order, there has been a change of circumstances in that [specify]: pls see cont. sheet attached hereto/made part of herein

9. Because of this change of circumstances, the judgment order should be modified as follows [specify]: full custody

10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

PS is already involved

a. A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]: neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]: unfit, Safety, CPS involment Alchol abuse, abusive wife in toxicated.

d. The child's legally-established birth father has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]: since [specify date]: The foster parent(s) has/have has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]:

WHEREFORE, Petitioner respectfully requests that the judgment order of the Supreme Court Family Court, dated , be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: May 28, 2015

[redacted]

Petitioner

[redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF)

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]

Petitioner

Sworn to before me this
28th day of May, 2015

~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: 13096

Petitioner: K[redacted] Z[redacted]	Respondent: T[redacted] F[redacted]

Has Cont. of #8:

Inadequate housing currently living in a Motel with boyfriend

Current CPS involment

Violent when intoxicated. Recently Grabbed E[redacted] injured under her arm. Threw a glass bottle at ~~[illegible]~~ petioner. ~~[illegible]~~

E[redacted] states that she is afraid when she is in her mother's care.

Constantly under influence of drugs & alcohol

Lacks custody of other 4 children.

Inadquate Medical care has failed to insure Medical coverage or renew so petitioner can take to E[redacted] to doctor.

E[redacted] is afraid of boyfriend ([redacted]) he has threatned bodily harm and has hit her.

R[redacted] E[redacted], being duly sworn, says that (~~I~~)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~I~~)he believes to be true.

Sworn to before me this 28th day of May, 2015

~~(Deputy)~~ Chief Clerk of the Court
~~Notary Public~~

X [redacted]
Signature of Petitioner

At a term of the Family Court
in the State of New York, held
in and for the County of Sullivan at
Monticello, New York, on the 23th day of
October, 2012.

PRESENT : HON. MICHAEL F. McGUIRE
Acting Family Court Judge

In the Matter of a Proceeding Under
Article 6 of the Family Court Act,

R[redacted] L[redacted] Z[redacted]

Petitioner,

-against-

T[redacted] M[redacted] F[redacted]

Respondent.

DEC 20 2012

ORDER
Docket #V-01775-12
#V-01874-12,O-01773-12
FF# 13096

The above entitled matter having come on to be heard before this Court Petitioner, having appeared in person, Pro se, and the Respondent having appeared in person, Pro se, and the Lawyer for the Child, Patti J. Leibowitz, Esq. having appeared on behalf of the child and the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorney for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision; and upon agreement of the parties, and by direction of the Court, it is hereby:

ORDERED, that the parties shall share joint legal and physical custody of the child, E[redacted] Z[redacted] d.o.b. [redacted]; and it is further

ORDERED, that Petitioner shall have parenting time with the child after school on Thursdays until Monday at the start of school, or Tuesday if it is a school holiday or snow day; and it is further

ORDERED, that neither party may smoke, or consume alcohol or drugs, nor allow any third party to do so while in their homes, or around the child; and it is further;

ORDERED, that holidays and birthdays shall be alternated as follows: Thanksgiving in even years to Dad, odd years to Mom, Christmas Eve in even years to Dad, from after school on December 22nd until 10:00 pm on December 24th, then to Mom through December 26th, Mom shall have odd years, Easter in odd years to Dad, even years to Mom; and it is further

AD DUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply the following directive; which shall be deemed incorporated into any existing Ord of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number. Unless the parent has filed a request to have their address remain confidential with this Court.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

PLEASE take notice that an order which the within is a true copy will be presented for settlement to the Hon. Michael F. McGuire one of the judges of the within Court, at Monticello, New York on December 31, 2012 at 9:00 AM.

Dated, December 19 2012

Yours, etc.

Patti J. Leibowitz, Esq.
Lawyer for the Child
30 North Street
Monticello, New York 12701

To: R[redacted] L[redacted] Z[redacted]
T[redacted] M[redacted] F[redacted]

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Leibowitz)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

**COURT ORI No: NY052023J
**ORDER No. 20__ __ __ __ __ __
**DOCKET/INDEX: _____

**COURT: NYS FAMI COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☒ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

YOUS **APPLYING PARTY** (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) R[redacted] (MIDDLE) L[redacted] (LAST) Z[redacted]
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] STATE) [redacted] (ZIP) [redacted]
Phone (home): ( ) N/A | Phone (other CELL CELL): ([redacted]
Employers Name: | Phone (work): ( )
Employers Address: |Hours of Employment:
**DATE OF BIRTH: [redacted] | **SEX: ☒ MALE ☐ FEMALE | Social Security Number: [redacted]
**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5-4 | Eye Color: Green
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 190 | Hair Color: Red

HOES **ENJOINED PARTY** (Party Against Whom Order Runs)

**NAME: (FIRST) T[redacted] (MIDDLE) M[redacted] (LAST) A[redacted] | NYSID:
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) [redacted] (ZIP) [redacted]
Phone (home): ( ) N/A | Phone (other): CELL ( ) [redacted]
Employers Name: [redacted] | Phone (work): ( )
Employers Address [redacted] |Hours of Employment: 40
**DATE OF BIRTH: [redacted] **SEX: ☐ MALE ☒ FEMALE | Social Security Number:
**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5-5 | Eye Color: Blond
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 120 | Hair Color: Green

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? (If yes) why? She may be intoxicated and Prior Experiance

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on August 13, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01874-12/13A
O-01220-13

ORDER OF DISMISSAL

T[redacted] M[redacted] F[redacted]

Petitioner,

- against -

R[redacted] L[redacted] Z[redacted]

Respondent.

A petition under Article 6 of the Family Court Act, having been filed in this Court on July 11, 2013 for the following: Violation of Order of Visitation and a petition under Article 8 of the Family Court Act, having been filed in this Court on July 11, 2013 for the following: Order of Protection

And the matter having duly come on to be heard before this Court and the following having appeared: T[redacted] M[redacted] F[redacted] R[redacted] L[redacted] Z[redacted] Patti Joy Leibowitz;

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petitions are dismissed due to there being no evidence to prove a family offense and there being no evidence of a violation of the Order of Visitation; it is therefore

ORDERED that the petitions herein are dismissed with prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: August 14, 2013

ENTER

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 8-14, 2013

Christine Benson

(Deputy) Chief/Clerk of the Court

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 8-20-13 to all in cc.
☐ Order received in court on [specify date(s) and to whom given]:

CC: Patti Joy Leibowitz, Esq., Attorney for Child
R[redacted] L[redacted] Z[redacted] Respondent
T[redacted] M[redacted] F[redacted] Petitioner

Sec. 214 F.C.A.

General Form 2

AFFIDAVITS OF SERVICE

Sullivan County Family Court
Received in Court this day:
8-13-13

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan

X Courtney Kavanaugh, being duly sworn, deposes and says:

That (s)he is over the age of 18 years.

That on the 12 day of July, 2013, at Livingston Manor (address where papers were served),

County of Sullivan, State of New York (s)he served the annexed Summons (what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection) upon [redacted] (who w[redacted]) by delivering a copy to (him)(her) personally and leaving the same with (him)(her).

That (s)he knew the person so served to be the person mentioned and described in the annexed Court paper (what was served) as the Respondent (Petitioner, Respondent; Attorney, etc.) therein.

Sworn to before me this
12 day of July, 2013

Judy A. Newman
(Deputy) Clerk of the Court
Notary Public

JUDY A. NEWMAN
Notary Public, State of New York
Sullivan County, NYS Reg. # 4990486
Commission Expires January 6, 2014

Courtney Kavanaugh

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

That on the _____ day of _____, 20____ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.

That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20_____

_____
(Deputy) Clerk of the Court
Notary Public

_____

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

(Continued on Page 2)

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Family Offense** Proceeding

File #: 13096
Docket #: O-01220-13

T[redacted] M[redacted] F[redacted]

Petitioner,

- against -

R[redacted] L[redacted] Z[redacted]

Respondent.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Patti Joy Leibowitz, Esq.
30 North Street
Monticello, NY 12701
(845) 794-4607

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
A[redacted] F[redacted]	[redacted]
E[redacted] Z[redacted]	
J[redacted] Y[redacted]	
D[redacted] F[redacted]	
B[redacted] D[redacted]	

and it is further

Ordered that Patti Joy Leibowitz, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Patti Joy Leibowitz, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Patti Joy Leibowitz, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Patti Joy Leibowitz, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Patti Joy Leibowitz, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Patti Joy Leibowitz, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	August 13, 2013 at 2:00 PM
Purpose:	Inquest
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: August 2, 2013

ENTER

Hon. Michael F. McGuire

Sent stamped 8/5

CC: T[redacted] M[redacted] F[redacted], Petitioner; R[redacted] L[redacted] Z[redacted], Respondent

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 6 & 8 of the Family Court Act

I [redacted] F [redacted],
Petitioner,

-against-

R [redacted] Z [redacted],
Respondent(s).

----------x

ORDER TO SHOW CAUSE

NOTICE: **YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

Upon the petition(s) of I [redacted] F [redacted], verified the 12th day of July, 2013 annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, heldin and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 24th day of July, 2013 at 11:00 in the (after)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____ ;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 24th day of July, 2013 be deemed sufficient service.

Dated: 7-12-13.

ENTER

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

TO Pets for P/S

F.C.A.§§ 812, 818, 821

8-2 08/2010

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Family Offense** Proceeding

File #: 13096
Docket #: O-01220-13

T[redacted] M[redacted] F[redacted]

Petitioner,

- against -

R[redacted] L[redacted] Z[redacted]

Respondent.

FAMILY OFFENSE PETITION

RECEIVED
JUL 12 2013
SULLIVAN COUNTY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

I, T[redacted] M[redacted] F[redacted] receives mail at[1] [redacted], and resides at [redacted].

The Respondent, R[redacted] L[redacted] Z[redacted] receives mail at [redacted], and resides at [redacted].

The Respondent and I are related in the following way: I have a child-in-common with the Respondent.

The Respondent committed the following family offense against me and/or my children which constitutes harassment in the first or second degree.

The most recent incident was on July 10, 2013 at via phone and also in person in [redacted] NY: Please see copy of statement from Sullivan County Probation Department Intake Information sheet attached hereto and made a part of herein.

I have not filed a criminal complaint concerning this incident.

The following children live with me (including children that are not mine):

Name	Date of Birth	Relationship to Me	Relationship to Respondent
J[redacted] Y[redacted] [redacted]	[redacted]	Child	Other (Not-Related)
A[redacted] F[redacted]		Child	Other (Not-Related)
E[redacted] Z[redacted]		Child	Child

[1] If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. *See* Family Court Act § 154-b.

SULLIVAN COUNTY PROBATION DEPARTMENT
INTAKE INFO-FAMILY OFFENSE ARTICLE 8 FCA

NATURE OF COMPLAINT:

The complainant has been receiving messages from the respondent on her phone saying she is a drug addict, alcoholic, whore and slut. She also claims when she walks through town, he harasses her. On 7/10/13 he asked her when she is going to do something about her face. She said he is also drinking alcohol in the presence of their daughter and he isn't supposed to be. She believes he may be smoking marijuana as well. There is a history of physical abuse. He is not returning her daughter as ordered after visits either. She is seeking an order of protection for herself and her daughter. The respondent's actions constitute Harrassment 2nd.

AD DUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply the following directive; which shall be deemed incorporated into any existing Ord of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number. Unless the parent has filed a request to have their address remain confidential with this Court.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

NOTICE: **YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Leibowitz)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

**COURT ORI No: NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Yours

APPLYING PARTY (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) [redacted] (MIDDLE) M[redacted] (LAST) F[redacted]
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) [redacted] (ZIP) [redacted]
Phone (home): ( ) | Phone (other [redacted]): ( )

Employers Name: | Phone (work): ( )

Employers Address: |Hours of Employment:

**DATE OF BIRTH: [redacted] **SEX: ☐ MALE ☒ FEMALE | Social Security Number: [redacted]

**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5'3 | Eye Color: Hazel

**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 115 | Hair Color: Blond

His

ENJOINED PARTY (Party Against Whom Order Runs)

**NAME: (FIRST) R[redacted] (MIDDLE) L[redacted] (LAST) Z[redacted] | NYSID:
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) [redacted] (ZIP) [redacted]
Phone (home): ( ) | Phone (other): [redacted]

Employers Name: [redacted] | Phone (work): [redacted]

Employers Address [redacted] |Hours of Employment: 8 hours

**DATE OF BIRTH [redacted] **SEX: ☒ MALE ☐ FEMALE | Social Security Number:

**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5'4 | Eye Color: [illegible]

**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: 190 | Hair Color: red

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? If yes, why?

SULLIVAN COUNTY PROBATION DEPARTMENT
INTAKE INFO-FAMILY OFFENSE ARTICLE 8 FCA

DATE: 7/11/13 OFFICER: Sigelakis CASE: IO-14326
REFERRED BY: SCSD
COMPLAINANT: T[redacted] A[redacted] PHONE: [redacted]
ADDRESS: [redacted] ADDRESS CONFIDENTIAL: ___YES ___NO

****

RESPONDENT: R[redacted] 7[redacted] D.O.B. [redacted]
ADDRESS: [redacted] PHONE: [redacted]

****

CHILDREN	D.O.B.	ADDRESS
E[redacted]	[redacted]	[redacted]

****

Date of Marriage: n/a Place of Marriage: _____
Residing Together: no
Physically Separated: n/a Date: _____
Legally Separated: n/a Date: _____
Divorced: n/a Date: _____
Never married with children in common: ✓ Yes ___ No
Intimate Relationship: ___ Yes ✓ No
Other family relationship: n/a
Respondent in possession of firearms: ___ Yes ✓ No ___ Unknown
Is reconciliation desired: ___ Yes ✓ No

****

NATURE OF COMPLAINT:

The complainant has been receiving messages from the respondent on her phone saying she is a drug addict, alcoholic, whore and slut. She also claims when she walks through town, he harasses her. On 7/10/13 he asked her when she is going to do something about her face. She said he is also drinking alcohol in the presence of their daughter and he isn't supposed to be. She believes he may be smoking marijuana as well. There is a history of physical abuse. He is not returning her daughter as ordered after visits either. She is seeking an order of protection for herself and her daughter. The respondent's actions constitute Harrassment 2nd.

No previous application for the relief sought by this petition has been made to Criminal Court.
___ Yes ✓ No (If "yes," explain):
Complainant advised of alternative proceedings: ✓ Yes ___ No
✓ Complainant insists upon access to Family Court
Officer's Comments: _____

Rev: 4/09 (For summary, use separate page)

At a term of the Family Court
in the State of New York, held
in and for the County of Sullivan at
Monticello, New York, on the 23th day of
October, 2012.

PRESENT : HON. MICHAEL F. McGUIRE
Acting Family Court Judge

In the Matter of a Proceeding Under
Article 6 of the Family Court Act,

R[redacted] L[redacted] Z[redacted]

Petitioner,

-against-

T[redacted] M[redacted] F[redacted]

Respondent.

DEC 20 2012

ORDER
Docket #V-01775-12
#V-01874-12,O-01773-12
FF# 13096

The above entitled matter having come on to be heard before this Court Petitioner, having appeared in person, Pro se, and the Respondent having appeared in person, Pro se, and the Lawyer for the Child, Patti J. Leibowitz, Esq. having appeared on behalf of the child and the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorney for the child and/or the self-represented parties; and the Court having considered and relied upon the results of these searches in making this decision; and upon agreement of the parties, and by direction of the Court, it is hereby:

ORDERED, that the parties shall share joint legal and physical custody of the child, E[redacted] Z[redacted] d.o.b. [redacted]; and it is further

ORDERED, that Petitioner shall have parenting time with the child after school on Thursdays until Monday at the start of school, or Tuesday if it is a school holiday or snow day; and it is further

ORDERED, that neither party may smoke, or consume alcohol or drugs, nor allow any third party to do so while in their homes, or around the child; and it is further;

ORDERED, that holidays and birthdays shall be alternated as follows: Thanksgiving in even years to Dad, odd years to Mom, Christmas Eve in even years to Dad, from after school on December 22nd until 10:00 pm on December 24th, then to Mom through December 26th, Mom shall have odd years, Easter in odd years to Dad, even years to Mom; and it is further

ORDERED, that there be such other, further, and different parenting time as the parties may agree; and it is further

ORDERED, that the parties shall abide by the attached "CHILDREN'S BILL OF RIGHTS"; and it is further

ORDERED, that the Family Offense Petition is withdrawn and dismissed and any orders vacated.

Dated: ~~December~~ JAN 14, ~~2012~~ 2013
Monticello, NY

ENTER

HON. MICHAEL F. McGUIRE
ACTING FAMILY COURT JUDGE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on January 18, 2013

~~(Deputy)~~ Chief/Clerk of the Court

10-23-12

AD NDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply the following directive; which shall be deemed incorporated into any existing Ord of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number. Unless the parent has filed a request to have their address remain confidential with this Court.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

PLEASE take notice that an order which the within is a true copy will be presented for settlement to the Hon. Michael F. McGuire one of the judges of the within Court, at Monticello, New York on December 31, 2012 at 9:00 AM.

Dated, December 19 2012

Yours, etc.

Patti J. Leibowitz, Esq.
Lawyer for the Child
30 North Street
Monticello, New York 12701

To: R[redacted] L[redacted] Z[redacted]
T[redacted] M[redacted] F[redacted]

NOTICE: **YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Leibowitz)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

Inclis Dotts to D. Leibowitz, Esq.

FAMILY PROTECTION REGISTRY
ADDENDUM TO INFORMATION SHEET

Use this form for Vacates, Dismissals, Sealed, Extensions, Violations, Warrants and Service.
A copy of the original order of protection is not required.
******* ASTERISKED AREAS ARE REQUIRED *******
DO NOT use this form for Modification or Finalization of Orders of Protection

ORIGINAL ORDER INFORMATION

**COURT ORI No: NY0 52023J **COURT: NYS FAMILY COURT
**ORDER NO: 2012-000301 **COUNTY: SULLIVAN
**DOCKET NO: O-1773-12
Court Contact: Name Christina Benson
**Enjoined Party's Name: T[redacted] F[redacted]
Telephone # 845-807-0650
**Applying Party's Name: R[redacted] 2[redacted]
Law Enforcement Agency at which Copy of Order is Filed:
**NAME: Sullivan County Sheriff's Department **POLICE ORI: NY0520000

☐ **ORDER SERVED** Service Date: _____ Time: _____
☒ **ORDER VACATED** Date: 10-23-12
☒ **CASE DISMISSED** Date: 10-23-12
☐ **CASE SEALED** Date: _____

☐ ORDER EXTENDED

** Date of Extension: _____ ** Judge: _____
** New Expiration Date: _____

** **SERVICE OF EXTENDED ORDER:**

☐ Police to Serve Order ☐ Other
☐ Order Served in Court (Date: _____ Time: _____)
☐ Notification by Mail (Mail Date: _____) ☐ Order Previously Served: (Date: _____)
(No new service to be done.)

☐ VIOLATION

** Date of Filing: _____ **Judge: _____
** Date of Disposition: _____
** Disposition:: ☐ a. Dismissed ☐ b. Resentence ☐ c. Convicted ☐ d. New OP
☐ Gun License Revoked

☐ WARRANT

** Issue Date: _____ ** Name: _____
☐ Warrant Executed: (date: _____)
☐ Return on Warrant: (date: _____)
☐ Warrant Vacated: (date: _____)

rev. 4/5/11
Q:/FORMS

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01775-12
V-01874-12
O-01773-12

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Patti Joy Leibowitz, Esq.
30 North Street
Monticello, NY 12701
(845) 794-4607

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] Z[redacted]	[redacted]

and it is further

Ordered that Patti Joy Leibowitz, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Patti Joy Leibowitz, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Patti Joy Leibowitz, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Patti Joy Leibowitz, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Patti Joy Leibowitz, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Patti Joy Leibowitz, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time: October 23, 2012 at 1:30 PM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

Dated: October 3, 2012

ENTER

Hon. Michael F. McGuire

CC: T[redacted] M[redacted] F[redacted] Respondent
R[redacted] L[redacted] Z[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY PROTECTION REGISTRY
ADDENDUM TO INFORMATION SHEET

Use this form for Vacates, Dismisses, Seals, Extensions, Violations, Warrants and Service.
A copy of the original order of protection is not required.

******ASTERISKED AREAS ARE REQUIRED *****

ORIGINAL ORDER INFORMATION:

**COURT ORI No: NY052023J ___ J **COURT: NYS FAMILY COURT
**ORDER NO: 2012-000276 **COUNTY: SULLIVAN
**DOCKET/INDEX NO: O-01773-12 Court Contact: Name Christina Benson
**Enjoined Party's Name: T[redacted] M[redacted] F[redacted] Tel: (845) 807-0650
**Applying Party's Name: R[redacted] L[redacted] C[redacted]
Law Enforcement Agency at which Copy of Order is Filed:
**NAME: Sullivan County Sheriff's Dept **POLICE ORI: NY 0520000

☐ ORDER SERVED Service Date: _____ Time: _____
☒ ORDER VACATED Date: 10/3/12 Judge: McGuire
☐ CASE DISMISSED * Date: _____ Judge: _____
☐ CASE SEALED * Date: _____ Judge: _____

☐ ORDER EXTENDED

**Date of Extension: _____ **Judge: _____
**New expiration date: _____

**SERVICE OF EXTENDED ORDER:

☐ Police to Serve Order ☐ Other (later service)
☐ Order served in Court (Date: _____ Time: _____
☐ Notification by Mail (Mail date: _____) ☐ Order Previously Served (Date: _____)
(no new service to be done)

☐ VIOLATION

**Date of Filing: _____ **Judge: _____
**Date of Disposition: _____

**Disposition:
☐ Dismissed ☐ Resentence ☐ Convicted ☐ New OP
☐ Gun license revoked

☐ WARRANT

**Issue Date: _____ **Name: _____
☐ Warrant Executed (date: _____)
☐ Return on Warrant (date: _____)
☐ Warrant Vacated (date: _____)

Revised 7/2005

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on October 3, 2012

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 13096
Docket #: V-01775-12

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on September 18, 2012 for the following: Custody;

And the matter having duly come on to be heard before this Court and the following having appeared: R[redacted] L[redacted] Za[redacted] T[redacted] M[redacted] Fi[redacted]

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to withdrawal of petition; it is therefore

ORDERED that the petition herein is dismissed.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: October 3, 2012

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:
☒ Order received in court on [specify date(s) and to whom given]: 10/3/12

CC: T[redacted] M[redacted] F[redacted] Respondent
R[redacted] L[redacted] Z[redacted] Petitioner

ORDERED, that there be such other, further, and different parenting time as the parties may agree; and it is further

ORDERED, that the parties shall abide by the attached "CHILDREN'S BILL OF RIGHTS"; and it is further

ORDERED, that the Family Offense Petition is withdrawn and dismissed and any orders vacated.

Dated: ~~December 14, 2012~~ JAN 7 2013
Monticello, NY

ENTER

HON. MICHAEL F. McGUIRE
ACTING FAMILY COURT JUDGE

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on January 18, 2013

~~(Deputy)~~ Chief/Clerk of the Court

F.C.A §§ 430, 550, 655, 828, 1029

ORI No: NY052023J
Order No: 2012-000301
NYSID No: _____

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center 100 North St., Monticello, NY 12701, on October 03, 2012

PRESENT: Honorable Michael F. McGuire

In the Matter of a FAMILY OFFENSE Proceeding

File # 13096
Docket# O-01773-12

R[redacted] L[redacted] Z[redacted] (DOB: [redacted]),
Petitioner,

- against -

T[redacted] M[redacted] F[redacted] (DOB [redacted]),
Respondent.

Modified
Temporary Order Of Protection

Both parties present in court

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

A petition under Article 8 of the Family Court Act, having been filed on September 17, 2012 in this Court and good cause having been shown, and T[redacted] M[redacted] F[redacted] having been present in Court and advised of the issuance and contents of this Order,

NOW, THEREFORE, IT IS HEREBY ORDERED that T[redacted] M[redacted] F[redacted] (DOB: [redacted]) observe the following conditions of behavior:

[01] Stay away from:

[A] R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);
[B] the home of R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);
[E] the place of employment of R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);

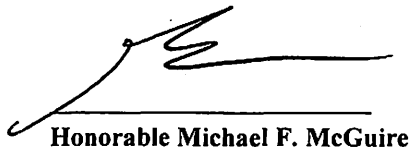
[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with R[redacted] L[redacted] Z[redacted] (DOB: [redacted] except for the purpose of the parties arranging for visitation and to allow for communication with regard to the health, safety and well being of the child(ren);

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense against R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);

[05] Permit R[redacted] L[redacted] Z[redacted] (DOB [redacted]), entitled by a court order, separation or other written agreement, to visit with E[redacted] Z[redacted] (DOB: [redacted]) during the following periods of time: R[redacted] Z[redacted] shall have visitation with the minor child, E[redacted] Za[redacted] dob [redacted] every Thursday from after school until Monday morning. Petitioner will pick the child up after school on Thursdays and return the child to school on Friday and Monday, under the following terms and conditions: as outlined within this Order;

It is further ordered that this temporary order of protection shall remain in force until and including December 28, 2012; but if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

Dated: October 03, 2012 **ENTER**



Honorable Michael F. McGuire

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess, or transfer a handgun, rifle, shotgun, or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check Applicable Box(es):

[X] Party against whom order was issued was advised in Court of issuance and contents of Order

[X] Order personally served in Court upon party against whom order was issued 10/2/12 Pula

[ ] Service directed by other means [specify]: _____

[ ] [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]: _____

[ ] Warrant issued for party against whom order was issued [specify date]: _____

[ ] ADDITIONAL SERVICE INFORMATION [specify]: _____

CC: Sullivan County-SD-Monticello —Nawk 10/2/12

R[redacted] L[redacted] Z[redacted] (Petr)

T[redacted] M[redacted] F[redacted] (Resp)

FCA §§ 467, 549, 651, 652, 654, DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

AMENDED

RECEIVED
OCT - 2 2012
SULLIVAN COUNTY FAMILY COURT

Docket No. V-01874-12
PETITION
☒ CUSTODY
☒ VISITATION

[redacted] Petitioner

-against-

[redacted] Respondent

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

2. a. Respondent [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic [redacted]

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

Relations Law §254]: x

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: x mother

c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[3]

☐ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 3. [Delete if inapplicable]: An order was issued by Court, County, State of , referring the issue of ☐custody ☐ visitation to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Address	Date of Birth
x [redacted]	[redacted]	[redacted]

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
x [redacted]	[redacted]	2008-Present	[redacted]	[redacted]
[redacted]	x [redacted]	x 2007-2008	[redacted]	[redacted]

x6. [Check applicable box(es). Delete inapplicable provisions]:

a. ☑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:

[redacted]

☐ The father was married to the child(ren)'s mother at the time of the conception or birth.

☐ An order of filiation was made on [specify date and court and attach true copy]:

☐ An acknowledgment of paternity was signed on [specify date]: by [specify who signed and attach a true copy]:

☐ The father is deceased. UPON BIRTH AT CRMC, Harris, NY

[redacted]

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition..

OMIT 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

8. [Delete if inapplicable]: Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[4]
If so, specify type of case, capacity of participation, court, location and status of case.

X 9. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

OMIT 10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

X 11. ☐ Petitioner ☒ Respondent obtained custody of the child(ren) on [specify date]: , as follows: X CHILD LIVED WITH BOTH PARTIES FROM ~~AT~~ BIRTH UNTIL APPROXIMATELY 2007 AT WHICH TIME SHE WENT TO LIVE WITH HER MOTHER.

OMIT 12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The

4 If litigation occurred in Native-American tribunal, so indicate.

permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s)

☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

13. It would be in the best interests of the child(ren) to have custody visitation awarded to the Petitioner for the following reasons: X The child is constantly unkept, is influenace By the drinking smoking drug Abuse of By Respondant

14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): X against Respondent against me in the following criminal,

matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]: Sullivan County Family Court issued today's date.

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

OMIT 15. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

16. The subject child(ren) are X are not Native-American child(ren) subject to the Indian

Supplemental Page for All Petitions: FF: 13096

Petitioner: [redacted] Respondent: [redacted]

[redacted] is refusing to let me be with my child
To talk to my child [redacted] has told children not look or speak to
To hold my child To me Has told them Quote (go fuck yourself
To check on her welfare this From my 5 year old)!!

She is housing a man in the home being furnished to her by Sec 8
he's not supposed to be there he is not allowed to see his
own grandchildren but is living in the household supplied by
the state with my child

[redacted] left this man in charge of two minor children age
5 + 8 during a state of emergency the firemen evacuated
all resesedents from a 2 mile stretch of cresting water
I called the house nobody answered I called the grand
Mother she told me no body was answering the home phone
when I whent 2 hr's later the water was coming over
the bridge Leaving them helpless from emergancy help
I Knocked on the door he was intoxicated when I asked
him what the hell was on his mind he couldn't answer
only Ting not here tum not here I took children
screaming and scared to thier Grand mother's home
were they were safe house was flooded Bridge demolished
still is. They drink drug smoke cig around my child.
all other children have been taken away. Brother family.

[redacted], being duly sworn, says that (~~s~~)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/~~her~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes to be true.

Sworn to before me this 2nd day
of October, 2012

(Deputy) Chief Clerk of the Court
~~Notary Public~~

X [redacted]
Signature of Petitioner

Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding custody ☐ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated:

[redacted]
Petitioner

R[redacted] L[redacted] Z[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF)

R[redacted] L. Z[redacted]
being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

Sworn to before me this 2nd day of October, 2012

(Deputy) Clerk of the Court
Notary Public

Petitioner [redacted]

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 8 of the Family Court Act

R[redacted] [redacted], Petitioner,

-against-

[redacted] [redacted], Respondent(s).

----------x

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of R[redacted] [redacted], verified the 18th day of September, 2012, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 15th day of October, 2012 at 10:00 in the (~~after~~)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that ~~_____~~;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 5th day of October, 2012 be deemed sufficient service.

Dated: 9/18/12

ENTER

HON. MICHAEL F. McGUIRE
(Acting) Family Court Judge

F.C.A §§ 430, 550, 655, 828, 1029

ORI No: NY052023J
Order No: 2012-000276
NYSID No: _____

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center 100 North St., Monticello, NY 12701, on September 18, 2012

PRESENT: Honorable Michael F. McGuire

In the Matter of a FAMILY OFFENSE Proceeding

File # 13096
Docket# O-01773-12

R[redacted] L[redacted] Z[redacted] (DOB: [redacted]),
Petitioner,

- against -

T[redacted] M[redacted] F[redacted] (DOB: [redacted]),
Respondent.

Temporary Order Of Protection

Ex Parte

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

A petition under Article 8 of the Family Court Act, having been filed on September 17, 2012 in this Court and good cause having been shown, and T[redacted] M[redacted] F[redacted] having not been present in Court,

NOW, THEREFORE, IT IS HEREBY ORDERED that T[redacted] M[redacted] F[redacted] (DOB: [redacted]) observe the following conditions of behavior:

[01] Stay away from:
- [A] R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);
- [B] the home of R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);
- [E] the place of employment of R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);

[14] Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with R[redacted] L[redacted] Z[redacted] (DOB: [redacted]) except for the purpose of the parties arranging for visitation and to allow for communication with regard to the health, safety and well being of the child(ren);

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats or any criminal offense against R[redacted] L[redacted] Z[redacted] (DOB: [redacted]);

It is further ordered that this temporary order of protection shall remain in force until and including December 26, 2012; but if you fail to appear in court on this date, the order may be extended and continue in effect until a new date set by the Court.

Dated: September 18, 2012 **ENTER**

Honorable Michael F. McGuire

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess, or transfer a handgun, rifle, shotgun, or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Next Appearance Date: 10/15/2012 at 10:00 AM - Honorable Michael F. McGuire, Part 2

Check Applicable Box(es):

[ ] Party against whom order was issued was advised in Court of issuance and contents of Order

[ ] Order personally served in Court upon party against whom order was issued

[X] Service directed by Police Service

[ ] [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]:_____

[ ] Warrant issued for party against whom order was issued [specify date]:_____

[ ] ADDITIONAL SERVICE INFORMATION [specify]:_____

CC: Sullivan County-SD-Monticello
R[redacted] L[redacted] Z[redacted] (Petr)
T[redacted] M[redacted] F[redacted] (Resp)

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Family Offense** Proceeding

File #: 13096
Docket #: O-01773-12

R[redacted] L[redacted] Z[redacted]

Petitioner,

- against -

T[redacted] M[redacted] F[redacted]

Respondent.

FAMILY OFFENSE PETITION

RECEIVED
SEP 18 2012
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

I, R[redacted] L[redacted] Z[redacted] reside at[1] [redacted].

The Respondent, T[redacted] M[redacted] F[redacted] receives mail at [redacted] and resides at [redacted].

The Respondent and I are related in the following way: I have a child-in-common with the Respondent.

The Respondent committed the following family offenses against me and/or my children which constitute aggravated harassment in the second degree, harassment in the first or second degree, and disorderly conduct.

The most recent incident was on September 17, 2012 at via telephone and at Petitioner's place of employment: Please see copy of statement from Sullivan County Probation Department Intake Information Sheet attached hereto and made a part of herein.

I have not filed a criminal complaint concerning these incidents.

There are NO children living with me.

The following children are mine but do not live with me:

Name	Date of Birth	Lives With	Child's Relationship to Respondent
E[redacted] Z[redacted]	[redacted]	T[redacted] M[redacted] F[redacted]	Child

[1] If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. *See* Family Court Act § 154-b.

SULLIVAN COUNTY PROBATION DEPARTMENT
INTAKE INFO-FAMILY OFFENSE ARTICLE 8 FCA

Description of the Offense: On 09/17/2012 at approximately 1:30 in the hamlet of [redacted] the respondent has been making numerous phone calls demanding money even though she receives weekly child support payments. The respondent has also called his employer trying to get him fired. She came to his place of business yelling and screaming. She screams obscenities at him whenever she sees him. The respondent today came into the shop he works at and struck him on the left side of her face, grabbed his arm to pull him down and she was punching him. As she was calling the police she went screaming down the road. The complainant reports there has been a long history of issues between them. The complainant is requesting an Order of Protection for himself to have no contact with her, to keep her away from his place of business. The complainant is also afraid for the safety of his daughter E[redacted] as the respondent and her boyfriend are alcohol and drug users and the child is a witness to constant arguing between the two. The complainant would like an order of protection on behalf of his daughter as well directing she not witness the violence in the home. The acts constitute Harassment 2nd PL 240.26 and Aggravated Harassment 2nd 240.30 A Misd, and Disorderly Conduct PL 240.20

No previous application for the relief sought by this petition has been made to Criminal Court. _____YES ____No (If "yes", explain:

XX Petitioner/Complainant given information notice
XX Complainant insists upon access to the court

Revised: 01/2012

The Respondent has acted in a way which I consider dangerous or threatening to me, my children or members of my family, in addition to the incident described in above, as follows: Petitioner states that the Respondent has been verbally and physically abusive towards him in the past, and that these are continuing conditions of behavior for the Respondent towards him. Petitioner further states that the Respondent has other people verbally threatening to harm him as well.

There is a substantial risk that Respondent would use or threaten to use a firearm or dangerous instrument or object against me, my child(ren) or members of my household on the basis of the following facts and for the following reasons: Petitioner states that he is unsure of this, due to the Respondent's behavior and actions towards him.

The Respondent ha s the following criminal convictions: Petitioner states that to his knowledge, the Respondent has numerous arrests in Sullivan County including assaults and harassment.

I have not made any previous application to any court or judge for the relief requested in this petition.

WHEREFORE, Petitioner respectfully requests this Court to:

- adjudge the Respondent to have committed the family offenses alleged;
- enter an order of protection, specifying conditions of behavior to be observed by the Respondent in accordance with Section 842 of the Family Court Act:
  - Petitioner is requesting a full stay-away order of protection, only allowing contact regarding their child. Petitioner is also requesting that the Respondent not contact him at his place of employment.;
- order such other and further relief as the Court deems just and proper.

Dated: September 17, 2012

R[redacted] L[redacted] Z[redacted], Petitioner

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF SULLIVAN)

R[redacted] L[redacted] Z[redacted] being duly sworn, says that he/she is the Petitioner in the above-named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters stated to be alleged on information and belief and as to those matters he/she believes them to be true.

[redacted]

R[redacted] L[redacted] Z[redacted], Petitioner

Sworn to before me on
September 17, 2012

Deputy Chief Clerk or Designee
Notary Public

COURT ORI No: **NY052023J
**ORDER No. 20_____
**DOCKET/INDEX: _____

**COURT: NYS FAMILY COURT
**COUNTY: SULLIVAN
**DATE OF ISSUANCE: _____
**EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☐ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order ☐ Other
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Yours **APPLYING PARTY** (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) K[redacted] (MIDDLE) L[redacted] (LAST) Z[redacted]
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☑ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☑ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): ( ) | Phone (other _____): ( )

Employers Name: [redacted] Phone (work): [redacted]
Employers Address [redacted] |Hours of Employment:

**DATE OF BIRTH: [redacted] | **SEX: ☑ MALE ☐ FEMALE | Social Security Number: [redacted]

**RACE: ☑ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN | Height: 5.6 | Eye Color: Green
**ETHNICITY (select one): ☐ HISPANIC ☑ NON-HISPANIC | Weight: 190 | Hair Color: Red

Her **ENJOINED PARTY** (Party Against Whom Order Runs)

**NAME: (FIRST) T[redacted] (MIDDLE) (LAST) Z[redacted] | NYSID:
Alias or Nickname: (First) (Last)

**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan
**STREET ADDRESS: *(if different from mailing address)* [redacted]
(CITY) [redacted] (STATE) NY (ZIP) [redacted]
Phone (home): [redacted] | Phone (other): _____)

Employers Name: None | Phone (work): ( )
Employers Address: |Hours of Employment:

**DATE OF BIRTH: | **SEX: ☐ MALE ☑ FEMALE | Social Security Number:

**RACE: ☐ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN |Height: | Eye Color:
**ETHNICITY (select one): ☐ HISPANIC ☐ NON-HISPANIC | Weight: | Hair Color:

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? If yes, why?

SULLIVAN COUNTY PROBATION DEPARTMENT
INTAKE INFO-FAMILY OFFENSE ARTICLE 8 FCA

DATE: 09/172012 OFFICER: Barbara J. Martin CASE: IO-14196
REFERRED BY: NYSP Joseph Decker
COMPLAINANT: R[redacted] L[redacted] Z[redacted] PHONE: [redacted]
RESIDENCE: [redacted]
Address or phone number confidential ? YES XX NO
Mailing Address: [redacted]
****

RESPONDENT: T[redacted] F[redacted] D.O.B.: [redacted]
RESIDENCE: [redacted]
Mailing Address: [redacted]
PHONE: [redacted] CELL PHONE: ____
EMPLOYER: Unemployed

CHILDREN	DOB	ADDRESS:
E[redacted] Z[redacted]	[redacted]	with respondent

****

Relationship by consanguinity: ___
Date of Marriage: _____ Place of Marriage: _____
Physically Separated: _____ Date: _____
Legally Separated: _____ Date: _____
Divorced _____ Date: _____
Never married with child in common XX Yes ___ No
Intimate Relationship: ___ Yes ___ No
Respondent in possession of firearms: ___ Yes XX No ___ Unknown
Any dogs in the residence XX Yes ___ No ___ Unknown
Is the respondent a police officer or peace officer ? NO
****

Description of the Offense: On 09/17/2012 at approximately 1:30 in the hamlet of [redacted] the respondent has been making numerous phone calls demanding money even though she receives weekly child support payments. The respondent has also called his employer trying to get him fired. She came to his place of business yelling and screaming. She screams obscenities at him whenever she sees him. The respondent today came into the shop he works at and struck him on the left side of her face, grabbed his arm to pull him down and she was punching him. As she was calling the police she went screaming down the road. The complainant reports there has been a long history of issues between them. The complainant is requesting an Order of Protection for himself to have no contact with her, to keep her away from his place of business. The complainant is also afraid for the safety of his daughter E[redacted] as the respondent and her boyfriend are alcohol and drug users and the child is a witness to constant arguing between the two. The complainant would like an order of protection on behalf of his daughter as well directing she not witness the violence in the home. The acts constitute Harassment 2nd PL 240.26 and Aggravated Harassment 2nd 240.30 A Misd, and Disorderly Conduct PL 240.20

No previous application for the relief sought by this petition has been made to Criminal Court. _____ YES ___ No (If "yes", explain:

XX Petitioner/Complainant given information notice
XX Complainant insists upon access to the court

FCA §§ 467, 549, 651, 652, 653, DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

[redacted] Petitioner

-against-

[redacted] Respondent

RECEIVED SEP 18 2012 SULLIVAN COUNTY

13096

Docket No. V-01775-12
PETITION
☒ CUSTODY
☐ VISITATION

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

2. a. Respondent [redacted], [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic [redacted]

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

Relations Law §254]: x

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: x mother

c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 3. [Delete if inapplicable]: An order was issued by Court, County, State of , referring the issue of ❑custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Address	Date of Birth
x [redacted]	[redacted]	[redacted]

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
x [redacted]	[redacted]	2008-Present	[redacted]	[redacted]
x [redacted]	[redacted]	x 2007-2008	x [redacted]	
			x [redacted]	

x6. [Check applicable box(es). Delete inapplicable provisions]:

a. ☑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: [redacted]

☐ The father was married to the child(ren)'s mother at the time of the conception or birth.

☐ An order of filiation was made on [specify date and court and attach true copy]:

☐ An acknowledgment of paternity was signed on [specify date]: by [specify who signed and attach a true copy]: UPON BIRTH AT CRMC, Harris, NY

☐ The father is deceased.

[redacted]

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition..

OMIT 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

8. [Delete if inapplicable]: Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[4]
If so, specify type of case, capacity of participation, court, location and status of case.

X 9. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

OMIT 10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

X 11. ☐ Petitioner ☒ Respondent obtained custody of the child(ren) on [specify date]: , as follows: X ~~at~~ Birth CHILD LIVED WITH BOTH PARTIES FROM UNTIL APPROXIMATELY 2007 AT WHICH TIME SHE WENT TO LIVE WITH HER MOTHER.

OMIT 12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The

4 If litigation occurred in Native-American tribunal, so indicate.

permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s)

☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

13. It would be in the best interests of the child(ren) to have custody visitation awarded to the Petitioner for the following reasons: X The child is constantly unkept, is influenace by the drinking smoking drug Abuse of By Respondant

14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): X against Respondent against me in the following criminal,

matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]: Sullivan County Family Court issued today's date.

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

OMIT 15. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

16. The subject child(ren) are X are not Native-American child(ren) subject to the Indian

Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding custody ☐ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: September 18, 2012

[redacted]
Petitioner

R[redacted] L[redacted] Z[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF)

R[redacted] L. E[redacted]
being ~~duly~~ sworn, says that (~~s~~)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)~~(her)~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it ~~to be~~ true.

[redacted]
Petitioner

Sworn to before me this
18th ~~day of~~ September, 2012

(~~D~~eputy) Clerk of the Court
~~Notary~~ Public

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 3, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

R[redacted] Z[redacted] v. T[redacted] M[redacted] F[redacted]
Family File # 13096
Date of recording - October 3, 2012
10:03 - 10:16

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19
Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex III-2
PENGAD 800-631-6989

Hon. Michael McGuire

FF#
13096

10/3/12

10:03 ~ 10:16

MAM-A 700MB INKJET

Z[redacted] v. F[redacted]

EXHIBIT
Comm
Ex III-2

PENGAD 800-631-6989

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

Z[redacted] v. F[redacted]

October 3, 2012
10:03 A.M.

PENGAD 800-631-6989
EXHIBIT
comm
EX III-2a

1 JUDGE MCGUIRE: Calling cases one through
2 three, the *Matters of Z*[redacted] *and F*[redacted] You can be
3 seated. Note for the record the appearance of Mr. Z[redacted]
4 and Ms. F[redacted] All right. Now, previously, Ms. F[redacted]
5 acknowledged that she received three petitions: two seeking
6 custody of E[redacted], and the third, a family offense
7 petition. Ms. F[redacted] you have the right to be represented by
8 an attorney at every stage of these proceedings. You have a
9 right to an adjournment of today's proceedings in order to
10 speak with an attorney. If you cannot afford an attorney and
11 you qualify, I can assign an attorney to represent you free of
12 charge. Now, Ms. F[redacted] would you like to be represented
13 by an attorney?
14 MS. F[redacted] Yes.
15 JUDGE MCGUIRE: All right. Have you ever been
16 represented by an attorney in Sullivan County before?
17 MS. F[redacted] Yes.
18 JUDGE MCGUIRE: Who?
19 MS. F[redacted] A Clyde Roll-- a Clyde Roller was my
20 lawyer.
21 JUDGE MCGUIRE: Who?
22 MS. F[redacted] Clyde Roller.
23 JUDGE MCGUIRE: Glenn Kroll?
24 MS. F[redacted] Yeah, Kroll.
25 JUDGE MCGUIRE: Okay, all right. And Mr.

1 Z[redacted] you've been represented by an attorney in the
2 county?
3 MR. Z[redacted] No.
4 JUDGE MCGUIRE: You have not? All right. And
5 Mr. Z[redacted] you understand the right to counsel?
6 MR. Z[redacted] Yes, sir.
7 JUDGE MCGUIRE: And do you wish to be
8 represented by an attorney?
9 MR. Z[redacted] I believe so, yes.
10 JUDGE MCGUIRE: All right. So, Ms. F[redacted] I'm
11 going to provide you with a financial disclosure affidavit.
12 You're going to fill that out completely, attach a copy of
13 your most recent tax return, a representative paystub, and
14 bring that to the Sullivan Legal Aid Panel located at 11
15 Bank Street. That's on the corner opposite the jail and the
16 main courthouse.
17 MS. F[redacted] What's this--
18 JUDGE MCGUIRE: Do you know where that is?
19 MS. F[redacted] --What's this for?
20 JUDGE MCGUIRE: That's for your attorney.
21 MS. F[redacted] I thought you're going to represent me,
22 an attorney.
23 JUDGE MCGUIRE: Well, I can't represent you.
24 MS. F[redacted] A lawyer?
25 JUDGE MCGUIRE: Yeah.

1 MS. F[redacted] I have to pay for a lawyer? I don't
2 have the money to pay for a lawyer. I don't understand
3 what you're saying.
4 JUDGE MCGUIRE: Okay. You're going to take
5 that document that we just gave you--
6 MS. F[redacted] -- Right.
7 JUDGE MCGUIRE: --You're going to fill it out
8 completely. You're going to attach a copy of your most
9 recent tax return, okay?
10 MS. F[redacted] Okay.
11 JUDGE MCGUIRE: You know what that is?
12 MS. F[redacted] Yeah. I don't have-- I don't have tax
13 return. I don't-- I don't work. I don't have no income.
14 JUDGE MCGUIRE: Okay. All right.
15 MS. F[redacted] But my--
16 JUDGE MCGUIRE: Okay. When did you last
17 work?
18 MS. F[redacted] Uh, 2009, 2010.
19 JUDGE MCGUIRE: Okay. Are you disabled?
20 MS. F[redacted] No.
21 JUDGE MCGUIRE: Okay. You're going to-- so if
22 you don't have it-- so, do you have your tax return from
23 2009?
24 MS. F[redacted] Uh, no.
25 JUDGE MCGUIRE: Okay. Do you have-- do you

1 receive benefits now?

2 MS. F[redacted] Uh, for my one son, D[redacted] F[redacted]

3 because his father's deceased.

4 JUDGE MCGUIRE: Okay. So you don't receive

5 food stamps or anything else?

6 MS. F[redacted] Food stamps and that's it.

7 JUDGE MCGUIRE: Oh--

8 MS. F[redacted] Food stamps and that one check a

9 month.

10 JUDGE MCGUIRE: Okay. So, how do you support

11 yourself?

12 MS. F[redacted] On that one check every month.

13 JUDGE MCGUIRE: From--

14 MS. F[redacted] --I -- I was getting support from him--

15 JUDGE MCGUIRE: --D[redacted]? D[redacted]'s check is for

16 how much?

17 MS. F[redacted] I was getting support for him--

18 JUDGE MCGUIRE: D[redacted]'s check is for how

19 much?

20 MS. F[redacted] 280. And Section 8 paid--

21 JUDGE MCGUIRE: And how much is your rent?

22 MS. F[redacted] --Section 8 pays half of my rent, I pay

23 50.

24 JUDGE MCGUIRE: Okay. So that's another

25 benefit, right?

1 MS. F[redacted] Right.
2 JUDGE MCGUIRE: Section 8 pays, okay? And do
3 you get benefits-- do you get heating assistance? You get
4 heat?
5 MS. F[redacted] No, I don't pay heat. Everything's
6 electric.
7 JUDGE MCGUIRE: It's-- well, who pays your
8 electric bill?
9 MS. F[redacted] The landlord.
10 JUDGE MCGUIRE: So it's all included in the rent
11 for 280 a month?
12 MS. F[redacted] Yes, $125-- $1,025 a month in--
13 JUDGE MCGUIRE: Is your-- is your-- and that's
14 paid by Section 8?
15 MS. F[redacted] Yes.
16 JUDGE MCGUIRE: All right.
17 MS. F[redacted] I only pay 50 of it.
18 JUDGE MCGUIRE: All right. So, you-- you then
19 you don't have any of the documents?
20 MS. F[redacted] No.
21 JUDGE MCGUIRE: You may have a-- do you have
22 a-- a statement from Social Services that say what benefits
23 you get?
24 MS. F[redacted] Yes.
25 JUDGE MCGUIRE: So you attach that--

1 MS. F[redacted] Okay.
2 JUDGE MCGUIRE: --And you bring that to the
3 Sullivan Legal Aid Panel.
4 MS. F[redacted] Okay.
5 JUDGE MCGUIRE: They're located at 11 Bank
6 Street.
7 MS. F[redacted] Okay.
8 JUDGE MCGUIRE: That's on the corner opposite
9 the jail--
10 MS. F[redacted] Okay.
11 JUDGE MCGUIRE: --And the courthouse. Do you
12 know where the jail is?
13 MS. F[redacted] Yes, I do.
14 JUDGE MCGUIRE: All right. It's a gray, Victorian
15 building.
16 MS. F[redacted] Okay.
17 JUDGE MCGUIRE: It says on the outside, the sign
18 that says, "Law Offices of Shick and Havis."
19 MS. F[redacted] Okay.
20 JUDGE MCGUIRE: You bring that in to them, they
21 will review it, and if you qualify, they will assign an
22 attorney to represent you free of charge.
23 MS. F[redacted] Okay.
24 JUDGE MCGUIRE: All right? All right. Now, Mr.
25 Z[redacted] you understand your right to counsel?

1 MR. Z[redacted] Yes.
2 JUDGE MCGUIRE: Do you wish to be represented
3 by an attorney?
4 MR. Z[redacted] No.
5 JUDGE MCGUIRE: You're going to-- you're going
6 to represent yourself?
7 MR. Z[redacted] Yeah.
8 JUDGE MCGUIRE: Okay. I'll also-- I'm going to
9 assign an attorney to represent E[redacted] in this matter. All
10 right. Now, with respect to the petition that Mr. Z[redacted]
11 filed on September 17th, you're going to withdraw that and
12 I'm going to dismiss that.
13 MR. Z[redacted] Yes, sir.
14 JUDGE MCGUIRE: Because you filed an amended
15 petition on October 2nd, right?
16 MR. Z[redacted] Yes, sir.
17 JUDGE MCGUIRE: Okay. Both seeking the same
18 relief, right?
19 MR. Z[redacted] Yes, sir.
20 JUDGE MCGUIRE: Okay. So, we'll dismiss that
21 petition. Now, my understanding, Ms. F[redacted] is that Mr.
22 Z[redacted] was seeing E[redacted] almost every day. The two
23 of you live right down the street from each other.
24 MS. F[redacted] Yes, and I'm--
25 JUDGE MCGUIRE: You're both on [redacted] in

1 [redacted]?

2 MS. F[redacted] Yes. I'm waiting for my bridge to be

3 fixed because we are moving out of [redacted],

4 away for him, because he has an order of protection against

5 me, and the state trooper perfectly told me, "No contact, no

6 --no texting, no calling." So if he has an order of

7 protection against me, I can't leave my girls on the side of

8 the road for him to gab to them while I walk down the road.

9 JUDGE MCGUIRE: Okay.

10 MS. F[redacted] I try to get them to school and back

11 home.

12 JUDGE MCGUIRE: Okay.

13 MS. F[redacted] But he keeps stopping us, and I can't

14 speak with him. And his daughter's not going to his house

15 because he's infested with bed bugs, and he lives on a third

16 store-- third floor of an apartment building with no fire

17 escape. I am not letting her go.

18 JUDGE MCGUIRE: So did you just move, sir?

19 MR. Z[redacted] No. I've been living there all

20 this time.

21 MS. F[redacted] We never lived together. We never

22 lived together. Never.

23 JUDGE MCGUIRE: Shhhh, Shhhh. Did he just

24 move into that apartment?

25 MS. F[redacted] He lived there many, many years. I

1 moved-- I lived in--

2 JUDGE MCGUIRE: Okay. So my understanding is

3 that E[redacted] was seeing her father fairly regularly up until

4 around the middle of September?

5 MR. Z[redacted] She has her own room.

6 JUDGE MCGUIRE: Until the middle of September,

7 he was seeing her?

8 MR. Z[redacted] Yes.

9 MS. F[redacted] Every day. She--

10 JUDGE MCGUIRE: Okay. So when did the bed

11 bugs start?

12 MS. F[redacted] She never lived with him.

13 JUDGE MCGUIRE: When did the bed bugs start?

14 MS. F[redacted] I-- I found them on his bed.

15 JUDGE MCGUIRE: You found them on his bed?

16 MS. F[redacted] Yep, and in his apartment.

17 JUDGE MCGUIRE: When were you last in his bed?

18 MS. F[redacted] I'm the one that helped him carry his

19 bed out of the apartment because he's infested with bed

20 bugs.

21 JUDGE MCGUIRE: When did you do that?

22 MS. F[redacted] I had bed bugs, I took care of it. I got

23 rid of them.

24 JUDGE MCGUIRE: When did you do that?

25 MS. F[redacted] A month ago. A month ago.

1 JUDGE MCGUIRE: So, in last September, you did
2 that?
3 MS. F[redacted] Yes, yup.
4 JUDGE MCGUIRE: Late September?
5 MS. F[redacted] Before all this happened, yes.
6 JUDGE MCGUIRE: Oh, before all this happened?
7 MS. F[redacted] Yup, I helped him.
8 JUDGE MCGUIRE: Okay. So E[redacted] was seeing
9 him after you helped him?
10 MS. F[redacted] Yeah. My daughter E[redacted] will tell
11 her lawyer that she has bed bugs, yes.
12 MR. Z[redacted]: She's five years old.
13 JUDGE MCGUIRE: Okay. All right.
14 MS. F[redacted] She is five years old.
15 MR. Z[redacted]: She's five years old.
16 MS. F[redacted] She is very smart.
17 JUDGE MCGUIRE: So has the apartment been
18 cleaned?
19 MR. Z[redacted] Yeah. My apartment is fine. I
20 have no problems. There has never been no reports of
21 anything. This is all something she's coming up with. She
22 has them.
23 MS. F[redacted] No. He's-- he's lying.
24 JUDGE MCGUIRE: Did she help you move the bed
25 out?

1 MR. Z[redacted] No. I have-- I bought a new
2 bedroom set for my daughter. That's all I've done.
3 MR. F[redacted] No.
4 JUDGE MCGUIRE: All right. So is it nice and-- is
5 it clean?
6 MR. Z[redacted] Yes, it is. It's spotless.
7 JUDGE MCGUIRE: All right. So--
8 MR. Z[redacted]: I live by myself.
9 JUDGE MCGUIRE: Now, when you saw your
10 daughter, when were you seeing her? During the day for an
11 hour here and there?
12 MR. Z[redacted] No. She used to be able to come
13 to my house and stay whenever she wanted.
14 JUDGE MCGUIRE: Okay. But how long would
15 she stay? For a couple of days or...?
16 MR. Z[redacted] Uh, mostly overnight, weekends,
17 yeah.
18 JUDGE MCGUIRE: All right, okay. So now, I
19 know that you folks had some flooding problems down
20 there.
21 MS. F[redacted] Yes.
22 JUDGE MCGUIRE: All right. So you're moving
23 out?
24 MS. F[redacted] Yes. The water was never over the
25 bridge. I don't understand this report. He's saying the

1 water went over the bridge. If the water was over the
2 bridge, how could he get over the bridge to grab the girls to
3 get them on the other side of the bridge?
4 JUDGE MCGUIRE: I-- I don't know--
5 MS. F[redacted] I don't understand the report. That's
6 this--
7 JUDGE MCGUIRE: --Did you have a canoe, or
8 kayak, or something?
9 MR. Z[redacted] The fire department went to her
10 house to--
11 MS. F[redacted] --This is all a lie.
12 JUDGE MCGUIRE: All right.
13 MS. F[redacted] --All this right here is a lie.
14 JUDGE MCGUIRE: All right.
15 MS. F[redacted] All this I highlighted, he's lying in this
16 paper.
17 JUDGE MCGUIRE: Okay.
18 MS. F[redacted] He's lying.
19 JUDGE MCGUIRE: Okay, okay, okay. That's fine.
20 All right. What we're going to do is, we're going to modify
21 the order of protection that I entered on 9/17 to allow the
22 parties to meet to exchange the child. Now, is E[redacted] in
23 school now?
24 MS. F[redacted] Yes.
25 JUDGE MCGUIRE: And she goes to school in the

1 [redacted]?

2 MS. F[redacted] Yes.

3 JUDGE MCGUIRE: Kindergarten or first grade?

4 MR. Z[redacted] Kindergarten.

5 MS. F[redacted] Kindergarten

6 JUDGE MCGUIRE: Okay. So what I'm going to

7 do is, I'm going to direct that Mr. Z[redacted]-- do you work,

8 sir?

9 MR. Z[redacted] Yes.

10 JUDGE MCGUIRE: Where are you working now?

11 MR. Z[redacted] I work for [redacted].

12 I've been there for seven years, Your Honor.

13 JUDGE MCGUIRE: Okay. So what are your

14 hours?

15 MR. Z[redacted] Usually, 8 to-- 8 to 4. I could

16 accommodate any hours that are specified (unintelligible).

17 JUDGE MCGUIRE: Okay. So you can be home to

18 get E[redacted] from school and you could get her to school?

19 MR. Z[redacted] Sure. Yes, I can, in any order.

20 JUDGE MCGUIRE: All right. So what I'm going

21 to direct is that Mr. Z[redacted] will have parenting time each

22 week from Thursday after school until Monday when she

23 goes to school.

24 MR. Z[redacted] Okay.

25 JUDGE MCGUIRE: Okay? That means you have

1 to get her to school-- pick her up on Thursday, bring her on
2 Friday, pick her up on Friday--
3 MR. Z[redacted] Yes.
4 JUDGE MCGUIRE: --Bring her on Monday and
5 then she'll go back, Mom will pick her up again on
6 Monday. Now, does she usually walk to school? She must
7 from [redacted] in [redacted]?
8 MR. Z[redacted] She walks--
9 MS. F[redacted] Excuse me--
10 MR. Z[redacted] --And when it rains, the
11 grandmother takes her.
12 MS. F[redacted] --Excuse me--
13 JUDGE MCGUIRE: All right. That's fine.
14 MS. F[redacted] --Excuse me.
15 JUDGE MCGUIRE: Yes, ma'am?
16 MS. F[redacted] If my five year-old daughter don't want
17 to go to her father's and she sits there and screams, what am
18 I supposed to do? Just let her go when she's going to
19 scream?
20 JUDGE MCGUIRE: Yeah.
21 MR. Z[redacted] This-- Your Honor, this is the
22 influence that she's putting on her.
23 JUDGE MCGUIRE: Shhh.
24 MS. F[redacted] She is not going to go with her father.
25 JUDGE MCGUIRE: Shhhh. Okay.

1 MS. F[redacted] She doesn't want to be with him.
2 JUDGE MCGUIRE: Okay.
3 MS. F[redacted] Because what he's put me through.
4 JUDGE MCGUIRE: Yeah.
5 MS. F[redacted] She's going to tell me, "No, I don't
6 want to go with daddy. Please mommy, don't let me go."
7 JUDGE MCGUIRE: Okay. Well--
8 MS. F[redacted] I know what she's going to do.
9 JUDGE MCGUIRE: --Well, okay. Well, the nice
10 thing is that you're going to say that, "You have to go to
11 daddy and that's all there is to it."
12 MS. F[redacted] I'm not saying that. He beat me up
13 when she was in my arms. That's why he went to jail for
14 two and a half months.
15 JUDGE MCGUIRE: Okay.
16 MS. F[redacted] He was an alcoholic before all this. He
17 went to jail because he beat me up with my five year-old
18 daughter in my arms and he went to jail for two and a half
19 months and then he quit drinking. Okay? Why don't you
20 guys go look at the police report? Please do not send my
21 kid to him. Please don't send her. Don't--
22 JUDGE MCGUIRE: Okay. So, today is
23 Wednesday, so you'll pick her up from school tomorrow?
24 MR. Z[redacted] Yes, sir.
25 JUDGE MCCGUIRE: Okay?

1 MS. F[redacted] No, no, no.
2 JUDGE MCGUIRE: You'll pick up the school
3 tomorrow--
4 MS. F[redacted] No.
5 MR. Z[redacted] We're going to need some--
6 JUDGE MCGUIRE: --And you'll have her until
7 Monday.
8 MS. F[redacted] No.
9 MR. Z[redacted] Okay.
10 MS. F[redacted] No, no.
11 MR. Z[redacted] I'm going to need some help,
12 your honor, with counseling, maybe?
13 JUDGE MCGUIRE: Excuse me?
14 MR. Z[redacted] Is there any kind of way I can
15 get some counseling to help?
16 JUDGE MCGUIRE: For yourself?
17 MR Z[redacted] No, for the child, because of
18 what's she's going to brainwash this child.
19 JUDGE MCGUIRE: Well, we're going to do that
20 when we have-- when we have the--
21 MS. F[redacted] I'm not going to brainwash my
22 daughter --
23 JUDGE MCGUIRE: When we--
24 MS. F[redacted] --I don't brainwash my daughter.
25 JUDGE MCGUIRE: --When we have the attorney

1 for the child involved here--

2 MR. Z[redacted] Okay.

3 JUDGE MCGUIRE: --Then that may be something

4 that gets (unintelligible).

5 MS. F[redacted] Yeah, he's-- but she's not going.

6 JUDGE MCGUIRE: You can certainly engage your

7 daughter in counseling on your own.

8 MS. F[redacted] She's not going.

9 JUDGE MCGUIRE: You're her father.

10 MR. Z[redacted] All right. Okay, I will do that.

11 JUDGE MCGUIRE: You can do that.

12 MS. F[redacted] My mother's going to be bringing her

13 to school and picking her up every day.

14 MR. Z[redacted] She's going to refuse to do this.

15 She's already stating it, Your Honor.

16 JUDGE MCGUIRE: Okay.

17 MR. Z[redacted] My daughter is going to want--

18 not want to come with me because of this.

19 JUDGE MCGUIRE: Okay.

20 MR. Z[redacted] What she's doing right now.

21 MS. F[redacted] No, he's doing it to me, okay?

22 JUDGE MCGUIRE: Yeah, she'll want to, she'll

23 want to. She will-- she'll be very happy.

24 MS. F[redacted] And if you're going to let my five year-

25 old daughter go to his apartment, where the people on the

1 second floor smoke Pot, drink alcohol-- He smokes
2 marijuana.
3 JUDGE MCGUIRE: Okay.
4 MS. F[redacted] Come on, let's--
5 MR. Z[redacted] And I'll be drug tested right now
6 if you like.
7 JUDGE MCGUIRE: Can you give me two copies of
8 the Children's Bill of Rights?
9 COURT CLERK: October 23rd, at 1:30.
10 JUDGE MCGUIRE: Now, Ms. F[redacted] what you're
11 going to do is, you're going to wait--
12 MS. F[redacted] If my daughter does not want to go
13 with her father, I am not sending her. That's all I have to
14 say.
15 JUDGE MCGUIRE: Ms. F[redacted] what you're going
16 to do is, you're going to wait here--
17 MS. F[redacted] Okay.
18 JUDGE MCUIRE: --And we're going to provide
19 you with a court order, okay, that provides the days of
20 visitation. Put it right in the T.O.P.
21 COURT CLERK: Mm-hmm.
22 MS. F[redacted] But what I don't understand--
23 JUDGE MCGUIRE: Now, let me explain something
24 to you--
25 MS. F[redacted] --What if my daughter don't want to go

with her father?

JUDGE MCGUIRE: What if your daughter don't want to go to school? What do you do?

MS. F[redacted] My daughter loves to go to school every day.

JUDGE MCGUIRE: What if she didn't want to go school?

MS. F[redacted] My daughter ain't going to want to go with him.

JUDGE MCGUIRE: What if she didn't--

MS. F[redacted] My daughter ain't going to want to want it.

JUDGE MCGUIRE: All right. Here's the deal, Ms. F[redacted] if I learn that your daughter is not--

MS. F[redacted] He's going to go to the school, or pick her up, and she's going to hear, "R[redacted] Z[redacted] here to"--

JUDGE MCGUIRE: Take her into custody.

MS. F[redacted] --"Is here to pick up E[redacted] Z[redacted]--

JUDGE MCGUIRE: Take her into custody. Take her into custody.

MS. F[redacted] Okay. I'm sorry. I'll try--

JUDGE MCGUIRE: Judicial contempt.

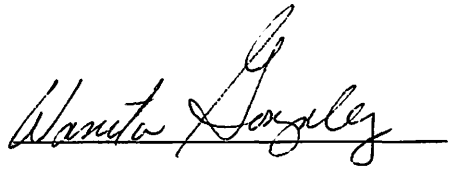
MS. F[redacted] I'm sorry. I--

JUDGE MCGUIRE: Judicial contempt. Take her

1 into custody. You're disrupting the proceedings repeatedly.
2 (SOUND OF HANDCUFFS)
3 MS. F[redacted] Can you pick up my glasses, please?
4 JUDGE MCGUIRE: Get her out of here.
5 COURT OFFICER: Okay. Sir, step out.
6 MR. Z[redacted] Yes, sir.
7 COURT OFFICER: Part II postponed. Clear the
8 room.
9 (SOUND OF DOOR CLOSING)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on October 3, 2012.
7
8
9 Dated: April 10, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 3, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

R[redacted] Z[redacted] v. T[redacted] M[redacted] F[redacted]
Family File # 13096
Date of recording - October 3, 2012
11:58 - 12:00

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex III-3
PENGAD 800-631-6989

Hon. Michael McGuire

FP#
13096

10/3/12

11:58 ~ 12:00

MAM-A 700MB INKJET

PENGAD 800-631-6989

EXHIBIT
Comm
Ex III-3

Z [redacted] v. F [redacted]

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

Z[redacted] v. F[redacted]

October 3, 2012
11:58 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-3a

1 (SOUND OF DOOR OPENING)

2 JUDGE MCGUIRE: All right, Ms. F[redacted] how's

3 handcuffs feeling?

4 MS. F[redacted] They hurt my wrist. I'm sorry.

5 JUDGE MCGUIRE: You're not going to come into

6 this courtroom or any other courtroom in this county and

7 behave like this.

8 MS. F[redacted]: I know. I apologize.

9 JUDGE MCGUIRE: This is not *The Jerry Springer*

10 *Show*.

11 MS. F[redacted] I know. I'm sorry.

12 JUDGE MCGUIRE: All right?

13 MS. F[redacted] Yes.

14 JUDGE MCGUIRE: Now, I've issued an order. Do

15 we have a copy of that order here?

16 COURT CLERK: Yes.

17 JUDGE MCGUIRE: Okay. I'm going to give you a

18 copy of this order.

19 MS. F[redacted] Okay.

20 JUDGE MCGUIRE: If you don't comply with this

21 order, there is a chance that you will be incarcerated.

22 MS. F[redacted] Okay.

23 JUDGE MCGUIRE: Okay?

24 MS. F[redacted] Yep.

25 JUDGE MCGUIRE: Now, I'm going to let you go

1 home now--

2 MS. F[redacted] All right.

3 JUDGE MCGUIRE: --With this very stern warning:

4 that if you act out in this or any other courtroom in this

5 county, like you did this morning, then you could be subject

6 to being sentenced to up to 30 days in the Sullivan County

7 Jail, just based on your behavior in here.

8 MS. F[redacted] Okay. I understand.

9 JUDGE MCGUIRE: And if you violate that order

10 there, you could be going to the Sullivan County Jail for up

11 to a year.

12 MS. F[redacted] Okay.

13 JUDGE MCGUIRE: So you will do what you need

14 to do to see to it that your daughter is with her father on

15 Thursday afternoon, Friday, Saturday, Sunday, until

16 Monday morning.

17 MS. F[redacted] Okay.

18 JUDGE MCGUIRE: All right?

19 MS. F[redacted] Yes, I will--

20 JUDGE MCGUIRE: Is that clear?

21 MS. F[redacted] --I will do that, yes.

22 JUDGE MCGUIRE: All right. All right, so I don't

23 expect to have any other problems. This matter is coming

24 back on the 23rd, right, at 1:30?

25 COURT CLERK: Yes.

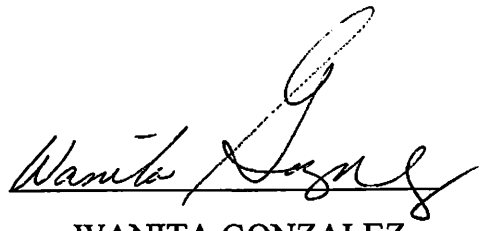
JUDGE MCGUIRE: October 23rd, at 1:30. Okay, you can release Ms. F[redacted]

MS. F[redacted] Thank you.

JUDGE MCGUIRE: Thank you, officers.

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on October 3, 2012.
7
8
9 Dated: April 10, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Okay. I'm going to show you now what is marked Commission Exhibit 19.

A. Mm-hmm.

JUDGE SHEA: Thank you.

Q. It's an October 3, 2012 transcript of the proceedings, *Z*[redacted] *v. F*[redacted] Now, I just-- for the record, in Family Court, all the proceedings are-- an audio tape recording is made, right?

A. In-- in Sullivan County, yes.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-4a

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

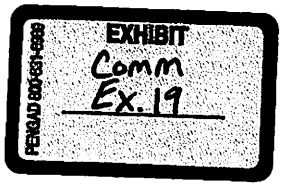
MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

Z[redacted] v. F[redacted]

October 3, 2012
10:03 A.M.



1 JUDGE MCGUIRE: Calling cases one through
2 three, the *Matters of Z*[redacted] *and F*[redacted]. You can be
3 seated. Note for the record the appearance of Mr. Z[redacted]
4 and Ms. F[redacted] All right. Now, previously, Ms. F[redacted]
5 acknowledged that she received three petitions: two seeking
6 custody of E[redacted], and the third, a family offense
7 petition. Ms. F[redacted] you have the right to be represented by
8 an attorney at every stage of these proceedings. You have a
9 right to an adjournment of today's proceedings in order to
10 speak with an attorney. If you cannot afford an attorney and
11 you qualify, I can assign an attorney to represent you free of
12 charge. Now, Ms. F[redacted] would you like to be represented
13 by an attorney?
14 MS. F[redacted] Yes.
15 JUDGE MCGUIRE: All right. Have you ever been
16 represented by an attorney in Sullivan County before?
17 MS. F[redacted] Yes.
18 JUDGE MCGUIRE: Who?
19 MS. F[redacted] A Clyde Roll-- a Clyde Roller was my
20 lawyer.
21 JUDGE MCGUIRE: Who?
22 MS. F[redacted] Clyde Roller.
23 JUDGE MCGUIRE: Glenn Kroll?
24 MS. F[redacted] Yeah, Kroll.
25 JUDGE MCGUIRE: Okay, all right. And Mr.

1 Z[redacted] you've been represented by an attorney in the
2 county?
3 MR. Z[redacted] No.
4 JUDGE MCGUIRE: You have not? All right. And
5 Mr. Z[redacted] you understand the right to counsel?
6 MR. Z[redacted]: Yes, sir.
7 JUDGE MCGUIRE: And do you wish to be
8 represented by an attorney?
9 MR. Z[redacted] I believe so, yes.
10 JUDGE MCGUIRE: All right. So, Ms. F[redacted] I'm
11 going to provide you with a financial disclosure affidavit.
12 You're going to fill that out completely, attach a copy of
13 your most recent tax return, a representative paystub, and
14 bring that to the Sullivan Legal Aid Panel located at 11
15 Bank Street. That's on the corner opposite the jail and the
16 main courthouse.
17 MS. F[redacted] What's this--
18 JUDGE MCGUIRE: Do you know where that is?
19 MS. F[redacted] --What's this for?
20 JUDGE MCGUIRE: That's for your attorney.
21 MS. F[redacted] I thought you're going to represent me,
22 an attorney.
23 JUDGE MCGUIRE: Well, I can't represent you.
24 MS. F[redacted] A lawyer?
25 JUDGE MCGUIRE: Yeah.

1 MS. F[redacted] I have to pay for a lawyer? I don't
2 have the money to pay for a lawyer. I don't understand
3 what you're saying.
4 JUDGE MCGUIRE: Okay. You're going to take
5 that document that we just gave you--
6 MS. F[redacted] -- Right.
7 JUDGE MCGUIRE: --You're going to fill it out
8 completely. You're going to attach a copy of your most
9 recent tax return, okay?
10 MS. F[redacted] Okay.
11 JUDGE MCGUIRE: You know what that is?
12 MS. F[redacted] Yeah. I don't have-- I don't have tax
13 return. I don't-- I don't work. I don't have no income.
14 JUDGE MCGUIRE: Okay. All right.
15 MS. F[redacted] But my--
16 JUDGE MCGUIRE: Okay. When did you last
17 work?
18 MS. F[redacted] Uh, 2009, 2010.
19 JUDGE MCGUIRE: Okay. Are you disabled?
20 MS. F[redacted] No.
21 JUDGE MCGUIRE: Okay. You're going to-- so if
22 you don't have it-- so, do you have your tax return from
23 2009?
24 MS. F[redacted] Uh, no.
25 JUDGE MCGUIRE: Okay. Do you have-- do you

1 receive benefits now?

2 MS. F[redacted] Uh, for my one son, D[redacted] F[redacted]

3 because his father's deceased.

4 JUDGE MCGUIRE: Okay. So you don't receive

5 food stamps or anything else?

6 MS. F[redacted] Food stamps and that's it.

7 JUDGE MCGUIRE: Oh--

8 MS. F[redacted] Food stamps and that one check a

9 month.

10 JUDGE MCGUIRE: Okay. So, how do you support

11 yourself?

12 MS. F[redacted] On that one check every month.

13 JUDGE MCGUIRE: From--

14 MS. F[redacted] --I -- I was getting support from him--

15 JUDGE MCGUIRE: --D[redacted]? D[redacted]'s check is for

16 how much?

17 MS. F[redacted] I was getting support for him--

18 JUDGE MCGUIRE: D[redacted]'s check is for how

19 much?

20 MS. F[redacted] 280. And Section 8 paid--

21 JUDGE MCGUIRE: And how much is your rent?

22 MS. F[redacted] --Section 8 pays half of my rent, I pay

23 50.

24 JUDGE MCGUIRE: Okay. So that's another

25 benefit, right?

1 MS. F[redacted] Right.

2 JUDGE MCGUIRE: Section 8 pays, okay? And do

3 you get benefits-- do you get heating assistance? You get

4 heat?

5 MS. F[redacted] No, I don't pay heat. Everything's

6 electric.

7 JUDGE MCGUIRE: It's-- well, who pays your

8 electric bill?

9 MS. F[redacted] The landlord.

10 JUDGE MCGUIRE: So it's all included in the rent

11 for 280 a month?

12 MS. F[redacted] Yes, $125-- $1,025 a month in--

13 JUDGE MCGUIRE: Is your-- is your-- and that's

14 paid by Section 8?

15 MS. F[redacted] Yes.

16 JUDGE MCGUIRE: All right.

17 MS. F[redacted] I only pay 50 of it.

18 JUDGE MCGUIRE: All right. So, you-- you then

19 you don't have any of the documents?

20 MS. F[redacted] No.

21 JUDGE MCGUIRE: You may have a-- do you have

22 a-- a statement from Social Services that say what benefits

23 you get?

24 MS. F[redacted] Yes.

25 JUDGE MCGUIRE: So you attach that--

1 MS. F[redacted] Okay.
2 JUDGE MCGUIRE: --And you bring that to the
3 Sullivan Legal Aid Panel.
4 MS. F[redacted] Okay.
5 JUDGE MCGUIRE: They're located at 11 Bank
6 Street.
7 MS. F[redacted] Okay.
8 JUDGE MCGUIRE: That's on the corner opposite
9 the jail--
10 MS. F[redacted] Okay.
11 JUDGE MCGUIRE: --And the courthouse. Do you
12 know where the jail is?
13 MS. F[redacted] Yes, I do.
14 JUDGE MCGUIRE: All right. It's a gray, Victorian
15 building.
16 MS. F[redacted] Okay.
17 JUDGE MCGUIRE: It says on the outside, the sign
18 that says, "Law Offices of Shick and Havis."
19 MS. F[redacted] Okay.
20 JUDGE MCGUIRE: You bring that in to them, they
21 will review it, and if you qualify, they will assign an
22 attorney to represent you free of charge.
23 MS. F[redacted] Okay.
24 JUDGE MCGUIRE: All right? All right. Now, Mr.
25 Z[redacted] you understand your right to counsel?

1 MR. Z[redacted] Yes.
2 JUDGE MCGUIRE: Do you wish to be represented
3 by an attorney?
4 MR. Z[redacted] No.
5 JUDGE MCGUIRE: You're going to-- you're going
6 to represent yourself?
7 MR. Z[redacted] Yeah.
8 JUDGE MCGUIRE: Okay. I'll also-- I'm going to
9 assign an attorney to represent E[redacted] in this matter. All
10 right. Now, with respect to the petition that Mr. Z[redacted]
11 filed on September 17th, you're going to withdraw that and
12 I'm going to dismiss that.
13 MR. Z[redacted] Yes, sir.
14 JUDGE MCGUIRE: Because you filed an amended
15 petition on October 2nd, right?
16 MR. ZA[redacted] Yes, sir.
17 JUDGE MCGUIRE: Okay. Both seeking the same
18 relief, right?
19 MR. Z[redacted] Yes, sir.
20 JUDGE MCGUIRE: Okay. So, we'll dismiss that
21 petition. Now, my understanding, Ms. F[redacted] is that Mr.
22 Z[redacted] was seeing E[redacted] almost every day. The two
23 of you live right down the street from each other.
24 MS. F[redacted] Yes, and I'm--
25 JUDGE MCGUIRE: You're both on [redacted] in

1 [redacted]?

2 MS. F[redacted] Yes. I'm waiting for my bridge to be

3 fixed because we are moving out of [redacted],

4 away for him, because he has an order of protection against

5 me, and the state trooper perfectly told me, "No contact, no

6 --no texting, no calling." So if he has an order of

7 protection against me, I can't leave my girls on the side of

8 the road for him to gab to them while I walk down the road.

9 JUDGE MCGUIRE: Okay.

10 MS. F[redacted] I try to get them to school and back

11 home.

12 JUDGE MCGUIRE: Okay.

13 MS. F[redacted] But he keeps stopping us, and I can't

14 speak with him. And his daughter's not going to his house

15 because he's infested with bed bugs, and he lives on a third

16 store-- third floor of an apartment building with no fire

17 escape. I am not letting her go.

18 JUDGE MCGUIRE: So did you just move, sir?

19 MR. Z[redacted] No. I've been living there all

20 this time.

21 MS. F[redacted] We never lived together. We never

22 lived together. Never.

23 JUDGE MCGUIRE: Shhhh, Shhhh. Did he just

24 move into that apartment?

25 MS. F[redacted] He lived there many, many years. I

1 moved-- I lived in--

2 JUDGE MCGUIRE: Okay. So my understanding is

3 that E[redacted] was seeing her father fairly regularly up until

4 around the middle of September?

5 MR. Z[redacted] She has her own room.

6 JUDGE MCGUIRE: Until the middle of September,

7 he was seeing her?

8 MR. Z[redacted] Yes.

9 MS. F[redacted] Every day. She--

10 JUDGE MCGUIRE: Okay. So when did the bed

11 bugs start?

12 MS. F[redacted] She never lived with him.

13 JUDGE MCGUIRE: When did the bed bugs start?

14 MS. F[redacted] I-- I found them on his bed.

15 JUDGE MCGUIRE: You found them on his bed?

16 MS. F[redacted] Yep, and in his apartment.

17 JUDGE MCGUIRE: When were you last in his bed?

18 MS. F[redacted] I'm the one that helped him carry his

19 bed out of the apartment because he's infested with bed

20 bugs.

21 JUDGE MCGUIRE: When did you do that?

22 MS. F[redacted] I had bed bugs, I took care of it. I got

23 rid of them.

24 JUDGE MCGUIRE: When did you do that?

25 MS. F[redacted] A month ago. A month ago.

1 JUDGE MCGUIRE: So, in last September, you did
2 that?
3 MS. F[redacted] Yes, yup.
4 JUDGE MCGUIRE: Late September?
5 MS. F[redacted] Before all this happened, yes.
6 JUDGE MCGUIRE: Oh, before all this happened?
7 MS. F[redacted] Yup, I helped him.
8 JUDGE MCGUIRE: Okay. So E[redacted] was seeing
9 him after you helped him?
10 MS. F[redacted] Yeah. My daughter E[redacted] will tell
11 her lawyer that she has bed bugs, yes.
12 MR. Z[redacted] She's five years old.
13 JUDGE MCGUIRE: Okay. All right.
14 MS. F[redacted] She is five years old.
15 MR. Z[redacted] She's five years old.
16 MS. F[redacted] She is very smart.
17 JUDGE MCGUIRE: So has the apartment been
18 cleaned?
19 MR. Z[redacted] Yeah. My apartment is fine. I
20 have no problems. There has never been no reports of
21 anything. This is all something she's coming up with. She
22 has them.
23 MS. F[redacted] No. He's-- he's lying.
24 JUDGE MCGUIRE: Did she help you move the bed
25 out?

1 MR. Z[redacted]: No. I have-- I bought a new
2 bedroom set for my daughter. That's all I've done.
3 MR. F[redacted] No.
4 JUDGE MCGUIRE: All right. So is it nice and-- is
5 it clean?
6 MR. Z[redacted]: Yes, it is. It's spotless.
7 JUDGE MCGUIRE: All right. So--
8 MR. Z[redacted]: I live by myself.
9 JUDGE MCGUIRE: Now, when you saw your
10 daughter, when were you seeing her? During the day for an
11 hour here and there?
12 MR. Z[redacted]: No. She used to be able to come
13 to my house and stay whenever she wanted.
14 JUDGE MCGUIRE: Okay. But how long would
15 she stay? For a couple of days or...?
16 MR. Z[redacted] Uh, mostly overnight, weekends,
17 yeah.
18 JUDGE MCGUIRE: All right, okay. So now, I
19 know that you folks had some flooding problems down
20 there.
21 MS. F[redacted] Yes.
22 JUDGE MCGUIRE: All right. So you're moving
23 out?
24 MS. F[redacted] Yes. The water was never over the
25 bridge. I don't understand this report. He's saying the

1 water went over the bridge. If the water was over the
2 bridge, how could he get over the bridge to grab the girls to
3 get them on the other side of the bridge?
4 JUDGE MCGUIRE: I-- I don't know--
5 MS. F[redacted] I don't understand the report. That's
6 this--
7 JUDGE MCGUIRE: --Did you have a canoe, or
8 kayak, or something?
9 MR. Z[redacted] The fire department went to her
10 house to--
11 MS. F[redacted] --This is all a lie.
12 JUDGE MCGUIRE: All right.
13 MS. F[redacted] --All this right here is a lie.
14 JUDGE MCGUIRE: All right.
15 MS. F[redacted] All this I highlighted, he's lying in this
16 paper.
17 JUDGE MCGUIRE: Okay.
18 MS. F[redacted] He's lying.
19 JUDGE MCGUIRE: Okay, okay, okay. That's fine.
20 All right. What we're going to do is, we're going to modify
21 the order of protection that I entered on 9/17 to allow the
22 parties to meet to exchange the child. Now, is E[redacted] in
23 school now?
24 MS. F[redacted] Yes.
25 JUDGE MCGUIRE: And she goes to school in the

1 [redacted]?

2 MS. F[redacted] Yes.

3 JUDGE MCGUIRE: Kindergarten or first grade?

4 MR. Z[redacted] Kindergarten.

5 MS. F[redacted] Kindergarten

6 JUDGE MCGUIRE: Okay. So what I'm going to

7 do is, I'm going to direct that Mr. Z[redacted]-- do you work,

8 sir?

9 MR. Z[redacted] Yes.

10 JUDGE MCGUIRE: Where are you working now?

11 MR. Z[redacted] I work for [redacted].

12 I've been there for seven years, Your Honor.

13 JUDGE MCGUIRE: Okay. So what are your

14 hours?

15 MR. Z[redacted] Usually, 8 to-- 8 to 4. I could

16 accommodate any hours that are specified (unintelligible).

17 JUDGE MCGUIRE: Okay. So you can be home to

18 get E[redacted] from school and you could get her to school?

19 MR. Z[redacted] Sure. Yes, I can, in any order.

20 JUDGE MCGUIRE: All right. So what I'm going

21 to direct is that Mr. Z[redacted] will have parenting time each

22 week from Thursday after school until Monday when she

23 goes to school.

24 MR. Z[redacted] Okay.

25 JUDGE MCGUIRE: Okay? That means you have

1 to get her to school-- pick her up on Thursday, bring her on
2 Friday, pick her up on Friday--
3 MR. Z[redacted] Yes.
4 JUDGE MCGUIRE: --Bring her on Monday and
5 then she'll go back, Mom will pick her up again on
6 Monday. Now, does she usually walk to school? She must
7 from [redacted] in [redacted]?
8 MR. Z[redacted]: She walks--
9 MS. F[redacted] Excuse me--
10 MR. Z[redacted] --And when it rains, the
11 grandmother takes her.
12 MS. F[redacted] --Excuse me--
13 JUDGE MCGUIRE: All right. That's fine.
14 MS. F[redacted] --Excuse me.
15 JUDGE MCGUIRE: Yes, ma'am?
16 MS. F[redacted] If my five year-old daughter don't want
17 to go to her father's and she sits there and screams, what am
18 I supposed to do? Just let her go when she's going to
19 scream?
20 JUDGE MCGUIRE: Yeah.
21 MR. Z[redacted] This-- Your Honor, this is the
22 influence that she's putting on her.
23 JUDGE MCGUIRE: Shhh.
24 MS. F[redacted] She is not going to go with her father.
25 JUDGE MCGUIRE: Shhhh. Okay.

1 MS. F[redacted] She doesn't want to be with him.
2 JUDGE MCGUIRE: Okay.
3 MS. F[redacted] Because what he's put me through.
4 JUDGE MCGUIRE: Yeah.
5 MS. F[redacted] She's going to tell me, "No, I don't
6 want to go with daddy. Please mommy, don't let me go."
7 JUDGE MCGUIRE: Okay. Well--
8 MS. F[redacted] I know what she's going to do.
9 JUDGE MCGUIRE: --Well, okay. Well, the nice
10 thing is that you're going to say that, "You have to go to
11 daddy and that's all there is to it."
12 MS. F[redacted] I'm not saying that. He beat me up
13 when she was in my arms. That's why he went to jail for
14 two and a half months.
15 JUDGE MCGUIRE: Okay.
16 MS. F[redacted] He was an alcoholic before all this. He
17 went to jail because he beat me up with my five year-old
18 daughter in my arms and he went to jail for two and a half
19 months and then he quit drinking. Okay? Why don't you
20 guys go look at the police report? Please do not send my
21 kid to him. Please don't send her. Don't--
22 JUDGE MCGUIRE: Okay. So, today is
23 Wednesday, so you'll pick her up from school tomorrow?
24 MR. Z[redacted] Yes, sir.
25 JUDGE MCCGUIRE: Okay?

1 MS. F[redacted] No, no, no.
2 JUDGE MCGUIRE: You'll pick up the school
3 tomorrow--
4 MS. F[redacted] No.
5 MR. Z[redacted] We're going to need some--
6 JUDGE MCGUIRE: --And you'll have her until
7 Monday.
8 MS. F[redacted] No.
9 MR. Z[redacted] Okay.
10 MS. F[redacted] No, no.
11 MR. Z[redacted] I'm going to need some help,
12 your honor, with counseling, maybe?
13 JUDGE MCGUIRE: Excuse me?
14 MR. Z[redacted] Is there any kind of way I can
15 get some counseling to help?
16 JUDGE MCGUIRE: For yourself?
17 MR Z[redacted] No, for the child, because of
18 what's she's going to brainwash this child.
19 JUDGE MCGUIRE: Well, we're going to do that
20 when we have-- when we have the--
21 MS. F[redacted] I'm not going to brainwash my
22 daughter --
23 JUDGE MCGUIRE: When we--
24 MS. F[redacted] --I don't brainwash my daughter.
25 JUDGE MCGUIRE: --When we have the attorney

1 for the child involved here--

2 MR. Z[redacted] Okay.

3 JUDGE MCGUIRE: --Then that may be something

4 that gets (unintelligible).

5 MS. F[redacted] Yeah, he's-- but she's not going.

6 JUDGE MCGUIRE: You can certainly engage your

7 daughter in counseling on your own.

8 MS. F[redacted] She's not going.

9 JUDGE MCGUIRE: You're her father.

10 MR. Z[redacted] All right. Okay, I will do that.

11 JUDGE MCGUIRE: You can do that.

12 MS. F[redacted] My mother's going to be bringing her

13 to school and picking her up every day.

14 MR. Z[redacted] She's going to refuse to do this.

15 She's already stating it, Your Honor.

16 JUDGE MCGUIRE: Okay.

17 MR. Z[redacted]: My daughter is going to want--

18 not want to come with me because of this.

19 JUDGE MCGUIRE: Okay.

20 MR. Z[redacted] What she's doing right now.

21 MS. F[redacted] No, he's doing it to me, okay?

22 JUDGE MCGUIRE: Yeah, she'll want to, she'll

23 want to. She will-- she'll be very happy.

24 MS. F[redacted] And if you're going to let my five year-

25 old daughter go to his apartment, where the people on the

1 second floor smoke Pot, drink alcohol-- He smokes
2 marijuana.
3 JUDGE MCGUIRE: Okay.
4 MS. F[redacted] Come on, let's--
5 MR. Z[redacted] And I'll be drug tested right now
6 if you like.
7 JUDGE MCGUIRE: Can you give me two copies of
8 the Children's Bill of Rights?
9 COURT CLERK: October 23rd, at 1:30.
10 JUDGE MCGUIRE: Now, Ms. F[redacted] what you're
11 going to do is, you're going to wait--
12 MS. F[redacted] If my daughter does not want to go
13 with her father, I am not sending her. That's all I have to
14 say.
15 JUDGE MCGUIRE: Ms. F[redacted] what you're going
16 to do is, you're going to wait here--
17 MS. F[redacted] Okay.
18 JUDGE MCUIRE: --And we're going to provide
19 you with a court order, okay, that provides the days of
20 visitation. Put it right in the T.O.P.
21 COURT CLERK: Mm-hmm.
22 MS. F[redacted] But what I don't understand--
23 JUDGE MCGUIRE: Now, let me explain something
24 to you--
25 MS. F[redacted] --What if my daughter don't want to go

1 with her father?

2 JUDGE MCGUIRE: What if your daughter don't

3 want to go to school? What do you do?

4 MS. F[redacted] My daughter loves to go to school

5 every day.

6 JUDGE MCGUIRE: What if she didn't want to go

7 school?

8 MS. F[redacted] My daughter ain't going to want to go

9 with him.

10 JUDGE MCGUIRE: What if she didn't--

11 MS. F[redacted] My daughter ain't going to want to

12 want it.

13 JUDGE MCGUIRE: All right. Here's the deal, Ms.

14 F[redacted] if I learn that your daughter is not--

15 MS. F[redacted] He's going to go to the school, or pick

16 her up, and she's going to hear, "Rob Z[redacted] here to"--

17 JUDGE MCGUIRE: Take her into custody.

18 MS. F[redacted] --"Is here to pick up E[redacted]

19 Z[redacted]"--

20 JUDGE MCGUIRE: Take her into custody. Take

21 her into custody.

22 MS. F[redacted] Okay. I'm sorry. I'll try--

23 JUDGE MCGUIRE: Judicial contempt.

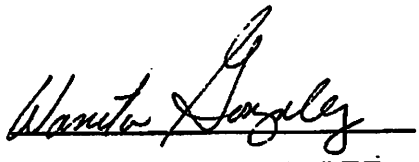
24 MS. F[redacted] I'm sorry. I--

25 JUDGE MCGUIRE: Judicial contempt. Take her

1 into custody. You're disrupting the proceedings repeatedly.
2 (SOUND OF HANDCUFFS)
3 MS. F[redacted] Can you pick up my glasses, please?
4 JUDGE MCGUIRE: Get her out of here.
5 COURT OFFICER: Okay. Sir, step out.
6 MR. Z[redacted] Yes, sir.
7 COURT OFFICER: Part II postponed. Clear the
8 room.
9 (SOUND OF DOOR CLOSING)
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on October 3, 2012.
7
8
9 Dated: April 10, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

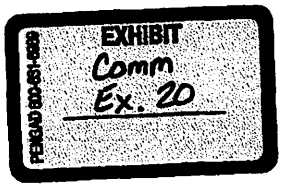
a Judge of the County, Family, Surrogate Court, :
Sullivan County.

----------X

TRANSCRIPT OF PROCEEDING

Z[redacted] v. F[redacted]

October 3, 2012
11:58 A.M.



1 (SOUND OF DOOR OPENING)
2 JUDGE MCGUIRE: All right, Ms. F[redacted] how's
3 handcuffs feeling?
4 MS. F[redacted] They hurt my wrist. I'm sorry.
5 JUDGE MCGUIRE: You're not going to come into
6 this courtroom or any other courtroom in this county and
7 behave like this.
8 MS. F[redacted] I know. I apologize.
9 JUDGE MCGUIRE: This is not *The Jerry Springer*
10 *Show*.
11 MS. F[redacted] I know. I'm sorry.
12 JUDGE MCGUIRE: All right?
13 MS. F[redacted] Yes.
14 JUDGE MCGUIRE: Now, I've issued an order. Do
15 we have a copy of that order here?
16 COURT CLERK: Yes.
17 JUDGE MCGUIRE: Okay. I'm going to give you a
18 copy of this order.
19 MS. F[redacted] Okay.
20 JUDGE MCGUIRE: If you don't comply with this
21 order, there is a chance that you will be incarcerated.
22 MS. F[redacted] Okay.
23 JUDGE MCGUIRE: Okay?
24 MS. F[redacted] Yep.
25 JUDGE MCGUIRE: Now, I'm going to let you go

1 home now--

2 MS. F[redacted] All right.

3 JUDGE MCGUIRE: --With this very stern warning:

4 that if you act out in this or any other courtroom in this

5 county, like you did this morning, then you could be subject

6 to being sentenced to up to 30 days in the Sullivan County

7 Jail, just based on your behavior in here.

8 MS. F[redacted] Okay. I understand.

9 JUDGE MCGUIRE: And if you violate that order

10 there, you could be going to the Sullivan County Jail for up

11 to a year.

12 MS. F[redacted] Okay.

13 JUDGE MCGUIRE: So you will do what you need

14 to do to see to it that your daughter is with her father on

15 Thursday afternoon, Friday, Saturday, Sunday, until

16 Monday morning.

17 MS. F[redacted] Okay.

18 JUDGE MCGUIRE: All right?

19 MS. F[redacted] Yes, I will--

20 JUDGE MCGUIRE: Is that clear?

21 MS. F[redacted] --I will do that, yes.

22 JUDGE MCGUIRE: All right. All right, so I don't

23 expect to have any other problems. This matter is coming

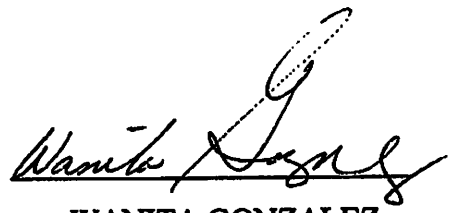
24 back on the 23rd, right, at 1:30?

25 COURT CLERK: Yes.

1 JUDGE MCGUIRE: October 23rd, at 1:30. Okay,
2 you can release Ms. F[redacted]
3 MS. F[redacted] Thank you.
4 JUDGE MCGUIRE: Thank you, officers.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on October 3, 2012.
7
8
9 Dated: April 10, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. So, why'd you put her in custody?
22 A. Well, every time I'm trying to talk, she's disrupting. She's expressing
23 her, basically, refusal to go along with the order that I had set down.
24 And you know, without a video, I'm -- I'm quite confident that she
25 was getting pretty loud and pretty combative.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-4b

1 Q. So, you put her in custody because she was interrupting you?
2 A. Because she was disrupting the proceedings.
3 Q. By interrupting you?
4 A. Correct.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. And did you give Ms. F[redacted] an opportunity to make a statement in her defense?

A. I did not, but what I'm-- what I'm disturbed by is that this can't be the end of that transcript. There's needs to be a second transcript, because either she actually was not ever taken into custody, or she-- we brought her back in soon thereafter.

Q. Yeah. I-- I have that transcript, and it was given to you.

A. Right.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-4c

Q. Was your voice raised?

A. I'm sure that it was.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-4d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. Okay. During this time, for the 1 hour, 45 minutes that Ms. F[redacted] was
22 in custody, did she-- was she represented by a lawyer?
23 A. She was not.
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III-4e

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15 Q. And do you think that you acted in a patient, dignified and courteous
16 manner, according to the Rules, in how you treated Ms. F[redacted] that
17 day?
18 A. I could've acted better and my development has taught me to act
19 better. Again, at that time, I-- I-- knowing what I knew in October
20 2012, I believe that I acted appropriately under the circumstances.
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex III -4f

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: JANUARY 3, 2019

RE: L[redacted] V. C[redacted] AND B[redacted] FF#3576

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

Christina Ben

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-1

3576

RANDY J. PARKER
COMMISSIONER

TEL. 845-292-0100
FAX 845-292-0968

COUNTY OF SULLIVAN
Division of Health and Family Services
Department of Family Services
SULLIVAN COUNTY HUMAN SERVICES COMPLEX
15 COMMUNITY LANE
PO BOX 231
Liberty, NY 12754

May 22, 2013

MAY 23 2013

Honorable Michael F. McGuire
Sullivan County Family Court
100 North St.
Monticello, NY 12701

Dear Judge McGuire:

The following is a safety assessment concerning the household of H[redacted] B[redacted] that was ordered by the Family Court. A visit was conducted on May 22, 2013 to determine if there were any safety concerns. The household consists of H[redacted] B[redacted] age 28 along with her 19 year old boyfriend, J[redacted] S[redacted] and Ms. B[redacted] four children S[redacted], age 8, A[redacted] age 3, D[redacted] age 4, and F[redacted] age 1. Ms. B[redacted] reported that the children all have special needs and receive special education services in school. S[redacted] attends the [redacted] School. A[redacted] and D[redacted] attend [redacted] preschool in Monticello. F[redacted] is an infant and has been suffering from seizures which has been a stressor for the family. Ms. B[redacted] said she is more stable but has to follow up with a neurologist A[redacted] the 3 year old child, suffers from hydrocephalus and is involved with several different physicians including neurologists and surgeons. Ms. B[redacted] receives support from the children's father, D[redacted] Bo[redacted] whom she is estranged from.

The home was adequate but cluttered with some clothing and other belongings scattered on the floor. It is a 3 bedroom apartment but Ms. B[redacted] uses only 2 of the bedrooms as she uses one of the rooms as a laundry room. D[redacted] A[redacted] and S[redacted] have one bedroom while she, Mr. S[redacted] and F[redacted] have the other room. The family has a long history of housekeeping and hygiene issues. This writer observed F[redacted] covered in dirt on her legs and feet. Ms. B[redacted] said she had been crawling on the floor. Ms. B[redacted] claimed she had been cleaning up the home yesterday. The home had a pet odor.

Ms. B[redacted] is not employed. She receives Social Security benefits along with S[redacted] and A[redacted] She also receives food stamps and Medicaid benefits.

Ms. B[redacted] denied that her sister and her four children are residing with her which has been alleged by E[redacted] She claims that her sister and the children only stay with her on the weekend. This writer expressed concerns about 8 children being in such a small living space for even the weekend. Ms. B[redacted] said they are just visiting and not living there.

Ms. E[redacted] indicated that she knows E[redacted] does not want to live with her. She said she is not going to be able to control E[redacted] She said E[redacted] will run away if she is forced to live there. She said she really doesn't want E[redacted] living with her but indicated she would take her back in Family Court on 5/20/13 because she does not want her to go to foster care. However, later she said, given the options, that she thinks foster care is the best place for her. She was unsure that her mother is mentally stable enough to care for E[redacted] She indicated that her mother allowed her to do whatever she wanted when she was a youth and felt that contributed to her and her sister being placed in foster care when they were younger. She acknowledges her mother has mental health issues.

It should be noted, however, that since E[redacted] has gone to live with her mother, she is receiving adequate food, clothing, and shelter. She is also doing well in school. Her mother reports no significant behavioral problems and E[redacted] said she is getting along well with her mother. Ms. L[redacted] has indicated she has a mental health problem but she feels it does not impact her parenting ability. She claims to suffer from anxiety. There is some concern about supervision as she may be allowing E[redacted] to spend weekends with her boyfriend and his family in Swan Lake, NY. E[redacted] is sexually active so this is a concern. Ms. L[redacted] has suggested that E[redacted] behavior is more manageable if she allows her to have that time with her boyfriend.

Ms. L[redacted] has been cooperative with this writer thus far though she has expressed a sentiment of no one helping her and feeling like she "has no contact with the outside world." This writer assisted in getting her a cellular telephone and has transported her to the Recovery Center for an evaluation. This writer has also brought some food to the home from a local food pantry as Ms. [redacted] had minimal food provisions due to her Temporary Assistance case not being opened in a timely manner. The Recovery Center has indicated that Ms. L[redacted] can receive mental health treatment (Dr. [redacted]) from their agency. Ms. L[redacted] admits to self-medicating with marijuana due to her anxiety. She is open to taking non-habit forming medication to treat her anxiety.

Ms. L[redacted] did have a verbal dispute with a contract agency/service provider of this Department, Occupations, Inc. in which the worker indicated Ms. L[redacted] was "nasty" and yelling at her. The worker has asked that she not have to go back to the home or that this writer accompanies her. This writer will be working with Ms. L[redacted] to try to get her to be more cooperative with this worker and less hostile. The worker is a support to E[redacted]. E[redacted] also receives supportive case management services with Amanda Mall of the Sullivan County Department of Community Services.

Regarding H[redacted] E[redacted] the housekeeping of the home has been a chronic issue but was adequate at today's home visit. The concern is that Ms. E[redacted] feels E[redacted] will not do well in her home, will not listen to her, and will run away. This writer has asked E[redacted] about living with her sister again and she has said she would rather be in foster care.

Respectfully submitted,

Joshua Jones
Sr. Caseworker

Allen Weir
Case Supervisor
Preventive Services Unit

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on May 20, 2013
(Deputy) Chief Clerk of the Court

At a Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on 5/20, 2013

PRESENT: HON. MICHAEL F. MCGUIRE
Judge

In the Matter of a Proceeding Under Article of the Family Court Act

I[redacted] L[redacted] Petitioner,

-against-

SCDFS, B[redacted] + C[redacted] Respondent

ORDER FOR REPORT
SSL § 422-4(A)(e)

DOCKET #
FAMILY FILE #

The above matter having come on to be heard this day and having been adjourned, and the court having made a finding that the information in the CPS record is necessary for the determination of an issue before this Court. If the investigation is not yet complete the Sullivan County Department of Family Services shall provide this court with a current safety assessment of the household,

NOW, IT IS HEREBY

ORDERED, upon the Court's own motion, the Sullivan County Department of Family Services shall, pursuant to Social Services Law § 422-4(A)(e), provide to this Court a summary of their investigation in lieu of their records which summary should include a safety assessment of the investigation they have conducted with regard to allegations of abuse and/or neglect concerning

H[redacted] B[redacted]

[redacted]

based on the allegations as set forth in the attached petition and/or reports; and it is further

ORDERED, that the report shall be submitted to this court for in camera inspection within 3 days; and it is further

ORDERED, that this matter is scheduled on 5/23, 2013

Dated: 5/20/13

ENTER:
HON. MICHAEL F. MCGUIRE

3576
L/C

2/26/2013

New York State
Office of Children
& Family Services

Request ID: 28257051
Docket/File Number: G-2423-12
RE: H[redacted] B[redacted]

CHRISTINA BENSON
SULLIVAN COUNTY FAMILY COURT
GOVERNMENT CENTER
MONTICELLO, NY 12701

Andrew M. Cuomo
Governor

Gladys Carrión, Esq.
Commissioner

P.O. Box 4480
Albany, N. Y. 12204

Dear Christina Benson:

We are responding to your inquiry pursuant to Section 1706 of the Surrogate Court Procedures Act, which provides access to the New York State Child Abuse and Maltreatment Register by Surrogate Court and the Family Court.

Based upon the identifying information you have provided, we have reviewed the Register's records and **DO NOT** find the above named to be a subject in an indicated report of child abuse and maltreatment.

Sincerely,
Linda A. Joyce, Director
State Central Register
Division of Child Welfare and Community Services

LAJ/ NC

New York State
Office of Children
& Family Services

2/26/2013

Request ID: 28257051
Docket/file Number: G-2423-12
RE: H[redacted] B[redacted]

MAR - 1 2013
SULLIVAN COUNTY

CHRISTINA BENSON
SULLIVAN COUNTY FAMILY COURT
GOVERNMENT CENTER
MONTICELLO, NY 12701

Andrew M. Cuomo
Governor

Gladys Carrión, Esq.
Commissioner

P.O. Box 4480
Albany, NY 12204

Dear Christina Benson:

We are following up on our previous correspondence regarding your inquiry pursuant to Section 1706 of the Surrogate's Court Procedures Act, which provides access to the New York Statewide Central Register of Child Abuse and Maltreatment by the Surrogate Court for purposes of screening prospective guardians and adults residing in the homes of prospective guardians.

You were previously notified that the above-referenced individual was named in a report of suspected child abuse and maltreatment that was under investigation. The investigation of that report has been concluded by the investigatory agency and that agency has determined that the above-referenced individual is **NOT** an indicated subject in that report.

Sincerely,
Linda A. Joyce, Director
Statewide Central Register
Division of Child Welfare
and Community Services

LAJ/ NC

An Equal Opportunity Employer

OCFS-3909 (Rev. 04/2009) FRONT

NEW YORK STATE
OFFICE OF CHILDREN AND FAMILY SERVICES

REQUEST FOR INFORMATION GUARDIANSHIP FORM FOR COURT USE ONLY

SCR USE ONLY:
Request I.D. #

RESOURCE ID# 100	COURT LIAISON Christina Benson, Ch. Clerk	AREA CODE/PHONE # ( ) -
DOCKET FILE # G-2423-12		ZIP CODE

Family Court of the State of New York
County of Sullivan
100 North Street
Monticello, New York 12701

Section 1706 of the S
Register of Child Abu
over who resides in t

/ York Statewide Central
/idual eighteen years of age or
r maltreatment report.

Date of Request 1/3/2013

INFORMATION CONCERNING PROPOSED GUARDIAN(S) AND MEMBERS OF THE HOUSEHOLD

Relationship To Guardian	LAST NAME (Print one letter in each box)	FIRST NAME (Print one letter in each box)	MI	SEX	DATE OF BIRTH M	D	Y
Guardian	B [redacted]	H [redacted]	R	F	[redacted]		
Maiden or Alias	L [redacted]						
Guardian							
	E [redacted]	E [redacted]	J	F	[redacted]		
	B [redacted]	S [redacted]	R	F			
	B [redacted]	D [redacted]	M	M			
	B [redacted]	A [redacted]	M	F			
	B [redacted]	F [redacted]					

Please provide your current address and any other addresses at which you have resided for the last 28 years, including city and state for each individual being cleared. **(Attach additional page if necessary).**

CURRENT ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				
PREVIOUS ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				
PREVIOUS ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				
PREVIOUS ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				
PREVIOUS ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				
PREVIOUS ADDRESS: STREET	CITY	STATE	ZIP	FROM	TO
[redacted]	[redacted]				

ADDRESS HISTORY FOR OTHER PERSON(S) 18 YEARS OLD OR OLDER, RESIDING WITH PROPOSED GUARDIAN

LAST NAME & MAIDEN/ALIAS	FIRST NAME	MI

PREVIOUS STREET ADDRESS	CITY	STATE	ZIP	FROM	TO
PREVIOUS STREET ADDRESS	CITY	STATE	ZIP	FROM	TO
PREVIOUS STREET ADDRESS	CITY	STATE	ZIP	FROM	TO
PREVIOUS STREET ADDRESS	CITY	STATE	ZIP	FROM	TO

*** ADDITIONAL SPACE PROVIDED ON REVERSE SIDE OF FORM**

1/2/12 Sent

[redacted] D[redacted] vs U[redacted]

Date:	Case Name:	Docket:
	Georgia Harris called w/ this info	Family File No.:

10/31/17 Although DFS does not have enough to file against parents they are not appropriate for E[redacted]. Dad does not have home big enough. He lets daughter stay w/ boyfriend who is 18 yrs. old. He does not supervise child. He has medical needs that are not being addressed. Mother Consents to this. DFS feels Petitioner is appropriate. There are services in Petitioner's Home and can be monitored. Her home is better than foster care.

SULLIVAN COUNTY
DIVISION OF HEALTH & FAMILY SERVICES
HUMAN SERVICES COMPLEX
PO BOX 231, INFIRMARY ROAD
LIBERTY, NY 12754
TEL: 914-292-0100
FAX: 914-292-0988

JUDITH [redacted] CSW
COMMISSIONER

DEPARTMENT OF
FAMILY

March 25, 2002

Honorable Burton Ledina
Sullivan County Family Court
Monticello, NY 12701

MAR 25

RE: L[redacted]
Docket No.: S-01010-01/01A
Family File #8335

Dear Judge Ledina:

With reference to the Court's order dated February 6, 2002, we respectfully submit the following report.

Since the last Court date of February 6, 2002, the L[redacted] family has moved to [redacted].

Since the last court appearance, M[redacted] has missed approximately 15 days of school and has not attended at least two mental health appointments. Additionally, T[redacted] L[redacted] has not followed any of the suggestions made by this caseworker to improve the child's attendance and performance at school. Mrs. L[redacted] has not been able to officially substantiate any medical condition of the child to excuse her from so many school days.

It is difficult for us to determine who is at fault, but it is our opinion that the child's school performance/attendance will not improve until a more stable home environment is found for her.

We hope this information is helpful to the Court. If additional information is needed, please do not hesitate to contact the undersigned caseworker.

Respectively submitted,

Edwin Perez, Caseworker

Mary Ellen Lazarus, Senior Caseworker
Preventive Services

[redacted]

Court Activity Template

File #:	3576	**App. Judge\HE:**	Burton Ledina
Docket#:	V-00889-97/02C	**Appearance:**	01/18/2002 10:00 AM
Legacy Docket#:		**S&G Date:**	06/24/2002

Petitioner: [redacted] (DOB: [redacted])
[redacted], [redacted]
Day Phone: Evening Phone:

cert recpt for mail service

Respondent: G[redacted] C[redacted] (DOB: [redacted])
[redacted]
Day Phone: [redacted] Evening Phone:

Child: E[redacted] L[redacted] (DOB: [redacted])

Attendance:

Letter rcvd from (R). & read into the record.

Outcomes:

Reports Ordered:

subject to FDA from him assign him 18 b counsel. she waives. or told to see LAB

S&G Exceptions:

General Appearance Notes:

Adjourned To:
Court Reporter/Tape/LED:

2/6/02 10:30

MISCELLANEOUS
RECORD OF PROCEEDING

HEARING DATE: 12/26/01
WALK IN

RESPONDENT G[redacted] C[redacted] **DOCKET #:**
PETITIONER [redacted] L[redacted] **FAMILY FILE #:**
JUDGE BL **CLERK** AS **DATE FILED:** 12/26/01
Violation petn.

APPEARANCES

☐ RESPONDENT: ☐ ATTORNEY:
☒ PETITIONER: sworn ☐ ATTORNEY:
☐ LAW GUARDIAN:
☐ OTHER:
testimony taken

ARRAIGNMENT

☐ Request for Temp Order of Custody ☐ Request for Temp Letters of Guardianship
☐ Respondent received copy of petition ☐ Right to counsel
☐ Allegations read to Respondent ☐ Reading waived

☐ Petitioner ☐ 18B ☐ To fill out FDA ☐ LAB ☐ Retained ☐ Waived
☐ Respondent ☐ 18B ☐ To fill out FDA ☐ LAB ☐ Retained ☐ Waived

ACTION TAKEN

☐ Denial ☐ Law Guardian Assigned ☐ §1034 Investigation Ordered
☐ Admission ☐ Order on Consent ☐ Home Investigation Ordered
☐ Mental Health Ordered ☐ SCADAS Ordered ☐ Written Answer Ordered
☐ Retainer Agreement / Statement of Client's Rights ☐

(R) went to GA to live w/ his sister due to him being evicted on 12/19.

OSC - Service by.
Certified mail / Return Rcpt Req
& Regular 1st class.

mail to him
c/o Vanessa.

ADJOURNED DATE: 1/18/01 **Time:** 10:00

☐ Trial ☐ Dispo. ☐ Conf. ☐ Appear ☐ Inquest ☐ In Camera ☐ Other:

TAPE #: _____ LED _____ to _____ HEARING DATE: _____

03576 HRG DT: 03-01-2000 MISCELLANEOUS
V-1031-97-02 FILED: 02-03-2000 ORD OF PROCEEDING
PETR: G[redacted] C[redacted]
RESP: T[redacted] L[redacted] _____ DOCKET #: _____ FF#: _____
MODIFICATION ARRAIGN
_____ DATE FILED: _____

JUDGE BL CLERK PL

APPEARANCES
☑ RESPONDENT: _____ ☐ ATTORNEY: _____

☑ PETITIONER: _____ ☐ ATTORNEY: _____

☐ LAW GUARDIAN: _____

☐ OTHER: _____, _____, _____

_____, _____, _____, _____

ARRAIGNMENT
☐ Request for Temporary Order of Custody

☐ Respondent received copy of petition ☐ Right to counsel

☐ Allegations read to Respondent ☐ Reading waived

☐ Petitioner ☐ 18B ☐ LAB ☐ Retained ☐ Waived

☐ Respondent ☐ 18B ☐ LAB ☐ Retained ☐ Waived

ACTION TAKEN
☐ Denial ☐ 1034 ordered ☐ Trial date set

☐ ADMISSION ☐ Order on Consent without admissions

☐ Written Answer Requested ☐ SCADAS Reports Ordered ☐ Mental Health Ordered
☐ Law Guardian Assigned ☐

custody to Dad of E[redacted] - liberal visits to Mom.

Order on consent

ADJOURNED DATE: _____ Time: _____

____ Trial ____ Dispo. ____ Conf. ____ Appear ____ *In Camera* ____ Other:

TPPE #: _____ LED _____ to _____ HEARING DATE: _____

V-1031-97 FILED: 06-02-97
HEARING DATE: 08-06-97
G[redacted] C[redacted] V. T[redacted] L[redacted]
PETITION TYPE: CUSTODY
PURPOSE: APPEAR

V-1031-97-01 FILED: 06-18-97
HEARING DATE: 08-06-97
G[redacted] C[redacted] V. T[redacted] L[redacted]
PETITION TYPE: CROSS-PETITION
PURPOSE: APPEAR

PETITIONER _____

JUDGE FL CLERK PL REPORTER _____

APPEARANCES

- [x] RESPONDENT: _____
- [x] ATTORNEY: Kiesten
- [x] PETITIONER: _____
- [ ] ATTORNEY: _____
- [ ] LAW GUARDIAN: _____
- [ ] OTHER: _____, _____, _____, _____, _____, _____

ARRAIGNMENT

- [ ] Request for Temporary Order of Custody
- [ ] Respondent received copy of petition
- [ ] Right to counsel
- [ ] Allegations read to Respondent

ACTION TAKEN

- [ ] Denial
- [ ] Attorney Assigned
- [ ] Trial date set
- [ ] ADMISSION
- [ ] Order on Consent without admissions
- [ ] Written Answer Requested
- [ ] SCADAS Reports Ordered
- [ ] Mental Health Ordered
- [ ] Law Guardian Assigned
- [ ]

temp orders to be made permanent
on consent of parties

Kiesten to
submit

ADJOURNED DATE: _____

____ Trial ____ Dispo. ____ Conf. ____ Other:

TAPE #: _____ LED _____ to _____ HEARING DATE: _____

V-1031-97 FILED: 06-02-97
HEARING DATE: 07-02-97
G[redacted] C[redacted] V. T[redacted] L[redacted]
PETITION TYPE: CUSTODY
PURPOSE: ARRAIGN

V-1031-97-01 FILED: 06-18-97
HEARING DATE: 07-02-97
G[redacted] C[redacted] V. T[redacted] L[redacted]
PETITION TYPE: CROSS-PETITION
PURPOSE: ARRAIGN

RESPONDENT _____ _____

PETITIONER _____ DATE FILED: _____

JUDGE FL CLERK SH REPORTER _____

APPEARANCES

- [x] RESPONDENT: _____ [ ] ATTORNEY: assigned Robert Kesten
- [x] PETITIONER: _____ [ ] ATTORNEY: assigned SLA
- [ ] LAW GUARDIAN: _____
- [ ] OTHER: _____, _____, _____, _____, _____, _____

ARRAIGNMENT

- [ ] Request for Temporary Order of Custody
- [x] Respondent received copy of petition
- [x] Right to counsel
- [ ] Allegations read to Respondent

ACTION TAKEN

- [ ] Denial
- [ ] Attorney Assigned
- [ ] Trial date set
- [ ] ADMISSION
- [ ] Order on Consent without admissions
- [ ] Written Answer Requested
- [ ] SCADAS Reports Ordered
- [ ] Mental Health Ordered
- [x] Law Guardian Assigned Eric Groper
- [ ]

Adj for appearance

Order -
Temp custody to T[redacted]
[redacted] to have reasonable & liberal visitation
neither pty to remove child from NYS w/o prior ct approval

ADJOURNED DATE: 8/6/97 9:30

____ Trial ____ Dispo. ✓ Conf. ____ Other:

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of

E[redacted] L[redacted]

ff No. 3576

A Child under 18 Years of Age
Alleged to be Neglected by

AFFIDAVIT OF
MAILING

G[redacted] C[redacted]

Respondent.

----------x

APR 2 2 2013

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

Jacqueline Decker, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside at Wurtsboro, New York.

On April 17, 2013 I served a copy of the Order of Adjournment in Contemplation of dismissal dated March 20, 2013 for the above matter in a post-paid wrapper, in an official depository under the exclusive care and custody of the United Postal Service within New York State addressed to each name:

K.C. Garn, Esq.
10 St. John St., Suite 201
Monticello, N.Y. 12701

Lisa Swift, Esq.
PO Box 1293
South Fallsburg, N.Y. 12779

T[redacted] L[redacted]
[redacted]

B[redacted] M[redacted]

JACQUELINE DECKER

Sworn to before me this
19th Day of April, 2013

Melissa A. Slater
NOTARY

Qualified in Sullivan County
Reg. #2091
Comm. Expires 9/5/2013

Family Court

County of Sullivan State of New York

Sheriff File Number – FCS-12000782
Court Case # - NN-02368-12

In the Matter of

E[redacted] L[redacted] (DOB: [redacted])

A Child Under Eighteen Years of Age Alleged to be Neglected by

G[redacted] C[redacted]

Respondent

Affidavit of Personal Service

Summons (Child Neglect Case) Order Appointing Attorney/Petition Child Neglect Case

1576

DEC 18 2012

State of New York - County of Sullivan SS:

Wayne Melvin, being duly sworn, deposes and says: that he is not a party to this action, is over 18 years of age and is a resident of the state of New York. That on 12/13/2012 at 12:46 PM, at [redacted] deponent served the within Summons (Child Neglect Case) Order Appointing Attorney/Petition Child Neglect Case on G[redacted] C[redacted] the defendant named therein, in the following manner.

PERSONAL- DELIVERY

By delivering to and leaving with G[redacted] C[redacted] personally a true copy thereof, said person being known or identified to me as the person mentioned and described therein

NON-MILITARY

At the time of service G[redacted] C[redacted] was asked if he was in the Military Service of the U.S. Government and replied No.

DESCRIPTION

The person served was approximately: Skin Color: White, Hair Color: Brown, Gender: Male Height: 5' 6" Weight: 120 Age: 52.

Wayne Melvin

Sworn to before me on the 14th of December, 2012

Joan Carbonaro, Notary Public

JOAN CARBONARO
Notary Public, State of New York
Sullivan County Clerk's #2530
Commission Expires Dec. 18, 2014

ORIGINAL

Family Court

County of Sullivan State of New York

Sheriff File Number – FCS-12000782
Court Case # - NN-02368-12

In the Matter of

E[redacted] Ly[redacted] DOB: [redacted])

A Child Under Eighteen Years of Age Alleged to be Neglected by

G[redacted] C[redacted]

Respondent

To: T[redacted] L[redacted]

Affidavit of Personal Service

Summons (Child Neglect Case) Order Appointing Attorney/Petition Child Neglect Case

DEC 18 2012

State of New York - County of Sullivan SS:

Wayne Melvin, being duly sworn, deposes and says: that he is not a party to this action, is over 18 years of age and is a resident of the state of New York. That on 12/13/2012 at 11:54 AM, at [redacted] deponent served the within Summons (Child Neglect Case) Order Appointing Attorney/Petition Child Neglect Case on T[redacted] Ly[redacted] the defendant named therein, in the following manner.

PERSONAL- DELIVERY

By delivering to and leaving with T[redacted] L[redacted] personally a true copy thereof, said person being known or identified to me as the person mentioned and described therein

NON-MILITARY

At the time of service T[redacted] L[redacted] was asked if she was in the Military Service of the U.S. Government and replied No.

DESCRIPTION

The person served was approximately: Skin Color: White, Hair Color: Brown, Gender: Female Height: 5' 7" Weight: 140 Age: 46.

Wayne Melvin

Sworn to before me on the 14th of December, 2012

Joan Carbonaro, Notary Public

JOAN CARBONARO
Notary Public, State of New York
Sullivan County Clerk's #2530
Commission Expires Dec. 18, 2014

ORIGINAL

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of

E[redacted] LY[redacted]

A Child Under Eighteen Years of Age Alleged
To be Neglected by

G[redacted] C[redacted]

Respondents.

----------x

AFFIDVIT OF
MAILING

File No: 3576

JUL - 3 2013

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

Jacqueline Decker, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside at Wurtsboro, New York.

On June 28, 2013 I serv[illegible] dated May 23, 2013 and Temporary Order dated May 20, 2[illegible] post-paid wrapper, in an official depository under the ex[illegible] e United Postal Service within New York State addressed t[illegible]

Pleadings

Lisa Swift, Esq.
PO Box 1293
South Fallsburg, N.Y. 12[illegible]

, Esq.
[illegible] St., suite 201
Monticello, N.Y. 12701

[redacted]

JACQUELINE DECKER

Sworn to before me this
3rd Day of June, 2013

Melissa A. Slater
NOTARY

Qualified in Sullivan County
Reg. # 2091
Comm. Expires 9/5/2013

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of

E[redacted] L[redacted]

AFFIDVIT OF MAILING

File No. 3576

A Child under the Age of Eighteen Years Alleged To be Neglected by

G[redacted] C[redacted]

Respondents.

----------x

- 3 2013

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

Jacqueline Decker, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside at Wurtsboro, New York.

On May 31, 2013 I served a copy of the Order dated April 22, 2013 for the above matter in a post-paid wrapper, in an official depository under the exclusive care and custody of the United Postal Service within New York State addressed to each name:

G[redacted] C[redacted]
PO Box 109
Swan Lake, N.Y. 12783

Lisa Swift, Esq.
PO Box 1293
South Fallsburg, N.Y. 12779

T[redacted] L[redacted]
[redacted]

[redacted]

JACQUELINE DECKER

Sworn to before me this
3 Day of June, 2013

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

In the Matter of a Proceeding Under Article 6
of the Family Court Act.

T[redacted] Ly[redacted]

Petitioner,

-against-

G[redacted] Ca[redacted] H[redacted] B[redacted] &
Sullivan County Dept. of Health and Family
Services,

Respondents.

----------X

NOTICE OF ENTRY

Docket # V-01931/12
Family File 3576

PLEASE TAKE NOTICE, that the within is a true copy of the Custody Order signed by the Hon. Michael F. McGuire and entered in the office of the clerk on the 23rd day of July 2013.

Dated: July 26, 2013
South Fallsburg, NY 12779

To: Ms. T[redacted] L[redacted]
[redacted]

Ms. H[redacted] B[redacted]
[redacted]

K.C. Garn, Esq.
10 St. John Street
Monticello, NY 12701

Michael Ross, Esq.
Legal Dept.
County Government Center
Monticello, NY 12701

Yours, etc.

LISA A. SWIFT
P.O. Box 1293-5208 Main Street
South Fallsburg, NY 12701
(845) 434-4988

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

In the Matter of a Proceeding Under
Article 6 of the Family Court Act.

Ms. T[redacted] L[redacted]

Petitioner,

-against-

G[redacted] Ca[redacted] H[redacted] E[redacted] &
Sullivan County Dept. of Health and Family
Services,

Respondents.

----------X

AFIRMATION OF MAILING

Docket # V-01931/12
Family File #3576

STATE OF NEW YORK

COUNTY OF SULLIVAN ss.:

LISA A. SWIFT, ESQ, an attorney duly admitted to practice law in this state affirms the following under penalties of perjury:

1. I am not a party to this action, am over 18 years of age and have an office located at 5208 Main Street, P.O. Box 1293, South Fallsburg, NY 12779.

2. On July 26, 2013 I served a true copy of the annexed signed Custody Order in connection with the above captioned matter, postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed as indicated below:

To: Ms. T[redacted] L[redacted]
[redacted]

K.C. Garn, Esq.
10 St. John Street
Monticello, NY 12701

Ms. H[redacted] B[redacted]
[redacted]

Michael Ross, Esq.
Legal Dept.
County Government Center
Monticello, NY 12701

Lisa A. Swift

At a Term of the Family Court
of the State of New York, held in
the and for the County of Sullivan
at Monticello, New York on
the 26th day of June 2012.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN
PRESENT: HON. MICHAEL F. McGUIRE
FAMILY COURT JUDGE

----------X

In the Matter of a Proceeding Under
Article 6 of the Family Court Act.

CUSTODY ORDER

T[redacted] LY[redacted]

Petitioner,

Docket No. V-01931-12
Family File 3576

-against-

G[redacted] C[redacted]
SULLIVAN COUNTY DEPT. OF
HEALTH & FAMILY SERVICES,
H[redacted] B[redacted]

Respondents.

----------X

JUL -5 2013

The above matter having duly come on to be heard before this Court the Petitioner T[redacted] L[redacted] having appeared in person without counsel; Michael Ross, Esq., having appeared on behalf of the Department of Family Services and the Respondents H[redacted] B[redacted] and G[redacted] C[redacted] having not appeared and Lisa A. Swift, Esq having appeared on be of the child;

And, the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties;

And, the Court having considered and relied upon the results of these searches in making this decision;

NOW, upon consent of the parties and the Court, it is hereby

ORDERED that the Petitioner T[redacted] L[redacted] shall have legal custody of the minor child E[redacted] L[redacted] date of birth [redacted]; and it is further

ORDERED that Ms. L[redacted] is ordered to cooperate with Preventative Services until receiving a positive discharge.

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on July 23, 2013

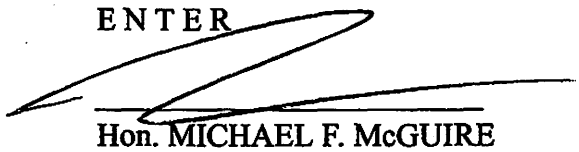
Christina Benoni

(Deputy) Chief/Clerk of the Court

In 12-13

Dated: July 22, 2013
Monticello, New York

ENTER



Hon. MICHAEL F. McGUIRE
Family Court Judge

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (SWIFT)	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☒ DFS Counsel	☐ by mail	☐ personal service
☒ DFS Prev. Services	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

1-24-13 Rot H. to L. Swift, Esq.

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 6/17/13

(Deputy) Chief/Clerk of the Court

At a Term of the Family Court
of the State of New York held
in and for the County of Sullivan,
at Monticello, New York on
May 23, 2013

PRESENT: Hon. Michael F. McGuire
Judge

In the Matter of

E[redacted] L[redacted] (DOB: [redacted])

File No. 3576
Docket No. NN-02368-12

A Child under Eighteen Years of Age
Alleged to be Neglected by

ORDER

G[redacted] C[redacted]

Respondent.

A Neglect Petition , verified the 11th day of December, 2012 having been filed in this Court by Randy Parker, Commissioner of the Sullivan County Department of Family Services alleging that the above-named Respondent neglected the above-named child; and

The child having been temporarily placed in foster care on May 20, 2013; an

The matter having come on before the Court, this date, and G[redacted] Ca[redacted] Respondent father having appeared, H[redacted] B[redacted] former guardian and sister of the child having appeared, Lisa Swift, Esq., attorney for the child having appeared, Joshua Jones and Georgia Harris, Caseworkers for the Sullivan County Department of Family Services having appeared, T[redacted] L[redacted] mother of the child having appeared and Michael C. Ross, Esq., Social Services Attorney having appeared; and

Upon consent of all parties H[redacted] B[redacted]' guardianship of the child is terminated; and it

is

ORDERED, that the child's placement with the Sullivan County Department of Family Services is terminated and the child is temporarily placed with her mother T[redacted] L[redacted] and it is further

ORDERED, that the Sullivan County Department of Family Services shall furnish preventive services, including transportation if recommended, to the household where the child resides and all members of the household shall cooperate with said services; and it is further

ORDERED that this matter is scheduled for June 14, 2013 @ 10:30 a.m. for an appearance with attorneys.

Dated: 6- 14- , 2013

ENTER:

J.F.C.

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: 6/ /13

☒ Petitioner	☐ by mail	☐ personal service
☒ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

F.C.A §§ 1071, 1072

At a term of the Family Court of the State of New York, held in and for the County of Sullivan at Monticello, New York on May 20, 2013.

PRESENT:
Hon. Michael F. McGuire
Judge

In the Matter of

Docket No. NN2368-12
G2423-12

E[redacted] L[redacted]

CIN #
A Child under Eighteen Years of Age Alleged to be
☒ neglected ☐ abused by

G[redacted] C[redacted]

Respondent(s)

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on May 30, 2013
Christina Benson
(Deputy) Chief/Clerk of the Court

TEMPORARY ORDER

MAY 23 2013

NOTICE: WILLFUL FAILURE TO OBEY THE TERMS AND CONDITIONS OF THIS ORDER MAY RESULT IN COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS.

IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS : May 23, 2013 @ 10:00 p.m.
THE NEXT PERMANENCY HEARING SHALL BE HELD ON: November 19, 2013 @ 1:30 p.m.

The above-named child(ren) having been adjudicated to be [check applicable box(es)]: ☒ neglected ☐ abused ☐ severely abused ☐ repeatedly abused within the meaning of Article 10 of the Family Court Act on March 20, 2013; and this matter having been adjourned in contemplation of dismissal until September 20, 2013; and

The child having been placed with H[redacted] B[redacted] under Docket No. G2423/12; and

It appearing that the child no longer resides with H[redacted] B[redacted] and T[redacted] L[redacted] having

filed a custody petition on March 27, 2013

And Respondent(s) [specify]: G[redacted] C[redacted] having:[1]
☒ appeared ☐ with counsel ☒ without counsel ☐ waived counsel
☐ not appeared after service ☐ not appeared but service could not be made after every reasonable effort had been made to effect service ☐ not appeared but counsel appeared; and T[redacted] L[redacted] mother having appeared, and H[redacted] B[redacted] the Guardian, having appeared

The Court finds and determines that:
I. <u>Required "Best Interests" and "Reasonable Efforts to Prevent Removal" Findings</u> [check applicable boxes and provide <u>case-specific reasons</u> in <u>both</u> A and B, below]:

A. Continuation of the child(ren) in, or return of the child(ren) to, the child(ren)'s home
☒ would ☐ would not be contrary to the best interests of the child(ren) because [specify facts and reasons]: The father, G[redacted] C[redacted] still resides in a studio apartment which is unsuitable for the child; the mother, T[redacted] L[redacted] continues to have unresolved substance abuse and mental heath issues; the Guardian voluntarily relinquished care of the child;

This determination is based upon the following information [check applicable box(es)]:
☒ Petition
☒ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☒ Other [specify]: Prior Orders of this Court;

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home, and, if the child(ren) were removed without court order prior to the date of this hearing, to return him/her/them home safely [check applicable box and state reasons as indicated]:
☒ were made as follows [specify]: Preventive services have been working with the mother to assist her in getting enrolled in counseling and have attempted to assist the father in securing adequate housing;

☐ were not made but the lack of efforts was appropriate [check all applicable boxes]:
☐ because of a prior judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:

☐ because of other reasons [specify]:

☐ were not made.

---

[1] Insert separate paragraphs for each Respondent, if necessary.

This determination is based upon the following information [check applicable box(es)]:

☒ Petition
☒ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☒ Other [specify]: Prior Orders of this Court;

II. Findings Regarding Alternatives to Removal to Foster Care:

A. Based upon the investigation conducted by the Commissioner of Social Service, [Check applicable box(es]:

☐ The following person [specify]:
is a ☐ non-respondent parent ☐ relative ☐ suitable person
with whom the child(ren) may appropriately reside [specify]:

[Applicable to relatives and other suitable persons]: Such person:
☐ seeks approval as a foster parent in order to provide care for the child(ren);
☐ wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.
☐ may be a resource but not yet determined whether as a foster parent or custodian.

☒ There is no non-respondent parent, relative or suitable person with whom the child(ren) may appropriately reside.

B. [Required]: Imminent risk to the child(ren) ☐ would ☒ would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]: T[redacted] L[redacted] G[redacted] C[redacted] from the child(ren)'s residence.

NOW, therefore, it is hereby

A. Order of Fact-finding or Dismissal of Violation:

☐ ORDERED that the Order of [check applicable box(es)]: ☐ Suspended Judgment ☐ Protection ☐ Supervision ☐ Placement is hereby REVOKED;

OR

☐ ORDERED that the Petition for Violation of Order of Disposition is DISMISSED and the Order of Disposition is continued; N/A

(and it is further)

☒ ORDERED that the child(ren) (is) (are) placed in the custody of the Commissioner of Social Services of [specify]: Sullivan County,
[Check box(es), if applicable]:
☐ to reside with [specify authorized agency or facility, if any]:
☒ to reside in foster care until the completion of the next permanency hearing, scheduled for the date certain indicated in this order, subject to the further orders of this Court, for the

following reasons [specify]: The Guardian has voluntarily relinquished care of the child, the father has unsuitable housing and the mother has unresolved mental health and substance abuse issues.

☒ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this procedure, and the date on which the child ran away.

☒ ORDERED that [specify]: the Commissioner of Social Services
☒ a social services official ☐ a duly authorized agency, undertake diligent efforts to encourage and strengthen the parental relationship, including encouraging and facilitating visitation with the child by the parent or other person legally responsible, and encourage and facilitate visitation with the child by any non-custodial parent or grandparent who has obtained an order pursuant to F.C.A. §1081 and by the chil(ren)'s siblings. Such efforts shall include, but are not limited to, the following [specify]:

☐ ORDERED that the ☐ Commissioner of Social Services ☐ authorized agency [specify]: is directed to file termination of parental rights petitions regarding the following child(ren)[specify]: N/A
against the following respondent(s) [specify]:
within 90 days of the entry of this order.

☐ ORDERED that the ☐ parent(s) ☐ person(s) legally responsible for the care of the child(ren) (is) (are) hereby directed to pay to [specify]:
during the period of placement of the child(ren) the sum of $ per
for the support of the child(ren). N/A

☒ ORDERED that the Commissioner of Social Services shall investigate whether there are any non-respondent parents, grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside, including, but not limited to [specify]:H[redacted] B[redacted]; shall inform them of the pendency of the proceeding; shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the results of such investigation in the child's Uniform Case Record;

[Applicable Where Child is Native-American]: N/A

☐ ORDERED that the following should be notified of this proceeding [specify]:
the ☐ custodian of the child; ☐ tribe/nation; ☐ United States Secretary of the Interior

☐ ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is DISMISSED WITHOUT PREJUDICE; (and it is further)

4. Duty to Disclose Changes in Mailing Address [Required]

ORDERED that the Respondent parent(s) or other person(s) legally responsible for the child(ren)'s care are required to notify the local social services district or agency of any change of mailing address; (and it is further).

5. Planning Conferences [Required]

ORDERED that the ☒ parent(s) ☐ other person(s) legally responsible for the child(ren)'s care shall be notified of the planning conference(s) to be held and of (his)(her)right to attend such conference(s) with counsel or other person; (and it is further)

6. Visiting Plans [Required]

☒ ORDERED that Petitioner shall provide the ☒ parent ☐ other person(s) legally responsible for the child(ren)'s care with visitation with the child(ren) as follows [describe visiting plan]: as can be arranged among the parties;
and the ☒ parent(s) ☐ guardian(s) shall visit in accordance with the plan; (and it is further)

[REQUIRED in all cases in which placement is ordered with the Commissioner of Social Services or directly with a relative or other suitable person]:

Date Certain for Next Permanency Hearing

ORDERED that if the child(ren) remain(s) in foster care or in placement with a relative or other suitable person, the next permanency hearing shall be held on [specify date/time]: November 19, 2013 @ 1:30 p.m.

Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to Respondent and Non-respondent parents, other parties, attorneys, the attorney for the child(ren) and any pre-adoptive parents or relatives providing care to the child(ren) and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, , except [specify former foster parents for whom such notice would be contrary to child(ren)'s best interests; delete if inapplicable]:
; (and it is further)

☒ ORDERED that the Order of Guardianship issued by this Court on March 20, 2013 is vacated; and it is further

☒ ORDERED that Community Services shall submit a report regarding T[redacted] L[redacted] and it is further

☒ ORDERED that the Sullivan County Department of Family Services shall do a home study of the home of H[redacted] L[redacted] and submit a report to the Court prior to the next Court appearance; and it is further

☒ ORDERED that this matter is scheduled for a Court appearance on May 23, 2013 @ 10:00 a.m.

ENTER

Dated: 5/30/13

Judge of the Family Court

Dated:

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- ☐ Order mailed on [specify date(s) and to whom mailed]:_____
- ☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Attorney for Child	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☒ DFS Counsel	☐ by mail	☐ personal service
☒ DFS G. Harris; J. Jones	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

-31-12 Rat'd. to DFS Legal

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Guardianship** Proceeding

File #: 3576
Docket #: G-02423-12/13B

H[redacted] R[redacted] E[redacted]

Petitioner,

- against -

T[redacted] L[redacted] L[redacted]
G[redacted] Ca[redacted]

Respondents.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Lisa Ann Swift, Esq.
PO Box 1293
South Fallsburg, NY 12779

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] L[redacted]	[redacted]

and it is further

Ordered that Lisa Ann Swift, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Lisa Ann Swift, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Lisa Ann Swift, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Lisa Ann Swift, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Lisa Ann Swift, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Lisa Ann Swift, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time: June 14, 2013 at 10:30 AM
Purpose: Appear
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

Sent Stamped

Dated: May 30, 2013

ENTER

Hon. Michael F. McGuire

CC: Michael C. Ross, Esq., DSS; T[redacted] L[redacted] L[redacted] Respondent; G[redacted] C[redacted] Respondent
H[redacted] R[redacted] E[redacted] Petitioner; Sullivan County Legal Aid Panel, Inc., Legal Aid

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation –Family or Supreme Court) [1]
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

3576

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

Docket No. G-02423-12/13B

H[redacted] B[redacted] Petitioner,

MAY 23 2013

PETITION FOR
MODIFICATION OF ORDER OF
☐ Custody ☐ Visitation ☒ Guardianship
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

Sull. Co. DFS

T[redacted] L[redacted] -against-

G[redacted] S[redacted] Respondent

.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: sister of [specify child(ren)'s name(s)]: E[redacted] L[redacted]
I am seeking to modify an order of [check applicable box(es)]: ☐ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2]
Petitioner [redacted]

Respondent: [redacted] – T[redacted] – G[redacted]

3. Petitioner is H[redacted] B[redacted] and was the Petitioner in an action filed in
☐ Supreme Court of the State of New York, County, Index No. [specify]:
☒ Family Court of the State of New York, Sullivan County, Docket No. [specify]:
entitled B[redacted] v. L[redacted] / C[redacted]

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or national Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

likely to affect custody or visitation, if at all]:[3]

❑ returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

b. Respondent [check applicable box]

❑ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or national Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all][4]

❑ returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

5. a. A ❑ judgment ❑ order, dated 12/17/12, was entered in the action directing the ❑ Respondent ❑ Petitioner to [specify terms]:

Temp letters of guardianship granted

A true copy of the ❑ judgment ❑ order is attached and made a part of this Petition.

b. [Applicable where the judgment or order has been entered in conjunction with a child protective dispositional or permanency hearing order directing custody with a relative or other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:

(i) The ❑ judgment ❑ order was issued in conjunction with the following child protective or permanency proceeding [specify Family Court, county and docket #]:

(ii) The ❑ judgment ❑ order provided that the following local department of social services [specify]: and the following attorney for the child(ren)[specify]: must be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the judgment or order.

6. The names, addresses and dates of birth of all children affected by this order are:

Name	Address[5]	Date of Birth
E[redacted] L[redacted]	[redacted]	[redacted]

[3] Inapplicable if Petitioner is based at a permanent duty station or has had permanent reassignment of station.

[4] Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

[5] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to the health or safety of the party. *See* Forms GF-21 and 21a, available at www.nycourts.gov.

OMIT. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the ❑ judgment ❑ order, the Supreme Court has not retained exclusive jurisdiction to modify the ❑ judgment ❑ order .

8. (Upon information and belief) Since the entry of the ❑ judgment ❑ order, there has been a change of circumstances in that [specify].

Cannot take child at this Time

9. Because of this change of circumstances, the ❑ judgment ❑ order should be modified as follows [specify].

Withdrawer Gardianship

10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]: None

WHEREFORE, Petitioner respectfully requests that the ❑ judgment ❑ order of the ❑ Supreme Court ❑ Family Court, dated , be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: May 23, 2013

x [redacted]
Petitioner

x [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted]

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

x [redacted]
Petitioner

Sworn to before me this
23rd day of May 2013

~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 5/20, 2013

Christine Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on May 20, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Guardianship** Proceeding

File #: 3576
Docket #: G-02423-12/13A

T[redacted] L[redacted] L[redacted]

Petitioner,

ORDER

- against -

Sullivan County Department of Family Services,
G[redacted] C[redacted]
H[redacted] R[redacted] B[redacted]

Respondents.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Upon a matter having come before this Court on May 20, 2013 and the following parties having appeared: H[redacted] B[redacted] G[redacted] C[redacted] T[redacted] L[redacted] and Michael Ross, Esq. attorney for the Department of Family Services, its is hereby,

ORDERED that the Order of Guardianship issued by this Court on March 20, 2013 are hereby vacated, and that the child E[redacted] L[redacted] is placed in the care and the Custody of The Department of Family Services effective immediatlely.

Dated: May 20, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

CC: Michael C. Ross, Esq., DSS, H[redacted] R[redacted] B[redacted] Respondent, G[redacted] C[redacted] Respondent, T[redacted] L[redacted] L[redacted], Petitioner

F.C.A. §§ 1039, 1058

Form 10-8
(Order-Adjournment in Contemplation of Dismissal)

8/2010

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on April 11, **20** 13
Christina Benoni
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Monticello, New York on March 20, 2013.

PRESENT:
Hon. Michael McGuire
Judge

In the Matter of

E[redacted] L[redacted] (DOB: [redacted])

Docket No. NN-02368-12;
Docket No. G-02423-12
FF No. 3576

CIN #
A Child under Eighteen Years of Age alleged to be
☐Abused ☒Neglected by

G[redacted] C[redacted]

Respondent(s)

ORDER
(Adjournment in Contemplation of Dismissal)

The petition of Randy Parker, Commissioner of the Sullivan County Department of Family Services under Article 10 of the Family Court Act, sworn to on December 11, 2012 having been filed in this Court, alleging that [specify child(ren)]: E[redacted] L[redacted]
is: ☒ neglected ☐ abused ☐ severely abused ☐ repeatedly abused;

And Petitioner, Respondent(s) and counsel for Respondent(s) and the child(ren)'s attorney(s) having appeared before this Court;

And [check applicable box(es)]:
☒ The matter having duly come on for a fact-finding hearing before this Court and the Court having found on the basis of ☐ the fact-finding hearing ☒ the admission of Respondent(s) [specify]: G[redacted] C[redacted] that Respondent(s)[specify]: G[redacted] C[redacted] committed the following act(s) [specify]: Respondent admits that he failed to provide adequate housing for his daugher E[redacted] Ly[redacted] C[redacted] DOB [redacted]. He allowed her to move into her boyfriends home so that she would have shelter.

☐ The Respondent(s)[specify]:
having consented to a finding of ☐ neglect ☐ abuse ☐ severe abuse ☐ repeated abuse without admission, upon the consent of Petitioner and the attorney for the child; N/A

☐ The matter not yet having come on for a fact-finding hearing before this Court; N/A

And Petitioner, Respondent(s) and the child(ren)'s attorney(s) having consented that this proceeding be adjourned in contemplation of dismissal;

Now, therefore, upon the motion of ☐ this Court ☒ Petitioner, it is hereby

ORDERED that the petition herein is adjourned in contemplation of dismissal until [specify date]: September 20, 2013, upon the following terms and conditions with a view to ultimate dismissal of the petition in furtherance of justice [specify]:

A.) The child shall remain in the Guardianship of her sister H[redacted] B[redacted] under Docket No. G-02423-12 until further Order of this Court; and it is further

ORDERED that during the period of adjournment, the child shall reside in the custody of [specify parent(s)]: H[redacted] B[redacted]

ORDERED that [check applicable box]:
☒ the child protective agency shall make a progress report to the court, parties, their attorneys, the non-respondent parent and the attorney for the child on the implementation of this order no later than ninety (90) days from the date of this order and shall make further reports as follows [specify]: every 90 days; ☐ under the facts and circumstances of this case a progress report need not be made; and it is further

ORDERED that, if the proceeding has not been restored to the calendar and if no application for restoration is pending as of the expiration date of this order and if this order has not been extended, the child protective agency shall report to the Court, the attorney for the child, the parties, their attorneys and the non-respondent parent on the status and circumstances of the child and family and any actions contemplated, if any, by the agency with respect to the child and family; and it is further

ORDERED that, if the proceeding has not been restored to the calendar and if no application for restoration is pending as of the expiration date of this order and if this order has not been extended, the petition shall be deemed dismissed in furtherance of justice;

ENTER

Dated: 4-3-13

Judge of the Family Court.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- ❑ Order mailed on [specify date(s) and to whom mailed]:_____
- ❑ Order received in court on [specify date(s) and to whom given]:_____

NOTICE: **YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney (GARN)	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (SWIFT)	☐ by mail	☐ personal service
☒ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☒ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

1-11-12 Dist'd. to DFS Legal

FCA §§ 1035, 1055 10-7c 8/2010

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of

File #: 3576
Docket #: NN-02368-12

E[redacted] L[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age
Alleged to be Neglected by

SUMMONS
(CHILD NEGLECT CASE)

G[redacted] C[redacted]

Respondent.

NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

BY ORDER OF THE FAMILY COURT OF THE STATE OF NEW YORK

To: G[redacted] C[redacted]
[redacted]
[redacted]

A Petition under Article 10 of the Family Court Act having been filed with this Court, and annexed hereto

YOU AND EACH OF YOU ARE HEREBY SUMMONED to appear before this Court on

Date/Time:	December 17, 2012 at 2:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

to answer the petition and to be dealt with in accordance Article 10 of the Family Court Act.

On your failure to appear as herein directed, a warrant may be issued for your arrest.

Dated: December 11, 2012

Christina Benson, Clerk of Court

CC: Sullivan County Department of Family Services, Petitioner, Lisa Ann Swift, Esq., Legal Aid Sullivan County Legal Aid Panel, Inc., Legal Aid,

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of

E[redacted] L[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age
Alleged to be Neglected by

G[redacted] C[redacted]

Respondent.

File #: 3576
Docket #: NN-02368-12

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Lisa Ann Swift, Esq.
PO Box 1293
South Fallsburg, NY 12779

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] L[redacted]	[redacted]

and it is further

Ordered that Lisa Ann Swift, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Lisa Ann Swift, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Lisa Ann Swift, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered that in all permanency cases, all reports required by law shall be provided to Lisa Ann Swift, Esq. and it is further

Ordered, that during the pendency of this matter, Lisa Ann Swift, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Lisa Ann Swift, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Lisa Ann Swift, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	December 17, 2012 at 2:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: December 11, 2012

ENTER

Hon. Michael F. McGuire

CC:Sullivan County Department of Family Services, Petitioner, Lisa Ann Swift, Esq., Attorney for Child
T[redacted] L[redacted] Interested Party, G[redacted] C[redacted] Respondent, Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of

E[redacted] L[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age
Alleged to be Neglected by

G[redacted] C[redacted]

Respondent.

File #: 3576
Docket #: NN-02368-12

NOTICE OF PENDING CHILD PROTECTIVE PROCEEDING

To: T[redacted] L[redacted]
[redacted]

Enclosed is a copy of a petition filed in this Court by a child protective agency alleging that G[redacted] C[redacted] neglected your child who is named in the petition. In addition, a copy of the summons that has been issued to the above- named Respondent(s) is enclosed. This summons provides you with all necessary information as to where and when the proceeding will be heard in the Family Court.

Please note that you are not named as a Respondent in this petition. However, because you are the parent of the child named in this petition, you are entitled to notice of the pendency of this petition. You are also entitled to notice of certain rights and information, as follows:

You have a right to appear in the Family Court and participate in this proceeding as an interested party intervenor for the purpose of seeking temporary and permanent custody of the child.

Upon good cause, the Court may also order an investigation pursuant to section 1034 of the Family Court Act to determine whether a petition should be filed naming you as a Respondent.

If the Court determines that the child must be removed from home, the Court may order an investigation to determine whether you or someone in your family may be suitable to care for the child.

If the child is placed and remains in foster care 15 of the most recent 22 months, the agency may be required by law to file (and in certain cases, the foster parent or Attorney for the Child may file) a petition to terminate your parental rights and to commit guardianship and custody of your child for the purposes of adoption, even if you were not named as a Respondent in this child abuse or neglect proceeding. In some cases, the petition may be filed before the end of the 15 month period.

If you have visitation rights with your child as a result of a prior court order or judgment or a prior separation agreement or settlement, you may seek to enforce these rights by contacting the above-named social services agency or by appearing in Family Court on the date and time indicated on the enclosed summons.

Dated: December 11, 2012 Christina Benson, Clerk of Court

CC: Sullivan County Department of Family Services, Petitioner, Lisa Ann Swift, Esq., Legal Aid
G[redacted] C[redacted] Respondent, Sullivan County Legal Aid Panel, Inc., Legal Aid

F.C.A. §§ 1012, 1031

Form 10-6
(Child Protective-
Petition -- Neglect)
(8/2010)

FAMILY COURT OF NEW YORK
COUNTY OF SULLIVAN

3576

In the Matter of
E[redacted] L[redacted] (DOB: [redacted])

NN-2368-12

Docket No.
CIN #
PETITION
(Child Neglect)

A Child under Eighteen Years
of Age Alleged to be Neglected by

DEC 11

G[redacted] C[redacted]
(DOB: [redacted])

Respondent.

NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

TO THE FAMILY COURT:
The undersigned Petitioner respectfully alleges that:

1. Petitioner **Sullivan County Department of Family Services** is a:
☒ duly authorized agency having its office and place of business at **16 Community Lane, Liberty, New York**
☐ person directed by the Court to originate this proceeding, who resides at:

2. The child who is the subject of this proceeding is:

Name	Sex	Date of Birth	Custodial Parent/Guardian	Child's Address[1]
[redacted] L[redacted] C[redacted]	**F**	**[redacted]**	**T[redacted] L[redacted] G[redacted] C[redacted]**	**c/o H[redacted] B[redacted] [redacted]**

[1] Unless ordered confidential, pursuant to Family Court Act §154-b, because of a risk that disclosure would place the health, safety or liberty of the child at risk.

3. a. (Upon information and belief) The father and mother of the child and their respective residence addresses are:

Name of Child	Name of Parent	Parent's Address[2]
E[redacted] Ly[redacted] C[redacted]	(F) G[redacted] C[redacted]	[redacted]
	(M) T[redacted] L[redacted]	[redacted]

b. (Upon information and belief) The persons legally responsible for the care of said child are T[redacted] L[redacted] and G[redacted] C[redacted] who reside at [redacted], [redacted] respectively

4. (Upon information and belief) The child is neglected on the following grounds and based upon the following facts:

The physical, mental and emotional condition of the child, E[redacted] Ly[redacted] C[redacted] (age [redacted]), has been impaired or is in imminent danger of becoming impaired as a result of the failure of the Respondent Father, G[redacted] C[redacted] to exercise a minimum degree of care in providing the child with proper guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, or by any other acts of a similarly serious nature requiring the aid of the court, to wit:

A. On September 13, 2012, Sullivan County Child Protective Services received a hotline report from the State Central Register that alleged:

"E[redacted] (age[redacted]) is diagnosed with Attention Deficit Hyperactivity Disorder and Major Depressive Disorder. Mother (T[redacted] and father (G[redacted] have missed numerous mental health appointments for the child, and she is now out of medication. The child has been in the care of [redacted] since May 2012, and they are allowing E[redacted] to engage in a sexual relationship with [redacted]). E[redacted] father is also aware of this, but fails to intervene to protect the child. E[redacted] is often dirty and unkempt. Other household member (A[redacted]), [redacted] (age[redacted] and R[redacted] (age [redacted]) have unknown roles."

B. On September 13, 2012, Sullivan County Child Protective Services Senior Caseworker Georgia Harris met with Respondent Father G[redacted] C[redacted] who admitted to allowing E[redacted] L[redacted] C[redacted] (age[redacted] to reside with her 18 year old boyfriend [redacted] and his family because he had no room for her in his apartment. E[redacted] admitted to being involved in a sexual relationship with J[redacted]. This caseworker informed Respondent Father G[redacted] C[redacted] that E[redacted] could not continue to reside with J[redacted]. Respondent Father G[redacted] C[redacted] was unable to come up with a plan

---

[2] *See* footnote 1.

for E[redacted] This worker and E[redacted] called H[redacted] B[redacted] E[redacted] sister who agreed to care for her temporarily.

C. Sullivan County Child Protective Services Senior Caseworker Georgia Harris met with Mr. A[redacted] (J[redacted]' father) who stated that E[redacted] began coming to his home during the summer and asking to stay over. Mr. A[redacted] reported that he drove E[redacted] to Respondent Father G[redacted] C[redacted]'s home on many occasions because he did not want her alone in his home with his son J[redacted]. He further stated that Respondent Father G[redacted] C[redacted] told him that E[redacted] was sleeping in his car because there was no room in the apartment and asked him to allow her to stay with them.

D. On September 13, 2012, Sullivan County Child Protective Caseworker Georgia Harris took E[redacted] to her sister H[redacted] B[redacted] home where she has remained. Since E[redacted] has been residing with her sister, she has an 86 average for this first marking period. E[redacted] last two quarters in the same school district while residing with her father were 50 and 49 consecutively. Ms. B[redacted] is currently working with Amanda Mall, Intensive Case Management through Community Services and Joshua Jones, Senior Caseworker through Preventive Services.

E. On January 10, 2012, Respondent Father G[redacted] C[redacted] was residing in a one bedroom apartment in Wurtsboro with E[redacted] He reported to Sullivan County Child Protective Services Senior Caseworker Doreen Colon that he was looking for a bigger apartment to accommodate E[redacted] From that date forward, E[redacted] attended three different schools and lived in three different homes. The Department became involved on September 13, 2012 at which time she went to live with her sister H[redacted] B[redacted] Since then, Respondent Father G[redacted] C[redacted] moved from the small apartment in Wurtsboro to a studio apartment in Swan Lake. Respondent Father G[redacted] C[redacted] has not provided adequate shelter for E[redacted] in more than one year. E[redacted] has stated she slept in a car because her father was sick and she did not want him to have to give up the bed.

F. Respondent Father G[redacted] C[redacted] has refused to work with community services and preventive services; further he has not made himself available to the service providers already involved with E[redacted] Respondent Father G[redacted] C[redacted] would not make himself available for a medication appointment, thereby leaving E[redacted] without medication. Further, Respondent Father G[redacted] C[redacted] has not provided any financial assistance to Ms. B[redacted] for E[redacted] care.

5. (Upon information and belief), Respondent G[redacted] C[redacted] **the father** of the child, is the person who is responsible for the neglect of the child.

6. [Required if removal has occurred or is requested:

a. ☐ (Upon information and belief) On, the following child was temporarily removed from the care of the following Respondent on the basis of the following facts and for the following reasons:

in accordance with:

[] a court order pursuant to Family Court Act §1022, issued on:

[] consent of the following Respondent obtained on pursuant to Family Court Act §1021.[3]

☐ on an emergency basis without a court order pursuant to Family Court Act §1024. There was no time to obtain a court order because:

b. ☐ (Upon information and belief) The child should be removed from the care of the following Respondent in accordance with Family Court Act §1027 in order to prevent imminent risk to the child's life or health on the basis of the following facts and for the following reasons:

7. [Required if removal or continued removal of children is requested]:

a. (Upon information and belief) Continuation in, or return to, the child's home would be contrary to the best interests of the child because:

This assertion is based upon the following information:

- ☐ Report of Suspected Child Abuse or Neglect
- ☐ Case Record, dated:
- ☐ Service Plan, dated:
- ☐ The report of, dated:
- ☐ Other:

b. (Upon information and belief) Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child from the home:

☐ were made as follows:

☐ were not made but the lack of efforts was appropriate:

☐ because of a prior judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child with the Respondent:

☐ because:

☐ were not made.

This assertion is based upon the following information:

- ☐ Report of Suspected Child Abuse or Neglect
- ☐ Case Record, dated:
- ☐ Service Plan, dated:
- ☐ The report of, dated:
- ☐ Other:

c. (Upon information and belief) Based upon Petitioner's investigation:

---

[3] A copy of the consent instrument must be attached to the petition. *See* F.C.A. §1021.

☐ The following person:
is a ☐ non-respondent parent ☐ relative ☐ suitable person with whom the child may appropriately reside.

[Applicable to relatives and other suitable persons]: Such person:

☐ seeks approval as a foster parent in order to provide care for the child;

☐ wishes to provide care and custody for the child without foster care subsidy during the pendency of any order herein.

☐ may be a resource but not yet determined whether as a foster parent or custodian.

☐ There is no non-respondent parent, relative or suitable person with whom the child may appropriately reside.

d. (Upon information and belief) Imminent risk to the child ☐ would ☐ would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]: from the child's residence, based upon the following facts and for the following reasons:

8. The subject child ☐ is ☒ is not a Native-American child, who is subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963). If so, the following have been notified:

☐ parent/custodian:

☐ tribe/nation:

☐ United States Secretary of the Interior:

9. [Required if removal or continued removal of children is requested]:[4] Petitioner is required to obtain education information and to provide that information to foster care providers and other parties to this proceeding. Unless otherwise obtained by release, Petitioner thus seeks a court order to obtain the education records (including special education and early intervention records) of each child named in this Petition who is not placed with a parent(s)/legal guardian(s), and a court order to provide such records to service providers where such records are necessary to enable the service provider to establish and implement a plan of service.

[4] This notice is required by the federal *Family Educational Rights and Privacy Act* [20 U.S.C. §1232(g)(b)(2)(B)].

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF SULLIVAN)

Randy Parker being duly sworn, deposes and says:

That he is the Commissioner of the Sullivan County Department of Family Services and is acquainted with the facts and circumstances of the above-entitled proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true to his own knowledge except as to those matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Randy Parker, Commissioner

Sworn to before me this
11th day of December 2012

Notary Public

BRENDA G. MILLER
Notary Public, State of New York
Sullivan County Clerk's #2256
Commission Expires Nov. 23, 2014

WHEREFORE, Petitioner requests that an order be issued determining the child to be neglected and otherwise dealing with the child in accordance with the provisions of Article 10 of the Family Court Act.

Dated ,

Randy J. Parker, Commissioner

Michael Ross, Esq.
Sullivan County Legal Department - 1)(5)
100 North Street
Monticello, NY 12701
(845) 794-3000, Ext. 0500

At a Term of the Family Court
of the State of New York held
in and for the County of Sullivan,
at Monticello, New York on
April 22, 2013

PRESENT: Hon. Michael F. McGuire
Judge

In the Matter of

E[redacted] L[redacted] (DOB[redacted]

Docket No. NN-02358-12 &
G-02423-12
File No. 3576

A Child under Eighteen Years of Age
Alleged to be Neglected by

ORDER

APR 24 2013

G[redacted] C[redacted]

Respondents.

A Neglect Petition, sworn to on the 11TH day of December, 2013, having been filed in this Court by Randy J. Parker, Commissioner of the Sullivan County Department of Family Services alleging that the above named Respondents neglected the above named child; and

The child having previously been placed with her sister H[redacted] B[redacted] under Article 10 of the Family Court Act, and T[redacted] L[redacted] mother of the child, having filed a Custody Petition; and

The matter having come on before the Court and T[redacted] L[redacted] having appeared, Michael C. Ross, Esq., Social Services Attorney having appeared, Georgia Harris, Sr. Caseworker for the Sullivan County Department of Family Services having appeared; and

Upon consent of all parties; it is hereby

ORDERED that E[redacted] L[redacted] shall be temporarily placed in the care and custody of her mother T[redacted] L[redacted] under Article 10 of the Family Court Act; and it is further

ORDERED that the Sullivan County Department of Family Services shall furnish preventive services to the household of T[redacted] L[redacted] and T[redacted] L[redacted] and all members of the household shall cooperate with said services; and it is further

ORDERED that E[redacted] L[redacted] must continue to attend [redacted] School and shall attend school regularly with no illegal absences, tardies or behavior referrals; and it is further

ORDERED that this matter is adjourned to a later date for personal service of the Custody Petition upon G[redacted] C[redacted] and H[redacted] B[redacted] and it is further

ORDERED that this matter is scheduled for a Court appearance on May 20, 2013 at 9:00 a.m.

Dated: May 21, , 2013

ENTER:

J.F.C.

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on May 21, 2013

Christina Benson

~~(Deputy)~~ Chief/Clerk of the Court

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Attorney for Child [redacted]	☐ by mail	☐ personal service
2X ☒ Parent/Guardian ([redacted])	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☒ DFS Counsel	☐ by mail	☐ personal service
☒ DFS Prev. Services	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☒ Other G. Harris, DFS	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

[illegible]

ATE OF NEW YORK
OUNTY OF SULLIVAN

----------x

he Matter of a Proceeding under
icle 6 of the Family Court Act

T[redacted] J[redacted],
Petitioner,

-against-

ORDER TO SHOW CAUSE

H[redacted] B[redacted] p M[redacted] C[redacted]
Respondent(s).

----------x

TICE: **YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

Upon the petition(s) of T[redacted] J[redacted], verified the 27th day of March, 2013, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the n. Michael F. McGuire on the 20th day of May, 2013 at 9:00 in the ter)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting itioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court y determine; and it is further

ORDERED, that ~~[illegible]~~;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child d/or the self represented parties; And the Court having considered and relied upon the results of these searches in making s decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it granted upon above named Respondent(s) on or before the 13th day of May, 2013 be deemed fficient service.

ated: 4/24/13

G[redacted] C[redacted] **NTER**

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

4/25/13 - to Petr for svce on Res [redacted]

MFM 4/229.3

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation –Family or Supreme Court) [1]
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF
.....

3576 G-2473-12/13F

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

Docket No.

[redacted] L [redacted] Petitioner,

☒ Guardianship
PETITION FOR
MODIFICATION OF ORDER OF
☐ Custody ☐ Visitation
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

against-
[redacted] B [redacted]
[redacted] C [redacted] Respondent
LSCDFS
.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: Mother of [specify child(ren)'s name(s)]: E [redacted] L [redacted]
I am seeking to modify an order of [check applicable box(es)]: ☒ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2]
Petitioner: [redacted]
Respondent: [redacted]

3. Petitioner is [redacted] and was the Respondent in an action filed in
☐ Supreme Court of the State of New York, County, Index No. [specify]:
☒ Family Court of the State of New York, Sullivan County, Docket No. [specify]:
entitled Docket # G-02473-12

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or national Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

JT

OMIT 7. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the ❑ judgment ❑ order, the Supreme Court has not retained exclusive jurisdiction to modify the ❑ judgment ❑ order .

8. (Upon information and belief) Since the entry of the ❑ judgment ☒ order, there has been a change of circumstances in that [specify]: There is conflict in th[redacted] home with E[redacted] and I am no longer working nights

9. Because of this change of circumstances, the ❑ judgment ☒ order should be modified as follows [specify]: Termination of Guardianship, Custody placed with T[redacted] (mother)

10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]:

WHEREFORE, Petitioner respectfully requests that the ❑ judgment ☑ order of the ❑ Supreme Court ☑ Family Court, dated march 20, 2013, be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: March 26, 2013

[redacted]
Petitioner

[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted]

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to ~~(his)~~(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]
Petitioner

Sworn to before me this
26th day of March, 2013

(Deputy) Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: 3576

Petitioner: T[redacted] L[redacted]	Respondent:

My Daughter E[redacted] L[redacted] was Staying with her oldest Sister, H[redacted] B[redacted]. Due To Conflict in The House E[redacted] is Now Living with me. I No longer work at Night and all partys Included Feel it is in E[redacted] Best interest To live with me

Partys Include
E[redacted] - Child
T[redacted] - mother
H[redacted] - Sister
Georgia - C.P.S. worker

Thank you For your Time
[redacted]

T[redacted] L[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 20th day of March, 2013

(Deputy) Chief Clerk of the Court
~~Notary Public~~

X [redacted]
Signature of Petitioner

F.C.A.§§ 661; S.C.P.A.§ 1707

6-5 3/2009

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on March 20, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Guardianship** Proceeding

File #: 3576
Docket #: G-02423-12

H[redacted] R[redacted] B[redacted]

Petitioner,

- against -

T[redacted] L[redacted]
G[redacted] C[redacted]

Respondents.

ORDER APPOINTING PERMANENT GUARDIAN

Upon reading and filing the petition, duly verified on December 17, 2012, applying for the appointment of the permanent guardian of the above-named E[redacted] L[redacted] person under the age of 21;

And where the subject of the petition is over 14 but less than 18 years of age, the child having expressed a preference for the appointment of the guardian;

And this Court having determined that the best interests of the subject of the petition will be promoted by the appointment of a permanent guardian, and that H[redacted] R[redacted] B[redacted] is in all respects competent to act as such guardian and to raise the subject of the proceeding to adulthood;

IT IS HEREBY ORDERED that H[redacted] R[redacted] B[redacted] upon taking the official oath and filing the designation as required by law, is appointed permanent guardian of E[redacted] L[redacted] and that Letters of Guardianship shall issue to the Guardian accordingly; and it is further

ORDERED that, unless terminated by the Court, the appointment shall last until the subject's 18th birthday, unless the Court approves an application for an extension of the appointment until the age of 21 upon the consent of the subject if the subject is over 18;

Dated: March 20, 2013

ENTER

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 3-20, 2013
Christine Denson
(Deputy) Chief/Clerk of the Court

Hon. Michael F. McGuire

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 3·21·13 to all encc.
☐ Order received in court on [specify date(s) and to whom given]:_____

CC: Lisa Ann Swift, Esq., Attorney for Child
Michael C. Ross, Esq., DSS
T[redacted] Ly[redacted] Respondent
G[redacted] C[redacted] Respondent
H[redacted] R[redacted] E[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

LETTERS OF GUARDIANSHIP OF THE PERSON OF A MINOR

File #: 3576
Docket #: G-02423-12

THE PEOPLE OF THE STATE OF NEW YORK

KNOW ALL BY THESE PRESENTS that at the County of Sullivan, on March 20, 2013, before Honorable Michael F. McGuire, Judge of the Family Court of this County, H[redacted] R[redacted] B[redacted] having duly qualified according to law, is hereby authorized to serve as guardian of the person of E[redacted] L[redacted] (DOB: [redacted]), a Minor, and Letters of Guardianship are hereby granted to said H[redacted] R[redacted] B[redacted]

IN TESTIMONY WHEREOF, we have caused the seal of office of the Family Court of the County of Sullivan, to be hereunto affixed.

Witness: Honorable Michael F. McGuire, Judge of the Family Court, County of Sullivan, at the Family Court of Sullivan County, on March 20, 2013.

Dated: March 20, 2013

Christina Benson, Clerk of Court

(seal)

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 17, 2012

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 3576
Docket #: V-01931-12

H[redacted] R[redacted] B[redacted]

Petitioner,

ORDER

- against -

G[redacted] C[redacted]
T[redacted] L[redacted]

Respondents.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

H[redacted] B[redacted] having filed a petition on September 27, 2012 seeking an Order of Custody for the child E[redacted] L[redacted] dob [redacted], and a Temporary Order of Custody having been granted on October 31, 2012; and the Petitioner having subsequently filed a petition on December 17, 2012 for Guardianship of the same child and the Respondent G[redacted] C[redacted] having consented to a Temporary Order of Guardianship; it is hereby

ORDERED that the Temporary Order of Custody dated October 31, 2012 is hereby vacated and the Petitioner has been granted Temporary Guardianship of E[redacted] L[redacted]

Dated: December 18, 2012

ENTER

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-18, 2012

Tracy Benson
(Deputy) Chief/Clerk of the Court

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1/2/13 to all on cc:
☐ Order received in court on [specify date(s) and to whom given].

CC: Lisa Ann Swift, Esq., Attorney for Child
T[redacted] L[redacted] Respondent
G[redacted] C[redacted], Respondent
H[redacted] R[redacted] Bo[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

6-5Temp 9/2006

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 17, 2012

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Guardianship** Proceeding

File #: 3576
Docket #: G-02423-12

H[redacted] R[redacted] B[redacted]

Petitioner,

- against -

TEMPORARY ORDER APPOINTING GUARDIAN OF THE PERSON

T[redacted] L[redacted]
G[redacted] C[redacted]

Respondents.

Upon reading and filing the petition, filed on December 17, 2012, applying for the appointment of a guardian of the person of E[redacted] L[redacted] (DOB: [redacted]),

And this Court having determined that the interests of the child will be promoted by the appointment of a guardian of his/her person and that H[redacted] R[redacted] B[redacted] is in all respects competent to act as such guardian; it is hereby

ORDERED that H[redacted] R[redacted] B[redacted] upon taking the official oath and filing the designation as required by law, be and hereby is appointed temporary guardian of the person of said child and that Temporary Letters of Guardianship shall issue to the Guardian accordingly.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: December 18, 2012

ENTER

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-18, 2012

Christine Ellison

(Deputy) Chief/Clerk of the Court

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1/2/13 to all on cc:
☐ Order received in court on [specify date(s) and to whom given]:

CC: Sullivan County Department of Family Services, Interested Party
T[redacted] L[redacted] Respondent
G[redacted] C[redacted] Respondent
H[redacted] R[redacted] B[redacted], Petitioner
Lisa Swift, Esq

TEMPORARY LETTERS OF GUARDIANSHIP OF THE PERSON OF A MINOR

File #: 3576
Docket #: G-02423-12

THE PEOPLE OF THE STATE OF NEW YORK

KNOW ALL BY THESE PRESENTS that at the County of Sullivan, on December 17, 2012, H[redacted] R[redacted] B[redacted] having duly qualified according to law, is hereby authorized to serve as temporary guardian of the person of E[redacted] L[redacted] (DOB: [redacted]), a Minor, and Temporary Letters of Guardianship are hereby granted to said H[redacted] R[redacted] B[redacted]

IN TESTIMONY WHEREOF, we have caused the seal of office of the Family Court of the County of Sullivan, to be hereunto affixed.

Witness: Honorable Michael F. McGuire, Judge of the Family Court, County of Sullivan, at the Family Court of Sullivan County, on December 17, 2012.

Dated: December 18, 2012

Christina Benson, Clerk of Court

(seal)

F.C.A. § 661;
S.C.P.A.§§ 1701 - 1704

Form 6-1
(Petition for Appointment
As Guardian of a Person Or
Permanent Guardian)
3/2009

Proceeding for the Appointment of a
Guardian of the Person or Permanent Guardian of

Docket No. 3576
Family File No. G-02423-12
PETITION FOR
APPOINTMENT AS
☒Guardian of Person
☐Permanent Guardian

E[redacted] L[redacted]

A Person Under the Age of 21

DEC 17 2012

TO THE FAMILY COURT:

The Petitioner respectfully alleges to this Court that:

1. I am [specify relationship]: sister of the person under the age of 21 who is the subject of this petition and I am submitting this petition in order to be appointed [check applicable box]: ☐Guardian of the Person ☐Permanent Guardian.[1]

2. My name is [specify]: H[redacted] B[redacted] and I live at [specify name and complete address of residence]:[2] [redacted]

3. The name, date of birth and residence of the person under the age of 21 who is the subject of this proceeding are as follows:

Name: E[redacted] L[redacted]
Date of Birth: [redacted]
Complete address:[3] [redacted]

---

[1] A "permanent guardian" may be appointed, pursuant to Family Court Act §661(b) and Surrogate's Court Procedure Act §1702(2), if the Court finds that it is in the best interests of a person under the age of 21, who has been committed to an authorized agency through termination of parental rights or surrender or whose birth parents or other persons entitled to notice of, or to consent to, adoption are deceased. Persons over the age of 18 must consent to such an appointment, which may last until the person reaches the age of 21.

[2] Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21 (available at www.nycourts.gov).

[3] Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21 (available at www.nycourts.gov).

4. The subject of this proceeding ☐is ☒is not a Native American child under the age of 18 who is subject to the *Indian Child Welfare Act of 1978* (25 U.S.C. §§1901-1963). If so, the following have been notified [check applicable box(es)]:
☐ parent/custodian [specify name and give notification date]:
☐ tribe/nation [specify name and give notification date]:
☐ United States Secretary of the Interior [give notification date]:

5. The name and relationship of person with whom the subject of this proceeding resides are as follows:
Person with whom subject resides [specify name]: H[redacted] B[redacted]
Relationship to subject: Sister
Address [include street, city, village or town, county and state]:[4] [redacted]

6. (Upon information and belief) The religion of the person who is the subject of this proceeding is

7. The names, relationship and post office addresses of the birth parents of the subject of the proceeding, the name and address of the person with whom the subject resides, if other than the parent(s), on whom process should issue; and such other persons concerning whom the court is required to have information, are as follows: [If either birth parent is dead or has surrendered or has had parental rights terminated (TPR) , so allege; if both parents are dead, indicate nearest adult next of kin]:

Relationship	Name	Complete Address	Deceased?	TPR?	Surrender?
Birth mother:	T[redacted] L[redacted]	[redacted]			
Birth father:	G[redacted] C[redacted]				
Person with whom the subject resides, if other than parents:	H[redacted] B[redacted]	[redacted]			
Adult next of kin, if birth parents are dead:					
Other [specify]: [5]					

[4] Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21 (available at www.nycourts.gov).

[5] Include Mental Hygiene Legal Services, if the subject of the proceeding is mentally retarded or developmentally disabled and has been admitted to a facility, and any person entitled to notice of or consent to the adoption of the subject of the proceeding.

8. a. Appointing me as the ☒guardian of the person ☐permanent guardian would be in [subject's name]: [redacted] best interests and would preserve his/her legal rights because [specify facts regarding the suitability, ability and commitment of the proposed guardian to assume full legal responsibility and raise him/her to adulthood]: She dose not want to live with her dad or mom and she is doing good with me right now

b. [Required where appointment of permanent guardian is requested, pursuant to Family Court Act §661(b) or S.C.P.A. §1702(2); delete if inapplicable]:

(i) [Check applicable box]:

☐ guardianship and custody have been committed to the following authorized agency [specify, include whether by surrender or termination of parental rights and attach certified copies of the orders terminating parental rights or approving the surrenders, as applicable]:

☐ both parents of the child, whose consent to or notice of an adoption would have been required, are deceased [attach death certificates].

(ii) The local social services district performed an assessment, as required by S.C.P.A. §1704(8), that recommended the following [specify and attach a copy of the assessment]:

9. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of guardianship of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother ☐ has ☐ has not consented to the award of guardianship to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek

guardianship of the child(ren) [specify]:

d. he child's legally-established birth father ☐ has ☐ has not consented to the award of guardianship to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek guardianship of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]: since [specify date]: The foster parent(s) ☐ has/have ☐ has/have not consented to the award of guardianship to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related ☐ child abuse or neglect ☐ permanency proceeding ☐ has ☐ has not consented to the award of guardianship to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ☐ child abuse or neglect ☐ permanency proceeding ☐ has ☐ has not consented to the award of guardianship to the Petitioner. [If unaware whether they have consented, so state]:

9. (Upon information and belief) No guardian pursuant to will or deed, or guardian of the person pursuant to Section 384 or 384-b of the Social Services Law, has been previously appointed for the subject of this proceeding, except [specify]: None

10. Upon information and belief, [Check all applicable box(es)]:

a. ☐ I have never been the subject of an indicated report, as such term is defined in of the Social Services Law §412, that has been filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422.

☒ I was the subject of an indicated report, as defined in of the Social Services Law §412, that was filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422. [Specify the date of the report, determination of whether "indicated" or "unfounded," status and circumstances to the extent known]: all was unfounded

☐ I am the subject of a report, as defined in of the Social Services Law §412, filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422, that remains under investigation. [Specify the date of the report, status and circumstances to the extent known]:

b. ☐ I have never been the subject of, or the respondent in, a child protective proceeding pursuant to Article Ten of the Family Court Act.

☒ I have been the subject of, or the respondent in, a child protective proceeding pursuant to Article Ten of the Family Court Act. [Specify whether the proceeding resulted in an order finding that a child or children was/were abused or neglected, indicate whether the subject of this proceeding was found to be abused or neglected and provide the date and status of the proceeding to the extent known]: was unfound

c. ☒ I have never been the subject of an Order of Protection or Temporary Order of Protection in any criminal, matrimonial or Family Court proceeding(s).

☐ I have been the subject of an Order of Protection or Temporary Order of Protection in a criminal, matrimonial or Family Court proceeding(s) as follows [specify the court, docket or index number, whether I was protected or restrained by the order, date of order, expiration date of order, next court date and status of case to the extent known]:

OMIT 11. Upon information and belief,[check applicable box(es)]:

a. The following adults who are age 18 or older live in my home:

Name	Relationship, if any, to subject of proceeding	Date of Birth

b. ☐ None of the adults 18 or older living in my home has ever been the subject of any indicated reports, as defined in of the Social Services Law §412, that were filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422.

☐ The following adults 18 or older living in my home have been the subjects of indicated reports, as defined in of the Social Services Law §412, that were filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422. [Specify the name(s) of the adults, date(s) of the report(s), whether the subject of this proceeding was the subject of the report(s), status and circumstances to the extent known]:

☐ The following adults 18 or older living in my home are the subjects of reports, as defined in of the Social Services Law §412, filed with the statewide register of child abuse and maltreatment pursuant Social Services Law §422, that remain under investigation [Specify the name(s) of the adults, whether the subject of this proceeding is the subject of the report(s), date(s) of the report(s), status and circumstances to the extent known]:

c. ☐ None of the adults 18 or older living in my home has ever been the subjects of, or the respondents in, child protective proceedings pursuant to Article Ten of the Family Court Act.

☐ the following adults 18 or older living in my home have been the subjects of, or the respondents in, child protective proceedings pursuant to Article Ten of the Family Court Act, as follows [Specify the names of the adults, whether the proceedings have resulted in orders finding that the child is an abused or neglected child, whether the subject of this proceeding was a subject of those proceedings and the date and status of the proceedings to the extent known]:

d. ☐ None of the adults 18 or older living in my home has ever been the subjects of an Order of Protection or Temporary Order of Protection in any criminal, matrimonial or Family Court proceeding(s).

☐ the following adults 18 or older living in my home have been the subjects of Orders of Protection or Temporary Orders of Protection in criminal, matrimonial or Family Court proceeding(s), as follows [specify the names of the adults, whether the adults are or were restrained or protected by the order(s), court, docket or index number, date of order, expiration date of order, next court date and status of cases to the extent known]:

12. The birth parent(s) of the child [specify]: E[redacted] L[redacted] although living, should not be appointed guardian of the person of the child because: Court
She dose not want to live with mom or dad and
she doing good with me right now

13. a. [Applicable where the subject of the proceeding is 18 years of age or older; delete if inapplicable]: The person who is the subject of this proceeding is over the age of 18 and has consented to the appointment of the guardian, a copy of which is attached.

b. [Applicable where the child is over 14 years of age but less than 18; delete if inapplicable]: The child, who is over the age of 14, has expressed a preference for the appointment of the guardian, a copy of which is attached.

14. There are no persons interested in this proceeding other than those mentioned above. None

15. No prior application has been made to any court, including a Native- American tribunal, for the relief requested herein (except [specify]: None).

WHEREFORE, Petitioner requests that an order be entered appointing me to be the ☐guardian of the person ☐permanent guardian of [specify]:
until the child reaches the age of ☐18 ☐21 upon his/her consent,
and that letters of guardianship issue.

Dated:

[redacted]

Signature of Petitioner

[redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF Sullivan)

[redacted] ,being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

Sworn to before me this 17
day of Dec 2012

(Deputy)Clerk of the Court
~~Notary~~ Public

[redacted]

Petitioner

F.C.A. §§ 661; S.C.P.A. §§ 1706, 1726

Form 6-3
(Guardianship – Consent of Person Over 18 and Preference of Person Over 14 Regarding Appointment of Guardian)
4/2011

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

Proceedings for the Appointment of a
☐ Guardian of the Person
☐ Standby Guardian
☐ Permanent Guardian
☐ Kinship Guardian
(subsidized kinship guardian program)

of x E[redacted] / [redacted]
A Person Under the Age of 21

Docket No. 3576
Family File No. G-02423-12
☐ CONSENT OF PERSON OVER 18 YEARS OF AGE
☑ PREFERENCE OF MINOR OVER 14 YEARS OF AGE REGARDING APPOINTMENT OF GUARDIAN

State of New York :
: ss.:
County of :

I am the person under the age of 21 who is the subject of this proceeding. I was born on [specify date and year of birth]:
[Check applicable box(es)]:

☐ I am over the age of 18, I have read the petition and believe it to be true and I consent to the appointment of [specify name of proposed guardian]:
as the: ☐ Guardian of my Person ☐ Standby Guardian ☐ Permanent Guardian
☐ Kinship Guardian (subsidized kinship guardian program)[1] until I reach the age of 21.

☒ I am over the age of 14 and under the age of 18, I have read the petition and believe it to be true, and I [check applicable box]: ☐ join in ☐ oppose ☐ do not have a preference regarding the request for the appointment [specify name of proposed guardian]: [redacted] B[redacted] as the:
☐ Guardian of my Person ☐ Standby Guardian ☐ Permanent Guardian ☐ Kinship Guardian (subsidized kinship guardian program).

Sworn to this 17th day of December, 2012

(~~Deputy~~ Clerk of Court)
(~~Notary Public~~)

x E[redacted] / [redacted]
Signature of Subject of Proceeding

x E[redacted] / [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

[1] While the appointment of the guardian continues until I reach the age of 21, I understand that payments under the subsidized kinship guardian program will only continue if the application for payments was made after my 16TH birthday AND the social services district determines that: (i) I am completing secondary education or a program leading to an equivalent credential; (ii) I am enrolled in an institution providing post-secondary or vocational education; (iii) I am employed for at least eighty hours per month; (iv) I am participating in a program or activity designed to promote, or remove barriers to, employment; or (v) I am incapable of any of the above activities due to a medical condition regularly documented in my case plan.

FCA §661 ; SCPA §§708, 1726

Form 6-2
(Guardianship of
Person of a Minor)
8/2010

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

Proceedings for the Appointment of
☒Guardian ☐Standby Guardian of the Person

of X E[redacted]

A Minor

3576
Docket No. G-02423-12
OATH and
DESIGNATION FOR
SERVICE OF PROCESS
☒Guardian
☐Standby Guardian

STATE OF NEW YORK)
ss.:
COUNTY OF)

X H[redacted] B[redacted] being duly sworn. deposes and says:

(1) OATH OF: ☒Guardian ☐Standby Guardian of the Person: That I am over eighteen (18) years of age; that I will well, faithfully and honestly discharge the duties of ☐Guardian ☐Standby Guardian of the Person of the above-named Minor, according to law, and that I am not otherwise ineligible to receive letters.

(2) DESIGNATION OF CLERK FOR SERVICE OF PROCESS: That I do hereby designate the Clerk of the Court of _____ County, and his or her successor in office, as a person on whom service of any process issuing from such Court may be made, in like manner and with like effect as if it were served personally upon me whenever I cannot be found and served within the State of New York after due diligence used. I am domiciled at: (state complete address) [redacted]

X H[redacted] B[redacted]
Signature of Proposed ☒Guardian ☐Standby Guardian
Name of Attorney:
Address of Attorney:
Tel. No.:

VERIFICATION

STATE OF NEW YORK
COUNTY OF
ss.:

On this day of H[redacted] B[redacted]
, ____, before me personally came to me personally known to be the same person described in and who executed the foregoing instrument, and to me such person duly acknowledged that he or she executed the same.

Sworn to before me this 17th day of December, 2012

(Deputy) Clerk of the Court
Notary Public

GF18Temp

[illegible] TRY
[illegible] that the within
[illegible] in the
[illegible] Court of
the [illegible] County
of [illegible] 11-2, 2012

Christine Benson
Chief Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on October 31, 2012

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 3576
Docket #: V-01931-12

H[redacted] R[redacted] B[redacted]

Petitioner,

- against -

G[redacted] C[redacted]
T[redacted] L[redacted]

Respondents.

TEMPORARY ORDER OF CUSTODY

H[redacted] R[redacted] B[redacted] having filed a petition on September 27, 2012, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody of the following minor child:

Name	Date of Birth
E[redacted] L[redacted]	[redacted]

And the matter having duly come on to be heard before this Court;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the following self-represented parties T[redacted] Ly[redacted] G[redacted] C[redacted] and H[redacted] R[redacted] B[redacted] of the results of these searches;

And the Court having considered and relied upon the following results of these searches in making this decision; .

NOW, it is hereby

ORDERED that The Petitioner is granted Temporary Custody of the above named child; and it is further

ORDERED that the child may see her parents at times to be arranged between the parties.

This order shall remain in effect until further order of the Court.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: November 2, 2012 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 11-5-12 to all encc.
☐ Order received in court on [specify date(s) and to whom given]:_____

CC: Lisa Ann Swift, Esq., Attorney for Child
T[redacted] L[redacted] Respondent
G[redacted] C[redacted] Respondent
H[redacted] R[redacted] E[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 3576
Docket #: V-01931-12

H[redacted] R[redacted] E[redacted]

Petitioner,

- against -

G[redacted] C[redacted]
T[redacted] L[redacted]

Respondents.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Lisa Ann Swift, Esq.
PO Box 1293
South Fallsburg, NY 12779

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] L[redacted]	[redacted]

and it is further

Ordered that Lisa Ann Swift, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Lisa Ann Swift, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Lisa Ann Swift, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Lisa Ann Swift, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Lisa Ann Swift, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Lisa Ann Swift, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	November 14, 2012 at 9:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: November 2, 2012

ENTER

Hon. Michael F. McGuire

Sent Stamped 11-5-12

CC:
T[redacted] L[redacted] Respondent
G[redacted] C[redacted] Respondent
H[redacted] R[redacted] B[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 3576
Docket #: V-01931-12

H[redacted] R[redacted] B[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

T[redacted] L[redacted]
G[redacted] C[redacted]

Respondents.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: T[redacted] L[redacted]
[redacted]

G[redacted] C[redacted]
[redacted]

H[redacted] R[redacted] B[redacted]
[redacted]

Upon the petition of H[redacted] R[redacted] B[redacted] filed on September 27, 2012, annexed hereto, it is

ORDERED that T[redacted] L[redacted] and G[redacted] C[redacted] show cause before this Court on

Date/Time:	October 31, 2012 at 10:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon T[redacted] L[redacted] and G[redacted] C[redacted] on or before October 24, 2012, be deemed sufficient service

Dated: October 9, 2012

ENTER

Hon. Michael F. McGuire

Sent 10/10/12 -

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

[redacted] Petitioner

Docket No.
PETITION
☒ CUSTODY
☐ VISITATION

-against-

[redacted] Respondent

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: older sister

c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

2. a. Respondent, [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic [redacted]

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

Relations Law §254]:

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father, Mother

c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:

❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 3. [Delete if inapplicable]: An order was issued by Court, County, State of , referring the issue of ❑custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Address	Date of Birth
[redacted]	[redacted]	[redacted]

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

6. [Check applicable box(es). Delete inapplicable provisions]:

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:

[redacted]

☐ The father was married to the child(ren)'s mother at the time of the conception or birth.

☒ An order of filiation was made on [specify date and court and attach true copy]: Sullivan County Family Court

☐ An acknowledgment of paternity was signed on [specify date]:

[specify who signed and attach a true copy]:

☐ The father is deceased.

---

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition..

OMIT 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 8. [Delete if inapplicable]: Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[4]
If so, specify type of case, capacity of participation, court, location and status of case.

9. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

11. ☐ Petitioner ☐ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: X [redacted] lived with mom from Birth to Age 5
Her dad from Age 5-14 and ~~now~~ she lives with me

12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The

4 If litigation occurred in Native-American tribunal, so indicate.

permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s)
☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

13. It would be in the best interests of the child(ren) to have custody visitation awarded to the Petitioner for the following reasons: X Father Terminally Ill Mother works Nights
pls. See cont. sheet attached hereto/ made part of herein

OMIT 14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): against Respondent against me in the following criminal, matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

OMIT 15. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

16. The subject child(ren) are X are not Native-American child(ren) subject to the Indian

Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: None

WHEREFORE, Petitioner requests an order awarding custody ☐ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: September 27, 2012

H[redacted] 13[redacted]
Petitioner

H[redacted] B[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

H[redacted] B[redacted]
being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to ~~(his)~~(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

H[redacted] B[redacted]
Petitioner

Sworn to before me this
27th day of September, 2012

~~(Deputy)~~ Clerk of the Court
~~Notary~~ Public

Supplemental Page for All Petitions: FF: 3576

Petitioner: [redacted] B[redacted]

Respondent: [redacted]

[redacted] is staying with her oldest sister H[redacted] B[redacted]. E[redacted]s father is terminally ill and is in westchester medical center. E[redacted] goes to school in [redacted] and I feel its best that she stay with her sister at this time.
I work at night and I dont feel teen agers should be left alone at night she wants to be at her sister H[redacted]. The Department of Social Services is aware of the situation and feels also that E[redacted] should stay with H[redacted]
Should you have any questions regarding social services you may contact

Georgia Harris - child protective services 845-513-2349

T[redacted] L[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 27th day of September, 2012

(~~Deputy~~) Chief Clerk of the Court
~~Notary Public~~

x T[redacted] L[redacted]
Signature of Petitioner

Supplemental Page for All Petitions: FF: 3576

Petitioner: H[redacted] 13[redacted]	Respondent: xT[redacted] L[redacted] xG[redacted] G[redacted]

Cont. of #13

E[redacted] goes To [redacted] School and IS Staying with me. IN [redacted] Her Father is Termanally Ill. and is in Westchester medical Center. Her mother lives in a diffrent School District and works Nights. E[redacted] wants To Stay with me and her mother Says She Thinks Thats Best

H[redacted] B[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 27th day of September, 2012

(Deputy) Chief Clerk of the Court
Notary Public

x H[redacted] B[redacted]
Signature of Petitioner

F.C.A. §§ 467, 549, 651, 652, 654
D.R.L. § 240

GF18 8/2002

NOTICE OF ENTRY

PLEASE BE ADVISED THAT THIS DOCUMENT WAS ENTERED IN THE SULLIVAN COUNTY FAMILY COURT CLERK'S OFFICE ON THE 25th DAY OF February, 2003
Cathy Emerson
Chief Clerk

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on February 25, 2003

PRESENT: Hon. Burton Ledina

In the Matter of a **Custody/Visitation** Proceeding

File #: 3576
Docket #: V-00889-97/03D

G[redacted] C[redacted]

Petitioner,

- against -

T[redacted] L[redacted]

Respondent.

ORDER ON PETITION FOR CUSTODY

G[redacted] C[redacted] having filed a petition on February 24, 2003, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody of the following minor child(ren):

Name	Date of Birth
E[redacted] L[redacted] C[redacted]	[redacted]

and T[redacted] L[redacted] having not appeared before this Court to answer the petition, but having signed a notarized consent for the relief requested, and

The matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto; it is hereby

ORDERED that Joint custody be awarded to G[redacted] C[redacted] and T[redacted] L[redacted] with physical custody to be with G[redacted] C[redacted] and it is further

ORDERED, that visitation be awarded to T[redacted] L[redacted] as the parties may agree.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: February 25, 2003

ENTER

Hon. Burton Ledina

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 2/25/03 Resp
☒ Order received in court on [specify date(s) and to whom given]: 2/25/03 Petr

F.C.A. §§ 440, 442-447, 449, 451, 461
466, 467, 652, 654;
S.S.L. § 111-g

Form 4-11
(Support-Custody
Visitation)
12/97

RECEIVED
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

.....

Family File

In the Matter of a Proceeding for Support
Under Article of the Family Court Act

Docket No.
V-889-97/03D

(Commissioner of Social Services, Assignee,
on behalf of , Assignor)

G[redacted] C[redacted] Petitioner,

S.S. # (Assignor)

PETITION FOR
MODIFICATION OF ORDER
~~MADE BY (ANOTHER~~
COURT)(FAMILY COURT)
(Support)(Custody)(Visitation)

-against-

T[redacted] L[redacted] Respondent.

S.S. #

.....

TO THE FAMILY COURT:

unknown

The undersigned Petitioner respectfully shows that:

1. Petitioner resides at [redacted] and Respondent resides at

2. Petitioner is G[redacted] and was the Respondent in an action instituted in the (Supreme Court of the State of New York, Sullivan County) (Court of Family) entitled [redacted] Index No. , and the Respondent was the Petitioner in said action.

[Delete if inapplicable]:

3.a. A (judgment) (order) dated 3-22-02 ~~19~~ , was entered in the action whereunder the Respondent (Petitioner) was directed to (specify terms)

Joint Custody - Physical to Mom Visits to Pet

. A true copy of the (judgment) (order) is annexed hereto and made part hereof.

b. An order of support dated , was entered wherein (specify terms)

4.The names, addresses, dates of birth and social security numbers of all children affected by this order are:

Name	Address	Date of Birth	Social Security #
E[redacted]	[redacted]	[redacted]	

w/ Pet

5. Under the terms of the (judgment)(order) the (Supreme Court) ( ) has not retained exclusive jurisdiction to modify said (judgment) (order). (Said Court is a court of competent jurisdiction outside the State of New York).

6. Since the entry of said (judgment)(order) there has been a change of circumstances in that Petitioner states Respondent was having trouble getting child to school in the Morning.

7. By reason of said subsequent change of circumstances the said (judgment)(order) of the Court should be modified in the following respects:

Joint Cus to by Physical to Dad

(8. Petitioner failed to make an application for relief from said judgment or order directing payment prior to the accrual of arrears for the following reason(s):

.)

9. No previous application has been made to any court or judge for the relief herein requested (except

10. Petitioner: [alternative allegations; delete inapplicable clauses]

(a: has made application for child support services with the local Department of Social Services).

(b: hereby makes application for child support enforcement services by the filing of this petition).

(c: does not wish to make application for child support services).

(d: is not eligible for child support enforcement services). [Petitioners seeking only spousal support are ineligible.]

WHEREFORE, Petitioner respectfully prays that the said (judgment)(order) of the (Supreme Court) (Court), dated , be modified in these respects set forth above and for such other relief as to the Court may seem just and proper.

NOTE: (1) A COURT ORDER OF SUPPORT RESULTING FROM A PROCEEDING COMMENCED BY THIS APPLICATION (PETITION) SHALL BE ADJUSTED BY THE APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY TO THE ORDER OR PURSUANT TO PARAGRAPH (2) BELOW. SUCH COST OF LIVING ADJUSTMENT SHALL BE ON NOTICE TO BOTH PARTIES WHO, IF THEY OBJECT TO THE COST OF LIVING ADJUSTMENT, SHALL HAVE THE RIGHT TO BE HEARD BY THE COURT AND TO PRESENT EVIDENCE WHICH THE COURT WILL CONSIDER IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH SECTION FOUR HUNDRED THIRTEEN OF THE FAMILY COURT ACT, KNOWN AS THE CHILD SUPPORT STANDARDS ACT.

(2) A PARTY SEEKING SUPPORT FOR ANY CHILD(REN) RECEIVING FAMILY ASSISTANCE SHALL HAVE A CHILD SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED BY THE SUPPORT COLLECTION UNIT, WITHOUT FURTHER APPLICATION BY ANY PARTY. ALL PARTIES WILL RECEIVE A COPY OF THE ADJUSTED ORDER.

(3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT ADDRESS, AS REQUIRED BY SECTION FOUR HUNDRED FORTY-THREE OF THE FAMILY COURT ACT, TO WHICH AN ADJUSTED ORDER CAN BE SENT, THE SUPPORT OBLIGATION AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE DATE THE FIRST PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF SUPPORT WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THE ADJUSTED ORDER, REGARDLESS OF WHETHER OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

Dated: 2-24-03

[redacted]

Petitioner

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
: ss.:
COUNTY OF)

being duly sworn, says that (s)he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]

Petitione[redacted]

Print or Type Name

Sworn to before me this 24th day of February, 2003.

(Deputy) Clerk of the Court
Notary Public

At a Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on the 22nd day of March, 2002

PRESENT:

HON. BURTON LEDINA

Acting Judge

----------X Index No. 889-97/02

In the Matter of a Proceeding Under Article 5A of the Family Court Act

Family File 3576

T[redacted] L[redacted]

Petitioner,

-against-

ORDER

G[redacted] C[redacted]

Respondent.

----------X

NOTICE : YOUR WILLFUL FAILURE TO OBEY THIS ORDER, MAY AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Petitioner having filed a petition, sworn to December 26, 2001, with this Court seeking an order of custody and the matters having come before the Court this day. Petitioner appeared in person; Respondent appeared in person with counsel, Bruce Perlmutter, Esq.; and Isabelle Rawich, Esq., Law Guardian, having appeared and upon consent of all parties and counsel, it is hereby

ORDERED, that the parties are granted joint custody of E[redacted] L[redacted] C[redacted] dob [redacted], and the Petitioner, T[redacted] L[redacted] is granted physical custody; and it is further

ORDERED, that the Respondent is granted such the minimum visitation, alternate weekends from Friday to Sunday and at such times and places as agreed to between the parties; and it is further

ORDERED, that the Patties shall split holidays; and it is further

ORDERED, ~~that the temporary order of protection issued by this Court is hereby vacated~~.
that the child shall use the last name of L[redacted]

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A HEARING EXAMINER, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney	☐ by mail	☐ personal service
☒ Law Guardian	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ DFS - Barbara McKenny	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

At a Term of the Family Court of the State of New York, held in and for the County of Sullivan, at Monticello, New York on March 22, 2002

PRESENT:
HON. BURTON LEDINA,
Judge

----------x

In the Matter of a Proceeding Under Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner,

- against -

G[redacted] C[redacted]

Respondent.

----------x

DOCKET NO. V-00889-91/02C

ORDER APPOINTING LAW GUARDIAN

It is hereby ordered that Isabelle Rawich, Esq., be appointed law guardian for E[redacted] L[redacted], dob [redacted],

in the above proceeding which is returnable on March 22, 2002 at 10:30am

for arraignment.

It is directed that the Law Guardian should meet with the children and parties prior to the return date of this matter.

It is hereby ordered that all individuals, institutions, educational facilities, medical care providers and others having information about the within child(ren) release same to the above law guardian upon presentation of a photocopy of this order without specific authorization by the child(ren)'s parent or guardian.

ENTER:

HON. BURTON LEDINA
Acting Family Court Judge

Dated: 03/22/02

cc: T[redacted]
G[redacted] C[redacted]
Bruce Perlmutter, Esq.

A[illegible] Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on February 6, 2002

NOTICE OF ENTRY
PLEASE BE ADVISED THAT THIS DOCUMENT WAS ENTERED IN THE SULLIVAN COUNTY FAMILY COURT CLERK'S OFFICE ON THE 6th DAY OF February 2002
Cathy Emerson
Chief Clerk

PRESENT: HON. BURTON LEDINA
Judge

In the Matter of a Proceeding Under Article [illegible] of the Family Court Act

[redacted],

Petitioner,

DOCKET # V-00889-97/02C
FAMILY FILE # 3576

-against-

(TEMPORARY) ORDER

[redacted] Respondent.

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

This matter having come before the Court this day and all interested parties and counsel having appeared; it is hereby

ORDERED, that the Petitioner is granted temporary Physical Custody of [redacted] dob [redacted] with the Respondent being granted visitation at a minimum of alternate weekends subject to his having appropriate housing & the Childs residence shall not be changed from Sullivan County.(; and it is further

ORDERED, that this matter is scheduled for March 22, 2002 at 10:30 for appearance by all parties and counsel.)

Dated: 2/6/02

ENTER

Hon. BURTON LEDINA
Acting Family Court Judge

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- ☐ Personal service executed (date and upon whom _____
- ☐ Order mailed on (date(s) and to whom) _____
- ☒ Order received in court (date(s) and to whom given) Pet & Resp & B Perlmutter

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on
February 6, 2002

PRESENT: HON. BURTON LEDINA
Judge

----------x

In the Matter of a Proceeding Under Article 6
of the Family Court Act

[redacted] Petitioner,

DOCKET # V-00889-97/02C
FAMILY FILE # 3576

-against-

G[redacted] Respondent.

ORDER APPOINTING LAW GUARDIAN

----------x

It is hereby ORDERED that Eric Gropper, Esq be appointed Law Guardian for [redacted] dob [redacted] in the above proceeding which is returnable on March 22, 2002 at 10:30 for (~~arraignment~~)(appearance)(~~inquest)(conference)(trial)~~.

It is hereby ORDERED that the Law Guardian should meet with the parties and child(ren) prior to the return date.

It is hereby ORDERED that all individuals, institutions, educational facilities, medical care providers and others having information about the within child release same to the above law guardian upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian.

ENTER

Hon. BURTON LEDINA
Acting Family Court Judge

Dated: 2/21/02

c: Petr & Resp. & B. Palmetter, Esq

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 6 of the Family Court Act

T[redacted] C[redacted]

Petitioner,

-against-

G[redacted] C[redacted]

Respondent(s).

----------x

ORDER TO SHOW CAUSE VIOLATION

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of T[redacted] C[redacted], verified the 26th day of Dec., 2001, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Burton Ledina on the 18th day of January, 2002 at 10:00 in the (~~after~~)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

_____

_____; and it is further

ORDERED, that service by ~~PERSONAL SERVICE~~ CERTIFIED MAIL / RETURN RECEIPT REQUESTED & REGULAR 1st class mail of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 4th day of January, 2002 be deemed sufficient service.

Dated: 12/26/01

ENTER

HON. BURTON LEDINA
Acting Family Court Judge

D.R.L. Article 5-A.

General Form 19
(Petition-Custody
Visitation-UCCJA)
1/2001

RECEIVED
DEC 26 2001
SULLIVAN COUNTY
FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

In the Matter of a Proceeding for
(Custody) (Visitation) under Article
5-A of the Domestic Relations Law

Docket No.
V-889-97/02C

[redacted] Petitioner,

S.S. # [redacted]

- against -

PETITION for
Violation (CUSTODY)
(VISITATION)
(UNIFORM CHILD
CUSTODY
JURISDICTION
ACT)

[redacted] Respondent.
S.S. #

.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner, [redacted], (resides)(is located)[delete inapplicable provision] at [specify address]: [redacted]

Petitioner is [specify relationship to child; if unrelated to the child (e.g. foster parent, agency or institution) so state]: Mother

2. (Upon information and belief) Respondent [redacted] (resides at)(is located)[delete inapplicable provision] at [specify address]: [redacted]

(Upon information and belief) Respondent is [specify relationship to child. If unrelated to the child (e.g., foster parent, agency or institution) so state]: Father

3. [Delete if inapplicable]. The proceeding is commenced pursuant to Article 5-A of the Domestic Relations Law. An order was issued by Family Court, County, State of New York, referring the issue of (custody) (visitation) to the Family Court of the State of New York in and for the County of [specify]:

4. The name, present address, date of birth and social security number of each child who is the subject of this proceeding are as follows:

Name	Address	Date of Birth	Social Security #
[redacted]		[redacted]	

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at:

Name	Address	Duration (from/to)
[redacted]	[redacted]	[redacted]
[redacted]		

6. (Upon information and belief) The name and present address of the person(s) with whom each child resided during the past five years are as follows:

Name	Address	Duration (from/to)
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	

7. Petitioner (has) (has not) participated as a (party)(witness) ( ) [specify other capacity] in other litigation concerning the custody of the same children in (New York State) (Other State [specify]:) (or any other state). If so, specify type of case, capacity of participation, court, location and status of case:

14. (Upon information and belief) An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ☐ against Respondent ☐ against me in the following criminal, matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:
The (Order of Protection) (Temporary Order of Protection) expired or will expire on [specify]:

15. No previous application has been made to any court or judge for the relief herein requested, (except:

WHEREFORE, Petitioner prays for an order awarding custody (visitation) of the child(ren) named herein to (the Petitioner) and for such other and further relief as the Court may determine.

Dated .

[redacted]
Petitioner

[redacted]
Signature of Attorney, if any

Attorney's Name (print or type)

Attorney's Address and Telephone Number

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN

[redacted] being duly sworn, says that (s)he is the Petitioner is in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]
Petitioner

Sworn to before me this
26th day of December, 2001

Cathy Emerson
(Deputy) Clerk of the Court
~~Notary Public~~

D.R.L. § 75-j

General Form 19a
(Affidavit--UCCJA)
1/2001

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In the Matter of a Proceeding for (Custody) (Visitation)
under Article 5-A of the Domestic Relations Law

Docket No

[redacted] Petitioner,

-against -

AFFIDAVIT

[redacted] pondent.

STATE OF NEW YORK)
:ss.:
COUNTY OF)

of ,
being duly sworn deposes and says:

1. I am [redacted] , residing at [redacted] and am the (Petitioner)(Respondent) in the above-entitled proceeding.

2. (Upon information and belief) Each child who is the subject of this proceeding resides at:

Name	Date of Birth	Social Security #	Address
[redacted]			

8. (Upon information and belief) (A) (No) custody proceeding concerning the custody of the same child(ren) is pending in (New York State) ( ) [specify other state) (or any other state) (which has (not) been stayed by order of court).

9. (Petitioner was ~~married~~ Never to the Respondent on at (and on (was legally separated) (divorced) (the marriage was annulled) by order of County of .) A true copy of the (judgment)(separation agreement) is annexed hereto.) [Delete if inapplicable.]

10. [Check applicable box(es). Delete inapplicable provisions]:

a. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:
   ☐ The father was married to the child(ren)'s mother at the time of the conception or birth.
   ☒ An order of filiation was made on [specify date and court]: Sullivan Co. Family Ct FF 03761
   ☐ An acknowledgment of paternity was signed on [specify date]: by [specify who signed]:
   A true copy of the (order of filiation)(acknowledgment of paternity) is annexed hereto.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
   A true copy of the agreement or compromise is annexed hereto.

11. (Upon information and belief)(Petitioner)(Respondent) (obtained custody of the child(ren) on [specify date]: , as follows:

12. It would be in the best interests of the child(ren) to have (custody)(visitation) awarded to the Petitioner for the following reasons: MR. C[redacted] WAS Evicted From his home on 12/17/01 at wich Time It is my Belive That he left N.Y.S with E[redacted] without my Knowing and Took her To Georga

13. There has been a change of circumstances since entry of the (order) (judgment) awarding (custody) (visitation) in that: [Delete if inapplicable.] I Am finacialy Able To TAKE E[redacted] BACK and MR. C[redacted] Violated a Court order By Not Bringing E[redacted] to me on Christmas morning AS Agreed apon and left The State To live in Georga See continuation Sheet Attached here to and made APART therein

Supplemental Page for all petitions

Petitioner: [redacted]	Respondent: [redacted]

I Gave Custody of [redacted] To her father [redacted] on 2/3/2000 Because I was having Finatual Problems He Agreed to Take Care of her untill I was Able to take her BACK there has Been Times During the time he has had Custody that he has Kept her away from me for weeks at a time, Times that I had Called his house To find out why he wasnt Bring the Baby over and he did not answer The Phone I left mesages on his machine But never Recieved Phone CALLS BACK he would Bring her to my home at unReasonable Hours of the night Such as 9:00 pm, 9:30 pm, 8:30 pm and I would Say To him that She Shouldnt Be out that late and he Needed to take her home and Put her to Bed. He was Evicted from his Apartment at [redacted] on December 17 2001 he Told me That he went to D.F.S. And They were Putting him in a Hotel Room untill he Found an Apartment. I offerd To Keep the Baby and told him a Hotel Room was no Place for a Child. he Said He would Find a Place Soon and Bring The Baby over for Christmas. I Couldnt get in to an indepth Conversation at this time Because This Took Place at my Place of Employment. That was the last Time I Spoke To him He was Supose to Bring the Baby over That Night So She Could have Dinner at my house But I didnt See her and She didnt Show up Christmass morning. I Called The Hotel he was Suppose to Be Staying at They Said there wasnt anyone By that name There. MR [redacted] Called me The Evening of December 25th To inform me that he was in Georgia [redacted] being duly sworn, says that (s)he is the petitioner in the above-named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn before me this 29th day of December 2001

Cathy Emerson

(Deputy)Chief Clerk of the Court
~~Notary Public~~

x [redacted]
Signature of Petitioner

3. (Upon information and belief) During the last five years each child who is the subject of this proceeding resided at:

Name	Address	Duration (from/to)
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	

4. (Upon information and belief) The name and present address of the person(s) with whom each child resided during the past five years are as follows;

Name	Address	Duration (from/to)
[redacted]	[redacted]	
[redacted]		

5. (Petitioner)(Respondent) has (not) participated as a (party)(witness) ( ) [specify other capacity] in other litigation concerning the custody of the same children in (New York State) (specify other state) (or any other state).

6. Petitioner has (no) information of any custody proceeding concerning the custody of the same child(ren) pending in (New York State) (Other state [specify]: (which has (not) been stayed by order of court), (except):

7. Petitioner does not know of any person not a party to the proceedings who has physical custody of the child(ren) affected by this proceeding or who claims to have custody or visitation rights with respect to the same child(ren) except:

[redacted]

(Petitioner)(Respondent)

Print or type name

Sworn to before me this 26th day December, 2001

Latay Emerson

~~(Deputy)~~ Clerk of the Court

~~Notary Public~~

At a Term of the Family Court
of the State of New York held in
and for the County of Sullivan
at Monticello, New York on the
1st day of March, 2000.

PRESENT: HON. BURTON LEDINA,
Judge

----------x

NOTICE OF ENTRY
PLEASE BE ADVISED THAT THIS DOCUMENT WAS ENTERED IN THE SULLIVAN COUNTY FAMILY COURT CLERK'S OFFICE ON THE 3rd DAY OF March 2000
Cathy Emerson
Deputy Clerk

In the Matter of a Proceeding Under
Article 6 of the Family Court Act

G[redacted] C[redacted]

Petitioner

ORDER

- against -

T[redacted] L[redacted]

Respondent

DOCKET: V-1031-97-02
FAMILY FILE: 03576

----------x

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Petitioner having filed a petition with this Court, sworn to February 3, 2000, seeking an order of custody of the parties minor child and the matter having come on to be heard this day. Both parties appeared in person and *pro se* and upon consent of both parties, it is hereby

ORDERED, that the Petitioner, G[redacted] C[redacted] is granted custody of the parties minor child, E[redacted] J[redacted] L[redacted] dob [redacted]; and it is further

ORDERED, that the Respondent, T[redacted] L[redacted] is granted reasonable and liberal visitation at such times and places as agreed to between the parties.

ENTER

HON. BURTON LEDINA
Acting Family Court Judge

Dated: March 1, 2000

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

Check applicable box:

Service Date: 3-6-2000

☒ Petitioner	☒ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☒ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Law Guardian	☐ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS - Linda Wood	☐ by mail	☐ personal service
☐ County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding under
Article 6 of the Family Court Act

G[redacted] C[redacted]

Petitioner(s),

- against-

T[redacted] L[redacted]

Respondent(s).

Docket #: V-1031-97-02
Family File #:

ORDER TO SHOW CAUSE

Upon the petition of G[redacted] C[redacted] verified February 3, 2000, annexed hereto,

it is

ORDERED, that T[redacted] L[redacted] show cause before this Court at the County Government Center, Monticello, New York, before the Hon. HON. BURTON LEDINA on March 1, 2000 at 10:00AM or as soon thereafter as the parties can be heard, why an order not be made granting Petitioner the relief requested in the attached petition ; and why such other and further relief should not be granted as the Court may determine; and it is further

~~ORDERED, ; and it is further~~

ORDERED, that service by PERSONAL SERVICE of a copy of this Order, together with the papers upon which it is granted upon T[redacted] L[redacted] on or before the 23rd day of February , ~~19~~ 2000 be deemed sufficient service.

ENTER

DATED: FEBRUARY 10, 2000

Judge of the Family Court

2/16/00 Mailed to Peti. for PS

FC - 1 (Rev 5-74)

FAMILY COURT

of the

STATE OF NEW YORK
COUNTY OF SULLIVAN

RECEIVED
FEB - 3 2000
SULLIVAN COUNTY FAMILY COURT

3/1/00
BL
10:00

In the Matter of a Proceeding Under Article 6 of the Family Court Act

G[redacted] C[redacted] etitioner,

-against-

T[redacted] L[redacted]

Respondent.

PETITION FOR MODIFICATION OF AN ORDER OF THIS COURT

DOCKET V-1031-97-02
FAMILY FILE:

SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner shows that:

1. Petitioner resides at x [redacted]

Respondent resides at x [redacted]

2. Petitioner was the **(Petitioner)(Respondent)** in an action instituted in the Family Court of **Sullivan** County entitled L[redacted] v. C[redacted] and the above named Respondent was the **(Petitioner)(Respondent)** in said action.

3. An order dated AUGUST 6, 1997 was made in said action whereunder

(See Attached Order)

4. That since the entry of said order there has been a change of circumstances in that x

Because The ~~non~~ Mother give me Tempary Custody of my Dauther E[redacted] J[redacted] C[redacted] [redacted]

5. That by reason of said subsequent change of circumstances the said order of the Family Court dated AUGUST 6, 1997 should be modified in the following respects: X

T[redacted] L[redacted] GIVE ME TEMPARY CUSTADY OF MY DAUTHER E[redacted] J[redacted] L[redacted] UNTILL SHE IS FINANCIALLY ABLE TO TAKE BACK E[redacted] J[redacted] L[redacted]

6. No previous application has been made to any Court or Judge for the relief herein requested.

NONE.

WHEREFORE, Petitioner respectfully prays that the said order of the Family Court dated AUGUST 6, 1997 be modified in the respects hereinbefore set forth and for such other relief as to the Court may seem just and proper.

Dated: February 3, 2000

X [redacted]

Signature of Petitioner

X G[redacted] C[redacted]

Print or Type Name

Signature of Attorney (if any)

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF SULLIVAN)

G[redacted] C[redacted] above-named, being fully duly sworn, deposes and says that ~~s~~he is the Petitioner in the within proceeding, that ~~s~~he has read the contents of the foregoing instrument; that the same is true to his/her own knowledge except as to the matters therein stated to be alleged on information and belief, and that as to those matters, ~~s~~he believes it to be true.

G[redacted] C[redacted]
Petitioner

Sworn to before me this
3rd day of February, ~~1999~~ 2000

Christina Benson
(Deputy) Clerk of the Court
~~Notary Public~~

2/3/2000

I T[redacted] Give Tempary Custady of my Daughter E[redacted] To her Father G[redacted] C[redacted] untill I am Finantially able to take Care o her AS of 2/3/2000 He has Tempary Custady

[redacted]

SWORN TO THIS 3rd DAY OF FEBRUARY, 2000

Raymond W. Browne

RAYMOND W. BROWNE
Notary Public, State of New York
Residing in Sullivan County
My Commission Expires 6/30/01

NOTICE OF ENTRY

PLEASE BE ADVISED THAT THIS DOCUMENT WAS ENTERED IN THE SULLIVAN COUNTY FAMILY COURT CLERK'S OFFICE ON THE 29th DAY OF August 1997

Cathy Emerson
Chief Clerk

At a Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on the 6th day of August, 1997

PRESENT: HON. FRANK J. LABUDA
Acting Family Court Judge

----------X

In the Matter of a Proceeding Under
Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner,

- against-

G[redacted] C[redacted]

Respondent.

----------X

ORDER
Docket # V-1031/97

RECEIVED
AUG 12 1997
SULLIVAN COUNTY FAMILY COURT

A Custody Petition having heretofore been filed and the matter having come on to be heard this date and the petitioner having appeared and being represented by Robert M. Kesten, Esq., and respondent having appeared in person pro se, and the parties having agreed to the entry of an Order on Stipulation; it is hereby

ORDERED, that the petitioner, T[redacted] L[redacted] shall have custody of the minor child, E[redacted] J[redacted] L[redacted] d/o/b [redacted]; and it is further

ORDERED, that the respondent, G[redacted] C[redacted] shall have reasonable and liberal visitation on notice to petitioner at such times as may be mutually agreed upon by the respective parties; and it is further

ORDERED, that neither party shall remove said minor child from the state of New York without prior approval of this Court.

Dated: Monticello, New York
August 22, 1997

ENTER

HON. FRANK J. LABUDA
Acting Family Court Judge

NOTICE OF ENTRY

PLEASE BE ADVISED THAT THE [redacted] WAS ENTERED IN THE [redacted] FAMILY COURT [redacted]

29th DAY OF August, 97

Cathy Emerson
Chief Clerk

At a Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on the 6th day of August, 1997

PRESENT: HON. FRANK J. LABUDA
Acting Family Court Judge

----------X

In the Matter of a Proceeding Under Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner,

- against-

G[redacted] C[redacted]

Respondent.

----------X

ORDER
Docket # V-1031/97

RECEIVED
AUG 12 1997
SULLIVAN COUNTY FAMILY COURT

A Custody Petition having heretofore been filed and the matter having come on to be heard this date and the petitioner having appeared and being represented by Robert M. Kesten, Esq., and respondent having appeared in person pro se, and the parties having agreed to the entry of an Order on Stipulation; it is hereby

ORDERED, that the petitioner, T[redacted] L[redacted] shall have custody of the minor child, E[redacted] J[redacted] L[redacted] d/o/b [redacted]; and it is further

ORDERED, that the respondent, G[redacted] C[redacted] shall have reasonable and liberal visitation on notice to petitioner at such times as may be mutually agreed upon by the respective parties; and it is further

ORDERED, that neither party shall remove said minor child from the state of New York without prior approval of this Court.

Dated: Monticello, New York
August 22, 1997

ENTER

HON. FRANK J. LABUDA
Acting Family Court Judge

STATE OF NEW YORK - COUNTY OF SULLIVAN
FAMILY COURT

Order Served (✓) Petitioner (✓) Respondent
( ) Petitioner's Atty (✓) Respondent's Atty
(✓) Other Grapel-LG
DATE: 7/9/97 CLERK SH

At a Term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York on the 2nd day of July, 1997

PRESENT: HON. FRANK LABUDA,
Acting Family Court Judge

----------x

In the Matter of a Proceeding Under Article 6 of the Family Court Act

T[redacted] L[redacted],

Petitioner,

-against-

G[redacted] CA[redacted]

Respondent.

----------x

ORDER

Docket No. V-1031-97

A custody petition having heretofore been filed and the matter having come on to be heard this date and Petitioner and Respondent having appeared in person pro se; it is hereby

ORDERED, that Petitioner, T[redacted] L[redacted] shall have custody of the minor child, E[redacted] J[redacted] L[redacted] dob [redacted], pending further order of this Court; and it is further

ORDERED, that the Respondent, G[redacted] C[redacted] shall have reasonable and liberal visitation on notice to Petitioner at such times as may be mutually agreed upon by the respective parties; and it is further

ORDERED, that neither party shall remove said minor child from the State of New York without prior approval of this Court; and it is further

ORDERED, that all parties and counsel are directed to appear in this Court on **August 6, 1997** at **9:30 AM**.

Dated: July 9, 1997

NOTICE OF ENTRY

PLEASE BE ADVISED THAT THIS DOCUMENT WAS ENTERED IN THE SULLIVAN COUNTY FAMILY COURT CLERK'S OFFICE ON THE 9th DAY OF JULY 1997

Cathy Emerson
Clerk

E N T E R

HON. FRANK LABUDA
Acting Family Court Judge

At a Term of the Family Court of the State of New York, held in and for the County of Sullivan, at Monticello, New York on July 2, 1997.

PRESENT: **HON. FRANK LABUDA**
Acting Family Court Judge

----------x

In the Matter of a Proceeding Under Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner,

- against -

G[redacted] C[redacted]

Respondent

----------x

DOCKET NO. V-1031-97

ORDER APPOINTING LAW GUARDIAN

It is hereby ordered that **Eric J. Groper, Esq.** be appointed law guardian for **E[redacted] J[redacted] L[redacted] dob [redacted]**, in the above proceeding which is returnable on **August 6, 1997** at **9:30 AM** for **appearance**.

It is directed that the Law Guardian should meet with the children and parties prior to the return date of this matter.

It is hereby ordered that all individuals, institutions, educational facilities, medical care providers and others having information about the within child(ren) release same to the above law guardian upon presentation of a photocopy of this order without specific authorization by the child(ren)'s parent or guardian.

E N T E R:

HON. FRANK LABUDA
Acting Family Court Judge

Dated: July 9, 1997

mt-7/9/97

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding under
Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner(s),

- against-

G[redacted] C[redacted]

Respondent(s).

Docket #: V-1031-97-01

ORDER TO SHOW CAUSE

Upon the petition of T[redacted] L[redacted] verified June 18, 1997, annexed hereto, it is

ORDERED, that G[redacted] C[redacted] show cause before this Court at the County Government Center, Monticello, New York, on July 2, 1997 at 09:30AM or as soon thereafter as the parties can be heard, why an order not be made GRANTING PETITIONER JOINT CUSTODY OF THE MINOR CHILD, E[redacted] J[redacted] L[redacted] DOB [redacted] ; and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, ; and it is further

ORDERED, that service by PERSONAL SERVICE of a copy of this Order, together with the papers upon which it is granted upon G[redacted] C[redacted] on or before the day of , 19 , be deemed sufficient service.

ENTER

DATED: JUNE 27, 1997

ACTING Judge of the Family Court

FAMILY COURT OF THE
STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding for
Under Article 6 of the Family Court Act Docket No.

T[redacted] L[redacted],
Petitioner,

-against-

G[redacted] [redacted],
Respondent.

PETITION FOR CUSTODY

RECEIVED
JUN 18 1997
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner, **T[redacted] L[redacted]** resides at [redacted], [redacted] [redacted].

2. Petitioner is the natural mother of the minor child.

3. Upon information and belief Respondent, **G[redacted] C[redacted]** resides at [redacted] [redacted] [redacted].

4. Upon information and belief Respondent is the natural father of the minor child.

5. The proceeding is commenced pursuant to Article 6 of the Family Court Act.

6a. The name, present address, age and date of birth of each child affected by this proceeding are as follows:

CHILD	ADDRESS	DATE OF BIRTH
E[redacted] J[redacted] L[redacted]	**w/Petitioner**	[redacted] [redacted]

6b. The subject child is not a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901-1963).

OMIT 7. Petitioner and Respondent were married on

8. An order of filiation was made by the Family Court of Sullivan County on **June 11, 1997**, concerning the Petitioner, Respondent and child, who is the subject of this proceeding.

OMIT 9. Petitioner obtained custody of the children

OMIT 10. There has been a change in circumstances since entry of the (order) (judgement) awarding in that:

11. It would be in the best interest of the child to have custody awarded to the Petitioner for the following reasons:

Petitioner feels the Respondent does not have their infant daughter's best interest at heart as a cardiologist appointment was scheduled for her and the Respondent failed to take her to the appointment. He has been given unlimited visitation with E[redacted] and has failed to exercise the visits. Petitioner states she has brought the infant to Respondent's home on several occasions and he has failed to acknowledge the child presence. Further and more importantly, the Respondent is addicted to drugs and is mentally unstable. Petitioner states given these concerns, it would not be in her infant daughter's best interest to be left alone with the Respondent. Petitioner feels her daughter's well being has already been jeopardized when he failed to show concern with the cardiologist appointment and when he would not take the Petitioner to purchase formula for the infant.

Wherefore, Petitioner prays for an order awarding custody of the child named herein to the Petitioner and for such other and further relief as the Court may determine.

June 18, 1997

[redacted]

T[redacted] L[redacted] Petitioner

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF SULLIVAN)

T[redacted] L[redacted] duly sworn, says that she is the Petitioner in the above-named proceeding and that the foregoing petition is true to her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters she believes it to be true.

[redacted]

T[redacted] L[redacted], Petitioner

Sworn to before me on the
18th day of June, 1997

Cathy Emerson

(~~Deputy~~) Clerk of the Court
~~Notary Public~~

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding under
Article 6 of the Family Court Act

G[redacted] C[redacted]

Petitioner(s),

- against-

T[redacted] I[redacted]

,

Respondent(s).

Docket #: V-1031-97

ORDER TO SHOW CAUSE

Upon the petition of G[redacted] C[redacted], verified June 2, 1997, annexed hereto, it is

ORDERED, that T[redacted] I[redacted] show cause before this Court at the County Government Center, Monticello, New York, on July 2, 1997 at 09:30AM or as soon thereafter as the parties can be heard, why an order not be made GRANTING PETITIONER AND RESPONDENT JOINT CUSTODY OF THE MINOR CHILD, E[redacted] J[redacted] I[redacted] DOB [redacted] ; and why such other and further relief should not be granted as the Court may determine; and it is further

~~ORDERED, ; and it is further~~

ORDERED, that service by PERSONAL SERVICE of a copy of this Order, together with the papers upon which it is granted upon T[redacted] I[redacted] on or before the 24th day of JUNE, 1997, be deemed sufficient service.

ENTER

DATED: JUNE 10, 1997

Judge of the Family Court

FAMILY COURT OF THE
STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding for
Under Article 6 of the Family Court Act Docket No.

G[redacted] C[redacted],
Petitioner,

-against-

T[redacted] L[redacted],
Respondent.

PETITION FOR JOINT CUSTODY

RECEIVED
JUN - 2 1997
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner, G[redacted] C[redacted] resides at [redacted].

2. Petitioner is the natural father of the minor child.

3. Upon information and belief Respondent, T[redacted] L[redacted] resides at [redacted].

4. Upon information and belief Respondent is the natural mother of the minor child.

5. The proceeding is commenced pursuant to Article 6 of the Family Court Act.

6a. The name, present address, age and date of birth of each child affected by this proceeding are as follows:

CHILD	ADDRESS	DATE OF BIRTH
E[redacted] J[redacted] L[redacted]	[redacted]	[redacted]

6b. The subject children is not a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901-1963).

OMIT 7. Petitioner and Respondent were married on

8. An order of filiation was made by the Family Court of Sullivan County on , concerning the Petitioner, Respondent and child, who is the subject of this proceeding.
Docket #P-2661-96, support pending.

OMIT 9. Petitioner obtained custody of the children

OMIT 10. There has been a change in circumstances since entry of the (order) (judgement) awarding in that:

11. It would be in the best interest of the child to have joint custody awarded to the Petitioner for the following reasons:

Petitioner requests joint custody of his infant daughter with overnight visitation each and every weekend from early Friday evening until early Sunday evening. Petitioner has several concerns for his daughter's safety and well being. E[redacted] is the Respondent's forth child. There is an older sibling in the Respondent's household that is presently on the medication, Ridalin and she displays aggressive behavior toward the other siblings in the household. Petitioner states the Respondent has intentions of relocating out of the State of New York and has been asking the Petitioner to move with her and the children. Petitioner states he is not ready to move and requests that his daughter not be moved outside a 50 mile radius of Sullivan County, New York.

Wherefore, Petitioner prays for an order awarding joint custody of the child named herein to the Petitioner and for such other and further relief as the Court may determine.

June 2, 1997

[redacted]
G[redacted], Petitioner

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF SULLIVAN)

G[redacted] C[redacted], duly sworn, says that she is the Petitioner in the above-named proceeding and that the foregoing petition is true to her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters she believes it to be true.

[redacted]
G[redacted] C[redacted] Petitioner

Sworn to before me on the
2nd day of June, 1997

Cathy Emerson
~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding under
Article 6 of the Family Court Act

T[redacted] L[redacted]

Petitioner(s),

- against-

G[redacted] C[redacted]

Respondent(s).

Docket #: V-1031-97-01

ORDER TO SHOW CAUSE

Upon the petition of T[redacted] L[redacted] verified June 18, 1997, annexed hereto, it is

ORDERED, that G[redacted] C[redacted] show cause before this Court at the County Government Center, Monticello, New York, on July 2, 1997 at 09:30AM or as soon thereafter as the parties can be heard, why an order not be made GRANTING PETITIONER JOINT CUSTODY OF THE MINOR CHILD, E[redacted] J[redacted] L[redacted] DOB [redacted] ; and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, ; and it is further

ORDERED, that service by PERSONAL SERVICE of a copy of this Order, together with the papers upon which it is granted upon G[redacted] C[redacted] on or before the day of , 19 , be deemed sufficient service.

ENTER

DATED: JUNE 27, 1997

ACTING Judge of the Family Court

FAMILY COURT OF THE
STATE OF NEW YORK
COUNTY OF SULLIVAN

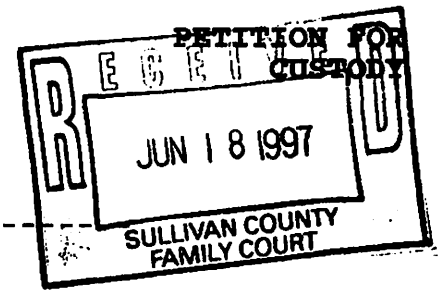
In the Matter of a Proceeding for
Under Article 6 of the Family Court Act Docket No.

T[redacted] L[redacted],
Petitioner,

-against-

G[redacted] C[redacted],
Respondent.

PETITION FOR CUSTODY



TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner, T[redacted] L[redacted] resides at [redacted].

2. Petitioner is the natural mother of the minor child.

3. Upon information and belief Respondent, G[redacted] C[redacted] resides at [redacted].

4. Upon information and belief Respondent is the natural father of the minor child.

5. The proceeding is commenced pursuant to Article 6 of the Family Court Act.

6a. The name, present address, age and date of birth of each child affected by this proceeding are as follows:

CHILD	ADDRESS	DATE OF BIRTH
E[redacted] J[redacted] L[redacted]	w/Petitioner	[redacted]

6b. The subject child is not a Native American child subject to the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901-1963).

OMIT 7. Petitioner and Respondent were married on

8. An order of filiation was made by the Family Court of Sullivan County on **June 11, 1997**, concerning the Petitioner, Respondent and child, who is the subject of this proceeding.

OMIT 9. Petitioner obtained custody of the children

OMIT 10. There has been a change in circumstances since entry of the (order) (judgement) awarding in that:

11. It would be in the best interest of the child to have custody awarded to the Petitioner for the following reasons:

Petitioner feels the Respondent does not have their infant daughter's best interest at heart as a cardiologist appointment was scheduled for her and the Respondent failed to take her to the appointment. He has been given unlimited visitation with E[redacted] and has failed to exercise the visits. Petitioner states she has brought the infant to Respondent's home on several occasions and he has failed to acknowledge the child presence. Further and more importantly, the Respondent is addicted to drugs and is mentally unstable. Petitioner states given these concerns, it would not be in her infant daughter's best interest to be left alone with the Respondent. Petitioner feels her daughter's well being has already been jeopardized when he failed to show concern with the cardiologist appointment and when he would not take the Petitioner to purchase formula for the infant.

Wherefore, Petitioner prays for an order awarding custody of the child named herein to the Petitioner and for such other and further relief as the Court may determine.

June 18, 1997

[redacted]
T[redacted] L[redacted] Petitioner

VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF SULLIVAN)

T[redacted] L[redacted], duly sworn, says that she is the Petitioner in the above-named proceeding and that the foregoing petition is true to her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters she believes it to be true.

[redacted]
T[redacted] L[redacted], Petitioner

Sworn to before me on the
18th day of June, 1997

Cathy Emerson

(~~Deputy~~) Clerk of the Court
~~Notary Public~~

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 3, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

T[redacted] L[redacted] v. G[redacted] C[redacted] and H[redacted] B[redacted]
Family File # 3576
Date of recording - June 14, 2013
10:45 - 10:51

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex IV-2

PENGAD 800-631-6989

Hon. Michael McGuire

6/14/13

10:45 ~
10:51

FF#
3576

L[redacted]v. C[redacted]
v. B[redacted]

EXHIBIT
comm
Ex IV-2

PENGAD 800-

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

L[redacted] C[redacted] and B[redacted]

June 14, 2013
10:45 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-2a

1 JUDGE MCGUIRE: All right. This is case four on
2 the docket, the *Matters of L*[redacted] *v. C*[redacted] *and B*[redacted]
3 Can I have everyone's name and appearance, please?
4 MS. L[redacted] T[redacted] L[redacted]
5 MS. B[redacted] H[redacted] B[redacted]
6 MR. C[redacted] G[redacted] C[redacted]
7 MR. GARN: K.C. Garn on behalf of G[redacted]
8 Ca[redacted]
9 MR. ROSS: Michael Ross, representing DFS.
10 MS. SWIFT: Lisa Swift, attorney for the child.
11 JUDGE MCGUIRE: All right. We were last here
12 on May the 23rd. At that time, it was clear that E[redacted] was
13 just not faring well with Ms. B[redacted] There was no findings
14 that there was anything wrong with Ms. B[redacted] home or
15 whatever, just was not working out for E[redacted] and she
16 returned to stay with her mom, Ms. L[redacted] We were about
17 ready to resolve the case, which would have vacated Ms.
18 B[redacted] letters of guardianship and awarded the child back
19 to the care and custody of her mother, but Mr. C[redacted]
20 was not clear on -- on what exactly what's going and sought
21 counsel. So, Mr. Garn is now here. What I would like to
22 do is start with Ms. Swift and Mr. Jones, just to get an
23 update on how E[redacted] is doing.
24 MS. SWIFT: Your Honor, I had an appointment
25 with E[redacted] scheduled for-- I don't have my datebook, but it

1 was for a Wednesday, I believe it was two weeks ago, and
2 no call, no show, which I believe is a transportation
3 problem. Mom doesn't have any transportation. So, I'm
4 still at basically in the same position I was, unfortunately.
5 What I'm thinking of doing, if the Court would oblige me,
6 they-- DFS has to bring Mom to court. E[redacted] finishes
7 school on the 21st, if we could get a date after that, bring
8 E[redacted] here, I'll see her an hour-- like an hour earlier, and I'll
9 talk to her privately.
10 JUDGE MCGUIRE: Okay.
11 MS. SWIFT: Neither--
12 JUDGE MCGUIRE: Mr. Jones, have you been in
13 contact with the school at all?
14 MR. JONES: I have, and I can say I spoke with
15 L[redacted] A[redacted]--
16 JUDGE MCGUIRE: Okay.
17 MR. JONES: --Who's E[redacted] guidance counselor--
18 JUDGE MCGUIRE: Okay, yeah.
19 MR. JONES: --And according to Ms. A[redacted],
20 E[redacted] doing well. She's slated to be promoted to the ninth
21 grade next year. She may be failing in one class at the
22 moment, but I think she will ultimately pass the class.
23 JUDGE MCGUIRE: What class is it?
24 MR. JONES: Math, she had some struggles in.
25 JUDGE MCGUIRE: And she's registered for

1 summer school?

2 MR. JONES: She-- not as yet, no.

3 MS. L[redacted] They didn't say she had to take

4 summer school.

5 MR. JONES: There's still a chance she could pass

6 the class, so it's, you know, sort of borderline at this point

7 whether she'll pass or not.

8 JUDGE MCGUIRE: Okay. Well, let's say they

9 never say she has to go to summer school, what's going to

10 happen? What if she fails math?

11 MS. L[redacted] Then she will take eighth grade math

12 in ninth grade.

13 JUDGE MCGUIRE: No. She'll go to summer

14 school and take eighth grade math in summer school so that

15 she starts ninth grade with ninth grade math.

16 MS. L[redacted] Okay, but they have to say that she

17 has to go to summer school.

18 JUDGE MCGUIRE: No, they don't. You get to

19 enroll her in summer school.

20 MS. L[redacted] Well, I wasn't aware of that. I was

21 told that--

22 JUDGE MCGUIRE: Well, those are questions that

23 you should direct to Ms. A[redacted]. Have you had a

24 conversation with Ms. A[redacted] recently?

25 MS. L[redacted] Not recently, no.

1 JUDGE MCGUIRE: When's the last one you had
2 with her?
3 MS. L[redacted] I don't remember.
4 JUDGE MCGUIRE: So, has it been since E[redacted]
5 been back living with you?
6 MS. L[redacted] Um, yeah. She texted E[redacted] phone
7 a few weeks ago.
8 JUDGE MCGUIRE: Ms. A[redacted] texted E[redacted]
9 phone?
10 MS. L[redacted] Yes.
11 JUDGE MCGUIRE: Okay. But my question was,
12 when did you last have a conversation with her?
13 MS. L[redacted] I don't remember.
14 JUDGE MCGUIRE: Yeah, see, this is why I
15 continue to be deeply troubled about this whole situation.
16 This is-- I mean, if she's doing well, she's doing well in
17 spite of the fact that she's getting minimal guidance. You
18 know anything about her hygiene and all, is that she seemed
19 to be in good condition when she gets to school? Did Ms.
20 A[redacted] say anything about that?
21 MR. JONES: That's not an issue, Your Honor. Her
22 hygiene is fine.
23 JUDGE MCGUIRE: All right. Ms. L[redacted]
24 parenting is not a spectator sport. You don't buy a ticket
25 and watch your child grow up. Your child fails a class,

1 you're responsible for seeing to it that she gets the services
2 she needs to learn that subject. You don't just sit back and
3 say, "It's not my responsibility. I gave birth to her"--
4 MS. L[redacted] Well, excuse me--
5 JUDGE MCGUIRE: --It's now up to the
6 government to raise her. No, I'm not excusing anything.
7 Your child's failing math, you should be in contact with the
8 guidance counselor and find out what needs to be done.
9 Does she have a tutor?
10 MS. L[redacted] She has extra classes. She's in
11 Special Ed --
12 JUDGE MCGUIRE: Does she have a tutor?
13 MS. L[redacted] She has an IEP.
14 JUDGE MCGUIRE: Does she have a tutor?
15 MS. L[redacted] She-- no, they have not given her a
16 tutor, and I don't have the money to pay for one. Do you?
17 JUDGE MCGUIRE: That's not my question.
18 MS. L[redacted] No, she doesn't have a tutor. It cost
19 money.
20 JUDGE MCGUIRE: Have you spoken to the school
21 about a tutor?
22 MS. L[redacted] No. We had an IEP meeting recently.
23 JUDGE MCGUIRE: Did you go to it?
24 MS. L[redacted] I was conferenced over the phone.
25 Yes, I did.

1 JUDGE MCGUIRE: Was there a transportation
2 issue that prevented you from being present at the IEP
3 meeting?
4 MS. L[redacted] Yes, there is. I do not have a vehicle.
5 JUDGE MCGUIRE: Did you speak to Mr. Jones
6 about that.
7 MS. L[redacted] We set up a conference meeting with
8 the school, so I could have the conference phone.
9 JUDGE MCGUIRE: Mr. Jones did?
10 MS. L[redacted] Mr. Jones, myself, the school district.
11 JUDGE MCGUIRE: Did you speak to Mr. Jones
12 about assisting you with transportation to get you to that
13 meeting?
14 MS. L[redacted] I don't believe transportation was
15 available at that time to go to that meeting.
16 JUDGE MCGUIRE: Did you speak to Mr.--
17 MS. L[redacted] I do not remember, sir.
18 JUDGE MCGUIRE: You know what? Take her
19 into custody.
20 COURT OFFICER: Stand up, place your hands
21 behind your back, please.
22 JUDGE MCGUIRE: Second call.
23 (SOUND OF HANDCUFFS)
24 JUDGE MCGUIRE: Second call. Get these people
25 out of my courtroom.

COURT OFFICER: Part II postponed. Clear the room.

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on June 14, 2013.
7
8
9 Dated: April 1, 2019
10
11 WANITA GONZALEZ
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 3, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

T[redacted] L[redacted] v. G[redacted] C[redacted] and H[redacted] B[redacted]
Family File # 3576
Date of recording - June 14, 2013
12:01 - 12:12

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
EX IV-3

Hon. Michael McGuire

6/14/13

12:01 ~
12:12

FF#
3576

L[redacted] v. C[redacted]

B[redacted]

MRM-R 700MB INKJET

EXHIBIT
Comm
Ex IV-3

PENGAD 800-631-6989

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.

- X

TRANSCRIPT OF PROCEEDING

L[redacted] v. C[redacted] and B[redacted]

June 14, 2013
12:01 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-3a

1 MR. GARN: Hello, Your Honor.
2 JUDGE MCGUIRE: Good morning. Well, we're at
3 afternoon. We've rolled over.
4 MR. GARN: We have.
5 JUDGE MCGUIRE: (Unintelligible), take the
6 handcuffs off of Ms. L[redacted]
7 (SOUND OF HANDCUFFS)
8 MS. L[redacted] Thank you.
9 JUDGE MCGUIRE: Ms. L[redacted] I have the authority
10 summarily to put you in the Sullivan County Jail for 30
11 days, based on judicial contempt. I'm not going to do that,
12 but I'm going to say this to you: that it's never a concern of
13 mine what the economic status of anybody in this
14 courtroom is. I don't care if you are the wealthiest person
15 in the world or are down on your luck. The court, not me as
16 a person, the court deserves and will always be respected by
17 everybody that's in the court because this is fundamental to
18 our way of life in this country. Men and women spill blood
19 every day for the freedoms that we enjoy in this court.
20 There are countries in this world where people don't have
21 that opportunity and they don't have an opportunity to go
22 before a judge. They just take your children away and you
23 disappear in some countries in the world. These courts are
24 provided to people so that there can be an orderly
25 disposition of issues. And what goes along with enjoying

1 these freedoms is a respect of the court. That's the
2 building-- go ahead-- the judges, the staff, the officers, they
3 will be treated with respect at all times. So, I don't need to
4 be draconian, there's no reason to put you into the Sullivan
5 County Jail for 30 days, but you need to think carefully
6 before you address the court with disrespect. That said, the
7 court made good use of the time. We've been in contact
8 with the [redacted] School District. E[redacted] likely will fail math,
9 but absolutely can participate in summer school, which she
10 needs to do. Because if she starts freshman year behind the
11 eight ball, the likelihood is that she will have a very difficult
12 time progressing through to a diploma, which is what our
13 goal is, is to get a child a diploma.
14 The issue that we're now working with is, she is
15 currently living in the [redacted] School District, and so
16 while [redacted] provides transportation, and they will
17 continue to provide education, because she started off in the
18 [redacted] School District, they will not transport from outside
19 the district. So, we've got to-- that was the longer part of
20 the holdup isn't-- is dealing with two different school
21 districts to try to get her there. But that's going to have to
22 be done. She's going to need to get into summer school.
23 The other thing that needs to happen is that this child
24 needs to meet with her attorney so that we can just get to
25 ensuring that all of her issues are being addressed, and we

1 learned that that's-- the school is not an ideal place for that
2 to happen. So, I'm going to put this matter over until the
3 week of the 24th. We'll get a day in that week, so that
4 school will be over, and between now and then, Mr. Jones,
5 I'm going to ask that you facilitate a meeting between Ms.
6 L[redacted] and Ms. A[redacted] so that we can be sure that we're
7 all on the same page with respect to this child's academic
8 program for next year. Now, she may be going to [redacted]
9 [redacted] next year. That certainly is a possibility, that's got to
10 be determined, because you're living in Jeffersonville,
11 right?
12 MS. L[redacted] Yes.
13 JUDGE MCGUIRE: Youngsville--
14 MS. L[redacted] Jeffersonville.
15 JUDGE MCGUIRE: --Youngsville or Jeffersonville?
16 Jeff. So, she-- she, in all likelihood, will go to [redacted]
17 [redacted] next year, but I still think you want to start off with
18 Ms. A[redacted] because they'll know what program she
19 would be in in [redacted] And once they set that, then it's
20 going to be easier to get her over to [redacted] [redacted] in a
21 similar program. And the issue of summer school is going
22 to have to be dealt with. How we're going to get this child
23 to school every day is going to have to be dealt with, but it
24 has to happen if, in fact, she's going to not pass math. And
25 she needs to get to meet with Ms. Swift. Do you want to do

1 that the day that we're here, or do you want to do that in
2 different day?
3 MS. SWIFT: Whatever's easier for the parties, I
4 make myself available--
5 JUDGE MCGUIRE: Well, it's going to be Mr.
6 Jones giving her a ride, or his surrogate giving her a ride,
7 from [redacted] to here and then back to Jeffersonville, so
8 some county transportation is going to have to do that,
9 evidently.
10 MR. JONES: Whenever-- whenever-- yeah, we can
11 arrange that, yeah, whenever you're available.
12 JUDGE MCGUIRE: So-- so, it can be pretty much
13 any day. She has no after school activities, does she?
14 MS. L[redacted] No.
15 JUDGE MCGUIRE: Okay. So, it can be almost any
16 day that works for Ms. Swift. And in the discussion with
17 Ms. A[redacted], you may also want to look at some kind of
18 after school counsel-- tutoring program, because maybe
19 she-- I don't know how close she is to getting through math.
20 If she's close, maybe tutoring, although the final exam's
21 going to be this week.
22 MR. JONES: I spoke with her-- one of her
23 classroom teachers a little while ago just to ensure that she
24 was going to pass or fail, and they indicated that she--
25 there's a good probability she will pass--

1 JUDGE MCGUIRE: Math?

2 MR. JONES: --Math. Yeah.

3 JUDGE MCGUIRE: All right. Well, if she does,

4 she does. That's wonderful.

5 MR. JONES: Yeah.

6 JUDGE MCGUIRE: But then the eighth grade

7 scores are going to determine where she gets placed, as will

8 her IEP, and if she's going to change schools, we need to

9 make sure that that transfer is seamless. And once Ms.

10 Swift speaks to her, maybe we can get her set up, is she

11 going to be in [redacted] with Ms. F[redacted] to-- to meet

12 with Ms. F[redacted]. All right. Are there any other issues that

13 we can address today? And Ms. B[redacted] your petition is

14 resolved. You're welcome to continue to appear, but you

15 don't have to because we've terminated the letters of

16 guardianship.

17 MS. B[redacted] Okay.

18 JUDGE MCGUIRE: All right? So, you-- you--

19 you're welcome to appear, but you don't have to.

20 MS. B[redacted] Okay.

21 JUDGE MCGUIRE: And then it's up to Mr.

22 C[redacted] *[sic]*. You need to discuss with Mr. Garn whether

23 or not your-- your client is-- you're going to be consenting

24 to custody going back to Ms. L[redacted] or whether you're

25 going to contest that.

1 MR. C[redacted] Want to contest that.
2 JUDGE MCGUIRE: Pardon?
3 (Discussion between Mr. Garn and Mr. C[redacted]
4 MR. GARN: He, at the present time, does not have
5 the ability to take the child.
6 JUDGE MCGUIRE: Right.
7 MR. GARN: So, while he's not entirely in favor of
8 the child being with the mother, he's not in a position really
9 to contest it.
10 JUDGE MCGUIRE: Okay. Well, what we'll do is--
11 do we have a date we will come back?
12 COURT CLERK: June 28th, at 1:30.
13 JUDGE MCGUIRE: Does that work for everybody?
14 June 28, at 1:30?
15 MR. JONES: Yes, Your Honor.
16 JUDGE MCGUIRE: Okay. So, June 28, at 1:30.
17 Mr. Jones, you will discuss with Ms. Swift what day works
18 best for her?
19 MR. JONES: Yes.
20 JUDGE MCGUIRE: And then you'll arrange to get
21 Ms. L[redacted] over to meet with Ms. A[redacted], find out what
22 E[redacted] program is going to be for next year, and then also
23 arrange, if she's going to go to [redacted] [redacted] to get him--
24 get her over to [redacted] [redacted] to make sure she gets
25 registered and set up there.

1 MR. JONES: She actually is registered in [redacted]
2 [redacted]
3 JUDGE MCGUIRE: No, she registered at [redacted]
4 MR. JONES: Oh.
5 JUDGE MCGUIRE: But she's living in [redacted]
6 [redacted] so she can't continue-- if she's in the care and
7 custody of her mother, then she has to go back to her home
8 district. If she was placed, like, in foster care, then the
9 home school district would continue to educate her. But
10 this isn't an Article 10 placement, it'll be an Article 6
11 placement, so [redacted] would be in-- within their rights to
12 ask for tuition after this year because she did start off the
13 school year in the [redacted] School District. That's my
14 understanding of the education law. And Ms. L[redacted] are
15 you still going to the recovery center?
16 MS. L[redacted] Yes.
17 JUDGE MCGUIRE: And how are you getting
18 there?
19 MS. L[redacted] Medicaid transportation.
20 JUDGE MCGUIRE: Okay. And you're current
21 there?
22 MS. L[redacted] Yes.
23 JUDGE MCGUIRE: All right. So, June 28th, at
24 1:30. Thanks, folks.
25 MR. JONES: Thank you, Your Honor.

1 JUDGE MCGUIRE: Mm-hmm.

2 COURT OFFICER: Please step out.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on June 14, 2013.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION OF BUSINESS RECORD

Gideon Rabinovicz, being duly sworn, deposes and says:

1. I am a Lieutenant in the Department of Public Safety of the New York State Unified Court System. I have authority to make this certification under Rule 3122-a of the New York Civil Practice Law and Rules.

2. To the best of my knowledge, after reasonable inquiry, the attached Aided Report Numbered 49905 is a true and correct copy, with redactions of home address information.

3. The Report submitted herewith was made by the personnel or staff of the Department of Public Safety of the New York State Unified Court System, or persons acting under their control, in the regular course of business, at the time of the act, transaction, occurrence or event recorded therein, and it was the regular course of the Department of Public Safety's business to make such records.

Gideon Rabinovicz

Sworn to before me this
14th day of February, 2019

Shawn Kerby
Notary Public

SHAWN KERBY
Notary Public, State of New York
No. 02KE5023988
Qualified in New York County
Commission Expires 9/22/22

EXHIBIT
Comm
Ex IV-4

PENGAD 800-631-6989

STATE OF NEW YORK
UNIFIED COURT SYSTEM
AIDED REPORT

DATE OF OCCUR.	LASTNAME	FIRSTNAME	M.I.	EMPLOYEE	SEX	AGE
06/14/2013	L[redacted]	T[redacted]		NO	F	46

TIME OF OCCUR.	ADDRESS	AIDED NUMBER		
		LOC. CODE	REP. NO	YEAR
1053	[redacted]	3F	49905	2013

COURT/FACILITY	PLACE OF OCCURRENCE
3RD DISTRICT - SULLIVAN COUNTY	FAMLIY COURT HOLDING AREA

CHECK ONE:	NATURE OF ILLNESS OR INJURY
☐ ACCIDENT ☐ EDP ☐ OTHER ☒ SICKNESS (SPECIFY UNDER DETAIL)	Chest Pain/Shortness of Breathe

REMOVED TO:	HOSPITAL	EMERGENCY MEDICAL RESPONSE	ATTENDANT
☐ HOSPITAL ☒ RMA ☐ TREATED ON SCENE		☒ YES ☐ NO	Moble Medic Deckleman

DETAILS: (Include pertinent information regarding nature of aided case, first aid rendered, notifications made, etc.)

At T/P/O, T[redacted] L[redacted] (Aided), after being placed into custody by Judge McGuire @ approx. 1035hrs. complained of shortness of breathe and chest pain. Reporting Sergeant (R/S) called 911 @ approx. 1054 hrs. Mobile Medic attendants Deckleman and Zozachuk arrive to the scene @ approx. 1100 hrs. and render aid to aided. Aided refuses transport to Catskill Regional Medical Center for further evaluation and signs a UF131 & UF151. Judge McGuire releases aided and reschedules her case for a conference on 06/28/13 @ 1:30 P.M.

NAME AND ADDRESS OF WITNESS NONE LISTED

SUBMITTED BY	TITLE	SHIELD NO.	DATE
GUILLERMO OLIVIER	NYS COURT OFFICER - SERGEANT	394	06/14/2013
REPORTED TO	**TITLE**	**SHIELD NO.**	**DATE**
KEVIN C. MCCABE	NYS COURT OFFICER - LIEUTENANT	241	06/14/2013
APPROVED BY	**TITLE**	**SHIELD NO.**	**DATE**
AL ROMANELLI			06/24/2013

LINKED REPORTS

1
2
3 Q. Judge McGuire, I want to draw your attention to the case of *T*[redacted]
4 *I*[redacted] *v. C*[redacted] *and B*[redacted] on June 14, 2013.
5 A. Mm-hmm.
6 Q. Did you preside over that case on that day?
7 A. I did.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-5a

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

L[redacted] C[redacted] and B[redacted]

June 14, 2013
10:44 A.M.

1 JUDGE MCGUIRE: All right. This is case four on
2 the docket, the *Matters of L*[redacted] *v. C*[redacted] *and B*[redacted]
3 Can I have everyone's name and appearance, please?
4 MS. L[redacted] T[redacted] L[redacted]
5 MS. B[redacted] H[redacted] B[redacted]
6 MR. C[redacted] G[redacted] C[redacted]
7 MR. GARN: K.C. Garn on behalf of G[redacted]
8 C[redacted]
9 MR. ROSS: Michael Ross, representing DFS.
10 MS. SWIFT: Lisa Swift, attorney for the child.
11 JUDGE MCGUIRE: All right. We were last here
12 on May the 23rd. At that time, it was clear that E[redacted] was
13 just not faring well with Ms. B[redacted] There was no findings
14 that there was anything wrong with Ms. B[redacted] home or
15 whatever, just was not working out for E[redacted] and she
16 returned to stay with her mom, Ms. L[redacted] We were about
17 ready to resolve the case, which would have vacated Ms.
18 B[redacted]'s letters of guardianship and awarded the child back
19 to the care and custody of her mother, but Mr. C[redacted]
20 was not clear on -- on what exactly what's going and sought
21 counsel. So, Mr. Garn is now here. What I would like to
22 do is start with Ms. Swift and Mr. Jones, just to get an
23 update on how E[redacted] is doing.
24 MS. SWIFT: Your Honor, I had an appointment
25 with E[redacted] scheduled for-- I don't have my datebook, but it

1 was for a Wednesday, I believe it was two weeks ago, and
2 no call, no show, which I believe is a transportation
3 problem. Mom doesn't have any transportation. So, I'm
4 still at basically in the same position I was, unfortunately.
5 What I'm thinking of doing, if the Court would oblige me,
6 they-- DFS has to bring Mom to court. E[redacted] finishes
7 school on the 21st, if we could get a date after that, bring
8 E[redacted] here, I'll see her now at like an hour earlier, and I'll
9 talk to her privately.
10 JUDGE MCGUIRE: Okay.
11 MS. SWIFT: Neither--
12 JUDGE MCGUIRE: Mr. Jones, have you been in
13 contact with the school at all?
14 MR. JONES: I have, and I can say I spoke with
15 L[redacted] A[redacted]--
16 JUDGE MCGUIRE: Okay.
17 MR. JONES: --Who's E[redacted] guidance counselor--
18 JUDGE MCGUIRE: Okay, yeah.
19 MR. JONES: --And according to Ms. A[redacted],
20 E[redacted] doing well. She's slated to be promoted to the ninth
21 grade next year. She may be failing in one class at the
22 moment, but I think she will ultimately pass the class.
23 JUDGE MCGUIRE: What class is it?
24 MR. JONES: Math, she had some struggles in.
25 JUDGE MCGUIRE: And she's registered for

1 summer school?

2 MR. JONES: She-- not as yet, no.

3 MS. L[redacted] They didn't say she had to take

4 summer school.

5 MR. JONES: There's still a chance she could pass

6 the class, so it's, you know, sort of borderline at this point

7 whether she'll pass or not.

8 JUDGE MCGUIRE: Okay. Well, let's say they

9 never say she has to go to summer school, what's going to

10 happen? What if she fails math?

11 MS. L[redacted] Then she will take eighth grade math

12 in ninth grade.

13 JUDGE MCGUIRE: No. She'll go to summer

14 school and take eighth grade math in summer school so that

15 she starts ninth grade with ninth grade math.

16 MS. L[redacted] Okay, but they have to say that she

17 has to go to summer school.

18 JUDGE MCGUIRE: No, they don't. You get to

19 enroll her in summer school.

20 MS. L[redacted] Well, I wasn't aware of that. I was

21 told that--

22 JUDGE MCGUIRE: Well, those are questions that

23 you should direct to Ms. A[redacted]. Have you had a

24 conversation with Ms. A[redacted] recently?

25 MS. L[redacted] Not recently, no.

1 JUDGE MCGUIRE: When's the last one you had
2 with her?
3 MS. L[redacted] I don't remember.
4 JUDGE MCGUIRE: So, has it been since E[redacted]
5 been back living with you?
6 MS. L[redacted] Um, yeah. She texted E[redacted] phone
7 a few weeks ago.
8 JUDGE MCGUIRE: Ms. A[redacted] texted E[redacted]
9 phone?
10 MS. L[redacted] Yes.
11 JUDGE MCGUIRE: Okay. But my question was,
12 when did you last have a conversation with her?
13 MS. L[redacted] I don't remember.
14 JUDGE MCGUIRE: Yeah, see, this is why I
15 continue to be deeply troubled about this whole situation.
16 This is-- I mean, if she's doing well, she's doing well in
17 spite of the fact that she's getting minimal guidance. You
18 know anything about her hygiene and all, is that she seemed
19 to be in good condition when she gets to school? Did Ms.
20 A[redacted] say anything about that?
21 MR. JONES: That's not an issue, Your Honor. Her
22 hygiene is fine.
23 JUDGE MCGUIRE: All right. Ms. L[redacted]
24 parenting is not a spectator sport. You don't buy a ticket
25 and watch your child grow up. Your child fails a class,

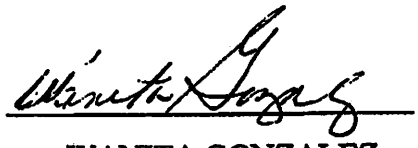
1 you're responsible for seeing to it that she gets the services
2 she needs to learn that subject. You don't just sit back and
3 say, "It's not my responsibility. I gave birth to her"--
4 MS. L[redacted] Well, excuse me--
5 JUDGE MCGUIRE: --It's now up to the
6 government to raise her. No, I'm not excusing anything.
7 Your child's failing math, you should be in contact with the
8 guidance counselor and find out what needs to be done.
9 Does she have a tutor?
10 MS. L[redacted] She has extra classes. She
11 (unintelligible)
12 JUDGE MCGUIRE: Does she have a tutor?
13 MS. L[redacted] She has an IEP.
14 JUDGE MCGUIRE: Does she have a tutor?
15 MS. L[redacted] She-- no, they have not given her a
16 tutor, and I don't have the money to pay for one. Do you?
17 JUDGE MCGUIRE: That's not my question.
18 MS. L[redacted] No, she doesn't have a tutor. It cost
19 money.
20 JUDGE MCGUIRE: Have you spoken to the school
21 about a tutor?
22 MS. L[redacted] No. We had an IEP meeting recently.
23 JUDGE MCGUIRE: Did you go to it?
24 MS. L[redacted] I was conferenced over the phone.
25 Yes, I did.

1 JUDGE MCGUIRE: Was there a transportation
2 issue that prevented you from being present at the IEP
3 meeting?
4 MS. L[redacted] Yes, there is. I do not have a vehicle.
5 JUDGE MCGUIRE: Did you speak to Mr. Jones
6 about that.
7 MS. L[redacted] We set up a conference meeting with
8 the school, so I could have the conference phone.
9 JUDGE MCGUIRE: Mr. Jones did?
10 MS. L[redacted] Mr. Jones, myself, the school district.
11 JUDGE MCGUIRE: Did you speak to Mr. Jones
12 about assisting you with transportation to get you to that
13 meeting?
14 MS. L[redacted] I don't believe transportation was
15 available at that time to go to that meeting.
16 JUDGE MCGUIRE: Did you speak to Mr.--
17 MS. L[redacted] I do not remember, sir.
18 JUDGE MCGUIRE: You know what? Take her
19 into custody.
20 COURT OFFICER: Stand up, place your hands
21 behind your back, please.
22 JUDGE MCGUIRE: Second call.
23 (SOUND OF HANDCUFFS)
24 JUDGE MCGUIRE: Second call. Get these people
25 out of my courtroom.

1 COURT OFFICER: Part II postponed. Clear the
2 room.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on June 14, 2013.
7
8
9 Dated: February 22, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. And on what basis did you have to put Ms. L[redacted] into custody?

A. Ms. L[redacted] was getting agitated. She was getting combative with me. All I was trying to do was get her to understand, if she wants to have this child returned to her, I need to be sure the child's going to get the services that she needs. And she was giving-- she was debating why she should or should not have to do the things that I felt she should've done.

Q. And so the fact that she was debating with you was why you put her in custody?

A. Well, her tone was not respectful of the court.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-56

1 Q. So that's the basis for putting her into custody?
2 A. Yes.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7 Q. Now, going back to page 6, what we read before, line 11 through 25.
8 Did you raise your voice to Ms. L[redacted] during this part of the
9 proceeding?
10 A. I don't dispute that I probably did. I don't dispute that I did.
11 Q. And Ms. L[redacted] was handcuffed in front of you?
12 A. She was.
13 Q. Now, on line 24, on page 6, 24 to 25, where you said, "The Court:
14 Second call, get these people out of my courtroom." What was the
15 level of your voice?
16 A. I'm sure that it was denoting authority.
17 Q. I don't know what you mean by that.
18 A. I'm sure that it was elevated above what we're conversing at right
19 now.
20 Q. So was it louder than your normal court voice?
21 A. It was probably louder than my normal court voice. I don't dispute
22 that it was louder than my normal court voice.
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-5c

1
2 Q. Now, did you give Ms. L[redacted] a warning about the behavior that you
3 found contemptuous?
4 A. I did not.
5 Q. Did you explain to Ms. L[redacted] at any time what she did wrong?
6 A. When she comes back in, I'm sure that we had a discussion.
7 Q. Before you put her-- she was put in handcuffs in front of you. Did
8 you explain to her what she had done wrong?
9 A. I did not. The record is clear on that.
10 Q. Did you give Ms. L[redacted] an opportunity to make a statement in her
11 defense?
12 A. I did not.
13 Q. Did you get an attorney for her?
14 A. I did not.
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV -5d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22 Q. So, I still haven't gotten an answer to my question. Did you draft an
23 order?
24 A. I didn't draft an order because I didn't hold her-- I didn't hold her in
25 contempt beyond the one hour. So I did not, no.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IV-5e

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: February 6, 2019

RE: C[redacted] v. C[redacted] FF# 16502

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

Christina Benson

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-1

SENECA COUNTY
SENECA COUNTY

At a term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York, on May 15, 2014.

PRESENT: Hon. Michael F. McGuire
Acting Family Court Judge

.....

In the Matter of a Proceeding for Custody & Parenting Time under Article 6 of the Family Court Act,

Docket No. V-02115-13
FF No. 16502

L[redacted] W[redacted] G[redacted]

Petitioner,

ORDER

against -

C[redacted] C[redacted]

Respondent

RECEIVED
MAY 22 2014
SULLIVAN COUNTY FAMILY COURT

.....

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

L[redacted] W[redacted] G[redacted] having filed a petition on November 14, 2013, pursuant to Article 6 of the Family Court Act requesting an order awarding custody and C[redacted] C[redacted] having been served and having appeared, and K.C. Garn, Esquire having appeared with C[redacted] C[redacted] through the pendency of the matter, but having been relieved of his assignmen[illegible] [redacted]'s failure to appear for fact-finding, and Ferrara & Su[illegible] red with L[redacted] W[redacted] G[redacted]

And the Court having searched the statewide r[illegible] protection, the sex offender registry and the Family Court's warra[illegible] and child protective

records, and having notified the attorneys for the parties of the results of these searches; And the Court having considered and relied upon the following results of these searches in making this decision: *specifically that there are no findings pertaining to the parties herein.*

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto, this Court finds and determines that:

ORDERED that L[redacted] W[redacted] G[redacted] shall have sole legal and physical custody of [redacted] G[redacted] and it is further

ORDERED that C[redacted] C[redacted] shall enjoy parenting time with [redacted] G[redacted] on Saturdays from 10 am to 6 pm and Mondays from 10 am to 6 pm; and it is further

ORDERED that L[redacted] W[redacted] G[redacted] will provide the transportation for visitation; and it is further

ORDERED that should C[redacted] C[redacted] secure transportation, she should share equally in the transportation for visitation; and it is further

ORDERED that C[redacted] C[redacted] may have overnight visitation with [redacted] G[redacted] if L[redacted] W[redacted] G[redacted] deems it safe and appropriate, and such overnight visitation is completely at the discretion of L[redacted] W[redacted] G[redacted] and

it is further

ORDERED that C[redacted] C[redacted] may have such other and further parenting time as the parties mutually agree; and it is further

ORDERED that both parties shall adhere to the children's bill of rights annexed hereto and made a part hereof.

Dated: Monticello, NY
June 19, 2014

ENTER

Hon. Michael F. McGuire
Acting Judge of the Family Court

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed]:_____

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on June 19, 2014

Christina Benson

(Deputy) Chief/Clerk of the Court

19/14 Ret'd to C. Sullivan, Esq.

ADDE(/M TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive; which shall be deemed incorporated into any existing Order of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

AFFIRMATION OF SERVICE

STATE OF NEW YORK
COUNTY OF SULLIVAN

Claire Sullivan, an attorney duly admitted to practice law in the State of New York, affirms under penalties of perjury the following to be true:

1. I am not a party to the action to which this affirmation of service is attached.

2. I am over 18 years of age.
3.
4. On May 21, 2014, I served the attached papers, more particularly described as a proposed order in the case of L[redacted] W[redacted] G[redacted] v. C[redacted] C[redacted] (FF 16502) by the following method:

(X) by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following at the last known address set forth after each name:

C[redacted] C[redacted]
c/o A[redacted] V[redacted]
[redacted]

L[redacted] W[redacted] G[redacted]
[redacted]
[redacted]
[redacted]

Dated: Monticello, New York
May 21, 2014

Claire Sullivan

Claire Sullivan

12

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on January 17, 2014
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York held in and for the County of Sullivan at the Government Center thereof at 100 North Street, Monticello, New York on the 23rd day of December, 2013

File #16502

PRESENT: HON. MICHAEL McGUIRE
Acting Family Court Judge

#V-02115-13

----------x

In the matter of a Custody/Visitation proceeding,

L[redacted] W[redacted] G[redacted]

Petitioner

TEMPORARY ORDER

RECEIVED
JAN 17 2014
SULLIVAN COUNTY FAMILY COURT

-against-

C[redacted] C[redacted]

Respondent,

----------x

NOTICE: YOUR WILFULL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

THIS MATTER HAVING COME on for an appearance before this Court on December 23, 2013 by virtue of the Respondent's Order to Show Cause requesting expanded visitation involving the following minor child:

I[redacted] G[redacted] (DOB [redacted])

And Respondent, C[redacted] C[redacted] having appeared with K.C. Garn, Esq., and L[redacted] W[redacted] G[redacted] Petitioner, having appeared with, John Ferrara, Esq., and

The Court having searched the statewide registry of Orders of Protection, the sex offender registry and the Family Court's child protective records; and

The matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and the Court having heard the parties' agreements, and having considered the best interests of the child; it is hereby,

ORDERED, that Respondent, C[redacted] C[redacted], shall have parenting time with her daughter each Wednesday from Noon to 6:00 PM, each Saturday from 10:00 AM to 6:00 PM and each Monday from 10:00 AM to 6:00 PM, and it is further,

ORDERED, that the exchange of the child shall take place at the Ellenville Police Department in Ellenville, NY, and it is further,

ORDERED, that the parties will comply with the provisions of the Children's Bill of Rights which is annexed hereto and made a part of this Order.

Dated: Monticello, NY
January 17, 2014

HON. MICHAEL McGUIRE
Family Court of Sullivan County

ADDENDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive which shall be deemed incorporated into any existing Order of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the child(ren) or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household in front of the child(ren) or permit third persons to do so. This child(ren) shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the child(ren) (is)(are) in their care nor shall the child(ren) be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significant affects the child(ren)'s health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shll five, the other timely notice of the child(ren)'s medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child(ren)'s educational, medical or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from school with the child(ren).

9. **ADDRESS AND PHONE NUMBER:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the child(ren) that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and phone number.

10. **PROMPTNESS:** The parent picking up or dropping off the child(ren) for the exercise of parenting time shall do so promptly at the appointed time. The child(ren) being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child(ren) at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activity of this type, or commit the child(ren) to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the child(ren). Areas of concern include television time and programming, internet access, computer and video game use, curfews, bedtimes and peer associations. Corporal punishment shall not be used to discipline the child(ren).

13. **GENERAL WELFARE:** The child(ren) shall at all times be properly supervised. They shall not be exposed to intimate adult activities. The child(ren)'s regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet routine shall be adhered to. The child(ren) should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child(ren) at the start of the parenting time. Homework assignments due the next school day should be completed.

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: 1/17/14

☐ Petitioner	☐ by mail	☐ personal service
☒ Petitioner's Attorney	☒ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☒ Respondent's Attorney	☒ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child	☒ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

File #16502
Docket #V-(2285-13

L[redacted] W[redacted] G[redacted]

Petitioner

-against-

ORDER TO SHOW CAUSE

C[redacted] C[redacted],

Respondent.

RECEIVED
DEC 19 2013
SULLIVAN COUNTY FAMILY COURT

Please take notice that upon the annexed affirmation of K.C. Garn, attorney for the Respondent, it is hereby:

ORDERED that the Petitioner show cause before this court, on the 23rd day of DECEMBER 2013 at 9:30 o'clock in the afternoon or as soon thereafter as counsel can be heard why a Temporary Order, granting the Respondent parenting time with her child I[redacted] G[redacted] (dob [redacted]) should not be entered and for such other and further relief as this court deems just and proper,

AND IT IS FURTHER ORDERED that personal service, of a copy of this Order together with the papers upon which it is granted, upon John Ferrara, Esq., attorney for the Petitioner on or before December 19, 2013 be deemed sufficient service.

Dated: Monticello, NY
December 19, 2013

ENTER

Hon. Michael F. McGuire

12/19/13 returned to KC

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

L[redacted] W[redacted] G[redacted]

Petitioner

File #16502
Docket #V-1 2295-13
AFFIRMATION

-against-

C[redacted] C[redacted]

Respondent.

RECEIVED
DEC 19 2013
SULLIVAN COUNTY FAMILY COURT

K. C. Garn, an attorney licensed in the State of New York, hereby affirms as follows:

1. I am the attorney for the Respondent, C[redacted] C[redacted]

2. As Respondent's attorney, I am fully familiar with the facts and circumstances of this case.

3. This is a custody proceeding in which the subject child is I[redacted] G[redacted] dob [redacted]. I do not believe there are any prior Orders of custody regarding this child.

4. I am unaware whether the Court issued any Temporary relief in this matter when the parties were last in court..

5. My client advises me that the Petitioner is insisting that she visit with her child at one of his relatives houses and that she be supervised by that relative. My client resides in the Ellenville area and she tells me that is where the Petitioner's relatives reside.

6. My client advises that she does not get along with any of Petitioner's relatives and that she cannot effectively visit with her child in their presence.

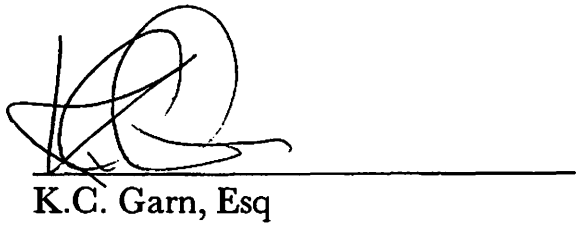
8. My client who appeared by telephone at the last court appearance, advises she was told, by Your Honor, that she has a right to see her child and that Your Honor told that to Petitioner.

9. The matter is not scheduled to be heard until January 17th, 2014 and in the absence of intervention by this Court, my client will not get any time with her child over the holidays.

16. Under the circumstances, Respondent seeks a Temporary Order granting her specific parenting time with her child between now and the next court date on January 17th.

WHEREFORE, Respondent respectfully requests that the Court grant her a Temporary Order awarding her specific parenting time with her child between now and the next court date on January 17th., and for such other and further relief that it deems just and proper.

Dated: Monticello, NY
December 19, 2013



K.C. Garn, Esq

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 16502
Docket #: V-02115-13

L W G

Petitioner,

ORDER TO SHOW CAUSE

- against -

C C

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: C C

L W G

Upon the petition of L W G filed on November 14, 2013, annexed hereto, it is

ORDERED that C C show cause before this Court on

Date/Time:	December 9, 2013 at 10:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon C C on or before December 2, 2013, be deemed sufficient service

Dated: November 20, 2013

ENTER

Sent for Sig

Hon. Michael F. McGuire

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☒Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

16502
V-2115-13

Petitioner [redacted]
Relationship to child: Father

Docket No.
PETITION
☐CUSTODY ☐VISITATION

-against-

Respondent [redacted]
Relationship to child: Mother

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	F	[redacted]	[redacted]	[redacted]

2. a. Petitioner, [redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

3. a. Respondent, [redacted], [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: mother

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: [redacted]
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
❑ An acknowledgment of paternity was signed on [specify date]: by [specify who signed and attach a true copy]:
❑ The father is deceased.

b. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.
3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.
4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ☒ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]: (Albany) Sept 6, 2013 after living with the mother's girlfriend, as follows:

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]: , as follows:

13. It would be in the best interests of the child(ren) for Petitioner to have ☒ custody ❑ visitation for the following reasons [specify]: unstable mom mother, threats from mother about not needing her child, messages saying she cant handle her or care for her properly

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

---

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify].~~

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ❑ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: None

WHEREFORE, Petitioner requests an order awarding ☒ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: November 14, 2013

x [redacted]
Petitioner

x [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan

[redacted] being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

x [redacted]
Petitioner

Sworn to before me this
14th day of November, 2013

(Deputy) Clerk of the Court
Notary Public

Custody/Visitation Registry Check Search Results
Sullivan County Family Court

Printed: 06/11/2014

File: 16502 **Docket:** V-02115-13

SOR

Name(s) Searched:		Registry Check Status - Results
G[redacted] I[redacted] (0[redacted])		Completed - No Results Found (06/11/2014)
G[redacted] L[redacted] W[redacted] ([redacted])	NRF	Completed - No Results Found (06/11/2014)

March 11, 2014

To Whom It May Concern,

RECEIVED
MAR 13 2014
SULLIVAN COUNTY FAMILY COURT

I am writing this letter in regards to file number 16502 and document number p-02116-13 in the case of dna testing/paternity for [redacted] G[redacted] My name is L[redacted] G[redacted] and I filed against C[redacted] C[redacted] on January 8 2014. I am requesting cancelation of the paternity hearing, both parties are aware and have knowlegde of this request and agree upon cancelation. If you have any questions please contact me at [redacted] or [redacted]. Thank you for your time.

Thank You.

[redacted]

C.C

C[redacted]

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16502
Docket #: V-02115-13
V-02285-13

L[redacted] W[redacted] G[redacted]

Petitioner,

- against -

NOTICE TO APPEAR IN COURT

C[redacted] C[redacted]

Respondent.

To: L[redacted] W[redacted] G[redacted]
[redacted]

also mailed to

L[redacted] W[redacted] G[redacted]
[redacted]

John Ferrara, Esq.
548 West Broadway
Monticello, NY 12701

You are hereby notified to appear on:

Date/Time:	March 10, 2014 at 9:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Please bring this notice with you and check in with the Court Officer in the Part.

Dated: February 11, 2014

Stacey Benton, Deputy Clerk of Court

Ferrara & Sullivan
Attorneys at Law
548 Broadway
Monticello, New York 12701-0785
(845) 866-2639
www.ferraraandsullivan.com
john.ferrara557[redacted]
claire.sullivan55[redacted]

JOHN FERRARA **CLAIRE SULLIVAN**

December 23, 2013

Hon. Christina Benson
Family Court Clerk
Government Center
Monticello, NY 12701

Re: G[redacted] v. C[redacted]
FF # 16502

Dear Ms. Benson:

Please find enclosed my statement of rights and responsibilities. I appear though the conflicts panel for Mr. G[redacted]

I understand this matter next to be scheduled on **January 17, 2014 at 10:30 a.m.**

Thank you.

Sincerely,

John Ferrara

STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

Your attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and your attorney please read this document carefully.

If you ever have any questions about these rights, or about the way your case is being handled, do not hesitate to ask your attorney. He or she should be readily available to represent your best interests and keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that are revealed in the course of the relationship.

You are expected to be truthful in all discussions with your attorney, and to provide all relevant information and documentation to enable him or her to competently prepare your case.

You are entitled to be kept informed of the status of your case, and to be provided with copies of correspondence and documents prepared on your behalf or received from the court or your adversary.

You have the right to be present in court at the time that conferences are held.

You are entitled to make the ultimate decision on the objectives to be pursued in your case, and to make the final decision regarding the settlement of your case.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

If you entrust money with an attorney for an escrow deposit in your case, the attorney must safeguard the escrow in a special bank account. You are entitled to a written escrow agreement, a written receipt, and a complete record concerning the escrow. When the terms of the escrow agreement have been performed, the attorney must promptly make payment of the escrow to all persons who are entitled to it.

RECEIVED
DEC 23 2013
SULLIVAN COUNTY FAMILY COURT

Receipt Acknowledged:

Clien[redacted]

Ferrara & Sullivan

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16502
Docket #: V-02115-13

L[redacted] W[redacted] G[redacted]

Petitioner,

- against -

C[redacted] C[redacted]

Respondent.

REFERRAL TO COUNSEL

To: Sullivan County Legal Aid Panel, Inc.
11 Bank Street
Monticello, NY 12701
(845) 794-4094 ext.

The above referenced Respondent has been referred to your agency. A Financial Disclosure Affidavit has been provided to the litigant for Sullivan Legal Aid Panel to review and if the litigant is found to be financially eligible, your agency shall be assigned to represent the litigant. If the party is not eligible, please notify the Court immediately.

Please provide this Court with a statement of client's rights and responsibilities if you intend to represent C[redacted] C[redacted] A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	January 17, 2014 at 10:30 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Sent

Dated: December 10, 2013

Andrea Schlosser, Court Assistant

CC: John Ferrara, Esq., Conflict Defender's Office
C[redacted] C[redacted] Respondent

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16502
Docket #: V-02115-13

L[redacted] W[redacted] G[redacted]

Petitioner,

- against -

C[redacted] C[redacted]

Respondent.

ASSIGNMENT OF COUNSEL

To: John Ferrara, Esq.
548 West Broadway
Monticello, NY 12701
(845) 794-1303

You have been assigned to represent L[redacted] W[redacted] G[redacted] in the above proceeding. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	January 17, 2014 at 10:30 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: December 10, 2013

Andrea Schlosser, Court Assistant

Sent

CC: L[redacted] W[redacted] G[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

Date: #10

Case Name: [redacted] v [redacted]

Doc[illegible]t:

Family File No.: 14502

TRIA

[redacted]

[redacted]

[illegible] [illegible] due to the [illegible]

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

November 20, 2013

L[redacted] W[redacted] G[redacted]
[redacted]

Re: G[redacted] v C[redacted]
File # 16502
Docket #: V-02115-13

Dear Mr. G[redacted]

Enclosed herein please find an order to show cause together with petitions and affidavit of service. You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon C[redacted] C[redacted] on or before December 2, 2013, be deemed sufficient service.***

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **December 9, 2013 at 10:00 AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***Who may serve papers***:

1. Person over the age of 18 years, ***other than yourself***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date.

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 05/15/2014
Cal. No(s): 1, 2

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02115-13		Custody	Trial	11/14/2013	06/07/2014	05/15/2014
V-02285-13		Visitation	Trial	12/19/2013	06/21/2014	05/15/2014

Pedigree Information

L[redacted] W[redacted] G[redacted] DOB: [redacted]0 Docket(s): V-02115-13 (Petr), V-02285-13 (Resp)
Primary Address: [redacted]
Contact Information: (C) [redacted]

Attorney: John Ferrara (Conflict Defender)

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02115-13 (Resp), V-02285-13 (Petr)
Primary Address: c/o A[redacted] Va[redacted] [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Child), V-02285-13 (Child)

Appearance Detail

Appearance: 05/15/2014 09:00 AM, Hon. Michael F. McGuire, PT 2, Trial

Attendance: Present: L[redacted] W[redacted] G[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)
Not Present: John Ferrara (Atty)
C[redacted] C[redacted]

Notes: (V-02115-13, V-02285-13)
Claire Sullivan, Esq. is present for John Ferrara, Esq.

Garn - has had no contact with his client, she didn't appear on 3/10 but called him afterwards

Ms. C[redacted] is seeing the child every Satruday and Momday - no overnights because she still has not gotten a bed for the child

Mr. G[redacted] states that he spoke with the Resp. two or three days ago and she is suppose to be comming -

Garn requests 5 to 10 minutes to see if his client shows

court breaks for 10 minutes

back in Court - Ms. C[redacted] is still not present

Garn makes an application to be relieved - last time Resp. was in Court was 2/10 - last Garn heard from her was in March - Sullivan does not object

Garn is relieved -

case goes to Inquest -

Sullivan calls Mr. G[redacted] as her witness - sworn in - 9:17

Direct by Sullivan 9:18 - 9:21

Court finds that Pet'r is the father of the child
Since 2/10 the Court has not seen or heard from the Resp.
Since 9/13 - Dad has had a full defacto custody of the child

sole physical and legal custody to Dad
subject to parenting time to the mother on Sat. from 10 -6 and Monday from 10 - 6
at whatever time Resp. is able to secure transportation she should share equally in that transportation burden
SOF&D as parties can agree including overnight provided that Resp. can provide appropriate bedding;

Sullivan to prepare order
(Stacey Benton)

Outcomes: Petition Dismissed for Failure to Prosecute (V-02285-13)
Petition Granted (V-02115-13)

Court Acti[illegible]y File Summary - Sullivan County F[illegible]ily Court

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 03/10/2014
Cal. No(s): 6, 7

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02115-13		Custody	Appear	11/14/2013	06/07/2014	
V-02285-13		Visitation	Appear	12/19/2013	06/21/2014	

Pedigree Information

L[redacted] W[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Petr), V-02285-13 (Resp)
Primary Address: [redacted]
Contact Information: (C) [redacted]

Attorney: John Ferrara (Conflict Defender)

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02115-13 (Resp), V-02285-13 (Petr)
Primary Address: c/o A[redacted] Va[redacted] [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Child), V-02285-13 (Child)

Appearance Detail

Appearance: 03/10/2014 09:00 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: John Ferrara (Atty)
L[redacted] W[redacted] G[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)
Not Present: C[redacted] C[redacted]

Notes: (V-02115-13, V-02285-13)
Pet'r got a text message that today is not a good day - not sure what that ment

Mr. Garn does not know why she is not here

Ferrara states that the last couple of weeks the Respondent exercised half the visits

Mr. Garn does not know if there is a pack and play yet

Mr. Garn will call the Resp. to tell her the trial date

trial shouldn't take long

5/15/14 at 9:00
(Stacey Benton)

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 03/10/2014
Cal. No(s): 6, 7

Future Appr: 05/15/2014 09:00 AM Hon. Michael F. McGuire, PT 2: Trial (V-02115-13, V-02285-13)

Court Activity File Summary - Sullivan County Family Court

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 02/10/2014
Cal. No(s): 11, 12

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02115-13		Custody	Appear	11/14/2013	06/07/2014	
V-02285-13		Visitation	Appear	12/19/2013	06/21/2014	

Pedigree Information

L[redacted] W[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Petr), V-02285-13 (Resp)
Primary Address: [redacted]
Contact Information: (C) [redacted]

Attorney: John Ferrara (Conflict Defender)

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02115-13 (Resp), V-02285-13 (Petr)
Primary Address: c/o A[redacted] Va[redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Child), V-02285-13 (Child)

Appearance Detail

Appearance: 02/10/2014 09:00 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: C[redacted] C[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)
Not Present: John Ferrara (Atty)
L[redacted] W[redacted] G[redacted]

Notes: (V-02115-13, V-02285-13)
Ferrara and G[redacted] are not present

KC states that his client feels things are not going well - Mr. is always late and does not advise her of doctor apts., etc.

Ms. C[redacted] still does not have a bed for the child

3/10/13 at 9:00 - appear

parenting time will remain as is

Court o notify Ferrara and Mr. G[redacted]
(Stacey Benton)

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 02/10/2014
Cal. No(s): 11, 12

Future Appr: 03/10/2014 09:00 AM Hon. Michael F. McGuire, PT 2: Appear (V-02115-13, V-02285-13)

Court Activity File Summary - Sullivan County Family Court

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/17/2014
Cal. No(s): 8, 9

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02115-13		Custody	Appear	11/14/2013	06/07/2014	
V-02285-13		Visitation	Appear	12/19/2013	06/21/2014	

Pedigree Information

L[redacted] W[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Petr), V-02285-13 (Resp)
Primary Address: [redacted]
Contact Information: (C) [redacted]

Attorney: John Ferrara (Conflict Defender)

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02115-13 (Resp), V-02285-13 (Petr)
Primary Address: c/o A[redacted] V[redacted] [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

I[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Child), V-02285-13 (Child)

Appearance Detail

Appearance: 01/17/2014 10:30 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: C[redacted] C[redacted]
John Ferrara (Atty)
L[redacted] W[redacted] G[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-02115-13, V-02285-13)
Garn states that his client is happy with the parenting time

Ferrara's client is happy with it, although there were a few problems regarding changing visitation

Resp. would be ok with the temp. order becomming permanent

Mom will have Weds. at Noon until Thursday at Noon

Resp. is placed in hand cuffs -

current order is modified - Mom will have parenting time Monday from 10 -6 and Sat. from 10 - 6

Garn to submit order

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/17/2014
Cal. No(s): 8, 9

2/10/14 at 9:00 a.m. - appear

Resp. brought back into Court - 11:05 and after her appology to Court - the handcuffs were removed
(Stacey Benton)

Future Appr: 02/10/2014 09:00 AM Hon. Michael F. McGuire, PT 2: Appear (V-02115-13, V-02285-13)

Court Acti[illegible] File Summary - Sullivan County F[illegible]ily Court

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/23/2013
Cal. No(s): 13

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02285-13		Visitation	Arraign	12/19/2013	06/21/2014	

Pedigree Information

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02285-13 (Petr)
Primary Address: c/o A[redacted] V[redacted] [redacted]

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

L[redacted] W[redacted] G[redacted] DOB: [redacted] Docket(s): V-02285-13 (Resp)
Primary Address: [redacted]
Contact Information: (C) [redacted]

Attorney: John Ferrara (Conflict Defender)

[redacted] G[redacted] DOB: [redacted] Docket(s): V-02285-13 (Child)

Appearance Detail

Appearance: 12/23/2013 09:30 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present:
C[redacted] C[redacted]
John Ferrara (Atty)
L[redacted] W[redacted] G[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-02285-13)
Denials entered
On December 9th Respondent Ms. C[redacted] was not here because of weather
She lives at [redacted]
She lives with a B[redacted] S[redacted] he is her cousin...she moved in last week...previously lived in Ellenville with a family friend

Father just would like to meet the person that mother is currently living with to make the father more comfortable.

Mom to have parenting time on Wednesday from 12:00 to 6:00 p.m. She will have every Saturday from 10:00 p.m. until 6:00 p.m. and every Monday from 10:00 to 6:00 p.m. , Wednesday 12:00 to 6:00. and father can meet Mr. S[redacted] and see if he is comfortable with him then the court can entertain over nights. Part getting child will provide transportation parties will meet at Ellenville municiple bldg when pick up in Ellenville

Already scheduled for January 17th remains on
(Christina Benson)

 Date printed: 12/23/2013

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/23/2013
Cal. No(s): 13

Outcomes: Issue Joined (V-02285-13)

Future Appr: 01/17/2014 10:30 AM Hon. Michael F. McGuire, PT 2: Appear (V-02285-13)

Court Activ File Summary - Sullivan County F ly Court

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/09/2013
Cal. No(s): 18

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02115-13		Custody	Arraign	11/14/2013	06/07/2014	

Pedigree Information

L[redacted] W[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Petr)
Primary Address: [redacted]
Contact Information: (C) [redacted]

C[redacted] C[redacted] DOB: [redacted] Docket(s): V-02115-13 (Resp)
Primary Address: c/o A[redacted] V[redacted] [redacted]

I[redacted] G[redacted] DOB: [redacted] Docket(s): V-02115-13 (Child)

Appearance Detail

Appearance: 12/09/2013 10:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: L[redacted] W[redacted] G[redacted]
Present Telephonic: C[redacted] C[redacted]

Notes: (V-02115-13)
also preocess server;

she is called; says she is in ellenville and her ride would not bring her to the court today;

allegations read;
she recvd the petn;
right to counsel; she is staying with an aunt and uncle

mail her an FDA; she is to go to SLAP;
he wants counsel; not working right now; waitng for background checks for Toys r Us and janitor?? he was working off the books; cash payments; discussion of his employment off the books;
he lives with his girlfriend and her step mother; she is not working she is pregnant; he is not paying rent;
FDA for him - leave here for conflict;

child is currently living with dad for last 3 months;
child was with mom before he had her in oct;
mom and dad split up way before birth of the child;

No L.G. per M2

mom says dad is not letting her see the child; says dad isnt even on the childs birth certificate;
judge leaving the arrangment of visits to the parties
(Andrea Rogers)

File No: 16502 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/09/2013
Cal. No(s): 18

Outcomes: Issue Joined (V-02115-13)

Future Appr: 01/17/2014 10:30 AM Hon. Michael F. McGuire, PT 2: Appear (V-02115-13)

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 14, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

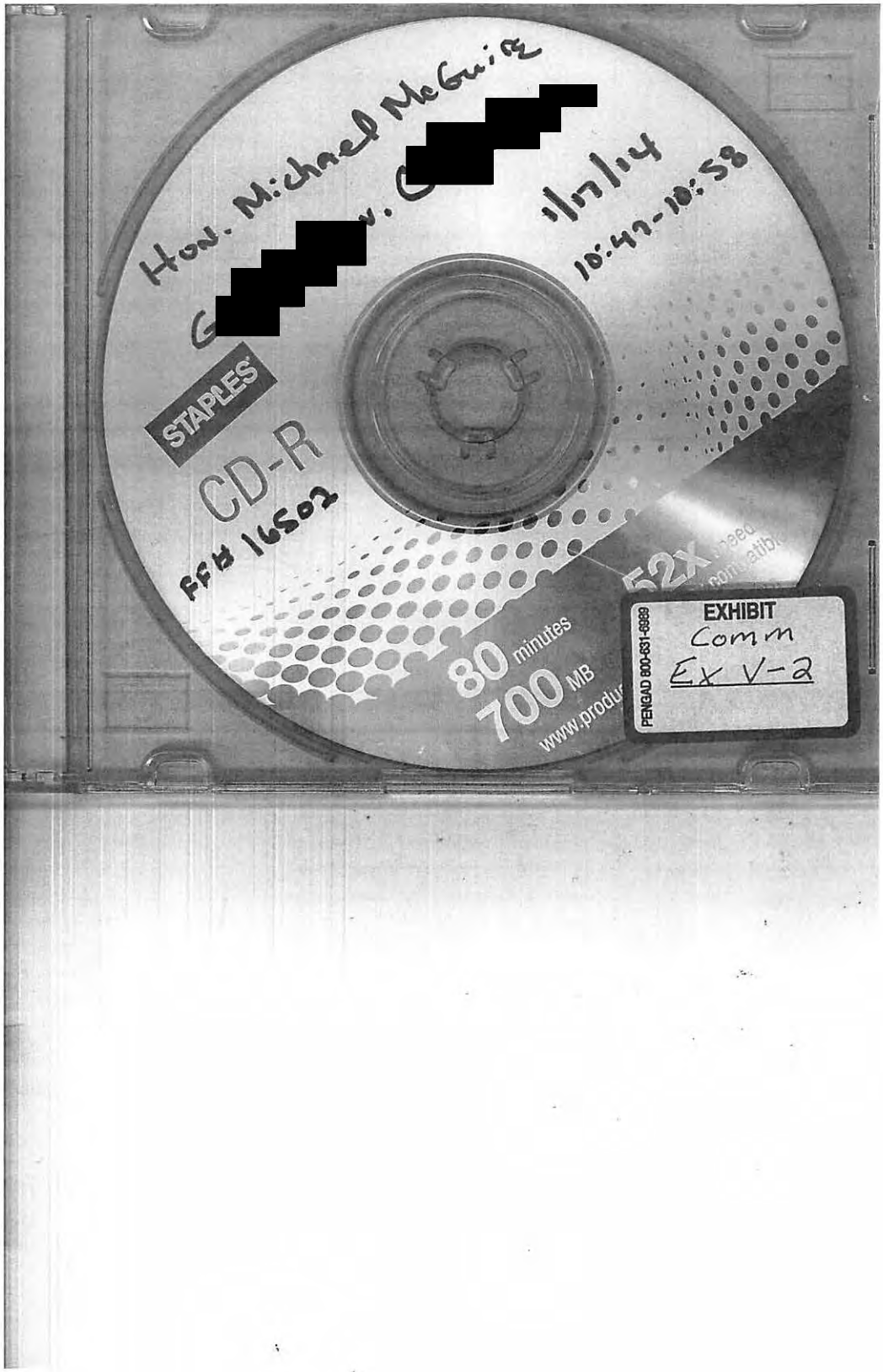
Enclosed are copies of audio recordings in the following matter;

L[redacted] G[redacted] v. C[redacted] C[redacted]
Family File # 16502
Date of recording -January 17, 2014
10:47 - 10:58

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-2


Hon. Michael McGuire
[redacted]
1/7/14
10:47-10:58
STAPLES
CD-R
FFB 16502
52X
80 minutes
700 MB
EXHIBIT
Comm
Ex V-2
PENGAD 800-631-6989

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.

- X

TRANSCRIPT OF PROCEEDING

C[redacted] C[redacted]

January 17, 2014
10:47 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-2a

1 JUDGE MCGUIRE: All right. This is cases eight
2 and nine on the docket, the *Matter of* G[redacted] *v.* [redacted].
3 Note for the record the appearance of Mr. G[redacted] along
4 with his attorney, Mr. Ferrara. Ms. C[redacted] is here as well,
5 along with her attorney, Mr. Garn. And ma'am in the back,
6 your name?
7 MS. G[redacted]: B[redacted] G[redacted] (Phonetic).
8 JUDGE MCGUIRE: All right. Okay. We were
9 here last on December 23rd. On that day, I did enter a
10 temporary order that gave parenting time to Ms. C[redacted]
11 on Monday, Wednesday, and Saturday at times generally 10
12 to six or noon to six. The parties were going to exchange
13 the child at the Ellenville Police Station. Mr. G[redacted] was
14 not comfortable with where Ms. C[redacted] was living. She
15 reported that she had moved to a new place and staying with
16 a cousin in Napanoch, who Mr. C[redacted] wanted to be able
17 to -- to contact, which I don't know if he did or not. Mr.
18 Garn, how has the parenting time gone from your client's
19 perspective?
20 MR. GARN: From her perspective, it's going just
21 fine. She's been pleased.
22 JUDGE MCGUIRE: Okay. And Mr. Ferrara?
23 MR. FERRARA: Judge, generally speaking, my
24 client has been fine with it, too. There have been a few
25 occasions where there's been a snafu having to do with my

1 client's-- the mother wanting to change one visit, the father
2 then was supposed to-- and he agreed, but then his car broke
3 down and he wasn't able to get there. And he tells me he
4 didn't have a phone number, so they weren't able to speak
5 with each other, I assume, since neither one raised it. And
6 he didn't even raise it to me here, he raised it to me on the
7 phone, raised it right now that they worked that out after the
8 --the phone call, but-- but-- to me. But I think they should
9 have each other's phone numbers because cars do break
10 down. My client's main concern with the temporary order
11 is that he drives 25 minutes to Ellenville and she drives two
12 minutes to Ellenville. He'd like that a little bit more
13 equitable. But that really doesn't go to the quality of the
14 parenting.
15 JUDGE MCGUIRE: Well, does she have access to a
16 vehicle?
17 MR. FERRARA: I don't really-- but she somehow
18 is getting to Ellenville, and I believe she--
19 JUDGE MCGUIRE: --From Napanoch?
20 MR. FERRARA: Yeah. Um, which, you know, I-- I
21 guess she could walk that, but I-- I think she's coming by
22 vehicle.
23 MR. GARN: Walk?
24 JUDGE MCGUIRE: Well, you could--
25 MR. GARN: --From Napanoch to Ellenville?

1 JUDGE MCGUIRE: --But it's a-- it's a--
2 MR. GARN: From Napanoch to Ellenville?
3 JUDGE MCGUIRE: --It's a fairly healthy walk,
4 especially this time of the year.
5 MS. C[redacted] I really don't have access to a
6 vehicle. The only way that I'm able to come to-- to pick her
7 up is when my cousin goes to work, I take his ride down, so
8 I get into town and then I stay at, like, a cousin's house with
9 her in town.
10 JUDGE MCGUIRE: Okay. So, I don't know what
11 relief I can give your client there. If she doesn't have a
12 vehicle, she doesn't have a vehicle. That's unfortunate.
13 Other than that, Mr. Garn, is that--
14 MR. GARN: Judge, my client is okay with the
15 division of time that currently exists. She simply wants to
16 be a co-parent, a joint custodian of the child.
17 JUDGE MCGUIRE: All right. Well, now, we're
18 talking about a seven month old, correct?
19 MS. C[redacted] Six.
20 MR. FERRARA: Right.
21 MR. G[redacted] Six.
22 JUDGE MCGUIRE: Six month old?
23 MR. FERRARA: Mm-hmm.
24 JUDGE MCGUIRE: She's born in July, July 4th, so
25 she's into her seventh month. And mom has three days of

1 parenting time. Do we-- Okay. Did your client take a look
2 at mom's living arrangements? Is it something that
3 concerns him?
4 MR. FERRARA: No, he has not.
5 JUDGE MCGUIRE: I mean, I'm only wondering if
6 there-- if-- if we can give your client some relief from all
7 that driving by condensing the time into a 24-hour period,
8 as opposed to three six-hour periods, where he's making
9 three, really, it's probably six, rounds trips to Ellenville
10 instead of only having to make four, essentially --
11 (Discussion between Mr. G[redacted] and Mr. Ferrara)
12 MR. FERRARA: He thinks that's a good idea,
13 Judge.
14 JUDGE MCGUIRE: All right. So, Mr. Garn, so
15 we'd be looking at an overnight, a 24-hour period of
16 visitation for your client. What's the best day for that to
17 happen? Do you work Monday through Friday?
18 MR. G[redacted] Nah, not-- not currently, no.
19 JUDGE MCGUIRE: You're not working?
20 MR. G[redacted] No.
21 JUDGE MCGUIRE: All right. So, what's the best--
22 the best day?
23 MR. GARN: What's the best day?
24 MS. C[redacted] I'm willing to compromise.
25 Whatever days is convenient for them to come down.

1 JUDGE MCGUIRE: All right. Wednesday at noon
2 to Thursday at noon. How's that work?
3 MS. C[redacted] Okay. That's better.
4 JUDGE MCGUIRE: And do you have a place for
5 her to sleep?
6 MS. C[redacted] Well, he has all my stuff that I
7 bought for her, so he's going to have to--
8 JUDGE MCGUIRE: So, your answer to my
9 question is no?
10 MS. C[redacted] Well, I do. He has the stuff that
11 I bought for her, therefore, he's going to have to give it to
12 me when I get her overnights.
13 JUDGE MCGUIRE: Mm, yeah, but he's going to
14 have her six nights and you're going to have her one, and
15 the stuff you bought--
16 MS. C[redacted] --So--
17 JUDGE MCGUIRE: --belongs to I[redacted] (Phonetic)
18 MS. C[redacted] -- Yeah, but I bought-- I bought
19 it for her for me to take care of her, therefore, it is mine--
20 JUDGE MCGUIRE: All right, all right.
21 MS. C[redacted] --If he -- you know what I'm
22 saying?
23 MR. GARN: Okay. He understands.
24 JUDGE MCGUIRE: Well, I get the concept. I don't
25 know that I agree with the conclusion--

1 MS. C[redacted] Well, then he--
2 JUDGE MCGUIRE: --But I do get the concept. So...
3 MR. FERRARA: Judge, I hope that this is going to
4 work. If he brings the Pack 'n Play for the next couple of
5 weeks, perhaps after that, the respondent can purchase her
6 own crib?
7 JUDGE MCGUIRE: Yeah, I think she needs to
8 purchase her own Pack 'n Play.
9 MS. C[redacted] Um, excuse me--
10 MR. GARN: -- Just what -- what do you want to
11 say?
12 (Discussion between Ms. C[redacted] and Mr. Garn)
13 MR. GARN: --Her position-- her position is that
14 she's already purchased one Pack 'n Play, and by rights,
15 equitably, she didn't have to buy a second one.
16 JUDGE MCGUIRE: But he's not sleeping in the
17 Pack 'n Play, the child is.
18 MR. GARN: Yes, but what--
19 JUDGE MCGUIRE: --And she bought it for the
20 child. She didn't buy it for him. I mean, was it her plan
21 that they-- that she was going to sleep in the Pack 'n Play
22 with her child?
23 MR. GARN: No.
24 JUDGE MCGUIRE: Okay. So, the child is sleeping
25 in the Pack 'n Play, right?

1 MS. C[redacted]: Obviously, which is why he
2 would bring it, so when I get her.
3 JUDGE MCGUIRE: I tell you what, your-- this is a
4 battle you're not going to win. You can keep fighting it,
5 that's what they said to Custer, and he kept fighting it, and
6 it didn't go well for him at Little Big Horn, so, think of this
7 as your Little Big Horn if you want to keep that argument
8 up.
9 (Discussion between Ms. C[redacted] and Mr. Garn)
10 MR. GARN: Okay.
11 JUDGE MCGUIRE: How much child support are
12 you getting from her?
13 MR. G[redacted] None.
14 JUDGE MCGUIRE: None? None? You're paying
15 nothing for your daughter. Is she still eating?
16 MR. G[redacted] Yes.
17 (Discussion between Mr. Garn and Ms. C[redacted]
18 JUDGE MCGUIRE: She's still going to doctors?
19 MR. G[redacted] Yes.
20 JUDGE MCGUIRE: She got more than clothes,
21 though, right?
22 MR. G[redacted] Yes.
23 JUDGE MCCGUIRE: Who's buying all that stuff?
24 MR. G[redacted] Me, my parents, my girlfriend's
25 step-mom.

JUDGE MCGUIRE: Mm, yeah, Pack 'n Plays are what? About a hundred bucks now? How much did the Pack 'n Play cost you?

MS. C[redacted] $150.

JUDGE MCGUIRE: You're way ahead of the game, way ahead of the game.

MS. C[redacted] That's how much that cost.

JUDGE MCGUIRE: Okay. You're way ahead of the game. All right, so, here's your option, Ms. C[redacted] You can have a 24-hour period with your daughter, which will require that you buy or obtain a Pack 'n Play--

MS. C[redacted] That's--

JUDGE MCGUIRE: --or a crib or someplace appropriate for her to sleep, or you can continue to have day visits.

MS. C[redacted] --That's a crock of shit to me, honestly.

JUDGE MCGUIRE: I'll tell you what, take her into custody now.

COURT OFFICER: Miss, stand up, please.

JUDGE MCGUIRE: I told you this was not going well for you.

COURT OFFICER: Miss, Miss, stand up.

MS. C[redacted] Well, this isn't fair, you know what I'm saying? All-- her stroller, everything is mine, I

paid for all that stuff, so why should I have to go out and shovel--

JUDGE MCGUIRE: --You need to put your hands behind your back.

MS. C[redacted] Oh my God, this is so crazy right now.

(SOUND OF HANDCUFFS)

COURT OFFICER: I'm going to grab your coat. Follow me.

COURT OFFICER: Part II post-- one-- one second.

MS. C[redacted] This is bullshit. You know, I'm having another baby--

COURT OFFICER: Go to your right, please.

MS. C[redacted] -- And I have to sit here and fight for this shit. Like, this is crazy, real fucking crazy.

COURT OFFICER: One second. Slow down, slow down.

(DOOR CLOSES)

JUDGE MCGUIRE: All right. So, I'll need another date for this case.

COURT CLERK: February 10th, at 9:00.

JUDGE MCGUIRE: In the interim, I'm going to modify the current order.

MR. FERRARA: Did you say 9?

JUDGE MCGUIRE: 9 A.M. In the interim, I'm

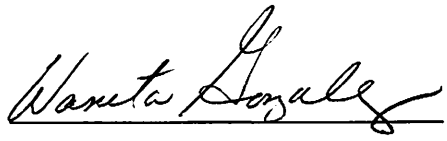
1 going to modify the current order, so that the mother will
2 have parenting time on Monday 10 to 6 and Saturday 10 to
3 6, so that we stay at just the four times back and forth to
4 Ellenville. Ah, yeah, Mr. Garn has that last order on his--
5 on his computer, so he can submit this order now. All right.
6 Thank you, folks.
7 MR. G[redacted] That's it?
8 JUDGE MCGUIRE: That's it.
9 MR. G[redacted] All right. Thank you.
10 MR. FERRARA: You going to-- have him in here
11 alone, and maybe you can sort out how long she has to stay
12 for?
13 JUDGE MCGUIRE: Yeah, we'll let her cool-- calm
14 down a little bit.
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, WANITA GONZALEZ, a Secretary of the State Commission on Judicial Conduct, do hereby certify that the foregoing is a true and accurate transcript of the audio recording of the proceedings transcribed by me, to the best of my knowledge and belief, in the matter held on January 17, 2014.

Dated: April 1, 2019



WANITA GONZALEZ

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 14, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

L[redacted] G[redacted] v. C[redacted] C[redacted]
Family File # 16502
Date of recording -January 17, 2014
11:06 - 11:15

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex V-3
PENGAD 800-631-6989

Hon. Michael McGuire
[redacted] v. [redacted]
1/17/14
11:06 ~ 11:15
STAPLES
D-R
16502
PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-3
52x speed
1x - 52x compatible
uct-support-staples.com
80 min
700

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

C[redacted] v. C[redacted]

January 17, 2014
11:06 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-3a

1 (SOUND OF DOOR OPENING)
2 JUDGE MCGUIRE: Okay. That's fine.
3 (SOUND OF HANDCUFFS)
4 MS. C[redacted] Sorry.
5 JUDGE MCGUIRE: Ms. C[redacted]-
6 MR. GARN: --If--
7 JUDGE MCGUIRE: --You can be seated. You can
8 be seated. Fine. Mr. Garn, I'm sorry, go on.
9 MR. GARN: On-- on her behalf--
10 JUDGE MCGUIRE: --Right.
11 MR. GARN: -- Her mother is deceased. She has no
12 idea who her father is. She has nobody, nobody to help her.
13 She bought clothing for the child up through 24 months of
14 age. She got the Pack 'n Play, she bought a car seat. She--
15 it is her position that she-- she did all these things when she
16 had the child. Times got bad. She had to give Dad the
17 child. Dad has family, he has support. He's got all that
18 stuff going on for him. She sees herself-- she sees herself
19 as out there with nobody, and it winds up in-- in her eyes, it
20 --she's unable to see it as anything other than unfair, and--
21 and personally, I don't blame her. She-- she can't rely on a
22 checkbook, or a Visa, MasterCard, or-- she has nothing.
23 And that frustration boils over. She's two months pregnant
24 on top of that, and-- and I think that that-- that causes a
25 whole set of emotions of its own. She's apologetic. The--

1 the curse words were inappropriate, she recognizes that, and
2 she is sorry.
3 JUDGE MCGUIRE: I-- I accept that, Ms. C[redacted]
4 I --I understand that these matters are charged with emotion.
5 I understand all that. When we're brought into this world,
6 the doctor, the first thing he does is slap us and not much is
7 fair from that point forward.
8 Now, for whatever reason, Mr. M[redacted]
9 (Phonetic) is caring for your child right now, for whatever
10 reason. There are certain items that certainly can be shared,
11 car seats, for one, because you don't move the child without
12 the car seat. But I have had the benefit of seeing too many
13 times, often because of strife between the two parties, that
14 even the child's medicine, their inhaler, gets left someplace,
15 okay? It does not work to share something like the child's
16 bed, and so, by some means, if you're going to have the
17 child overnight, you're going to have to provide a bed. I'm
18 not saying it's fair, I'm not saying it's unfair, I'm saying it's
19 the reality of the situation. And often times there's a lot
20 about life that's just not fair, viewed through one person's
21 eyes or the other's.
22 Mr. M[redacted] doesn't think it's fair that he should
23 have to drive a hundred miles a week, at $4 a gallon of gas,
24 so that you can spend time with your daughter. I don't
25 know if it's fair or not, but the reality is, you don't have a

1 car and it's just not practical for you to take a bus from
2 Ellenville to Monticello or Liberty three times a week. My
3 concern, quite frankly, is not fairness to you or Mr.
4 M[redacted], because the two of you put yourself into this
5 situation, and soon you'll bring another child, hopefully
6 healthy, into the world and that child also didn't ask to be
7 born into the circumstances they're being born into. And so
8 my concern is the-- is the safety and appropriate care of the
9 child, and asking two people, who don't have the best of
10 relationship, who live a distance apart, who don't have
11 transportation, to share a bed is a recipe for disaster because
12 what will happen is this: you'll, through no fault of your
13 own, jump in the car, because your cousin is late for work,
14 and you'll have forgotten the Pack 'n Play. And you'll be
15 alone in Ellenville and the Pack 'n Play will be in
16 Napanoch. The father will pick her up and he'll do the best
17 he can. He'll have her sleep in his bed, and he'll put side
18 protectors on so the child doesn't fall out, and then he will
19 roll over at night and suffocate the child and she'll be dead.
20 And you'll have saved $150 on a Pack 'n Play. So, whether
21 or not it's fair is not my concern, whether or not it's
22 practical and realistic is. Car seats, not a problem, but things
23 like bottles, diapers, wipes, you got-- if you're going to
24 have overnight, you're going to have to have those things.
25 Now, there are agencies that you can go to, you don't

1 have to buy a $150 Pack 'n Play, there are agencies out
2 there that may have them at a reduced cost. You may have
3 a friend that has one that can loan it to you for the day.
4 That certainly is all fine. And I understand the frustration,
5 but the thing that separates you in the United States of
6 America from other places where we don't have a court
7 system like this is that you have a place where your dispute
8 can be resolved in a peaceful and appropriate manner,
9 where you can access the courts free of charge, where you
10 can access an attorney free of charge so that the child's
11 rights can be protected. And frankly, if I was outside on the
12 basketball court and you wanted to curse me out because
13 you didn't like the way I was playing basketball, so be it,
14 but here, the disrespect that you show is not to me
15 personally, it's to the court and everything the court and this
16 country stands for, okay? And this court and this country is
17 providing quite a bit for the care of your child that you are
18 incapable of providing right now. The court didn't bring
19 the child into the world, you did, and now you're going to
20 bring another child into the world. And that's your decision
21 to do that at a time where you don't have a home, don't
22 have any money, don't have a job, but that's your decision--
23 MS. C[redacted] I have a home.
24 JUDGE MCGUIRE: -- And we defend to the end of
25 the world, and people spill their blood everyday throughout

1 the world to support your rights that you're exercising here,
2 so a little bit of respect and a little bit of decorum, even
3 within the frustration. But when it goes down to you're
4 going to start cursing at the Court, which has no interest
5 other than your daughter's, that's not going to be tolerated.
6 So, we're coming back on February the 10th. I'm going to
7 release you. I could incarcerate you for 30 days right now,
8 but there's really no reason to do that, there's no reason to
9 incarcerate you for 30 days. But you're going to be back on
10 February 10th. I've modified the order to where you'll have
11 your daughter on Monday and Saturday, not Wednesday, so
12 that we can get Mr. M[redacted] to only make those two
13 trips down to Ellenville a week. And in that interim, you'll
14 speak to cousins, friends, whatever, maybe they can get you
15 in touch with some agencies that may have a Pack 'n Play
16 that you can borrow, that you can buy inexpensive. And
17 you can go to Walmart down there in Napanoch and buy
18 inexpensive sheets and you can have a situation that is safe
19 and appropriate for your child, a couple of bottles and some
20 diapers, and life will go on, okay? So, we'll see you on
21 February the 10th. And stay healthy, and keep that baby
22 healthy, all right? Thank you.
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on January 17, 2014.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE COMMISSION ON JUDICIAL CONDUCT
61 Broadway, Suite 1200
New York, New York 10006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 Q. Now, I want to draw your attention to *C*[redacted] *versus G*[redacted]
20 And it's going to be Commission Exhibit 24. January 17, 2014, 10:47
21 A.M. Did you preside over this case on January 17, 2014?
22 A. I did.
23
24
25

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

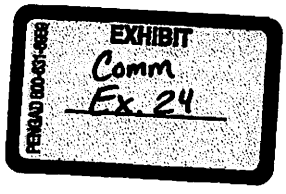
MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

C[redacted] v. G[redacted]

January 17, 2014
10:47 A.M.



1 JUDGE MCGUIRE: All right. This is cases eight
2 and nine on the document, the *Matter of* G[redacted] v.
3 C[redacted]. Note for the record the appearance of Mr.
4 G[redacted] along with his attorney, Mr. Ferrara. Ms.
5 C[redacted] is here as well, along with her attorney, Mr. Garn.
6 And ma'am in the back, your name?
7 MS. G[redacted]: B[redacted] G[redacted] (Phonetic).
8 JUDGE MCGUIRE: All right. Okay. We were
9 here last on December 23rd. On that day, I did enter a
10 temporary order that gave parenting time to Ms. C[redacted]
11 on Monday, Wednesday, and Saturday at times generally 10
12 to six or noon to six. The parties were going to exchange
13 the child at the Ellenville Police Station. Mr. G[redacted] was
14 not comfortable with where Ms. C[redacted] was living. She
15 reported that she had moved to a new place and staying with
16 a cousin in Napanoch, who Mr. C[redacted] wanted to be able
17 to -- to contact, which I don't know if he did or not. Mr.
18 Garn, how has the parenting time gone from your client's
19 perspective?
20 MR. GARN: From her perspective, it's going just
21 fine. She's been pleased.
22 JUDGE MCGUIRE: Okay. And Mr. Ferrara?
23 MR. FERRARA: Judge, generally speaking, my
24 client has been fine with it, too. There have been a few
25 occasions where there's been a snafu having to do with my

1 client's-- the mother wanting to change one visit, the father
2 then was supposed to-- and he agreed, but then his car broke
3 down and he wasn't able to get there. And he tells me he
4 didn't have a phone number, so they weren't able to speak
5 with each other, I assume, since neither one raised it. And
6 he didn't even raise it to me here, he raised it to me on the
7 phone, raised it right now that they worked that out after the
8 --the phone call, but-- but-- to me. But I think they should
9 have each other's phone numbers because cars do break
10 down. My client's main concern with the temporary order
11 is that he drives 25 minutes to Ellenville and she drives two
12 minutes to Ellenville. He'd like that a little bit more
13 equitable. But that really doesn't go to the quality of the
14 parenting.
15 JUDGE MCGUIRE: Well, does she have access to a
16 vehicle?
17 MR. FERRARA: I don't really-- but she somehow
18 is getting to Ellenville, and I believe she--
19 JUDGE MCGUIRE: --From Napanoch?
20 MR. FERRARA: Yeah. Um, which, you know, I-- I
21 guess she could walk that, but I-- I think she's coming by
22 vehicle.
23 MR. GARN: Walk?
24 JUDGE MCGUIRE: Well, you could--
25 MR. GARN: --From Napanoch to Ellenville?

1 JUDGE MCGUIRE: --But it's a-- it's a--
2 MR. GARN: From Napanoch to Ellenville?
3 JUDGE MCGUIRE: --It's a fairly healthy walk,
4 especially this time of the year.
5 MS. C[redacted] I really don't have access to a
6 vehicle. The only way that I'm able to come to-- to pick her
7 up is when my cousin goes to work, I take his ride down, so
8 I get into town and then I stay at, like, a cousin's house with
9 her in town.
10 JUDGE MCGUIRE: Okay. So, I don't know what
11 relief I can give your client there. If she doesn't have a
12 vehicle, she doesn't have a vehicle. That's unfortunate.
13 Other than that, Mr. Garn, is that--
14 MR. GARN: Judge, my client is okay with the
15 division of time that currently exists. She simply wants to
16 be a co-parent, a joint custodian of the child.
17 JUDGE MCGUIRE: All right. Well, now, we're
18 talking about a seven month old, correct?
19 MS. C[redacted] Six.
20 MR. FERRARA: Right.
21 MR. G[redacted] Six.
22 JUDGE MCGUIRE: Six month old?
23 MR. FERRARA: Mm-hmm.
24 JUDGE MCGUIRE: She's born in July, July 4th, so
25 she's into her seventh month. And mom has three days of

1 parenting time. Do we-- Okay. Did your client take a look
2 at mom's living arrangements? Is it something that
3 concerns him?
4 MR. FERRARA: No, he has not.
5 JUDGE MCGUIRE: I mean, I'm only wondering if
6 there-- if-- if we can give your client some relief from all
7 that driving by condensing the time into a 24-hour period,
8 as opposed to three six-hour periods, where he's making
9 three, really, it's probably six, rounds trips to Ellenville
10 instead of only having to make four, essentially --
11 (Discussion between Mr. G[redacted] and Mr. Ferrara)
12 MR. FERRARA: He thinks that's a good idea,
13 Judge.
14 JUDGE MCGUIRE: All right. So, Mr. Garn, so
15 we'd be looking at an overnight, a 24-hour period of
16 visitation for your client. What's the best day for that to
17 happen? Do you work Monday through Friday?
18 MR. G[redacted] Nah, not-- not currently, no.
19 JUDGE MCGUIRE: You're not working?
20 MR. G[redacted] No.
21 JUDGE MCGUIRE: All right. So, what's the best--
22 the best day?
23 MR. GARN: What's the best day?
24 MS. C[redacted] I'm willing to compromise.
25 Whatever days is convenient for them to come down.

1 JUDGE MCGUIRE: All right. Wednesday at noon
2 to Thursday at noon. How's that work?
3 MS. C[redacted] Okay. That's better.
4 JUDGE MCGUIRE: And do you have a place for
5 her to sleep?
6 MS. C[redacted] Well, he has all my stuff that I
7 bought for her, so he's going to have to--
8 JUDGE MCGUIRE: So, your answer to my
9 question is no?
10 MS. C[redacted] Well, I do. He has the stuff that
11 I bought for her, therefore, he's going to have to give it to
12 me when I get her overnights.
13 JUDGE MCGUIRE: Mm, yeah, but he's going to
14 have her six nights and you're going to have her one, and
15 the stuff you bought--
16 MS. C[redacted] --So--
17 JUDGE MCGUIRE: --belongs to [redacted] (Phonetic)
18 MS. C[redacted] -- Yeah, but I bought-- I bought
19 it for her for me to take care of her, therefore, it is mine--
20 JUDGE MCGUIRE: All right, all right.
21 MS. C[redacted] --If he -- you know what I'm
22 saying?
23 MR. GARN: Okay. He understands.
24 JUDGE MCGUIRE: Well, I get the concept. I don't
25 know that I agree with the conclusion--

1 MS. C[redacted] Well, then he--
2 JUDGE MCGUIRE: --But I do get the concept. So...
3 MR. FERRARA: Judge, I hope that this is going to
4 work. If he brings the Pack 'n Play for the next couple of
5 weeks, perhaps after that, the respondent can purchase her
6 own crib?
7 JUDGE MCGUIRE: Yeah, I think she needs to
8 purchase her own Pack 'n Play.
9 MS. C[redacted] Um, excuse me--
10 MR. GARN: -- Just what -- what do you want to
11 say?
12 (Discussion between Ms. C[redacted] and Mr. Garn)
13 MR. GARN: --Her position-- her position is that
14 she's already purchased one Pack 'n Play, and by rights,
15 equitably, she didn't have to buy a second one.
16 JUDGE MCGUIRE: But he's not sleeping in the
17 Pack 'n Play, the child is.
18 MR. GARN: Yes, but what--
19 JUDGE MCGUIRE: --And she bought it for the
20 child. She didn't buy it for him. I mean, was it her plan
21 that they-- that she was going to sleep in the Pack 'n Play
22 with her child?
23 MR. GARN: No.
24 JUDGE MCGUIRE: Okay. So, the child is sleeping
25 in the Pack 'n Play, right?

1 MS. C[redacted]: Obviously, which is why he
2 would bring it, so when I get her.
3 JUDGE MCGUIRE: I tell you what, your-- this is a
4 battle you're not going to win. You can keep fighting it,
5 that's what they said to Custer, and he kept fighting it, and
6 it didn't go well for him at Little Big Horn, so, think of this
7 as your Little Big Horn if you want to keep that argument
8 up.
9 (Discussion between Ms. C[redacted] and Mr. Garn)
10 MR. GARN: Okay.
11 JUDGE MCGUIRE: How much child support are
12 you getting from her?
13 MR. G[redacted] None.
14 JUDGE MCGUIRE: None? None? You're paying
15 nothing for your daughter. Is she still eating?
16 MR. G[redacted] Yes.
17 (Discussion between Mr. Garn and Ms. C[redacted]
18 JUDGE MCGUIRE: She's still going to doctors?
19 MR. G[redacted] Yes.
20 JUDGE MCGUIRE: She got more than clothes,
21 though, right?
22 MR. G[redacted] Yes.
23 JUDGE MCCGUIRE: Who's buying all that stuff?
24 MR. G[redacted] Me, my parents, my girlfriend's
25 step-mom.

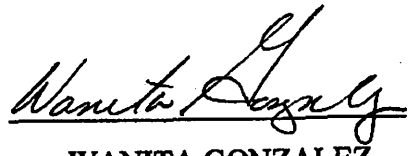
1 JUDGE MCGUIRE: Mm, yeah, Pack 'n Plays are
2 what? About a hundred bucks now? How much did the
3 Pack 'n Play cost you?
4 MS. C[redacted] $150.
5 JUDGE MCGUIRE: You're way ahead of the game,
6 way ahead of the game.
7 MS. C[redacted] That's how much that cost.
8 JUDGE MCGUIRE: Okay. You're way ahead of
9 the game. All right, so, here's your option, Ms. C[redacted].
10 You can have a 24-hour period with your daughter, which
11 will require that you buy or obtain a Pack 'n Play--
12 MS. C[redacted] That's--
13 JUDGE MCGUIRE: --or a crib or someplace
14 appropriate for her to sleep, or you can continue to have day
15 visits.
16 MS. C[redacted] --That's a crock of shit to me,
17 honestly.
18 JUDGE MCGUIRE: I'll tell you what, take her into
19 custody now.
20 COURT OFFICER: Miss, stand up, please.
21 JUDGE MCGUIRE: I told you this was not going
22 well for you.
23 COURT OFFICER: Miss, Miss, stand up.
24 MS. C[redacted] Well, this isn't fair, you know
25 what I'm saying? All-- her stroller, everything is mine, I

1 paid for all that stuff, so why should I have to go out and
2 shovel--
3 JUDGE MCGUIRE: --You need to put your hands
4 behind your back.
5 MS. C[redacted] Oh my God, this is so crazy
6 right now.
7 (SOUND OF HANDCUFFS)
8 COURT OFFICER: I'm going to grab your coat.
9 Follow me.
10 COURT OFFICER: Part II post-- one-- one second.
11 MS. C[redacted] This is bullshit. You know, I'm
12 having another baby--
13 COURT OFFICER: Go to your right, please.
14 MS. C[redacted] -- And I have to sit here and fight
15 for this shit. Like, this is crazy, real fucking crazy.
16 COURT OFFICER: One second. Slow down, slow
17 down.
18 (DOOR CLOSES)
19 JUDGE MCGUIRE: All right. So, I'll need another
20 date for this case.
21 COURT CLERK: February 10th, at 9:00.
22 JUDGE MCGUIRE: In the interim, I'm going to
23 modify the current order.
24 MR. FERRARA: Did you say 9?
25 JUDGE MCGUIRE: 9 A.M. In the interim, I'm

1 going to modify the current order, so that the mother will
2 have parenting time on Monday 10 to 6 and Saturday 10 to
3 6, so that we stay at just the four times back and forth to
4 Ellenville. Ah, yeah, Mr. Garn has that last order on his--
5 on his computer, so he can submit this order now. All right.
6 Thank you, folks.
7 MR. G[redacted] That's it?
8 JUDGE MCGUIRE: That's it.
9 MR. G[redacted] All right. Thank you.
10 MR. FERRARA: You going to-- have him in here
11 alone, and maybe you can sort out how long she has to stay
12 for?
13 JUDGE MCGUIRE: Yeah, we'll let her cool-- calm
14 down a little bit.
15 ***
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on January 17, 2014.
7
8
9 Dated: January 23, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

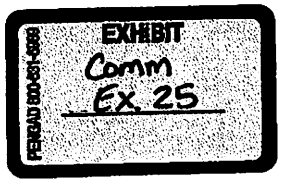
MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

C[redacted] v. G[redacted]

January 17, 2014
11:06 A.M.



1 (SOUND OF DOOR OPENING)
2 JUDGE MCGUIRE: Okay. That's fine.
3 (SOUND OF HANDCUFFS)
4 MS. C[redacted] Sorry.
5 JUDGE MCGUIRE: Ms. C[redacted]--
6 MR. GARN: --If--
7 JUDGE MCGUIRE: --You can be seated. You can
8 be seated. Fine. Mr. Garn, I'm sorry, go on.
9 MR. GARN: On-- on her behalf--
10 JUDGE MCGUIRE: --Right.
11 MR. GARN: -- Her mother is deceased. She has no
12 idea who her father is. She has nobody, nobody to help her.
13 She bought clothing for the child up through 24 months of
14 age. She got the Pack 'n Play, she bought a car seat. She--
15 it is her position that she-- she did all these things when she
16 had the child. Times got bad. She had to give Dad the
17 child. Dad has family, he has support. He's got all that
18 stuff going on for him. She sees herself-- she sees herself
19 as out there with nobody, and it winds up in-- in her eyes, it
20 --she's unable to see it as anything other than unfair, and--
21 and personally, I don't blame her. She-- she can't rely on a
22 checkbook, or a Visa, MasterCard, or-- she has nothing.
23 And that frustrations boils over. She's two months pregnant
24 on top of that, and-- and I think that that-- that causes a
25 whole set of emotions of its own. She's apologetic. The--

1 the curse words were inappropriate, she recognizes that, and
2 she is sorry.
3 JUDGE MCGUIRE: I-- I accept that, Ms. C[redacted]
4 I --I understand that these matters are charged with emotion.
5 I understand all that. When we're brought into this world,
6 the doctor, the first thing he does is slap us and not much is
7 fair from that point forward.
8 Now, for whatever reason, Mr. M[redacted]
9 (Phonetic) is caring for your child right now, for whatever
10 reason. There are certain items that certainly can be shared,
11 car seats, for one, because you don't move the child without
12 the car seat. But I have had the benefit of seeing too many
13 times, often because of strife between the two parties, that
14 even the child's medicine, their inhaler, gets left someplace,
15 okay? It does not work to share something like the child's
16 bed, and so, by some means, if you're going to have the
17 child overnight, you're going to have to provide a bed. I'm
18 not saying it's fair, I'm not saying it's unfair, I'm saying it's
19 the reality of the situation. And often times there's a lot
20 about life that's just not fair, viewed through one person's
21 eyes or the other's.
22 Mr. M[redacted] doesn't think it's fair that he should
23 have to drive a hundred miles a week, at $4 a gallon of gas,
24 so that you can spend time with your daughter. I don't
25 know if it's fair or not, but the reality is, you don't have a

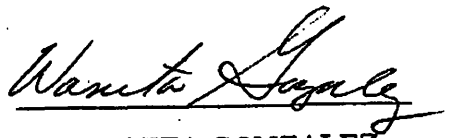
1 car and it's just not practical for you to take a bus from
2 Ellenville to Monticello or Liberty three times a week. My
3 concern, quite frankly, is not fairness to you or Mr.
4 M[redacted], because the two of you put yourself into this
5 situation, and soon you'll bring another child, hopefully
6 healthy, into the world and that child also didn't ask to be
7 born into the circumstances they're being born into. And so
8 my concern is the-- is the safety and appropriate care of the
9 child, and asking two people, who don't have the best of
10 relationship, who live a distance apart, who don't have
11 transportation, to share a bed is a recipe for disaster because
12 what will happen is this: you'll, through no fault of your
13 own, jump in the car, because your cousin is late for work,
14 and you'll have forgotten the Pack 'n Play. And you'll be
15 alone in Ellenville and the Pack 'n Play will be in
16 Napanoch. The father will pick her up and he'll do the best
17 he can. He'll have her sleep in his bed, and he'll put side
18 protectors on so the child doesn't fall out, and then he will
19 roll over at night and suffocate the child and she'll be dead.
20 And you'll have saved $150 on a Pack 'n Play. So, whether
21 or not it's fair is not my concern, whether or not it's
22 practical and realistic is. Car seats, not a problem, but things
23 like bottles, diapers, wipes, you got-- if you're going to
24 have overnight, you're going to have to have those things.
25 Now, there are agencies that you can go to, you don't

1 have to buy a $150 Pack 'n Play, there are agencies out
2 there that may have them at a reduced cost. You may have
3 a friend that has one that can loan it to you for the day.
4 That certainly is all fine. And I understand the frustration,
5 but the thing that separates you in the United States of
6 America from other places where we don't have a court
7 system like this is that you have a place where your dispute
8 can be resolved in a peaceful and appropriate manner,
9 where you can access the courts free of charge, where you
10 can access an attorney free of charge so that the child's
11 rights can be protected. And frankly, if I was outside on the
12 basketball court and you wanted to curse me out because
13 you didn't like the way I was playing basketball, so be it,
14 but here, the disrespect that you show is not to me
15 personally, it's to the court and everything the court and this
16 country stands for, okay? And this court and this country is
17 providing quite a bit for the care of your child that you are
18 incapable of providing right now. The court didn't bring
19 the child into the world, you did, and now you're going to
20 bring another child into the world. And that's your decision
21 to do that at a time where you don't have a home, don't
22 have any money, don't have a job, but that's your decision--
23 MS. C[redacted] I have a home.
24 JUDGE MCGUIRE: -- And we defend to the end of
25 the world, and people spill their blood everyday throughout

1 the world to support your rights that you're exercising here,
2 so a little bit of respect and a little bit of decorum, even
3 within the frustration. But when it goes down to you're
4 going to start cursing at the Court, which has no interest
5 other than your daughter's, that's not going to be tolerated.
6 So, we're coming back on February the 10th. I'm going to
7 release you. I could incarcerate you for 30 days right now,
8 but there's really no reason to do that, there's no reason to
9 incarcerate you for 30 days. But you're going to be back on
10 February 10th. I've modified the order to where you'll have
11 your daughter on Monday and Saturday, not Wednesday, so
12 that we can get Mr. M[redacted] to only make those two
13 trips down to Ellenville a week. And in that interim, you'll
14 speak to cousins, friends, whatever, maybe they can get you
15 in touch with some agencies that may have a Pack 'n Play
16 that you can borrow, that you can buy inexpensive. And
17 you can go to Walmart down there in Napanoch and buy
18 inexpensive sheets and you can have a situation that is safe
19 and appropriate for your child, a couple of bottles and some
20 diapers, and life will go on, okay? So, we'll see you on
21 February the 10th. And stay healthy, and keep that baby
22 healthy, all right? Thank you.
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on January 17, 2014.
7
8
9 Dated: January 23, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10 Q. And you held her in custody, right?
11 A. I did, yeah, after she--
12 Q. -- And why did you hold her in custody?
13 A. Because she said-- when I told her that she either would have day
14 visits, continue to have multiple day visits, or she would have a 24
15 period of time, but she would need to have a place for the child to
16 sleep, and she says, "That's a crock of shit to me, honestly."
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-4b

1
2
3
4
5
6
7
8
9
10
11
12 Q. Did you give her a warning?
13 A. I did not.
14 Q. Did you tell her that she cannot curse in court?
15 A. I did not.
16 Q. Did you give her an opportunity to talk to her counsel?
17 A. Well, she was sitting there with her counsel at the time, so the answer
18 is certainly before she was taken out of the courtroom, she had plenty
19 of time to talk to her counsel.
20 Q. Well, between the time, line 16, where it says:
21 Ms. C[redacted] That's a crock of shit to me, honestly.
22
23 Judge McGuire: I'll tell you what, take her into custody now.
24
25 Court Officer: Miss, stand up please.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-4c

1 Did you at any time after Ms. C[redacted] say, "That's a crock of shit to
2 me," turn say to Mr. Garn, "You might want to talk to your client"?
3 A. I did not.
4 Q. So you're immediate reaction was, you told her that she was going to
5 be taken into custody?
6 A. Yes.
7 Q. Did you give Ms. C[redacted] an opportunity or her attorney an
8 opportunity to make a statement in her defense?
9 A. I did not.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13 Q. But do you think that the strategy you used on January 17, 2014 was a
14 proper strategy?
15 A. I believe that it was a proper strategy in light of the circumstances that
16 existed then. But there are a number of proper strategies.
17 Q. And this was one of the proper strategies?
18 A. This was one of the proper strategies.
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-4d

1 Q. Did you draft an order in this case?
2 A. I did not.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex V-4e

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 4, 2019

RE: K[redacted] V. F[redacted] FF#16521

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

3

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-1

Court Activity File Summary - Sullivan County Family Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/30/2017
Cal. No(s): 19

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01268-17		Custody	Appear	08/29/2017	03/24/2018	09/25/2017

Pedigree Information (as of 10/30/2017)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] J[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
DIN#: [redacted]
Primary Address: Sullivan County Jail
Bushnell Avenue, Monticello, NY 12701

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01268-17 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 10/30/2017 10:00 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: Jane M. Bloom (Atty)
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
N[redacted] J[redacted] K[redacted]
R[redacted] K[redacted]

Notes: (V-01268-17)
case settled
(Stacey Benton)

Outcomes: Petition Settled (V-01268-17)

FILE # 16521 & 18194

FAMILY COURT: SULLIVAN COUNTY
COUNTY GOVERNMENT CENTER
MONTICELLO, NY 12701

K[redacted]

Your case has been adjourned to

OCT. 30, 2017 at 10:00 AM
Date

You are hereby directed to appear on said adjourned date without further notice.

RECEIPT ACKNOWLEDGED

_____

_____

Date 9/25/17

By order of the court,

Christina Benson

Chief Clerk

By: _____

Court Activity File Summary - Sullivan County Family Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 09/25/2017
Cal. No(s): 14

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01268-17		Custody	Arraign	08/29/2017	03/24/2018	09/25/2017

Pedigree Information (as of 09/25/2017)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
C[redacted] F[redacted]
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] J[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
DIN#: [redacted]
Primary Address: Sullivan County Jail
Bushnell Avenue, Monticello, NY 12701

E[redacted] **Joseph F**[redacted] DOB: [redacted] Docket(s): V-01268-17 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 09/25/2017 10:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: Jane M. Bloom (Atty)
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
N[redacted] J[redacted] K[redacted]
Not Present: R[redacted] K[redacted]

Notes: (V-01268-17)
M[redacted] C[redacted] is present and other family members to C[redacted] are present
A[redacted] F[redacted]

grdpts are seeking custody of E[redacted] and S[redacted]

N[redacted] is still incarcerated for criminal possession of a weapon and she plead to a misdeamnor and a VOP as well; Mr. C[redacted] is also incarcerated for bail jumping

Ms. K[redacted] accepts service of F[redacted] petition today; she would like her parents to have custody of E[redacted]

Mr. C[redacted] does not agree with grdpts have custody; Mr. C[redacted] wants his Mother to have custody; His mom would have to file for custody

Mr. F[redacted] is filing for custody of E[redacted] he has been seeking the child on alternate weekends since April of 2017

Petitioner should try and work out some visitation for Mr. C[redacted] mother with S[redacted]

E[redacted] - Dad doesn't mind J[redacted] having custody but doesn't want grdma;

Bloom needs to see both children

parties sworn in
rights given
Mr. F[redacted] petition is withdrawn

E[redacted]
jt legal Custody to Mr. F[redacted] and J[redacted] K[redacted] with physical to J[redacted] K[redacted]
parenting time reasonable and liberal to Mr. F[redacted] to be worked out between the parties

Bloom to submit

S[redacted] case -
right to counsel given

N[redacted] K[redacted] - waives counsel
Mr. C[redacted] - waives counsel
J[redacted] K[redacted] waives counsel -

10/30 at 10:00 appear - SCJ transport for C[redacted] and N[redacted]
(Stacey Benton)

Outcomes: Issue Joined (V-01268-17)
Petition Granted (V-01268-17)

9/25/17

Court Act[illegible]y File Summary - Sullivan County [illegible]nily Court

File No: 16521 **Appearance Judge:** Hon. Mark M. Meddaugh, 1 **Appr Date:** 08/29/2017
Assignment Judge: Hon. Michael F. McGuire **Cal. No(s):** 20

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01268-17		Custody	Arraign	08/29/2017		

Pedigree Information (as of 08/29/2017)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] J[redacted] K[redacted] DOB: [redacted] Docket(s): V-01268-17 (Resp)
Primary Address: Sullivan County Jail
Bushnell Avenue, Monticello, NY 12701

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01268-17 (Child)

Attorney: Jane M. Bloom (Attorney for Child)

Appearance Detail

Appearance: 08/29/2017 12:00 PM, Hon. Mark M. Meddaugh, PT 1, Arraign

Attendance: Present: J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Not Present: Jane M. Bloom (Atty)
N[redacted] J[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Notes: (V-01268-17)
Petitioners sworn seeking temp custody of their grandchildren.
S[redacted]'s parents are in SC Jail. A[redacted] is somewhere here in this County he sees the child and has him now for a visit. They are picking him up today.

N[redacted] arrested for violation of probation.

Temp Custody of both children to grandparents, transport respondents from SC Jail
(Judy Yates)

8/29/17

File No: 16521 **Appearance Judge:** Hon. Mark M. Meddaugh, 1 **Appr Date:** 08/29/2017
Assignment Judge: Hon. Michael F. McGuire **Cal. No(s):** 20

Outcomes: Temporary Order of Custody (V-01268-17)

Future Appr: 09/25/2017 10:00 AM Hon. Michael F. McGuire, PT 2: Arraign (V-01268-17)

FAMILY C RT: SULLIVAN COUNTY
COUNTY GOVERNMENT CENTER
MONTICELLO, NY 12701

#16521
F[redacted]
v
K[redacted]

Your case has been adjourned to

Nov. 3, 2014 at 11:00AM
Date

You are hereby directed to appear on said adjourned date without further notice.

RECEIPT ACKNOWLEDGED

X

Date 10/27/14

By order of the court,

Christina Benson
Chief Clerk

By: J. G

Court Activi[illegible]ile Summary - Sullivan County Fam[illegible] Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 07/13/2015
Cal. No(s): 4, 5

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/15F		Modification of Order of Custody	Arraign	06/16/2015		07/13/2015
V-01027-14/15F		Modification of Order of Custody	Arraign	06/16/2015		07/13/2015

Pedigree Information (as of 07/13/2015)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/15F (Petr), V-01027-14/15F (Petr)
Primary Address: [redacted]
Contact Information: ([redacted]

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/15F (Petr), V-01027-14/15F (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] DOB: [redacted] Docket(s): V-01026-14/15F (Resp), V-01027-14/15F (Resp)
C[redacted] F[redacted]
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] J[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/15F (Resp), V-01027-14/15F (Resp)
Primary Address: [redacted]

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/15F (Child), V-01027-14/15F (Child)

Appearance Detail

Appearance: 07/13/2015 09:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Not Present: N[redacted] J[redacted] K[redacted]
R[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]

Notes: (V-01026-14/15F, V-01027-14/15F)
DWOP - no appearance
(Melinda Sheridan)

Outcomes: Petition Dismissed without Prejudice (V-01026-14/15F, V-01027-14/15F)

Date print[redacted] [illegible]/2015

Court Acti[illegible] File Summary - Sullivan County F[illegible]ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/15/2015
Cal. No(s): 17, 18, 19, 20, 21, 22, 23, 24, 25, 26,

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/14A		Modification of Order of Custody	Trial	08/12/2014	03/14/2015	01/15/2015
V-01026-14/14B		Violation of Order of Visitation	Trial	11/14/2014	05/31/2015	01/15/2015
V-01026-14/14C		Violation of Order of Visitation	Trial	11/25/2014	05/31/2015	01/15/2015
V-01026-14/14D		Modification of Order of Custody	Arraign	12/02/2014	07/14/2015	01/15/2015
V-01026-14/14E		Violation of Order of Visitation	Arraign	12/16/2014	07/14/2015	01/15/2015
V-01027-14/14A		Modification of Order of Custody	Trial	08/12/2014	03/14/2015	01/15/2015
V-01027-14/14B		Violation of Order of Visitation	Trial	11/14/2014	05/31/2015	01/15/2015
V-01027-14/14C		Violation of Order of Visitation	Trial	11/25/2014	05/31/2015	01/15/2015
V-01027-14/14D		Modification of Order of Custody	Arraign	12/02/2014	07/14/2015	01/15/2015
V-01027-14/14E		Violation of Order of Visitation	Arraign	12/16/2014	07/14/2015	01/15/2015
V-02128-14		Visitation	Arraign	12/02/2014	07/14/2015	01/15/2015

Pedigree Information (as of 01/15/2015)

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Petr), V-01027-14/14A (Petr), V-01026-14/14B (Petr), V-01027-14/14B (Petr), V-01026-14/14C (Petr), V-01027-14/14C (Petr), V-01026-14/14D (Resp), V-01027-14/14D (Resp), V-02128-14 (Resp), V-01026-14/14E (Resp), V-01027-14/14E (Resp)

Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-02128-14 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp), V-01026-14/14B (Resp), V-01027-14/14B (Resp), V-01026-14/14C (Resp), V-01027-14/14C (Resp), V-02128-14 (Petr)

Primary Address: [redacted]
Contact Information: [redacted]

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/15/2015
Cal. No(s): 17, 18, 19, 20, 21, 22, 23, 24, 25, 26,

N[redacted] J[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp), V-01026-14/14B (Resp), V-01027-14/14B (Resp), V-01026-14/14C (Resp), V-01027-14/14C (Resp), V-01026-14/14D (Petr), V-01027-14/14D (Petr), V-02128-14 (Resp), V-01026-14/14E (Petr), V-01027-14/14E (Petr)

Primary Address: [redacted]

Attorney: Scott A Russell (Retained Attorney)

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Child), V-01027-14/14A (Child), V-01026-14/14B (Child), V-01027-14/14B (Child), V-01026-14/14C (Child), V-01027-14/14C (Child), V-01026-14/14D (Child), V-01027-14/14D (Child), V-02128-14 (Child), V-01026-14/14E (Child), V-01027-14/14E (Child)

Attorney: Isabelle Rawich (Attorney for Child)

Appearance Detail

Appearance: 01/15/2015 01:30 PM, Hon. Michael F. McGuire, PT 2, Arraign, Trial

Attendance: Present:

John Ferrara (Atty)
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
N[redacted] J[redacted] K[redacted]
R[redacted] K[redacted]
Isabelle Rawich (Atty)
Scott A Russell (Atty)

Notes: (V-01026-14/14A, V-01026-14/14B, V-01026-14/14C, V-01026-14/14D, V-01026-14/14E, V-01027-14/14A, V-01027-14/14B, V-01027-14/14C, V-01027-14/14D, V-01027-14/14E, V-02128-14)
both new petitions will be withdrawn

parties have a resolution which will resolve all pending petitions

parties sworn in

On Consent:

parents will share joint legal custody with physical to Mom
Dad's parenting time will be on Fridays at Noon until Sunday morning on alternate weekends commencing January 23, 2015; if monday is a school holiday then child will be returned on Monday morning
parties will divide all major holidays evenly with odd/even exchange
Mom to Mother's Day

Dad to have Father's Day
each party will enjoy one week a time in the Summer starting with mom having the first week starting the first Sunday after school ends; then Dad for week, etc., tol supercede the alternate weekend parenting time
Spring and winter school vacations will be divided equally
SOF&D as parties can agree
exchanges will be at the Monticello, Walmart unless they agree to a different place
child not to visit anyone in jail without agreement of both parties
CBR

Rawich to submit
(Stacey Benton)

Outcomes: Petition Withdrawn (V-01027-14/14E, V-01026-14/14E, V-02128-14, V-01027-14/14D, V-01026-14/14D, V-01027-14/14C, V-01027-14/14B, V-01026-14/14C, V-01026-14/14B)
Issue Joined (V-01027-14/14E, V-01026-14/14E, V-02128-14, V-01027-14/14D, V-01026-14/14D)
Petition Settled (V-01027-14/14A, V-01026-14/14A)

1/16/15

Court Acti / File Summary - Sullivan County F ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/02/2014
Cal. No(s): 17, 18, 19, 20, 21, 22

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/14A		Modification of Order of Custody	Appear ✓	08/12/2014	03/14/2015	
V-01026-14/14B		Violation of Order of Visitation	Arraign	11/14/2014	05/31/2015	
V-01026-14/14C		Violation of Order of Visitation	Arraign	11/25/2014	05/31/2015	
V-01027-14/14A		Modification of Order of Custody	Appear ✓	08/12/2014	03/14/2015	
V-01027-14/14B		Violation of Order of Visitation	Arraign	11/14/2014	05/31/2015	
V-01027-14/14C		Violation of Order of Visitation	Arraign	11/25/2014	05/31/2015	

Pedigree Information (as of 12/03/2014)

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Petr), V-01027-14/14A (Petr), V-01026-14/14B (Petr), V-01027-14/14B (Petr), V-01026-14/14C (Petr), V-01027-14/14C (Petr)

Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp), V-01026-14/14B (Resp), V-01027-14/14B (Resp), V-01026-14/14C (Resp), V-01027-14/14C (Resp)

Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp), V-01026-14/14B (Resp), V-01027-14/14B (Resp), V-01026-14/14C (Resp), V-01027-14/14C (Resp)

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Child), V-01027-14/14A (Child), V-01026-14/14B (Child), V-01027-14/14B (Child), V-01026-14/14C (Child), V-01027-14/14C (Child)

Attorney: Isabelle Rawich (Attorney for Child)

Appearance Detail

12/2/14

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/02/2014
Cal. No(s): 17, 18, 19, 20, 21, 22

Appearance: 12/02/2014 02:00 PM, Hon. Michael F. McGuire, PT 2, Arraign, Appear

Attendance: Present: John Ferrara (Atty)
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
N[redacted] K[redacted]
Isabelle Rawich (Atty)
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-01026-14/14A)
KC Garn - legal aid

All parties have been servied

right to counsel given to Grandfather - waives counsel

Resp acknowledges receipt

Papers served on grandfather in court today

Mr. Ferrara - visits have not gone well; dad wanted to exercise parenting time, was told he could not have child due to illness;

Mr. Karn - grandfather manages parenting time

Mr. K[redacted] advises about visitation; on one occassion baby was sick but sent to dad for visit; grandfather advised dad not to take baby out. dad kept texting mom - took baby out late at night, baby was sick; Mr. K[redacted] not receiving copies of schedule of visits from dad

Gfather & Gmother are taking care of baby; things are now being disrupted; dad has not paid anything towards baby.

Judge questions aunts: are they home or do they work during day; response they both work; different schedules, someone is always at home; Dad is currently living with his aunt

AFC - saw baby today, happy and healthy, alert, responsive;

General denials of all parties on father's new petition

all issues are joined

ORDER
father to have temporary custody until trial on 1/15/15

gfather/gmother not happy with temp custody to dad
gmother makes threats to court - taken into custody

2:24 - everyone steps out of court to cool down
Gmother asked if she could have counsel; called back into court; she could not reach attorney Steve Vigliante
Judge explains court position; releases gmother and gives her return date; gfather will have to file petition for visitation;
(Melinda Sheridan)

(V-01026-14/14B, V-01026-14/14C, V-01027-14/14A, V-01027-14/14B, V-01027-14/14C)
KC Garn
John ferrara

All parties have been servied

right to counsel given to Grandfather - waives counsel

Resp acknowledges receipt

Papers served on grandfather in court today

Mr. Ferrara - visits have not gone well; dad wanted to exercise parenting time, was told he could not have child due to illness;

Mr. Karn - grandfather manages parenting time

Mr. K[redacted] advises about visitation; on one occassion baby was sick but sent to dad for visit; grandfather advised dad not to take baby out. dad kept texting mom - took baby out late at night, baby was sick;

Mr. K[redacted] not receiving copies of schedule of visits from dad

Gfather & Gmother are taking care of baby; things are now being disrupted; dad has not paid anything towards baby.

Judge speaks to aunts: are they home or do they work during day; response they iboth work; different schedules, but someone is always at home;

Dad is currently living with his aunt

AFC - saw baby today, happy and healthy, alert, responsive;

General denials on all parties for father's new petition

father to have temporary custody until trial on 1/15/15

grandmother taken into custody for threats to court
(Melinda Sheridan)

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 12/02/2014
Cal. No(s): 17, 18, 19, 20, 21, 22

Outcomes: Issue Joined (V-01026-14/14C, V-01027-14/14C, V-01026-14/14B, V-01027-14/14B)

Future Appr: 01/15/2015 09:00 AM Hon. Michael F. McGuire, PT 2: Trial (V-01026-14/14A, V-01026-14/14B, V-01026-14/14C, V-01027-14/14A, V-01027-14/14B, V-01027-14/14C)

FAMILY C[illegible]RT: SULLIVAN COUNTY
COUNTY GOVERNMENT CENTER
MONTICELLO, NY 12701

F# 16521

F[redacted] v. K[redacted]

Your case has been adjourned to

12/2/14 at 2:00 PM
Date

You are hereby directed to appear on said adjourned date without further notice.

RECEIPT ACKNOWLEDGED

_____

Date 11/3/14

By order of the court,

Christina Benson
Chief Clerk

By: _____

Court Acti[illegible] File Summary - Sullivan County F[illegible]ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 11/03/2014
Cal. No(s): 27, 28

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/14A		Modification of Order of Custody	Appear	08/12/2014	03/14/2015	
V-01027-14/14A		Modification of Order of Custody	Appear	08/12/2014	03/14/2015	

Pedigree Information (as of 11/03/2014)

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Petr), V-01027-14/14A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

Attorney: John Ferrara (Conflict Defender)

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: Orange County Correctional Facility
110 Wells Farm Road, Goshen, NY 10924

Attorney: Sullivan County Legal Aid Panel, Inc. (Legal Aid)

E[redacted] J[redacted] F[redacted] DOB [redacted] Docket(s): V-01026-14/14A (Child), V-01027-14/14A (Child)

Appearance Detail

Appearance: 11/03/2014 11:00 AM, Hon. Michael F. McGuire, PT 2, Appear

Attendance: Present: John Ferrara (Atty)
A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
N[redacted] K[redacted]
Sullivan County Legal Aid Panel, Inc. (Atty)

Notes: (V-01026-14/14A, V-01027-14/14A)
spectators in the back

N[redacted] is out of corrections - 5 years probation -

E[redacted] is still with J[redacted] K[redacted] - grandfather

Garn enters general denial to petition on behalf of his client, N[redacted]

 Date printed: 11/03/2014

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 11/03/2014
Cal. No(s): 27, 28

J[redacted] K[redacted] enters general denial

Ferrara - states that the prior order of as parties can agree - has resulted in 1 visit -
Ferrara is requesting an Order with a parenting time schedule
NRF from Registry per Judge. Mom does not mind unsupervised contact Dad has 2 rotating days off per wk he will find out next days tomorrow. Peittioner lives w his Aunts rents room there. (No pending neglects against other parties in house there are a 14 and 2 yr old there)

Mr K[redacted] states dad tells him he does not trust the baby around him by himself. Dad has a crib at the home for the child.
Dad works from 1 pm to 7 pm
Temp Order - Dad to have parenting time on his 1st day off each wk from 9:00 am until his 2nd day off at 7:00 p.m.

If not back to back 9:00 am to 7:00 pm
Child wears size 4 daipers, pampers, drinks regular milk and cereal table food and jar food no restricitons no allergies. Aunts have no problem w N[redacted] coming and showing dad what child eats, etc. Mr F[redacted] resides at [redacted]. Mom is in WSS, NY Mom has no transportation.
Dad has a suspended license. Grandpa to drop off in am Aunts to return child in pm. Grandma should not be present during exchanges. N[redacted] can go down the first day or so can stay the whole day Aunts will bring her home.

Childs next Dr appointment dad would like to be at was just there everything was fine Dr [redacted] is Dr. Include Childrens Bill of rights to Order. Slight asthma seems to have outgrown. parties to send machine when he goes to dads nebulizer.

Ferrara to submit
Dad gets his schedule every 3 weeks on a Friday needs to inform Mom /Grandpa when he is off next so they know when visits are. Dad is off today 11/3/14. Dad can have child today for visit return at 7:00 Aunts to transport both ways today. Mom can not go today has an appointment. aunts will wait for N[redacted] to finish her appointment. Appointment is in Goshen w probation officer. A[redacted] will not leave car during exchanges.

Aunts will meet her after her appointment car seat to travel w Dad for now.
Parties to work out Thanksgiving among themselves
(~~Stacey Benton~~)
Judy

Future Appr: 12/02/2014 02:00 PM Hon. Michael F. McGuire, PT 2: Appear (V-01026-14/14A, V-01027-14/14A)

11/3/14

Court Activ[illegible] File Summary - Sullivan County Far[illegible] Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 10/27/2014
Cal. No(s): 3, 4

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/14A		Modification of Order of Custody	Arraign	08/12/2014	03/14/2015	
V-01027-14/14A		Modification of Order of Custody	Arraign	08/12/2014	03/14/2015	

Pedigree Information (as of 10/27/2014)

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Petr), V-01027-14/14A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

J[redacted] C[redacted] K[redacted] DOB [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: Orange County Correctional Facility
110 Wells Farm Road, Goshen, NY 10924

E[redacted] Joseph F[redacted] DOB [redacted] Docket(s): V-01026-14/14A (Child), V-01027-14/14A (Child)

Appearance Detail

Appearance: 10/27/2014 09:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: A[redacted] S[redacted] C[redacted] F[redacted]
Not Present: J[redacted] C[redacted] K[redacted]
Present Telephonic: N[redacted] K[redacted]

Notes: (V-01026-14/14A, V-01027-14/14A)
K[redacted] F[redacted] is also pesent -

J[redacted] K[redacted] is not present
A[redacted] F[redacted] states that he had a warrant for an unpaid fine

Mr. F[redacted] has not seen E[redacted] since August 9th ; he believes he is living with his grandparents and they wont let him see him

N[redacted] states that she is getting sentenced tomorrow in Orange County;

Ms. K[redacted] has received the petition

right to counsel given - N[redacted] K[redacted] wishes counsel - she hasn't worked in the past 18 months -

assign SLAP

A[redacted] F[redacted] - wishes counsel - signed and filed his FDA today

Mr. F[redacted] is requesting to see the child

11/3/14 at 11:00 a.m. -

Court to notify J[redacted] K[redacted] -
Ms. K[redacted] to notify COurt of she moves from ORange COunty Jail
(Stacey Benton)

Future Appr: 11/03/2014 11:00 AM Hon. Michael F. McGuire, PT 2: Appear (V-01026-14/14A, V-01027-14/14A)

10/27/14

Court Acti y File Summary - Sullivan County m ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 09/15/2014
Cal. No(s): 4, 5

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01026-14/14A		Modification of Order of Custody	Arraign	08/12/2014	03/14/2015	
V-01027-14/14A		Modification of Order of Custody	Arraign	08/12/2014	03/14/2015	

Pedigree Information

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Petr), V-01027-14/14A (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Resp), V-01027-14/14A (Resp)
Primary Address: Orange County Correctional Facility
110 Wells Farm Road, Goshen, NY 10924

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-01026-14/14A (Child), V-01027-14/14A (Child)

Appearance Detail

Appearance: 09/15/2014 09:30 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: A[redacted] S[redacted] C[redacted] F[redacted] J[redacted] C[redacted] K[redacted]
Present Telephonic: N[redacted] K[redacted]

Notes: (V-01026-14/14A, V-01027-14/14A)
Petitioner has a warrant out for him and was arrested by Sheriff Dep't in lobby

numerous spectators

N[redacted] K[redacted] was not served; J[redacted] K[redacted] was served

Pet'r needs to serve N[redacted] K[redacted]

right to counsel given J[redacted] K[redacted] - he can't be assigned

10/27/14 at 9:00 a.m. -

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 09/15/2014
Cal. No(s): 4, 5

Ms. K[redacted] needs service

10/27/14 - 9:00
(Stacey Benton)

Outcomes: Issue Joined (V-01027-14/14A, V-01026-14/14A)

Future Appr: 10/27/2014 09:00 AM Hon. Michael F. McGuire, PT 2 (N[redacted] to appear via ET from OCJ - 291-7538): Arraign (V-01026-14/14A, V-01027-14/14A)

Court Acti[illegible] File Summary - Sullivan County F[illegible]ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 06/16/2014
Cal. No(s): 7, 39, 40

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00910-14		Custody	Arraign	05/29/2014	12/13/2014	06/16/2014
V-01026-14		Custody	Arraign	06/16/2014	12/13/2014	06/16/2014
V-01027-14		Visitation	Arraign	06/16/2014	12/13/2014	06/16/2014

Pedigree Information

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-00910-14 (Petr), V-01026-14 (Int Pty), V-01027-14 (Int Pty)
Primary Address: [redacted]
Contact Information: [redacted]

J[redacted] C[redacted] K[redacted] DOB: [redacted] Docket(s): V-01026-14 (Petr), V-01027-14 (Resp)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] C[redacted] F[redacted] DOB: [redacted] Docket(s): V-00910-14 (Resp), V-01026-14 (Resp), V-01027-14 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-00910-14 (Resp), V-01026-14 (Resp), V-01027-14 (Resp)
Primary Address: Orange County Correctional Facility
110 Wells Farm Road, Goshen, NY 10924

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-00910-14 (Child), V-01026-14 (Child), V-01027-14 (Child)

Appearance Detail

Appearance: 06/16/2014 09:30 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: A[redacted] S[redacted] C[redacted] F[redacted]
J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]
Present Telephonic: N[redacted] K[redacted]
R[redacted] K[redacted]

Notes: (V-00910-14, V-01026-14, V-01027-14)
R[redacted] K[redacted] is in OC jail - she appear via ET

matter is back on the record -

Ms. K[redacted] is on the phone from OC jail

 Date printed: 06/16/2014

R[redacted] K[redacted] consents to the petition

right to counsel given - R[redacted] K[redacted] - waives
A[redacted] F[redacted] - waives counsel

Mr. F[redacted] enters a general denial to the petition and does not consent to Pet'r having the child; he states that the Pet'r does not let me see the child

back on the record

matter is settled
parties sworn in

Mr. F[redacted] will consent to Grandfather, J[redacted] K[redacted] having custody of the child

Mr. F[redacted]

Sole custody to Gradfather
parenting time to Dad as parties can agree to be supervised by the maternal uncle, J[redacted] K[redacted]
or any other responsible adult that is acceptable to Dad

Grdmtr's petition is dismissed.
(Stacey Benton)

Outcomes: Petition Settled (V-01027-14)
Issue Joined (V-01027-14, V-01026-14, V-00910-14)
Petition Granted (V-01026-14)
Petition Dismissed without Prejudice (V-00910-14)

6/16/14

Court Activity File Summary - Sullivan County Family Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 05/29/2014
Cal. No(s): 14

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00910-14		Custody	Walk-in	05/29/2014		

Pedigree Information

R[redacted] K[redacted] DOB: [redacted] Docket(s): V-00910-14 (Petr)
Primary Address: [redacted]
Contact Information: [redacted]

A[redacted] S[redacted] DOB: [redacted] Docket(s): V-00910-14 (Resp)
C[redacted] F[redacted] [redacted]

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-00910-14 (Resp)
Primary Address: Orange County Correctional Facility
110 Wells Farm Road, Goshen, NY 10924

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-00910-14 (Child)

Appearance Detail

Appearance: 05/29/2014 03:00 PM, Hon. Michael F. McGuire, PT 2, Walk-in

Attendance: Present: R[redacted] K[redacted]
Not Present: A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] K[redacted]

Notes: (V-00910-14)
Pet'r is grdmtr

her daughter, N[redacted] is in Orange Co. Jail since March -
Resp - A[redacted] F[redacted] l/k/a was High Street

Court issues OSC - 6/16 at 9:30 -
(Stacey Benton)

Future Appr: 06/16/2014 09:30 AM Hon. Michael F. McGuire, PT 2: Arraign (V-00910-14)

Court Acti ' File Summary - Sullivan County F ily Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 02/20/2014
Cal. No(s): 38

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00161-14		Custody	Arraign	01/30/2014		02/20/2014

Pedigree Information

N[redacted] K[redacted] DOB: 0[redacted] Docket(s): V-00161-14 (Petr)
Primary Address: [redacted]

A[redacted] S[redacted] DOB: [redacted] Docket(s): V-00161-14 (Resp)
C[redacted] F[redacted]
Primary Address: [redacted]

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-00161-14 (Child)

Appearance Detail

Appearance: 02/20/2014 02:00 PM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: A[redacted] S[redacted] C[redacted] F[redacted]
Not Present: N[redacted] K[redacted]

Notes: (V-00161-14)
petitioner not present

DWOP
(Stacey Benton)

Outcomes: Petition Dismissed without Prejudice (V-00161-14)

2/20/14

Court Activ ⁻ File Summary - Sullivan County F: ⁻ly Court

File No: 16521 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/13/2014
Cal. No(s): 12

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-02201-13		Custody	Arraign	12/05/2013	07/12/2014	01/13/2014

Pedigree Information

N[redacted] K[redacted] DOB: [redacted] Docket(s): V-02201-13 (Petr)
Primary Address: [redacted]

A[redacted] S[redacted] DOB: [redacted] Docket(s): V-02201-13 (Resp)
C[redacted] F[redacted]
Primary Address: [redacted]

E[redacted] J[redacted] F[redacted] DOB: [redacted] Docket(s): V-02201-13 (Child)

Appearance Detail

Appearance: 01/13/2014 10:00 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: A[redacted] S[redacted] C[redacted] F[redacted]
Not Present: N[redacted] K[redacted]

Notes: (V-02201-13)
petition is DWOP - Pet'r is not present
(Stacey Benton)

Outcomes: Issue Joined (V-02201-13)
Petition Dismissed without Prejudice (V-02201-13)

Date printed: 0[redacted]

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

In the Matter of a Custody/Visitation Proceeding

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

-against-

N[redacted] Ko[redacted]
J[redacted] C[redacted] K[redacted],

Respondents.

----------X

Family File No. 16521

CONSENT TO CHANGE ATTORNEY

RECEIVED
DEC 16 2014
SULLIVAN COUNTY FAMILY COURT

IT IS HEREBY CONSENTED that SCOTT A. RUSSELL, ESQ., 10 St. John Street, Monticello, New York be substituted as attorney of record for the undersigned party in the above-captioned action in place of the undersigned attorney as of the date hereof.

Dated: December 10, 2014
Monticello, New York

Outgoing Attorney:

KC Garn, Esq.
10 St. John Street
Monticello, NY 12701

Incoming Attorney:

Scott A. Russell, Esq.
10 St. John Street
Monticello, NY 12701

N[redacted] K[redacted] Respondent

STATE OF NEW YORK)
) SS:
COUNTY OF SULLIVAN)

On the 11th day of December, 2014 before me personally appeared N[redacted] K[redacted] personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed same in his individual capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCOTT A. RUSSELL
Notary Public, State of New York
NYS Reg. No. 02RU6119772
Qualified in Orange County
Commission Expires [illegible] 20 16

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

In the Matter of a Custody/Visitation Proceeding

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

-against-

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Respondents.

----------X

Family File No. 16521

NOTICE OF APPEARANCE

a proceeding under Articles 6 of the ☒ Family Court Act ☐ Social Services Law ☐ Domestic Relations Law

I, Scott A. Russell, Esq., appear for N[redacted] K[redacted] ☐ petitioner ☒ respondent ☐ child ☐other [specify]:

in the above-entitled proceeding(s).

Dated: December 8, 2014

Scott A. Russell
P.O. Box 622
Rock Hill, NY 12775
Tel. (845) 741-3331
Fax (866) 737-6407
scottarusselllaw@[redacted]

RECEIVED
DEC - 8 2014
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14/14A
V-01027-14/14A

A[redacted] S[redacted] C[redacted] F[redacted]
Petitioner,

- against -

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]
Respondents.

ASSIGNMENT OF COUNSEL

To: John Ferrara, Esq.
548 West Broadway
Monticello, NY 12701
(845) 794-1303

You have been assigned to represent A[redacted] S[redacted] C[redacted] F[redacted] in the above proceeding. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	November 3, 2014 at 11:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: October 28, 2014

Stacey Benton Deputy Clerk of Court

CC: A[redacted] S[redacted] C[redacted] F[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14/14A
V-01027-14/14A

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

- against -

ASSIGNMENT OF COUNSEL

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Respondents.

To: Sullivan County Legal Aid Panel, Inc.
11 Bank Street
Monticello, NY 12701
(845) 794-4094 ext.

You have been assigned to represent N[redacted] K[redacted] in the above proceeding. A copy of the petition is attached.

This matter has been scheduled for:

Date/Time:	November 3, 2014 at 11:00 AM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: October 28, 2014

Stacey Benton, Deputy Chief Clerk

CC: John Ferrara, Esq., Conflict Defender
N[redacted] K[redacted] Respondent

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #:

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

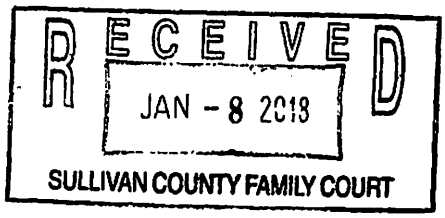
-against-

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] J[redacted] K[redacted]

Respondents.

----------X

AFFIRMATION OF SERVICE



STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss.:

Jane M. Bloom affirms under penalty of perjury, that I am an attorney licensed to practice in the Courts of the State of New York, that I am over the age of 18 years, not a party to this action and reside in Monticello, New York, County of Sullivan, State of New York. On January 5, 2018, I served a true and complete copy of the above custody/visitation order with notice of entry on December 4, 2017 by delivering same addressed to:

Mr. and Ms. J[redacted] K[redacted]
[redacted]

N[redacted] K[redacted]
c/o Sullivan County Jail
4 Bushnell Ave.
Monticello, NY 12701

A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

enclosed in a post-paid certified mail wrapper in an Official Depository maintained and exclusively controlled by the U.S. Postal Service within New York State, directed to said persons at said addresses.

Dated: January 5, 2018

Jane M. Bloom

RECEIVED
OCT 27 2017
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #:

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] J[redacted] K[redacted],

Respondents.

AFFIRMATION OF SERVICE

STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss.:

Jane M. Bloom affirms under penalty of perjury, that I am an attorney licensed to practice in the Courts of the State of New York, that I am over the age of 18 years, not a party to this action and reside in Monticello, New York, County of Sullivan, State of New York. On October 27, 2017, I served a true and complete copy of a temporary consent order of with notice of entry on October 12, 2017 by delivering same addressed to:

Mr. and Ms. J[redacted] K[redacted]
[redacted]

N[redacted] K[redacted]
c/o Sullivan County Jail
4 Bushnell Ave.
Monticello, NY 12701

A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

enclosed in a post-paid certified mail wrapper in an Official Depository maintained and exclusively controlled by the U.S. Postal Service within New York State, directed to said persons at said addresses.

Dated: October 27, 2017

Jane M. Bloom

ORDERED that A[redacted] S[redacted] C[redacted] F[redacted] shall have such other, further and different parenting time as the parties shall agree.

Dated: Monticello, New York
~~November~~ December 4, 2017

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on December 4, 2017

Christina Benson
Chief/Clerk of the Court

SO ORDERED:

HON. MICHAEL F. MCGUIRE

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR CONTEMPT OF COURT FOR A TERM NOT TO EXCEED SIX MONTHS FOR EACH VIOLATION. VIOLATIONS OF AN ORDER OF PROTECTION MAY RESULT IN CRIMINAL PROSECUTION AND INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Notice of Settlement

PLEASE TAKE NOTICE that an order on consent modifying a prior order, of which the within is a true copy, will be presented for settlement to the Hon. Michael F. McGuire at the Sullivan County Family Court, 100 North St., Monticello, New York on the 15th day of November 2017.
Dated: November 1, 2017

Yours, etc.
JANE M. BLOOM
Attorney At Law
P.O. Box 209
Monticello, New York 12701
(845) 791-8167

Attorney Certification

To the best of my knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document contained herein is not frivolous as defined in 22 NYCRR Sec. 130-1, 1-a.
Dated: November 8, 2017

Jane M. Bloom

10/30/17

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: 12/ /17

☒ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Bloom) 12/5/17	☒ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

5/17 Rec'd. to J. Bloom, Esq.

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at the Government Center, 100 North St., Monticello, NY 12701, on September 25, 2017

RECEIVED
SEP 28 2017
SULLIVAN COUNTY FAMILY COURT

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #:

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] J[redacted] K[redacted]

Respondents.

TEMPORARY ORDER ON CONSENT

A petition having been filed by **J[redacted] C[redacted] K[redacted]** and **R[redacted] K[redacted]** on August 29, 2017 seeking custody of the minor child **E[redacted] J[redacted] F[redacted]** (DOB [redacted]); and respondent **N[redacted] J[redacted] K[redacted]** having consented to the petition; and respondent **A[redacted] S[redacted] C[redacted] F[redacted]** having denied the petition; and

J[redacted] C[redacted] K[redacted] having appeared pro se; and respondent **N[redacted] J[redacted] K[redacted]** having appeared pro se; and respondent **A[redacted] S[redacted] C[redacted] F[redacted]** having appeared pro se; and Jane M. Bloom, Esq., having appeared as attorney for the child **E[redacted] J[redacted] F[redacted]** (DOB [redacted]);

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child and/or the self-represented parties;

And the Court having considered and relied upon the results of these searches in making this decision;

NOW, after due deliberation and upon consent of the parties, it is hereby

ORDERED that **J[redacted] C[redacted] K[redacted]** and **A[redacted] S[redacted] C[redacted] F[redacted]** shall have joint legal custody of the minor child **E[redacted] J[redacted] F[redacted]** (DOB [redacted]), with physical custody to **J[redacted] C[redacted] K[redacted]** and it is further

ORDERED that **A[redacted] S[redacted] C[redacted] F[redacted]** shall have reasonable and liberal parenting time with the child as the parties shall agree; and it is further

ORDERED that this matter is scheduled for further proceedings on October 30, 2017 at 10:00 a.m.

Notice of Settlement

PLEASE TAKE NOTICE that a temporary order on consent of which the within is a true copy will be presented for settlement to the Hon. Michael F. McGuire at the Sullivan County Family Court, 100 North St., Monticello, New York on the 6th day of October 2017.

Dated: September 26, 2017

Yours, etc.

JANE M. BLOOM
Attorney At Law
P.O. Box 209
Monticello, New York 12701
(845) 791-8167

Attorney Certification

To the best of my knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document contained herein is not frivolous as defined in 22 NYCRR Sec. 130-1, 1-a.

Dated: September 26, 2017

Jane M. Bloom

NOTICE: **YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

APPEAL NOTICE

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR BY PROFESSIONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL, WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

Check applicable box:

Service Date: _____

2x ☒ Petitioner	☒ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
☐ Petitioner	☐ by mail	☐ personal service
☐ Petitioner's Attorney	☐ by mail	☐ personal service
2x ☒ Respondent	☒ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☐ Respondent	☐ by mail	☐ personal service
☐ Respondent's Attorney	☐ by mail	☐ personal service
☒ Attorney for Child (Bloom)	☒ by mail	☐ personal service
☐ Parent/Guardian	☐ by mail	☐ personal service
☐ Sullivan County CASA	☐ by mail	☐ personal service
☐ DFS Counsel	☐ by mail	☐ personal service
☐ DFS _____	☐ by mail	☐ personal service
☐ Sullivan County S.C.U.	☐ by mail	☐ personal service
☐ Assistant County Attorney	☐ by mail	☐ personal service
☐ District Attorney	☐ by mail	☐ personal service
☐ Comm. Svcs. Mental Health	☐ by mail	☐ personal service
☐ Comm. Svcs. S.C.A.D.A.S.	☐ by mail	☐ personal service
☐ Sullivan County Probation Dept.	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service
☐ Other _____	☐ by mail	☐ personal service

12-17 R+'A to T. Bloom Esq.

Sec. 214 F.C.A. General Form 2

AFFIDAVITS OF SERVICE

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan
J[redacted] H K[redacted] being duly sworn, deposes and says:
That (s)he is over the age of 26 years.
That on the 19 day of Sept, 2017 at SCJ
(address where papers were served)
County of Sullivan, State of New York, (s)he served the annexed
Custody
(what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection) upon M[redacted] K[redacted]
(who was served)
by delivering a copy to (him)(her) personally and leaving the same with (him)(her).
That (s)he knew the person so served to be the person mentioned and described in the annexed
Custody Papers as the Petitioner therein.
(what was served) (Petitioner; Respondent; Attorney, etc.)

Sworn to before me this
19 day of Sept, 2017
Denise Moderno May
(Deputy) Clerk of the Court
Notary Public

DENISE M. MODERNO-MAY
No. 01MO6170550
Notary Public, State of New York
Qualified in Orange County
My Commission Expires July 9, 2019

J[redacted] (C[redacted]

Sullivan County Family Court
Received in Court this day:
9/25/17

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____
_____, being duly sworn, deposes and says:
That (s)he is over the age of _____ years.
That on the _____ day of _____, 20___ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.
That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20____ _____
_____
(Deputy) Clerk of the Court
Notary Public

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____
_____, being duly sworn, deposes and says:
That (s)he is over the age of _____ years.
[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

(Continued on Page 2)

Sec. 214 F.C.A. General Form 2

AFFIDAVITS OF SERVICE

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan

J[redacted] H K[redacted], being duly sworn, deposes and says:

That (s)he is over the age of 26 years. [redacted]

That on the 19 day of SEPT, 20__, at [redacted]
(address where papers were served)

County of Sullivan, State of New [redacted] served the annexed
Custody upon A[redacted] F[redacted]
(what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection) (who was served)

by delivering a copy to (him)(her) personally and leaving the same with (him)(her).

That (s)he knew the person so served to be the person mentioned and described in the annexed Custody Papers as the Petitioner therein.
(what was served) (Petitioner; Respondent; Attorney, etc.)

Sworn to before me this
19 day of Sept, 2017
Denise Moderno May
(Deputy) Clerk of the Court
Notary Public

[redacted] K[redacted]

DENISE M. MODERNO-MAY
No. 01MO6170550
Notary Public, State of New York
Qualified in Orange County
My Commission Expires July 9, 2019

Sullivan County Family Court
Received in [illegible] day:
9/25/17

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

That on the _____ day of _____, 20____ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.

That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20____

_____
(Deputy) Clerk of the Court
Notary Public

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

(Continued on Page 2)

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01400-17

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

N[redacted] J[redacted] K[redacted]

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

To: N[redacted] J[redacted] K[redacted]
INMATE ID#[redacted]
Sullivan County Jail
Bushnell Avenue
Monticello, NY 12701

A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

Upon the petition of A[redacted] S[redacted] C[redacted] F[redacted] filed on September 15, 2017, annexed hereto, it is

ORDERED that N[redacted] J[redacted] K[redacted] show cause before this Court on

Date/Time:	September 25, 2017 at 10:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon N[redacted] J[redacted] K[redacted] on or before September 21, 2017, be deemed sufficient service

Dated: September 18, 2017

ENTER

Hon. Michael F. McGuire

9/19 - mailed to Pet. for svc

scanned 9/19

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

RECEIVED
SEP 15 2017
SULLIVAN COUNTY FAMILY COURT

In the Matter of a Proceeding for Custody/Visitation
Under Article VI of the Family Court Act

Docket No. V-01400-17

Family File 16521

Petitioner [redacted]

PETITION FOR
CUSTODY / VISITATION

Against

Respondent. [redacted]

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner resides at (Physical Address) [redacted]

(Mailing Address) [redacted]

Respondent resides at: (Physical Address): [illegible]
Bushnell Ave, Monticello, NY 12701

(Mailing Address):

The Relationship between the Petitioner and the Respondent is:

_____Spouse _____Former Spouse

X Child in Common _____ Petitioner is Child of the Respondent

_____Other (Please Specify) _____

scanned 9/18

The Relationship of each Party to the Child(ren) is:

Petitioner is the: ____Mother ✓ Father ____(Other)_____

Respondent is the ✓ Mother ____Father ____(Other)_____

4. The children affected by this order are:

NAME	LIVES WITH	SINCE	DOB	SEX (M/F)
E[redacted] F[redacted]	grandparents	6-1-17	[redacted]	M

The Child(ren) lived with Both Parents from: [redacted] until ~~6-1-17~~ Nov of 2015

5. Has Petitioner participated in any other litigation concerning custody of the same children in the State of New York? ✓ Yes _____No

6. It would be in the best interests of the child(ren) to have custody/visitation, awarded to the Petitioner, for the following reasons:

My child. I see him every other weekend if his mother is gone to jail he should reside with father

_____

_____

_____

_____

_____

_____

7. The Father of the subject Child(ren):

_____Was married to the children's mother at the time of the conception and birth.

X Was determined by an Order of filiation made on SC Family Court.

_____Was determined by an Acknowledgment of Paternity signed on _____

_____Is deceased

_____Has not been legally established

8. No previous application has been made to any court, including a Native American Tribunal or any judge for the relief herein requested.

WHEREFORE, Petitioner respectfully requests an Order awarding ✓ Custody OR _____ Visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: 8-15-2017

[redacted]

Petitioner

_____

Attorney for Petitioner,

VERIFICATION

STATE OF NEW YORK)

: ss.:

COUNTY OF SULLIVAN)

(PRINT YOUR NAME) [redacted] being duly sworn, says that she/he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters he/she believes it to be true.

[redacted]
Petitioner

Sworn to before me this

15 day of Sept, 2017

Christina R.

~~Notary Public~~ / Clerk of the Court

16521

Sec. 214 F.C.A. General Form 2

AFFIDAVITS OF SERVICE

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan
Cynthia L Simon, being duly sworn, deposes and says:
That (s)he is over the age of 18 years.
That on the 15 day of Sept, 2017, at Gov't Center Monticello,
(address where papers were served)
County of Sullivan, State of New York (s)he served the annexed
OSC w/ Custody Petition upon A[redacted] P[redacted]
(what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection) (who was served)
by delivering a copy to (him)(her) personally and leaving the same with (him)(her).
That (s)he knew the person so served to be the person mentioned and described in the annexed
OSC w/ Custody Petition as the Respondent therein.
(what was served) (Petitioner, Respondent; Attorney, etc.)

Sworn to before me this
15 day of Sept, 2017

Cynthia L Simon

(Deputy) Clerk of the Court
Notary Public

RECEIVED
SEP 15 2017
SULLIVAN COUNTY FAMILY COURT

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____
_____, being duly sworn, deposes and says:
That (s)he is over the age of _____ years.
That on the _____ day of _____, 20____ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said respondent at _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.
That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20_____

_____

(Deputy) Clerk of the Court
Notary Public

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____
_____, being duly sworn, deposes and says:
That (s)he is over the age of _____ years.
[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

(Continued on Page 2)

scanned

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01268-17

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

- against -

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] J[redacted] K[redacted]

Respondents.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Jane M. Bloom, Esq.
PO Box 209
Monticello, NY 12701
(845) 791-8167

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted]	[redacted]

and it is further

Ordered that Jane M. Bloom, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Jane M. Bloom, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Jane M. Bloom, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Jane M. Bloom, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Jane M. Bloom, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Jane M. Bloom, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	September 25, 2017 at 10:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: August 29, 2017

ENTER

Hon. Mark M. Meddaugh

CC: Jane M. Bloom, Esq., Attorney for Child, A[redacted] S[redacted] C[redacted] F[redacted] Respondent, N[redacted] J[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Petitioner, R[redacted] K[redacted] Petitioner

8/28/17 - to Atty for Srvc

Scanned ✓

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article ____ of the Family Court Act

J[redacted] R[redacted] K[redacted],
Petitioner,

-against-

A[redacted] F[redacted] + N[redacted] K[redacted]
Respondent(s).

----------x

ORDER TO SHOW CAUSE

FF 16521

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of J[redacted] + R[redacted] K[redacted], verified the 29 day of August, 2017, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. ~~Mark M. Med~~daugh Michael McGuire, on the 25th day of September, 2017 at 10:00 in the (after)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that pending a return to Family Court the Petitioner are granted temporary custody of E[redacted] F[redacted];

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 15th day of September, 2017 be deemed sufficient service.

Dated: 8-29-17

ENTER

Mark M. Meddaugh
HON. MARK M. MEDDAUGH
Family Court Judge

8/29/17 - 40 Attn for Svc

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Proceeding for Custody/Visitation
Under Article VI of the Family Court Act

Docket No. V-1268-17

Family File 16521

PETITION FOR
CUSTODY / VISITATION

Petitioner

J[redacted] K[redacted]
R[redacted] K[redacted]

Against-

A[redacted] F[redacted]
M[redacted] K[redacted]

Respondent

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. Petitioner resides at (Physical Address) [redacted]

(Mailing Address) SAME

Respondent resides at: (Physical Address): X N[redacted] - SCS

X A[redacted] [redacted]

(Mailing Address):

The Relationship between the Petitioner and the Respondent is:

_____ Spouse _____ Former Spouse

✓ Child in Common (DAUGHTER) _____ Petitioner is Child of the Respondent

✓ Other (Please Specify) NO RELATIONSHIP / FATHER

Selina ✓

The Relationship of each Party to the Child(ren) is:

Petitioner is the: ✓ Mother ____ Father ____ (Other) ____

Respondent is the ____ Mother ✓ Father ____ (Other) ____

4. The children affected by this order are:

NAME	LIVES WITH	SINCE	DOB	SEX (M/F)
E[redacted] E[redacted]	GRANDPARENTS	6-1-17	[redacted]	M

The Child(ren) lived with Both Parents from: [redacted] until 6-1-17
ONLY M[redacted] 1[redacted]

5. Has Petitioner participated in any other litigation concerning custody of the same children in the State of New York? ✓ Yes ____ No

6. It would be in the best interests of the child(ren) to have custody/visitation, awarded to the Petitioner, for the following reasons:

FATHER HAS NOT BEEN in his Life
And we ALWAY had custody of E[redacted]
we are Refeesking custody order. And
Taking over TOTAL CUSTODY AS MY daugtor is
in SULLIVAN COUNTY JAIL
HEALTH REASON / SCHOOL

7. The Father of the subject Child(ren):

_____Was married to the children's mother at the time of the conception and birth.

X Was determined by an Order of filiation made on SC Family Court

_____Was determined by an Acknowledgment of Paternity signed on _____

_____Is deceased

_____Has not been legally established

8. No previous application has been made to any court, including a Native American Tribunal or any judge for the relief herein requested.

WHEREFORE, Petitioner respectfully requests an Order awarding ✓ Custody OR _____ Visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: 8-2-17

X [redacted]

[redacted]
Petitioner

_____
Attorney for Petitioner,

VERIFICATION

STATE OF NEW YORK)

COUNTY OF SULLIVAN) ss: R[redacted] K[redacted]

(PRINT YOUR NAME) J[redacted] K[redacted] being duly sworn, says that she/he is the Petitioner in the above-entitled proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters herein stated to be alleged on information and belief and as to those matters he/she believes it to be true.

T[redacted] K[redacted]

X [redacted]

Petitioner [redacted]

Sworn to before me this

9th day of Aug, 2017

Notary Public / Clerk of the Court

To Whom This May Concern, 06.23.17

I N[redacted] K[redacted] give temporary custody of S[redacted] K[redacted] born on [redacted] and E[redacted] F[redacted] born on [redacted] while being incarcerated at sullivan county jail to my father J[redacted] K[redacted] born on [redacted] and My mother R[redacted] K[redacted] born on [redacted] that both resides at [redacted]

Thank You

N[redacted] K[redacted]

Sworn to before me this 27th Day June, 2017

Notary Public

ERIC SCOTT COULTER
Notary Public, State of New York
NYS Reg. No. 01CO6321367
Qualified in Sullivan County
Commission Expires March 16, 2019

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on July 17, 20 15

(Deputy) Chief Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on July 13, 2015

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14/15F
V-01027-14/15F

R[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Petitioners,

- against -

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] J[redacted] K[redacted]

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on June 16, 2015 for the following: Modification of Order of Custody;

And the matter having duly come on to be heard before this Court and no one having appeared:

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to failure of Petitioner to appear; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: July 14, 2015

ENTER

Hon. Michael F. McGuire

Check applicable box:
☑ Order mailed on [specify date(s) and to whom mailed]: Petro Rep
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] K[redacted] Petitioner, J[redacted] C[redacted] K[redacted] Petitioner

FAMILY COURT OF THE ST E OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

10

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14/15F
V-01027-14/15F

R K
J C K

Petitioners,

- against -

A S C F
N J K

Respondents.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: N J K

A S C F

R K

J C K

Upon the petition of R K and J C K filed on June 16, 2015, annexed hereto, it is

ORDERED that N J K and A S C F show cause before this Court on

Date/Time:	July 13, 2015 at 9:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Modification of Order of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

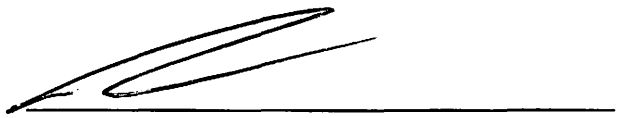
And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

Scanned

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon N[redacted] J[redacted] K[redacted] and A[redacted] S[redacted] C[redacted] F[redacted] on or before July 6, 2015, be deemed sufficient service

Dated: June 18, 2015

ENTER



Hon. Michael F. McGuire

7/13
GW

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation –Family or Supreme Court) [1]
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

R[redacted] K[redacted]

Petitioner,

M[redacted] e. K[redacted]

-against-

[redacted] K[redacted]

A[redacted] F[redacted] Respondent

.....

FA# U521

RECEIVED
JUN 16 2015
SULLIVAN COUNTY FAMILY COURT

Docket No.

PETITION FOR
MODIFICATION OF ORDER OF
☒ Custody ☐ Visitation
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

V-1026/1027-14/15F

.O THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: x of [specify child(ren)'s name(s)]: x
I am seeking to modify an order of [check applicable box(es)]: ☒ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2]
Petitioner: [redacted]

Respondent: J[redacted] - same as Petitioner A[redacted] -
N[redacted] - Same as Petitioner Address Unknown

3. Petitioner is R[redacted] K[redacted] and was the Petitioner in an action filed in
☐ Supreme Court of the State of New York, County, Index No. [specify]:
☒ Family Court of the State of New York, Sullivan County, Docket No. [specify]:
entitled [redacted] v. K[redacted] / f[redacted]

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]:

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

likely to affect custody or visitation, if at all]:[3]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

b. Respondent [check applicable box]:
is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[4]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

5. a. A judgment order, dated , was entered in the action directing the Respondent Petitioner to [specify terms]:
pls. See copy attached hereto/made part of herein
A true copy of the judgment order is attached and made a part of this Petition.

b. [Applicable where the judgment or order had been entered in conjunction with a child protective dispositional or permanency hearing order directing custody with a relative or other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:
(i) The judgment order was issued in conjunction with the following child protective or permanency proceeding [specify Family Court, county and docket #]:

(ii) The judgment order provided that the following local department of social services [specify]: and the following attorney for the child(ren)[specify]:
must be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the judgment or order.

6. The names, addresses and dates of birth of all children affected by this order are:

Name	Address[5]	Date of Birth

[3] Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

[4] Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

[5] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

Omit 7. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the judgment order, the Supreme Court has not retained exclusive jurisdiction to modify the judgment order.

8. (Upon information and belief) Since the entry of the judgment order, there has been a change of circumstances in that [specify]: MY daughter has not been in the House for the last 2-months and the Father has not took the baby since Jan of 2015 J[redacted] of R[redacted] K[redacted] Been the only one taking care of E[redacted]

pls. see ent. sheet attached hereto/ made part of herein

9. Because of this change of circumstances, the judgment order should be modified as follows [specify]: I would like for A[redacted] F[redacted] to have supervised visitation with E[redacted] I would also like Mr. F[redacted] to attend anger management classes and counseling.

Omit 10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

a. A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) has/have has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]: None

WHEREFORE, Petitioner respectfully requests that the judgment order of the Supreme Court Family Court, dated , be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: June 16, 2015

[redacted]
Petitioner
[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted]
being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to ~~(his)~~(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]
Petitioner

Sworn to before me this
16th day of June, 2015
Christine Ber
~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: 16521

Petitioner: R[redacted] K[redacted]	Respondent:

Cont. of #8:
A[redacted] A[redacted] has been very valint to my daughter on may 29, 2015 He went where she was and hit her and pour beer all over her and hit her in her left eye she had black blue eye. I am very worried about the welfare for E[redacted] when he around A[redacted] He very valint. He lives in the streets goes from one house to another He in and out of courts in middletown and the Bronx He hasn't took the baby since Jan 2015 He hits my daughter in front of the baby

(I[redacted] K[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to ~~his~~/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 11th day of June, 2015

Christina Ben
~~(Deputy)~~ Chief Clerk of the Court
~~Notary Public~~

x R[redacted] K[redacted]
x R[redacted] K[redacted]
Signature of Petitioner

At a Term of the Family Court of the State of New York, held in and for the County of Sullivan at Monticello, New York on the 15th day of January, 2015.

PRESENT: HON. MICHAEL F. McGUIRE
Acting Family Court Judge

----------X

A[redacted] F[redacted]

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted],

Respondents.

----------X

In the Matter of a Custody/Visitation Proceeding

N[redacted] K[redacted]

Petitioner,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

----------X

In the Matter of a Custody/Visitation Proceeding

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

----------X

ORDER

Docket No.V-1026-2/14/14A
Family File No. 16521

Docket Nos.: V-0126-14/14B,
V-01027-14/14E

~~Docket No.: V-02128-14~~

RECEIVED
JAN 16 2015
SULLIVAN COUNTY FAMILY COURT

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO A JAIL FOR A TERM NOT TO EXCEED SIX (6) MONTHS, FOR CONTEMPT OF COURT.

Petitions having been filed in the above matters, and they having come on to be heard;

and

N[redacted] K[redacted] having been present in person and with her attorney, Scott Russell, Esq., A[redacted] F[redacted] having been present in person and with his attorney, John Ferrara, Esq., J[redacted] C[redacted] and R[redacted] K[redacted] having been present in person and appearing pro se, and Isabelle Rawich, Esq., representing the subject child, E[redacted] J[redacted] F[redacted] born [redacted]

and the Court having searched the Statewide Registry of Orders of Protection, the Sex Offender Registry, and the Family Court's Child Protective records, and having notified the attorneys for the parties and for the child, and the pro se parties, and the Court having considered and relied upon the results of these searches in making this Decision, and

the parties having settled their differences and agreed to the following, the petitions dated December 2 and 16, 2014 having been withdrawn, it is hereby

ORDERED that Nicole K[redacted] and A[redacted] F[redacted] shall have joint legal custody of their son, E[redacted] J[redacted] F[redacted], and that N[redacted] K[redacted] is to have physical custody of the said subject child; and it is further

ORDERED that A[redacted] is to have visitation with E[redacted] from Friday at noon to Sunday morning, on alternate weekends, to begin on the weekend of January 23, 2015, and if Monday is a school holiday, the visitation is to include Monday; and it is further

ORDERED that all major holidays shall be divided between N[redacted] K[redacted] and A[redacted] F[redacted] alternately, except that Mother's Day shall always be spent with N[redacted] K[redacted] and Father's Day shall always be spent with A[redacted] F[redacted]; and it is further

ORDERED that the N[redacted] K[redacted] and A[redacted] F[redacted] shall have E[redacted] in their custody during the summer, from the first Sunday after school ends in June, as follows: N[redacted] K[redacted] shall have the first week, and A[redacted] F[redacted] shall have the second week and so on thereafter until the beginning of the school term; and it is further

ORDERED that physical custody of the subject child during school vacations shall be divided equally between Ms. K[redacted] and Mr.F[redacted] and that the following holidays will supersede the regular visitation schedule set forth above, to wit:

Thanksgiving day, Christmas Eve, Christmas Day, and Easter Day, which shall be alternated between Mr. F[redacted] and Ms. K[redacted] and it is further

ORDERED that exchanges of custody shall be between Ms. K[redacted] and Mr. F[redacted] alone, and shall take place at the Monticello Walmart store; and it is further

ORDERED that E[redacted] shall not be taken to the jail or prison without the permission of Mr. F[redacted] and Ms. K[redacted] that there shall be no passport application made for E[redacted] without the consent of Mr. F[redacted] and Ms. K[redacted] and it is further

ORDERED that there shall be such other, further and different parenting time as the parties agree upon; and it is further

ORDERED as provided in the Addendum, also known as the Children's Bill of Rights, attached hereto and made a part hereof

Dated: Monticello, New York
1-30- 2015

ENTER

HON. MICHAEL F. McGUIRE
Acting Family Court Judge

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on February 3, 2015

Christina Benson

Chief/Clerk of the Court

2-3-15 Rec'd to I. Rawic 2/15/15

FAMILY COURT: COUNTY OF SULLIVAN
STATE OF NEW YORK

----------X

In the Matter of a Proceeding for Custody/Visitation

A[redacted] F[redacted]

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted]

Respondents.

----------X

In the Matter of a Proceeding for Custody/Visitation

N[redacted] K[redacted]

Petitioner,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

----------X

In the Matter of a Custody/Visitation Proceeding

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

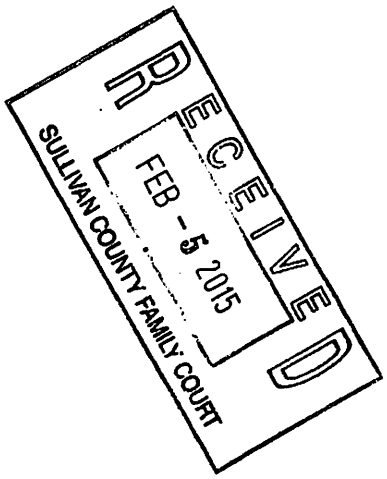
N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

----------X

AFFIRMATION OF SERVICE

Family File #: 16521
Docket Nos.: V-0126-27-14/14A, V-0126-14/14E, V-01027-14/14E, V-02128-14



STATE OF NEW YORK)
COUNTY OF SULLIVAN) ss.:

ISABELLE RAWICH, an attorney duly admitted to practice in the Courts of New York State, affirms the following, under penalty of perjury:

1. That I am not a party to this action, am over 18 years of age and have an office located at 5208 Main Street, South Fallsburg, New York, 12779.

2. That on February 4, 2015, I served a true copy of the annexed Order, in connection with the above captioned matters, by mailing the same, "first class", in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed as indicated below:

ISABELLE RAWICH

To: John Ferrara, Esq.
548 Broadway
Monticello, NY 12701

Scott Russell, Esq.
POB 22
Rock Hill, NY 12775

J[redacted] & R[redacted] K[redacted]
[redacted]

FAMILY COURT: COUNTY OF SULLIVAN
STATE OF NEW YORK

----------X

In the Matter of a Custody/Visitation Proceeding

A[redacted] F[redacted]

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted]

Respondents.

----------X

In the Matter of a Proceeding for Custody/Visitation

N[redacted] K[redacted]

Petitioner,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

----------X

In the Matter of a Custody/Visitation Proceeding

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

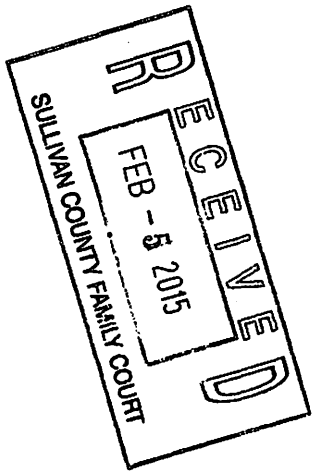
-against-

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

----------X

NOTICE OF ENTRY
Family File #: 16521
Docket Nos.: V-0126-27-14/14A, V-0126-14/14E, V-01027-14/14E, V-02128-14



PLEASE TAKE NOTICE that the within is a true copy of an Order entered in the Office of the Clerk of the Family Court of the State of New York, for the County of Sullivan, on February 3, 2015.

Dated: South Fallsburg, New York
February 4, 2015

Isabelle Rawich, Esq.
Attorney for the Child
5208 Main Street
South Fallsburg, NY 12779
(845) 434 4988

To: John Ferrara, Esq.

Scott Russell, Esq.
J[redacted] & R[redacted] K[redacted]

At a Term of the Family Court of the State of New York, held in and for the County of Sullivan at Monticello, New York on the 15th day of January, 2015.

PRESENT: HON. MICHAEL F. McGUIRE
Acting Family Court Judge

----------X

A[redacted] F[redacted]

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted]

Respondents.

----------X

ORDER

Docket No.V-1026-2/14/14A
Family File No. 16521

RECEIVED
JAN 16 2015
SULLIVAN COUNTY FAMILY COURT

In the Matter of a Custody/Visitation Proceeding

N[redacted] K[redacted]

Petitioner,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

----------X

Docket Nos.: V-01126-14/14E, V-01027-14/14E

In the Matter of a Custody/Visitation Proceeding

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

----------X

Docket No.: V-02128-14

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY, AFTER COURT HEARING, RESULT IN YOUR COMMITMENT TO A JAIL FOR A TERM NOT TO EXCEED SIX (6) MONTHS, FOR CONTEMPT OF COURT.

Petitions having been filed in the above matters, and they having come on to be heard;

and

N[redacted] K[redacted] having been present in person and with her attorney, Scott Russell, Esq., A[redacted] F[redacted] having been present in person and with his attorney, John Ferrara, Esq., J[redacted] C[redacted] K[redacted] and R[redacted] K[redacted] having been present in person and appearing pro se, and Isabelle Rawich, Esq., representing the subject child, E[redacted] J[redacted] F[redacted] born [redacted], [redacted];

and the Court having searched the Statewide Registry of Orders of Protection, the Sex Offender Registry, and the Family Court's Child Protective records, and having notified the attorneys for the parties and for the child, and the pro se parties, and the Court having considered and relied upon the results of these searches in making this Decision, and

the parties having settled their differences and agreed to the following, the petitions dated December 2 and 16, 2014 having been withdrawn, it is hereby

ORDERED that N[redacted] K[redacted] and A[redacted] F[redacted] shall have joint legal custody of their son, E[redacted] J[redacted] [redacted] and that N[redacted] K[redacted] is to have physical custody of the said subject child; and it is further

ORDERED that A[redacted] F[redacted] is to have visitation with E[redacted] from Friday at noon to Sunday morning; on alternate weekends, to begin on the weekend of January 23, 2015, and if Monday is a school holiday, the visitation is to include Monday; and it is further

ORDERED that all major holidays shall be divided between N[redacted] K[redacted] and A[redacted] F[redacted] alternately, except that Mother's Day shall always be spent with N[redacted] K[redacted] and Father's Day shall always be spent with A[redacted] F[redacted] and it is further

ORDERED that the N[redacted] K[redacted] and A[redacted] F[redacted] shall have E[redacted] in their custody during the summer, from the first Sunday after school ends in June, as follows: N[redacted] K[redacted] shall have the first week, and A[redacted] F[redacted] shall have the second week and so on thereafter until the beginning of the school term; and it is further

ORDERED that physical custody of the subject child during school vacations shall be divided equally between Ms. K[redacted] and Mr.F[redacted], and that the following holidays will supersede the regular visitation schedule set forth above, to wit:

Thanksgiving day, Christmas Eve, Christmas Day, and Easter Day, which shall be alternated between Mr. F[redacted] and Ms. K[redacted] and it is further

ORDERED that exchanges of custody shall be between Ms. K[redacted] and Mr. F[redacted] alone, and shall take place at the Monticello Walmart store; and it is further

ORDERED that E[redacted] shall not be taken to the jail or prison without the permission of Mr. F[redacted] and Ms. K[redacted] that there shall be no passport application made for E[redacted] without the consent of Mr. F[redacted] and Ms. K[redacted] and it is further

ORDERED that there shall be such other, further and different parenting time as the parties agree upon; and it is further

ORDERED as provided in the Addendum, also known as the Children's Bill of Rights, attached hereto and made a part hereof

Dated: Monticello, New York
1-30- 2015

ENTER

HON. MICHAEL F. McGUIRE
Acting Family Court Judge

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on February 3, 2015

Chief/Clerk of the Court

2-3-15 Rec'd to T. Rawlins 1515

Family File # 16521

Docket Nos.: V-0126-27-14/14A, V-0126-14/14E, V-01027-1414E, V-02128-14

FAMILY COURT: STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a Custody/Visitation Proceeding

A[redacted] F[redacted]

Petitioner,

-against-

ORDER

J[redacted] K[redacted] & N[redacted] K[redacted]

Respondents.

In the Matter of a Custody/Visitation Proceeding

N[redacted] K[redacted]

Petitioner,

-against-

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

In the Matter of a Custody/Visitation Proceeding

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

-against-

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

Pursuant to 22 NYCRR 130-1.1a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief, and reasonable inquiry, (1) the contentions contained in the Annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41a.

Dated: January 16, 2015

Signature _____
ISABELLE RAWICH

PLEASE TAKE NOTICE
that the Order of which the within is a true copy will be presented for settlement to the Hon. MICHAEL F. McGUIRE, one of the judges of the within-named Court, at Monticello, New York, on January 29, 2015 at 9:00 a.m.

Dated: January 16, 2015

ISABELLE RAWICH, Esq.
5208 Main St., POB 945
South Fallsburg, NY 12779
(845) 434 4988

TO: Scott Russell, Esq.
John Ferrara, Esq.
J[redacted] and R[redacted] K[redacted]

FAMILY COURT OF THE ST E OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

6

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14/14E
V-01027-14/14E

N[redacted] K[redacted]

Petitioner,

- against -

ORDER TO SHOW CAUSE

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]
[redacted]

N[redacted] K[redacted]
[redacted]
[redacted]

Upon the petition of N[redacted] K[redacted] filed on December 16, 2014, annexed hereto, it is

ORDERED that A[redacted] S[redacted] C[redacted] F[redacted] show cause before this Court on

Date/Time:	January 15, 2015 at 9:00 AM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Violation of Order of Visitation should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon A[redacted] S[redacted] C[redacted] F[redacted] on or before January 5, 2015, be deemed sufficient service

Dated: December 17, 2014

ENTER

Sent for Sig

Hon. Michael F. McGuire

CC: Scott A Russell, Esq., Isabelle Rawich, Esq., Attorney for Child, John Ferrara, Esq., Conflict Defender

Scanned

Note: This form is not to be used for violations of orders of child support issued pursuant to Articles 4, 5 or 5-B or orders of disposition issued pursuant to Articles 3, 7 or 10 of the Family Court Act.

General Form 8a
(Petition-Violation of Court Order)
4/2011

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

RECEIVED
DEC 16 2014
SULLIVAN COUNTY FAMILY COURT

In the Matter of a Proceeding under Article of the Family Court Act

X N[redacted] K[redacted] Petitioner,

Docket No. 16521
V-1026/1027
14/14E

- against -

X A[redacted] F[redacted] Respondent.

PETITION
(Violation of Court Order)

☐ **WARNING: THE PURPOSE OF THE HEARING REQUESTED IN THIS PETITION IS TO PUNISH [Specify name]: FOR CONTEMPT OF COURT, WHICH MAY INCLUDE SANCTIONS OF A FINE OR IMPRISONMENT OR BOTH. YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT.**

TO THE FAMILY COURT:

The undersigned ☒ Petitioner ☐ Respondent respectfully shows that:

1. a. Petitioner, N[redacted] K[redacted], [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent, A[redacted] F[redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

2. By order of this Court, dated December, 16, 2014, the ☐ Petitioner ☒ Respondent was directed to give me N[redacted] K[redacted] visitation until 12.17.14 at 7:00pm.

3. (Upon information and belief) a. ☐ Petitioner ☒ Respondent has failed to obey the Order of this Court in that [specify]: X 12.16.14 I was supposed to have him he did not give him to me.

b. This failure ☐ was ☐ was not willful.

4. The following child(ren) (is) (are) the subject(s) of the proceeding resulting in the issuance of

the Order alleged to have been violated :

Name	Date of Birth	Address[1]
E[redacted] J[redacted] F[redacted]	[redacted]	[redacted]

5. ☐ Petitioner ☒ Respondent has defeated, impaired, impeded or prejudiced the rights or remedies of ☒ Petitioner ☐ Respondent , in that [specify]: X I lost my visitation for today and also tomorrow

6. No previous application has been made to any court or judge for the relief herein requested (except [specify;]:

WHEREFORE, ☐ Petitioner ☐ Respondent requests that the ☐ Petitioner ☐ Respondent be dealt with in accordance with applicable provisions of law.

Dated:

X M[redacted] K[redacted]
Signature of ☒ Petitioner ☐ Respondent

X M[redacted] K[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
):SS.:
COUNTY OF)

X

being duly sworn, says that (s)he is the ☐ Petitioner ☐ Respondent in the above-named proceeding and that the foregoing petition is true to (his) (her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

X M[redacted] K[redacted]
☒ Petitioner ☐ Respondent

Sworn to before me this 16 day of December , 2014

(Deputy) Clerk of the Court
Notary Public

[1] Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21, 21a (on-line at www.nycourts.gov).

Supplemental Page for All Petitions: FF: _____

Petitioner: N[redacted] K[redacted]	Respondent: A[redacted] S[redacted]

Today is 12.16.14 I went to pick up my son E[redacted] J[redacted] F[redacted] the aunt K[redacted] told A[redacted] F[redacted] to get in the car while I was having a [redacted]ciual conversation with him I told her I am not trying to be desrespectful but please mind your business She got nasty I told her I am tired of you disrespecting me A[redacted] other Aunt Stormed out the car Charging at me telling me shut my mouth I dont care who you are we will have a problem just being very disrespectful yelling & Screaming in my face. K[redacted] told A[redacted] grab E[redacted] She is NOT getting her visit tonight, A[redacted] grabed E[redacted]s arm twice to try and pull him out my arms I told him today is my day get off his arm Stop pulling him like that. [redacted] While all this was happening my mother banged on the state troopers door & all the cops [redacted] got invoved. I did not get him today. [redacted] My self, A[redacted], and my Father all signed a paper saying I get him today till tomorrow and also on Christmas till the 27th at 7:00. I felt [redacted] physically threated when A[redacted] Anut M[redacted] F[redacted] came Charging at me while my son was in my arms, For the well being of my self & My son. I would [redacted] preferrd if it was only me and A[redacted] was doing the exchange of E[redacted] in Front of a police officer or in the Family Court. I feel that me and A[redacted] Should be drug tested. Also I would like to get a Paternity test for E[redacted] F[redacted]

N[redacted] K[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 16 day of December, 2014

(Deputy) Chief Clerk of the Court
Notary Public

x N[redacted] K[redacted]
Signature of Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

A[redacted] F[redacted],

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted]

Respondent.

----------x

Docket # FF# 16521

Order & Stipulation

RECEIVED
DEC 12 2014
SULLIVAN COUNTY FAMILY COURT

WHEREAS there is a petition filed on November 25, 2014 pending before this court, and

WHEREAS there is a an order entered December 2, 2014 that places temporary custody of E[redacted] J[redacted] F[redacted] DOB [redacted] with A[redacted] S[redacted] C[redacted] F[redacted] and provided for no visitation for either J[redacted] K[redacted] & N[redacted] K[redacted], and

WHEREAS the case does not return to court until January 15, 2015 at 1:30 p.m., and

WHEREAS the parties believe it is in E[redacted] F[redacted] for N[redacted] K[redacted] to have parenting time with E[redacted] J[redacted] F[redacted] and

NOW THEREFORE N[redacted] K[redacted] shall have parenting time with E[redacted] J[redacted] F[redacted] on the following dates and times:

Friday 12/12/2014 9:00AM to Saturday 12/13/2014 7:00PM;
Tuesday 12/16/2014 9:00AM to Wednesday 12/17/2014 7:00PM; and
Thursday 12/25/2014 11:00AM (Christmas Day) to Saturday 12/27/2014 7:00PM

PROVIDED HOWEVER the parties will meet at Wurtsboro State troop at the aforementioned times to exchange the child; and Addendum: except for Christmas Day where [redacted] should pick up [redacted] at his residence on [redacted]

PROVIDED FURTHER that this stipulation takes effect when "so ordered" by a court of competent jurisdiction.

Dated: December 9, 2014
Monticello, NY 12701

[redacted]

Antwan Florez

[redacted]

J[redacted] K[redacted] & N[redacted] K[redacted]

[redacted] K[redacted] & N[redacted] K[redacted]

RECEIVED
DEC 12 2014
SULLIVAN COUNTY FAMILY COURT

STATE OF NEW YORK)
ss.:
COUNTY OF SULLIVAN)

On this 18th day of December, 2014, before me; the undersigned, personally appeared A[redacted] F[redacted] personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK

KEVIN DOWNER
Notary Public, State of New York
Qualified in Orange County
Registration No. 01DO6207329
Commission Expires June 8, 2017

STATE OF NEW YORK)
ss.:
COUNTY OF SULLIVAN)

On this 18th day of December, 2014, before me; the undersigned, personally appeared J[redacted] K[redacted] & N[redacted] K[redacted], personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK

SCOTT A. RUSSELL
Notary Public, State of New York
NYS Reg. No. 02RU6119772
Qualified in Orange County
Commission Expires Dec. 6, 2016

"So Ordered"

Hon. Michael F. McGuire
Acting Family Court Judge

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-16, 2014

Christine Benson
(Deputy) Chief/Clerk of the Court

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

A[redacted] F[redacted]

Petitioner,

-against-

J[redacted] K[redacted] & N[redacted] K[redacted],

Respondent.

----------x

Docket # FF# 16521

Order & Stipulation

RECEIVED
SULLIVAN COUNTY FAMILY COURT
DEC 12 2014

WHEREAS there is a petition filed on November 25, 2014 pending before this court, and

WHEREAS there is a an order entered December 2, 2014 that places temporary custody of E[redacted] J[redacted] F[redacted] (DOB [redacted]) with A[redacted] S[redacted] C[redacted] F[redacted] and provided for no visitation for either J[redacted] K[redacted] & N[redacted] K[redacted], and

WHEREAS the case does not return to court until January 15, 2015 at 1:30 p.m., and

WHEREAS the parties believe it is in E[redacted] J[redacted] F[redacted] for N[redacted] K[redacted] to have parenting time with E[redacted] J[redacted] F[redacted] and

NOW THEREFORE N[redacted] K[redacted] shall have parenting time with E[redacted] J[redacted] F[redacted] on the following dates and times:

Friday 12/12/2014 9:00AM to Saturday 12/13/2014 7:00PM;
Tuesday 12/16/2014 9:00AM to Wednesday 12/17/2014 7:00PM; and
Thursday 12/25/2014 11:00AM (Christmas Day) to Saturday 12/27/2014 7:00PM

PROVIDED HOWEVER the parties will meet at Laurelbloom State Park at the aforementioned times to exchange the child; and Addendum: Except for Christmas Day where [redacted] shall pick up [redacted] at his residence of [redacted]

PROVIDED FURTHER that this stipulation takes effect when "so ordered" by a court of competent jurisdiction.

Dated: December 9, 2014
Monticello, NY 12701

[redacted]

Antwian Florez

[redacted] K[redacted] & [redacted] K[redacted]
J[redacted] K[redacted] & N[redacted] K[redacted]

RECEIVED
DEC 12 2014
SULLIVAN COUNTY FAMILY COURT

[redacted] K[redacted] & N[redacted] K[redacted]

STATE OF NEW YORK)
ss.:
COUNTY OF SULLIVAN)

On this 10th day of December, 2014, before me; the undersigned, personally appeared A[redacted] personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK

KEVIN DOWNER
Notary Public, State of New York
Qualified in Orange County
Registration No. 01DO6207329
Commission Expires June 8, 2017

STATE OF NEW YORK)
ss.:
COUNTY OF SULLIVAN)

On this 11th day of December, 2014, before me; the undersigned, personally appeared J[redacted] K[redacted] & N[redacted] K[redacted] personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC - STATE OF NEW YORK

SCOTT A. RUSSELL
Notary Public, State of New York
NYS Reg. No. 02RU6119772
Qualified in Orange County
Commission Expires Dec. 6, 2016

"So Ordered"

Hon. Michael F. McGuire
Acting Family Court Judge

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-16, 2014

(Deputy) Chief/Clerk of the Court

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-02128-14

J[redacted] C[redacted] K[redacted]
R[redacted] K[redacted]

Petitioners,

- against -

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

N[redacted] K[redacted]
[redacted]

J[redacted] C[redacted] K[redacted]
[redacted]

R[redacted] K[redacted]
[redacted]

Upon the petition of J[redacted] C[redacted] K[redacted] and R[redacted] K[redacted] filed on December 2, 2014, annexed hereto, it is

ORDERED that N[redacted] K[redacted] show cause before this Court on

Date/Time:	January 15, 2015 at 1:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Visitation should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon N[redacted] K[redacted] on or before January 2, 2015, be deemed sufficient service

Dated: December 8, 2014

Sent for Sig

ENTER

Hon. Michael F. McGuire

CC: Scott A Russell, Esq., John Ferrara, Esq., Conflict Defender, Isabelle Rawich, Esq., Attorney for Child

Scanned

FCA §§ 467, 549, 651, 652,654; RL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

1/15
1:30
5

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☑Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

[redacted] Petitioner
Grandparents.
Relationship to child:

-against-

[redacted] Respondent
Relationship to child:

ff#16521
V-2178-14
Docket No.
PETITION
☐CUSTODY ☑VISITATION

RECEIVED
DEC - 2 2014
SULLIVAN COUNTY FAMILY COURT

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	Boy	[redacted]	[redacted]	The Father

2. a. Petitioner, [redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Grand parents

3. a. Respondent [redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Parents [redacted]

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

Scanned

[redacted] was served @ the front desk

in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
E [redacted] F [redacted] A [redacted] F [redacted] M [redacted] K [redacted]	[redacted]	[redacted]	Father [redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: A [redacted]
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
☒ An acknowledgment of paternity was signed on [specify date]: UPON BIRTH by AT CRMC, Harris, NY
[specify who signed and attach a true copy]:
❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**
JH a. ☒ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows:
b. ☑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows: The FATHER HAS TEMPER COSTODY AND I J[redacted] K[redacted] is SEEKING VISITATION

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ❑ visitation for the following reasons [specify]: I ALREADY HAVE CUSTODY NOW I NEED VISITATION.

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**
a. An Order of Protection or Temporary Order of Protection was issued [check applicable

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.
5 If litigation occurred in Native-American tribunal, so indicate.

box(es): ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family~~ Court Act §655 ~~because [specify]:~~

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]:** The subject child(ren) ❑ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

h. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: None

WHEREFORE, Petitioner requests an order awarding ❑ custody ☒ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: December 2, , 20 14

J[redacted] K[redacted]
Petitioner

J[redacted] K[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan)

J[redacted] K[redacted] being duly sworn, says that (~~s~~)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(~~her~~) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it to be true.

J[redacted] K[redacted]
Petitioner

x J[redacted] K[redacted]

Sworn to before me this
2nd day of December , 2014

(~~Deputy~~) Clerk of the Court
~~Notary Public~~

16521

Sec. 214 F.C.A. General Form 2

AFFIDAVITS OF SERVICE

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan

Karen Fer, being duly sworn, deposes and says:

That (s)he is over the age of 18 years.
That on the 5 day of Dec, 20 14, at Family Court
(address where papers were served)
County of Sullivan, State of New York, (s)he served the annexed
Med Custody & visitation petitions upon a [redacted] (Y[redacted]
(what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection) (who was served)
by delivering a copy to (him)(her) personally and leaving the same with (him)(her).

That (s)he knew the person so served to be the person mentioned and described in the annexed 2 petitions as the Respondent therein.
(what was served) (Petitioner; Respondent; Attorney, etc.)

Sworn to before me this
5th day of Dec, 20 14

(Deputy) Clerk of the Court
Notary Public

Karen J Fer

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.
That on the _____ day of _____, 20____ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.

That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20_____

(Deputy) Clerk of the Court
Notary Public

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.
[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

(Continued on Page 2)

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation—Family or Supreme Court) [1]
3/2009

RECEIVED
DEC - 2 2014
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

X N[redacted] S[redacted] Y[redacted]
Petitioner,

-against-

X S A[redacted] S[redacted] C[redacted] F[redacted]
Respondent

FF# 10-[illegible]

Docket No.
V-1024/1027-
14/14D

PETITION FOR
MODIFICATION OF ORDER OF
☒ Custody ☐ Visitation
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: Mother of [specify child(ren)'s name(s)]: [redacted]
I am seeking to modify an order of [check applicable box(es)]: ☒ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2]
Petitioner: N[redacted] [redacted]

Respondent: A[redacted] F[redacted] [redacted]

3. Petitioner is N[redacted] R[redacted] and was the Respondent in an action filed in
☐ Supreme Court of the State of New York, County, Index No. [specify]:
☒ Family Court of the State of New York, Sullivan County, Docket No. [specify]:
entitled

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]:

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

5/14
petition served upon resp @ Family Court.. Copies to attorneys

Scanned

likely to affect custody or visitation, if at all]:[3]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

b. Respondent [check applicable box]:

is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[4]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

5. a. A judgment order, dated , was entered in the action directing the Respondent Petitioner to [specify terms]:

A true copy of the judgment order is attached and made a part of this Petition.

b. [Applicable where the judgment or order had been entered in conjunction with a child protective dispositional or permanency hearing order directing custody with a relative or other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:

(i) The judgment order was issued in conjunction with the following child protective or permanency proceeding [specify Family Court, county and docket #]:

(ii) The judgment order provided that the following local department of social services [specify]: and the following attorney for the child(ren)[specify]: must be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the judgment or order.

6. The names, addresses and dates of birth of all children affected by this order are:

Name	Address[5]	Date of Birth
3212 E [redacted]	[redacted]	[redacted]

[3] Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

[4] Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

[5] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

OMIT 7. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the judgment order, the Supreme Court has not retained exclusive jurisdiction to modify the judgment order.

8. (Upon information and belief) Since the entry of the judgment order, there has been a change of circumstances in that [specify]:

N[redacted] K[redacted] was released from orange county jail on 10.27.14

9. Because of this change of circumstances, the judgment order should be modified as follows [specify]: I want sole custody of my child.

OMIT 10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

a. A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

d. The child's legally-established birth father has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]: since [specify date]: The foster parent(s) has/have has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]: None

WHEREFORE, Petitioner respectfully requests that the judgment order of the Supreme Court Family Court, dated , be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: December 2, 2014

x N[redacted] K[redacted]
Petitioner
x N[redacted] K[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

N[redacted] K[redacted]
being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (~~his~~)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

x N[redacted] K[redacted]
Petitioner

Sworn to before me this
2nd day of December, 2014

(~~Deputy~~) Clerk of the Court
Notary ~~Public~~

GF18Temp

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 2, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

- against -

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Respondents.

File #: 16521
Docket #: V-01027-14/14A
V-01026-14/14A

TEMPORARY ORDER OF CUSTODY

A[redacted] S[redacted] C[redacted] F[redacted] having filed a petition on August 12, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody of the following minor child(ren):

Name	Date of Birth
E[redacted] J[redacted] F[redacted]	[redacted]

And the matter having duly come on to be heard before this Court;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child;

And the Court having considered and relied upon the following results of these searches in making this decision; .

NOW, it is hereby

ORDERED that Petitioner is granted temporary custody of above named child, effective immediately, pending a further order of the Court.

This order shall remain in effect until further order of the Court.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: December 2, 2014

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]: 12/2/14 mailed to all cc's
☐ Order received in court on [specify date(s) and to whom given]:

CC: John Ferrara, Esq., Conflict Defender
Isabelle Rawich, Esq., Attorney for Child
N[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Respondent
A[redacted] S[redacted] C[redacted] F[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on December 2, 2014

Clerk of the Court

GF18Temp

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 2, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01027-14/14A
V-01026-14/14A

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

- against -

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Respondents.

TEMPORARY ORDER OF CUSTODY

A[redacted] S[redacted] C[redacted] F[redacted] having filed a petition on August 12, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody of the following minor child(ren):

Name	Date of Birth
E[redacted] J[redacted] F[redacted]	[redacted]

And the matter having duly come on to be heard before this Court;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child;

And the Court having considered and relied upon the following results of these searches in making this decision; .

NOW, it is hereby

ORDERED that Petitioner is granted temporary custody of above named child, effective immediately, pending a further order of the Court.

This order shall remain in effect until further order of the Court.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: December 2, 2014

ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]: 12/2/14 mailed to all cc's
☐ Order received in court on [specify date(s) and to whom given]:

CC: John Ferrara, Esq., Conflict Defender
Isabelle Rawich, Esq., Attorney for Child
N[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Respondent
A[redacted] S[redacted] C[redacted] F[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

Certified that the document within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on December 2, 2014

Chief Clerk of the Court

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

8

----------x

In the Matter of a Proceeding under
Article of the Family Court Act

A[redacted] F[redacted],
Petitioner,

-against-

J[redacted] K[redacted]
N[redacted] K[redacted],
Respondent(s).

----------x

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of A[redacted] F[redacted], verified the 25th day of November, 2014, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. ~~Mark M. Meddaugh~~ Michael Farrelly on the 2nd day of December, 2014 at 2:00 in the after~~(fore)~~noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 1st day of December, 2014 be deemed sufficient service.

Dated: November 25, 2014

ENTER

HON. MARK M. MEDDAUGH
Family Court Judge

Scanned

28/14 Given to Pet'n. for P/S on Resps.

Note: This form is not to be used for violations of orders of child support issued pursuant to Articles 4, 5 or 5-B or orders of disposition issued pursuant to Articles 3, 7 or 10 of the Family Court Act.

General Form 8a
(Petition-Violation of Court Order)
4/2011

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In the Matter of a Proceeding under Article of the Family Court Act

[redacted] Petitioner,

- against -

[redacted] Respondent.

[redacted]

RECEIVED
NOV 25 2014
SULLIVAN COUNTY FAMILY COURT

Docket No. V-01026/01027-14/14C
16521

PETITION
(Violation of Court Order)

☐ **WARNING: THE PURPOSE OF THE HEARING REQUESTED IN THIS PETITION IS TO PUNISH [Specify name]: FOR CONTEMPT OF COURT, WHICH MAY INCLUDE SANCTIONS OF A FINE OR IMPRISONMENT OR BOTH. YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT.**

TO THE FAMILY COURT:

The undersigned ☐ Petitioner ☐ Respondent respectfully shows that:

1. a. Petitioner, [redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent [redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

2. By order of this Court, dated , , the ☐ Petitioner ☒ Respondent was directed to Drop [redacted] (son) to me on my days off by 9am & he will returned the second day by 7pm.

3. (Upon information and belief) a. ☐ Petitioner ☒ Respondent has failed to obey the Order of this Court in that [specify]: my schedule was provided to them and [redacted] did not show on 11/23/14 @ 9am or 11/24/14.

b. This failure ☐ was ☐ was not willful.

4. The following child(ren) (is) (are) the subject(s) of the proceeding resulting in the issuance of

the Order alleged to have been violated :

Name	Date of Birth	Address[1]
[redacted]	[redacted]	[redacted]

5. ☐ Petitioner ☐ Respondent has defeated, impaired, impeded or prejudiced the rights or remedies of ☐ Petitioner ☐ Respondent, in that [specify]: Pls. see Cont. Sheet attached hereto/made part of herein

6. No previous application has been made to any court or judge for the relief herein requested (except [specify;]:

WHEREFORE, ☒ Petitioner ☐ Respondent requests that the ☐ Petitioner ☒ Respondent be dealt with in accordance with applicable provisions of law.

Dated: November 25, 2014

[redacted]

Signature of ☒ Petitioner ☐ Respondent

[redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
):SS.:
COUNTY OF Sullivan)

[redacted]

being duly sworn, says that (~~s~~)he is the ☒ Petitioner ☐ Respondent in the above-named proceeding and that the foregoing petition is true to (his) ~~(her)~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it to be true.

[redacted]

☒ Petitioner ☐ Respondent

Sworn to before me this 25th day of November, 2014

(Deputy) Clerk of the Court
~~Notary Public~~

[1]Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21, 21a (on-line at www.nycourts.gov).

Supplemental Page for All Petitions: FF: 16521

Petitioner: A[redacted] F[redacted] | Respondent: J[redacted] tn[redacted] [redacted]

Cont. of #5:
I spoke to J[redacted] on 11/22/2014 and he stated E[redacted] would not be coming because I already had him during this week. week ending 11/21/2014 my days off were ~~tues 11/18~~ wednesday 11/19 + thursday 11/20. my schedule runs Saturday to friday so my next scheduled day off was Sunday 11/23 + monday 11/24/2014. so J[redacted] told me three days in one week was not acceptable and that I can have him on monday when a new week technically begins. my Aunt K[redacted] F[redacted] called him on Sunday to see if e[redacted] will be coming and he said no and for the same reasons and that I can have him monday. Today E[redacted] did not come again. As speaking to J[redacted] who has full custody he has been in new York city and is not attending to the child.

A[redacted] F[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to his/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 25th day of November, 2014

(Deputy) Chief Clerk of the Court
~~Notary Public~~

X [redacted]
Signature of Petitioner

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 11/17, 2014
Christina Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York, on November 3, 2014.

PRESENT: Hon. Michael F. McGuire
Acting Family Court Judge

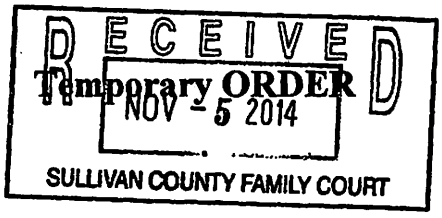
.....

In the Matter of a Proceeding for Custody & Parenting Time under Article 6 of the Family Court Act,

Docket No. V-1026-27-14/14A
FF No. 16521

A[redacted] F[redacted]

Petitioner,



Temporary ORDER

against -

N[redacted] K[redacted] & J[redacted] K[redacted]

Respondent

.....

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

A[redacted] F[redacted] herein having filed a petition on August 12, 2014 pursuant to Article 6 of the Family Court Act requesting an order awarding custody of E[redacted] F[redacted] (DOB [redacted]) to A[redacted] F[redacted] and A[redacted] F[redacted] having appeared with his attorney, Ferrara & Sullivan by John Ferrara, and J[redacted] K[redacted] having appeared pro se, and N[redacted] K[redacted] having appeared with her attorney, KC Garn, Esquire,

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child of the

Scanned

results of these searches;

NOW, after examination and inquiry into the facts and circumstances of the case, this Court finds and determines that:

ORDERED that J[redacted] K[redacted] shall retain sole legal and physical custody of E[redacted] F[redacted] and it is further

ORDERED that A[redacted] F[redacted] will have parenting time with E[redacted] F[redacted] on his two days off per week from work between the hours of 9 a.m. and 7 p.m., but if his two days off are back to back, he will have E[redacted] F[redacted] from 9 a.m. on the first day off until 7 p.m. on the second day off; and A[redacted] F[redacted] shall immediately notify both N[redacted] K[redacted] and J[redacted] K[redacted] of his days off as soon as he can; and it is further

ORDERED that on November 3, 2014, A[redacted] F[redacted] shall have E[redacted] F[redacted] from after court until 7 p.m., and N[redacted] K[redacted] shall be free to attend the parenting time to assist with transition; and it is further

ORDERED that both parents and J[redacted] K[redacted] shall be free to attend all medical appointments for E[redacted] F[redacted] and it is further

ORDERED that J[redacted] K[redacted] shall deliver E[redacted] F[redacted] at the start of A[redacted] F[redacted] parenting time and A[redacted] F[redacted] aunts shall deliver E[redacted] F[redacted] to the home of J[redacted] K[redacted] at the end of A[redacted] F[redacted]'s parenting

time; and it is further

ORDERED that all parties are free to adjust this schedule as they mutually agree; and it is further

ORDERED that all parties shall adhere to the children's bill of rights annexed hereto and made a part hereof; and it is further

ORDERED that all parties and their attorneys shall appear before this court on December 2, 2014 at 2 p.m. for all purposes.

Dated: Monticello, NY
November 17, 2014

ENTER

Hon. Michael F. McGuire
Acting Judge of the Family Court

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☒ Order mailed on [specify date(s) and to whom mailed]: 11/17/14 J. Ferrara for Srv

☐ Order received in court on [specify date(s) and to whom given]:_____

ADDENDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive; which shall be deemed Incorporated into any existing Order of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

AFFIRMATION OF SERVICE

RECEIVED
NOV 19 2014
SULLIVAN COUNTY FAMILY COURT

STATE OF NEW YORK
COUNTY OF SULLIVAN

John Ferrara, an attorney duly admitted to practice law in the State of New York affirms under penalties of perjury the following to be true:

1. I am not a party to the action to which this affirmation of service is attached.

2. I am over 18 years of age.

3. On November 18, 2014, I served the attached papers, more particularly described as a notice of entry and attached order or decision in the case of A[redacted] F[redacted] v. N[redacted] K[redacted] & J[redacted] K[redacted] (16521) by the following method:

(X) by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following at the last known address set forth after each name:

K.C. Garn, Esquire
10 Saint John Street
Monticello, NY 12701

A[redacted] F[redacted] by email

J[redacted] K[redacted]
[redacted]

Isabelle Rawich, Esquire
POB 945
South Fallsburg, NY 12779

Dated: Monticello, New York
November 18, 2014

John Ferrara

01506-14 143

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01027-14/14A
V-01026-14/14A

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

- against -

N[redacted] K[redacted]
J[redacted] C[redacted] K[redacted]

Respondents.

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Isabelle Rawich, Esq.
PO Box 945
South Fallsburg, NY 12779
(845) 434-4988

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
E[redacted] J[redacted] F[redacted]	[redacted]

and it is further

Ordered that Isabelle Rawich, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Isabelle Rawich, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Isabelle Rawich, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered, that during the pendency of this matter, Isabelle Rawich, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Isabelle Rawich, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Isabelle Rawich, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	December 2, 2014 at 2:00 PM
Purpose:	Appear
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: November 14, 2014

ENTER

Hon. Michael F. McGuire

CC: John Ferrara, Esq., Conflict Defender
N[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Respondent
A[redacted] S[redacted] C[redacted] F[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

11/17/14 Stamped copy sent to all above except N K[redacted] - address unknown

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 6 of the Family Court Act

[redacted],
Petitioner,

against

[redacted],
Respondent(s).

----------x

8

ORDER TO SHOW CAUSE

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of [redacted], verified the 14th day of November, 2014, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 2nd day of December, 2014 at 2:00 in the (after)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 1st day of December, 2014 be deemed sufficient service.

Dated: 11/14/14

Copies handed to Pet for Srv

ENTER

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

Scanned

Note: This form is not to be used for violations of orders of child support issued pursuant to Articles 4, 5 or 5-B or orders of disposition issued pursuant to Articles 3, 7 or 10 of the Family Court Act.

General Form 8a
(Petition-Violation of Court Order)
4/2011

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In the Matter of a Proceeding under Article of the Family Court Act

A[redacted] F[redacted]

Petitioner,

- against -

N[redacted] K[redacted]
S[redacted] K[redacted]

Respondent.

RECEIVED
NOV 14 2014
SULLIVAN COUNTY FAMILY COURT

16 521
Docket No.
V-1026/27-14/14B

PETITION
(Violation of Court Order)

☐ **WARNING: THE PURPOSE OF THE HEARING REQUESTED IN THIS PETITION IS TO PUNISH [Specify name]:**
FOR CONTEMPT OF COURT, WHICH MAY INCLUDE SANCTIONS OF A FINE OR IMPRISONMENT OR BOTH. YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT.

TO THE FAMILY COURT:

The undersigned ☑ Petitioner ☐ Respondent respectfully shows that:

1. a. Petitioner, A[redacted] F[redacted], [check applicable box]: ☑ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent, S[redacted] K[redacted], [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

2. By order of this Court, dated 11/14/14, the ☐ Petitioner ☑ Respondent was directed to bring my child for visitation

3. (Upon information and belief) a. ☐ Petitioner ☑ Respondent has failed to obey the Order of this Court in that [specify]: Told me he it in his best intrest for me Not to have my child Grandfather S[redacted] K[redacted] denied me to see my child for the days im off of work.

b. This failure ☑ was ☐ was not willful.

4. The following child(ren) (is) (are) the subject(s) of the proceeding resulting in the issuance of

E[redacted] F[redacted]

the Order alleged to have been violated :

Name	Date of Birth	Address[1]
[redacted]	[redacted]	[redacted]

5. ☐ Petitioner ☑ Respondent has defeated, impaired, impeded or prejudiced the rights or remedies of ☑ Petitioner ☐ Respondent , in that [specify]: Not bringing child to father

6. No previous application has been made to any court or judge for the relief herein requested (except [specify;]:

WHEREFORE, ☐ Petitioner ☐ Respondent requests that the ☐ Petitioner ☐ Respondent be dealt with in accordance with applicable provisions of law.

Dated: November 14, 2014

[redacted]

Signature of ☑ Petitioner ☐ Respondent

[redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
):SS.:
COUNTY OF Sullivan)

[redacted]

being duly sworn, says that (~~s~~)he is the ☑ Petitioner ☐ Respondent in the above-named proceeding and that the foregoing petition is true to (his) ~~(her)~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it to be true.

[redacted]

☑ Petitioner ☐ Respondent

Sworn to before me this
14th day of November , 2014

Melissa A. Slater

(~~Deputy~~) ~~Clerk of the Court~~
Notary Public Qualified in Sullivan County
Reg. # 2091
Comm. Expires 9/5/2017

[1]Unless the Court has ordered the address to be confidential on the ground that disclosure would pose an unreasonable health or safety risk. *See* Family Court Act §154-b; Form 21, 21a (on-line at www.nycourts.gov).

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 11/17, 2014

Christina Benson

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York, on November 3, 2014.

PRESENT: Hon. Michael F. McGuire
Acting Family Court Judge

.....

In the Matter of a Proceeding for Custody & Parenting Time under Article 6 of the Family Court Act,

Docket No. V-1026-27-14/14A
FF No. 16521

A[redacted] F[redacted]

Petitioner,

against -

N[redacted] K[redacted] & J[redacted] K[redacted]

Respondent

RECEIVED
NOV - 5 2014
SULLIVAN COUNTY FAMILY COURT

Temporary ORDER

.....

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

A[redacted] F[redacted] herein having filed a petition on August 12, 2014 pursuant to Article 6 of the Family Court Act requesting an order awarding custody of E[redacted] F[redacted] (DOB [redacted]) to A[redacted] F[redacted] and A[redacted] F[redacted] having appeared with his attorney, Ferrara & Sullivan by John Ferrara, and J[redacted] K[redacted] having appeared pro se, and N[redacted] K[redacted] having appeared with her attorney, KC Garn, Esquire,

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child of the

results of these searches;

NOW, after examination and inquiry into the facts and circumstances of the case, this Court finds and determines that:

ORDERED that J[redacted] K[redacted] shall retain sole legal and physical custody of E[redacted] F[redacted] and it is further

ORDERED that A[redacted] F[redacted] will have parenting time with E[redacted] F[redacted] on his two days off per week from work between the hours of 9 a.m. and 7 p.m., but if his two days off are back to back, he will have E[redacted] F[redacted] from 9 a.m. on the first day off until 7 p.m. on the second day off; and A[redacted] F[redacted] shall immediately notify both N[redacted] K[redacted] and J[redacted] K[redacted] of his days off as soon as he can; and it is further

ORDERED that on November 3, 2014, A[redacted] F[redacted] shall have E[redacted] F[redacted] from after court until 7 p.m., and N[redacted] K[redacted] shall be free to attend the parenting time to assist with transition; and it is further

ORDERED that both parents and J[redacted] K[redacted] shall be free to attend all medical appointments for E[redacted] F[redacted] and it is further

ORDERED that J[redacted] K[redacted] shall deliver E[redacted] F[redacted] at the start of A[redacted] F[redacted] parenting time and A[redacted] F[redacted] aunts shall deliver E[redacted] F[redacted] to the home of J[redacted] K[redacted] at the end of A[redacted] F[redacted] parenting

time; and it is further

ORDERED that all parties are free to adjust this schedule as they mutually agree; and it is further

ORDERED that all parties shall adhere to the children's bill of rights annexed hereto and made a part hereof; and it is further

ORDERED that all parties and their attorneys shall appear before this court on December 2, 2014 at 2 p.m. for all purposes.

Dated: Monticello, NY
November 17, 2014

ENTER

Hon. Michael F. McGuire
Acting Judge of the Family Court

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☒ Order mailed on [specify date(s) and to whom mailed]: 11/17/14 J. Ferrara for Srv

☐ Order received in court on [specify date(s) and to whom given]: _____

AD. NDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive; which shall be deemed incorporated into any existing Order of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

AFFIRMATION OF SERVICE

STATE OF NEW YORK
COUNTY OF SULLIVAN

John Ferrara, an attorney duly admitted to practice law in the State of New York, affirms under penalties of perjury the following to be true:

1. I am not a party to the action to which this affirmation of service is attached.

2. I am over 18 years of age.

3. On November 3, 2014, I served the attached papers, more particularly described as a proposed order in the case of A[redacted] F[redacted] v. N[redacted] K[redacted] & J[redacted] K[redacted] (FF 16521) by the following method:

(X) by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following at the last known address set forth after each name:

K.C. Garn, Esquire
10 Saint John Street
Monticello, NY 12701

A[redacted] F[redacted] by email

J[redacted] K[redacted]
[redacted]

Dated: Monticello, New York
November 3, 2014

John Ferrara

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 11/17, 2014
Christine Benson
(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York held in and for the County of Sullivan at Monticello, New York, on November 3, 2014.

PRESENT: Hon. Michael F. McGuire
Acting Family Court Judge

In the Matter of a Proceeding for Custody & Parenting Time under Article 6 of the Family Court Act,

Docket No. V-1026-27-14/14A
FF No. 16521

A[redacted] F[redacted]

Petitioner,

against -

N[redacted] K[redacted] & J[redacted] K[redacted]

Respondent

RECEIVED
NOV - 5 2014
SULLIVAN COUNTY FAMILY COURT

Temporary ORDER

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

A[redacted] F[redacted] herein having filed a petition on August 12, 2014 pursuant to Article 6 of the Family Court Act requesting an order awarding custody of E[redacted] F[redacted] (DOB [redacted]) to A[redacted] F[redacted] and A[redacted] F[redacted] having appeared with his attorney, Ferrara & Sullivan by John Ferrara, and J[redacted] K[redacted] having appeared pro se, and N[redacted] K[redacted] having appeared with her attorney, KC Garn, Esquire,

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child of the

Scanned

results of these searches;

NOW, after examination and inquiry into the facts and circumstances of the case, this Court finds and determines that:

ORDERED that J[redacted] K[redacted] shall retain sole legal and physical custody of E[redacted] F[redacted] and it is further

ORDERED that A[redacted] F[redacted] will have parenting time with E[redacted] F[redacted] on his two days off per week from work between the hours of 9 a.m. and 7 p.m., but if his two days off are back to back, he will have E[redacted] F[redacted] from 9 a.m. on the first day off until 7 p.m. on the second day off; and A[redacted] F[redacted] shall immediately notify both N[redacted] K[redacted] and J[redacted] K[redacted] of his days off as soon as he can; and it is further

ORDERED that on November 3, 2014, A[redacted] F[redacted] shall have E[redacted] F[redacted] from after court until 7 p.m., and N[redacted] K[redacted] shall be free to attend the parenting time to assist with transition; and it is further

ORDERED that both parents and J[redacted] K[redacted] shall be free to attend all medical appointments for E[redacted] F[redacted] and it is further

ORDERED that J[redacted] K[redacted] shall deliver E[redacted] F[redacted] at the start of A[redacted] F[redacted] parenting time and A[redacted] F[redacted] aunts shall deliver E[redacted] F[redacted] to the home of J[redacted] K[redacted] at the end of A[redacted] F[redacted] parenting

time; and it is further

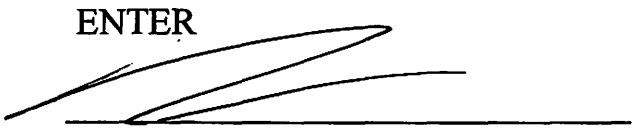
ORDERED that all parties are free to adjust this schedule as they mutually agree; and it is further

ORDERED that all parties shall adhere to the children's bill of rights annexed hereto and made a part hereof; and it is further

ORDERED that all parties and their attorneys shall appear before this court on December 2, 2014 at 2 p.m. for all purposes.

Dated: Monticello, NY
November 17, 2014

ENTER



Hon. Michael F. McGuire
Acting Judge of the Family Court

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☒ Order mailed on [specify date(s) and to whom mailed]: 11/17/14 J. Ferrara for Srv

☐ Order received in court on [specify date(s) and to whom given]:_____

ADDENDUM TO ORDER OF CUSTODY

ORDERED that each parent, guardian or custodian named above ("Parent"), shall comply with the following directive; which shall be deemed incorporated into any existing Order of Custody/Parenting time (visitation). If an existing order contains more restrictive provisions, those provisions shall govern.

1. **CIVIL TREATMENT:** All conversations, interactions and dealings of any sort between the parents shall be conducted in a civil and courteous manner.

2. **DISCUSSION WITH CHILDREN:** Neither parent shall discuss the legal aspects of this case or other adult issues with or in front of the children or permit third persons to do so.

3. **NO DISPARAGEMENT:** Neither parent shall disparage the other parent or other members of that parent's family or household to or in front of the children or permit third persons to do so. The children shall not be encouraged or permitted to call non-parents "mother", "father" or their equivalents.

4. **DRUGS, ALCOHOL OR TOBACCO:** Neither parent shall be under the influence of alcohol or illegal drugs while the children are in their care nor shall the children be exposed to second hand smoke.

5. **PROMPT NOTICE:** Each parent shall promptly and fully disclose to the other parent any event which significantly affects a child's health, education, behavior or general welfare.

6. **APPOINTMENTS:** Each parent shall give the other timely notice of the children's medical appointments, school events, parent-teacher meetings, counseling sessions or the like.

7. **RECORDS:** Each parent, regardless of custodial status, is authorized to access all of the child's educational, medical, or psychological records or any other record or notice that is available to the custodial parent. This includes the right to speak with and obtain information from teachers, counselors and medical providers.

8. **SCHOOLWORK:** Each parent shall preserve for the other parent's periodic review, all schoolwork, school projects, report cards, interim reports, disciplinary reports or anything of like importance sent home from the school with the children.

9. **ADDRESS AND PHONE NUMBERS:** Each parent shall keep the other timely informed of the other's residential address and work and home phone numbers. Calls to the other parent's place of employment shall not be made, except to discuss important matters concerning the children that can not wait until the end of the business day or unless that parent has agreed to accept calls at work. Calls to the residence shall be at reasonable times and intervals. If a child will be staying overnight outside the area, the other parent shall be provided with a travel itinerary and contact phone number.

10. **PROMPTNESS:** The parent picking up or dropping off a child for the exercise of parenting time shall do so promptly at the appointed time. Children being picked up shall be ready to leave at the appointed time.

11. **SCHEDULED ACTIVITIES:** Each parent exercising custodial or parenting time shall be responsible for insuring the attendance of the child at scheduled organized activities such as music or dance lessons, soccer or baseball practice or games or regularly attended religious services. Neither parent shall enroll the child in any new organized activities of this type, or commit the child to other activities such as sleep-overs or birthday parties, that will take place during the other parent's custodial or parenting time without the prior consent of the affected parent.

12. **DISCIPLINE:** The parents shall endeavor to have a consistent set of rules of behavior and methods of discipline that apply to the children. Areas of concern include TV time and programming, Internet access, computer and video game use, curfews, bed times and peer associations. Corporal punishment shall not be used to discipline a child.

13. **GENERAL WELFARE:** The children shall at all times be properly supervised. They shall not be exposed to intimate adult activities. Children's regularly established meal and bed time routines shall be adhered to as closely as possible. Any medicine or special diet regimen shall be adhered to. The children should be returned to the primary custodial parent with all clothing or other personal belongings that came with the child at the start of the parenting time. Homework assignments due for the next school day should be completed.

AFFIRMATION OF SERVICE

STATE OF NEW YORK
COUNTY OF SULLIVAN

John Ferrara, an attorney duly admitted to practice law in the State of New York, affirms under penalties of perjury the following to be true:

1. I am not a party to the action to which this affirmation of service is attached.

2. I am over 18 years of age.

3. On November 3, 2014, I served the attached papers, more particularly described as a proposed order in the case of A[redacted] F[redacted] v. N[redacted] K[redacted] & J[redacted] K[redacted] (FF 16521) by the following method:

(X) by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following at the last known address set forth after each name:

K.C. Garn, Esquire
10 Saint John Street
Monticello, NY 12701

A[redacted] F[redacted] by email

J[redacted] K[redacted]
[redacted]

Dated: Monticello, New York
November 3, 2014

John Ferrara

FAMILY COURT
STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 6 of the Family Court Act

A[redacted] F[redacted],
Petitioner,

-against-

ORDER TO SHOW CAUSE

J[redacted] K[redacted] + N[redacted] K[redacted]
Respondent(s).

----------x

NOTICE: **YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.**

Upon the petition(s) of A[redacted] F[redacted], verified the 12 day of August, 2014, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 27th day of October, 2014 at 9:00 in the (after)(fore)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

_____

_____

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child and/or the self represented parties; And the Court having considered and relied upon the results of these searches in making this decision; and it is further

on N[redacted] K[redacted]

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 23 day of October, 2014 be deemed sufficient service.

Dated: 9/15/14

ENTER

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

1/15/14-12 Petitioner

FAMILY COURT OF THE S[illegible]TE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

8

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026/1027-14/14A

A[redacted] S[redacted] C[redacted] F[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

J[redacted] C[redacted] K[redacted]
N[redacted] K[redacted]

Respondents.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: J[redacted] C[redacted] K[redacted]
[redacted]

N[redacted] K[redacted]
Orange County Correctional Facility
110 Wells Farm Road
Goshen, NY 10924

A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

Upon the petition of A[redacted] S[redacted] C[redacted] F[redacted] filed on August 12, 2014, annexed hereto, it is

ORDERED that J[redacted] C[redacted] K[redacted] and N[redacted] K[redacted] show cause before this Court on

Date/Time: September 15, 2014 at 9:30 AM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Modification of Order of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon J[redacted] C[redacted] K[redacted] and N[redacted] K[redacted] on or before September 8, 2014, be deemed sufficient service

Dated: August 19, 2014

ENTER

8/20 Sent for Srv.

Hon. Michael F. McGuire

Scanned

9|15
9:30

F.C.A. §§ 651, 652, 654

General Form GF-40
(Petition for Modification of Order of Custody or Visitation –Family or Supreme Court) [1]
3/2009

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

RECEIVED
AUG 12 2014
SULLIVAN COUNTY FAMILY COURT

ff#16521

In the Matter of a Proceeding for Custody/Visitation
Under Article 6 of the Family Court Act

Docket No. V-1026/1027-14/14A

x A[redacted] S. C. F[redacted] Petitioner,

-against-

x J[redacted] C[redacted] K[redacted]
x N[redacted] K[redacted] Respondent

PETITION FOR
MODIFICATION OF ORDER OF
☒ Custody ☐ Visitation
MADE BY ☒ FAMILY COURT
☐ SUPREME COURT

TO THE FAMILY COURT:

The undersigned Petitioner respectfully shows that:

1. I am [specify relationship to child(ren)]: the father of [specify child(ren)'s name(s)]: E[redacted] J[redacted] C[redacted]
I am seeking to modify an order of [check applicable box(es)]: ☒ custody ☐ visitation.

2. The home addresses of the Petitioner and Respondent are as follows:[2]
Petitioner: x[redacted]

Respondent: x J[redacted] K[redacted], [redacted]
x N[redacted] K[redacted] [redacted]

3. Petitioner is A[redacted] F[redacted] and was the Respondent in an action filed in
☐ Supreme Court of the State of New York, County, Index No. [specify]:
☒ Family Court of the State of New York, Sullivan County, Docket No. [specify]:
entitled K[redacted] v. F[redacted] / K[redacted]

OMIT 4. [Applicable when Petitioner and/or Respondent are on active duty or have recently returned from active military service; DELETE if inapplicable]:

a. Petitioner [check applicable box]:

☐ is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is

---

[1] If the order was entered by a Court outside New York State or a tribal court, use Form *UCCJEA-9*.

[2] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

likely to affect custody or visitation, if at all]:[3]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

b. Respondent [check applicable box]:

is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[4]

returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how return from active duty is likely to affect custody or visitation, if at all]:

5. a. A judgment order, dated 6/16/14, was entered in the action directing the Respondent Petitioner to [specify terms]:
Pls. see copy attached hereto/made part of herein
A true copy of the judgment order is attached and made a part of this Petition.

b. [Applicable where the judgment or order had been entered in conjunction with a child protective dispositional or permanency hearing order directing custody with a relative or other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:

(i) The judgment order was issued in conjunction with the following child protective or permanency proceeding [specify Family Court, county and docket #]:

(ii) The judgment order provided that the following local department of social services [specify]: and the following attorney for the child(ren)[specify]:
must be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the judgment or order.

6. The names, addresses and dates of birth of all children affected by this order are:

Name	Address[5]	Date of Birth
X [redacted]	Resides w/ J[redacted]	[redacted]

[3] Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

[4] Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

[5] Unless ordered confidential, pursuant to Family Court Act §154-b, because disclosure would pose an unreasonable risk to he health or safety of the party . *See* Forms GF-21 and 21a, available at www.nycourts.gov.

OMIT 7. [Applicable where Order or judgment had been issued by Supreme Court; delete if inapplicable]: Under the terms of the judgment order, the Supreme Court has not retained exclusive jurisdiction to modify the judgment order.

8. (Upon information and belief) Since the entry of the judgment order, there has been a change of circumstances in that [specify]: I am currently renting a room at a family members home and have a safe & secured environment for my son. I am also maintaining a job to support him.

9. Because of this change of circumstances, the judgment order should be modified as follows [specify]: I would like sole custody of my son.

OMIT 10. [Applicable to cases in which petitioner is a relative or other non-parent seeking to modify a custody order and where a child protective petition or permanency hearing report has been filed regarding the children; delete if inapplicable]:

a. A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:
neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this custody modification petition, pursuant to F.C.A. §1089-a.

c. The child's birth mother has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:
my sons mother h[redacted] [redacted] is currently incarcerated.

d. The child's legally-established birth father has has not consented to the modification of the custody order to award custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) has/have has/have not consented to the modification of

the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

f. The local department of social services [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the modification of the custody order to award custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

11. No previous application has been made to any Court or judge for the relief requested in this Petition (except [specify]: None

WHEREFORE, Petitioner respectfully requests that the judgment order of the Supreme Court Family Court, dated , be modified as set forth above and for such other relief as the Court may deem just and proper.

Dated: August 11, 2014

x [redacted]

Petitioner

x [redacted]

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted] being duly sworn, says that (~~s~~)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)~~(her)~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (~~s~~)he believes it to be true.

x [redacted]

Sworn to before me this
11th day of August 2014

~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: _____

Petitioner: A[redacted] S.C.F[redacted]

Respondent: J[redacted] V[redacted] N[redacted] K[redacted]

I am returning to Court to modify the custody papers for my Son e[redacted] F[redacted]. When myself and J[redacted] Came to Court, I was not in full understanding of the decisions made. At the time of Court I did not have a full time residence so I thought that a temporary order of Custody was being put in place for my Son to stay with his grand Father. However I am in a stable, safe + secure environment and I would like to have sole Custody of my son. At the time n[redacted] K[redacted] (mother of e[redacted]) is incarcerated and would be spending a lot of time away from him and I dont think its in the best interest of my son to be without his mother or father. I am currently working and able to provide for my Son. I can prove to the Court that e[redacted] Coming to stay with me will be a rewarding relationship for all of us. During my hours of work I can provide excellent day Care Services for him. Due to the medical Conditions of J[redacted] and his wife who cares for my son, I feel my home would be a better option. I want to be a full time Father, not a part-time dad. I was raised by one parent majority of my life and I want a better Situation for my son.

A[redacted] F[redacted], being duly sworn, says that ~~(s)~~he is the petitioner in the above named proceeding and that the foregoing petition is true to his/~~her~~ own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters ~~(s)~~he believes to be true.

Sworn ~~to~~ before me this 11th day of AUGUST, 2014

~~(Deputy)~~ Chief Clerk of the Court
~~Notary Pub~~lic

X [redacted]
Signature of Petitioner

F.C.A. §§ 467, 549, 651, 652, 654
D.R.L. § 240

GF18 8/2010

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on June 24, 2014

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on June 16, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14
V-01027-14

J[redacted] C[redacted] K[redacted]

Petitioner,

- against -

ORDER ON CONSENT

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

J[redacted] C[redacted] K[redacted] having filed a petition on June 16, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody and A[redacted] S[redacted] C[redacted] F[redacted] having filed a petition on June 16, 2014 requesting an order awarding visitation of the following minor child:

Name	Date of Birth
E[redacted] J[redacted] F[redacted]	[redacted]

And N[redacted] K[redacted] and A[redacted] S[redacted] C[redacted] F[redacted] having been served with a copy of the petition, been advised by the Court of the right to counsel, and having admitted the allegations of the petition, and having appeared before this Court to answer the petition and to show cause why an order of custody should not be granted

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the following self-represented parties R[redacted] K[redacted] A[redacted] S[redacted] C[redacted] F[redacted] and J[redacted] C[redacted] K[redacted] of the results of these searches;

And the matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and upon consent of the parties; it is hereby

ORDERED, that the Petitioner, J[redacted] C[redacted] K[redacted] shall have sole and legal custody of the minor child; and it is further

ORDERED, that the Respondent, A[redacted] S[redacted] C[redacted] F[redacted] shall have parenting time as the parties can agree and to be supervised by the maternal Uncle, J[redacted] K[redacted] or any other responsible adult that is acceptable to the parties.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: June 17, 2014 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 6/24/14
☐ Order received in court on [specify date(s) and to whom given]:

CC: A[redacted] S[redacted] C[redacted] F[redacted] Respondent
N[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Petitioner

F.C.A. §§ 467, 549, 651, 652, 654
D.R.L. § 240

GF18 8/2010

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on June 24, 2014

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on June 16, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-01026-14
V-01027-14

J[redacted] C[redacted] K[redacted]

Petitioner,

- against -

ORDER ON CONSENT

N[redacted] K[redacted]
A[redacted] S[redacted] C[redacted] F[redacted]

Respondents.

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

J[redacted] C[redacted] K[redacted] having filed a petition on June 16, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody and A[redacted] S[redacted] C[redacted] F[redacted] having filed a petition on June 16, 2014 requesting an order awarding visitation of the following minor child:

Name	Date of Birth
E[redacted] J[redacted] F[redacted]	[redacted]

And N[redacted] K[redacted] and A[redacted] S[redacted] C[redacted] F[redacted] having been served with a copy of the petition, been advised by the Court of the right to counsel, and having admitted the allegations of the petition, and having appeared before this Court to answer the petition and to show cause why an order of custody should not be granted

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the following self-represented parties R[redacted] K[redacted] A[redacted] S[redacted] C[redacted] F[redacted] and J[redacted] C[redacted] K[redacted] of the results of these searches;

And the matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and upon consent of the parties; it is hereby

ORDERED, that the Petitioner, J[redacted] C[redacted] K[redacted] shall have sole and legal custody of the minor child; and it is further

ORDERED, that the Respondent, A[redacted] S[redacted] C[redacted] F[redacted] shall have parenting time as the parties can agree and to be supervised by the maternal Uncle, J[redacted] K[redacted] or any other responsible adult that is acceptable to the parties.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: June 17, 2014 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 6/24/14
☐ Order received in court on [specify date(s) and to whom given]:

CC: A[redacted] S[redacted] C[redacted] F[redacted] Respondent
N[redacted] K[redacted] Respondent
J[redacted] C[redacted] K[redacted] Petitioner

Sec. 214 F.C.A.

General Form 2

AFFIDAVITS OF SERVICE

Affidavit of Personal Service
STATE OF NEW YORK
COUNTY OF Sullivan

[redacted], being duly sworn, deposes and says:

That (s)he is over the age of 23 years.

That on the 13 day of June, 20__, at [redacted]
(address where papers were served)

County of Monticello, State of New York, (s)he served the annexed
(what was served, i.e., summons w/petition; Order to Show Cause/ temporary order of protection)
upon [redacted]
(who was served)

by delivering a copy to (him)(her) personally and leaving the same with (him)(her).

That (s)he knew the person so served to be the person mentioned and described in the annexed Petition Custody (what was served) as the _____ (Petitioner; Respondent; Attorney, etc.) therein.

Sworn to before me this
11th day of June, 20 14
Jamie Decker
(Deputy) Clerk of the Court
Notary Public

[redacted]

JAMIE L DECKER
Notary Public - State of New York
NO. 01DE6098115
Qualified in Sullivan County
My Commission Expires 9/2/15

RECEIVED
JUN 16 2014
SULLIVAN COUNTY FAMILY COURT

Affidavit of Service by Mail
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

That on the _____ day of _____, 20____ (s)he served the annexed _____ upon _____ by depositing a true copy of the same securely enclosed in a post-paid wrapper in (the Post Office) (a Branch Post Office)(a Post Office Box) regularly maintained by the United States Government at _____, County of _____, State of New York, directed to said _____, (that being the residence of said _____)(that being the address within the State designated by ___h___ for that purpose and the place where ___h___ then kept an office) between which places there then was and now is a regular communication by mail.

That (s)he is over the age of _____ years.

Sworn to before me this
_____ day of _____, 20____

_____
(Deputy) Clerk of the Court
Notary Public

Affidavit of Substituted Service
STATE OF NEW YORK
COUNTY OF _____

_____, being duly sworn, deposes and says:

That (s)he is over the age of _____ years.

[That on the _____ day of _____, 20____ (s)he served the annexed _____ and the annexed order upon _____ as in said order directed, to wit, by leaving a copy of said _____ and said order at the residence of said _____ at _____, County of _____ State of New York, with one _____, to the best of the deponent's knowledge over _____ years of age, whom (s)he knew to be the _____ of said _____, and at the same time informing said _____ that they were for said _____.]

[redacted]

(Continued on Page 2)

[redacted]

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on June 24, 2014

Stacy Bn

(Deputy) Chief/Clerk of the Court

GF16 08/2010

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on June 16, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-00910-14

R[redacted] K[redacted]

Petitioner,

ORDER OF DISMISSAL

- against -

A[redacted] S[redacted] C[redacted] F[redacted]
N[redacted] K[redacted]

Respondent.

A petition under Article 6 of the Family Court Act, having been filed in this Court on May 29, 2014 for the following: Custody;

And the matter having duly come on to be heard before this Court and the following having appeared: R[redacted] K[redacted] N[redacted] Ko[redacted] A[redacted] S[redacted] C[redacted] F[redacted]

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to custody being awarded to J[redacted] K[redacted] under docket number V-01026-14; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: June 17, 2014

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 6/24/14
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] K[redacted] Petitioner
N[redacted] K[redacted] Respondent
A[redacted] S[redacted] C[redacted] F[redacted] Respondent

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

RECEIVED
JUN 16 2014
SULLIVAN COUNTY FAMILY COURT

16521

[redacted] Petitioner
Relationship to child:

Docket No. V-01027-14
PETITION
☐ CUSTODY ☑ VISITATION

-against-

[redacted] Respondent
Relationship to child:

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	Male	[redacted]	[redacted]	[redacted]

2. a. Petitioner [redacted] [check applicable box]: ☐ resides ☑ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

3. a. Respondent [redacted] [check applicable box]: ☑ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Grandfather
Mother

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: X
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
☒ An acknowledgment of paternity was signed on [specify date]: UPON CHILD'S BIRTH AT CRMC, HARRIS, NY [specify who signed and attach a true copy]:
❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

~~e.~~ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ☑ is ☐ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ☐ is ☑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ☐ Petitioner ☑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: [redacted] [redacted]

~~b. ☐ Petitioner ☐ Respondent obtained visitation with the child(ren) on [specify date]:~~
, ~~as follows:~~

13. It would be in the best interests of the child(ren) for Petitioner to have ☐ custody ☑ visitation for the following reasons [specify]: I have always visited the child before mother was incarcerated I am the childs father mother wrote me letter from orange county jail stating she would like for me to visit the child

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable

---

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

5 If litigation occurred in Native-American tribunal, so indicate.

box(es): ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]:** The subject child(ren) ❑ are ☑ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

PS is already involved

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]: neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

h. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ❑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: , 20____

[redacted]
Petitioner
[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
COUNTY OF Sullivan):ss:

[redacted] being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]
Petitioner

Sworn to before me this 16 day of June, 2014

(Deputy) Clerk of the Court
~~Notary Public~~

FCA §§ 467, 549, 651, 652,654, DRL §§75-l, 240[1].

General Form 17
(Petition-Custody, Visitation)
10/2012

10

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☐Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

FF# 16521

Petitioner J[redacted] K[redacted]
Relationship to child: GRAND PARENT

Docket No. V-01026-14
PETITION
☑ CUSTODY ☐ VISITATION

-against-

Respondent R[redacted] K[redacted] - grandmother M[redacted] K[redacted] A[redacted] F[redacted]
Relationship to child: MOTHER & FATHER

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

RECEIVED
JUN 16 2014
SULLIVAN COUNTY FAMILY COURT

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
E[redacted]	J[redacted]	F[redacted]	[redacted]	[redacted] GRAND FATHER And GRAND MOTHER

2. a. Petitioner, J[redacted] K[redacted] [check applicable box]: ☑ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: GRAND FATHER [redacted]

3. a. Respondent, R[redacted] K[redacted] M[redacted] K[redacted] [check applicable box]: ☐ resides ☑ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: MOTHER FATHER Grandmother [redacted]

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act*, Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (m/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
E[redacted] F[redacted]	[redacted]	M/A November 2013 To Present	J[redacted] K[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: A[redacted] F[redacted]

❑ The father was married to the child(ren)'s mother at the time of the conception or birth.

❑ An order of filiation was made on [specify date and court and attach true copy]:

☑ An acknowledgment of paternity was signed on [specify date]: upon CHILD by BIRTH AT [specify who signed and attach a true copy]: CRMC HARRIS NY

❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:
A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ☑ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: my Daughter [redacted] K[redacted] is in Jail. 3/28/14

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows: Till Now 2013 Then They move Back in in Jan 2014

Kid Lives with J[redacted] and R[redacted] K[redacted] from Birth

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ❑ visitation for the following reasons [specify]: my Daughter [redacted] K[redacted] is in Jail The baby has Asthma and needs medical Assistance The Father Doesn't have A Job or An Established home He is Violent and has Been in And out of The System CPS has Previously investigated him Nicole Koelpin Agree That The Baby stay With The Grand Parents

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**
a. An Order of Protection or Temporary Order of Protection was issued [check applicable

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.
5 If litigation occurred in Native-American tribunal, so indicate.

J[redacted] R[redacted] K[redacted]

box(es): ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]:** The subject child(ren) ❑ are ☑ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

N/A is ready Wolved

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

h. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: none

WHEREFORE, Petitioner requests an order awarding ☑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: June 16 , 2014

[redacted]
Petitioner

[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
:ss:
COUNTY OF Sullivan)

[redacted] being duly sworn, says that ~~(s)~~he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(~~her~~) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters ~~(s)~~he believes it to be true.

[redacted]
Petitioner

x [redacted]

Sworn to before me this 16th day of June , 2014

~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

In the Matter of a Proceeding under
Article 6 of the Family Court Act

R[redacted] K[redacted],
Petitioner,

FF# 16521

-against-

ORDER TO SHOW CAUSE

A[redacted] F[redacted],
N[redacted] K[redacted] Respondent(s).

----------x

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

Upon the petition(s) of R[redacted] K[redacted], verified the 29th day of May, 2014, annexed hereto, it is

ORDERED, that the above-named Respondent(s) show cause before the New York State Family Court, held in and for the County of Sullivan, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, before the Hon. Michael F. McGuire on the 16th day of June, 2014 at 9:30 in the (fore)(after)noon of that day or as soon thereafter as the parties can be heard, why an order should not be made granting Petitioner the relief sought in the attached petition(s) and why such other and further relief should not be granted as the Court may determine; and it is further

ORDERED, that _____

_____

_____;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child or the self represented parties; And the Court having considered and relied upon the results of these searches in making decision; and it is further

/ upon A[redacted] F[redacted]

ORDERED, that service by **PERSONAL SERVICE** of a copy of this Order together with the papers upon which it is granted upon above named Respondent(s) on or before the 9th day of June, 2014 be deemed sufficient service.

Dated: 5/29/14

ENTER

To Reir for p/s

HON. MICHAEL F. MCGUIRE
Acting Family Court Judge

FCA §§ 467, 549, 651, 652,65 DRL §§75-l, 240[1]

General Form 17
(Petition, Custody, Visitation)
10/2012

RECEIVED
MAY 29 2014
SULLIVAN COUNTY FAMILY COURT

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☒ Custody ☐ Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

Petitioner R[redacted] K[redacted]
Relationship to child: Grandmother

Docket No. V-0040-14
PETITION
☒ CUSTODY ☐ VISITATION

-against-

Respondent N[redacted] K[redacted] & A[redacted] F[redacted]
Relationship to child: Mother & Father

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
E[redacted] J[redacted] F[redacted]	Male	[redacted]	[redacted]	R[redacted] K[redacted]

2. a. Petitioner R[redacted] K[redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]
Mailing [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state] Grandmother

3. a. Respondent N[redacted] K[redacted] F[redacted] [check applicable box]: ☐ resides ☒ is located at [specify address or indicate if ordered to be confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state] mother father

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
E[redacted] F[redacted]	[redacted]	Mid November, 2013 to present.	[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: A[redacted] F[redacted]
❑ The father was married to the child(ren)'s mother at the time of the conception or birth.
❑ An order of filiation was made on [specify date and court and attach true copy]:
☒ An acknowledgment of paternity was signed on [specify date]: UPON CHILD'S BIRTH AT CRMC, Harris, NY by [specify who signed and attach a true copy]:
❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.
3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.
4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ☐ is ☑ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ☐ is ☑ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ☑ Petitioner ☐ Respondent obtained custody of the child(ren) on [specify date]:
CHILD LIVED WITH RESPONDENTS FROM BIRTH UNTIL NOV. 2013, AT WHICH TIME RESPONDENT NICOLE, LEFT HER SHARED RESIDENCE WITH A[redacted] AND MOVED BACK WITH PETITIONER
, as follows: x My daughter N[redacted] K[redacted] is in jail. 3/28/1

~~b. ☐ Petitioner ☐ Respondent obtained visitation with the child(ren) on [specify date]:~~
~~as follows:~~

13. It would be in the best interests of the child(ren) for Petitioner to have ☑ custody ☐ visitation for the following reasons [specify]: x My daughter N[redacted] K[redacted] is in jail, the baby has asthma and needs medical assistance. The father doesn't have a job, or an established home, he is violent and has been in and out of the system. CPS has previously investigated him. Nicole agrees the babys best interest is to remain with my husband & I.

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ☐ against Respondent ☐ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ☐ Order of Protection ☐ Temporary Order of Protection expired or will expire on [specify date]:

---

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are not parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ☐ are ☑ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ☐ has ☐ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ☐ has ☐ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ☐ child abuse or neglect ☐ destitute child ☐ permanency proceeding ☐ has ☐ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: None

WHEREFORE, Petitioner requests an order awarding ☑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: May 29, , 2014

R[redacted] K[redacted]
Petitioner

R[redacted] K[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan)

R[redacted] K[redacted] being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to ~~(his)~~(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

xR[redacted] K[redacted]
Petitioner

Sworn to before me this
29th day of May , 2014

(~~Deputy~~) Clerk of the Court
~~Notary Public~~

TEMPORARY CUSTODY AGREEMENT

I, N[redacted] K[redacted] [redacted], the custodial parent of the following child(ren):

(Please give full names and date of birth)

E[redacted] S[redacted] F[redacted] [redacted]

do hereby give temporary custody to (name and relationship to the children) R[redacted] K[redacted] – Grandma & S[redacted] K[redacted] – Grandpa.

I currently reside at _____ and

Mr./Mrs. K[redacted] currently resides at [redacted]

I further give my permission for Mr./Mrs. K[redacted] to care for the children in [redacted] his/her home and to apply for, consent to, or otherwise obtain any medical treatment or any economical, social, educational, or other services that the children may need.

(Sign in front of a Notary Public)

Date	Signature
05-27-14	R[redacted] K[redacted]
Date	Signature

Taken, subscribed and sworn to before the undersigned authority this 27 day of ~~05-12~~ 5-27, 2014.

My commission expires 11/24/14.

Vincent J. Czubak
Notary Public

VINCENT J. CZUBAK
Notary Public, State of New York
No. 01CZ6102072
Qualified in Sullivan County
Commission Expires November 24, 2016

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 2/20, 20 14
Christine Elson
(Deputy) Chief/Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on February 20, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-00161-14

N[redacted] K[redacted]

Petitioner,

- against -

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on January 30, 2014 for the following: Custody;

And the matter having duly come on to be heard before this Court and the following having appeared: A[redacted] S[redacted] C[redacted] F[redacted]

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to failure of Petitioner to appear; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: February 20, 2014

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 2/28/14
☐ Order received in court on [specify date(s) and to whom given]:

CC: A[redacted] S[redacted] C[redacted] F[redacted] Respondent
N[redacted] K[redacted] Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

6

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-00161-14

N[redacted] K[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]

N[redacted] K[redacted]
[redacted]

Upon the petition of N[redacted] K[redacted] filed on January 30, 2014, annexed hereto, it is

ORDERED that A[redacted] S[redacted] C[redacted] F[redacted] show cause before this Court on

Date/Time: February 20, 2014 at 2:00 PM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon A[redacted] S[redacted] C[redacted] F[redacted] on or before February 15, 2014, be deemed sufficient service

Dated: February 3, 2014

ENTER

Hon. Michael F. McGuire

7/6 Sent for Sig

FCA §§ 467, 549, 651, 652,654; DRL §§75-I, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In The Matter of a Proceeding for
☒ Custody ☐ Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

Petitioner N[redacted] K[redacted]
Relationship to child: Mother

Docket No. V-161-14
PETITION
☒ CUSTODY ☐ VISITATION

-against-

Respondent [redacted]
Relationship to child: Father

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	Male	[redacted]	[redacted]	N[redacted] K[redacted]

2. a. Petitioner, N[redacted] K[redacted], [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

3. a. Respondent, [redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Father

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act*, Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
E[redacted] F[redacted] [redacted]	[redacted]	Mid November till present	N[redacted] K[redacted]	[redacted]
	[redacted]	Birth to Mid November	N[redacted] K[redacted] A[redacted] F[redacted]	

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: N[redacted] F[redacted]

❑ The father was married to the child(ren)'s mother at the time of the conception or birth.

❑ An order of filiation was made on [specify date and court and attach true copy]:

☒ An acknowledgment of paternity was signed on [specify date]: by [specify who signed and attach a true copy]: Upon Birth At CRMC, Harris NY

❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

---

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ❑ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]: [redacted]
, as follows: lived with both of us from birth to the mid Novemb then me & [redacted] moved with my mom cause of family issue

b. ❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:
, as follows:

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ❑ visitation for the following reasons [specify]: He told me to get full custody, he just wanted visitation rights.

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

---

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are <u>not</u> parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ❑ are ☑ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a <u>child abuse, child neglect or destitute child petition and/or a permanency hearing report</u> has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except: Yes, but dismissed.

WHEREFORE, Petitioner requests an order awarding ❑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: January 30, , 20 14

[redacted]
Petitioner

[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF)

[redacted] being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (~~his~~)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

[redacted]
Petitioner

Sworn to before me this
30th day of January , 20 14

(Deputy) Clerk of the Court
~~Notary Public~~

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on Jan 16, 2014

Christine A. Benson

(Deputy) Chief/Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on January 13, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-02201-13

N[redacted] K[redacted]

Petitioner,

- against -

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

ORDER OF DISMISSAL

A petition under Article 6 of the Family Court Act, having been filed in this Court on December 5, 2013 for the following: Custody;

And the matter having duly come on to be heard before this Court and the following having appeared: A[redacted] S[redacted] C[redacted] F[redacted]

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to failure of Petitioner to appear; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: January 15, 2014

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 1/16/14 CCs
☐ Order received in court on [specify date(s) and to whom given]:

CC: A[redacted] S[redacted] C[redacted] F[redacted] Respondent, N[redacted] K[redacted] Petitioner

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Custody/Visitation** Proceeding

File #: 16521
Docket #: V-02201-13

N[redacted] K[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

A[redacted] S[redacted] C[redacted] F[redacted]

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: A[redacted] S[redacted] C[redacted] F[redacted]
[redacted]
[redacted]

N[redacted] K[redacted]
[redacted]
[redacted]

Upon the petition of N[redacted] K[redacted] filed on December 5, 2013, annexed hereto, it is

ORDERED that A[redacted] S[redacted] C[redacted] F[redacted] show cause before this Court on

Date/Time: January 13, 2014 at 10:00 AM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon A[redacted] S[redacted] C[redacted] F[redacted] on or before January 3, 2014, be deemed sufficient service

Dated: December 6, 2013

ENTER

12/10 Sent for Fax

Hon. Michael F. McGuire

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

1/13
10:6

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

16521
V-2201-13

In The Matter of a Proceeding for
☒ Custody ☐ Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

RECEIVED

Petitioner N[redacted] K[redacted]
Relationship to child: Mother

Docket No. 5 [illegible]3
PETITION
☒ CUSTODY ☐ VISITATION

-against-

Respondent A[redacted] F[redacted]
Relationship to child: Father.

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
[redacted]	Male	[redacted]	[redacted]	N[redacted] K[redacted]

2. a. Petitioner N[redacted] K[redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child, if foster parent, agency, institution or other relationship, so state]: mother

3. a. Respondent A[redacted] f[redacted] [check applicable box]: ☐ resides ☐ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Respondent is [specify relationship to child, if foster parent, agency, institution or other relationship, so state]: Father

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act*, Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
[redacted]	[redacted]	mid November to present	[redacted]	[redacted]
		birth to mid November	[redacted]	

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ☐ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

☐ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ☐ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

☐ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ☐ custody ☐ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: [redacted]
☐ The father was married to the child(ren)'s mother at the time of the conception or birth.
☐ An order of filiation was made on [specify date and court and attach true copy]:
☒ An acknowledgment of paternity was signed on [specify date]: UPON BIRTH AT CRMC, by [specify who signed and attach a true copy]: Harris, NY
☐ The father is deceased.

b. ☐ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ☐ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.
3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.
4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ❑ party ❑ witness ❑ other capacity [specify]: in other litigation concerning the custody of the same children in ❑ New York State ❑ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ❑ is ☒ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ❑ Petitioner ❑ Respondent obtained custody of the child(ren) on [specify date]:
, as follows: X baby lived with both us from birth to the mid November then me and baby left cause of family issue

b. ~~❑ Petitioner ❑ Respondent obtained visitation with the child(ren) on [specify date]:~~
~~, as follows:~~

13. It would be in the best interests of the child(ren) for Petitioner to have ❑ custody ❑ visitation for the following reasons [specify]: X
He told me to get full custody he just want visitations.

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ❑ against Respondent ❑ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ❑ Order of Protection ❑ Temporary Order of Protection expired or will expire on [specify date]:

---

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act~~ §655 because ~~[specify].~~

15. **[Applicable where one or more parties are not parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ☐ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ☐ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ☐ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ☐ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ☐ has ☐ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ☐ has ☐ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ☐ has/have ☐ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ☐ child abuse or neglect ☐ destitute child ☐ permanency proceeding ☐ has ☐ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ❑ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: December 4, , 2013

X [redacted]
Petitioner

X [redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan)

being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

X [redacted]
Petitioner

Sworn to before me this
4th day of December , 2013

(Deputy) Clerk of the Court
Notary Public

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 9, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

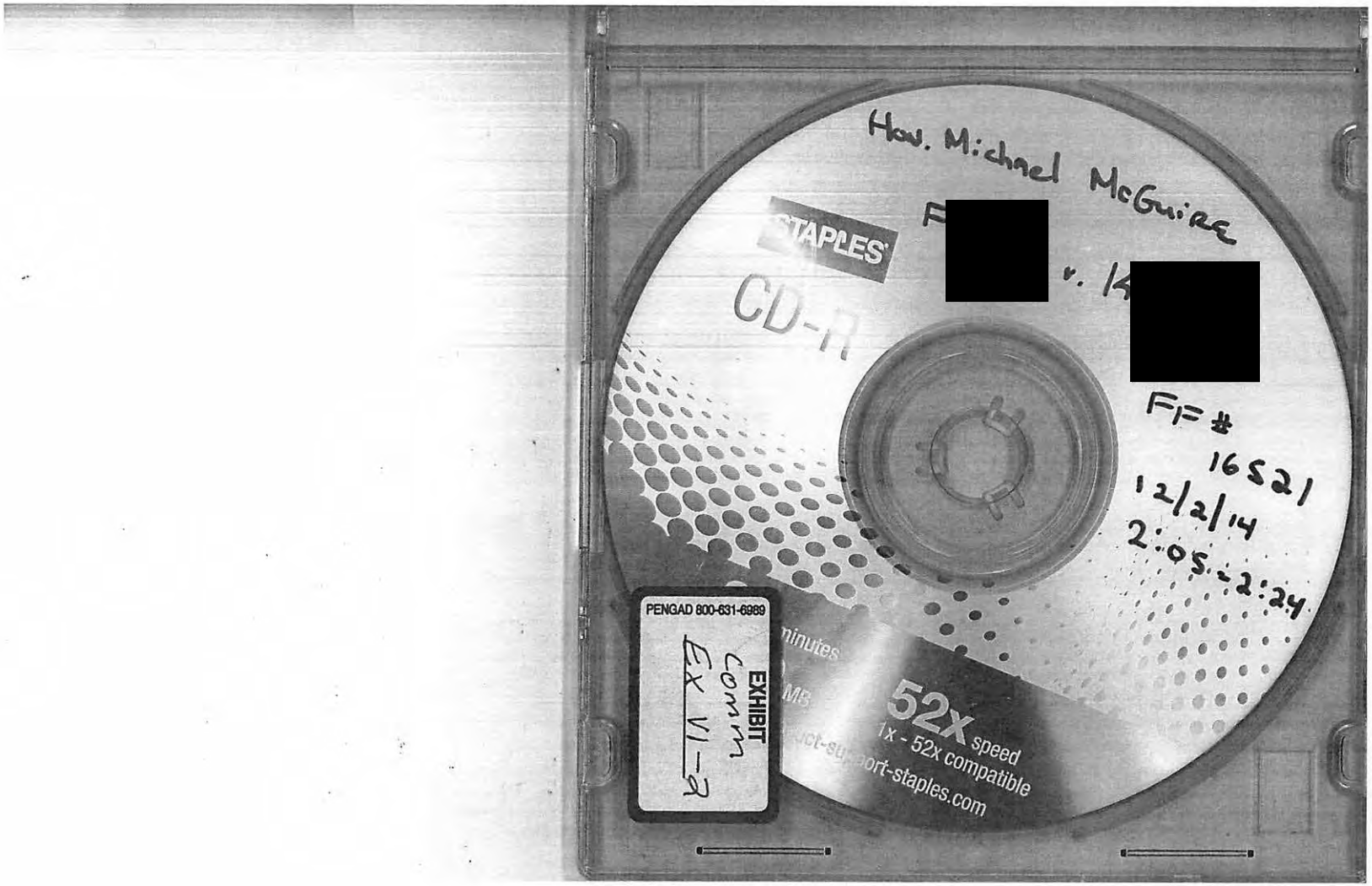
A[redacted] F[redacted] v. J[redacted] K[redacted] and N[redacted] K[redacted]
Family File # 16521
Date of recording - December 2, 2014
2:05 - 2:24

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
COMM
Ex VI-2


Hon. Michael McGuire
F[redacted] v. 1[redacted]
FF # 16521
12/2/14
2:05-2:24
STAPLES
CD-R
52x speed
1x - 52x compatible
PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-2

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

F[redacted] v. K[redacted] and K[redacted]

December 2, 2014
2:05 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-2a

1 JUDGE MCGUIRE: Ms. Rawich, good afternoon.
2 MS. RAWICH: Good afternoon.
3 JUDGE MCGUIRE: Mr. Garn, good afternoon.
4 MR. GARN: Good afternoon, Judge.
5 JUDGE MCGUIRE: Mr. Ferrara's been here with
6 me, so we're all set there. You can be seated.
7 MR. K[redacted] Yes, sir.
8 JUDGE MCGUIRE: Thank you. All right. This is
9 case 17 through 22 on the docket, the *Matters of F*[redacted] *v.*
10 *K*[redacted] *and K*[redacted] Can I have everyone's name and
11 appearance, please?
12 MR. FERRARA: Your name, A[redacted]
13 MR. F[redacted] A[redacted] F[redacted]
14 MR. FERRARA: Ferrara and Sullivan, John Ferrara
15 for A[redacted] F[redacted]
16 MR. GARN: Say your name.
17 MS. K[redacted] Oh. N[redacted] K[redacted]
18 MR. GARN: K.C. Garn on behalf the respondent,
19 N[redacted] K[redacted]
20 MR. K[redacted] J[redacted] K[redacted] the grandfather.
21 MRS. KO[redacted] R[redacted] K[redacted] the grandmother.
22 MS. RAWICH: Isabelle Rawich, attorney for the
23 child.
24 MS. M. F[redacted] M[redacted] F[redacted]
25 MS. K. F[redacted] K[redacted] F[redacted]

1 JUDGE MCGUIRE: You're the aunts?
2 MS. K. F[redacted] Yes.
3 MS. M. F[redacted] Yeah, the aunts.
4 JUDGE MCGUIRE: Okay. All right. I have a new
5 petition that was filed by Mr. F[redacted] seeking a violation. It
6 alleges that he was denied his access to the child on
7 November 23rd and 24th. Mr. Garn, does your client
8 acknowledge receipt of that?
9 MR. GARN: Yes, Judge.
10 JUDGE MCGUIRE: And Mr. K[redacted] do you
11 knowledge receipt on that?
12 MR. K[redacted]: I never got the papers, sir.
13 JUDGE MCGUIRE: Was the grandfather served?
14 MR. F[redacted] No.
15 JUDGE MCGUIRE: Why is that?
16 MR. F[redacted] Because the grandfather was unable
17 to be contacted.
18 JUDGE MCGUIRE: Okay. Do you have the papers
19 to serve on the grandfather now?
20 MR. F[redacted] Yeah.
21 JUDGE MCGUIRE: All right. Mr. K[redacted] you
22 want to accept service in court here--
23 MR. K[redacted] Sure.
24 JUDGE MCGUIRE: --Or you want to be bothered at
25 home?

1 MR. K[redacted] No, I'll take it right now, sir.
2 JUDGE MCGUIRE: Perfect, okay.
3 MR. K[redacted] Thank you.
4 JUDGE MCGUIRE: Okay. So, all parties have
5 been served in this matter. Mr. K[redacted] I remind you again
6 that you do have the right to be represented by an attorney
7 at every stage of these proceedings. If you wish to retain an
8 attorney, you just let me know that, okay?
9 MR. K[redacted] Sir, I can't afford one. I'm not
10 working. So--
11 JUDGE MCGUIRE: Okay. Well, the law does not
12 afford me the authority to assign one for you.
13 MR. K[redacted] Okay.
14 JUDGE MCGUIRE: So, I will note now that you're
15 waiving counsel, okay?
16 MR. K[redacted] Yes, sir.
17 JUDGE MCGUIRE: All right. When we were here
18 last, I did set a temporary order that there was to be
19 parenting time to Mr. F[redacted] on his days off each week,
20 from 9 to 7. The grandfather was going to drop the child
21 off in Middletown, and the aunts were going to return the
22 child at the end of the visit. Now, I do not want to talk
23 about November 23rd and 24th, I'll deal with that separately.
24 But for those days, and noting that we were in court, I set
25 that order back on November 3rd, Mr. Ferrara, how has the

1 visits gone?

2 MR. FERRARA: Well, not really well. On, I think,
3 the 23rd and 24th are more of the same. I got a call from my
4 client on the 14th of November that he wanted to exercise
5 parenting time, it was his day under the schedule, and he
6 was told that he couldn't have the child because the child
7 was sick. Okay, that's sounds reasonable on its face. So,
8 my client followed up and spoke to the doctor, and the
9 doctor said-- you know, obviously, I'm taking this from my
10 client, I didn't speak to the doctor, the doctor said that there
11 was no reason why he couldn't go with my client. He could
12 take care of him in one house versus another house. You
13 know, from our perspective, he's got very limited time, and
14 it would've been nice to come back here and say it all went
15 smoothly, and then we could figure out a schedule from
16 there, and-- and maybe even a schedule that everybody
17 could live with. But, you know, we're talking about a
18 limited number of visits that would have happened. And
19 while you don't want to talk about the 23rd and 24th first,
20 I--

21 JUDGE MCGUIRE: Well, not that I don't want to
22 talk about it. I want to sep-- leave that separate.

23 MR. FERRARA: Yeah. The batting average here is
24 pretty-- pretty poor.

25 JUDGE MCGUIRE: Okay. Have there been days

1 when he has had visits? Let's-- let's go to that--
2 MR. FERRARA: The-- the day that we were in
3 court, he had a visit that went smoothly.
4 JUDGE MCGUIRE: Well, that was directed
5 immediately.
6 MR. FERRARA: But-- and it went very smoothly.
7 It was a good visit all around.
8 JUDGE MCGUIRE: The mom was going to go and
9 help out--
10 MR. FERRARA: And everything--
11 JUDGE MCGUIRE: --You know, just to get
12 everybody--
13 MR. FERRARA: --Everything that was-- we were
14 led to believe in court happened. It was good.
15 JUDGE MCGUIRE: Okay.
16 MR. FERRARA: I-- I don't--
17 JUDGE MCGUIRE: And that's the only visit he's
18 had?
19 MR. FERRARA: No, I think he's had others, but I
20 don't know the details of the others, unfortunately.
21 (Discussion between Mr. F[redacted] and Mr. Ferrara)
22 MR. FERRARA: Okay. All right. So, what I'm
23 told just now, and-- and I mean, I've been told this bits and
24 pieces, so I apologize--
25 JUDGE MCGUIRE: Okay.

1 MR. FERRARA: --Is that there was a struggle in
2 getting the child the next day, but the visit did happen. The
3 struggle being there was some resistance to it, but after a
4 few phone calls, the resistance broke down. The weekend
5 the week after, the visits didn't happen, so, you know, it's--
6 it's not been good.
7 JUDGE MCGUIRE: Now, your client is working
8 where?
9 MR. FERRARA: In--
10 MR. F[redacted] I work at [redacted]
11 JUDGE MCGUIRE: At [redacted]?
12 MR. FERERRA: Right. And we worked around his
13 schedule.
14 JUDGE MCGUIRE: We-- right, we have a-- he has
15 a three-week rotation-- [redacted] in Wallkill?
16 MR. F[redacted] No--
17 JUDGE MCGUIRE: --Or in Monticello?
18 MR. F[redacted] Middletown.
19 JUDGE MCGUIRE: That's Wallkill.
20 MR. F[redacted] Oh, yes.
21 JUDGE MCGUIRE: Town of Wallkill?
22 MR. F[redacted] Yes.
23 JUDGE MCGUIRE: Okay. All right. Mr. Garn,
24 why have we had so much trouble? Seems like two days
25 off a week that seems to be easy enough to follow. What's

1 been the problems?

2 MR. GARN: Well, I-- I think that the grandfather is

3 in the best position to explain. He was the one that was

4 explaining it to me outside of the courtroom. And I think

5 it's he that--

6 JUDGE MCGUIRE: Okay.

7 MR. GARN: --Manages the parenting time and

8 keeps track of it.

9 JUDGE MCGUIRE: Okay. So, Mr. K[redacted] what's

10 the problem here?

11 MR. K[redacted] Okay. So, where would you like

12 me to begin? From ...?

13 JUDGE MCGUIRE: The beginning is a good place.

14 MR. K[redacted] Okay. So, he had him the first

15 weekend after you set goals for us to leave the baby and my

16 daughter go with him that day, his next two days off he did

17 have the baby, but he got the baby late because the baby

18 was sick. I was contemplating on sending the baby, but my

19 daughter and my wife told me, "Send the baby." I send the

20 baby. Later on that night, my daughter's getting texts and

21 before I sent him, I told him, "Don't take the baby out.

22 He's sick." Okay. He went, took the baby to his father's

23 house--

24 JUDGE MCGUIRE: What was she getting from

25 Texas?

1 MR. K[redacted] She was -- he was texting her on
2 the phone, telling her polite--
3 JUDGE MCGUIRE: Oh, "texting"?
4 MR. K[redacted] Right. So--
5 JUDGE MCGUIRE: I thought she was getting
6 something from Texas.
7 MR. K[redacted] No, no. So, he ended up--
8 JUDGE MCGUIRE: Because there's a lot of things
9 going on in Texas right now.
10 MR. K[redacted] True, there is. So, he ended up
11 taking the baby to his father's house. Then after that, he
12 took the baby to Chuck E. Cheese, 10:30 at night, he's
13 texting my daughter, telling her they're at Chuck E. Cheese.
14 Meanwhile, the baby is sick. So now the following week, I
15 got the baby, he-- the baby never went out of my house
16 since he's home sick, never go out, he was still sick. The
17 day before, I took him to the doctor--
18 JUDGE MCGUIRE: The baby was homesick?
19 MR. K[redacted] Yeah, he was home, in my house,
20 sick.
21 JUDGE MCGUIRE: Oh, he was at home, and he
22 was sick?
23 MR. K[redacted] He-- yeah, right. He was still sick
24 when he came back from the father.
25 JUDGE MCGUIRE: Okay.

1 MR. K[redacted]: So, the day before he had to go the
2 father again, I took him to Dr. [redacted] I told Dr. [redacted] the
3 situation, what he did the week before with the baby being
4 sick. He said, "Don't let the baby go." He gave me a
5 paper, but he did not state not to let the baby go, okay? But
6 he did say it in front of us three in the doctor's office.
7 JUDGE MCGUIRE: Okay.
8 MR. K[redacted] So, I never sent the baby.
9 JUDGE MCGUIRE: Okay.
10 MR. K[redacted] The week after that, he had him
11 Wednesday and Thursday, both days. Then he calls me and
12 tells my daughter he's off Sunday and Monday. I said, "No,
13 you're not getting the baby Sunday. You can have him
14 Monday. The week starts on a Monday, the judge said two
15 days a week, you had him your two days." All right? So, I
16 never sent him Sunday. He texted my daughter and told my
17 daughter he was coming Monday to pick him up. He never
18 came to pick him up, okay? Now, the following week after
19 that, just now, he just had the baby again Sunday and
20 Monday again because he had Sunday and Monday off.
21 And I still never received a copy of the schedule--
22 JUDGE MCGUIRE: You just--
23 MR. K[redacted] -- And besides that--
24 JUDGE MCGUIRE: Okay.
25 MR. K[redacted] -- He served my daughter paternity

1 papers while she was in jail because he's not even 100
2 percent sure he's the father. So, I don't even know why
3 we're going through this whole mess until we find out if
4 he's the father or not. And besides that, when me and my
5 daughter dropped him off last week, with her girlfriend in
6 the car, she passed the baby to him, he looked at me, put his
7 arms out and started crying. It killed me to walk away and
8 leave my grandson there crying while he was in his hands.
9 He's up at 1:30 in the morning, texting my daughter, "Oh,
10 E[redacted] still up."
11 MS. K[redacted] So? Don't do that.
12 MR. K[redacted] My grandson, for 13 months, he
13 has a schedule. He takes his nap between 1 and 3:00 in the
14 afternoon. He's in bed between 8:30 and 9:30. That's the
15 schedule he's been following for 13 months because for 13
16 months, he didn't care. Never bought a pack of diapers,
17 never bought anything, never sent him a Christmas card.
18 He bought one pack of diapers when he served me, when he
19 had his aunt serve me. That's the only time he conned me
20 to come get a pack of diapers. For 13 months, he never did
21 a thing. No milk, no formula, no diapers, no nothing--
22 MRS. K[redacted] Joe--
23 MR. K[redacted] And me and my wife is not
24 working, and we're trying to make ends meet and make sure
25 our grandson is fine. And now he wants to come back in

1 his life after-- besides my daughter locked up for seven
2 months? Ain't nobody love that kid better than us, nobody,
3 because there's not one person on his side of the family that
4 gave a damn, because none of them ever called. And even
5 grandmother, his grandmother, says the baby belongs with
6 us, not with them, and she was willing to come to court, but
7 we never got her to come to court. I have everything
8 written down, too. My concern is for my grandson, my
9 grandson only. Ain't nobody going to care about him but
10 me and my wife. My wife 90 percent of the time is the one
11 that takes care of him. That's the God's honest truth. I help
12 out a lot, but she's the one that bathes him, feed him. I
13 change his diapers, I give him juice, I-- you know, I play
14 with him in the living room. He's got all his stuff in the
15 living room. That's his house, his room, everything is his, a
16 four-in-one crib, a thousand clothes in the-- every-- he's
17 fine, he's fine. And now everything is getting disrupted
18 after 13 months. I understand he may be the father, he may
19 not be the father. If it is, fine. Do the right thing. He
20 hasn't paid nothing, hasn't offered nothing (unintelligible)
21 nothing, nothing at all.
22 JUDGE MCGUIRE: Do you-- Mr. Garn, does your
23 client doubt that he's the father?
24 MR. GARN: She doesn't have any doubt.
25 MR. K[redacted] There's another kid that she was

1 messing around with that told us that him and her were
2 having sex, and he feels he dropped a little in her, and he's
3 not sure.
4 JUDGE MCGUIRE: He did what?
5 MR. K[redacted] That he thinks he-- he ejaculated a
6 little bit inside her.
7 MRS. K[redacted] Now, Joe--
8 MS. K[redacted] Listen, you guys feel like he's not
9 the father.
10 MR. K[redacted] Yes.
11 MS. K[redacted] Please, because I'm-- I'm getting--
12 I'm up here right now.
13 MR. K[redacted] Okay.
14 MS. K[redacted] I'm up here.
15 JUDGE MCGUIRE: Okay. Did we get an
16 acknowledgement of paternity? Do we have his name on
17 the birth certificate? What do we have?
18 MS. K[redacted] Yes, his name is on the birth
19 certificate. His last name is F[redacted]
20 MR. K[redacted] But he's the one that asked for a
21 paternity test. He's the one that served you when you were
22 in jail.
23 JUDGE MCGUIRE: Is-- Mr. Ferrara-- is your client
24 disputing paternity now? I mean, I-- I don't want to
25 compromise any other cases that he may have going on, but

1 I kind of need to know what his position is. I mean, subject
2 to any scientific proof, I don't know would be into a
3 collateral estoppel issue, yet.
4 (Discussion between Mr. Ferrara and Mr. F[redacted]
5 MR. FERRARA: Judge, my client is prepared to
6 withdraw his paternity application. He-- he understands
7 he's the father. He was told something, but he doesn't
8 really believe it.
9 JUDGE MCGUIRE: Okay. And let me just go to
10 the aunts very, very quickly. And if you don't want to
11 answer the question, that's fine. Do either or both of you
12 work outside the home? I know there's two other children
13 in the home. Are you home during the day? Do you work?
14 MS. K. F[redacted] I work, and she works, but we
15 work two different schedules.
16 JUDGE MCGUIRE: Two different schedules?
17 MS. K. F[redacted] Mm-hmm.
18 JUDGE MCGUIRE: So, there's always one adult in
19 the home?
20 MS. K. F[redacted] Yes.
21 JUDGE MCGUIRE: At all times?
22 MS. K. F[redacted] Yeah, certainly.
23 JUDGE MCGUIRE: All right. Okay.
24 MS. K. F[redacted] Can I just make a statement?
25 MR. K[redacted] Sir, that's not true because he text

1 my daughter and told my daughter that she had to call one
2 of them to come home and pick him and the baby up
3 because they weren't-- neither one of them were home.
4 JUDGE MCGUIRE: Well, one of them might have
5 been out shopping or something.
6 MR. K[redacted] Well, I'm--
7 MR. F[redacted] Yeah, that's what she was doing.
8 JUDGE MCGUIRE: Might have been out to the
9 grocery store, to Shoprite or something. That's okay.
10 MS. M. F[redacted] Can I ask you a question? I--
11 JUDGE MCGUIRE: Yeah, go ahead.
12 MS. M. F[redacted] --I didn't think that it was
13 supervised--
14 JUDGE MCGUIRE: It's not--
15 MS. M. F[redacted] --I mean, because they-- they told
16 us that--
17 JUDGE MCGUIRE: --It's not. I'm just trying to
18 establish where we're at. That's all. That's-- I'm just
19 trying to establish where we're at. That's all.
20 MR. K[redacted] In the beginning, it was supposed
21 to be supervised, before he lived with his aunt, because we
22 --I have the document showing that it's supervised
23 visitations. But then you turned to statue and told him that
24 he can bring-- we could bring the baby--
25 JUDGE MCGUIRE: I turned what?

1 MR. K[redacted] Well--
2 MRS. K[redacted] It changes.
3 MR. K[redacted] --You changed the schedule of what
4 it was on paper that he was supposed to have supervised
5 visitation from the last time we were in here four months
6 ago, remember?
7 JUDGE MCGUIRE: Right, yeah.
8 MR. K[redacted] We wrote it all up. He was
9 supposed to have supervised visitation--
10 JUDGE MCGUIRE: That's right--
11 MR. K[redacted] --And then all of sudden--
12 JUDGE MCGUIRE: --June 16th--
13 MR. K[redacted] --It was okay to send him. And
14 they still-- you know, nobody checked my house or their
15 house to make sure. Because he even told you the baby'll
16 sleep in the bed with him, that he had no crib. He doesn't
17 even have a car seat. We got to leave a car seat every time.
18 And then he's working.
19 JUDGE MCGUIRE: I was told by the father last
20 time that he had a crib for the child, and he had everything
21 that they needed for the child.
22 MR. F[redacted] Yes, and I do.
23 MR. FERRARA: And if you recall, Your Honor, the
24 mother was welcomed into the house--
25 JUDGE MCGUIRE: To come through.

1 MR. FERRARA: --So, she had-- so, in terms of
2 nobody checked, the person--
3 JUDGE MCGUIRE: Yeah--
4 MR. FERRARA: --Best qualified to check checked.
5 JUDGE MCGUIRE: Yeah, because I did ask that
6 question because I did-- I was able to look back at my notes
7 from the 16th of June, and the issues there was that there had
8 been-- the father didn't have stable housing at that point.
9 There were was an issue with his housing. Now, he's living
10 with--
11 MR. F[redacted] My aunt.
12 JUDGE MCGUIRE: --With-- your aunt, or is one of
13 the aunts your sister?
14 MR. F[redacted] All right--
15 MS. M. F[redacted] I'm his blood aunt.
16 MR. F[redacted] -- M[redacted] is my-- is my blood aunt.
17 MS. M. F[redacted] --But she's married into. That's
18 my wife legally.
19 JUDGE MCGUIRE: Oh, good. That's fine.
20 MS. M. F[redacted] So, we're both--
21 JUDGE MCGUIRE: -- That's fine. I get it--
22 MS. M. F[redacted] --His aunts, but I'm his--
23 JUDGE MCGUIRE: --I just-- I understand.
24 MS. M. F[redacted] But before, when I found
25 A[redacted] I took him from off the street--

1 JUDGE MCGUIRE: You're his blood aunt, so
2 you're his mother's sister?
3 MR. F[redacted] No, my father's sister.
4 JUDGE MCGUIRE: Your father's sister?
5 MS. M. F[redacted] Yes.
6 JUDGE MCGUIRE: Got it.
7 MS. M. F[redacted] Blood.
8 JUDGE MCGUIRE: Okay. That's fine. Great,
9 perfect. All right. Ms. Rawich?
10 MS. RAWICH: Yes, sir.
11 JUDGE MCGUIRE: Have you seen E[redacted]
12 MS. RAWICH: I saw the baby today.
13 JUDGE MCGUIRE: Okay.
14 MS. RAWICH: I saw him today. He's a healthy,
15 happy little boy, was very responsive, very alert, and he
16 looks very well. What more can I say? He's very young.
17 Of course, I couldn't speak with him.
18 JUDGE MCGUIRE: Okay. So, he's here?
19 MR. K[redacted] He's in babysitting.
20 MRS. K[redacted] Daycare.
21 MR. K[redacted] He's fine.
22 JUDGE MCGURE: Perfect, okay. I'm going to
23 enter general denials on behalf of all parties to the father's
24 new petition, and I'm going to need a trial date. January
25 15th?

1 COURT CLERK: January 15th, at 2 P.M. January
2 15th.
3 MR. K[redacted] Sir--
4 JUDGE MCGUIRE: Oh, no, 2 P.M.'s no good to
5 start a trial. We got to start trial either at 9--
6 COURT CLERK: Okay.
7 JUDGE MCGUIRE: At 9? Okay. We'll put this on
8 at 9, also.
9 COURT CLERK: Okay. So, 9 A.M, on Thursday,
10 January 15th.
11 JUDGE MCGUIRE: That work for everyone?
12 MR. F[redacted] May--
13 MR. K[redacted] Your Honor, may I ask a question?
14 JUDGE MCGUIRE: Sure.
15 MR. K[redacted] Is there any way, like, as far as me
16 delivering the baby, is there any way that I cannot do that or
17 am I forced?
18 JUDGE MCGUIRE: Yeah, I'm going to take care of
19 that right now.
20 MR. K[redacted] Thank you, sir.
21 JUDGE MCGUIRE: Okay--
22 MR. K[redacted] --Because it's--
23 JUDGE MCGUIRE: --I want the child turned over
24 to the father today. The father will have temporary custody
25 of the child pending trial.

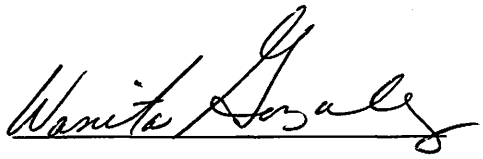
1 MRS. K[redacted] Are you kidding me?
2 MR. K[redacted] How could-- what about all these
3 documents about him abusing-- abuse, beating her up?
4 UNKNOWN FEMALE: No, that's because of you--
5 MR. K[redacted] --And everything else?
6 UNKNOWN FEMALE: That's because of you.
7 MR. K[redacted] How's it because of me? He-- I
8 have documents from Sullivan County, sir, that he left the
9 dog in the bathroom, that he beat her up and everything.
10 How are you going to turn the baby over?
11 JUDGE MCGUIRE: See you January 15th. Turn the
12 child over to the father right now.
13 MR. K[redacted] How are you going to turn the baby
14 over to him right now, sir? Look at the paperwork.
15 JUDGE MCGUIRE: Turn the child over to the
16 father right now.
17 MR. K[redacted] Oh, my God.
18 MRS. K[redacted] If anything happens to my son--
19 my grandson, Your Honor, I will sue the county, and I will
20 sue you.
21 MR. K[redacted] That's for sure.
22 JUDGE MCGUIRE: Take her into custody. You
23 want to threaten the judge? Take her into custody.
24 MRS. K[redacted]: I'm just-- I'm not threatening
25 you.

1 JUDGE MCGUIRE: Take her into custody. You
2 want to threaten the judge? Take her into custody.
3 MR. K[redacted]: Sir, is there anything you can do
4 with this, about the-- the threats that he did to her?
5 MRS. K[redacted] Take a look, the abuse, what he
6 did. He kicked her--
7 JUDGE MCGUIRE: Get her out of here.
8 MRS. K[redacted] --He kicked--
9 JUDGE MCGUIRE: Get her out of here.
10 MR. K[redacted] Ma'am, Ma'am?
11 MRS. K[redacted] Pray God, pray God, my
12 grandson's life.
13 (SOUND OF HANDCUFFS)
14 MR. K[redacted] Ma'am?
15 MRS. K[redacted]: You're not God, Your Honor.
16 MR. K[redacted] Ma'am, is there anything you can
17 do with her?
18 MRS. K[redacted] You-- you know the law, you're
19 not God.
20 MR. K[redacted] Sir, please, sir. Come on, sir.
21 JUDGE MCGUIRE: Goodbye.
22 MR. K[redacted] For real, sir, he has documents of
23 abusing my daughter while she was pregnant. I have them
24 right here, sir. Sir, please don't do that, sir. Please don't.
25 JUDGE MCGUIRE: Next case.

1 MR. K[redacted] Put him somewhere else if you
2 have to.
3 JUDGE MCGUIRE: Get him out.
4 MR. K[redacted] Please, sir.
5 COURT OFFICER: Parties step out.
6 MR. K[redacted] Sir. Wow, wow.
7 ** *
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 2, 2014.
7
8
9 Dated: September 18, 2018



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 9, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

A[redacted] F[redacted] v. J[redacted] K[redacted] and N[redacted] K[redacted]
Family File # 16521
Date of recording - December 2, 2014
3:30 - 3:32

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-3

STAPLES
CD-R
52X speed
1x - 52x compatible
80 minutes
700 MB
www.product-support-staples.com
PEN/GAD 800-631-6989
EXHIBIT
Comm
EX VI-3

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

F[redacted] v. K[redacted] and K[redacted]

December 2, 2014
3:30 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-3a

1 COURT OFFICER: All rise.
2 JUDGE MCGUIRE: You can be seated.
3 MR. K[redacted] Thank you.
4 JUDGE MCGUIRE: All right. Ms. K[redacted] you
5 have an attorney you want to-- to represent you?
6 MRS. K[redacted] I got Steve Veg-- Steve--
7 JUDGE MCGUIRE: You called Mr. Vegliante?
8 MRS. K[redacted] Yeah, but--
9 JUDGE MCGUIRE: I don't know that he's
10 practicing right now. I think he's working for the Resnicks.
11 MRS. K[redacted] He's more real est-- yeah, he
12 works for the Resnicks, he worked for Butch, but he's more
13 a real estate person, anyway.
14 JUDGE MCGUIRE: Well, no, Mr. Vegliante
15 practiced quite extensively in the areas of criminal law, in
16 the areas of family law, but this is a-- this is a judicial
17 contempt proceeding. It's called a summary proceeding. If
18 I say that you disrupted the proceedings, I can put you in jail
19 for 30 days and that's it.
20 MR. K[redacted] Please don't do that, sir. I'm sorry.
21 JUDGE MCGUIRE: You want me to put you in for
22 30 days?
23 MR. K[redacted] No. I'm sorry.
24 COURT OFFICER: Don't, don't, don't talk. No
25 outbursts.

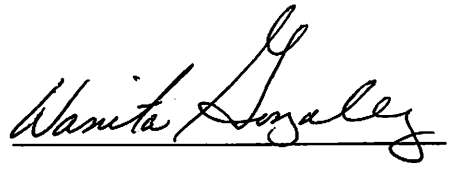
1 MRS. K[redacted] I'm sorry, Your Honor. That
2 baby is my life.
3 JUDGE MCGUIRE: Yeah, but he's not your child.
4 MRS. K[redacted] I understand.
5 JUDGE MCGUIRE: Belongs to the father and the
6 mother.
7 MRS. K[redacted] I understand.
8 JUDGE MCGUIRE: That's whose baby it is.
9 MRS. K[redacted] I-- I apologize.
10 JUDGE MCGUIRE: All right.
11 MRS. K[redacted] It's like-- like a piece of me was
12 took away from me--
13 JUDGE MCGUIRE: All right--
14 MRS K[redacted] --I'm sorry.
15 JUDGE MCGUIRE: --Well, no one's taking
16 anybody away from anybody, but the child has a right to a
17 relationship with the mother and the father. And when I
18 believe that people are trying to stand between the
19 relationship that the child is entitled to with the mother and
20 the father, it upsets me.
21 MRS. K[redacted] But--
22 JUDGE MCGUIRE: --All right? So, what I'm going
23 to do, Ms. K[redacted] is I'm going to release you this time.
24 I'm not going to pursue judicial contempt against you, I'm
25 not going to put you in jail, all right?

1 MRS. K[redacted] Thank you.
2 JUDGE MCGUIRE: And we will be back here in
3 January, all right, unless one of the attorneys make
4 application to return the matter to the court earlier than that
5 to revisit the issues associated with the child and where the
6 child is going to be for the time being, all right? If you
7 wish to do that, Ms. K[redacted] since you're not represented,
8 you can send a letter to the court asking that I restore the
9 matter to the calendar prior to January 15th.
10 MR. K[redacted] And if I was to obtain a lawyer,
11 they would do all that process for me?
12 JUDGE MCGUIRE: Yeah, yeah, they'll know how
13 to do it.
14 MR. K[redacted]: One more question, sir?
15 JUDGE MCGUIRE: Yeah?
16 MR. K[redacted]: How do we do about visitations?
17 (Inaudible)
18 JUDGE MCGUIRE: Well, you're going to get it--
19 it's just going to have to get back on the calendar--
20 MR. K[redacted] I--
21 JUDGE MCGUIRE: --Because right now, there is
22 no visitation.
23 MR. K[redacted]: Oh, so, I have to go out and file the
24 papers? How--
25 JUDGE MCGUIRE: Well, you can file the papers.

1 If you want to file a petition for visits, you can do that, or
2 you can ask-- you can send-- you're probably best to file a
3 petition seeking visitation with the child for now.
4 MR. K[redacted] And what about the mother? She
5 has to do the same or ...?
6 JUDGE MCGUIRE: She could do a separate
7 petition.
8 MR. K[redacted] Okay.
9 JUDGE MCGUIRE: All right? And then we'll
10 schedule that as quickly as possible.
11 MR. K[redacted] Thank you, sir.
12 JUDGE MCGUIRE: All right?
13 MR. K[redacted] Thank you.
14 JUDGE MCGUIRE: Thank you, folks.
15 MRS. K[redacted] Sorry.
16 JUDGE MCGUIRE: Okay. It's okay. Thank you,
17 gentlemen.
18 COURT OFFICER: You're welcome, Judge.
19 ***
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 2, 2014.
7
8
9 Dated: September 18, 2018



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE COMMISSION ON JUDICIAL CONDUCT
61 Broadway, Suite 1200
New York, New York 10006

1
2
3
4
5
6
7 Q. Now, Commission Exhibit 26 is the transcript in *F*[redacted] *versus*
8 *K*[redacted] *and K*[redacted], December 2, 2014, 2:05 in the afternoon. Did
9 you preside over this matter?
10 A. I did.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4a

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

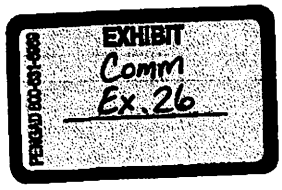
MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

F[redacted] v. K[redacted] and K[redacted]

December 2, 2014
2:05 P.M.



1 JUDGE MCGUIRE: Ms. Rawich, good afternoon.
2 MS. RAWICH: Good afternoon.
3 JUDGE MCGUIRE: Mr. Garn, good afternoon.
4 MR. GARN: Good afternoon, Judge.
5 JUDGE MCGUIRE: Mr. Ferrara's been here with
6 me, so we're all set there. You can be seated.
7 MR. K[redacted] Yes, sir.
8 JUDGE MCGUIRE: Thank you. All right. This is
9 case 17 through 22 on the docket, the *Matters of F*[redacted] *v.*
10 *K*[redacted] *and K*[redacted]. Can I have everyone's name and
11 appearance, please?
12 MR. FERRARA: Your name, A[redacted]
13 MR. F[redacted] A[redacted] F[redacted]
14 MR. FERRARA: Ferrara and Sullivan, John Ferrara
15 for A[redacted] F[redacted]
16 MR. GARN: Say your name.
17 MS. K[redacted] Oh. N[redacted] K[redacted]
18 MR. GARN: K.C. Garn on behalf the respondent,
19 N[redacted] K[redacted]
20 MR. K[redacted] J[redacted] K[redacted] the grandfather.
21 MRS. K[redacted] R[redacted] K[redacted] the grandmother.
22 MS. RAWICH: Isabelle Rawich, attorney for the
23 child.
24 MS. M. F[redacted] M[redacted] F[redacted]
25 MS. K. F[redacted] K[redacted] F[redacted]

1 JUDGE MCGUIRE: You're the aunts?

2 MS. K. F[redacted] Yes.

3 MS. M. F[redacted] Yeah, the aunts.

4 JUDGE MCGUIRE: Okay. All right. I have a new

5 petition that was filed by Mr. F[redacted] seeking a violation. It

6 alleges that he was denied his access to the child on

7 November 23rd and 24th. Mr. Garn, does your client

8 acknowledge receipt of that?

9 MR. GARN: Yes, Judge.

10 JUDGE MCGUIRE: And Mr. K[redacted] do you

11 knowledge receipt on that?

12 MR. K[redacted]: I never got the papers, sir.

13 JUDGE MCGUIRE: Was the grandfather served?

14 MR. FL[redacted] No.

15 JUDGE MCGUIRE: Why is that?

16 MR. F[redacted] Because the grandfather was unable

17 to be contacted.

18 JUDGE MCGUIRE: Okay. Do you have the papers

19 to serve on the grandfather now?

20 MR. F[redacted] Yeah.

21 JUDGE MCGUIRE: All right. Mr. K[redacted] you

22 want to accept service in court here--

23 MR. K[redacted]: Sure.

24 JUDGE MCGUIRE: --Or you want to be bothered at

25 home?

1 MR. K[redacted] No, I'll take it right now, sir.
2 JUDGE MCGUIRE: Perfect, okay.
3 MR. KOEPLIN: Thank you.
4 JUDGE MCGUIRE: Okay. So, all parties have
5 been served in this matter. Mr. K[redacted] I remind you again
6 that you do have the right to be represented by an attorney
7 at every stage of these proceedings. If you wish to retain an
8 attorney, you just let me know that, okay?
9 MR. K[redacted] Sir, I can't afford one. I'm not
10 working. So--
11 JUDGE MCGUIRE: Okay. Well, the law does not
12 afford me the authority to assign one for you.
13 MR. K[redacted] Okay.
14 JUDGE MCGUIRE: So, I will note now that you're
15 waiving counsel, okay?
16 MR. K[redacted] Yes, sir.
17 JUDGE MCGUIRE: All right. When we were here
18 last, I did set a temporary order that there was to be
19 parenting time to Mr. F[redacted] on his days off each week,
20 from 9 to 7. The grandfather was going to drop the child
21 off in Middletown, and the aunts were going to return the
22 child at the end of the visit. Now, I do not want to talk
23 about November 23rd and 24th, I'll deal with that separately.
24 But for those days, and noting that we were in court, I set
25 that order back on November 3rd, Mr. Ferrara, how has the

1 visits gone?

2 MR. FERRARA: Well, not really well. On, I think,
3 the 23rd and 24th are more of the same. I got a call from my
4 client on the 14th of November that he wanted to exercise
5 parenting time, it was his day under the schedule, and he
6 was told that he couldn't have the child because the child
7 was sick. Okay, that's sounds reasonable on its face. So,
8 my client followed up and spoke to the doctor, and the
9 doctor said-- you know, obviously, I'm taking this from my
10 client, I didn't speak to the doctor, the doctor said that there
11 was no reason why he couldn't go with my client. He could
12 take care of him in one house versus another house. You
13 know, from our perspective, he's got very limited time, and
14 it would've been nice to come back here and say it all went
15 smoothly, and then we could figure out a schedule from
16 there, and-- and maybe even a schedule that everybody
17 could live with. But, you know, we're talking about a
18 limited number of visits that would have happened. And
19 while you don't want to talk about the 23rd and 24th first,
20 I--

21 JUDGE MCGUIRE: Well, not that I don't want to
22 talk about it. I want to sep-- leave that separate.

23 MR. FERRARA: Yeah. The batting average here is
24 pretty-- pretty poor.

25 JUDGE MCGUIRE: Okay. Have there been days

1 when he has had visits? Let's-- let's go to that--
2 MR. FERRARA: The-- the day that we were in
3 court, he had a visit that went smoothly.
4 JUDGE MCGUIRE: Well, that was directed
5 immediately.
6 MR. FERRARA: But-- and it went very smoothly.
7 It was a good visit all around.
8 JUDGE MCGUIRE: The mom was going to go and
9 help out--
10 MR. FERRARA: And everything--
11 JUDGE MCGUIRE: --You know, just to get
12 everybody--
13 MR. FERRARA: --Everything that was-- we were
14 led to believe in court happened. It was good.
15 JUDGE MCGUIRE: Okay.
16 MR. FERRARA: I-- I don't--
17 JUDGE MCGUIRE: And that's the only visit he's
18 had?
19 MR. FERRARA: No, I think he's had others, but I
20 don't know the details of the others, unfortunately.
21 (Discussion between Mr. F[redacted] and Mr. Ferrara)
22 MR. FERRARA: Okay. All right. So, what I'm
23 told just now, and-- and I mean, I've been told this bits and
24 pieces, so I apologize--
25 JUDGE MCGUIRE: Okay.

1 MR. FERRARA: --Is that there was a struggle in
2 getting the child the next day, but the visit did happen. The
3 struggle being there was some resistance to it, but after a
4 few phone calls, the resistance broke down. The weekend
5 the week after, the visits didn't happen, so, you know, it's--
6 it's not been good.
7 JUDGE MCGUIRE: Now, your client is working
8 where?
9 MR. FERRARA: In--
10 MR. F[redacted] I work at [redacted]
11 JUDGE MCGUIRE: At [redacted]
12 MR. FERERRA: Right. And we worked around his
13 schedule.
14 JUDGE MCGUIRE: We-- right, we have a-- he has
15 a three-week rotation-- [redacted] in Wallkill?
16 MR. F[redacted]: No--
17 JUDGE MCGUIRE: --Or in Monticello?
18 MR. F[redacted] Middletown.
19 JUDGE MCGUIRE: That's Wallkill.
20 MR. F[redacted] Oh, yes.
21 JUDGE MCGUIRE: Town of Wallkill?
22 MR. F[redacted] Yes.
23 JUDGE MCGUIRE: Okay. All right. Mr. Garn,
24 why have we had so much trouble? Seems like two days
25 off a week that seems to be easy enough to follow. What's

1 been the problems?

2 MR. GARN: Well, I-- I think that the grandfather is

3 in the best position to explain. He was the one that was

4 explaining it to me outside of the courtroom. And I think

5 it's he that--

6 JUDGE MCGUIRE: Okay.

7 MR. GARN: --Manages the parenting time and

8 keeps track of it.

9 JUDGE MCGUIRE: Okay. So, Mr. K[redacted] what's

10 the problem here?

11 MR. K[redacted] Okay. So, where would you like

12 me to begin? From ...?

13 JUDGE MCGUIRE: The beginning is a good place.

14 MR. K[redacted] Okay. So, he had him the first

15 weekend after you set goals for us to leave the baby and my

16 daughter go with him that day, his next two days off he did

17 have the baby, but he got the baby late because the baby

18 was sick. I was contemplating on sending the baby, but my

19 daughter and my wife told me, "Send the baby." I send the

20 baby. Later on that night, my daughter's getting texts and

21 before I sent him, I told him, "Don't take the baby out.

22 He's sick." Okay. He went, took the baby to his father's

23 house--

24 JUDGE MCGUIRE: What was she getting from

25 Texas?

1 MR. K[redacted] She was -- he was texting her on
2 the phone, telling her polite--
3 JUDGE MCGUIRE: Oh, "texting"?
4 MR. K[redacted]: Right. So--
5 JUDGE MCGUIRE: I thought she was getting
6 something from Texas.
7 MR. K[redacted] No, no. So, he ended up--
8 JUDGE MCGUIRE: Because there's a lot of things
9 going on in Texas right now.
10 MR. K[redacted] True, there is. So, he ended up
11 taking the baby to his father's house. Then after that, he
12 took the baby to Chuck E. Cheese, 10:30 at night, he's
13 texting my daughter, telling her they're at Chuck E. Cheese.
14 Meanwhile, the baby is sick. So now the following week, I
15 got the baby, he-- the baby never went out of my house
16 since he's home sick, never go out, he was still sick. The
17 day before, I took him to the doctor--
18 JUDGE MCGUIRE: The baby was homesick?
19 MR. K[redacted] Yeah, he was home, in my house,
20 sick.
21 JUDGE MCGUIRE: Oh, he was at home, and he
22 was sick?
23 MR. K[redacted]: He-- yeah, right. He was still sick
24 when he came back from the father.
25 JUDGE MCGUIRE: Okay.

1 MR. K[redacted] So, the day before he had to go the
2 father again, I took him to Dr. [redacted] I told Dr. [redacted] the
3 situation, what he did the week before with the baby being
4 sick. He said, "Don't let the baby go." He gave me a
5 paper, but he did not state not to let the baby go, okay? But
6 he did say it in front of us three in the doctor's office.
7 JUDGE MCGUIRE: Okay.
8 MR. K[redacted] So, I never sent the baby.
9 JUDGE MCGUIRE: Okay.
10 MR. K[redacted]: The week after that, he had him
11 Wednesday and Thursday, both days. Then he calls me and
12 tells my daughter he's off Sunday and Monday. I said, "No,
13 you're not getting the baby Sunday. You can have him
14 Monday. The week starts on a Monday, the judge said two
15 days a week, you had him your two days." All right? So, I
16 never sent him Sunday. He texted my daughter and told my
17 daughter he was coming Monday to pick him up. He never
18 came to pick him up, okay? Now, the following week after
19 that, just now, he just had the baby again Sunday and
20 Monday again because he had Sunday and Monday off.
21 And I still never received a copy of the schedule--
22 JUDGE MCGUIRE: You just--
23 MR. K[redacted] -- And besides that--
24 JUDGE MCGUIRE: Okay.
25 MR. K[redacted] -- He served my daughter paternity

1 papers while she was in jail because he's not even 100
2 percent sure he's the father. So, I don't even know why
3 we're going through this whole mess until we find out if
4 he's the father or not. And besides that, when me and my
5 daughter dropped him off last week, with her girlfriend in
6 the car, she passed the baby to him, he looked at me, put his
7 arms out and started crying. It killed me to walk away and
8 leave my grandson there crying while he was in his hands.
9 He's up at 1:30 in the morning, texting my daughter, "Oh,
10 E[redacted] still up."
11 MS. K[redacted]: So? Don't do that.
12 MR. K[redacted]: My grandson, for 13 months, he
13 has a schedule. He takes his nap between 1 and 3:00 in the
14 afternoon. He's in bed between 8:30 and 9:30. That's the
15 schedule he's been following for 13 months because for 13
16 months, he didn't care. Never bought a pack of diapers,
17 never bought anything, never sent him a Christmas card.
18 He bought one pack of diapers when he served me, when he
19 had his aunt serve me. That's the only time he conned me
20 to come get a pack of diapers. For 13 months, he never did
21 a thing. No milk, no formula, no diapers, no nothing--
22 MRS. K[redacted] Joe--
23 MR. K[redacted]: And me and my wife is not
24 working, and we're trying to make ends meet and make sure
25 our grandson is fine. And now he wants to come back in

1 his life after-- besides my daughter locked up for seven
2 months? Ain't nobody love that kid better than us, nobody,
3 because there's not one person on his side of the family that
4 gave a damn, because none of them ever called. And even
5 grandmother, his grandmother, says the baby belongs with
6 us, not with them, and she was willing to come to court, but
7 we never got her to come to court. I have everything
8 written down, too. My concern is for my grandson, my
9 grandson only. Ain't nobody going to care about him but
10 me and my wife. My wife 90 percent of the time is the one
11 that takes care of him. That's the God's honest truth. I help
12 out a lot, but she's the one that bathes him, feed him. I
13 change his diapers, I give him juice, I-- you know, I play
14 with him in the living room. He's got all his stuff in the
15 living room. That's his house, his room, everything is his, a
16 four-in-one crib, a thousand clothes in the-- every-- he's
17 fine, he's fine. And now everything is getting disrupted
18 after 13 months. I understand he may be the father, he may
19 not be the father. If it is, fine. Do the right thing. He
20 hasn't paid nothing, hasn't offered nothing (unintelligible)
21 nothing, nothing at all.
22 JUDGE MCGUIRE: Do you-- Mr. Garn, does your
23 client doubt that he's the father?
24 MR. GARN: She doesn't have any doubt.
25 MR. K[redacted] There's another kid that she was

1 messing around with that told us that him and her were
2 having sex, and he feels he dropped a little in her, and he's
3 not sure.
4 JUDGE MCGUIRE: He did what?
5 MR. KOEPLIN: That he thinks he-- he ejaculated a
6 little bit inside her.
7 MRS. K[redacted] Now, Joe--
8 MS. K[redacted] Listen, you guys feel like he's not
9 the father.
10 MR. K[redacted] Yes.
11 MS. K[redacted] Please, because I'm-- I'm getting--
12 I'm up here right now.
13 MR. K[redacted] Okay.
14 MS. K[redacted] I'm up here.
15 JUDGE MCGUIRE: Okay. Did we get an
16 acknowledgement of paternity? Do we have his name on
17 the birth certificate? What do we have?
18 MS. K[redacted] Yes, his name is on the birth
19 certificate. His last name is F[redacted]
20 MR. K[redacted] But he's the one that asked for a
21 paternity test. He's the one that served you when you were
22 in jail.
23 JUDGE MCGUIRE: Is-- Mr. Ferrara-- is your client
24 disputing paternity now? I mean, I-- I don't want to
25 compromise any other cases that he may have going on, but

1 I kind of need to know what his position is. I mean, subject
2 to any scientific proof, I don't know would be into a
3 collateral estoppel issue, yet.
4 (Discussion between Mr. Ferrara and Mr. F[redacted]
5 MR. FERRARA: Judge, my client is prepared to
6 withdraw his paternity application. He-- he understands
7 he's the father. He was told something, but he doesn't
8 really believe it.
9 JUDGE MCGUIRE: Okay. And let me just go to
10 the aunts very, very quickly. And if you don't want to
11 answer the question, that's fine. Do either or both of you
12 work outside the home? I know there's two other children
13 in the home. Are you home during the day? Do you work?
14 MS. K. F[redacted] I work and she works, but we
15 work two different schedules.
16 JUDGE MCGUIRE: Two different schedules?
17 MS. K. F[redacted] Mm-hmm.
18 JUDGE MCGUIRE: So, there's always one adult in
19 the home?
20 MS. K. F[redacted]: Yes.
21 JUDGE MCGUIRE: At all times?
22 MS. K. F[redacted] Yeah, certainly.
23 JUDGE MCGUIRE: All right. Okay.
24 MS. K. F[redacted] Can I just make a statement?
25 MR. K[redacted] Sir, that's not true because he text

1 my daughter and told my daughter that she had to call one
2 of them to come home and pick him and the baby up
3 because they weren't-- neither one of them were home.
4 JUDGE MCGUIRE: Well, one of them might have
5 been out shopping or something.
6 MR. K[redacted] Well, I'm--
7 MR. P[redacted] Yeah, that's what she was doing.
8 JUDGE MCGUIRE: Might have been out to the
9 grocery store, to Shoprite or something. That's okay.
10 MS. M. P[redacted] Can I ask you a question? I--
11 JUDGE MCGUIRE: Yeah, go ahead.
12 MS. M. P[redacted] --I didn't think that it was
13 supervised--
14 JUDGE MCGUIRE: It's not--
15 MS. M. P[redacted] --I mean, because they-- they told
16 us that--
17 JUDGE MCGUIRE: --It's not. I'm just trying to
18 establish where we're at. That's all. That's-- I'm just
19 trying to establish where we're at. That's all.
20 MR. K[redacted] In the beginning, it was supposed
21 to be supervised, before he lived with his aunt, because we
22 --I have the document showing that it's supervised
23 visitations. But then you turned to statue and told him that
24 he can bring-- we could bring the baby--
25 JUDGE MCGUIRE: I turned what?

1 MR. K[redacted] Well--

2 MRS. K[redacted] It changes.

3 MR. K[redacted] --You changed the schedule of what

4 it was on paper that he was supposed to have supervised

5 visitation from the last time we were in here four months

6 ago, remember?

7 JUDGE MCGUIRE: Right, yeah.

8 MR. K[redacted] We wrote it all up. He was

9 supposed to have supervised visitation--

10 JUDGE MCGUIRE: That's right--

11 MR. K[redacted] --And then all of sudden--

12 JUDGE MCGUIRE: --June 16th--

13 MR. K[redacted] --It was okay to send him. And

14 they still-- you know, nobody checked my house or their

15 house to make sure. Because he even told you the baby'll

16 sleep in the bed with him, that he had no crib. He doesn't

17 even have a car seat. We got to leave a car seat every time.

18 And then he's working.

19 JUDGE MCGUIRE: I was told by the father last

20 time that he had a crib for the child, and he had everything

21 that they needed for the child.

22 MR. F[redacted] Yes, and I do.

23 MR. FERRARA: And if you recall, Your Honor, the

24 mother was welcomed into the house--

25 JUDGE MCGUIRE: To come through.

1 MR. FERRARA: --So, she had-- so, in terms of
2 nobody checked, the person--
3 JUDGE MCGUIRE: Yeah--
4 MR. FERRARA: --Best qualified to check checked.
5 JUDGE MCGUIRE: Yeah, because I did ask that
6 question because I did-- I was able to look back at my notes
7 from the 16th of June, and the issues there was that there had
8 been-- the father didn't have stable housing at that point.
9 There were was an issue with his housing. Now, he's living
10 with--
11 MR. F[redacted] My aunt.
12 JUDGE MCGUIRE: --With-- your aunt, or is one of
13 the aunts your sister?
14 MR. F[redacted] All right--
15 MS. M. F[redacted] I'm his blood aunt.
16 MR. F[redacted] -- M[redacted] is my-- is my blood aunt.
17 MS. M. F[redacted] --But she's married into. That's
18 my wife legally.
19 JUDGE MCGUIRE: Oh, good. That's fine.
20 MS. M F[redacted] So, we're both--
21 JUDGE MCGUIRE: -- That's fine. I get it--
22 MS. M. F[redacted] --His aunts, but I'm his--
23 JUDGE MCGUIRE: --I just-- I understand.
24 MS. M. F[redacted] But before, when I found
25 A[redacted] I took him from off the street--

1 JUDGE MCGUIRE: You're his blood aunt, so
2 you're his mother's sister?
3 MR. F[redacted] No, my father's sister.
4 JUDGE MCGUIRE: Your father's sister?
5 MS. M. F[redacted] Yes.
6 JUDGE MCGUIRE: Got it.
7 MS. M. F[redacted] Blood.
8 JUDGE MCGUIRE: Okay. That's fine. Great,
9 perfect. All right. Ms. Rawich?
10 MS. RAWICH: Yes, sir.
11 JUDGE MCGUIRE: Have you seen E[redacted]
12 MS. RAWICH: I saw the baby today.
13 JUDGE MCGUIRE: Okay.
14 MS. RAWICH: I saw him today. He's a healthy,
15 happy little boy, was very responsive, very alert, and he
16 looks very well. What more can I say? He's very young.
17 Of course, I couldn't speak with him.
18 JUDGE MCGUIRE: Okay. So, he's here?
19 MR. K[redacted] He's in babysitting.
20 MRS. K[redacted] Daycare.
21 MR. K[redacted] He's fine.
22 JUDGE MCGURE: Perfect, okay. I'm going to
23 enter general denials on behalf of all parties to the father's
24 new petition, and I'm going to need a trial date. January
25 15th?

1 COURT CLERK: January 15th, at 2 P.M. January
2 15th.
3 MR. K[redacted] Sir--
4 JUDGE MCGUIRE: Oh, no, 2 P.M.'s no good to
5 start a trial. We got to start trial either at 9--
6 COURT CLERK: Okay.
7 JUDGE MCGUIRE: At 9? Okay. We'll put this on
8 at 9, also.
9 COURT CLERK: Okay. So, 9 A.M, on Thursday,
10 January 15th.
11 JUDGE MCGUIRE: That work for everyone?
12 MR. F[redacted] May--
13 MR. K[redacted] Your Honor, may I ask a question?
14 JUDGE MCGUIRE: Sure.
15 MR. K[redacted] Is there any way, like, as far as me
16 delivering the baby, is there any way that I cannot do that or
17 am I forced?
18 JUDGE MCGUIRE: Yeah, I'm going to take care of
19 that right now.
20 MR. K[redacted] Thank you, sir.
21 JUDGE MCGUIRE: Okay--
22 MR. K[redacted] --Because it's--
23 JUDGE MCGUIRE: --I want the child turned over
24 to the father today. The father will have temporary custody
25 of the child pending trial.

1 MRS. K[redacted] Are you kidding me?

2 MR. K[redacted]: How could-- what about all these

3 documents about him abusing-- abuse, beating her up?

4 UNKNOWN FEMALE: No, that's because of you--

5 MR. K[redacted]: --And everything else?

6 UNKNOWN FEMALE: That's because of you.

7 MR. K[redacted] How's it because of me? He-- I

8 have documents from Sullivan County, sir, that he left the

9 dog in the bathroom, that he beat her up and everything.

10 How are you going to turn the baby over?

11 JUDGE MCGUIRE: See you January 15th. Turn the

12 child over to the father right now.

13 MR. K[redacted] How are you going to turn the baby

14 over to him right now, sir? Look at the paperwork.

15 JUDGE MCGUIRE: Turn the child over to the

16 father right now.

17 MR. K[redacted] Oh, my God.

18 MRS. K[redacted] If anything happens to my son--

19 my grandson, Your Honor, I will sue the county, and I will

20 sue you.

21 MR. K[redacted] That's for sure.

22 JUDGE MCGUIRE: Take her into custody. You

23 want to threaten the judge? Take her into custody.

24 MRS. K[redacted] I'm just-- I'm not threatening

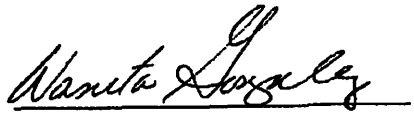
25 you.

1 JUDGE MCGUIRE: Take her into custody. You
2 want to threaten the judge? Take her into custody.
3 MR. K[redacted] Sir, is there anything you can do
4 with this, about the-- the threats that he did to her?
5 MRS. K[redacted] Take a look, the abuse, what he
6 did. He kicked her--
7 JUDGE MCGUIRE: Get her out of here.
8 MRS. K[redacted] --He kicked--
9 JUDGE MCGUIRE: Get her out of here.
10 MR. K[redacted] Ma'am, Ma'am?
11 MRS. K[redacted] Pray God, pray God, my
12 grandson's life.
13 (SOUND OF HANDCUFFS)
14 MR. K[redacted] Ma'am?
15 MRS. K[redacted]: You're not God, Your Honor.
16 MR. K[redacted] Ma'am, is there anything you can
17 do with her?
18 MRS. K[redacted] You-- you know the law, you're
19 not God.
20 MR. K[redacted] Sir, please, sir. Come on, sir.
21 JUDGE MCGUIRE: Goodbye.
22 MR. K[redacted] For real, sir, he has documents of
23 abusing my daughter while she was pregnant. I have them
24 right here, sir. Sir, please don't do that, sir. Please don't.
25 JUDGE MCGUIRE: Next case.

1 MR. K[redacted] Put him somewhere else if you
2 have to.
3 JUDGE MCGUIRE: Get him out.
4 MR. K[redacted] Please, sir.
5 COURT OFFICER: Parties step out.
6 MR. K[redacted] Sir. Wow, wow.
7 ** *
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 2, 2014.
7
8
9 Dated January 23, 2017



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

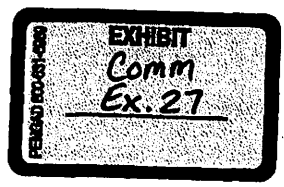
MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
----------X

TRANSCRIPT OF PROCEEDING

F[redacted] v. K[redacted] and K[redacted]

December 2, 2014
3:30 P.M.



1 COURT OFFICER: All rise.
2 JUDGE MCGUIRE: You can be seated.
3 MR. K[redacted] Thank you.
4 JUDGE MCGUIRE: All right. Ms. K[redacted] you
5 have an attorney you want to-- to represent you?
6 MRS. K[redacted]: I got Steve Veg-- Steve--
7 JUDGE MCGUIRE: You called Mr. Vegliante?
8 MRS. K[redacted] Yeah, but--
9 JUDGE MCGUIRE: I don't know that he's
10 practicing right now. I think he's working for the Resnicks.
11 MRS. K[redacted] He's more real est-- yeah, he
12 works for the Resnicks, he worked for Butch, but he's more
13 a real estate person, anyway.
14 JUDGE MCGUIRE: Well, no, Mr. Vegliante
15 practiced quite extensively in the areas of criminal law, in
16 the areas of family law, but this is a-- this is a judicial
17 contempt proceeding. It's called a summary proceeding. If
18 I say that you disrupted the proceedings, I can put you in jail
19 for 30 days and that's it.
20 MR. K[redacted] Please don't do that, sir. I'm sorry.
21 JUDGE MCGUIRE: You want me to put you in for
22 30 days?
23 MR. K[redacted] No. I'm sorry.
24 COURT OFFICER: Don't, don't, don't talk. No
25 outbursts.

1 MRS. K[redacted] I'm sorry, Your Honor. That
2 baby is my life.
3 JUDGE MCGUIRE: Yeah, but he's not your child.
4 MRS. K[redacted] I understand.
5 JUDGE MCGUIRE: Belongs to the father and the
6 mother.
7 MRS. K[redacted] I understand.
8 JUDGE MCGUIRE: That's whose baby it is.
9 MRS. K[redacted] I-- I apologize.
10 JUDGE MCGUIRE: All right.
11 MRS. K[redacted] It's like-- like a piece of me was
12 took away from me--
13 JUDGE MCGUIRE: All right--
14 MRS K[redacted] --I'm sorry.
15 JUDGE MCGUIRE: --Well, no one's taking
16 anybody away from anybody, but the child has a right to a
17 relationship with the mother and the father. And when I
18 believe that people are trying to stand between the
19 relationship that the child is entitled to with the mother and
20 the father, it upsets me.
21 MRS. K[redacted] But--
22 JUDGE MCGUIRE: --All right? So, what I'm going
23 to do, Ms. K[redacted] is I'm going to release you this time.
24 I'm not going to pursue judicial contempt against you, I'm
25 not going to put you in jail, all right?

1 MRS. K[redacted] Thank you.

2 JUDGE MCGUIRE: And we will be back here in
3 January, all right, unless one of the attorneys make
4 application to return the matter to the court earlier than that
5 to revisit the issues associated with the child and where the
6 child is going to be for the time being, all right? If you
7 wish to do that, Ms. K[redacted] since you're not represented,
8 you can send a letter to the court asking that I restore the
9 matter to the calendar prior to January 15th.

10 MR. K[redacted] And if I was to obtain a lawyer,
11 they would do all that process for me?

12 JUDGE MCGUIRE: Yeah, yeah, they'll know how
13 to do it.

14 MR. K[redacted] One more question, sir?

15 JUDGE MCGUIRE: Yeah?

16 MR. K[redacted] How do we do about visitations?
17 (Inaudible)

18 JUDGE MCGUIRE: Well, you're going to get it--
19 it's just going to have to get back on the calendar--

20 MR. K[redacted] I--

21 JUDGE MCGUIRE: --Because right now, there is
22 no visitation.

23 MR. K[redacted] Oh, so, I have to go out and file the
24 papers? How--

25 JUDGE MCGUIRE: Well, you can file the papers.

1 If you want to file a petition for visits, you can do that, or
2 you can ask-- you can send-- you're probably best to file a
3 petition seeking visitation with the child for now.
4 MR. K[redacted] And what about the mother? She
5 has to do the same or ...?
6 JUDGE MCGUIRE: She could do a separate
7 petition.
8 MR. K[redacted] Okay.
9 JUDGE MCGUIRE: All right? And then we'll
10 schedule that as quickly as possible.
11 MR. K[redacted] Thank you, sir.
12 JUDGE MCGUIRE: All right?
13 MR. K[redacted] Thank you.
14 JUDGE MCGUIRE: Thank you, folks.
15 MRS. K[redacted] Sorry.
16 JUDGE MCGUIRE: Okay. It's okay. Thank you,
17 gentlemen.
18 COURT OFFICER: You're welcome, Judge.
19 ***
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 2, 2014.
7
8
9 Dated January 23, 2017

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6 Q. And did you hold the grandmother, Mrs. K[redacted] in custody?
7 A. I did.
8 Q. Why?
9 A. Because she was disrespectful to the Court and she threatened that if
10 anything happens to the child, she's going to sue the County. That
11 was disrespectful to the Court.
12 Q. Is she allowed to sue the County?
13 A. I'm sure she's allowed to sue the County, but she wasn't saying that
14 there was an issue. She was threatening the Court if I gave the father
15 access to the child and if anything happened, she would sue the
16 County. And that wasn't a statement of-- of fact. That was a
17 statement-- I took it-- I took-- I took it as a statement of a threat.
18 Q. Was it a threat to you and your safety?
19 A. It was a threat to the authority of the Court to grant access to the father
20 of the child.
21 Q. And do you believe that's exceptional circumstances, as outlined in
22 the statute?
23 A. Under the circumstances that were present that day, December 2,
24 2014, that was an appropriate act that I took at that point. Again,
25 2017, there are probably other ways of addressing that. In fact, the

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4b

1 K[redacted] are even in court with me-- figuratively-- right now. There's
2 a case pending right now, and the mother is-- was in front of me a
3 week or so ago on an arraignment, and things with that family are
4 going extremely well now.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 Q. Now on line 22 through 23--
20 A. -- Page please?
21 Q. -- Page 19.
22 A. -- Yes.
23 Q. -- when you--
24 The Court: Take her into custody, you want to threaten the judge, take her into custody. You
25 want to threaten the judge, take her into

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4c

1 custody.

2 What was the volume of your voice?

3 A. I'm sure that it was above my normal court voice.

4 Q. Were you yelling?

5 A. My voice was louder than it normally is in court.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q. -- And for the record, you just elevated your voice.

A. I did. But with a smile on my face though, not anger. I'm just trying to demonstrate that. I wasn't--

Q. -- Yeah, I understand. I understand. I just wanted the record to reflect. Did you give Ms. K[redacted] an opportunity to make a statement in her defense?

A. I did not.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4d

1
2
3
4
5
6
7
8 Q. Did you get an attorney for her, Mrs. K[redacted]?
9 A. I did not.
10 Q. Did you draft an order?
11 A. I did not.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4e

1
2
3
4
5
6
7
8
9
10
11
12 Q. Now, on page 1 of this transcript, Commission Exhibit 27. Continuing
13 on from where we were reading, line 17:
14 The Court: If I say that you disrupted the proceedings, I can put you in jail for 30 days,
15 and that's it.
16 Mr. K[redacted] Please don't do that, sir. I'm
17 sorry.
18 Judge McGuire: You want me to put you in
19 for 30 days?
20 Mr. K[redacted] No, I'm sorry.
21
22 Why did you threaten Mr. K[redacted] at that point with contempt and
23 putting him in-- not contempt, you threatened to put him in jail for 30
24 days?
25 A. The record is-- is what it is-- why? Probably because Mr. K[redacted]

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VI-4f

1 was interrupting the Court.
2 Q. He was apologizing to you. He said, "Please don't do that, sir. I'm
3 sorry," line 20.
4 A. Correct.
5 Q. And you threatened to put him in jail-- in custody for 30 days because
6 you thought he was interrupting the Court?
7 A. Well, yes.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT
Comm
Ex VII-1
PENGAD 800-631-6989
Han. Michael
v. P[redacted]
[redacted]
1/28/13
9:14 - 9:28
FPK 1857
STAPLES
CD-R
80 minutes
700 MB
www.product-support.staples.com
52x compatible
speed

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 9, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

M[redacted] P[redacted] v. S[redacted] P[redacted] and S[redacted] R[redacted]
Family File # 12057
Date of recording - January 28, 2013
9:14 - 9:28

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-1

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

P[redacted] v. R[redacted] AND R[redacted]

January 28, 2013
9:14 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-1a

1 JUDGE MCGUIRE: Okay. Good morning.
2 MR. P[redacted]: Good morning.
3 JUDGE MCGUIRE: Good morning.
4 MS. HELLER: Morning, Judge.
5 JUDGE MCGUIRE: Good morning. You can be
6 seated. All right. This case is two-one-three on the docket,
7 the *Matters of P*[redacted] *v. R*[redacted] *and R*[redacted]. Could we have
8 names and appearances, please?
9 MR. FERRARA: Your name, please.
10 MR. P[redacted] M[redacted] P[redacted].
11 MR. FERRARA: Ferrara and Sullivan, John Ferrara
12 for M[redacted] P[redacted].
13 MS. HELLER: Marcia Heller for S[redacted] P[redacted].
14 MS. BOURNE: Alexandra Bourne, attorney for
15 A[redacted] P[redacted].
16 JUDGE MCGUIRE: All right. The matter's on for
17 a conference today. We are happy to see that Mr. P[redacted] is
18 here in person. We do have a new petition that was filed by
19 Mr. P[redacted] on January 16th. I don't know if you've had an
20 opportunity to serve that yet. Have you?
21 MR. P[redacted]: Uh, the court served it, because
22 everybody was confidential, so the court mailed the stuff
23 out themselves.
24 JUDGE MCGUIRE: Okay.
25 MS. HELLER: And I've received a copy of it,

1 Judge.

2 MS. BOURNE: I have a copy as well, Judge.

3 JUDGE MCGUIRE: We have Mr. Garn, who's

4 representing the grandmother, Ms. R[redacted].

5 COURT OFFICER: Make sure cell phones are off

6 (unintelligible)

7 JUDGE MCGUIRE: Here she is now, and here he is

8 now. All right. So, we've just had an-- an influx of people,

9 so let's get the people that just came in to provide their

10 names for the record, please. Ma'am?

11 MS. P[redacted]: S[redacted] P[redacted].

12 JUDGE MCGUIRE: Okay. That formerly R[redacted]?

13 MS. P[redacted]: Yes.

14 JUDGE MCGUIRE: Okay.

15 MR. GARN: Say your name.

16 MS. R[redacted]: S[redacted] R[redacted].

17 JUDGE MCGUIRE: Mm-hmm.

18 MR. GARN: K.C. Garn on behalf of S[redacted] R[redacted].

19 MS. BOURNE: And, Your Honor, my client's here.

20 JUDGE MCGUIRE: That's E[redacted]?

21 MS. P[redacted] A[redacted].

22 JUDGE MCGUIRE: A[redacted]? Okay.

23 MS. M[redacted]: I'm K[redacted] M[redacted].

24 JUDGE MCGUIRE: Okay. Very good. All right.

25 So, I was saying that we have a new petition that was filed

1 by Mr. P[redacted] seeking to modify the order that we entered
2 back on September 28th. That really gave us specific days
3 because he was incarcerated at the time. Ms. Heller, did
4 your client receive a copy of that petition?
5 MS. HELLER: I believe she did, yes, Judge.
6 JUDGE MCGUIRE: Okay. And Mr. Garn, did your
7 client receive a copy of that petition?
8 MR. GARN: She tells--
9 MS. R[redacted]: No.
10 MR. GARN: --She tells me no.
11 JUDGE MCGUIRE: Okay. Well, let's see if we--
12 MR. GARN: I received a copy.
13 JUDGE MCGUIRE: Okay. Let me see-- you did?
14 MR. GARN: Yes.
15 JUDGE MCGUIRE: Okay. Do you want to take
16 just a minute to go through with her, so we can get a
17 response?
18 MR. GARN: Sure.
19 (Discussion between Mr. Garn and Ms. R[redacted])
20 JUDGE MCGUIRE: And Ms. Heller, while Mr.
21 Garn does that, do you have a response to the father's
22 January 16th petition?
23 MS. HELLER: Yes. A general denial, Judge.
24 JUDGE MCGUIRE: Okay. And Mr. Garn, have
25 you had enough time to go over that with your client?

1 MR. GARN: Yes, Judge. I went over the--
2 JUDGE MCGUIRE: Mm-hmm.
3 MR. GARN: --Modifications that the petitioner is
4 requesting, and as far as custody goes, we would enter a
5 general denial to that. As far as the request for increased
6 visitation, my client's willing to discuss that.
7 JUDGE MCGUIRE: Okay. So, we're here on a-- on
8 the two petitions then. The first one was filed on October
9 17th, and that was for enforcement. Evidently, Mr. P[redacted]
10 was getting his-- his access on those Sundays, but the
11 telephone contact was difficult. Now, Mr. P[redacted] or Mr.
12 Ferrara, how long has Mr. P[redacted] been free of the
13 Department of Corrections?
14 MR. FERRARA: Two weeks.
15 JUDGE MCGUIRE: Okay. And over those two
16 weeks, has there been any phone-- what's been happening
17 with the phone conduct?
18 MR. P[redacted]: Oh, Ms. R[redacted]'s let me take A[redacted]
19 out on the 13th. She let me take her out on the 17th to-- to do
20 her homework at the Pine Bush Library and then again on
21 the 20th-- or the 21st to take her ice skating. So, I've had
22 contact with her three times--
23 JUDGE MCGUIRE: Okay--
24 MR. P[redacted]--And everything went fine.
25 JUDGE MCGUIRE: And what date did you get out?

1 MR. P[redacted]: I got out on the 11th.
2 JUDGE MCGUIRE: So, you've had her from the
3 13th, the 17th and the 21st for what, a couple of hours each
4 time?
5 MR. P[redacted]: From 8:30 in the morning till 7:30 at
6 night.
7 JUDGE MCGUIRE: Oh? So, you've gotten a good
8 three good full days?
9 MR. P[redacted]: Yes.
10 JUDGE MCGUIRE: All right. That's-- that's
11 excellent. And what about telephone contact?
12 MR. P[redacted]: I was able to get in contact with her
13 if I needed to.
14 JUDGE MCGUIRE: You were?
15 MR. P[redacted]: And she was able to call me, yes.
16 JUDGE MCGUIRE: Okay. Ms. Bourne, what's--
17 what's your position?
18 MS. BOURNE: Your Honor, I haven't had an
19 opportunity to speak to my client, really.
20 JUDGE MCGUIRE: Mm-hmm.
21 MS. BOURNE: So, we can ask her now--
22 (Discussion between Ms. Bourne and Ms. P[redacted])
23 MS. BOURNE: If I could just have a few moments.
24 JUDGE MCGUIRE: Do you want to-- do you want
25 to step out and speak to her so--

1 MS. BOURNE: Without second calling it, you
2 mean?
3 JUDGE MCGUIRE: Sure.
4 MS. BOURNE: Yeah, I could do that. That would
5 be better.
6 JUDGE MCGUIRE: Okay.
7 MS. BOURNE: Just two minutes.
8 JUDGE MCGUIRE: Let's just all relax for a
9 second.
10 (OFF THE RECORD)
11 MR. FERRARA: Judge, do you want to, while
12 we're sitting in here, I know that Ms. Bourne is outside--
13 JUDGE MCGUIRE: Mm-hmm.
14 MR. FERRARA: --But just for me to float what
15 we're really looking for in the time being?
16 JUDGE MCGUIRE: Sure. We could throw it out as
17 part of a negotiation of sorts.
18 MR. FERRARA: Yeah. What we're really looking
19 to do here at this point in time, obviously, until my client
20 really has an established, you know, record outside, would
21 be something along the lines of every other weekend regular
22 contact, the records that we'd like, obviously, such other
23 further and diferents, so that he can take the child out in the
24 middle of the week for the homework or the ice skating that
25 he did. But essentially, every other weekend because I

1 understand the mother to exercise some time on the
2 weekend, too.
3 JUDGE MCGUIRE: Does he have a place where
4 they can stay overnight?
5 MR. FERRARA: Yeah. Yeah, he lives with his
6 wife in Pine Bush.
7 JUDGE MCGUIRE: Okay.
8 MR. FERRARA: She drives, my client doesn't drive
9 right now. I think he's going to try to get a license, but they
10 have a vehicle, they can do that. And that would kind of, I
11 think, give everybody a little bit of time to see how things
12 work and then, you know, six months from now or so, we
13 might have to revisit this, but that's really what--
14 JUDGE MCGUIRE: Has A[redacted] been at that house?
15 MR. FERRARA: I don't think she's ever been to the
16 house, no, because he was in jail.
17 JUDGE MCGUIRE: Right, okay.
18 MS. BOURNE: Your Honor, my client would be
19 comfortable with doing alternate weekends and having a
20 sleepover from like a Saturday to Sunday on those
21 weekends. And then, you know, maybe at least one
22 weeknight of some kind of, you know, dinner visitation or
23 something or going over the house. I'm not sure how far
24 apart the parties live at this point, but to do alternate
25 weekends--

1 JUDGE MCGUIRE: Okay.
2 MS. BOURNE: --And at least one night during--
3 JUDGE MCGUIRE: Okay. Well, Mr. P[redacted]'s
4 living in Pine Bush, and Ms. P[redacted] and Ms. R[redacted] are living
5 in--
6 MR. GARN: Blooming--
7 MS. HELLER: White Lake.
8 JUDGE MCGUIRE: --In White Lake.
9 MS. HELLER: And she lives in Bloomingburg.
10 MR. GARN: You live in Bloomingburg.
11 MS. R[redacted]: I live in Bloomingburg.
12 MR. GARN: Bloomingburg.
13 JUDGE MCGUIRE: In Blooming--
14 MR. GARN: Bloomingburg.
15 JUDGE MCGUIRE: So, Blooming-- and-- and
16 A[redacted] lives with you, with the grandmother?
17 MS. R[redacted]: Yes.
18 MS. P[redacted]: Right.
19 JUDGE MCGUIRE: Okay. So, it's [redacted]
20 School District?
21 MS. R[redacted]: Right.
22 MS. P[redacted]: Yeah.
23 JUDGE MCGUIRE: So, she goes to [redacted]?
24 Okay. Well, folks, it sounds like we've got a-- an offer out
25 there of alternate weekends. Ms. Bourne, while you were

1 out, Mr. Ferrara just floated out what his client would be
2 looking for, and it was virtually identical to what you said
3 your client would be amenable to.
4 MS. BOURNE: Right.
5 JUDGE MCGUIRE: So, is that something that--
6 MS. R[redacted]: No. I'd prefer one weekend a month.
7 JUDGE MCGUIRE: Okay.
8 MS. R[redacted]: And then if he wants, he could see her,
9 like, the-- a Sunday, you know--
10 JUDGE MCGUIRE: Okay, okay.
11 MS. R[redacted]: --One --the days that he don't have her
12 that weekend, but remember, he doesn't have his own place.
13 He's living with his in-laws.
14 JUDGE MCGUIRE: Okay.
15 MS. R[redacted]: So, I-- I think one weekend a month is
16 good, and-- and a day during the week.
17 JUDGE MCGUIRE: Is there a problem with his in-
18 laws?
19 MS. R[redacted]: No, no, it's just that they don't even
20 have their own place. I mean-- but--
21 JUDGE MCGUIRE: Neither did my parents when
22 my father was out fighting for his country, and they were
23 forced to move in with my grandmother. And my first two
24 siblings were born with my grandmother, and they both
25 turned out pretty well.

1 MS. R[redacted]: That's not always the case--
2 JUDGE MCGUIRE: Well--
3 MS. R[redacted]: -- But the thing is that--
4 JUDGE MCGUIRE: --May not be, but it's certainly
5 not a *per se*, either. So, let's get a trial date. Mr. P[redacted]'s
6 address is not confidential, so we'll get an address for him.
7 Okay.
8 (Discussion between attorneys and clients)
9 JUDGE MCGUIRE: Okay. February 27th, counsel,
10 at 1:30?
11 MS. BOURNE: I'm scheduled before Support
12 Magistrate Linen on a support matter at 1:30. I'm just
13 letting the Court know. I have no problem with doing this
14 at 1:30, but I don't know if it would be too much of a
15 conflict.
16 JUDGE MCGUIRE: Is it a trial?
17 MS. BOURNE: It is a trial.
18 JUDGE MCGUIRE: With Magistrate Linen?
19 MS. BOURNE: Yes.
20 JUDGE MCGUIRE: Yeah, it won't work then.
21 COURT CLERK: We have March 5th, at 1:30.
22 JUDGE MCGUIRE: March 5th at 1:30, counsel?
23 MR. FERRARA: That's fine.
24 JUDGE MCGUIRE: All right. What I'm going to
25 do in the interim, I'm going to enter a temporary order of

1 parenting time to Mr. P[redacted] on alternate weekends,
2 commencing on February the 2nd, from Saturday morning
3 at--
4 MR. P[redacted]: 8:30?
5 JUDGE MCGUIRE: --8:30, till Sunday at--
6 MR. P[redacted]: 7:30?
7 JUDGE MCGUIRE: --7:30. That's what you've
8 been doing, Sunday at 7:30. And for now, Mr. P[redacted] will
9 provide transportation.
10 MS. BOURNE: Your Honor, could we alternate that
11 so I can change can that from 8:30 to 9? My client's
12 expressing that 8:30 is a little too early for her.
13 JUDGE MCGUIRE: All right. That's fine. So, it'll
14 be 9 to 7:30, and Mr. P[redacted] will pick up at Ms. R[redacted]s
15 home in Bloomingburg and bring her back there on Sunday
16 evening at 7:30. Also provide for such other further and
17 different periods of time to include a mid-week, if that can
18 be worked out for now.
19 MR. FERRARA: And-- and just in terms of the
20 records of-- I don't think there was any objection, but can
21 he get the--
22 JUDGE MCGUIRE: Well-- well, we'll include the
23 Children's Bill of Rights that's got that provision in it.
24 MR. FERRARA: Okay. All right.
25 JUDGE MCGUIRE: In the temporary order.

1 MR. GARN: The grandmother objects to two
2 weekends--
3 JUDGE MCGUIRE: Okay. That's fine.
4 MR. GARN: --On a temporary basis.
5 JUDGE MCGUIRE: Noted.
6 MR. GARN: She also wishes to have a street
7 address, a physical address--
8 JUDGE MCGUIRE: We're going to give it.
9 MR. GARN: Okay. And what was the date for the
10 trial?
11 JUDGE MCGUIRE: The date is March 5th.
12 MR. GARN: March 5 at?
13 JUDGE MCGUIRE: At 1:30. You okay? Need a
14 Band-Aid?
15 MS. HELLER: I'm all right, Judge.
16 JUDGE MCGUIRE: Okay.
17 MS. HELLER: Thank you. It's one of those freaky
18 things.
19 JUDGE MCGUIRE: Do we get a street address for
20 Mr. P[redacted]?
21 MR. P[redacted]: Your Honor?
22 JUDGE MCGUIRE: Yes?
23 MR. P[redacted]: Um, the in-laws that I live with,
24 there's a problem with giving the street address. They don't
25 want no drama to the house. They had their son killed by

1 police, and they-- they expressedly said that if I come to the
2 house, and they're willing to open their doors to me, they
3 just-- my mother doesn't even know where I live at. At all.
4 You know, they don't want no problems coming to the
5 house.
6 JUDGE MCGUIRE: So, then what you need to do
7 is, you need to file an address confidentiality as well.
8 MR. P[redacted]: I-- I did, I did fill that out.
9 JUDGE MCGUIRE: You did? Okay. All right. So,
10 the address is confidential.
11 MR. P[redacted]: Thank you.
12 MS. R[redacted]: Why?
13 MR. P[redacted]: Because that's his desire, same
14 reason that the mother's address is--
15 MS. R[redacted]: --But she's my responsibility, and-- and
16 I need to know where she is. I mean, that's--
17 MR. P[redacted]: You-- she can call--
18 JUDGE MCGUIRE: Stop, stop, stop, stop.
19 MR. P[redacted]: Okay. All right.
20 JUDGE MCGUIRE: Stop, stop, stop, stop.
21 MR. P[redacted]: All right.
22 JUDGE MCGUIRE: The address is confidential and
23 that's it, okay?
24 MR. P[redacted]: Thank you.
25 JUDGE MCGUIRE: All right.

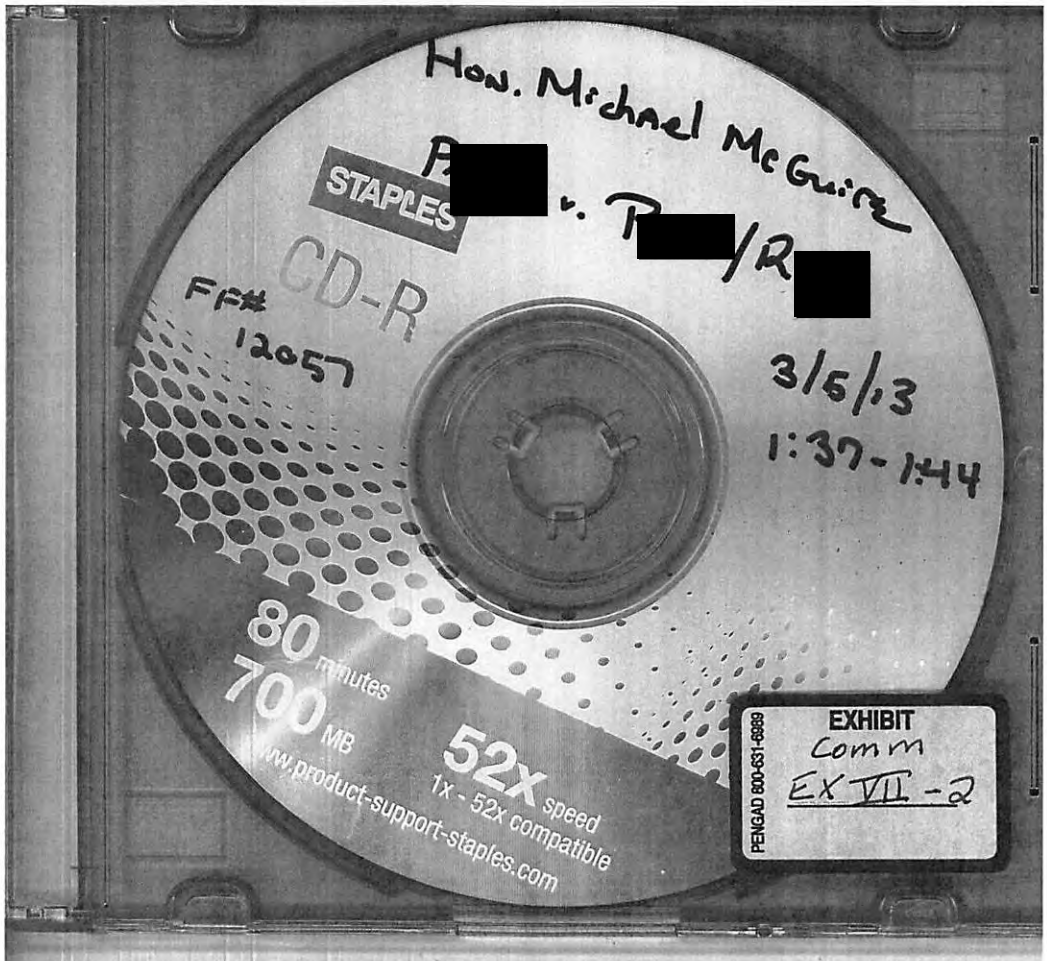
1 MR. P[redacted]: Thank you.
2 JUDGE MCGUIRE: So, we will see everybody on
3 March the 5th.
4 MR. P[redacted]: Thank you.
5 JUDGE MCGUIRE: All right? Thank you, folks.
6 MS. HELLER: Thank you, Judge.
7 COURT OFFICER: Step out.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on January 28, 2013.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE COMMISSION ON JUDICIAL CONDUCT
61 Broadway, Suite 1200
New York, New York 10006


Hon. Michael McGuire
F[redacted] v. P[redacted]/R[redacted]
STAPLES
CD-R
FF# 12057
3/5/13
1:37-1:44
80 minutes
700 MB
52x speed
1x - 52x compatible
www.product-support-staples.com
PENGAD 800-631-6989
EXHIBIT
Comm
EX VII-2

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 4, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

M[redacted] P[redacted] v. S[redacted] P[redacted] and S[redacted] R[redacted]
Family File # 12057
Date of recording -March 5, 2013
1:37 - 1:44

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-2

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

P[redacted] v. P[redacted] and R[redacted]

March 5, 2013
1:37 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-2a

1 MS. HELLER: Afternoon, Judge.

2 JUDGE MCGUIRE: Everyone, you can be seated.

3 COURT OFFICER: Cases one and three, Your

4 Honor.

5 JUDGE MCGUIRE: Okay. This is cases one and

6 two on the docket, the *Matters of P*[redacted] *v. P*[redacted] *and R*[redacted].

7 Could we have everyone's name and appearance, please?

8 MR. P[redacted]: M[redacted] P[redacted].

9 MR. FERRARA: Ferrara and Sullivan, John Ferrara

10 for M[redacted] P[redacted]

11 MS. HELLER: Marcia Heller for Ms. R[redacted].

12 MS. P[redacted]: S[redacted] P[redacted].

13 MS. HELLER: I'm sorry. R[redacted] P[redacted]

14 MS. R[redacted]: S[redacted] R[redacted].

15 MR. GARN: K.C. Garn on behalf of the Respondent

16 S[redacted] R[redacted].

17 MS. BOURNE: Alexandra Bourne, attorney for the

18 child, A[redacted] P[redacted]

19 COURT OFFICER: And you, sir?

20 MR. M[redacted]: F[redacted] M[redacted].

21 MS. P[redacted] (Unintelligible) P[redacted]

22 MS. M[redacted] (Unintelligible) M[redacted].

23 JUDGE MCGUIRE: All right. We were in court

24 last on January 28th. At that time, we tried to settle the

25 matter. At that time, we had the child actually here in court,

1 A[redacted] was in court with us, so Ms. Bourne was able to, in
2 real time, speak to her about a resolution of the matter. And
3 everybody seemed to be in agreement on having alternate
4 weekends to Mr. P[redacted], except the grandmother, who
5 wanted him to have only one weekend per month. So, has
6 there been any movement, or we're going to have a trial?
7 MR. GARN: Judge, on behalf of Ms. R[redacted], the
8 grandmother, first of all, we're sorry for the incident that
9 occurred at the end of the court proceeding last time. I
10 think my client-- it-- it is basically her unfamiliarity with the
11 court proceedings and how they work that led her to speak
12 to the child in -- in the presence of the Court. And I didn't
13 see what she was doing. I didn't have a chance to advise
14 her. It was at the end of the court proceeding. Furthermore,
15 her position as to the number of weekends that Mr. P[redacted]
16 could have visitation with has altered. She is now in
17 agreement with, as I understand, the child wishes-- the
18 child's wishes to be, that if every other weekend would be
19 fine, that's-- she's had time to reflect on that and so has the
20 child, and that's what I understand the child wants.
21 JUDGE MCGUIRE: All right. And Mr. Ferrara?
22 MR. FERRARA: Judge, I actually-- give me one
23 second.
24 JUDGE MCGUIRE: Okay.
25 (Discussion between Mr. Ferrara and Mr. P[redacted])

1 MR. FERRARA: My client has, since we were in
2 court, discovered certain things that I think will be the
3 gravamen of our evidence here at trial today that leads him
4 to believe that it would-- that there needs to be a change in
5 custody here.
6 JUDGE MCGUIRE: Well, he hasn't filed for
7 custody, though.
8 MR. FERRARA: Well, I think his petition is kind of
9 in the alternative, it's in the disjunctive, as I read it. Now,
10 obviously-- I mean, it says, "Petition for custody and/or
11 Modification of the Order of Visitation"--
12 JUDGE MCGUIRE: But what does paragraph nine
13 say?
14 MR. FERRARA: Um--
15 JUDGE MCGUIRE: That's the-- that's the prayer
16 for relief, as in the middle of the-- the--
17 MR. FERRARA: Ah, maybe I'm looking at a
18 different document--
19 MS. HELLER: Yeah, I have a different--
20 MR. FERRARA: --It just says that the child is
21 represented by Alexandra Bourne.
22 MS. HELLER: Yeah.
23 JUDGE MCGUIRE: Oh, okay. Then--
24 MR. FERRARA: So, we might be looking at two
25 different documents.

1 JUDGE MCGUIRE: Yeah.
2 MR. FERRARA: Um--
3 JUDGE MCGUIRE: Which says, based on the
4 changed circumstances, he's asking for?
5 MR. FERRARA: Well, I mean, his petition-- may I
6 --May I--
7 JUDGE MCGUIRE: Sure.
8 MR. FERRARA: -- Just make sure that I'm looking
9 at the same document--
10 JUDGE MCGUIRE: Right.
11 MR. FERRARA: --You're looking at? I mean, I
12 have a stamp in date.
13 JUDGE MCGUIRE: Let me see here. I'm sure that
14 we probably are, yeah, but let me look at-- yeah, okay. Oh,
15 okay. Okay, so it does-- he does ask for-- for in the
16 alternative. Okay.
17 MS. HELLER: It's the petition dated January 15th,
18 Mr. Ferrara?
19 JUDGE MCGUIRE: Yeah.
20 MS. HELLER: All right.
21 MR. FERRARA: Yes, yes. I can't really see the--
22 well, the stamp in date is January 16th, but, yes.
23 JUDGE MCGUIRE: Ms. Bourne?
24 MS. BOURNE: Your Honor, with respect to that
25 petition, it just alleges, you know, broad-based in paragraph

1 ten that the change in circumstances is that the petitioner
2 was released from custody. And I can appreciate the fact
3 that he's desirous of getting custody of this child, however
4 --but, you know, I can't support that application at this time.
5 The child is-- I did meet with her again, and since the last
6 court date, she is extremely happy with the way the situation
7 is going, enjoys spending quality time with her father, likes
8 going to see him, likes staying where-- where she is when
9 she's with him. There are no concerns that were reported to
10 me. You know, why we can't work on some expanded
11 visitation or parenting time and incorporate such other
12 further language to a consent order, I don't see why that's
13 not a practical resolution to this matter.
14 JUDGE MCGUIRE: Well, I-- I only will guess,
15 because I know maybe less than you do, is that there are
16 some issues that Mr. Ferrara will bring to light in his case in
17 chief that will establish that there's been a significant
18 change, circumstances that requires a change in custody in
19 order to maintain the child's best interests. Now, I know
20 Mr. Ferrara is aware that he's going to have at least one or
21 two, or possibly three adversaries in the courtroom, all
22 sitting on that side of the bench. I'm going to listen to the
23 evidence and make the decision that's in the best interest of
24 the child. But if that's the direction that we're going, that's
25 fine, then we need to get started so that we can get this

1 matter tried. So, based on that, Ms. Heller, anything you
2 want to add before we get started?
3 MS. HELLER: I-- Judge, from what all I've heard, I
4 believe that my client agrees with counsel for the child and
5 with the grandmother that at this point, it's in the best
6 interest of the child to remain with the grandmother. I just
7 would inquire of Mr. Ferrara does he think that there would
8 be any benefit to a meeting of counsel so that we could
9 discuss what the issues are and perhaps work them out?
10 MR. FERRARA: Well, I-- I don't have a problem--
11 I mean, I think I could do that in three minutes. I mean, I
12 don't think that there's anything lengthy.
13 JUDGE MCGUIRE: Yeah. The only thing is that I
14 don't want to-- we're already at a quarter to two, I don't
15 want to waste a lot of time on a non-settlement.
16 MR. FERRARA: Mm-hmm.
17 JUDGE MCGUIRE: Let's-- let's do this.
18 MR. FERRARA: Could we ask-- there's potential
19 witnesses in the courtroom, and I don't-- this is almost--
20 JUDGE MCGUIRE: I'm going to ask all the non-
21 attorneys to step out.
22 (OFF THE RECORD)
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on March 5, 2013.
7
8
9 Dated: April 2, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION OF BUSINESS RECORD

Gideon Rabinovicz, being duly sworn, deposes and says:

1. I am a Lieutenant in the Department of Public Safety of the New York State Unified Court System. I have authority to make this certification under Rule 3122-a of the New York Civil Practice Law and Rules.

2. To the best of my knowledge, after reasonable inquiry, the attached Aided Report Numbered 47703 is a true and correct copy, with redactions of home address information.

3. The Report submitted herewith was made by the personnel or staff of the Department of Public Safety of the New York State Unified Court System, or persons acting under their control, in the regular course of business, at the time of the act, transaction, occurrence or event recorded therein, and it was the regular course of the Department of Public Safety's business to make such records.

Gideon Rabinovicz

Sworn to before me this
14th day of February, 2019

Notary Public

SHAWN KERBY
Notary Public, State of New York
No. 02KE5023988
Qualified in New York County
Commission Expires 2/23/22

EXHIBIT
Comm
Ex VII-3

PENGAD 800-631-6989

STATE OF NEW YORK
UNIFIED COURT SYSTEM
AIDED REPORT

DATE OF OCCUR.	LASTNAME	FIRSTNAME	M.I.	EMPLOYEE	SEX	AGE
01/28/2013	R[redacted]	S[redacted]		NO	F	62

TIME OF OCCUR.	ADDRESS	AIDED NUMBER		
		LOC. CODE	REP. NO	YEAR
0933	[redacted]	3F	47703	2013

COURT/FACILITY	PLACE OF OCCURRENCE
3RD DISTRICT - SULLIVAN COUNTY	FAMILY COURT COURTROOM 2

CHECK ONE:	NATURE OF ILLNESS OR INJURY
☐ ACCIDENT ☐ EDP ☒ OTHER ☐ SICKNESS (SPECIFY UNDER DETAIL)	Shortness of Breath

REMOVED TO:	HOSPITAL	EMERGENCY MEDICAL RESPONSE	ATTENDANT
☐ HOSPITAL ☒ RMA ☐ TREATED ON SCENE		☒ YES ☐ NO	McGrath #364425

DETAILS: (include pertinent information regarding nature of aided case, first aid rendered, notifications made, etc.)

At T/P/O reporting Sgt. (R/S) responds to Courtroom 2 where Aided was having trouble breathing. Court Officer Downs called 911 @ approx. 0933 hrs. Mobilemedic Ambulette arrives at scene @ approx. 0937 hrs. Mobile medic Attendant McGrath #364425 renders aid to Aided. @ approx. 1000 hrs. Aided refused to be taken to a Medical Facility and signed a UF131.

NAME AND ADDRESS OF WITNESS NONE LISTED

SUBMITTED BY	TITLE	SHIELD NO.	DATE
GUILLERMO OLIVIERI	COURT OFFICER SERGEANT	394	01/28/2013
REPORTED TO	**TITLE**	**SHIELD NO.**	**DATE**
KEVIN MCCABE	LIEUTENANT	241	01/28/2013
APPROVED BY	**TITLE**	**SHIELD NO.**	**DATE**
LUIS LOPEZ			02/15/2013

LINKED REPORTS

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 4, 2019

RE: P[redacted] v. P[redacted]/R[redacted] FF#12057

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-4

Court Activity File Summary - Sullivan County Family Court

File No: 12057 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/28/2013
Cal. No(s): 2, 3

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-01389-08/12E		Violation of Order of Visitation	Appear	10/17/2012	05/08/2013	
V-01389-08/13F		Modification of Order of Custody Modification of Order of Visitation	Arraign	01/16/2013	07/27/2013	

Pedigree Information

[redacted] A. P[redacted] DOB: [redacted] Docket(s): V-01389-08/12E (Petr), V-01389-08/13F (Petr)
Primary Address: [redacted]

Attorney: John Ferrara (Conflict Defender's Office)

S[redacted] P[redacted] DOB: [redacted] Docket(s): V-01389-08/12E (Resp), V-01389-08/13F (Resp)
Primary Address: [redacted]
Contact Information: (H) [redacted]

Attorney: Marcia Heller (18B)

S[redacted] R[redacted] DOB: Unknown Docket(s): V-01389-08/12E (Resp), V-01389-08/13F (Resp)
Primary Address: [redacted]
Contact Information: (H) [redacted] (W) [redacted]

Attorney: K C. Garn (Legal Aid)

[redacted] DOB: [redacted] Docket(s): V-01389-08/12E (Child), V-01389-08/13F (Child)

Attorney: Alexandra Bourne (Attorney for Child)

Appearance Detail

Appearance: 01/28/2013 09:00 AM, Hon. Michael F. McGuire, PT 2, Appear, Arraign

Date printed: 01/28/2013

[redacted]

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-4a

File No: 12057 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 01/28/2013
Cal. No(s): 2, 3

Attendance: Present:

Alexandra Bourne (Atty)
John Ferrara (Atty)
K C. Garn (Atty)
Marcia Heller (Atty)
[redacted]
M[redacted] A. P[redacted]
S[redacted] P[redacted]
S[redacted] R[redacted]

Notes:

(V-01389-08/12E, V-01389-08/13F)
new petn was served on counsel as addresses are confidential;
mr got out of jail on 1/11; he saw child 3x since for a full day each time;

denials entered on new petn;

john says since dad has a track record to have alt weekends;
he is living with his wife in pine bush; wife drives not dad;

alex spoke to her client and she would be ok with alt weekends and sleep over ok and 1 day during the week;

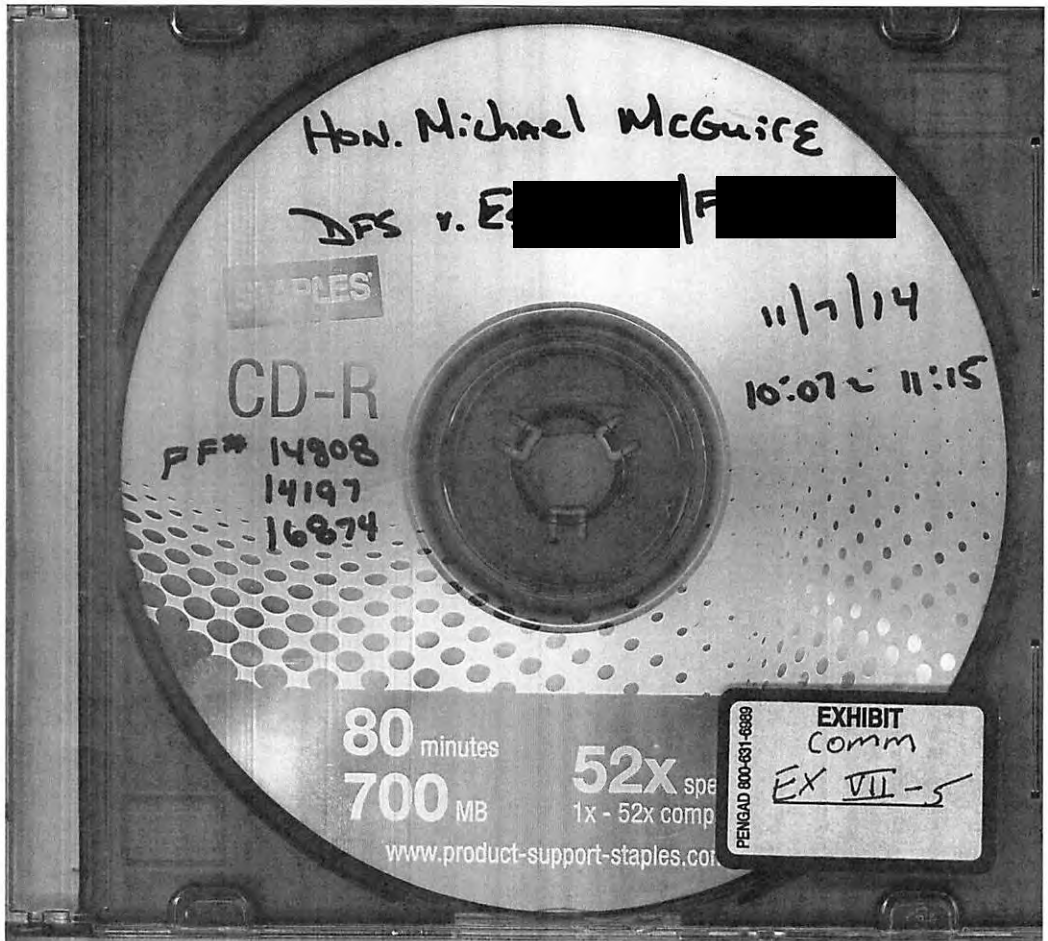
Temp Order
comm 2/2 alt weekends to dad from sat morn at 9:00 to sun at 7:30; dad to provide transportation dad to p/u at home in blooming burg; other further and diff including a mid week if can be worked out; addednum;

dad's phys address remains confidential

grandma stops to say something to the child and alex tells her inappropriate;
judge has child leave room and yells at the grandma; she had a conversation about not seeing child;
admonishes thta child is to not be spoken to about what she wants or not;
(Andrea Rogers)

Outcomes: Issue Joined (V-01389-08/13F)

Future Appr: 03/05/2013 01:30 PM Hon. Michael F. McGuire, PT 2: Appear (V-01389-08/12E, V-01389-08/13F)


Hon. Michael McGuire
DFS v. E[redacted]|F[redacted]
11/7/14
10:07 - 11:15
CD-R
PF# 14808
14197
16874
80 minutes
700 MB
52x
1x - 52x
www.product-support-staples.co
EXHIBIT
Comm
EX VII-5
PENGAD 800-631-6989

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 4, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

DFS v. E[redacted] and F[redacted]
Family File #'s - 14808, 14197 & 16874
Date of recording -November 7, 2014
10:07 - 11:15

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-5

SULLIVAN COUNTY
TENNESSEE

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

DEPARTMENT OF FAMILY SERVICES v. E[redacted] AND F[redacted]

November 7, 2014
10:07 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-5a

1 JUDGE MCGUIRE: All right. Okay. We'll bring
2 Ms. G[redacted] back up to the stand. I remind you you are still
3 under oath.
4 MS. C[redacted]: Mm-hmm. Yes.
5 JUDGE MCGUIRE: Anybody speak to you during
6 the-- the interim?
7 MS. C[redacted]: Mm-mm.
8 JUDGE MCGUIRE: During the break? Okay. Did
9 we get that exhibit sorted out?
10 MS. HART: Yes. We're here.
11 JUDGE MCGUIRE: All right. Let's show it to Mr.
12 Garn. Did Mr. Garn see it?
13 MS. HART: Oh.
14 JUDGE MCGUIRE: Ma'am?
15 MS. HART: Do you mind if I sit--
16 JUDGE MCGUIRE: No.
17 MS. HART: --For the rest of the questions? Okay.
18 Thank you.
19 JUDGE MCGUIRE: Your back is...?
20 MS. HART: A little bit.
21 JUDGE MCGUIRE: The child is...?
22 MR. GARN: No objection, Judge.
23 JUDGE MCGUIRE: The first of many pains that the
24 child will create.
25 MS. HART: Yeah.

1 JUDGE MCGUIRE: And they don't stop in nine
2 months.
3 MS. HART: No. It's okay.
4 JUDGE MCGUIRE: They just start, at least, for the
5 dads they just start, anyway. No, that's fine.
6 MS. RAWICH: No objection.
7 MR. ROSS: Same here, Your Honor. No objection.
8 MR. EDWARDS: There's no objection.
9 JUDGE MCGUIRE: Petitioner's 2 is in evidence,
10 without objection.
11 (Petitioner's 2 was received in evidence.)
12 MS. HART: Great.
13 DIRECT EXAMINATION (Continued)
14 BY MS. HART:
15 Q. So after you met with the children at Rock Ridge, the house at Rock
16 Ridge, were you able to make contact with either Ms. E[redacted] or Mr.
17 F[redacted]?
18 A. No.
19 Q. No, they didn't contact you--
20 A. No.
21 Q. --And you didn't contact them?
22 A. I attempted-- I attempted to, but no, we didn't make contact.
23 Q. Okay. So did there come a time where you came into court, based on
24 that removal?
25 A. Yes. There was another hotline call that came in.

1 Q. No, I'm sorry, you're not understanding my question. When you
2 removed those three kids--
3 A. Mm-hmm.
4 Q. --Did you have to come to court--
5 A. Yes--
6 Q. --To have a hearing?
7 A. -- The same day.
8 Q. Okay. So those kids were taken where, you said?
9 A. They went to their-- they went with their grandmother, A[redacted] T[redacted].
10 Q. Okay. Now, when was the next time you actually heard from either
11 Ms. F[redacted] or Mr. F[redacted]?
12 A. After receiving another hotline call.
13 Q. Okay. What was the date of the next hotline call?
14 A. That was September the 6th.
15 MS. HART: Okay. Can you mark this? Mark it for
16 identification, Petitioner's 3.
17 JUDGE MCGUIRE: Okay. September 6th?
18 THE WITNESS: Yes.
19 (Petitioner's 3 was marked for identification.)
20 BY MS. HART:
21 Q. Is this the report that you're referring to?
22 A. Yes.
23 MS. HART: Okay. I'd like to enter it into evidence.
24 MS. RAWICH: No objection.
25 MR. EDWARDS: No objection.

1 MR. ROSS: Your Honor, I would-- given the fact
2 that it's not mentioned in the petition, it may clearly be
3 relevant to the allegations in the petition, however, I'd like
4 to see more of a foundation to somehow tie it
5 in with the allegations that were made.
6 MS. HART: It's in the derivative petition.
7 MR. ROSS: Okay.
8 MS. HART: You have the derivative petition?
9 MR. ROSS: I have an amended petition which was--
10 MS. HART: And then there was--
11 MR. ROSS: --From September 2nd.
12 MR. EDWARDS: A violation.
13 MS. HART: --One more aft--
14 MR. ROSS: And then-- and then there's a violation
15 petition, which may be--
16 JUDGE MCGUIRE: The violation petition was--
17 was brought in October.
18 MS. HART: It wasn't the violation, it was right
19 before that we brought in another derivative--
20 JUDGE MCGUIRE: I have an amended petition,
21 September 2nd, and then I have just the violations filed after
22 that. Does someone have a-- a second amended petition?
23 MS. HART: It was the-- the removal of the fourth
24 child. There should've been another petition.
25 JUDGE MCGUIRE: That's A[redacted]?

MS. HART: A[redacted].

JUDGE MCGUIRE: A[redacted]. That's brought September 10th?

MS. HART: Yes, that's the one.

JUDGE MCGUIRE: That was where the mother tested positive for marijuana, and there was no tox on the baby? Is that the one?

MS. HART: Yeah.

JUDGE MCGUIRE: Okay. That's in the September 10th petition. Is that where this hotline call is from? Is it--

MS. HART: Yes.

JUDGE MCGUIRE: --This is by a mandated reporter?

MS. HART: Yes.

JUDGE MCGUIRE: Who's the mandated reporter? The hospital?

MS. HART: Yes.

JUDGE MCGUIRE: Okay, okay. All right. So, I'll overrule that objection. So, Petitioner's 3 is in evidence.

(Petitioner's 3 was received in evidence.)

BY MS. HART:

Q. What were the September 6th allegations that prompted you to meet with Ms. E[redacted] and Mr. F[redacted] again?

A. That the infant, A[redacted], Baby A[redacted], was born on [redacted], and Mom had a positive toxicology at the time of the birth.

1 Q. Okay. Did you get to speak to Ms. E[redacted] regarding that report?
2 A. The on-call worker went out when the report came in, because it came
3 in over the weekend. He met with them at the hospital, then he met
4 with them at the home. And he then asked them to come into the
5 department to meet with me, and I-- we met. I asked where the baby
6 was, where the infant was, and they told me they-- they were with a
7 friend. I ask who the friend was, and they refused to tell me the name.
8 We went over the report. At that time, T[redacted] E[redacted] admitted that she
9 had been smoking marijuana daily during her pregnancy. She said she
10 stopped smoking marijuana a week prior to the delivery. I ask Mr.
11 F[redacted] whether he was aware. He said he was. "What did you do
12 about it?" He said, "I had-- you know, I talked to her about it, didn't
13 want her to smoke while she was pregnant, kept telling her to stop.
14 But she's a grown woman, she's an adult, so I couldn't stop her."
15 Q. So what did the department decide to-- what did-- what did you do
16 after that?
17 A. Later on in the day, I was directed to remove the baby from the home.
18 Q. Okay. But did there come a time where the baby was then returned to
19 one of the parents?
20 A. Yes.
21 Q. Which-- which one?
22 A. A[redacted] F[redacted]
23 Q. Okay. Why not Ms. E[redacted]?
24 A. Ms. E[redacted] was in jail during the-- that court hearing when-- when
25 the child was returned to the father.

1 Q. Okay. Do you know what she was in jail for?
2 A. For assaulting me.
3 Q. Okay. Can you please tell me the circumstances of the assault?
4 A. When I went out to the house to remove Baby A[redacted], I was
5 accompanied by two officers from Monticello PD. Mr. F[redacted] was
6 home, as well as Baby A[redacted]. Explained to Mr. F[redacted], you know,
7 that we have to remove the baby, give him, you know, explain why.
8 And at that point, he started using his phone. He was texting, and
9 within a few minutes, T[redacted] barged into the apartment, just screaming
10 and yelling. She then lunged at me and assaulted me. She punched
11 me on the face.
12 Q. Okay. You filed a complaint?
13 A. The officers that were present, yes, filed a complaint on my behalf.
14 Q. Okay. So when A[redacted] was returned back to the custody of Mr.
15 F[redacted]--
16 A. Mm-hmm.
17 Q. --What were the-- the orders of the court on that particular hearing?
18 A. Mr. F[redacted] was to be available. The baby was to be available to
19 meet with DFS for safety checks. DFS was ordered to conduct daily
20 safety checks at the home. I had-- I requested-- that was on a
21 Thursday when he was-- the baby was removed. That Friday I was
22 going to meet-- go to the home to do a safety check, and I was told
23 that Mr. F[redacted] had been in a vehicle and the woman in the vehicle
24 was arrested for possession. Mr.-- the baby was in the vehicle as well.
25 The baby was in a car seat. The car seat was not strapped to the-- was

1 not secured in the car, in the vehicle.
2 MR. GARN: I'm objecting to this testimony.
3 MS. HART: Yeah--
4 MR. GARN: Because--
5 JUDGE MCGUIRE: Yeah. Sustained.
6 MS. HART: Yeah. I'm sorry.
7 MR. GARN: --If I understand the answer correctly,
8 it's what she was told.
9 JUDGE MCGUIRE: Yeah, sustained, and that
10 whole answer is going to be struck.
11 BY MS. HART:
12 Q. Were daily safety checks after that Thursday, in which the baby was
13 returned--
14 A. Mm-hmm.
15 Q. --Were daily safety checks made?
16 A. And I was going to-- yes-- then lead into that Saturday. That Sunday,
17 on-call went out. No one was home--
18 MR. GARN: Objection.
19 MS. HART: This is part of the-- this is part of the
20 whole investigation process in the notes of all the on-call
21 workers.
22 JUDGE MCGUIRE: Well, you-- what purpose are
23 you offering the testimony for?
24 MS. HART: The purpose that Mr. F[redacted] was not
25 abiding by the Court's order to make himself available to

1 DFS.

2 JUDGE MCGUIRE: So you-- so that testimony's

3 coming for its truth that he was not there and did not have

4 the child available?

5 MS. HART: Yes, it is.

6 JUDGE MCGUIRE: Yeah. Then it's not coming in.

7 Not through this witness.

8 MS. HART: Okay. All right.

9 BY MS. HART:

10 Q. To your knowledge, has Ms. E[redacted] or Mr. F[redacted] been to

11 SCADAS, other than what was said today--

12 A. Yes--

13 Q. --By Mr. F[redacted]? They have been?

14 A. Yes.

15 Q. Okay. Have they complied with the recommend-- any

16 recommendations? Had--

17 MR. GARN: I'm going object to this line of

18 questioning.

19 JUDGE MCGUIRE: Yeah. Sustained. That has to

20 be hearsay.

21 MS. HART: Okay.

22 BY MS. HART:

23 Q. Do you have any knowledge that they are in any treatment program

24 currently?

25 A. I--

1 MR. GARN: Objection.
2 JUDGE MCGUIRE: Well, she can answer that yes
3 or no.
4 THE WITNESS: Yes, I have knowledge that--
5 JUDGE MCGUIRE: That's it. That's the answer.
6 BY MS. HART:
7 Q. That they are in a treatment program or they're not?
8 A. That they've missed--
9 JUDGE MCGUIRE: She has knowledge that they
10 are.
11 MS. HART: She has knowledge that they are?
12 Okay.
13 THE WITNESS: That they've initiated.
14 MS. HART: Okay.
15 BY MS. HART:
16 Q. Did there come a time where the children were temporarily returned to
17 the care and custody of Ms. E[redacted]?
18 A. Yes.
19 Q. And what were the terms of that?
20 A. There was an order of protection issued by this court stating that
21 A[redacted] F[redacted] was not to be-- have-- was not to have any contact
22 with the children. The Court did also state that if there were to be any
23 contact, it could be supervised by the Department of Family Services,
24 between him and Baby A[redacted] only.
25 Q. Okay. Now, what was-- what was the purpose of having an order of

1 protection against Mr. F[redacted]--
2 MR. GARN: Objection.
3 JUDGE MCGUIRE: Sustained.
4 Q. --In your understanding?
5 JUDGE MCGUIRE: Sustained.
6 MS. HART: Okay.
7 BY MS. HART:
8 Q. Had you requested this order of protection against Mr. F[redacted]?
9 A. We did request an order of protection, especially after--
10 MR. GARN: Objection.
11 JUDGE MCGUIRE: Sustained.
12 MS. HART: Okay.
13 BY MS. HART:
14 Q. What are you concerns with the danger to the children?
15 A. Well, we--
16 MR. GARN: Objection.
17 JUDGE MCGUIRE: Sustained.
18 MS. HART: Okay. That's it. Thank you.
19 JUDGE MCGUIRE: Nothing further?
20 MS. HART: Nothing further.
21 JUDGE MCGUIRE: Okay. Mr. Garn? Some
22 cross?
23 MR. GARN: Yes, Judge. And the exhibit, Exhibit 1,
24 that Andy--
25 JUDGE MCGUIRE: That's the hotline call from

1 May 27th.

2 CROSS EXAMINATION

3 BY MR. GARN:

4 Q. Now, Ms. C[redacted], do-- do I correctly understand that the first hotline

5 call came in on the 23rd of May of this year? Is that correct?

6 A. Yes. 27th.

7 Q. Let me show you what's Number 1 in evidence--

8 A. Oh, the 23rd? Okay.

9 Q. Is it-- is it the 23rd or the 27th?

10 A. It's the 23rd. I don't know why I keep saying the 27th.

11 Q. Okay. So, there's no question about that?

12 A. No.

13 Q. May 23rd. And what was the date that you went to-- to the home to

14 investigate that complaint?

15 A. My attempts or the...?

16 Q. Your attempts, yes. When did you go?

17 A. On-call went out as soon as the call came in. I went out the same day.

18 We went out again several times until I met with them on June 2nd.

19 Q. So, your first contact with Ms. E[redacted] and-- with Ms. E[redacted] was

20 on the 2nd of June, correct?

21 A. Physical contact, yes.

22 Q. Physical contact. So, from the 23rd to the 2nd of June, you-- you did

23 not have contact with them?

24 A. They were not available, no.

25 Q. Okay. And I believe your testimony was that the home was not in

1 deplorable condition, is that correct?
2 A. That's correct.
3 Q. And that's reflected in your notes as well, correct?
4 A. Yes.
5 Q. And do I correctly understand your testimony that on the 2nd of June
6 you went over all of the allegations with Mr. F[redacted] and with Ms.
7 E[redacted]?
8 A. Yes.
9 Q. And they denied all of the allegations, correct?
10 A. Yes, however, Mr. F[redacted] then said, after he denied smoking
11 marijuana, that he does sometimes go out, smoke marijuana--
12 Q. And smoke marijuana?
13 A. Mm-hmm.
14 Q. Okay. And it was on that date that you spoke with G[redacted] and she
15 mentioned "pink pills" and "green pills," correct?
16 A. Yes.
17 Q. And that there's fighting?
18 A. Mm-hmm.
19 Q. Okay. And they agreed to preventive services, is that correct?
20 A. Yes.
21 Q. And then you left, correct?
22 A. Yes.
23 Q. And do I correctly understand then that the next-- now, you did testify
24 that there were no indicated reports of child abuse or child neglect that
25 you discovered against these parties when you checked them, correct?

1 A. Correct.
2 Q. And the next time you went there was on the 24th?
3 A. That is correct.
4 Q. On-- was it the 25th? There was a hotline call on the 24th, correct?
5 A Yes.
6 Q. Now, you saw the children on the 25th of June, correct?
7 A. 25th. Correct.
8 Q. Okay. And you saw them in the presence of my client, Ms. E[redacted],
9 and Mr. F[redacted], correct?
10 A. Yes.
11 Q. And the allegations were denied again?
12 A. Yes.
13 Q. Was the house in deplorable condition at that time?
14 A. No.
15 Q. Now, you mentioned, at that time, or about the 25th of June and
16 possibly--
17 A. Mm-hmm.
18 Q. --The 25th of June was a Wednesday. You mentioned that you-- you
19 implemented a-- a safety plan for the children?
20 A. Yes.
21 Q. Okay. Do you recollect that now?
22 A. Yes.
23 Q. And-- and that plan was--
24 JUDGE MCGUIRE: That was June 25th?
25 THE WITNESS: It was--

1 JUDGE MCGUIRE: --June 25th?
2 THE WITNESS: It was on or-- can I confirm? Can
3 I refer to my notes for recollection, just to confirm the
4 dates?
5 JUDGE MCGUIRE: That's up to-- I'm just trying
6 to-- Mr. Garn had said June 25th, I wanted to make sure that
7 you were responding to that.
8 MR. GARN: Certainly.
9 THE WITNESS: That was on the-- actually, that
10 was on the 27th.
11 JUDGE MCGUIRE: Of May or June?
12 THE WITNESS: Of June.
13 JUDGE MCGUIRE: Okay.
14 BY MR. GARN:
15 Q. 6/27--
16 A. 6/27--
17 Q. --Which then is Friday.
18 A. Yeah. I met with T[redacted] and A[redacted] on 6/25 and then I met with the
19 children at DFS on 6/27.
20 JUDGE MCGUIRE: The grandmother brought
21 them?
22 THE WITNESS: Yes.
23 BY MR. GARN:
24 Q. Okay. So, you met with the kids on the 27th, and you came up with a
25 safety plan, and that plan was-- was for what?

1 A. The children, G[redacted] and J[redacted], to remain with their great-
2 grandmother, and J[redacted]o remain with his father, J[redacted] T[redacted],
3 through the weekend, until T[redacted] E[redacted] and I met at the office--
4 Q. Okay. And--
5 A. --Monday.
6 Q. And that safety plan was put in effect by you?
7 A. It was-- it was-- it was-- the safety issues were discussed.
8 Q. With the great-grandmother?
9 A. With the great-grandmother and with T[redacted].
10 Q. Okay.
11 A. Went to the house, discussed the safety issues, discussed that there's a
12 lot of concerns about the children because of the domestic violence,
13 the drug-- allegations of the drugs. And I said that for the time being,
14 the children need to be safe. The department felt that they were not at
15 that point. Where was J[redacted]?" She's-- J[redacted]? She said, "He's with
16 his father." I said, "Would you be okay with allowing him to stay
17 there through the weekend?" And she said, "Well, why"--
18 Q. Who's "she"?
19 A. T[redacted] E[redacted]--
20 Q. Okay.
21 A. --Said "Why?" And again, I explained the reasons why. And then I
22 said that-- I asked about J[redacted] and G[redacted] remaining with the great-
23 grandmother, M[redacted] B[redacted], said that the children could not stay in the
24 home at that time. Again, I kept emphasizing, and she kept asking
25 why. And the safety issues were reviewed several times with her.

1 Q. And did you come to an agreement?
2 A. Yes. She was going to come to the office to speak with me. The
3 children would remain where they were, and she would come to the
4 office to speak with me--
5 Q. Okay. And the children--
6 A. --After the weekend.
7 Q. Okay. And the children, by "the children," you mean J[redacted] and
8 G[redacted] would stay with the great-grandmother, is that correct?
9 A. Correct.
10 Q. And where does she live?
11 A. Cochecton, in Ulster County. M[redacted] B[redacted].
12 Q. Okay. And J[redacted]--
13 A. --That's not Cochecton. It's in Ulster--
14 Q. --Was going to stay with?
15 A. J[redacted] would stay-- was-- was-- when I made the visit, J[redacted] was
16 already with J[redacted] T[redacted].
17 Q. Okay.
18 A. And she agreed to allow him to stay with him.
19 Q. Okay.
20 A. Through the weekend.
21 JUDGE MCGUIRE: The children were staying in
22 Cochecton, which is Ulster County?
23 THE WITNESS: No, it's not Cochecton. My -- my
24 apologies. I think it's in Napanoch. It's in Ulster County.
25 JUDGE MCGUIRE: In Napanoch?

1 UNKNOWN FEMALE: That's Sullivan County.
2 THE WITNESS: Is it Napanoch?
3 UNKNOWN FEMALE: That's Sullivan County.
4 MR. EDWARDS: No, it's not.
5 MS. RAWICH: No, it isn't.
6 UNKNOWN FEMALE: They live in Cochecton--
7 JUDGE MCGUIRE: Wait a minute, wait a minute.
8 THE WITNESS: I would have to re--
9 JUDGE MCGUIRE: Who? Which grandmother are
10 we talking about?
11 THE WITNESS: Great-grandma, M[redacted] B[redacted]
12 JUDGE MCGUIRE: B[redacted]? Okay. So as far as you
13 know, they're in Napanoch?
14 THE WITNESS: They were in Ulster, yes.
15 JUDGE MCGUIRE: Ulster County? In Napanoch?
16 THE WITNESS: Yes. That's my--
17 JUDGE MCGUIRE: Ms. E[redacted], you are about
18 three seconds from getting yourself put in handcuffs and
19 taken out of here.
20 BY MR. GARN:
21 Q. So, J[redacted] and G[redacted] were with their great-grandmother in
22 Napanoch on the 27th of June, Friday, correct?
23 A. Yes.
24 Q. And J[redacted] was with his dad?
25 A. Yes.

1 Q. So, he was with his dad?
2 A. She said that he had been-- that he didn't have-- that he had been
3 staying this his sister, J[redacted] T[redacted], for the time because he didn't
4 have his own apartment.
5 Q. Okay. Did you know where that was?
6 A. No. She did not give me an address.
7 Q. Okay. So, you did not know where J[redacted] was? And this plan you put
8 in effect-- now, was this your own initiative to do this?
9 A. It was a-- a department--
10 Q. A department plan? I see. And-- and it was supposed to stay in effect
11 for how long? What was your understanding?
12 A. The understanding was that she would come into the department to
13 meet with me to discuss service planning, discuss the safety issues,
14 discuss the domestic violence, discuss the drug use, the lack of
15 agreeing to utilize preventive services--
16 Q. Okay.
17 A. --And have a talk with her alone, because if there was domestic
18 violence, I did want to have that talk with her one-on-one--
19 Q. Okay.
20 A. --Away from Mr. F[redacted].
21 Q. But by "her," you mean T[redacted] E[redacted]?
22 A. Yes.
23 Q. Okay. And when-- did you have an understanding of when that would
24 take place?
25 A. Yes. That Monday, at the Department of Family Services.

1 Q. Okay. Now, was-- was the court involved in any of this? Did you
2 come to court at the end of June, the family court, with this case, at
3 all?
4 A. At the end of June? No.
5 Q. Now-- Okay. And after the weekend of the 28th and 29th of June, on
6 Monday the 30th or the 1st of July, Tuesday, did Ms. E[redacted] come
7 and speak to you about your concerns?
8 A. She called my supervisor, Mary Ellen Lazarus (Phonetic), and she told
9 her that she has the children and that she was not going to comply
10 with the safety plan.
11 Q. Okay. And when-- when did she notify your department of that? Do
12 you know?
13 A. I believe it was that Monday.
14 Q. Monday--
15 A. --The 20--
16 Q. -- The 30th of June?
17 A. Yes.
18 Q. Okay. Now, you spoke of going to [redacted]. That's here
19 in the Village of Monticello, correct?
20 A. Correct.
21 Q. And do you-- I don't think you told us the date. When did you go
22 there?
23 A. August the 26th. August 20-- Can I-- 20-- May I -- August the 28th.
24 Q. August 28th. Okay. I-- I'd like -- now, is that-- that's shortly after the
25 second hotline call, correct?

1 A. Yes. The third hotline call, actually.
2 MR. ROSS: Which one?
3 THE WITNESS: Was after the third.
4 BY MR. GARN:
5 Q. I would like to ask you some questions about the time period
6 beginning Monday, the 30th of June, until the 31st of July.
7 A. Mm-hmm.
8 Q. Basically, the month of July 2014. What-- what contact did you have
9 with Ms. E[redacted] and the children during that month?
10 A. I went back out to the home. I did another visit.
11 Q. When-- when was that?
12 A. I believe it was July the 10th.
13 Q. Okay. The 10th of July. Did you-- okay.
14 A. Yes, July 10th.
15 Q. And where was that home visit?
16 A. At the [redacted] apartment.
17 Q. Okay. And who was home at that time?
18 A. T[redacted], A[redacted] F[redacted] and the three children.
19 Q. Okay. And what was the condition of the home on the 10th of July?
20 A. Mr. F[redacted] did not allow me to enter the home. He opened the front
21 door, so the only view I had was into part of the kitchen.
22 Q. Okay. And how did that appear to you?
23 A. Didn't see anything out of the ordinary.
24 Q. Okay. So you were denied entry to the home. Did you-- did you
25 speak with Ms. E[redacted]?

1 A. Ms. E[redacted] was holding the-- the youngest, J[redacted], and she did not
2 speak. Mr. F[redacted] was yelling and screaming, asking why this
3 worker was there. I explained again, I was doing a safety visit,
4 wanted to see how everyone was doing, does anyone need anything?
5 Again, T[redacted] did not say a word. F[redacted]-
6 Q. My client didn't say anything, correct?
7 A. No.
8 Q. And how long did that visit last? How long were you there?
9 A. It was a few minutes. I asked to-- to see the children again, and
10 F[redacted] called out to the children and they came to the front door.
11 And he said, "Okay, you saw them. Now leave."
12 Q. And how did the children appear?
13 A. They were-- they were dressed. I didn't see any marks or bruises on
14 them.
15 Q. They appeared okay?
16 A. They appeared okay.
17 Q. Okay. And that was on July 10th. And after a few minutes, I take it
18 you left?
19 A. Yes.
20 Q. Okay. And what about the remainder of the month of July 2014? Did
21 you make any more visits to the home?
22 A. The remainder of the month of July, no.
23 Q. There were no more visits to the home?
24 A. No.
25 Q. Okay. And for the remainder of the month of July, from the 10th on,

1 or for all of the month of July, all three children were with my client,
2 correct?
3 A. Oh, I-- I don't know that.
4 Q. Okay. Do you know otherwise?
5 A. No, I don't.
6 Q. Okay. Now, let's go to the month of August 2014. And I think you
7 told us that there was, I believe, in evidence as Number 2, is the
8 August 26th hotline call, correct?
9 A. Mm-hmm.
10 Q. During August, is that the first contact that you had regarding this case
11 was on the-- the 26th hotline call?
12 A. The first contact I had with whom?
13 Q. And was that the first involvement in-- of the case that you had during
14 the month of August was on the 26th, or did you have-- did you make
15 home visits between?
16 A. No. I requested-- on-call attempted home visits during the month of
17 August--
18 Q. Okay. But did you--
19 A. --Prior--
20 Q. --Make home visits?
21 A. No, I did not.
22 Q. Okay. And do you know whether any-- there was any contact with the
23 family during the first 25 days of August?
24 A. No. They were not home.
25 Q. Now-- But did you go to the home?

1 A. No.
2 Q. Okay. So, on the 20-- when did you go to [redacted]?
3 A. August the 28th.
4 Q. The 28th?
5 A. Mm-hmm.
6 Q. Now, what happened-- what did you do in the case between the
7 hotline call on the 26th and the 28th, when you went to the home?
8 A. Well, I attempted to find a number to reach T[redacted]. I attempted to
9 contact family to try to locate her. That was when I was able to obtain
10 a phone number from-- for her. And I called, and she picked up, and
11 that's the time that she told me she was not revealing where she was
12 staying, or where the children were staying.
13 Q. And that was on-- what day was that?
14 A. The 28th.
15 Q. The 28th?
16 A. Mm-hmm.
17 Q. And when did you next see the children?
18 A. The 28th.
19 Q. The 28th. And that was on [redacted]?
20 A. Yes.
21 Q. At Number 19. And they were in the care of Mr. T[redacted] at that time?
22 A. They were. He was present, yes.
23 Q. And my client, Ms. E[redacted], did you see her that day?
24 A. No.
25 Q. Did you see her at that location at any time?

1 A. No.
2 Q. Now, Number 3 in evidence is a hotline call from the 6th of
3 September. You're familiar with that hotline call?
4 A. Yes.
5 Q. And the child, A[redacted], was born the day before on the 5th, is that
6 correct?
7 A. Yes.
8 Q. Now, did you visit on the 5th, and 6th, was my client in the hospital?
9 A. Yes.
10 Q. As far as you know?
11 A. Yes.
12 Q. And did you visit her there?
13 A. I was not-- that was a weekend. On-call worker went out.
14 Q. Okay. Do you know who that was?
15 A. Allen Weir. (Phonetic)
16 Q. And as far as you know, he visited my client at the hospital?
17 A. Yes.
18 Q. And as far as you know, he had the information contained in
19 Petitioner's 3, in the hotline call, correct?
20 A. Yes, yes.
21 Q. And do you know whether or not Ms. E[redacted] returned home with her
22 child from the hospital?
23 A. She did.
24 Q. And do you know when that was?
25 A. That was on the-- that Sunday of the 7th.

1 Q. The 7th? Okay. And did you-- and did you go and see the child,
2 A[redacted], and my client at any time after she got home on the 7th?
3 A. That Monday?
4 Q. Yes.
5 A. No.
6 Q. You did not?
7 A. No.
8 Q. So, you did not speak to her about the allegations in the September 6th
9 hotline?
10 A. I did, at the office, at DFS.
11 Q. And when did you do that?
12 A. That was on September-- that was September the 9th, was September
13 9th, because I was out of the office two days after that hotline call
14 came.
15 Q. On September 9th--
16 A. Mm-hmm.
17 Q. --You spoke to her? Okay. And when was that child removed from
18 my client's care and custody?
19 A. September the 9th.
20 Q. The 9th. And do you know when he was returned to her? On or about
21 September 11th?
22 A. The child was returned to A[redacted] F[redacted]--
23 Q. A[redacted] F[redacted]--
24 A. --On September 11th.
25 Q. That-- okay. You said my client was in jail, correct?

1 A. Yes.
2 Q. Okay. So, to make sure I have this right, you spoke with Ms. E[redacted]
3 after she returned home with her child, you spoke to her, did you say,
4 on the 9th, at your office?
5 A. Yes.
6 Q. The 9th.
7 A. She was supposed to come in the day before and she didn't.
8 Q. Okay. But she came in on the 9th?
9 A. She did.
10 Q. And that when you spoke to her?
11 A. Mm-hmm.
12 Q. And is that the day that-- so I note-- was that the day that the child was
13 removed?
14 A. Yes.
15 MR. GARN: Nothing further, Judge. Thank you.
16 JUDGE MCGUIRE: All right. Thank you, Mr.
17 Garn. Mr. F[redacted] do you have any questions?
18 MR. F[redacted] No. No questions, Your Honor.
19 JUDGE MCGUIRE: Okay. Mr. Ross?
20 MR. ROSS: Thank you, Your Honor.
21 BY MR. ROSS:
22 Q. Morning, Ms. C[redacted].
23 A. Good morning.
24 Q. How are you today?
25 A. Well. Thank you.

1 Q. Now, in response to the hotline reports that you received on May 23rd
2 and June 24th, and you went and spoke to G[redacted], correct?
3 A. Yes.
4 Q. And she made some statements about-- regarding respondent's
5 boyfriend, A[redacted]?
6 A. Yes.
7 Q. Now, did you speak to A[redacted] about the allegations that G[redacted]
8 made regarding the domestic violence, first of all?
9 A. Mm-hmm.
10 Q. And what was A[redacted]'s reply?
11 A. That was-- that was-- the whole allegation of domestic violence which
12 kept reoccurring in the-- the reports was discussed with him earlier on,
13 I believe it was at that first visit on June the 2nd, and he denied--
14 Q. Okay.
15 A. --The domestic violence.
16 Q. Did A[redacted] ever admit to you that he was involved with domestic
17 violence with T[redacted]?
18 A. No.
19 Q. Okay. And you spoke to T[redacted] about these allegations also, correct?
20 A. Yes.
21 Q. Did she ever admit that there were domestic-- that there was domestic
22 violence between her and A[redacted] or anybody else?
23 A. She denied domestic violence.
24 Q. Did you yourself observe any-- anything on T[redacted], physically, which
25 would indicate that there was domestic violence?

1 A. Are you referring to, like, marks and bruises?
2 Q. Yes.
3 A. No.
4 Q. All right. Do you have any training in identifying what heroin looks
5 like?
6 A. No.
7 Q. Okay. How about marijuana?
8 A. Yes.
9 Q. And can you describe the training that you've had?
10 A. Well, it's-- it's not a specific, like, educational classes, just things
11 online that we've taken. The department offers several online
12 trainings where it's like a virtual educational seminars and things like
13 that. So...
14 Q. Other than the statements the children made to you regarding the drug
15 use, the alleged drug use in the house, do you have any other evidence
16 of drug use in the house?
17 A. I have reports of the great-grandmother, who says that--
18 Q. Anything that's been admitted into evidence today?
19 A. Aside from the drugs that were confiscated over at the [redacted]
20 home--
21 Q. But these were by the police, not you, correct?
22 A. Right, correct.
23 Q. Okay.
24 A. And-- and the children's report that they've seen--
25 Q. Right. I-- I'm asking if you-- if you have anything besides what the

1 children said?
2 A. Police re-- No, those police reports weren't-- no, I-- I cannot think of
3 anything right now, anything more.
4 Q. All right. So, Ms. E[redacted] never admitted to you that she uses drugs?
5 A. She did, after the fourth report was received--
6 Q. Okay.
7 A. --After the baby was born.
8 Q. All right. Prior to that, she never admitted the problem?
9 A. No.
10 MR. ROSS: Thank you. I have nothing else.
11 JUDGE MCGUIRE: All right. Thank you. Mr.
12 Edwards?
13 MR. EDWARDS: Briefly, Judge.
14 BY MR. EDWARDS:
15 Q. You mentioned that Ms. E[redacted] admitted drug use after A[redacted] was
16 born, is that correct?
17 A. Yes.
18 Q. And what did she admit to taking?
19 A. Smoking marijuana daily while she was pregnant.
20 Q. Over the course of her pregnancy?
21 A. Yes.
22 MR. EDWARDS: Thank you. That's all.
23 JUDGE MCGUIRE: All right. Ms. Rawich?
24 MS. RAWICH: No questions.
25 JUDGE MCGUIRE: All right. Ms. Hart?

1 MS. HART: Yeah, just a few.
2 REDIRECT EXAMINATION
3 BY MS. HART:
4 Q. You had mentioned on cross that on July 10th, you went back to [redacted]
5 [redacted] to speak to both Ms. E[redacted] and Mr. F[redacted], correct?
6 A. Yes.
7 Q. And Mr. F[redacted] reacted in a-- not a very positive manner towards
8 you, correct?
9 A. Yes, mm-hmm.
10 Q. Had he reacted that way with you at any point during this investigation
11 when you've met with him, or was this the only time?
12 A. No. The first time, when we met on June the 2nd and we went over the
13 allegations and I had asked about his having an evaluation at
14 SCADAS, he became highly irate, agitated, said he would go to
15 SCADAS, but he would not comply with any treatment
16 recommendations, nor would he sign consents. And he just flew off
17 the handle, said, "I'm not dealing with this. You deal with it, T[redacted]"
18 And then again at the time of the removal, of the child's removal.
19 Q. So, did you actually have an opportunity to calmly discuss these
20 allegations with Mr. F[redacted]?
21 A. When he and T[redacted] came into the office on September the 9th, we-- we
22 spoke some more about the prior allegations and that report that came
23 in after the baby was born.
24 Q. Okay. And what did he have to say about the allegations on that date?
25 A. Well, he was-- again, he said he was frustrated over the fact that T[redacted]

kept smoking marijuana while she was pregnant, that he kept asking her to stop because it was not good for the baby, and that she wouldn't listen. She refused. And then he said he just said he got fed up, said, "I-- I-- she was a -- she's an adult. I cannot tell her what to do." But he was very-- he was very upset over the fact that she had been using marijuana.

MR. GARN: I want to object to these statements admitted against Mr. F[redacted] which implicate my client.

JUDGE MCGUIRE: Yeah. That'll be sustained.

MS. HART: All right. But did Mr. F[redacted] admit to any of his own drug use?

JUDGE MCGUIRE: But it's in as to Mr. F[redacted]'s case.

MR. GARN: It's in as to Mr. F[redacted]'s case, but can't be used against my client?

JDUGE MCGUIRE: Correct, correct.

THE WITNESS: He never-- he-- he-- again admitted-- He said he had used marijuana, used marijuana, so he continued to admit he had and was.

BY MS. HART:

Q. That he used marijuana, what about any of the-- any other drugs? Did he admit?

A. Yes. He did say that on occasion he used pills.

Q. Okay. Between Ms. E[redacted], Mr. F[redacted] living at [redacted] and then living at [redacted] or Drive--

1 A. Mm-hmm.
2 Q. --Had you known any other addresses in between those two
3 addresses?
4 A. No, because we couldn't find her. I even sent out a letter to the post
5 office asking for a forwarding address and came back with nothing.
6 Q. So, there had been a time that you went to [redacted] and they
7 weren't home at that point? And this between the July 10th to end of
8 August.
9 A. Yes, we did attempt visits and they were not-- they were not home.
10 Q. Is that what prompted you to then contact the post office?
11 A. Yes.
12 MS. HART: Okay. No further questions. Thank
13 you.
14 JUDGE MCGUIRE: Mr. Garn? Mr. F[redacted]? Mr.
15 Ross?
16 MR. ROSS: It's one follow up, Your Honor.
17 JUDGE MCGUIRE: Okay.
18 RECROSS EXAMINATION
19 BY MR. ROSS:
20 Q. Ms. G[redacted], your visits with-- with the kids, J[redacted] in particular, since
21 I'm representing him, did he appear to be malnourished, or not
22 properly clothed, or anything like that?
23 A. He-- his weight appeared to be within normal limits for a little guy, for
24 a boy his age, and his clothes were-- they seemed-- I mean, basic
25 children's clothing, you know, a T-shirt, shorts, jeans--

1 Q. Okay. Seem healthy?
2 A. He appeared fine in general.
3 MR. ROSS: Okay. Thank you.
4 JUDGE MCGUIRE: Mr. Edwards?
5 MR. EDWARDS: Nothing further.
6 JUDGE MCGUIRE: Ms. Rawich?
7 MS. RAWICH: Nothing.
8 JUDGE MCGUIRE: Ms. Hart?
9 MS. HART: That's it.
10 JUDGE MCGUIRE: All right, very good. Ms.
11 C[redacted], you can step down.
12 THE WITNES: Thank you.
13 JUDGE MCGUIRE: Okay. Ms. Hart, you have
14 another witness for us?
15 MS. HART: Yes. I want to call Cathy Weise,
16 Catherine Weise.
17 COURT OFFICER: White.
18 JUDGE MCGUIRE: All right. Ms. Weise, just
19 make your way over here, and follow the court officer's
20 instructions, if you would, please?
21 COURT OFFICER: Ma'am, would you raise your
22 right hand, please? Do you swear or affirm to tell the truth,
23 the whole truth, and nothing but the truth, so help you God?
24 THE WITNESS: Yes.
25 COURT OFFICER: Please state your name and

1 spell your last name for us, ma'am.
2 THE WITNESS: Cathleen Weise, W-E-I-S-E.
3 JUDGE MCGUIRE: W-E-I-S-E?
4 THE WITNESS: Yes.
5 JUDGE MCGUIRE: All right. All right, Ms. Weise,
6 that microphone is a recording device. We keep an audio
7 transcript. Please keep your voice up. All of your
8 responses must be verbal. If you need a break at some
9 point, let me know. We got some water there for you.
10 THE WITNESS: Thank you.
11 JUDGE MCGUIRE: You all set?
12 THE WITNESS: Yes.
13 JUDGE MCGUIRE: All right. Ms. Hart, you may
14 inquire
15
16 CATHLEEN WEISE,
17 Having been duly sworn, was examined and testified as follows:
18
19 DIRECT EXAMINATION
20 BY MS. HART:
21 Q. Ms. Weise, who's your employer?
22 A. Sullivan County Department of Family Services.
23 Q. And what is your job title there?
24 A. Case Supervisor.
25 Q. And what are your job duties?

1 A. I supervise Child Protective case workers.
2 Q. Okay. Are you familiar with Ms. E[redacted] and Mr. F[redacted]?
3 A. Yes.
4 Q. Now, how are you familiar with them?
5 A. I was on call when I was-- it was requested that I make a safety check
6 at their home.
7 Q. Okay. Do you remember the date of that safety check?
8 A. October 19th.
9 Q. Did you, in fact, go to their home on October 19th?
10 A. Yes.
11 Q. And what's the address?
12 A. It's [redacted] in Monticello.
13 Q. At what time did you go to the home?
14 A. It was around 6 A.M. in the morning.
15 Q. Were you accompanied by anyone?
16 A. Two Monticello police officers were with me. It was Sergeant Lowe
17 and Officer Otino (Phonetic).
18 Q. Okay. So, I'm assuming you knocked on the door or rang the
19 doorbell?
20 A. Officer Otino was the one that knocked on the door a couple of times.
21 Q. Okay. Did Ms. E[redacted] come down to greet you?
22 A. No. She asked through the doorway who was there, Officer Otino
23 said that it was the police and CPS, and she stuck her head out a
24 window.
25 Q. Okay. Did you at some point enter the house?

1 A. No.
2 Q. Okay. Did-- what's-- why didn't you enter the house?
3 A. Because Ms. E[redacted] said that she did not have to allow CPS in. She
4 was refusing any entry in.
5 Q. Okay. Had she allowed the officers in the house?
6 A. After I asked her if that would be okay, if I stayed outside.
7 Q. Okay. So, did you observe the officers leaving the house at some
8 point after they entered?
9 A. Yes.
10 Q. Was it just the two officers or was somebody with them?
11 A. At first, it was Sergeant Lowe who came out with a man in handcuffs.
12 MS. RAWICH: What? I'm sorry.
13 MR. EDWARDS: Sergeant Lowe (unintelligible)
14 JUDGE MCGUIRE: Sergeant Lowe walked out
15 with a man in handcuffs.
16 MS. RAWICH: Okay.
17 BY MS. HART:
18 Q. Who did you recognize that man to be?
19 A. I did not know who he was until Sergeant Lowe told me that he was
20 going to be--
21 MR. GARN: Objection.
22 JUDGE MCGUIRE: Sustained.
23 MS. HART: Okay.
24 BY MR. HART:
25 Q. Are you familiar with an order of protection against Mr. F[redacted]?

1 A. Yes.
2 Q. In -- in favor of the children?
3 A. Yes.
4 Q. Okay. When you arrived at [redacted], had you observed how
5 many adults were in the household?
6 A. I never entered the household.
7 Q. Okay. So, when they exited with a man in handcuffs, did you assume
8 you knew who that man was?
9 MR. GARN: Objection.
10 BY MS. HART:
11 Q. What did that man look like? Can you please -- I'm sorry, that's fine.
12 Can you please describe what he looked like?
13 JUDGE MCGUIRE: Yeah, I'll just sustain that, and
14 we'll get on to the next one.
15 BY MS. HART:
16 Q. Can you describe what that man looked like?
17 A. He was a tall black man that had on-- I think it was like a gray sweat
18 suit, sweat pants.
19 Q. Was it a man that's sitting here right now in the courtroom?
20 A. Yes.
21 Q. Can you--
22 A. --It's--
23 Q. -- Show me where he sitting?
24 A. --That gentleman back there.
25 Q. Okay. Now, he was taken from 12--

JUDGE MCGUIRE: And there are four gentlemen back there.

MS. HART: Yeah.

THE WITNESS: The one in the-- the gray sweat-- sweat suit.

JUDGE MCGUIRE: Okay. So, the record identifying the identification by the witness in court of Mr. F[redacted] as the person that she saw accompanying Sergeant Lowe on October 19th.

BY MS. HART:

Q. Were they exiting [redacted], where T[redacted] E[redacted] had been living?

A. Yes.

Q. Were you aware if the kids were home?

A. As what Ms. E[redacted] said, her children were there, and they were sleeping.

Q. And she said that to you?

A. She had said that out the window.

Q. Okay. But just to clarify, you never had the ability to actually go inside the house, correct?

A. No-- no, I did not.

Q. Because Ms. E[redacted] would not let you?

A. She had refused the entry, and I was not going to try to force my way in.

Q. Okay. Had you had any more conversations with Ms. E[redacted] after

1 the October 19 visit?
2 A. I had. Later on that afternoon, I met up with Ms. E[redacted] when I
3 went to P[redacted] F[redacted]'s to check on the children and see what had
4 --how they were doing.
5 Q. So, the children had been moved to P[redacted] F[redacted]'s?
6 A. P[redacted] F[redacted] had come to the [redacted] to watch the
7 children. She had been requested to come there so CPS couldn't take
8 the children.
9 Q. Okay. And during that conversation with Ms. E[redacted], what was
10 discussed?
11 A. I had discussed with her about, you know, needing to follow the
12 orders of protection, and I had asked her what had happened when she
13 had been taken to court as well regarding the bench warrant arrest.
14 Q. Okay.
15 JUDGE MCGUIRE: Ms. F[redacted] was taken to
16 court for a bench warrant?
17 THE WITNESS: No, Ms. E[redacted]
18 JUDGE MCGUIRE: You discussed that with Ms.
19 F[redacted]?
20 THE WITNESS: Oh. Ms. F[redacted] had said to me--
21 she let me know that Ms. E[redacted] had been released and
22 that her-- her brother, Mr. F[redacted], had-- he was still in jail.
23 BY MS. HART:
24 Q. Okay. But you did you have a conversation with Ms. E[redacted]?
25 A. Yes.

1 Q. Did Ms. E[redacted] disclose to you where Mr. F[redacted] was living?
2 A. No.
3 MS. HART: Okay. No further questions. Thank
4 you.
5 JUDGE MCGUIRE: All right. Mr. Garn, some
6 cross?
7 CROSS EXAMINATION
8 BY MR. GARN:
9 Q. When was this conversation with Ms. E[redacted]?
10 A. The first one or the second one? The afternoon?
11 Q. Well, I assume the first conversation was out the window on the 19th--
12 A. Yes.
13 Q. --Correct?
14 A. Yes.
15 Q. Which is a Sunday?
16 A. Yes.
17 Q. And subsequent to that, when did you have a conversation with her?
18 A. It was the afternoon of the 19th. It was around 2:30 in the afternoon.
19 MR. GARN: Okay. Nothing further, Judge.
20 JUDGE MCGUIRE: All right. Mr. F[redacted]?
21 MR. F[redacted]: No thank you, Your Honor.
22 JUDGE MCGUIRE: Mr. Ross?
23 MR. ROSS: Thank you, Your Honor.
24 JUDGE MCGUIRE: Mm-hmm.
25

1 BY MR. ROSS:

2 Q. Ms. Weise, your-- you mentioned that you're basically observing the
3 conditions that were detailed in an October 1st order of protection, was
4 it-- was enforcing?

5 Q. I do not remember the date--

6 A. Obviously.

7 Q. --The exact date of the order of protection.

8 A. Okay. But there was an order of protection where Mr. F[redacted] was
9 not supposed to be in the household that were you--

10 JUDGE MCGUIRE: Yeah. The Court will take
11 judicial notice of that.

12 MR. ROSS: Okay. Thank you. That's-- that's my
13 next question.

14 JUDGE MCGUIRE: Okay.

15 MR. ROSS: Thank you. I have nothing else.

16 JUDGE MCGUIRE: All right. Mr. Edwards?

17 MR. EDWARDS: Nothing, Your Honor.

18 JUDGE MCGUIRE: Ms. Rawich?

19 MS. RAWICH: No, sir.

20 JUDGE MCGUIRE: Ms. Hart?

21 MS. HART: No. Thank you.

22 JUDGE MCGUIRE: All right. Ms. Weise, thank
23 you very much.

24 THE WITNESS: Thank you.

25 JUDGE MCGUIRE: Another witness?

1 MS. HART: Yes. Ms. Barbara Herzog, please.
2 JUDGE MCGUIRE: All right.
3 COURT OFFICER: Barbara Herzog.
4 JUDGE MCGUIRE: Good morning, Ms. Herzog.
5 MS. HERZOG: Good morning. How are you?
6 JUDGE MCGUIRE: Fine. Just follow the court
7 officer's instructions, if you would, please.
8 COURT OFFICER: Please raise your right hand.
9 Do you swear or affirm that the testimony you're about to
10 give will be the truth, the whole truth and nothing but the
11 truth, so help you God?
12 MS. HERZOG: Yes.
13 COURT OFFICER: Please state your name for the
14 record.
15 THE WITNESS: Barbara Herzog.
16 COURT OFFICER: Spell the last name, please.
17 THE WITNESS: H-E-R-Z-O-G.
18 JUDGE MCGUIRE: Thank you, Ms. Herzog. You
19 can have a seat there. I know you've been through this drill
20 before. Please keep your voice up. All of your responses
21 must be verbal, okay. If you need a break at some point,
22 just let me know.
23 THE WITNESS: Okay.
24 JUDGE MCGUIRE: All right. We'll get you some
25 water. You all set?

1 THE WITNESS: I'm set.
2 JUDGE MCGUIRE: All right. Ms. Hart, you may
3 inquire.
4
5 BARBARA HERZOG,
6 Having been duly sworn, was examined and testified as follows:
7
8 DIRECT EXMINATION
9 BY MS. HART:
10 Q. Ms. Herzog, where are you employed?
11 A. I'm employed by the Department of Family Services in Sullivan
12 County.
13 Q. And what is your job title?
14 A. Senior Case Worker.
15 Q. And what are your job duties?
16 A. I investigate hotline calls that are received by the unit. I do safety
17 checks.
18 Q. Okay. When did you get involved with Ms. E[redacted]-- with the hotline
19 calls with Ms. E[redacted] and Mr. F[redacted]?
20 A. The case was referred to me approximately a week ago.
21 Q. Okay. Had you had the opportunity to speak with either Mr. F[redacted]
22 or Ms. E[redacted]?
23 A. No, I have not.
24 Q. Had you had an opportunity to-- to see the children?
25 A. I did see the daughter yesterday--

1 Q. Was that--
2 A. --G[redacted].
3 Q. I'm sorry. Was that the first contact you made?
4 A. Yes.
5 Q. And you saw G[redacted]?
6 A. Yes.
7 Q. And did you speak with G[redacted]?
8 A. Yes. I saw her for approximately 20 minutes yesterday at the [redacted]
9 School.
10 Q. Okay. And what did you speak to her about?
11 A. She was brought in by an aide from her classroom. She told me she
12 was five years old, that she's in kindergarten. She was very happy and
13 she was very clean. She was appropriately dressed. I asked her how
14 she was feeling. She said that she had to go to the doctor to get a shot
15 in her rear end. I said, "Why are you getting a shot?" And she said,
16 "Because of sneezing and coughing." And then she corrected herself
17 and said Dad took her and she already got the shot. We talked about
18 colors. We talked about numbers. She told me she could count to 100
19 and she tried counting, with some assistance. I asked her where she
20 lived, she said with her mom and J[redacted]. I said, "Who's J[redacted]?"
21 And J[redacted] is her mom's "husband," she said. I said, "Where do you
22 live?" She said, "We live in a dirty house on [redacted] Street." And then
23 her nails were colored, and I said, "Who did your nails?" And she
24 said, "B[redacted]," and B[redacted] lives with D[redacted] and with C[redacted], and
25 she does her nails for her. Then she went on to say that she lives with

1 D[redacted]. She has a big girl bed now. She's very happy there. I said,
2 "Who did you live-- how long have you been with D[redacted]?" And she
3 said, "Ten days." And I said, "Well, where'd you live before that?"
4 She said, "I lived with P[redacted] for three days." I said, "Who'd you
5 live with before P[redacted]?" --
6 MR. GARN: I'm -- I'm going to object to--
7 JUDGE MCGUIRE: Sustained.
8 MS. HART: Okay.
9 BY MS. HART:
10 Q. At what point did G[redacted] actually start saying anything about her
11 mom or J[redacted]?
12 A. She said that she lived with Mom and J[redacted], and she said that-- I
13 asked her what it was like to live with them. She said that they fight a
14 lot, that they use bad words, they hit her. She demonstrated that
15 J[redacted] hit her on her left upper thigh. She said Mom slaps her in her
16 face. That J[redacted] spits at her mother, that he hit her in the face twice.
17 And I asked her if it was an open hand or a closed fist, and she said it
18 was the open hand, that they both hit her several times. That Mom
19 woke her up hitting her one time. That--
20 Q. Was anything mentioned about whether or not G[redacted] had seen any
21 drug activity in the home?
22 A. No.
23 Q. Did you ask her about the drug activity?
24 A. I asked her if Mom or J[redacted] used drug or if they drank, and she said,
25 "No," she says, "They don't even drink milk or soda."

1 Q. Okay. Did they-- did she mention if they did any kind of drugs,
2 marijuana, or pills or anything?
3 MR. GARN: Objection.
4 JUDGE MCGUIRE: Sustained.
5 MS. HART: Thank you. No further questions.
6 JUDGE MCGUIRE: Mr. Garn?
7 MR. GARN: No questions.
8 JUDGE MCGUIRE: Mr. F[redacted]?
9 MR. F[redacted]: No questions.
10 JUDGE MCGUIRE: Mr. Ross?
11 MR. ROSS: Nothing, Your Honor. Thank you.
12 JUDGE MCGUIRE: Mr. Edwards?
13 MR. EDWARDS: No question, Your Honor.
14 JUDGE MCGUIRE: Ms. Rawich?
15 MS. RAWICH: Nothing further.
16 JUDGE MCGUIRE: Ms., Hart, you don't get any
17 redirect then.
18 MS. HART: No redirect.
19 JUDGE MCGUIRE: Thank you, Ms. Herzog.
20 THE WITNESS: Yes.
21 JUDGE MCGUIRE: You're all set.
22 MS. HART: I brought in some certified medical
23 records yesterday that I'd like to enter into evidence.
24 JUDGE MCGUIRE: All right. Do we have them?
25 Where are they from?

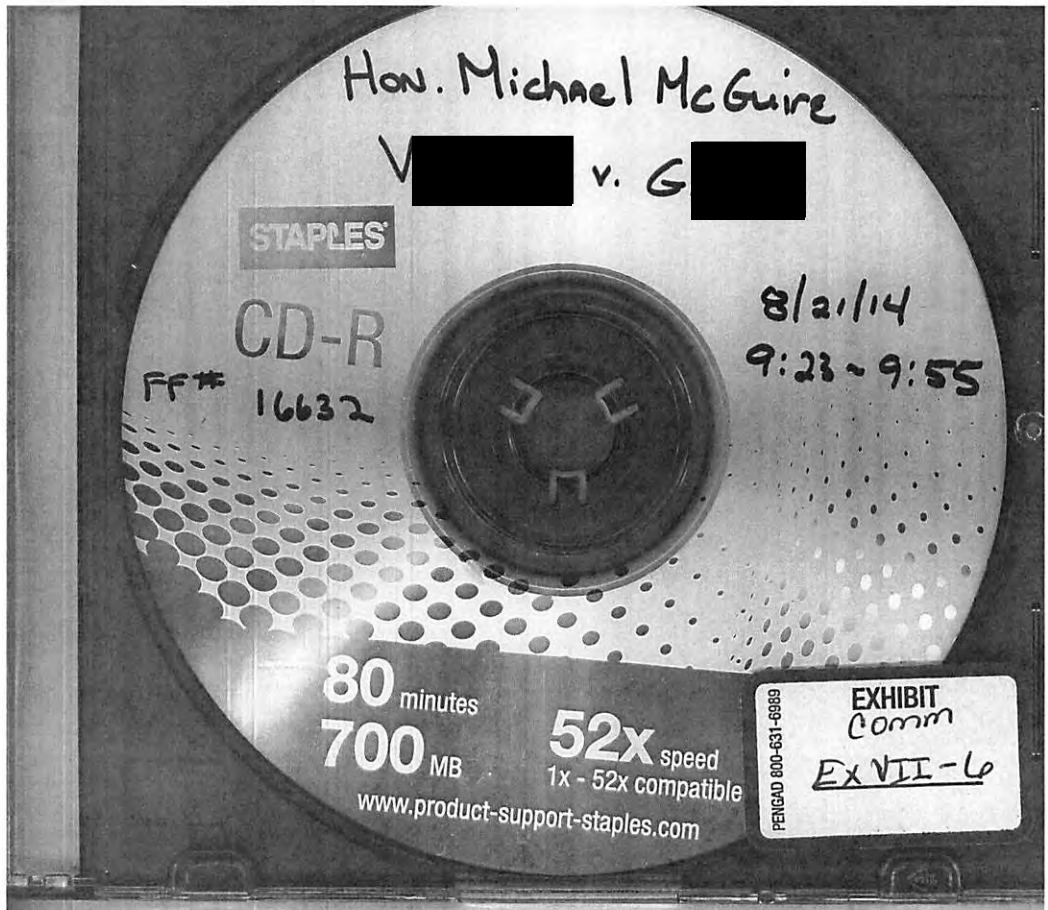
1 MS. HART: Catskill Regional.
2 JUDGE MCGUIRE: Is there a date--
3 MS. HART: --When--
4 JUDGE MCGUIRE: --Or a range of dates of
5 services that they're--
6 MS. HART: Yeah, is one and the second one is
7 September 5th through 15th, maybe.
8 COURT CLERK: September 5th through September
9 7th. So, you want these as two separate?
10 JUDGE MCGUIRE: Yeah.
11 MS. HART: Yes, please.
12 JUDGE MCGUIRE: And they're both certified?
13 MS. HART: Yes.
14 JUDGE MCGUIRE: And they-- they're both
15 Catskill Regional?
16 COURT CLERK: Yes.
17 JUDGE MCGUIRE: September 5 through 7 would
18 be the birth of A[redacted]?
19 MS. HART: Yeah, but it's the mother's medical
20 records.
21 JUDGE MCGUIRE: Right. And March 31st is
22 whose medical records?
23 MS. HART: Ms. E[redacted]s.
24 JUDGE MCGUIRE: Being treated for what?
25 What's the relevance of those?

1 MS. HART: For being pushed down the stairs and
2 then getting stitches on her face.
3 JUDGE MCGUIRE: Okay. We're going to need to
4 show those records to counsel to see if we need to do any
5 redacting. All right. What we're going to do is, we'll take
6 a break for about 15 minutes to allow counsel to go through
7 those. Attorneys can stay in the courtroom, if they want,
8 because they've got tables to work at for going through the-
9 - these-- these records, the attorneys and case workers. The
10 other folks need to just wait outside, and we'll-- we'll bring
11 you back in about 15 minutes, about 11:30, 11:35,
12 somewhere around then.
13 (OFF THE RECORD)
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on November 7, 2014.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25


Hon. Michael McGuire
V[redacted] v. G[redacted]
STAPLES
CD-R
FF# 16632
8/21/14
9:23 ~ 9:55
80 minutes
700 MB
52x speed
1x - 52x compatible
www.product-support-staples.com
PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-6

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 10, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

[redacted] v. [redacted]
Family File # 16632
Date of recording -August 21, 2014
9:23 - 9:55

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/10/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
comm
Ex VII-6

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.

- X

TRANSCRIPT OF PROCEEDING

V[redacted] v. G[redacted]

August 21, 2014
9:23 A.M.

:

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-6a

1 COURT OFFICER: All rise. All right. Thank you.
2 You can be seated.
3 JUDGE MCGUIRE: All right. The parties and the
4 attorneys have returned to the courtroom.
5 MS. MASTANDREA: Yes, Your Honor.
6 JUDGE MCGUIRE: Mr. Garn, are you ready to
7 begin, or do we have any-- make any progress?
8 MR. GARN: No, we've made no progress.
9 JUDGE MCGUIRE: Okay.
10 MR. GARN: So, we're going to begin.
11 JUDGE MCGUIRE: Okay.
12 MR. GARN: And counsel for the petitioner and I
13 have agreed that as a result of the type of issue in this case
14 being relocation, it probably makes more sense for me to go
15 first and call my client to the stand to establish the *Tropea*
16 factors.
17 JUDGE MCGUIRE: Okay.
18 MR. GARN: Does that work for the Court?
19 JUDGE MCGUIRE: That's fine with me.
20 MR. GARN: Okay.
21 MS. MASTANDREA: Okay.
22 JUDGE MCGUIRE: Okay. Openings?
23 MR. GARN: Want to make an opening statement?
24 MS. MASTANDREA: Uh, sure.
25 JUDGE MCGUIRE: What--

1 MS. MASTANDREA: I hope to prove and show in
2 this case that my client was under the impression that he
3 was about to just go out to California and start a life with
4 him-- new life with his family. That occurred on January
5 15th, and March 10th, he was told not to go out. And now
6 he's in a situation of not having seen his girls since January
7 15th, while the respondent has made several attempts to
8 interfere with his communication and visitation with the
9 children. There was no reason for her to go out there and
10 for this to end the way it did, and I think the evidence will
11 prove that my client is in a far better position to have
12 custody of the children.
13 JUDGE MCGUIRE: All right. Ms. Mastandrea,
14 thank you. Mr. Garn? Opening?
15 MR. GARN: Judge, from our perspective, my client
16 takes the following position: that the best interest of these
17 children would be served by custody remaining with her,
18 and in addition to that, that she be permitted to remain in
19 the State of California where she presently resides with her
20 aunt. The Court's going to find that these parties were
21 married, I believe, on or about January of 2011. My client
22 has no family in this area at all. And that on or about
23 January of this year, or possibly slightly earlier than that,
24 the parties mutually discussed moving and relocating to the
25 State of California. They came to an agreement between

1 the two of them that they would move, that they-- their
2 prospects in California were better, was a better place to
3 raise children, and the plan was for my client to move there
4 and Dad to follow. It's my client's position, looking back
5 on it now, that after getting out to California and staying
6 there for approximately a month, there was a mutual
7 decision by the parties that they would-- they would be
8 separating or divorcing. They would not be a couple any
9 longer. As far as I understand, Dad was always welcome to
10 relocate to the State of California on his own to be closer to
11 his children, which was the original plan. We're going to
12 establish that the children are-- are happily adjusted to life
13 in California. They have a support system there that is
14 superior to any that they had here, which was in accordance
15 with the parties' plan. They have friends there. The
16 children have thrived since arriving and that my client is
17 able to provide them with a stable and healthy home
18 environment in the State of California, thus-- thus making
19 the best interest of the children that they stay there. And as
20 far as Dad's inability to see them this summer, my client
21 does not drive. She has no automobile. She had no ability
22 to transport the children to the airport within the time frame
23 established by Dad, which was, as I hear it now, simply a
24 matter of hours. And the children were dressed and ready
25 to travel with their dad had he been able to make the

1 necessary arrangements. Thank you, Judge.
2 JUDGE MCGUIRE: Thank you. Mr. Burke?
3 MR. BURKE: Well, Your Honor, I spoke to, as you
4 know, what I expect, I spoke to Ms. Rubenfeld about this
5 case, and I-- I believe the evidence will show that there's
6 not a reason to believe that the best interest of the children
7 is being supported by taking them to a different support
8 system that doesn't include their father in a state other than
9 the home state of the children. From what I've heard so far
10 in the colloquy, I don't know-- I mean, obviously, the
11 evidence hasn't all been heard, and I'm curious to hear it,
12 but I don't how in the world the respondent here is going to
13 overcome the *Tropea* issues when she's telling the Court in
14 colloquy that she can't afford to fly the children or make
15 any arrangements and can't afford a car in California to
16 drive to the airport, when the father's come across the
17 country by air-- by airplane. So, I-- you know, I guess I had
18 --I'll keep an open mind. And I'm somewhat handicapped,
19 as Ms. Rubenfeld would've been if she were here, that the
20 mother made no arrangements to bring the children to see
21 the law guardian or even back here to even see the father
22 for a minute during this hearing. So, I-- I am suspicious
23 that the evidence is not going to support her position at all.
24 It's going to, I think, underscore the fact that she's made a
25 choice herself to have a different support system in

1 California that does not include the father, is what I'm
2 afraid this is going to turn out to be. So, I-- I don't know
3 that she's making the best decision in forcing this trial, but
4 I'm interested to hear with the evidence is.
5 JUDGE MCGUIRE: Thank you, Mr. Burke.
6 MR. BURKE: Thank you. Yeah.
7 JUDGE MCGUIRE: Okay. Mr. Garn, your first
8 witness.
9 MR. GARN: Yes. I call my client to the stand,
10 Judge.
11 JUDGE MCGUIRE: All right. Ms. G[redacted], just
12 follow the court officer's instructions, if you would, ma'am,
13 okay?
14 COURT OFFICER: Please raise your right hand. Do
15 you swear or affirm that the testimony you're about to give
16 will be the truth, the whole truth and nothing but the truth,
17 so help you God?
18 MS. G[redacted]: I do.
19 COURT OFFICER: Please state your name for the
20 record.
21 MS. G[redacted]: A[redacted] N[redacted] G[redacted].
22 JUDGE MCGUIRE: All right. Ms. G[redacted], have a
23 seat there.
24 MS. G[redacted]: Thank you.
25 JUDGE MCGUIRE: All right. That microphone in

1 front of you, Ms. G[redacted] is a recording device, not an
2 amplifying device, not like a PA system. All right, so you
3 need to keep your voice up. All of your responses must be
4 verbal because in this court we do keep an audio transcript
5 of the proceedings. Do you know what that is?
6 MS. G[redacted]: Yes, sir.
7 JUDGE MCGUIRE: A recording.
8 MS. G[redacted]: Yes, sir.
9 JUDGE MCGUIRE: All right? There's some fresh
10 water there for you if you need it. If you need a break at
11 some point, let me know. All right?
12 MS. G[redacted]: Okay.
13 JUDGE MCGUIRE: You all set?
14 MS. G[redacted]: Yes.
15 JUDGE MCGUIRE: Very good. Mr. Garn, you
16 may inquire.
17 MR. GARN: Thank you, Judge.
18
19 A[redacted] N. G[redacted],
20 having been duly sworn, was examined and testified as follows:
21
22 DIRECT EXAMINATION BY MR. GARN:
23 Q. Ms. G[redacted], how old are you?
24 A. I'm 25.
25 Q. And what is the extent of your education?

1 A. I'm a high school graduate with a few semesters of-- of college.
2 Q. And where did you go to high school? Where'd you go to college?
3 A. Auburn Senior High in Auburn, Washington, was my high school, and
4 I went to Chaffey College. It's a community college in Rancho
5 Cucamonga.
6 Q. And where do you presently reside?
7 A. Rancho Cucamonga, California.
8 Q. And who resides there with you?
9 A. My aunt, J[redacted] D[redacted].
10 Q. And do you live in her home?
11 A. Yes, I do.
12 Q. And what are the circumstances of that home? What's the-- what type
13 of home is it? What type of living quarters do you and the children
14 have?
15 A. We have a-- we have a bedroom that we live in. Well, we sleep in,
16 and we-- the girls have run of the entire house, you know, they go
17 where-- pretty much wherever they need to go. They have a backyard
18 to play in. They have a front yard to play in. They go to their-- you
19 know, they go to the-- use the bathroom, at least, G[redacted] does now.
20 Q. Okay. And were you and the petitioner married?
21 A. Yes, we were.
22 Q. And when was that?
23 A. We married Jan-- January 26, 2011.
24 Q. And how did you meet?
25 A. We met in the Navy in-- after boot camp.

1 Q. And when did you begin to reside here in Sullivan County?
2 A. July 2011.
3 Q. And your children? The-- both children were born here?
4 A. Yes, sir.
5 Q. And A[redacted] is your child?
6 A. Yes.
7 Q. And the date of birth of A[redacted]?
8 A. [redacted].
9 Q. And C[redacted]? Is C[redacted] your child?
10 A. Yes.
11 Q. And the date of birth of C[redacted]?
12 A. [redacted].
13 Q. And those two children presently reside with you in California?
14 A. Yes, sir.
15 Q. And how long have you and the children lived in California?
16 A. Since January 15, 2014.
17 Q. And before that, you lived here in Sullivan County?
18 A. Yes, sir.
19 Q. With their father?
20 A. Yes, sir.
21 Q. And when you lived in Sullivan County, where did you live and with
22 whom?
23 A. We lived in his mother's home on his family farm.
24 Q. Where is that?
25 A. In Livingston Manor or outside of.

1 Q. And at some point in time, did yourself and Mr. V[redacted] discuss
2 relocating outside of Sullivan County?
3 A. Yes, we did.
4 Q. And when did you discuss that?
5 A. It was roughly November and December of 2013.
6 Q. And could you tell us what the discussion was, what Mr. V[redacted] said
7 to you, what you said to him? Explain to the Court how this came up,
8 and what were the factors that led to a decision?
9 A. We had discussed that because of income being an issue, we needed to
10 make a change for the betterment of the children. And he had had a
11 job offer out in California with a company that inadvertently was
12 through my aunt and he wanted to take it. So, we were going to go
13 out to California, and he would be getting that employment, but I
14 would be going with the children first. He was to follow after he took
15 care of all of our belongings, packing them, sending them, or bringing
16 them with us or even selling some of our items.
17 Q. Okay. And so, is it your testimony that the decision to relocate was a
18 mutual decision between yourself and Mr. V[redacted]?
19 A. Yes, sir.
20 Q. And Mr. V[redacted] agreed to you relocating to California?
21 A. Yes, sir.
22 Q. And it was part of the plan that he was going to join you there?
23 A. Yes.
24 Q. And you say he had a job offer near where you're presently living?
25 A. It was a-- probably about a hundred miles away, but there was

1 carpooling abilities, trains. But I don't know exactly the location, I
2 just know that it was with a company.
3 Q. Okay. And so, did you and the children leave New York State?
4 A. Yes, we did.
5 Q. And how did you do that?
6 A. By plane.
7 Q. And who paid for that?
8 A. My family did.
9 Q. And where did you leave from?
10 A. We left from Newburgh.
11 Q. From where?
12 A. Newburgh.
13 Q. And--
14 A. Near Stewart Airport.
15 Q. Stewart Airport?
16 A. Yes.
17 Q. And was Mr. V[redacted] there to see you off?
18 A. Yes, he was.
19 Q. And did he accompany you to the gate?
20 A. Yes, he did.
21 Q. And did he assist you in getting the children through security and onto
22 the plane?
23 A. Yes. Well, left us at the gate, but yes.
24 Q. And what was your understanding in terms of the time-- timing as to
25 when he would be joining you in California?

1 A. I was told originally that it would be most likely May that he would be
2 coming, late April, early May.
3 Q. So, you went to California?
4 A. Yes.
5 Q. And where did you go?
6 A. I went to my aunt's home to get the girls settled in, then we--
7 Q. Is that the home where you reside now?
8 A. Yes.
9 Q. And was that part of the plan?
10 A. Yes.
11 Q. And--
12 A. It was only-- it's only supposed to be temporary.
13 Q. Okay.
14 A. Until he had-- was supposed to move out there with us.
15 Q. And did you have an understanding when you left as to contact
16 between Dad and the kids?
17 A. I didn't have a phone at that time because our phones had been turned
18 off, and so we were at that time using my mother's phone--
19 Q. Okay.
20 A. --Temporarily, until I was given a phone by Mr. V[redacted].
21 Q. And since you've been out there, have you gotten a job?
22 A. Yes, I have.
23 Q. And could you tell the Court what type of job you have, what you do?
24 A. I work as a veterinarian assistant.
25 Q. And where do you do that work?

1 A. [redacted].
2 Q. And where is that?
3 A. In Rancho Cucamonga. Well, more Alta Loma, but...
4 Q. And how long have you worked there?
5 A. Since January 30th of 2014.
6 Q. And are you still presently employed there?
7 A. Yes, I am.
8 Q. And is that a full-time or a part-time job?
9 A. It's part-time.
10 Q. How many hours a week do you work?
11 A. I would say, roughly, 23 to 24 hours a week.
12 Q. And are you able to support yourself and your children through the
13 salary that you earn at that job?
14 A. Not just that one. I do use in-- public assistance. I do have cash aid
15 and food stamps available to me, as well as WIC.
16 Q. Now, after you were out there in California with your children for a
17 period of time, did you continue to have contact with Mr. V[redacted] to
18 discuss his move?
19 A. We did. He wanted to move it up, way further up than we had
20 planned.
21 Q. What do you mean? Move what up?
22 A. Move his-- he wanted to move out there faster than planned.
23 Q. Okay.
24 A. Without really a plan in general.
25 Q. Okay.

1 A. So, it was kind of-- I told him we need to have a plan before he moved
2 out there.
3 Q. Okay. And so, did the discussions continue about this plan?
4 A. We tried, but he was pushing it more and more to come out sooner and
5 then he told me he was just going to come.
6 Q. And when did he say he would be coming?
7 A. He said that he would be leaving on the 10th of March.
8 Q. Okay. And your response to that was what?
9 A. I told him I don't think-- didn't think it was a good idea because we
10 don't have a plan, we don't have-- he, you know, he didn't even have
11 any job prospects at that point, as far as I knew. We didn't have a
12 residence to go to because it's already-- you know, it's a two-bedroom
13 house that we're living in, technically, now and it would be a little
14 cramped.
15 Q. Okay. So, what was the ultimate decision that was made?
16 A. I told him to wait a little while longer, go with the original plan, and
17 we would find a place to live. And he just wouldn't do it.
18 Q. Okay. So, what happened next? Did he come out there?
19 A. No.
20 Q. What happened then?
21 A. He stayed-- he stayed out here in-- in New York, and it kept getting
22 pushed-- I kept getting pushed, along with badgering, I guess, and
23 that's when I finally broke and told him I needed-- I needed a
24 separation or I couldn't be married-- and I couldn't be married to him
25 at this point.

1 Q. And when did you come to that conclusion?
2 A. I finally broke down and told him the day that he said that he would be
3 leaving, which was March 10th.
4 Q. On March 10th?
5 A. Yes.
6 Q. All right. Now, did you tell him that he couldn't come out?
7 A. I never told him he couldn't come. I just told him I would wait.
8 Q. And did he ever come out?
9 A. No.
10 Q. Now, have you, since that time, March 10th until now, have you ever
11 told him that he can't come out to California?
12 A. Never.
13 Q. Now, are you and the children residents of the State of California?
14 A. Yes, we are.
15 Q. And as of when?
16 A. July 6th-- 16th or 15th, actually. Six months from the date that we
17 moved out there, which was January 15th to July 15th.
18 Q. And what is the relationship between yourself and your aunt with
19 whom you reside? Do you have her blessings as far as saying there?
20 A. Yes.
21 Q. For the future?
22 A. As I'm there temporarily, as long as I need, is pretty much what I'm--
23 I'm told.
24 Q. And are you paying her rent?
25 A. Yes, I am.

1 Q. And do you have-- for when you're working, do-- what sort of child
2 care arrangement do you have for your children?
3 A. I have a licensed child care provider who takes care of my children
4 while I'm working.
5 Q. And is there plenty of provisions for the children as far as food and
6 clothing and that type of thing?
7 A. Yes.
8 Q. Do you have any difficulty providing for the children out there?
9 A. None at all.
10 Q. Did you have difficulties providing for them here in New York State?
11 A. Yes, I did.
12 Q. And can you describe those difficulties that you had?
13 A. It was difficult to keep food in the house. I had issues for myself
14 getting to the grocery store without having to ask for somebody to take
15 me, you know, it was difficult because of where the home was located
16 that it was not possible for me to walk to the store, especially not
17 down the driveway with two children.
18 Q. And do you currently have a medical insurance plan that covers the
19 children?
20 A. Yes, I do.
21 Q. And do you have that through your work?
22 A. No. It's actually through the state as well.
23 Q. Okay. And are-- do the children have a pediatrician?
24 A. Yes, they do.
25 Q. Are they current with their doctor's visits and what have you?

1 A. Yeah.
2 Q. Do they have any medical issues?
3 A. No. They're perfectly healthy. They're current on all their
4 vaccinations. They've never missed an appointment.
5 Q. And when you lived in New York State from July of 2011 until the
6 time you left, were you ever able to find any employment here in
7 Sullivan County?
8 A. None, at least not--
9 Q. And what--
10 A. --At least not that was promising.
11 Q. And where you live now, do you have any means of transportation?
12 A. Yes, I do. I can either walk to my job or I can take public
13 transportation, which is the bus system.
14 Q. Do you drive?
15 A. No.
16 Q. Do you have an automobile?
17 A. No.
18 Q. Do you have any opportunities to continue your education in
19 California?
20 A. Yes, I do.
21 Q. And what are those?
22 A. I can actually return back to the college that I was attending before
23 moving to New York, which is Chaffey College.
24 Q. Is that nearby?
25 A. Yes. It's right up the hill from where I work.

1 Q. And do you intend to continue your education there?
2 A. I would like to, very much.
3 Q. Now, are you telling the Court that you have a stable environment in
4 which to keep the children at the present time?
5 A. Yes, I do.
6 Q. And is it your position you would be able to maintain that stable
7 environment into the distant future?
8 A. Yes.
9 Q. Have there been any visits by Child Protective Services to your home?
10 Have you been the subject of any such child abuse or neglect
11 investigations in California?
12 A. I actually did have one Child-- Child Services member come to my
13 home on a false report, but other than that, I've never had any issues
14 out there.
15 Q. Now, what type of-- because you have an aunt in California--
16 A. Mm-hmm.
17 Q. --That you live with, correct?
18 A. Mm-hmm.
19 Q. Do you have other family support? Do you have a family support
20 network there?
21 A. Yes, I do.
22 Q. What--
23 A. I have my grandmother, I have my mother's sister, my uncle, as well
24 as my aunt's husband and her two children. Plus, I have a grandfather
25 out there as well.

1 Q. And are all these people nearby?
2 A. Except for my grandfather. He's up in the high desert.
3 Q. Now, what type of activities have your children been involved in since
4 they've been out there?
5 A. They've been invited to parties for some of their little friends from the
6 daycare. We go to the park every Sunday. They play, you know, C[redacted]
7 plays with other kids there. We interact with some of the other girls
8 from my-- my job because some of them have, you know, cousins or--
9 small cousins or small children that they-- that they see a lot and they
10 do playdates with them as well. They've become very social.
11 Q. And have you noticed a change in your children since moving to
12 California, particularly, the older child?
13 A. C[redacted]? Yes.
14 Q. And what changes have you noticed?
15 A. Her vocabulary has become quite a bit more extensive than when she
16 was here. She didn't really speak very much--
17 MR. BURKE: I would object to this at this point.
18 JUDGE MCGUIRE: Yeah. I'm going to sustain
19 that.
20 MR. BURKE: This is pure opinion.
21 JUDGE MCGUIRE: Yeah.
22 THE WITNESS: Yeah, well, she speaks--
23 MR. BURKE: It's pure opinion, and the objection
24 was sustained.
25 JUDGE MCGUIRE: Yeah, it's sustained.

1 BY MR. GARN:
2 Q. Do your children appear to you to be happy in the home where--
3 MR. BURKE: Objection.
4 JUDGE MCGUIRE: Sustained.
5 MS. MASTANDREA: Objection.
6 Q. --They presently reside?
7 JUDGE MCGUIRE: Sustained.
8 BY MR. GARN:
9 Q. Now, you recall this summer, Ms. G[redacted], that Mr. V[redacted] was to come
10 out to Los Angeles and pick the children up, is that correct?
11 A. Yes, sir.
12 Q. And did he contact you to advise that he would be picking them up at
13 your house?
14 A. He told my aunt because I-- I don't speak with him, it causes issues,
15 he told my aunt that he was having an issue, that his reservation was
16 for the day after the 13th, and not for the 13th, is what he told her. And
17 that he was stuck at LAX--
18 MR. BURKE: Objection as to what he told her.
19 MS. MASTANDREA: Now hearsay.
20 JUDGE MCGUIRE: Yeah. Sustained.
21 THE WITNESS: Yeah. That's--
22 BY MR. GARN:
23 Q. On the day that Mr. V[redacted] was out in California, did you speak with
24 him at all?
25 A. No.

1 Q. Did you have any ability to get your children to the Los Angeles
2 Airport at the time you got notice of that?
3 A. No, I did not.
4 Q. And when, if at all, did you receive any notice that you were being
5 asked to take your children to the airport?
6 A. I would say, roughly, 10:00 in the afternoon or in the mid-morning.
7 Q. In the morning?
8 A. And he was-- he advised us he would pick them up at 8 A.M.
9 Q. And at 10:00 in the morning, did you have any ability at that time to
10 get your children to the airport?
11 A. No, I did not.
12 Q. Did you have a car?
13 A. No.
14 Q. Did you have any money to pay for a cab to get you there?
15 A. I did not.
16 Q. Why is it, Ms. G[redacted], that you feel it would be in your children's best
17 interest to stay with you in California?
18 A. Because I believe, personally--
19 MR. BURKE: You know, I'm going to object again.
20 MS. MASTANDREA: Objection.
21 MR. BURKE: This is just opinion and--
22 JUDGE MCGUIRE: Yeah. I'll--
23 THE WITNESS: Well, how am I supposed--
24 JUDGE MCGUIRE: --I'll sustain, too, and strike the
25 word that she believes "personally." The question is, why is

1 it in your children's best interest for them to stay in
2 California?
3 THE WITNESS: They seem happy.
4 JUDGE MCGUIRE: Sustained.
5 BY MR. GARN:
6 Q. Do you have any other reasons why?
7 A. It's a more stable environment, it's--
8 MS. MASTANDREA: Objection.
9 MR. GARN: Well, that's--
10 JUDGE MCGUIRE: I'll allow it. That's-- it's her
11 opinion. That's fine.
12 BY MR. GARN:
13 Q. Any other reasons?
14 A. CPS doesn't come in mul--
15 MS. MASTANDREA: Objection.
16 A. --multiple times in a year.
17 Q. Okay.
18 JUDGE MCGUIRE: Well, that's a problem.
19 MS. MASTANDREA: You said they only come one
20 time a year? I mean...
21 JUDGE MCGUIRE: I mean, I'll allow that if...
22 BY MR. GARN:
23 Q. Did Child Protective Services come into your house in Livingston
24 Manor?
25 A. Yes.

1 Q. On a regular basis?
2 A. At least five times in the year that C[redacted] was-- was there.
3 MS. MASTANDREA: Objection. Relevance.
4 JUDGE MCGUIRE: Oh, I think it could be very
5 relevant.
6 MR. BURKE: Yeah, I do, too.
7 MS. MASTANDREA: Okay.
8 MR. BURKE: Sorry.
9 MS. MASTANDREA: It's okay.
10 JUDGE MCGUIRE: Overruled.
11 BY MR. GARN:
12 Q. Were they coming there to investigate your children?
13 A. They weren't coming to investigate mine. They were coming to
14 investigate my mother-in-law's children.
15 Q. And do you know what happened with regard to those investigations?
16 A. I have no-- no knowledge.
17 Q. And was that part of the reason that you and Mr. V[redacted] decided to
18 relocate?
19 A. That was a big factor. That's why I did bring it up to him.
20 Q. And did he agree with that as being an important factor?
21 A. Yes. We didn't-- we both-- at least I know I didn't want my children
22 to believe that CPS coming into the home was a-- a normal thing.
23 Q. And did he agree with you?
24 A. At the time, yes.
25 Q. And was that the-- what you've described as "five times in a year,"

1 was that the year prior to your leaving?
2 A. Yes.
3 MR. GARN: I have no further questions, Judge.
4 JUDGE MCGUIRE: All right. You have any other
5 witnesses?
6 MR. GARN: I don't.
7 JUDGE MCGUIRE: Okay. So, let me see just
8 counsel in court then.
9 MS. G[redacted] Okay. Do you want me--?
10 JUDGE MCGUIRE: Yeah. I just need to see the
11 attorneys in court.
12 MS. MASTANDREA: Oh, yeah.
13 JUDGE MCGUIRE: It's a polite way of saying just
14 please step and wait-- step outside and wait.
15 MS. G[redacted] I'm sorry.
16 MR. V[redacted]: I apologize.
17 MS. MASTANDREA: Well, he knows what I mean.
18 JUDGE MCGUIRE: All right.
19 (Petitioner and Respondent leave the courtroom)
20 JUDGE MCGUIRE: I don't think I even need to
21 hear cross examination.
22 MS. MASTANDREA: Okay.
23 MR. BURKE: I-- I agree. I was going to make the
24 applications.
25 MR. GARN: You find my case underwhelming?

1 JUDGE MCGUIRE: Get these children back here
2 immediately. I mean, she doesn't sustain any of the *Tropea*
3 factors. She goes out there because she can't get to a
4 grocery store in Livingston Manor? She can't find a job in
5 Livingston Manor?
6 MS. MASTANDREA: Which I would be producing
7 evidence--
8 JUDGE MCGUIRE: He-- he has a job there, but he
9 can't come out there? I can't wait to hear-- to see cross
10 examination there of you miss your husband so much,
11 you're alone with the kids, but he's not welcome to come
12 three months after he's-- you're away from your husband?
13 MR. BURKE: Yeah.
14 JUDGE MCGUIRE: I mean, this is not a good
15 situation--
16 MR. GARN: Really?
17 JUDGE MCGUIRE: --And I don't know that we
18 need to prolong this thing.
19 MR. BURKE: Yeah.
20 MS. MASTANDREA: I was just going to say, Your
21 Honor, I was going to offer evidence--
22 JUDGE MCGUIRE: I just need to get these kids
23 back here forthwith.
24 MS. MASTANDREA: Okay.
25 JUDGE MCGUIRE: I mean, and then he flies out to

1 California and, really, I mean, the aunt-- the aunt who's
2 driving her to the grocery store-- I mean, I understand it's
3 50 miles, and I understand, I've got a sister-in-law in
4 California, fifty miles is, you know, it's-- that takes a while
5 on the highways there. It could be easily two hours.
6 MR. BURKE: It didn't just--
7 JUDGE MCGUIRE: But, you know, really? I mean,
8 and he's not that great either. He's gets to California,
9 doesn't have a rental car rented? Please.
10 MS. MASTANDREA: No. I completely
11 understand--
12 JUDGE MCGUIRE: But at LAX, I can't believe he
13 couldn't get a rental car for a day for under a thousand
14 dollars. Nah.
15 MR. MASTANDREA: I was on the phone with him
16 from 4 A.M. to the day-- to an hour or so before he left.
17 JUDGE MCGUIRE: Whatever. All right.
18 MR. BURKE: Well, more to the point though.
19 JUDGE MCGUIRE: Yeah.
20 MR. BURKE: Didn't she say there was a train for
21 him to take to a job a hundred miles away from Rancho
22 Cucamonga?
23 MS. MASTANDREA: Yes.
24 JUDGE MCGUIRE: Yeah, right.
25 MR. BURKE: And a bus?

1 MS. MASTANDREA: Yes.
2 MR. BURKE: Then why didn't the two of them
3 figure out to get a train or a bus?
4 JUDGE MCGUIRE: Yeah, yeah, really. I mean, you
5 know--
6 MR. BURKE: And could she have not gone 45 to
7 bring the kids down and--
8 JUDGE MCGUIRE: Yeah, really. I mean, it just--
9 that's -- that's only going to get worse for her on cross
10 examination. This guy can get a job through the aunt,
11 inadvertently through the aunt, I might add--
12 MR. BURKE: Yeah, whatever that means.
13 JUDGE MCGUIRE: --And then she gets out there,
14 and inadvertently, he doesn't have a job anymore until May,
15 so-- but he can't come out and stay in the aunt's house--
16 MS. MASTANDREA: No.
17 JUDGE MCGUIRE: -- Because it's only two
18 bedrooms? It's just not a good situation.
19 MS. MASTANDREA: And he was going to stay in
20 a hotel room. I mean, Your Honor, the rest of my case
21 would be this: bring his mother--
22 JUDGE MCGUIRE: Yeah, I don't need to hear the
23 rest of your case.
24 MS. MASTANDREA: Okay.
25 MR. BURKE: You don't -- we don't really-- no

1 need to hear your case.
2 MR. GARN: We really don't--
3 MS. MASTANDREA: That's fine with me.
4 JUDGE MCGUIRE: I don't need to hear it.
5 MS. MASTANDREA: That is fine with me.
6 MR. BURKE: It's-- she's-- clearly, she wants to
7 finish her education out there, and she didn't-- she didn't
8 like Livingston Manor. I agree.
9 MS. MASTANDREA: Well, then let her finish it
10 out there.
11 JUDGE MCGUIRE: Well, I can't-- I can't blame
12 her there necessarily, but there's a lot of other places. She
13 could move to-- they could settle in Middletown and go to
14 O.C.C.C.
15 MS. MASTANDREA: Yeah.
16 MR. BURKE: It would've been nice if--
17 JUDGE MCGUIRE: -- Go to Sullivan.
18 MR. BURKE: --It would've been nice if she had
19 really tried to find one other place in New York. That
20 would've been nice.
21 JUDGE MCGUIRE: Yeah. I mean, you know, she
22 could go to Dutchess, or Ulster, or Sullivan, or you know,
23 any number of places.
24 MR. BURKE: Yeah, yeah. It's clear she wanted--
25 JUDGE MCGUIRE: There's all kinds of community

1 colleges. There's Broome.
2 MS. MASTANDREA: Yeah.
3 JUDGE MCGUIRE: I mean--
4 MR. BURKE: Yeah.
5 MS. MASTANDREA: She had multiple options.
6 JUDGE MCGUIRE: --In-- In less of a drive than he
7 was going to make to go work a hundred miles away, he--
8 she could go-- and they were going to live in that house
9 when he was going to work a hundred miles, but he
10 couldn't come out in March and live in the house because it
11 was going to be too cramped.
12 MR. BURKE: And work out a plan.
13 JUDGE MCGUIRE: Yeah.
14 MR. BURKE: Why couldn't-- wouldn't it be better
15 to be closer?
16 JUDGE MCGUIRE: Yeah, yeah. I mean, you're
17 sure her boyfriend isn't here to testify? Because that's the
18 only other testimony I need to hear.
19 MR. BURKE: Yeah.
20 JUDGE MCGUIRE: Yeah, she needs to get those
21 children back here.
22 MS. MASTANDREA: Okay.
23 JUDGE MCGUIRE: Immediately.
24 MS. MASTANDREA: Can you make that clear to
25 her? Because--

1 JUDGE MCGUIRE: Oh, I think Mr. Garn's going to
2 make it clear to her.
3 MS. MASTANDREA: Okay.
4 JUDGE MCGUIRE: And then I'll make it clear to
5 her.
6 MS. MASTANDREA: Okay. Someone make it
7 clear to her because right now--
8 MR. GARN: You want me to go out, and you want
9 me to be the bad guy, don't you?
10 JUDGE MCGUIRE: I'll be the bad guy. I-- it's why
11 I've put them out.
12 MR. BURKE: You're going to line up for it.
13 JUDGE MCGUIRE: And K.C., it's up to you,
14 however you want to handle it, but what I can do is, you can
15 rest and then I can entertain the motion and then I can grant
16 the motion.
17 MS. MASTANDREA: So, I'm just making a motion
18 for custody to be granted him? A trial motion?
19 JUDGE MCGUIRE: You're just going to make a
20 motion for a trial motion and dismissal.
21 MR. BURKE: Directed verdict, yeah.
22 MS. MASTANDREA: Okay.
23 JUDGE MCGUIRE: Directed verdict.
24 MS. MASTANDREA: That's okay with me.
25 "Motion"-- I'll just write that down, "for a directed

1 verdict."

2 (SOUND OF DOOR OPENING)

3 MS. MASTANDREA: Thank you, Your Honor.

4 JUDGE MCGUIRE: All right. You bet.

5 MS. MASTANDREA: Let me go see my client.

6 MR. BURKE: We've all been there.

7 JUDGE MCGUIRE: Oh yeah, we've all been there.

8 Although, that may've been one of the weakest...

9 MR. BURKE: I was just going to say, I've never

10 heard worse.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on August 21, 2014.
7
8
9 Dated: April 2, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Hon. Michael McGuire

V[redacted] v. G[redacted]

8/21/14

9:58-10:19

STAPLES

CD-R

FF# 16632

80 minutes

700 MB

52x spe

1x - 52x comp

www.product-support-staples.co

PENGAD 800-631-6989

EXHIBIT

comm

Ex VII-7

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 10, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

C[redacted] V[redacted] v. A[redacted] G[redacted]
Family File # 16632
Date of recording -August 21, 2014
9:58 - 10:19

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/10/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex VII-7
PENGAD 800-631-6989

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.

- X

TRANSCRIPT OF PROCEEDING

V[redacted] v. G[redacted]

August 21, 2014
9:58 A.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-7a

(SOUND OF DOOR OPENING)

JUDGE MCGUIRE: All right. The parties and the attorneys have returned to the courtroom. Has there been any further progress on a resolution of this case?

MS. MASTANDREA: Not that I am aware of.

JUDGE MCGUIRE: All right. Mr. Garn, any other witnesses?

MR. GARN: No, I have no other witnesses, Judge.

JUDGE MCGUIRE: Respondent\Petitioner on the *Tropea* matter rests?

MR. GARN: Yes, Judge.

MCGUIRE: All right.

MS. MASTANDREA: At this time, Your Honor, I'd like to make a trial motion for a directed verdict awarding my client custody of the children, two children, A[redacted] and C[redacted].

JUDGE MCGUIRE: Okay. Based on what?

MS. MASTANDREA: Based on the fact that it would be in the best interest for the children to return to New York and remain with their father. And he has a support network, he has a great job, he has a stable household with a large support family, network of family.

JUDGE MCGUIRE: Well, we don't have any evidence of that.

MS. MASTANDREA: Yes.

1 JUDGE MCGUIRE: So, the-- the trial motion for
2 directed verdict, it has to be based on the burden of proof
3 that has or has not been sustained based on your argument.
4 MR. BURKE: Your Honor, if I may, I'll join in that.
5 JUDGE MCGUIRE: Yeah, Mr. Burke. That's great.
6 MR. BURKE: I'll join that application. We heard
7 from the respondent in this case, and she gave her testimony
8 without being cross examined, and I -- I think she made an
9 excellent case for why custody should be transferred to the
10 father. I think she satisfies none of the *Tropea*
11 requirements. I think that this move was-- I think that
12 despite the couching language, that this was a unilateral
13 decision. I think she got to Livingston Manor, or Hazel,
14 wherever they are out there, did not like it. Ms.-- was
15 disappointed with herself, I guess, the fact that school
16 wasn't completed, but-- and just decided she'd rather go
17 back to where she want-- where she's from. And to tell the
18 father not to come out here and work out plans, if that was
19 their mutual agreement from-- for months on end, don't
20 come up with a plan, come up with a plan, don't come out
21 here, don't be with the kids. I mean, it's particularly
22 suspicious, when she knew exactly the six-month time
23 period that she said they are residents, it seems like to me
24 that the way her plan was, sounded to me like she was
25 buying time to say, "You can't litigate this in New York

1 anymore." So, I think this was purely for the mother's own
2 self-interests and not for the children. The children are
3 residents in New York State, because this is their home and
4 jurisdiction lies here, I think the children should be returned
5 to the father right away. And I would be very concerned in
6 light of the mother's utter failure to even do anything to
7 even talk to the father when he was stuck at the airport to
8 make arrangements for the train that she testified was
9 available here, or on the buses that are available -- I'm
10 sorry, in Rancho Cucamonga, and-- and the buses that are
11 available, not to make any effort to help him when he's
12 flown across the country to get the children and pick up
13 these children, says to me that she is not a trustworthy
14 custodial parent in any way, shape, or form. That she won't
15 even talk to him, because they have issues, I-- I think that
16 the custody should be transferred immediately to the father,
17 and I think any visitation, at least for the time, should take
18 place only within the State of New York. Thank you.
19 JUDGE MCGUIRE: Thank you, Mr. Burke. Mr.
20 Garn?
21 MR. GARN: Judge, my client is-- has established
22 that there was a good-faith basis for her to move to
23 California. She has strong attachments to her children
24 which continue to this time, children who have adjusted
25 well to life in California. She bears no responsibility for

1 Dad's apparent inability to rent-- to get a rental car to drive
2 50 miles and return it the same day after having flown all
3 the way to Los Angeles. And she has extended family out
4 in California, so I-- I think, as oppose to the position the
5 People-- that the other parties have taken here, she's
6 established many of the factors of *Tropea*, and the kids have
7 been there since January, and that's where they should stay
8 and that's where she wants them to stay. And we think it's
9 in their best interest that they stay.
10 JUDGE MCGUIRE: Thank you, Mr. Garn.
11 MR. GARN: Mm-hmm.
12 JUDGE MCGUIRE: All right. at this stage of the
13 proceedings, it's-- the law provides that I must consider
14 evidence in a light move favorable to the non-moving party
15 and determine whether or not a *prima facie* case has been
16 made out to-- to establish that the respondent/petitioner in
17 this case has satisfied the factors as promulgated in the
18 *Matter of Tropea*, which is the seminal case that sets forth
19 the 11 factors for the court to consider in permitting a
20 parent to relocate, and thereby, frustrating the children's
21 opportunity for a relationship with another parent. The
22 *Tropea* factors are very clear, and in sum, set forth that it
23 must be in the children's best interest that they relocate
24 without regard for the parents, although, tangentially,
25 certainly, the parents are involved. And they look at

1 employment opportunities, household opportunities,
2 opportunities for any special medical care that the children
3 may need, addressing any of their special needs. For
4 example, God forbid we had a child that was-- had some
5 rare disease, and there was a hospital that was a leader in
6 the world in treating this sit-- type of an ailment, then that
7 would be certainly a factor to consider. And amongst those
8 factors are: extended family, the opportunities for the
9 children to have relationships with extended family, and the
10 affect that the relocation will have on the father. When I
11 consider the evidence here in a light most favorable to the
12 mother, I make the following findings: that the parties were
13 living in Livingston Manor. The two children were born
14 here in Sullivan County and were being raised in Livingston
15 Manor, living on a family homestead that belonged the
16 paternal grandmother. And while I don't have any
17 testimony about anyone other than the paternal grandmother
18 being in that home, we do have some suggestion from the
19 CPS reports that there were other children, presumably,
20 cousins or aunts or uncles, but other people in the area on
21 the paternal side of the family. That frankly neutralizes the
22 mother's argument about extended family. We happen to
23 have a family that has one branch in the West Coast and one
24 branch on the East Coast, but there's no benefit to the
25 children to be disenfranchised from the paternal relatives

1 while being closer the maternal relatives. And then being
2 disenfranchised from the father, certainly becomes a major
3 factor, and that is a-- a central factor in *Tropea*. What are
4 going to be the arrangements?
5 So, I'll start with the arrangements. The
6 arrangements were: the mother was relocating, the parents,
7 the parties, were going to relocate because they believed
8 that California held greater opportunity for the family, and--
9 and, thereby, a benefit for the children, were going to
10 relocate together. The plan was made that the mother
11 would go ahead, and the father would relocate after
12 finishing up the family business, tending to getting the place
13 packed and all here in New York. Frankly, that's not all
14 that unique a situation, although, frankly, it's backwards
15 because it was the father that had a job through the maternal
16 aunt. I'm not really sure what it means that it was
17 "inadvertently" though the aunt, but it was inadvertently
18 through the aunt that the father had a job.
19 Now, typically in these relocations where a family
20 relocates if there is a job opportunity, often the father will
21 go out, or the person that has a job would go out first and
22 stay with relatives, get themselves settled and-- and then
23 have the mother bring the children and get the moving and
24 all done. But for whatever reason, this family supposedly
25 made, in a light most favorable to the mother, made this

1 arrangement. And so, on January 15th, the mother headed
2 out to California and the father stayed back here. It's at that
3 point, on January 15th, in the testimony by Ms. G[redacted], and
4 when I take it in a light most favorable to her, the plan may
5 have been mutual, but-- the plan to go the California
6 may've been mutual, but the mother clearly had another
7 plan in mind. There's no doubt in my mind that the
8 mother's plan was to grab the children and flee to
9 California. Because where we have a marriage with two
10 young children, and the plan is that the father has a job
11 through the aunt, and the father's going to take a train and
12 commute 200 miles a day to have this job, and after three
13 months, the mother wants to have the plan refined and
14 believes that it's more likely that that plan is going to get
15 refined when there's 3,000-mile buffer between the mother
16 and the father than to have them together. Because all of a
17 sudden, while there was a plan for them to go out and stay
18 with the aunt and get settled and then get their own place,
19 all of a sudden, the aunt's house shrunk once the mother got
20 there. It was a six-bedroom home, now it's a two-bedroom
21 home, and there's no room for the father. No mangers in
22 the area, there's no room at the inn, the Dad's not allowed
23 to come. But if you'd wait a while, we're planning on
24 expanding the aunt's house, because there's obviously,
25 there's-- this isn't going to change. Dad wasn't coming out

1 for them to look for a townhouse, look for a home, look for
2 an apartment. Dad was just told to not come out. And he
3 waits three months, and then -- and then the mother is at the
4 breaking point, because the father wants to be back together
5 with his children, that set the mother over the edge and
6 decided that now that the father is coming West, I need a
7 divorce. Frankly, there is no credibility whatsoever in that
8 argument. Clearly, the mother went out there because she
9 wanted out of this marriage. Clearly, she want-- she's out
10 there and gets involved in another relationship, and clearly,
11 that's her interest. Clearly, that's her interest.
12 I'm going throw you out, and put you in handcuffs in
13 about 30 seconds, all right? So, you can either walk out or
14 get thrown out if I have to look at another outrageous
15 expression from you. Clear? Because if I have to tell you
16 again, I'm just going to ask the officer to put you in
17 handcuffs, and then you'll-- you'll experience the Sullivan
18 County Jail.
19 I continue. After three months, evidently, there is no
20 job that the aunt has for the father and he can't come out.
21 Now, the mother needs a divorce, and the father is told not
22 to come out. That act alone tells me that when the mother
23 left, although she had sold the father on a plan, she had no
24 intention at that time to carry that plan out. Because a
25 parent who's been separated from their husband for three

1 months, with two little children, if there was a plan to
2 reunify would have welcomed him to come out there and
3 start working so that they can get a home and continue their
4 life. It is just totally inconceivable that three-month
5 separation, and she would say, "Well, stay a little bit longer
6 in New York because I know I'm working part-time and
7 I'm getting food stamps here, so in three months, I'm going
8 to have the money to buy a house." It just doesn't make
9 sense. It makes no sense whatsoever. The original plan
10 was for him to come out in May, and so, by mid-March it's
11 not good? So, what was going to happen by mid-May?
12 Where was the money going to come from to get a better
13 house? There was no plan. And the only way to get a plan
14 was Dad to come out there and find a job and start looking
15 for a house. That doesn't happen.
16 And then, Dad comes out in July. Dad flies 3,000
17 miles and by whatever stroke of-- of misfortune or bad
18 planning, he doesn't have a rental car. Okay. Now, we've
19 got to relocate because, you know, there's no food in the
20 house in Livingston Manor because I have no way of
21 getting to the grocery store, but out in California, I have my
22 aunt, and I have my grandfather, and I've got my
23 grandmother, and I've got all these people who are there to
24 support me. None of whom are willing to drive 40 miles so
25 that the children can spend time with their father. That,

1 frankly, is outrageous. That's outrageous. Because that
2 tells me that there is no interest in the children having a
3 relationship with their father. It's not like he flew into
4 Portland and you had to drive a day and a half. We're
5 talking about 40, 50 miles, even in California traffic, that's
6 a couple of hours. The mother doesn't even have the
7 courtesy to get on the phone with the father. Oh, by the
8 way, the mother goes out to California, doesn't have a
9 phone, doesn't have access to a phone, the aunt doesn't
10 have a phone in the house. All steps to isolate the father
11 away from these children. And so, the father flies to
12 California and back without his children.
13 All right. Let's give credibility to the mother that,
14 you know, she was working in this high-powered part-time
15 job in the veterinary's office, she doesn't have a license.
16 They have trains and buses that can get the father to his job,
17 but miraculously, none of them run to LAX. Which, I've
18 got family in California, I've never taken mass transit to
19 LAX-- actually I have, but not from Rancho Cucamonga,
20 from San Bernardino, I have. But I find it hard to believe
21 that an airport like LAX isn't serviced by public
22 transportation, either buses or trains. And Rancho
23 Cucamonga is a pretty big community, so I've got to believe
24 that somewhere in that area, this great support network must
25 know somebody that's got a car, but we don't. And so, Dad

1 flies 6,000 miles without the children.
2 Let's give credibility to that side of the story. The
3 mother comes here now without the children. That is what
4 we call the proverbial "straw that broke the camel's back,"
5 because the children had no opportunity to speak with their
6 attorney where their attorney could well have developed the
7 case for the children staying in California. But the mother
8 knew darn well that she had no basis to be in California and
9 was going to have the children stay there. So now, she
10 thinks the father is going to have to fly out to California and
11 fight the courts in California to get the children. But see,
12 that's not going to happen. That's not going to happen,
13 because I'm going to grant the application. I'm going to
14 direct that the father shall be restored to sole physical
15 custody of the children, and I'm going to direct that the
16 mother stay in New York and make arrangements to have
17 the children delivered to New York within 48 hours. That
18 is a clear and unequivocal order to Ms. G[redacted] that you get
19 those children here by-- within 48 hours. By Saturday, at
20 10:20, they're to be in Sullivan County. And if they are not,
21 on Monday morning, I will entertain an application for a
22 violation, or if you are not in New York, I will entertain an
23 application for a violation and we will send the United
24 States Marshals to bring you and the children back because
25 this is one of the most outrageous cases of attempted

alienation that we've seen in a long time. And now, I want to know where Ms. G[redacted] is going to be staying while she's here, and I am ordering you to get those children to New York within-- Sullivan County within 48 hours. So where are you going to be staying?

MS. G[redacted]: We're in Liberty. We're in--

JUDGE MCGUIRE: Where in Liberty?

MS. G[redacted]: -- We're at the Days Inn.

JUDGE MCGUIRE: The Days Inn in Liberty. You are not to check out of the Days Inn. You are to stay there. You don't have to stay in, you can walk around, you can walk to ShopRite, you can walk to wherever you want to walk to, the diner, but you are not to check out of that hotel until the children are there and the children are to be at that hotel by 10:20 Saturday morning. Any questions?

MR. BURKE: Your Honor, it would be advisable under the circumstances, since the children are not here, we do not know who they're with or where-- to find out where they are and who they're with and have an order delivered there with the provision in it that any law enforcement in the area is directed to facilitate the return children to Sullivan County.

JUDGE MCGUIRE: I-- I will do that.

MS. MASTANDREA: And I--

JUDGE MCGUIRE: And Ms. Mastandrea, you draft

that order, I will sign it today.

MS. MASTANDREA: Absolutely.

JUDGE MCGUIRE: Where are the children? I need an-- physical address and a phone number where the children are.

MR. BURKE: Or where they're going to be for the next 48 hours.

JUDGE MCGUIRE: Or where they're going to be for the next couple of days.

MR. BURKE: Yeah. Ma'am?

MS. MASTANDREA: Where will the children be?

MS. G[redacted]: They're at my home where I live present--

JUDGE MCGUIRE: I need an address.

MS. G[redacted]: --My residence, the--

JUDGE MCGUIRE: I need a physical address. I don't know where your home is.

MS. G[redacted]: [redacted]

JUDGE MCGGUIRE: [redacted] Rancho Cucamonga. What county is that?

MS. G[redacted]: San Bernardino.

JUDGE MCGUIRE: San Bernardino County?

MS. G[redacted]: Mm-hmm.

JUDGE MCGUIRE: San Bernardino County, California.

1 MS. MASTANDREA: And the same that--
2 JUDGE MCGUIRE: And the Zip? And a phone
3 number there?
4 MS. G[redacted]: Mr. V[redacted] has the phone number.
5 JUDGE MCGUIRE: No, I don't have it.
6 MS. G[redacted] I don't know it off the top of my head.
7 MR. V[redacted]: I do, Your Honor.
8 JUDGE MCGUIRE: All right.
9 MS. MASTANDREA: He'll supply it to me.
10 JUDGE MCGUIRE: Okay.
11 MS. MASTANDREA: So, we're making an order
12 that they should be deliver--they're being delivered here?
13 JUDGE MCGUIRE: Yeah. And-- and it's very
14 important that the language is in there that I am ordering the
15 children to their residence between now and then is to stay
16 at Rancho Cucamonga, not to be moved around, and that
17 any law enforcement agency in the State of California is to
18 assist in the enforcement of this order.
19 MS. MASTANDREA: In the State of California is
20 to assist in the execution of this order?
21 JUDGE MCGUIRE: And any-- not-- yeah, any law
22 enforcement agency.
23 MS. MASTANDREA: Yeah. Okay.
24 JUDGE MCGUIRE: All right. And I want those
25 children delivered by 10:20 Saturday morning to the Days

1 Inn, where the father will pick them up. I'm making no
2 provision for access to the mother. She's free to make
3 application for access and we can take that issue up.
4 MS. MASTANDREA: Okay. I'll have that to you
5 by this afternoon.
6 JUDGE MCGUIRE: Okeydoke. So, Ms. G[redacted], get
7 busy with your travel agent.
8 MS. MASTANDREA: And that's 10:20, Saturday,
9 August...
10 JUDGE MCGUIRE: Yeah.
11 MS. MASTANDREA: Okay. August...
12 MR. BURKE: The 23rd, isn't it?
13 MS. MASTANDREA: The 23rd, yeah. Okay, okay.
14 JUDGE MCGUIRE: And remember that she's not
15 to check out of the Days Inn until those children are
16 delivered.
17 MR. BURKE: I'll say my-- my fax number, I'm not
18 sure that it's there, [redacted]. She could can fax the order
19 over also--
20 JUDGE MCGUIRE: Okay.
21 MR. BURKE: --So we can all take a look.
22 JUDGE MCGUIRE: Great.
23 MS. MASTANDREA: Okay. Yeah, tell me outside
24 what your fax number is.
25 JUDGE MCGUIRE: Yeah, you can email him or

1 faxing him around--

2 MR. BURKE: Yeah.

3 JUDGE MCGUIRE: --But get it to me today so that I

4 can sign it.

5 MR. BURKE: Right.

6 MS. MASTANDREA: Yeah, absolutely, Your

7 Honor.

8 JUDGE MCGUIRE: All right? Thanks, folks.

9 MR. BURKE: Thanks, Your Honor.

10 MS. MASTANDREA: Thank you very much, Your

11 Honor.

12

13

14

15

16

17

18

19

20

21

22

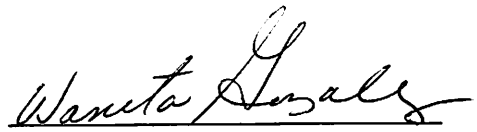
23

24

25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on August 21, 2014.
7
8
9 Dated: April 1, 2019



10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE COMMISSION ON JUDICIAL CONDUCT
61 Broadway, Suite 1200
New York, New York 10006

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 7, 2019

RE: V[redacted] V. G[redacted] FF#16632

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-8

F.C.A. §§ 467, 549, 651, 652, 654
D.R.L. § 240

GF18 8/2010

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on August 21, 2014

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on August 21, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

C[redacted] R[redacted] V[redacted],

Petitioner,

- against -

A[redacted] N[redacted] G[redacted],

Respondent.

File #: 16632
Docket #: V-00392-14
V-00393-14

FINAL ORDER ON PETITION FOR CUSTODY

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

C[redacted] R[redacted] V[redacted] having filed a petition on March 14, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody/visitation of the following minor child(ren):

Name	Date of Birth
[redacted]	[redacted]
[redacted]	[redacted]

And A[redacted] N[redacted] G[redacted] having been served with a copy of the petition, been advised by the Court of the right to counsel, and having denied the allegations of the petition, and having appeared before this Court to answer the petition and to show cause why an order of custody should not be granted

And this court after hearing and considering the evidence and arguments of counsel and having determined that the mother, A[redacted] N[redacted] G[redacted], has acted in such a manner contrary to the best interest of the subject children in that she has acted affirmatively and consistent with a course of conduct contemplated to alienate the subject children from their father, C[redacted] R[redacted] V[redacted] and

The Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the attorneys for the parties and for the child of the results of these searches; It is hereby

ORDERED that the Petitioner, C[redacted] V[redacted] shall have sole custody of the minor children; and it is further

ORDERED, that the Respondent, A[redacted] G[redacted] must produce the minor children at the Days Inn in, Sullivan Ave, Liberty, New York by no later than 10:20 a.m. on Saturday, August 23, 2014; and it is further

ORDERED, that the children shall stay at their current residence of [redacted] until such time that they are to leave the State of California for their return trip to Liberty, County of Sullivan State of New York, for the purpose of turning of sole custody to the children's father, C[redacted] V[redacted]; and it is further

ORDERED, that upon such time as the children are turned over to the care and custody of their father, C[redacted] V[redacted], all contact with the mother, A[redacted] G[redacted] shall be suspended pending further order of this Court; and it is further

ORDERED, that any law enforcement shall assist in the execution of this Order; and it is further

ORDERED, that until such time as the children are turned over to the care and custody of their father, C[redacted] V[redacted], the Respondent, A[redacted] G[redacted], shall remain in residence at the Days Inn, located on Sullivan Ave in the Village of Liberty, County of Sullivan, State of New York

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: August 21, 2014 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 8/21/14 - Fax'd to Attys + Liberty PD
☐ Order received in court on [specify date(s) and to whom given]:

CC: Lauren Marie Mastandrea, Esq.
Gail B. Rubenfeld, Esq., Attorney for Child
A[redacted] N[redacted] G[redacted], Respondent
C[redacted] R[redacted] V[redacted] Petitioner
Sullivan County Legal Aid Panel, Inc., Legal Aid

130 A.D.3d 1215, 13 N.Y.S.3d 671, 2015 N.Y. Slip Op. 05995

**1 In the Matter of Curtis R. Varner, Respondent
v
Amanda N. Glass, Appellant.

Supreme Court, Appellate Division, Third Department, New York
519997
July 9, 2015

CITE TITLE AS: Matter of Varner v Glass

HEADNOTES

Parent, Child and Family
Custody

Custody Award in Controverted Proceeding—Full Hearing Generally Required as Matter of Law

Parent, Child and Family
Custody

Factors Considered—Erroneous Emphasis on Relocation

Michelle I. Rosien, Philmont, for appellant.
John Ferrara, Monticello, attorney for the children.

Garry, J. Appeal from an order of the Family Court of Sullivan County (McGuire, J.), entered August 21, 2014, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 6, for custody of the parties' children.

Petitioner (hereinafter the father) and respondent (hereinafter the mother) are the parents of two children (born in 2012 and 2013). Shortly after the parties married in 2011, they began residing with the children's paternal grandmother in Sullivan County. In late 2013, the parties agreed to move to California, planning that the mother would first relocate with the children and the father would follow a few months later, after making arrangements for transportation or disposal of their belongings. The mother and children relocated to California in January 2014, residing there with the mother's aunt. In early

March 2014, the father advised that he intended to rejoin the family in the immediate future; the mother objected and told him to delay his plans. During this period, the conflict between the parties ultimately culminated in a complete breakdown of their relationship and cessation of communication.

The father filed a custody petition in Family Court and the mother then petitioned for custody in California. Family Court conferred with the California court, and it was determined that New York, as the children's home state, would retain jurisdiction of the custody matter (*see* Domestic Relations Law § 76-e [2]). Shortly thereafter, a custody hearing commenced. The mother was the sole witness to testify and, following her testimony on direct examination, the court granted the father's motion—joined by the attorney for the children—for a directed verdict, granted the father full custody, and made no provision for the mother to have contact with the **2 children. The mother appeals.

We reverse. As the mother and the attorney for the children **1216 on appeal argue, Family Court's decision lacks a sound and substantial basis. The court erred in rendering this initial custody determination upon a motion for a directed verdict based upon sorely limited evidence and testimony. An initial custody determination must be based upon the best interests of the children overall, considering all relevant factors, including "the parents' past performance and relative fitness, their willingness to foster a positive relationship between the child and the other parent, as well as their ability to maintain a stable home environment and provide for the child's overall well-being" (*Matter of Bush v Lopez*, 125 AD3d 1150, 1150-1151 [2015] [internal quotation marks and citations omitted]; *see generally Eschbach v Eschbach*, 56 NY2d 167 [1982]). The record evidence here was patently insufficient to permit such an analysis; instead, it fully illustrates why it is generally held to be error as a matter of law to render a custody award in a controverted proceeding without the benefit of a full hearing (*see Matter of Nalty v Kong*, 59 AD3d 723, 724 [2009]; *Matter of Williams v Williams*, 35 AD3d 1098, 1099-1100 [2006]).

All parties involved in the underlying proceeding erred in viewing the issues solely as a matter of application of the factors established in *Matter of Tropea v Tropea* (87 NY2d 727 [1996]). As there had been no prior award of custody, strict application of those factors was not required (*see Ostrander v McCain*, 68 AD3d 1480, 1481

WESTLAW © 2019 Thomson Reuters. No claim to original U.S. Government Works.

EXHIBIT
Comm
Ex VII-9
PENGAD 800-631-6989

[2009]; *Malcolm v Jurow-Malcolm*, 63 AD3d 1254, 1255 [2009]; *Furman v Furman*, 298 AD2d 627, 628-629 [2002], *lv denied and dismissed* 99 NY2d 575 [2003]). Rather, the effect of relocation was among the relevant factors to be considered in determining the children's best interests (*see Matter of Saperston v Holdaway*, 93 AD3d 1271, 1272 [2012], *appeal dismissed* 19 NY3d 887 [2012], 20 NY3d 1052 [2013]; *Matter of Baker v Spurgeon*, 85 AD3d 1494, 1496 [2011], *lv dismissed* 17 NY3d 897 [2011]). As the court " 'did not possess sufficient information to render an informed determination that was consistent with the child[ren's] best interests,' " we reverse and remit for a full hearing (*Matter of Williams v Williams*, 35 AD3d at 1100, quoting *Matter of Elliott v Major*, 1 AD3d 940, 941 [2003]; *see Obey v Degling*, 37 NY2d 768, 771 [1975]; *see also Matter of Cornell v Cornell*, 8 AD3d 718, 720 [2004]).

Family Court further erred in failing to make any provision for the mother to have contact or communication with the children. As the attorney for the children asserts, no basis was demonstrated for fearing that any harm might befall the children in their mother's care. As a direct result of the court's fail ***1217** ure to address the mother's right to access to her children in any manner whatsoever, these young children have now been wholly deprived of their mother's care and company for a lengthy period of their young lives. It is therefore imperative that a temporary order be made forthwith providing for communication and parenting time with the children for the mother, and establishing guidelines and provisions for shared parenting during the pendency of further proceedings. Unfortunately, the record before us is so sparse that we lack essential information to address this issue appropriately.

Finally, as we find that the manner in which this hearing was conducted reveals that Family Court treated the mother with apparent disdain, such that we cannot be assured that further proceedings will be conducted in an impartial manner, we further direct that future proceedings between these parties be presided over by a different judge (*see Matter of Valenti v Valenti*, 57 AD3d 1131, 1136 [2008], *lv denied* 12 NY3d 703 [2009]).

Lahtinen, J.P., Egan Jr. and Rose, JJ., concur. Ordered that the order is reversed, on the law, without costs, matter remitted to the Family Court of Sullivan County for further proceedings not inconsistent with this Court's decision before a different judge, and, within 30 days of the date of this order, Family Court is directed to issue a temporary order making provisions for shared parenting time for respondent, and, pending said further proceedings, temporary physical custody of the children shall continue with petitioner.

Copr. (C) 2019, Secretary of State, State of New York

End of Document

© 2019 Thomson Reuters. No claim to original U.S. Government Works.

1
2
3
4
5
6
7
8
9 Q. We're going to now talk about *V*[redacted] *versus G*[redacted].
10 A. Okay.
11 Q. I'm going to show you what is now marked Commission Exhibit 36.
12 A. Thank you.
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII-1Da

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----------X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

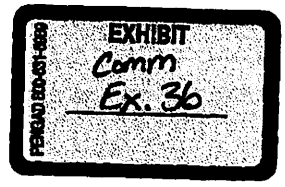
a Judge of the County, Family, Surrogate Court, :
Sullivan County.

----------X

TRANSCRIPT OF PROCEEDING

V[redacted] v. G[redacted]

August 21, 2014
9:23 A.M.



1 COURT OFFICER: All rise. All right. Thank you.
2 You can be seated.
3 JUDGE MCGUIRE: All right. The parties and the
4 attorneys have returned to the courtroom.
5 MS. MASTANDREA: Yes, Your Honor.
6 JUDGE MCGUIRE: Mr. Garn, are you ready to
7 begin, or do we have any-- make any progress?
8 MR. GARN: No, we've made no progress.
9 JUDGE MCGUIRE: Okay.
10 MR. GARN: So we're going to begin.
11 JUDGE MCGUIRE: Okay.
12 MR. GARN: And counsel for the petitioner and I
13 have agreed that as a result of the type of issue in this case
14 being relocation, it probably makes more sense for me to go
15 first and call my client to the stand to establish the *Tropea*
16 factors.
17 JUDGE MCGUIRE: Okay.
18 MR. GARN: Does that work for the Court?
19 JUDGE MCGUIRE: That's fine with me.
20 MR. GARN: Okay.
21 MS. MASTANDREA: Okay.
22 JUDGE MCGUIRE: Okay. Openings?
23 MR. GARN: Want to make an opening statement?
24 MS. MASTANDREA: Uh, sure.
25 JUDGE MCGUIRE: What--

1 MS. MASTANDREA: I hope to prove and show in
2 this case that my client was under the impression that he
3 was about to just go out to California and start a life with
4 him-- new life with his family. That occurred on January
5 15th, and March 10th; he was told not to go out. And now
6 he's in a situation of not having seen his girls since January
7 15th, while the respondent has made several attempts to
8 interfere with his communication and visitation with the
9 children. There was no reason for her to go out there and
10 for this to end the way it did, and I think the evidence will
11 prove that my client is in a far better position to have
12 custody of the children.
13 JUDGE MCGUIRE: All right. Ms. Mastandrea,
14 thank you. Mr. Garn? Opening?
15 MR. GARN: Judge, from our perspective, my client
16 takes the following position: that the best interest of these
17 children would be served by custody remaining with her,
18 and in addition to that, that she be permitted to remain in
19 the State of California where she presently resides with her
20 aunt. The Court's going to find that these parties were
21 married, I believe, on or about January of 2011. My client
22 has no family in this area at all. And that on or about
23 January of this year, or possibly slightly earlier than that,
24 the parties mutually discussed moving and relocating to the
25 State of California. They came to an agreement between

1 the two of them that they would move, that they-- their
2 prospects in California were better, was a better place to
3 raise children, and the plan was for my client to move there
4 and Dad to follow. It's my client's position, looking back
5 on it now, that after getting out to California and staying
6 there for approximately a month, there was a mutual
7 decision by the parties that they would-- they would be
8 separating or divorcing. They would not be a couple any
9 longer. As far as I understand, Dad was always welcome to
10 relocate to the State of California on his own to be closer to
11 his children, which was the original plan. We're going to
12 establish that the children are-- are happily adjusted to life
13 in California. They have a support system there that is
14 superior to any that they had here, which was in accordance
15 with the parties' plan. They have friends there. The
16 children have thrived since arriving and that my client is
17 able to provide them with a stable and healthy home
18 environment in the State of California, thus-- thus making
19 the best interest of the children that they stay there. And as
20 far as Dad's inability to see them this summer, my client
21 does not drive. She has no automobile. She had no ability
22 to transport the children to the airport within the time frame
23 established by Dad, which was, as I hear it now, simply a
24 matter of hours. And the children were dressed and ready
25 to travel with their dad had he been able to make the

1 necessary arrangements. Thank you, Judge.
2 JUDGE MCGUIRE: Thank you. Mr. Burke?
3 MR. BURKE: Well, Your Honor, I spoke to, as you
4 know, what I expect, I spoke to Ms. Rubenfeld about this
5 case, and I-- I believe the evidence will show that there's
6 not a reason to believe that the best interest of the children
7 is being supported by taking them to a different support
8 system that doesn't include their father in a state other than
9 the home state of the children. From what I've heard so far
10 in the colloquy, I don't know-- I mean, obviously, the
11 evidence hasn't all been heard, and I'm curious to hear it,
12 but I don't how in the world the respondent here is going to
13 overcome the *Tropea* issues when she'll telling the Court in
14 colloquy that she can't afford to fly the children or make
15 any arrangements and can't afford a car in California to
16 drive to the airport, when the father's come across the
17 country by air-- by airplane. So I-- you know, I guess I had
18 --I'll keep an open mind. And I'm somewhat handicapped,
19 as Ms. Rubenfeld would've been if she were here, that the
20 mother made no arrangements to bring the children to see
21 the law guardian or even back here to even see the father
22 for a minute during this hearing. So I-- I am suspicious that
23 the evidence is not going to support her position at all. It's
24 going to, I think, underscore the fact that she's made a
25 choice herself to have a different support system in

1 California that does not include the father, is what I'm
2 afraid this is going to turn out to be. So I-- I don't know
3 that she's making the best decision in forcing this trial, but
4 I'm interested to hear with the evidence is.
5 JUDGE MCGUIRE: Thank you, Mr. Burke.
6 MR. BURKE: Thank you. Yeah.
7 JUDGE MCGUIRE: Okay. Mr. Garn, your first
8 witness.
9 MR. GARN: Yes. I call my client to the stand,
10 Judge.
11 JUDGE MCGUIRE: All right. Ms. G[redacted], just
12 follow the court officer's instructions, if you would, ma'am,
13 okay?
14 COURT OFFICER: Please raise your right hand. Do
15 you swear or affirm that the testimony you're about to give
16 will be the truth, the whole truth and nothing but the truth,
17 so help you God?
18 MS. G[redacted]: I do.
19 COURT OFFICER: Please state your name for the
20 record.
21 MS. G[redacted]: A[redacted]N[redacted] G[redacted].
22 JUDGE MCGUIRE: All right. Ms. G[redacted], have a
23 seat there.
24 MS. G[redacted]: Thank you.
25 JUDGE MCGUIRE: All right. That microphone in

1 front of you, Ms. G[redacted] is a recording device, not an
2 amplifying device, not like a PA system. All right, so you
3 keep your voice up. All of your responses must be verbal
4 because in this court we do keep an audio transcript of the
5 proceedings. Do you know what that is?
6 MS. G[redacted]: Yes, sir.
7 JUDGE MCGUIRE: A recording.
8 MS. G[redacted]: Yes, sir.
9 JUDGE MCGUIRE: All right? There's some fresh
10 water there for you if you need it. If you need a break at
11 some point, let me know. All right?
12 MS. G[redacted]: Okay.
13 JUDGE MCGUIRE: You all set?
14 MS. G[redacted]: Yes.
15 JUDGE MCGUIRE: Very good. Mr. Garn, you
16 may inquire.
17 MR. GARN: Thank you, Judge.
18
19 A[redacted] N. G[redacted],
20 having been duly sworn, was examined and testified as follows:
21
22 DIRECT EXAMINATION BY MR. GARN:
23 Q. Ms. G[redacted], how old are you?
24 A. I'm 25.
25 Q. And what is the extent of your education?

1 A. I'm a high school graduate with a few semesters of-- of college.
2 Q. And where did you go to high school? Where'd you go to college?
3 A. Auburn Senior High in Auburn, Washington, was my high school, and
4 I went to Chaffey College. It's a community college in Rancho
5 Cucamonga.
6 Q. And where do you presently reside?
7 A. Rancho Cucamonga, California.
8 Q. And who resides there with you?
9 A. My aunt, J[redacted]D[redacted].
10 Q. And do you live in her home?
11 A. Yes, I do.
12 Q. And what are the circumstances of that home? What's the-- what type
13 of home is it? What type of living quarters do you and the children
14 have?
15 A. We have a-- we have a bedroom that we live in. Well, we sleep in,
16 and we-- the girls have run of the entire house, you know, they go
17 where-- pretty much wherever they need to go. They have a backyard
18 to play in. They have a front yard to play in. They go to their-- you
19 know, they go to the-- use the bathroom, at least, C[redacted]does now.
20 Q. Okay. And were you and the petitioner married?
21 A. Yes, we were.
22 Q. And when was that?
23 A. We married Jan-- January 26, 2011.
24 Q. And how did you meet?
25 A. We met in the Navy in-- after boot camp.

1 Q. And when did you began to reside here in Sullivan County?
2 A. July 2011.
3 Q. And your children? The-- both children were born here?
4 A. Yes, sir.
5 Q. And A[redacted] is your child?
6 A. Yes.
7 Q. And the date of birth of A[redacted]?
8 A. [redacted].
9 Q. And C[redacted]? Is C[redacted] your child?
10 A. Yes.
11 Q. And the date of birth of C[redacted]?
12 A. [redacted].
13 Q. And those two children presently reside with you in California?
14 A. Yes, sir.
15 Q. And how long have you and the children lived in California?
16 A. Since January 15, 2014.
17 Q. And before that, you lived here in Sullivan County?
18 A. Yes, sir.
19 Q. With their father?
20 A. Yes, sir.
21 Q. And when you lived in Sullivan County, where did you live and with
22 whom?
23 A. We lived in his mother's home on his family farm.
24 Q. Where is that?
25 A. In Livingston Manor or outside of.

1 Q. And at some point in time, did yourself and Mr. V[redacted] discuss
2 relocating outside of Sullivan County?
3 A. Yes, we did.
4 Q. And when did you discuss that?
5 A. It was roughly November and December of 2013.
6 Q. And could you tell us what the discussion was, what Mr. V[redacted] said
7 to you, what you said to him? Explain to the Court how this came up,
8 and what were the factors that led to a decision?
9 A. We had discussed that because of income being an issue, we needed to
10 make a change for the betterment of the children. And he had had a
11 job offer out in California with a company that inadvertently was
12 through my aunt and he wanted to take it. So we were going to go out
13 to California, and he would be getting that employment, but I would
14 be going with the children first. He was to follow after he took care of
15 all of our belongings, packing them, sending them, or bringing them
16 with us or even selling some of our items.
17 Q. Okay. And so, is it your testimony that the decision to relocate was a
18 mutual decision between yourself and Mr. V[redacted]?
19 A. Yes, sir.
20 Q. And Mr. V[redacted] agreed to you relocating to California?
21 A. Yes, sir.
22 Q. And it was part of the plan that he was going to join you there?
23 A. Yes.
24 Q. And you say he had a job offer near where you're presently living?
25 A. It was a-- probably about a hundred miles away, but there was

1 carpooling abilities, trains. But I don't know exactly the location, I
2 just know that it was with a company.
3 Q. Okay. And so, did you and the children leave New York State?
4 A. Yes, we did.
5 Q. And how did you do that?
6 A. By plane.
7 Q. And who paid for that?
8 A. My family did.
9 Q. And where did you leave from?
10 A. We left from Newburgh.
11 Q. From where?
12 A. Newburgh.
13 Q. And--
14 A. Near Stewart Airport.
15 Q. Stewart Airport?
16 A. Yes.
17 Q. And was Mr. V[redacted] here to see you off?
18 A. Yes, he was.
19 Q. And did he accompany you to the gate?
20 A. Yes, he did.
21 Q. And did he assist you in getting the children through security and onto
22 the plane?
23 A. Yes. Well, left us at the gate, but yes.
24 Q. And what was your understanding in terms of the time-- timing as to
25 when he would be joining you in California?

1 A. I was told originally that it would be most likely May that he would be
2 coming, late April, early May.
3 Q. So, you went to California?
4 A. Yes.
5 Q. And where did you go?
6 A. I went to my aunt's home to get the girls settled in, then we--
7 Q. Is that the home where you reside now?
8 A. Yes.
9 Q. And was that part of the plan?
10 A. Yes.
11 Q. And--
12 A. It was only-- it's only supposed to be temporary.
13 Q. Okay.
14 A. Until he had-- was supposed to move out there with us.
15 Q. And did you have an understanding when you left as to contact
16 between Dad and the kids?
17 A. I didn't have a phone at that time because our phones had been turned
18 off, and so we were at that time using my mother's phone--
19 Q. Okay.
20 A. --Temporarily, until I was given a phone by Mr. V[redacted]
21 Q. And since you've been out there, have you gotten a job?
22 A. Yes, I have.
23 Q. And could you tell the Court what type of job you have, what you do?
24 A. I work as a veterinarian assistant.
25 Q. And where do you do that work?

1 A. Abode Animal Hospital.
2 Q. And where is that?
3 A. In Rancho Cucamonga. Well, more Alta Loma, but...
4 Q. And how long have you worked there?
5 A. Since January 30th of 2014.
6 Q. And are you still presently employed there?
7 A. Yes, I am.
8 Q. And is that a full-time or a part-time job?
9 A. It's part-time.
10 Q. How many hours a week do you work?
11 A. I would say, roughly, 23 to 24 hours a week.
12 Q. And are you able to support yourself and your children through the
13 salary that you earn at that job?
14 A. Not just that one. I do use in-- public assistance. I do have cash aid
15 and food stamps available to me, as well as WIC.
16 Q. Now, after you were out there in California with your children for a
17 period of time, did you continue to have contact with Mr. V[redacted] to
18 discuss his move?
19 A. We did. He wanted to move it up, way further up than we had
20 planned.
21 Q. What do you mean? Move what up?
22 A. Move his-- he wanted to move out there faster than planned.
23 Q. Okay.
24 A. Without really a plan in general.
25 Q. Okay.

1 A. So it was kind of-- I told him we need to have a plan before he moved
2 out there.
3 Q. Okay. And so, did the discussions continue about this plan?
4 A. We tried, but he was pushing it more and more to come out sooner and
5 then he told me he was just going to come.
6 Q. And when did he say he would be coming?
7 A. He said that he would be leaving on the 10th of March.
8 Q. Okay. And your response to that was what?
9 A. I told him I don't think-- didn't think it was a good idea because we
10 don't have a plan, we don't have-- he, you know, he didn't even have
11 any job prospects at that point, as far as I knew. We didn't have a
12 residence to go to because it's already-- you know, it's a two-bedroom
13 house that we're living in, technically, now and it would be a little
14 cramped.
15 Q. Okay. So what was the ultimate decision that was made?
16 A. I told him to wait a little while longer, go with the original plan, and
17 we would find a place to live. And he just wouldn't do it.
18 Q. Okay. So what happened next? Did he come out there?
19 A. No.
20 Q. What happened then?
21 A. He stayed-- he stayed out here in-- in New York, and it kept getting
22 pushed-- I kept getting pushed, along with badgering, I guess, and
23 that's when I finally broke and told him I needed-- I needed a
24 separation or I couldn't married-- and I couldn't be married to him at
25 this point.

1 Q. And when did you come to that conclusion?
2 A. I finally broke down and told him the day that he said that he would be
3 leaving, which was March 10th.
4 Q. On March 10th?
5 A. Yes.
6 Q. All right. Now, did you tell him that he couldn't come out?
7 A. I never told him he couldn't come. I just told him I would wait.
8 Q. And did he ever come out?
9 A. No.
10 Q. Now, have you, since that time, March 10th until now, have you ever
11 told him that he can't come out to California?
12 A. Never.
13 Q. Now, are you and the children residents of the State of California?
14 A. Yes, we are.
15 Q. And as of when?
16 A. July 6th-- 16th or 15th, actually. Six months from the date that we
17 moved out there, which was January 15th to July 15th.
18 Q. And what is the relationship between yourself and your aunt with
19 whom you reside? Do you have her blessings as far as saying there?
20 A. Yes.
21 Q. For the future?
22 A. As I'm there temporarily, as long as I need, is pretty much what I'm--
23 I'm told.
24 Q. And are you paying her rent?
25 A. Yes, I am.

1 Q. And do you have-- for when you're working, do-- what sort of child
2 care arrangement do you have for your children?
3 A. I have a licensed child care provider who takes care of my children
4 while I'm working.
5 Q. And is there plenty of provisions for the children as far as food and
6 clothing and that type of thing?
7 A. Yes.
8 Q. Do you have any difficulty providing for the children out there?
9 A. None at all.
10 Q. Did you have difficulties providing for them here in New York State?
11 A. Yes, I did.
12 Q. And can you describe those difficulties that you had?
13 A. It was difficult to keep food in the house. I had issues for myself
14 getting to the grocery store without having to ask for somebody to take
15 me, you know, it was difficult because of where the home was located
16 that it was not possible for me to walk to the store, especially not
17 down the driveway with two children.
18 Q. And do you currently have a medical insurance plan that covers the
19 children?
20 A. Yes, I do.
21 Q. And do you have that through your work?
22 A. No. It's actually through the state as well.
23 Q. Okay. And are-- do the children have a pediatrician?
24 A. Yes, they do.
25 Q. Are they current with their doctor's visits and what have you?

1 A. Yeah.
2 Q. Do they have any medical issues?
3 A. No. They're perfectly healthy. They're current on all their
4 vaccinations. They've never missed an appointment.
5 Q. And when you lived in New York State from July of 2011 until the
6 time you left, were you ever able to find any employment here in
7 Sullivan County?
8 A. None, at least not--
9 Q. And what--
10 A. --At least not that was promising.
11 Q. And where you live now, do you have any means of transportation?
12 A. Yes, I do. I can either walk to my job or I can take public
13 transportation, which is the bus system.
14 Q. Do you drive?
15 A. No.
16 Q. Do you have an automobile?
17 A. No.
18 Q. Do you have any opportunities to continue your education in
19 California?
20 A. Yes, I do.
21 Q. And what are those?
22 A. I can actually return back to the college that I was attending before
23 moving to New York, which is Chaffey College.
24 Q. Is that nearby?
25 A. Yes. It's right up the hill from where I work.

1 Q. And do you intend to continue your education there?
2 A. I would like to, very much.
3 Q. Now, are you telling the Court that you have a stable environment in
4 which to keep the children at the present time?
5 A. Yes, I do.
6 Q. And is it your position you would be able to maintain that stable
7 environment into the distant future?
8 A. Yes.
9 Q. Have there been any visits by Child Protective Services to your home?
10 Have you been the subject of any such child abuse or neglect
11 investigations in California?
12 A. I actually did have one Child-- Child Services member come to my
13 home on a false report, but other than that, I've never had any issues
14 out there.
15 Q. Now, what type of-- because you have an aunt in California--
16 A. Mm-hmm.
17 Q. --That you live with, correct?
18 A. Mm-hmm.
19 Q. Do you have other family support? Do you have a family support
20 network there?
21 A. Yes, I do.
22 Q. What--
23 A. I have my grandmother, I have my mother's sister, my uncle, as well
24 as my aunt's husband and her two children. Plus, I have a grandfather
25 out there as well.

1 Q. And are all these people nearby?
2 A. Except for my grandfather. He's up in the high desert.
3 Q. Now, what type of activities have your children been involved in since
4 they've been out there?
5 A. They've been invited to parties for some of their little friends from the
6 daycare. We go to the park every Sunday. They play, you know, C[redacted]
7 plays with other kids there. We interact with some of the other girls
8 from my-- my job because some of them have, you know, cousins or--
9 small cousins or small children that they-- that they see a lot and they
10 do playdates with them as well. They've become very social.
11 Q. And have you noticed a change in your children since moving to
12 California, particularly, the older child?
13 A. C[redacted]? Yes.
14 Q. And what changes have you noticed?
15 A. Her vocabulary has become quite a bit more extensive than when she
16 was here. She didn't really speak very much--
17 MR. BURKE: I would object to this at this point.
18 JUDGE MCGUIRE: Yeah. I'm going to sustain
19 that.
20 MR. BURKE: This is pure opinion.
21 JUDGE MCGUIRE: Yeah.
22 THE WITNESS: Yeah, well, she speaks--
23 MR. BURKE: It's pure opinion, and the objection
24 was sustained.
25 JUDGE MCGUIRE: Yeah, it's sustained.

1 BY MR. GARN:
2 Q. Do your children appear to you to be happy in the home where--
3 MR. BURKE: Objection.
4 JUDGE MCGUIRE: Sustained.
5 MS. MASTANDREA: Objection.
6 Q. --They presently reside?
7 JUDGE MCGUIRE: Sustained.
8 BY MR. GARN:
9 Q. Now, you recall this summer, Ms. G[redacted], that Mr. V[redacted] was to come
10 out to Los Angeles and pick the children up, is that correct?
11 A. Yes, sir.
12 Q. And did he contact you to advise that he would be picking them up at
13 your house?
14 A. He told my aunt because I-- I don't speak with him, it causes issues,
15 he told my aunt that he was having an issue, that his reservation was
16 for the day after the 13th, and not for the 13th, is what he told her. And
17 that he was stuck at LAX--
18 MR. BURKE: Objection as to what he told her.
19 MS. MASTANDREA: Now hearsay.
20 JUDGE MCGUIRE: Yeah. Sustained.
21 THE WITNESS: Yeah. That's--
22 BY MR. GARN:
23 Q. On the day that Mr. V[redacted] was out in California, did you speak with
24 him at all?
25 A. No.

1 Q. Did you have any ability to get your children to the Los Angeles
2 Airport at the time you got notice of that?
3 A. No, I did not.
4 Q. And when, if at all, did you receive any notice that you were being
5 asked to take your children to the airport?
6 A. I would say, roughly, 10:00 in the afternoon or in the mid-morning.
7 Q. In the morning?
8 A. And he was-- he advised us he would pick them up at 8 A.M.
9 Q. And at 10:00 in the morning, did you have any ability at that time to
10 get your children to the airport?
11 A. No, I did not.
12 Q. Did you have a car?
13 A. No.
14 Q. Did you have any money to pay for a cab to get you there?
15 A. I did not.
16 Q. Why is it, Ms. G[redacted], that you feel it would be in your children's best
17 interest to stay with you in California?
18 A. Because I believe, personally--
19 MR. BURKE: You know, I'm going to object again.
20 MS. MASTANDREA: Objection.
21 MR. BURKE: This is just opinion and--
22 JUDGE MCGUIRE: Yeah. I'll--
23 THE WITNESS: Well, how am I supposed--
24 JUDGE MCGUIRE: --I'll sustain, too, and strike the
25 word that she believes "personally." The question is, why is

1 it in your children's best interest for them to stay in
2 California?
3 THE WITNESS: They seem happy.
4 JUDGE MCGUIRE: Sustained.
5 BY MR. GARN:
6 Q. Do you have any other reasons why?
7 A. It's a more stable environment, it's--
8 MS. MASTANDREA: Objection.
9 MR. GARN: Well, that's--
10 JUDGE MCGUIRE: I'll allow it. That's-- it's her
11 opinion. That's fine.
12 BY MR. GARN:
13 Q. Any other reasons?
14 A. CPS doesn't come in mul--
15 MS. MASTANDREA: Objection.
16 A. --multiple times in a year.
17 Q. Okay.
18 JUDGE MCGUIRE: Well, that's a problem.
19 MS. MASTANDREA: You said they only come one
20 time a year? I mean...
21 JUDGE MCGUIRE: I mean, I'll allow that if...
22 BY MR. GARN:
23 Q. Did Child Protective Services come into your house in Livingston
24 Manor?
25 A. Yes.

1 Q. On a regular basis?
2 A. At least five times in the year that C[redacted] was-- was there.
3 MS. MASTANDREA: Objection. Relevance.
4 JUDGE MCGUIRE: Oh, I think it could be very
5 relevant.
6 MR. BURKE: Yeah, I do, too.
7 MS. MASTANDREA: Okay.
8 MR. BURKE: Sorry.
9 MS. MASTANDREA: It's okay.
10 JUDGE MCGUIRE: Overruled.
11 BY MR. GARN:
12 Q. Were they coming there to investigate your children?
13 A. They weren't coming to investigate mine. They were coming to
14 investigate my mother-in-law's children.
15 Q. And do you know what happened with regard to those investigations?
16 A. I have no-- no knowledge.
17 Q. And was that part of the reason that you and Mr. V[redacted] decided to
18 relocate?
19 A. That was a big factor. That's why I did bring it up to him.
20 Q. And did he agree with that as being an important factor?
21 A. Yes. We didn't-- we both-- at least I know I didn't want my children
22 to believe that CPS coming into the home was a-- a normal thing.
23 Q. And did he agree with you?
24 A. At the time, yes.
25 Q. And was that the-- what you've described as "five times in a year,"

1 was that the year prior to your leaving?
2 A. Yes.
3 MR. GARN: I have no further questions, Judge.
4 JUDGE MCGUIRE: All right. You have any other
5 witnesses?
6 MR. GARN: I don't.
7 JUDGE MCGUIRE: Okay. So, let me see just
8 counsel in court then.
9 MS. G[redacted] Okay. Do you want me--?
10 JUDGE MCGUIRE: Yeah. I just need to see the
11 attorneys in court.
12 MS. MASTANDREA: Oh, yeah.
13 JUDGE MCGUIRE: It's a polite way of saying just
14 please step and wait-- step outside and wait.
15 MS. G[redacted] I'm sorry.
16 MR. V[redacted] I apologize.
17 MS. MASTANDREA: Well, he knows what I mean.
18 JUDGE MCGUIRE: All right.
19 (Petitioner and Respondent leave the courtroom)
20 JUDGE MCGUIRE: I don't think I even need to
21 hear cross examination.
22 MS. MASTANDREA: Okay.
23 MR. BURKE: I-- I agree. I was going to make the
24 applications.
25 MR. GARN: You find my case underwhelming?

1 JUDGE MCGUIRE: Get these children back here
2 immediately. I mean, she doesn't sustain any of the *Tropea*
3 factors. She goes out there because she can't get to a
4 grocery store in Livingston Manor? She can't find a job in
5 Livingston Manor?
6 MS. MASTANDREA: Which I would be producing
7 evidence--
8 JUDGE MCGUIRE: He-- he has a job there, but he
9 can't come out there? I can't wait to hear-- to see cross
10 examination there of you miss your husband so much,
11 you're alone with the kids, but he's not welcome to come
12 three months after he's-- you're away from your husband?
13 MR. BURKE: Yeah.
14 JUDGE MCGUIRE: I mean, this is not a good
15 situation--
16 MR. GARN: Really?
17 JUDGE MCGUIRE: --And I don't know that we
18 need to prolong this thing.
19 MR. BURKE: Yeah.
20 MS. MASTANDREA: I was just going to say, Your
21 Honor, I was going to offer evidence--
22 JUDGE MCGUIRE: I just need to get these kids
23 back here forthwith.
24 MS. MASTANDREA: Okay.
25 JUDGE MCGUIRE: I mean, and then he flies out to

1 California and, really, I mean, the aunt-- the aunt who's
2 driving her to the grocery store-- I mean, I understand it's
3 50 miles, and I understand, I've got a sister-in-law in
4 California, fifty miles is, you know, it's-- that takes a while
5 on the highways there. It could be easily two hours.
6 MR. BURKE: It didn't just--
7 JUDGE MCGUIRE: But, you know, really? I mean,
8 and he's not that great either. He's gets to California,
9 doesn't have a rental car rented? Please.
10 MS. MASTANDREA: No. I completely
11 understand--
12 JUDGE MCGUIRE: But at LAX, I can't believe he
13 couldn't get a rental car for a day for under a thousand
14 dollars. Nah.
15 MR. MASTANDREA: I was on the phone with him
16 from 4 A.M. to the day-- to an hour or so before he left.
17 JUDGE MCGUIRE: Whatever. All right.
18 MR. BURKE: Well, more to the point though.
19 JUDGE MCGUIRE: Yeah.
20 MR. BURKE: Didn't she say there was a train for
21 him to take to a job a hundred miles away from Rancho
22 Cucamonga?
23 MS. MASTANDREA: Yes.
24 JUDGE MCGUIRE: Yeah, right.
25 MR. BURKE: And a bus?

1 MS. MASTANDREA: Yes.

2 MR. BURKE: Then why didn't the two of them

3 figure out to get a train or a bus?

4 JUDGE MCGUIRE: Yeah, yeah, really. I mean, you

5 know--

6 MR. BURKE: And could she have not gone 45 to

7 bring the kids down and--

8 JUDGE MCGUIRE: Yeah, really. I mean, it just--

9 that's -- that's only going to worse for her on cross

10 examination. This guy can get a job through the aunt,

11 inadvertently through the aunt, I might add--

12 MR. BURKE: Yeah, whatever that means.

13 JUDGE MCGUIRE: --And then she gets out there,

14 and inadvertently, he doesn't have a job anymore until May,

15 so-- but he can't come out and stay in the aunt's house--

16 MS. MASTANDREA: No.

17 JUDGE MCGUIRE: -- Because it's only two

18 bedrooms? It's just not a good situation.

19 MS. MASTANDREA: And he was going to stay in

20 a hotel room. I mean, Your Honor, the rest of my case

21 would be this: bring his mother--

22 JUDGE MCGUIRE: Yeah, I don't need to hear the

23 rest of your case.

24 MS. MASTANDREA: Okay.

25 MR. BURKE: You don't -- we don't really-- no

1 need to hear your case.

2 MR. GARN: We really don't--

3 MS. MASTANDREA: That's fine with me.

4 JUDGE MCGUIRE: I don't need to hear it.

5 MS. MASTANDREA: That is fine with me.

6 MR. BURKE: It's-- she's-- clearly, she wants to

7 finish her education out there, and she didn't-- she didn't

8 like Livingston Manor. I agree.

9 MS. MASTANDREA: Well, then let her finish it

10 out there.

11 JUDGE MCGUIRE: Well, I can't-- I can't blame

12 her there necessarily, but there's a lot of other places. She

13 could move to-- they could settle in Middletown and go to

14 O.C.C.C.

15 MS. MASTANDREA: Yeah.

16 MR. BURKE: It would've been nice if--

17 JUDGE MCGUIRE: -- Go to Sullivan.

18 MR. BURKE: --It would've been nice if she had

19 really tried to find one other place in New York. That

20 would've been nice.

21 JUDGE MCGUIRE: Yeah. I mean, you know, she

22 could go to Dutchess, or Ulster, or Sullivan, or you know,

23 any number of places.

24 MR. BURKE: Yeah, yeah. It's clear she wanted--

25 JUDGE MCGUIRE: There's all kinds of community

1 colleges. There's Broome.

2 MS. MASTANDREA: Yeah.

3 JUDGE MCGUIRE: I mean--

4 MR. BURKE: Yeah.

5 MS. MASTANDREA: She had multiple options.

6 JUDGE MCGUIRE: --In-- In less of a drive than he

7 was going to make to go work a hundred miles away, he--

8 she could go-- and they were going to live in that house

9 when he was going to work a hundred miles, but he

10 couldn't come out in March and live in the house because it

11 was going to be too cramped.

12 MR. BURKE: And work out a plan.

13 JUDGE MCGUIRE: Yeah.

14 MR. BURKE: Why couldn't-- wouldn't it be better

15 to be closer?

16 JUDGE MCGUIRE: Yeah, yeah. I mean, you're

17 sure her boyfriend isn't here to testify? Because that's the

18 only other testimony I need to hear.

19 MR. BURKE: Yeah.

20 JUDGE MCGUIRE: Yeah, she needs to get those

21 children back here.

22 MS. MASTANDREA: Okay.

23 JUDGE MCGUIRE: Immediately.

24 MS. MASTANDREA: Can you make that clear to

25 her? Because--

1 JUDGE MCGUIRE: Oh, I think Mr. Garn's going to
2 make it clear to her.
3 MS. MASTANDREA: Okay.
4 JUDGE MCGUIRE: And then I'll make it clear to
5 her.
6 MS. MASTANDREA: Okay. Someone make it
7 clear to her because right now--
8 MR. GARN: You want me to go out, and you want
9 me to be the bad guy, don't you?
10 JUDGE MCGUIRE: I'll be the bad guy. I-- it's why
11 I've put them out.
12 MR. BURKE: You're going to line up for it.
13 JUDGE MCGUIRE: And K.C., it's up to you,
14 however you want to handle it, but what I can do is, you can
15 rest and then I can entertain the motion and then I can grant
16 the motion.
17 MS. MASTANDREA: So I'm just making a motion
18 for custody you granted him? A trial motion?
19 JUDGE MCGUIRE: You're just going to make a
20 motion for a trial motion and dismissal.
21 MR. BURKE: Directed verdict, yeah.
22 MS. MASTANDREA: Okay.
23 JUDGE MCGUIRE: Directed verdict.
24 MS. MASTANDREA: That's okay with me.
25 "Motion"-- I'll just write that down, "for a directed

1 verdict."

2 (SOUND OF DOOR OPENING)

3 MS. MASTANDREA: Thank you, Your Honor.

4 JUDGE MCGUIRE: All right. You bet.

5 MS. MASTANDREA: Let me go see my client.

6 MR. BURKE: We've all been there.

7 JUDGE MCGUIRE: Oh yeah, we've all been there.

8 Although, that may've been one of the weakest...

9 MR. BURKE: I was just going to say, I've never

10 heard worse.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **CERTIFICATION**

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on December 16, 2013.
7
8
9 Dated: February 21, 2017

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4 Q. Page 8, line 12 to line 18.
5 A. Mm-hmm. Okay.
6 Q. Who were you threatening to put in handcuffs?
7 A. Probably the mother.
8 Q. Why?
9 A. Well, I was advising her because it says there her outrageous
10 expressions-- she was-- she was being disruptive in the court by her
11 expressions.
12 Q. By making-- through expressions?
13 A. Well, just gyrations and expressions.
14 Q. So it's okay to put someone in handcuffs and in contempt if they're
15 making facial expressions?
16 A. No, and I didn't.
17 Q. But you threatened.
18 A. Well, I-- well, I advised her that she needs to comport herself
19 appropriately in court.
20 Q. So if someone's making faces in court, that could be a reason that
21 they'd be put in contempt and handcuffed?
22 A. If people start down the road of a pattern where their behavior is
23 escalating, then you advise them that they need to knock it off.
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VII 10b

State of New York
Supreme and County Courts
Lawrence H. Cooke Sullivan County
Courthouse
414 Broadway
Monticello, New York 12701
Telephone #:845-791-3540
Fax #:845-476-3653
sullivansupremeandcounty@nycourts.gov

SARAH KATZMAN
Chief Clerk

ANNE SCHELHORN
Deputy Chief Clerk

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL CONDUCT

FROM: SUPREME & COUNTY COURT CLERK'S OFFICE

DATE: February 20, 2019

SUBJECT: **HON. MICHAEL F. MCGUIRE**
CRIMINAL DAY CALENDAR
JANUARY 14, 2015

This is to certify that this is a copy of the original Criminal Day Calendar filed in this office.

Sarah Katzman

Sarah Katzman-Chief Clerk
Supreme & County Court Clerk Office

No fee - Official Use

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-1

CRIMINAL DAY CALENDAR
SULLIVAN COUNTY COURT

Sarah

Presiding: HON. MICHAEL F. McGUIRE **DATE: 1/14/15**

		Defendant	Time	Counsel	DA/PO	Remarks
second call 1.	X	JEROME MARTIN 243W-12 updated PSI ordered	9:00AM	HART	GALLIGAN LEWIS	VOP ARRAIGN
		cont + 2nd call plead to VOP guilty > VOP Sent 3-12-15 @ 9:00			Neary	update PSI ordered * bail 6,000 cash / 12,000 Ins Co bd
2.	X	MICHAEL RUNDLE 110-13	9:00AM	MANNINO	REILLY	VOP ARRAIGN/CONF
		VOP conf 1-22-15 @ 9:00 put first on Sheridan call request of Karen -				*
3.		MICHAEL BARRETT	9:00AM	FLAHERTY	NEARY	SCI PLEA
		Adj 2-4-15 @ 10:30 SCI plea —				
4.		NATHAN THOMPSON	9:00AM	FLAHERTY	NEARY	SCI PLEA
		Conferenced + adj now to 2-4-15 @ 10:30 SCI plea continued				
5.		WAYNE KENYON 157W-14	9:00AM	MANNINO	SCHLICHTMAN	CONTROL
		B.W ordered	no show			
6.		WILLIAM KAVLESKI 289-13	9:00AM	FLAHERTY	ZANGLA	SENT
		sentenced 5 yrs prob + $20 surcharges CVIP 1-20-15, FID, 30 day com serv - 2 wks total. lic revoked -				
7.		ANTHONY REYES 169W-14	9:00AM	MANNINO	ZANGLA	SENT
		6 mths Jail time already served + 5 yrs probation Broome Co Trans fee. no fine 375 total				
8.		JONATHAN LYDE 125S-14	9:00AM	MANNINO	NEARY	730 CONTROL
		LTR Rec'd needs OB Produce for wed 1/28/15 @ 4pm - for Dr's Chung / Salgunan to see inmate together Stodora Order to Produce is signed.				
9.		MARC RUSSO Marc / Russo	9:00AM	MANNINO	NEARY Robinson	SCI PLEA
		SCI Plead guilty / Sent 3-12-15 @ 9:00				
10.	X	PAUL CURRY 194-11	9:00AM	BRENNER	ZANGLA	CONF
		matter conferenced. now on for 1-22-15 @ 9:00 conf			Brenner asked for additional time	
		SUPREME COURT				
1.		AJ PANTEL v. MCLAIN (INDEX #2522-14)	9:00AM	PERLMUTTER	PRO SE	APPEAR
		Bruce satisfied w/ info given - no more appearance			both appeared	
2.		NN GIANNICO GIAMICO v. GIAMICO # 0734-14	9:00AM	KROLL	Wm GIANNICO is PRO SE	-
		Chamber w/ notify for trial date			Decker children	
3.		SOFIA v. BENHAMON (#2729-13)	11:00AM	PERLMUTTER	PRO SE	CONTEMPT-APPEARANCE
		looking at settlement 1-21-15 @ 9:00AM CTHS appearance			- Bruce to notify Chambers if not necessary	
4.		Anderman Oil v. Marty Rogers 3/3-11 (#2379-14)	9AM	Perlmutter	Pro Se	Conf
		no show Rogers. new warrant to be issued				

No more cases for 2/4/15 @ 10:30 per Judge McGuire

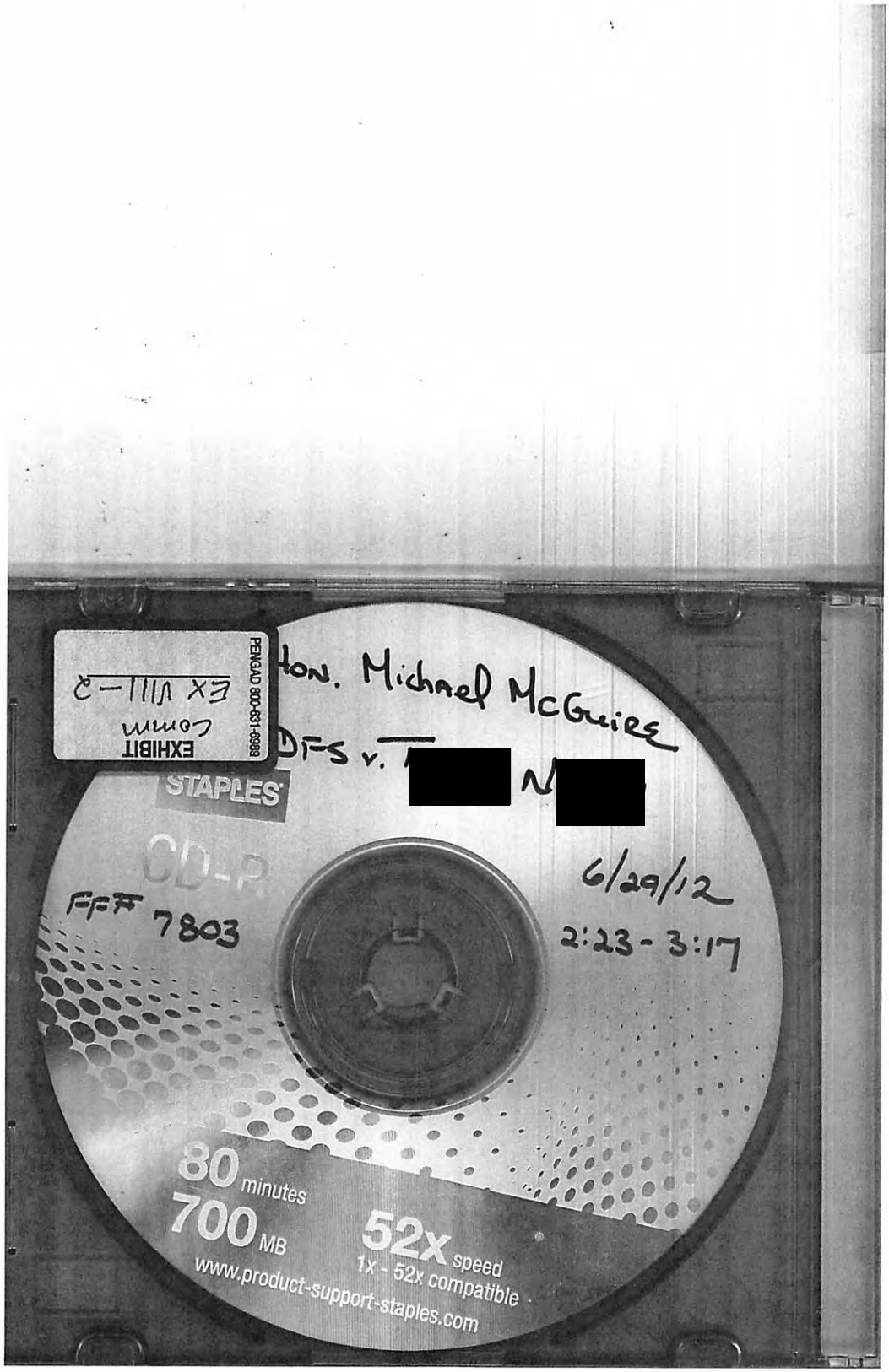


EXHIBIT
Comm
Ex VIII-2
PENGAD 800-631-6989
Hon. Michael McGuire
DFS v. T[redacted] N[redacted]
STAPLES
CD-R
FF# 7803
6/29/12
2:23 - 3:17
80 minutes
700 MB
52x speed
1x - 52x compatible
www.product-support-staples.com

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 10, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

DFS v. T[redacted] N[redacted]
Family File # 7803
Date of recording -June 29, 2012
2:23 - 3:17

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

EXHIBIT
Comm
Ex VIII-2
PENGAD 800-631-6989

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.

- X

TRANSCRIPT OF PROCEEDING

DEPARTMENT OF FAMILY SERVICES v. T[redacted] N[redacted]

June 29, 2012
2:23 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex. VIII-2a

1 JUDGE MCGUIRE: Okay. This case is 20 through
2 23 on the docket, the matters of *Department of Family*
3 *Services v. T[redacted] N[redacted]*. Can we have everyone's name
4 and appearance for the record, please?
5 MR. ROSS: Michael Ross, from DFS.
6 MS. HARRIS: Georgia Harris, Child Protective
7 Services.
8 MR. KROLL: Glenn Kroll for T[redacted] N[redacted].
9 MS. T. N[redacted]: T[redacted] N[redacted].
10 MS. RUBENFELD: Gail Rubenfeld, attorney for
11 E[redacted] R[redacted].
12 MR. R[redacted]: E[redacted] R[redacted]
13 MS. RAWICH: Isabel Rawich, attorney for M[redacted]
14 R[redacted]
15 JUDGE MCGUIRE: In the back?
16 MS. J. N[redacted]: J[redacted] N[redacted]. (Phonetic)
17 (Names of additional attendees unintelligible)
18 JUDGE MCGUIRE: Okay. We were here on June
19 11th. I had made some findings previously that the child
20 would be removed there-- she was placed, based on a
21 temporary order, under Article 6, with her father, correct?
22 And that's where the child has been. And we are here today
23 for a hearing under 1028--
24 COURT OFFICER: N[redacted] and R[redacted]
25 UNKNOWN FEMALE: We're here.

1 COURT OFFICER: He's called the case. One
2 moment, the lieutenant is asking--
3 JUDGE MCGUIRE: Keep 'em out. Keep 'em out.
4 Close the door.
5 COURT OFFICER: One moment, Lieutenant--
6 JUDGE MCGUIRE: They're-- they're staying out.
7 Close the door. Jesus.
8 COURT OFFICER: Ms. Steinhart--
9 JUDGE MCGUIRE: Get off the radio. We're here
10 for a hearing under 1028, correct?
11 MR. ROSS: Uh--
12 JUDGE MCGUIRE: Was an application made?
13 MR. ROSS: I don't think a 1020 application was
14 made. I think-- I think we were adjourned for a custody
15 hearing, although, the evidence, would obviously be the
16 same, so--
17 JUDGE MCGUIRE: Okay.
18 MR. ROSS: So, I'm being a little semantic maybe,
19 but-- but I am prepared to put forth some testimony, or if
20 it's deemed to be a--
21 JUDGE MCGUIRE: Okay.
22 MR. ROSS: --Article 6. However, you-- however
23 the Court wants to do it.
24 JUDGE MCGUIRE: Okay. Well, a 1028
25 application would have to be done formally in writing.

1 MR. ROSS: Yes.
2 JUDGE MCGUIRE: I think I said that the last time
3 we were here. So right now, though the child is placed
4 under Article 6, in a custody-- under the custody petition
5 filed by the father. Ms. Rubenfeld?
6 MS. RUBENFELD: Yes. When we were last here, I
7 wanted to clarify what we would be doing today, and I had
8 asked Your Honor if it appeared that the department was
9 satisfied to have the child with the father, based upon their
10 investigation of this matter, and there was an objection by
11 the mother, Ms. N[redacted], who was alleging that Mr.
12 R[redacted] is an inappropriate caregiver for the child. So I
13 had ask the Court, that was going to be their burden to go
14 forward, because Your Honor had already ruled and there
15 was an order to that effect that Mr. R[redacted] would have
16 temporary sole custody of the child.
17 JUDGE MCGUIRE: Right.
18 MS. RUBENFELD: And also, and we also wanted
19 to have an opportunity for Ms. Rawich to speak with her
20 client as to what M[redacted]'s position was going to be with
21 respect to being with her father.
22 JUDGE MCGUIRE: All right. Well, let me hear
23 from Mr. Kroll. What-- what does your client want to do
24 now?
25 MR. KROLL: My client wanted to call some

1 witnesses today--

2 JUDGE MCGUIRE: Okay.

3 MR. KROLL: --To explain to the Court why Mr.

4 R[redacted] was not appropriate to be the--

5 JUDGE MCGUIRE: Okay.

6 MR. KROLL: --Temporary custodial parent.

7 JUDGE MCGUIRE: All right. So that's consistent

8 with what Ms. Rubenfeld recalled. Ms. Rawich?

9 MS. RAWICH: Yeah, I did see M[redacted].

10 JUDGE MCGUIRE: Okay.

11 MS. RAWICH: And I don't know if you--

12 JUDGE MCGUIRE: How's she doing?

13 MS. RAWICH: She's doing okay. She's doing

14 pretty well. She has a summer job.

15 JUDGE MCGUIRE: Okay.

16 MS. RAWICH: She's says very happy with her

17 father.

18 JUDGE MCGUIRE: Well, she's 15.

19 MS. RAWICH: Yeah, yeah.

20 JUDGE MCGUIRE: All right. So, Mr. Kroll, are

21 any of these folks in the back your witnesses?

22 MR. KROLL: One of them is, and we can call her

23 first.

24 JUDGE MCGUIRE: Oh. Only one person is your

25 witness?

1 MR. KROLL: Yes.
2 JUDGE MCGUIRE: Okay. Who's that?
3 MR. KROLL: J[redacted] N[redacted].
4 JUDGE MCGUIRE: Okay. Ms. N[redacted], come on up
5 here.
6 MR. KROLL: We do have one other witness. I
7 don't know if that's the person that was trying come in--
8 JUDGE MCGUIRE: Just remain standing there--
9 MR. KROLL: --but we'll find out.
10 JUDGE MCGUIRE: Okay. Just follow the court
11 officer's instructions, if you would.
12 COURT OFFICER: Raise your right hand. Do you
13 swear or affirm the testimony you're about to give will be
14 the truth, the whole truth, so help you God?
15 THE WITNESS: I do.
16 COURT OFFICER: State your name.
17 THE WITNESS: J[redacted] M[redacted] N[redacted].
18 JUDGE MCGUIRE: All right. Ms. N[redacted], have a
19 seat there. Ms. N[redacted], that microphone in front of you is a
20 recording device, not an amplifying device.
21 THE WITNESS: All right.
22 JUDGE MCGUIRE: So, what I need you to do is, I
23 need you to keep your voice up so that the folks along the
24 back wall there can hear you. Don't speak to Mr. Kroll,
25 speak to them back there. All of your responses must be

verbal because we're getting an accurate transcript of all the proceedings in here today. All right? You okay?

THE WITNESS: Yes.

JUDGE MCGUIRE: You nervous?

THE WITNESS: A little.

JUDGE MCGUIRE: Just relax. We don't bite... on Fridays. You're lucky.

THE WITNESS: Only on Fridays?

JUDGE MCGUIRE: On Fridays, we don't bite. All right. The other days are up in the air right now, but we don't bite on Friday.

THE WITNESS: Okay.

JUDGE MCGUIRE: All right? If you need a break at some point, let us know. The court officer will get you some water. All right, just take a deep breath. Relax. All right, Mr. Kroll, you may inquire.

J[redacted] M. N[redacted]

Having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. KROLL:

Q. J[redacted], how old are you?

A. 20.

Q. And where are you from?

1 A. I'm from Bloomingburg, New York.
2 Q. And you are the daughter of T[redacted] N[redacted]?
3 A. Yes.
4 Q. And how do you know, if you know, Mr. R[redacted]?
5 A. He's my ex-step-father and my mother's ex-husband.
6 Q. All right. And from what age did you first meet Mr. R[redacted]?
7 A. I first met him, I think I was around four.
8 Q. Four years old?
9 A. Yes.
10 Q. And did the two of them get married then, or they were--
11 A. No--
12 Q. --Living--
13 A. -- I -- I don't exactly know how old I was when they got married
14 because they didn't tell me that they were married until after the fact.
15 Q. Okay. So, you were about four years old. And for how many years--
16 did you ever live with him?
17 A. I lived with him and my mother when I was nine and ten.
18 Q. So just for two years?
19 A. Just for two years.
20 Q. Okay. And can you tell the Court about an incident when-- when you
21 were-- was it nine or ten years old?
22 A. When I was nine and ten.
23 Q. Okay. What-- what went on between yourself and Mr. R[redacted]?
24 A. He was very abusive, physically and sexually, towards me.
25 MS. RUBENFELD: Objection.

1 JUDGE MCGUIRE: Sustained.
2 BY MR. KROLL:
3 Q. Okay. Can you be more descriptive when you say "abusive"? What--
4 MS. RUBENFELD: Objection.
5 JUDGE MCGUIRE: Sustained. Just ask, you know,
6 what happened.
7 MR. KROLL: Yeah.
8 BY MR. KROLL:
9 Q. What-- what did he do to you?
10 A. He touched me sexually. He put his fingers inside of me, and he put
11 his mouth--
12 Q. Inside of what?
13 A. Inside of my vagina, and he put his mouth on my breasts.
14 Q. Now, how old were you when you say this happened?
15 A. I was nine and ten. It happened over the course of two school years. I
16 was in the fourth and fifth grade when this happened.
17 Q. Do you remember the circumstances as to how it happened, when it
18 happened?
19 A. There were several different instances when this happened. There
20 were times when I was just in my room, and I was just paying-- I
21 wasn't doing anything to anybody, I was just--
22 MS. RUBENFELD: Objection. For no time frame,
23 and unless--.
24 JUDGE MCGUIRE: Overruled.
25

1 BY MR. KROLL:
2 Q. Can you tell us, approximately, when this--
3 A. Between the years of 2000 and 2002.
4 Q. Okay. The first incident, where you said he put his hands on you, do
5 you remember where you were?
6 A. In my bedroom.
7 Q. Did you have your own bedroom?
8 A. I did.
9 Q. Were there any other children living in the house then?
10 A. Only my sister, M[redacted]R[redacted]
11 Q. And she was about what?
12 A. Oh, God, she's like--
13 Q. --A baby?
14 A. She was, like, three, maybe. Just a five and half year age difference,
15 so....
16 Q. The first time that Mr. R[redacted] came into your room, please tell us
17 what happened?
18 A. I was just paying-- I was doing my own thing, just listening to music,
19 reading a book--
20 Q. Were you dressed in your pajamas?
21 A. I was-- I was fully dressed. And he came over, and he pulled my
22 pants down and he put his fingers inside of me.
23 Q. Did he say anything to you first?
24 A. He said if I ever told my mother that he would kill me.
25 Q. Did he suggest anything to you about being a good idea or-- how--

1 MS. RUBENFELD: Objection. Leading.
2 JUDGE MCGUIRE: Sustained.
3 BY MR. KROLL:
4 Q. Explain in more detail how it all took place. You may not want to, but
5 you need to give us as much detail as you possibly can.
6 A. I just remember he came into my room often and would pull my pants
7 down and would put his fingers inside of me. And he said it was okay
8 if it felt a little bit good, even though I knew it hurt.
9 Q. And how long would he do this for?
10 A. I-- I don't know the time frame of how long--
11 Q. Was it for minutes at a time?
12 A. --It was at least a few minutes.
13 Q. And this happened one time?
14 A. More than once. It happened almost daily. And it wasn't just in my
15 room when it happened. There were several times where we were in
16 the car and I would fall asleep and wake up with his hand down my
17 pants and inside of me.
18 Q. Was your mother around when any of this happened?
19 A. No.
20 Q. Did you ever tell her about this?
21 A. She didn't find out until I was 12.
22 Q. Until you're 12?
23 MS. RUBENFELD: Objection. How'd it
24 (unintelligible)
25

1 BY MR. KROLL:
2 Q. How do you know that she found out when you were 12?
3 A. Because it came out at school. And she got called in--
4 MS. RUBENFLED: Objection.
5 A. --And me and her and my therapist had a conversation about it.
6 JUDGE MCGUIRE: Overruled.
7 MS. RUBENFELD: There's no foundation.
8 JUDGE MCGUIRE: Overruled. It's contextual.
9 BY MR. KROLL:
10 Q. Over this two-year period, how many times would you say that Mr.
11 R[redacted] had sexual contact with you?
12 A. Easily, hundreds.
13 Q. Hundreds?
14 A. Easily.
15 Q. So, this happened--
16 A. It happened all the time. All the time I lived in fear.
17 Q. --Three times a week? I think you also said before that he put his
18 mouth on you?
19 A. Yeah.
20 Q. Where did he put his mouth?
21 A. On my breasts.
22 Q. Well, you didn't have breasts--
23 A Mostly, around the nipples--
24 Q. --If you were nine years old.
25 A. Well, my nipples.

1 Q. Okay.
2 A. I had teeth marks on my breasts for years. Well, not years, but like a
3 year maybe, because it was so deep and so hard that I had them for so
4 long, and I didn't know what was wrong with me. Because I was too
5 young to understand they were teeth marks, I thought they were bug
6 bites, but they weren't. They were circular, all around the nipple.
7 Q. Did you ever bathe with him?
8 A. He used to like to come in and help me bathe, help me bathe and put
9 his fingers inside of me with the wash cloth, and he spent a lot of--
10 Q. Was this in a shower or a bathtub?
11 A. Shower.
12 Q. Okay.
13 A. And there was one time when he tried to bribe me to come into my
14 shower because he wanted to rape me. And he said--
15 Q. Whoa, whoa, stop, stop. Well, what do you mean he tried to bribe
16 you?
17 A. He-- he offered me anything I wanted. Money, Barbies, whatever.
18 Q. "Barbies"? Barbie dolls?
19 A. Yes.
20 Q. Now, did you say he wanted to rape you, rape is -- is force--
21 A. Yeah, but he--
22 Q. --But what was he--
23 A. --He told me wanted to put it in me. And said that the water--
24 Q. Put what in you?
25 A. His penis. And he said that the water would be a good lubricant, and

1 it would make it easier and it would hurt less. I was lucky enough to
2 get away that day. But he put his mouth over my hand--
3 MS. RUBENFELD: Objection to that last-- last
4 statement.
5 A. --So, I couldn't scream. My mother was downstairs.
6 JUDGE MCGUIRE: That last statement is being
7 stricken.
8 MR. KROLL: Okay.
9 BY MR. KROLL:
10 Q. Did he ever expose his genitals to you?
11 A. Only--
12 MS. RUBENFELD: Objection to the leading.
13 JUDGE MCGUIRE: Yeah. A little less leading.
14 BY MR. KROLL:
15 Q. What else went on?
16 A. The one time when he tried to come into my shower and rape me, he
17 did get naked and come into the shower.
18 MR. ROSS: Objection.
19 MS. RUBENFELD: Objection.
20 JUDGE MCGUIRE: Yeah. I'm going to sustain
21 that objection. And I'm going to sustain as to, he tried to
22 rape you.
23 BY MR. KROLL:
24 Q. Okay. Can you explain this again without using the word "rape"?
25 A. He wanted to put his penis inside of my vagina.

1 MS. RUBENFELD: Objection.
2 Q. Well, why do you think that?
3 A. Because he told me.
4 JUDGE MCGUIRE: Yeah. I'm going to sustain
5 that as to what he wanted. You can just testify to what he
6 said, but not what he thought.
7 BY MR. KROLL:
8 Q. You get to tell us as what he said or what he did.
9 A. He told me he was going to put his penis inside of my vagina and that
10 the water would make it an easy lubricant and it would hurt less.
11 Q. And you didn't report this to anybody?
12 A. I was scared. He told me that if I ever told anybody anything, he was
13 going to kill me. And I was afraid of him because he already killed
14 somebody.
15 MS. RUBENFELD: Objection.
16 MR. ROSS: Objection.
17 JUDGE MCGUIRE: Sustained.
18 THE WITNESS: Of all the physical abuse, of
19 course, I was scared.
20 MS. RUBENFELD: Objection.
21 JUDGE MCGUIRE: Sustained. That's stricken.
22 BY MR. KROLL:
23 Q. Did he say how he was going to kill you?
24 A. No. He just said he would kill me.
25 Q. And a couple of years later, you eventually told somebody at school?

1 A. I kind of have had a mental breakdown at gym class, and it came out
2 to one of my friends. And my friend, I guess, told the therapist,
3 because I called into therapy to talk about it with my mother and the
4 therapist.
5 UNKNOWN: Objection.
6 JUDGE MCGUIRE: Overruled.
7 BY MR. KROLL:
8 Q. So, you told somebody at school? Is that how it came out?
9 A. Yeah. It came out at school.
10 Q. All right. And eventually, Mr. R[redacted] was arrested and charged
11 with something?
12 A. Yeah, but they-- I guess it got dropped down or some-- I don't exactly
13 understand what happened with that. All I remember is all the
14 testifying.
15 Q. But as far as you know, he was never actually convicted for any of
16 this?
17 A. Right.
18 Q. Okay. Now, J[redacted], how-- how sure are you that this really happened to
19 you?
20 A. A hundred percent sure.
21 Q. Now, we know that you have a nice relationship with your mother,
22 right?
23 A. I love my mother.
24 Q. And you probably-- you love her.
25 MS. RUBENFELD: I didn't hear that.

1 THE WITNESS: I love my mother.
2 MR. KROLL: She loves her mother.
3 BY MR. KROLL:
4 Q. And you feel bad for her right now, right?
5 A. She's going through a lot.
6 Q. Okay. And you have a good relationship with your sister, M[redacted]?
7 A. I thought I did.
8 Q. Okay. Why do you say you thought you did?
9 A. She's a liar, and she's just not everything that I thought she was and--
10 MR. ROSS: Objection.
11 JUDGE MCGUIRE: Sustained.
12 BY MR. KROLL:
13 Q. Did M[redacted]-- did M[redacted] say anything to you in the past few months
14 about--
15 A. I--
16 Q. --What was going on with--
17 A. --I have been trying very hard not to have contact with her.
18 Q. Well, I understand that now, but months ago, did she ever tell you
19 anything about what Mr. D[redacted] was doing?
20 A. She just told me that he hurt her, and I told Mom because I thought
21 that it would come out. She didn't say any details, any anything, she
22 just said that he hurt her. So, I tried to tell Mom because I thought
23 that, you know, they would talk about it, it would get explained, it
24 would come out.
25 Q. What month was this?

1 A. I-- I don't know. It was a few months ago.
2 Q. Now, would you be saying any of this-- any of these things about Mr.
3 R[redacted] because you are aligned with your mother?
4 A. No, of course not. It has nothing to do with that.
5 Q. So, you're telling us, and you're certain that Mr.--
6 MS. RUBENFELD: Objection to the leading. I
7 don't know if she answered clearly.
8 JUDGE MCGUIRE: Sustained. A little less
9 leading.
10 THE WITNESS: He touched me. He hurt me
11 physically and sexually. And--
12 JUDGE MCGUIRE: That's going to be stricken.
13 There's no question, ma'am.
14 BY MR. KROLL:
15 Q. After the age of ten, did Mr. R[redacted] leave the house?
16 A. He got kicked out by my mother. I think the cops took him out. I
17 wasn't there--
18 MS. RUBENFELD: Objection. To what she thinks.
19 JUDGE MCGUIRE: Overruled.
20 THE WITNESS: -- I was with my father for the
21 summer, or at least, during the time when he left
22 JUDGE MCGUIRE: The only issue there is that
23 he's out of the house. How he got out of the house is not
24 really important to me.
25

1 BY MR. KROLL:
2 Q. And-- and then for the next ten years or so, you-- from ten till the
3 present, have you had any interactions with Mr. R[redacted]?
4 A. No.
5 Q. None?
6 A. No.
7 Q. Okay. Did you ever have to go to court to testify about--
8 A. --What he did? Yes.
9 Q. --What you're saying Mr. R[redacted] did?
10 A. I did.
11 Q. Do you remember where you went to court?
12 A. I-- I could point out the building, but I don't remember the name of
13 the town.
14 Q. You know the town it was in?
15 A. I don't remember the name of the town.
16 Q. You were interviewed by investigators?
17 A. I was.
18 MR. KROLL: I have no more questions.
19 JUDGE MCGUIRE: All right. Thank you. Mr.
20 Ross, some cross?
21 CROSS EXAMINATION
22 BY MR. ROSS:
23 Q. You indicated, at least, some kind of abuse happened hundreds of
24 times over about a two-year period?
25 A. Yes.

1 Q. And this is while you were alone with Mr. R[redacted] in the house?
2 A. Well, my sister was usually home as well.
3 Q. Right. And-- and you didn't-- you didn't scream or--
4 A. I couldn't.
5 Q. --Yell or anything? Right. Where was your mother during all this
6 time?
7 A. Usually, working.
8 Q. And what time of day did this usually happen?
9 A. Usually, at night, before she came home.
10 Q. About what time--
11 A. I-- I don't--
12 Q. --Do you know?
13 A. I don't remember times.
14 Q. Right. Because if we're talking hundreds of times over a period of a
15 couple of years, then -- are you saying this happened about every day
16 or every other day?
17 A. Almost. Very, very frequently.
18 Q. And you first reported this, you were how old?
19 A. I was 12.
20 Q. You were 12, and this happened from the time you were ten till the
21 time you were 12?
22 A. Nine to 10.
23 Q. Nine to 10. And then two years later, you-- you mentioned it to one
24 of your friends, who then told somebody else, correct?
25 A. Yes.

1 MR. ROSS: Okay. I have nothing else. Thank you.
2 JUDGE MCGUIRE: Okay. Very good. Ms.
3 Rubenfeld?
4 MS. RUBENFELD: Yes.
5 BY MS. RUBENFELD:
6 Q. Ms. N[redacted], are you on any medication right now?
7 A. Not at the moment, no.
8 Q. Not at the moment?
9 A. No.
10 Q. Do you take medication?
11 A. I have prescriptions for Xanax, Flexeril and antibiotics.
12 Q. And what is that for?
13 A. Which?
14 Q. The medication, what-- each medication that you take, what are you
15 taking it for?
16 A. The Xanax is for anxiety, Flexeril is to help me go to sleep at night,
17 and the antibiotics are because I am currently a little bit sick with my
18 throat.
19 Q. Okay. And how often do you take Xanax and how much do you take
20 a day?
21 A. Not often, but when I take it, I take, like, one pill. It's only when I get
22 so anxious that I can't deal with anything, but I'm usually pretty good
23 with my nerves, so not often.
24 Q. Are you anxious today?
25 A. Of course, but I haven't taken anything?

1 Q. You didn't take anything?
2 A. No.
3 Q. Now, you recall that there was a proceeding some years ago where
4 Mr. R[redacted], my client, was charged with sexually abusing you?
5 A. Yes.
6 Q. You recall that. And you recall testifying?
7 A. Yes.
8 Q. And you-- do you-- do you-- I don't know if you remember me, but--
9 A. Vaguely.
10 Q. --Do you recall that I was Mr. R[redacted]'s attorney?
11 A. Yes.
12 Q. And that I had asked you--
13 A. I don't remember anything that you asked me. I tried to block out the
14 whole court thing because it was too-- too stressful.
15 Q. Okay. But you do recall that I asked you questions?
16 A. Yes.
17 Q. Okay. And you say you don't know what happened with that case?
18 A. No, I don't. I-- I don't know the final outcome. All I know is that
19 he's obviously, you know, free.
20 Q. Okay. Now, when you testified back then, you don't recall anything
21 about what you testified?
22 A. I remember that I said that he touched me, because he-- as far as I am
23 concerned, I know what happened--
24 Q. No, no, no, but that's not my question. My question is, do you-- well,
25 let me ask you this. Do you recall that when you testified in court, and

1 that was the Town of Mamakating, do you remember that, the justice
2 court there?
3 A. Yeah.
4 Q. Okay. And do you recall back then you-- you never mentioned
5 anything about bite marks on your breast, is that correct?
6 A. I was afraid to. I didn't realize what they were at the time.
7 Q. You were afraid to testify in court about the bite marks?
8 A. Yes.
9 Q. You didn't realize what they were at the time?
10 A. I didn't. I was too young to understand.
11 Q. But now, you understand what they were?
12 A. Yes.
13 Q. But you were there, and it was your opportunity, and you did testify,
14 as to everything that happened to you, is that correct?
15 A. Yes.
16 Q. Okay. But you didn't testify to any bite marks on your breasts?
17 A. That's the one thing that I didn't mention.
18 Q. Well, you never testified about Mr. R[redacted]saying he wants to put
19 his penis in your vagina, did you?
20 A. I did mention that he did tried to bribe me to get into my shower,
21 though.
22 Q. You mentioned something about a shower, but you never talked about
23 Mr. R[redacted] saying he wanted to put his penis in your vagina?
24 A. I didn't have the courage to stand up for myself back then, but now, I
25 do--

1 Q. You--
2 A. --And now, I will say everything that happened--
3 Q. --Didn't have the courage--
4 A. --No--
5 Q. --But you were up there testifying--
6 A. --I was a little child--
7 Q. Let me finish. You were up there testifying that he touched your
8 breasts and your vagina, correct?
9 A. Yes.
10 Q. You had the courage to say that?
11 A. I had to.
12 Q. You had to? Well, didn't you have to say what happened, because you
13 were asked specifically, "Tell us everything that happened," weren't
14 you?
15 A. I was little.
16 Q. You were little? You were 12 years old. Okay. And you waited, by
17 the way, how long-- this-- you-- you say that this sexual abuse, which
18 happened hundreds of times between the age of nine and ten?
19 A. I thought that if I waited, I would get over it and I would be able to
20 forget it and I would be able to deal with it. But there is no way--
21 Q. There's no--
22 A. --To deal with what he did to me.
23 Q. There's no question just yet. My question is, this allegedly happened
24 between the ages of nine and ten, correct?
25 A. Yes.

1 Q. Okay. And yet, when did Mr. R[redacted] leave the household?
2 A. When I was 11 years old.
3 Q. When you were 11. So basically, he had been out of the house since
4 you were 11 years old, correct?
5 A. Yes.
6 Q. And you didn't see him after he left the house, did you?
7 A. Only a few times, when he was picking up my sister, but I didn't--
8 Q. And you were never alone with him, were you?
9 A. No, of course not.
10 Q. No, and in fact, your mother would never leave you alone with him,
11 would she?
12 A. There's no way in hell.
13 Q. No way in hell, because your mother despised him, is that correct?
14 A. She had every right to.
15 Q. She despised him, is that what she conveyed to you, that she despised
16 him?
17 A. And she just didn't like him.
18 Q. She didn't like him? She let you know that, right?
19 A. Well--
20 Q. She did?
21 A. --None of us liked him, except for M[redacted], because he was abusive.
22 Q. "None of us"? Who's "None of us"?
23 A. Me and Mom.
24 Q. You and Mom. And your grandparents, correct? They didn't like him
25 as well?

1 A. They have nothing to do with this.
2 Q. They didn't like him as well, correct?
3 A. Of course not. Because he hurt me.
4 Q. Well, they--
5 A. --Why would they like a child molester?
6 Q. Well, they didn't-- they didn't like him before these allegations came
7 out when you were 12 years old, is that correct?
8 A. Yes.
9 Q. And, in fact, Mr. R[redacted] was regularly referred to as a "spic," was
10 he not?
11 A. [No response]
12 Q. Do you recall hearing those words used for Mr. R[redacted]?
13 JUDGE MCGUIRE: Okay. Hold on one second.
14 COURT OFFICER: Sorry, sorry, you have to step
15 out.
16 JUDGE MCGUIRE: Miguel, she's got to leave.
17 UNKNOWN FEMALE: But they're talking about
18 me.
19 COURT OFFICER: You have to step out. Excuse
20 me.
21 JUDGE MCGUIRE: You're going to leave.
22 COURT OFFICER: Sorry. Yeah.
23 BY MS. RUBENFELD:
24 Q. Is that correct?
25 JUDGE MCGUIRE: You have to leave. In or

1 without the handcuffs, you're going to leave.
2 COURT OFFICER: Just have a seat over there.
3 (Unintelligible).
4 A. Yes.
5 Q. That is correct?
6 JUDGE MCGUIRE: Hold on, hold on, hold on, hold
7 on. I'm sorry, I'm sorry. You okay?
8 THE WITNESS: Hmm...
9 JUDGE MCGUIRE: You all right?
10 THE WITNESS: I'm as okay as I'm going to be.
11 JUDGE MCGUIRE: Okay. All right. All right.
12 Now, you're set. Ms. Rubenfeld, continue.
13 BY MS. RUBENFELD:
14 Q Okay. Now, your answer to that question is, yes, that he was often
15 times referred to as a "spic," right?
16 A. Yes.
17 Q. And he's the father of your half-sister, M[redacted], correct?
18 A. Yes.
19 Q. Who is also half, at least, half Hispanic, correct?
20 A. Yes.
21 Q. Was M[redacted] called a "spic" too?
22 A. No.
23 Q. Now, you also never testified, correct, that-- when you were on the
24 stand in that criminal matter, that Mr. R[redacted] actually tried to rape
25 you, correct? You never--

1 A. I was afraid to.
2 Q. You were afraid to? You were afraid because he might kill you?
3 A. I believed, yes, he would. Because he had told me several times that,
4 yes, he would kill me.
5 Q. If what?
6 A. If I told anybody.
7 Q. If you told anyone? So, you were afraid to tell your mother?
8 A. Yes.
9 Q. But you told--
10 A. She didn't know until I was 12.
11 Q. But you told somebody at school?
12 A. Oh, yes, of course, I told my friends. They had every right to know
13 what I was dealing with. She-- I didn't want to put her through stress
14 because she was already stressed out.
15 Q. Okay. So, you told your friend at school, taking a chance that,
16 perhaps, your mother--
17 A. I didn't think that this would happen.
18 Q. You didn't think what would happen?
19 A. The whole court thing. I didn't think I would have to go through that.
20 Q. Do you recall at the time this whole court thing happened that there
21 was actually a-- what I can say, perhaps, was a custody battle--
22 A. No--
23 Q. --Between your mother and Mr. R[redacted] over M[redacted]?
24 A. I knew nothing about that.
25 Q. You didn't know that there was an ongoing family court custody--

1 A. No--
2 Q. --Case?
3 A. No.
4 Q. No? Never heard your mother talk about that?
5 A. I don't-- if she did, I don't remember because I know nothing about
6 that.
7 Q. And that's when these allegations arose? You don't recall that?
8 A. No.
9 Q. You don't recall your mother talking about--
10 A. No.
11 Q. --What's going to happen with M[redacted]?
12 A. No.
13 Q. Now, you thought you had a good relationship with M[redacted], right?
14 A. Yeah. I thought she was my friend.
15 Q. I'm sorry?
16 A. I thought she was my friend.
17 Q. All right. And M[redacted] is how old?
18 A. Fifteen.
19 Q. Fifteen? And you thought she was your friend?
20 A. Yes.
21 Q. Okay. And why-- and do you think she's no longer your friend?
22 A. I am not on speaking terms with her right now, so I wouldn't know.
23 Q. Could you tell us why?
24 A. Because I have nothing to say to her, and she is trying to call me a liar,
25 and I know what happened to me, so she's on-- I-- I don't-- I have

1 nothing to say to her.
2 Q. She's trying to call you a liar about?
3 A. About what happened to me, yes.
4 Q. Okay. Do you think that she's a liar?
5 A. I honestly don't know.
6 Q. I thought you said that before, "she's lying"?
7 A. I-- I don't know if she's lying about her case. All I know is that, yes,
8 she has lied. I've caught her in several lies about other things, yes.
9 Q. So, like I say, you think that she might be lying about allegations--
10 A. I don't know.
11 Q. Do you know Mr. D[redacted]?
12 A. Of course, I do.
13 Q. Okay. And how do you know him?
14 A. He's my step-father.
15 Q. Where do you live, by the way?
16 A. Bloomingburg.
17 Q. With who?
18 A. With my mother.
19 Q. With your mother?
20 A. Yes.
21 Q. And Mr. D[redacted]?
22 A. I haven't seen him lately.
23 Q. I know, but he--
24 A. --But did live there, yes.
25 Q. --Was living there while you were living in the house, right?

1 A. Yes.
2 Q. Okay. And how's your relationship with Mr. D[redacted]?
3 A. Excellent. He is better to me than my own father.
4 Q. Better than your own father?
5 A. Yes.
6 Q. Now, can you tell me, you said you lived with your mother and Mr.
7 R[redacted] between the ages of nine and ten?
8 A. Yes.
9 Q. Where were you living before?
10 A. With my grandmother.
11 Q. And do you know why that is?
12 A. Because my mother couldn't take care of me yet.
13 Q. And why is that?
14 A. Because she didn't have the financial means.
15 Q. So, it was a monetary thing?
16 A. Yes.
17 Q. But yet, she was taking care of M[redacted]?
18 A. Well, she had given birth to M[redacted]-- I was with my grandmother since
19 I was, like, three.
20 Q. And do you know why you were with your grandmother? Your
21 mother didn't have--
22 A. Because my mother couldn't take care of me at the time. She didn't
23 have the money.
24 Q. Okay. But she was-- but M[redacted] was living in the household, correct?
25 In your mother's household?

1 A. Yes.

2 MS. RUBENFELD: May I have a moment, please?

3 JUDGE MCGUIRE: Yeah.

4 BY MS. RUBENFELD:

5 Q. Let me ask you this. Do you recall that when you were about five

6 years old, you had made an accusation that Mr. R[redacted]nd your

7 mother, T[redacted]N[redacted] sexually abused you? Do you recall that?

8 A. I had only allegated that he had.

9 Q. Oh, you-- you-- do you recall testifying that--

10 A. No, I didn't testify--

11 Q. --You--

12 A. --As far as I know.

13 Q. You did not testify, or you don't recall that you testified in

14 Mamakating?

15 A. I don't recall doing anything like that, but another thing with

16 everything that--

17 Q. No, no, answer my question, please. Not "another thing," because

18 there's no question about any other things. Is it your testimony today

19 that you never stated that at some point when you were around five

20 years old, you had accused Ms. N[redacted], your mom, and Mr. R[redacted],

21 your step-father, of sexually abusing you around the time you were

22 five years old?

23 A. Four. And yes, him, not her.

24 Q. Okay. You never said that about your mother?

25 A. I wouldn't say anything like that about my mother, and if I had said

1 anything like that about my mother, I wasn't aware I had. However, I
2 do want to--
3 JUDGE MCGUIRE: Hold it, hold it. Hold on, hold
4 on.
5 THE WITNESS: Can I just state something?
6 JUDGE MCGUIRE: No. No, no, no. No, you can--
7 all you can do is answer questions. Okay?
8 THE WITNESS: But it's very important that I tell
9 the thing that he told me when he was abusing me.
10 JUDGE MCGUIRE: Okay. Well, Mr. Kroll will
11 have a chance to ask that question.
12 THE WITNESS: Okay.
13 JUDGE MCGUIRE: Okay? All right.
14 BY MS. RUBENFELD:
15 Q. So, let me ask you this, regardless of what you might've said, did your
16 mother ever molest you?
17 A. No, of course not.
18 Q. Okay.
19 A. My mother is a good person, regardless of what you people think.
20 JUDGE MCGUIRE: That'll be stricken.
21 BY MR. RUBENFELD?
22 Q. Now, you testified that when this alleged abuse was going on, you
23 didn't scream?
24 A. I couldn't. He would put his hand over my mouth.
25 Q. You never told M[redacted] about this, right?

1 A. Unfortunately, I did when she-- when he was out of the house.
2 Q. And M[redacted]'s reaction to you?
3 A. She never believed me.
4 Q. She didn't believe--
5 MS. RAWICH: I'm sorry. I didn't hear that.
6 THE WITNESS: She never believed me.
7 BY MS. RUBENFELD:
8 Q. Now, you testified that you had a mental breakdown and that's when
9 you told a friend about what had happened?
10 A. Because one of my friends tried to touch me on the shoulder, almost
11 touched me on the boob, and I freaked out. I was, like, "You know
12 what I went through. Please don't touch me there."
13 Q. That's a-- a friend of yours--
14 A. Yes.
15 Q. --Tried to do that?
16 A. Yes.
17 Q. Was that a male friend or a female friend?
18 A. No, a female friend.
19 Q. A female friend?
20 A. Yes.
21 Q. And that's sort of what led to what you call a "mental breakdown"?
22 A. And it wasn't-- and it wasn't a full on mental breakdown, but I did
23 break. I cried a lot and just kind of-- yeah, it was a mess.
24 Q. Do you recall ever being thrown out of school for anything that you
25 might've done?

1 A. Only once.
2 Q. And when was that?
3 A. I jokingly threatened to stab somebody with a pair of scissors and they
4 took-- they blew it out of proportion. I wasn't actually going to do it.
5 I'm not a violent person, but they thought I was, and they kicked me
6 out of school.
7 Q. I'm sorry? I couldn't hear that.
8 A. But they thought that I was, and they kicked me out of school, yes.
9 Q. It may've been--
10 A. But I was, like, nine or ten.
11 Q. Okay. So, you had been moved--
12 A. I think I was ten, in fifth grade.
13 Q. Right. And you said you "jokingly" threatened to stab someone with a
14 scissor?
15 A. He was being an idiot. I don't even remember who this guy was or
16 what his name is, but he was just-- I don't remember. I was just trying
17 to get him to stop pestering me, and I wasn't-- I'm not a violent
18 person. I would never have actually done it, and it was a stupid thing
19 to say and I regret it. Yeah, I got kicked out. Yes, I did.
20 Q. And-- and how long were you out of school for?
21 A. For the rest of the year. I got kicked out around March, maybe.
22 Q. Mm-hmm, okay. Were you holding a scissor at the time when you
23 threatened him?
24 A. I don't recall.
25 Q. But you might've been?

1 A. There's a possibility. I had a pair of scissors, but I wouldn't have
2 actually stabbed anybody.
3 Q. Now, you had testified, and I'm not sure I understood you, that a few
4 months ago, either you or M[redacted], tried to tell your mother about
5 D[redacted], and I'm not sure who-- who you meant by that.
6 A. I told my mother that M[redacted] had said that D[redacted] D[redacted] had hurt
7 her.
8 Q. When did you tell your mother that?
9 A. A few months ago. I don't remember what month.
10 Q. And was it before January, you're saying?
11 A. No, it was this year.
12 Q. It was this year, in-- because M[redacted] told you something had happened?
13 A. Yeah, but she didn't go into detail. She didn't tell me what happened,
14 she just said she'd been hurt.
15 Q. Well, did M[redacted] tell you?
16 A. She-- exactly what I just said, she had been hurt.
17 Q. That she had been hurt?
18 A. Yes.
19 Q. By Mr. D[redacted]?
20 A. Yes.
21 Q. And did you ask M[redacted] how she had been hurt?
22 A. She wouldn't tell me anything, but yes, I did ask her.
23 Q. And she refused to tell you?
24 A. And she refused to tell me anything.
25 Q. So were you concerned when she told you that?

1 A. I was worried. That's why I told my mother. I wanted to see if the
2 story would come out and just--
3 Q. What did you tell your mother?
4 A. Exactly what my sister had told me, that she said that K[redacted]-- D[redacted]
5 D[redacted]had hurt her.
6 Q. And how did your mother react?
7 A. She immediately pulled my sister into her room and tried to ask her
8 questions and M[redacted] refused to tell her anything, either.
9 Q. Were you there?
10 A. I-- she pulled me in later on when--
11 Q. So, you weren't there when M[redacted] was speaking to your mother?
12 A. Not at first, but she pulled me in because M[redacted] wouldn't tell her
13 anything. And she thought maybe if I was there, M[redacted] would talk.
14 Q. Mm-hmm. And what did M[redacted] say?
15 A. Nothing.
16 Q. Well, did she say anything?
17 A. She just said, you know, "Tell Mom what happened." And I was like,
18 "I don't know what happened. Why don't you tell her what
19 happened?" Because, you know, I knew nothing, so what was I
20 supposed to say?
21 Q. Now, have you had any conversations with your mother about D[redacted]
22 D[redacted] since D[redacted] D[redacted] has been out of the house?
23 A. I-- I just wonder if he did it. I've-- I-- we've speculated over things,
24 but I--
25 Q. You have?

1 A. I'm just-- I don't know what happened, so...
2 Q. What-- what does your mother-- what has your mother told you that
3 she thinks happened?
4 A. She doesn't know, either. We just want the truth.
5 Q. She doesn't know? She's not sure if M[redacted]'s telling the truth or not, is
6 that correct?
7 A. Because we caught her in so many lies, yes.
8 Q. So, there's-- so your mother's told you there's a possibility she thinks
9 that M[redacted]'s lying, correct?
10 A. Yes.
11 JUDGE MCGUIRE: Yes?
12 THE WITNESS: Yes.
13 JUDGE MCGUIRE: Okay.
14 MS. RUBENFELD: Your Honor, thank you. I have
15 nothing further.
16 JUDGE MCGUIRE: All right. Mr. Kroll, any
17 redirect?
18 MS. RAWICH: How about me?
19 JUDGE MCGUIRE: Oh, I'm sorry. I'm sorry, Ms.
20 Rawich. I apologize again.
21 BY MS. RAWICH:
22 Q. So you're J[redacted]N[redacted]. You're 20 years old?
23 A. Yes, ma'am.
24 Q. Are you living with your mother right now?
25 A. Yes.

1 Q. Have you ever lived on your own?
2 A. No.
3 Q. And what do you do for a living?
4 A. Nothing at the moment. I've been unemployed since a horrible
5 tragedy last year in July.
6 Q. What was that?
7 A. My best friend died in a car accident, right next to me.
8 Q. Were you employed before that?
9 A. I was, for almost two years.
10 Q. As what?
11 A. As a front-end cashier at the [redacted] in Walden.
12 Q. Uh-huh. And you're no longer employed because of a-- an accident
13 that took place a year ago?
14 A. Yeah. They let me go.
15 Q. They let you go from that job?
16 A. Yes.
17 Q. And you have not since tried to get work?
18 A. I-- I can't drive, so--
19 Q. --Sorry?
20 A. --It's really hard to get a job.
21 Q. Why?
22 A. I can't drive right now--
23 Q. --Uh-huh--
24 A. --So, it's really hard to get a job.
25 Q. Where do you live?

1 A. Right now, I live with my mother in Bloomingburg.
2 Q. In Bloomingburg. In the village?
3 A. Uh, out of-- I don't know.
4 Q. You don't know whether you live the village or not?
5 A. I-- I-- I don't know what considered the village.
6 Q. Well, like, can you walk to Bloomingburg?
7 A. No. We're like a few miles out, I think.
8 Q. Uh-huh. Your mother have a car?
9 A. Yeah, she has a car.
10 Q. So, could she help get you to work?
11 A. She has to go to her own job.
12 Q. Uh-huh. So how do you live if you-- if you're not earning a living?
13 A. Well, I'm-- can you, like, explain what you mean by how do I live?
14 Q. You live at home rent-free then?
15 A. Yes.
16 Q. You buy any of the food?
17 A. I try to help out when I can.
18 Q. Well, when can you if you're not working?
19 A. Well, I have some money that I got from my whole-- the accident
20 thing. I got money from the insurance company of the guy who hit us.
21 Q. Uh-huh. How much did you get? Do you know?
22 A. About $3,000.
23 Q. So, you had one job?
24 A. Only one job throughout my life, yes.
25 Q. And right now, you said you're not working why?

1 A. Because I can't drive.
2 Q. Anybody else living in the home with you and your mother?
3 A. At the moment, no.
4 Q. Okay. Now, I'm going to ask you about the fact that you told us that
5 B[redacted] abused you hundreds of times--
6 A. Yes.
7 Q. --And not ever one of those times was your mother home?
8 A. Only the time that he tried to get into my shower, and he immediately
9 put his hand over my mouth so that I couldn't scream.
10 Q. And she was home?
11 A. She was downstairs--
12 Q. And so, when--
13 A. --With my sister.
14 Q. Did you go and tell her about it as soon as you got out of the shower?
15 A. I was afraid to.
16 Q. You were afraid to? Why?
17 A. Because he had told me over and over and over again that he would
18 kill me if I told her.
19 Q. Well, when you were telling us that before, you said because he'd
20 already killed someone. You know that he killed someone?
21 A. When he was 14 years old, yes.
22 Q. How do you--
23 A. I don't know the details.
24 Q. --How do you know that?
25 A. Because I've heard from other people.

1 Q. Oh, you heard it from other people. Okay. And you believe it?
2 A. Of course, I do. He's a very physical and violent--
3 Q. Well--
4 A. --Horrible--
5 Q. --But this was something that was told to you about your step-father
6 that you were living with, was he living with you at the time--
7 A. I don't remember if he was--
8 Q. --You were told that he was a murderer?
9 A. I don't remember when I found out that, how old I was when I--
10 Q. So, you don't know if it was before he was abusing your or after he
11 was abusing you?
12 A. No.
13 Q. You don't?
14 A. Of course not.
15 Q. Well, if you didn't know about it at that time he was abusing you, why
16 are you saying that you were afraid to tell?
17 A. Because he was physical and violent, and he threw my mother down
18 stairs, so I know--
19 Q. Wait a minute--
20 A. --He-- I-- he's capable of so much--
21 Q. --I move to strike--
22 A. --Of course, I could've died.
23 Q. I move to strike the answer.
24 MR. KROLL: It's her question.
25 JUDGE MCGUIRE: Yeah. I'm going to-- the

1 answer will stand.

2 BY MS. RAWICH:

3 Q. So now, you're telling us that in addition to doing everything else, he
4 threw your mother down the stairs?

5 A. Yes.

6 Q. Uh-huh. Okay. Anybody tell the police about that?

7 A. I believe she did.

8 Q. And what happened? Anything?

9 A. I don't know because I wasn't there at the time. I was at my father's
10 house. This is when I was 11.

11 Q. So, you don't even know if he threw her down the stairs yourself,
12 right?

13 A. I believe it.

14 Q. Do you-- were you there?

15 A. No, I was not there, but I believe it.

16 Q. But you are perfectly willing to say that he did it because somebody
17 told you that he did it, correct?

18 A. Because he was physical and violent and abusive, so I will believe
19 anything horrible that somebody would tell me he has done.

20 Q. He was physical and violent and abusive to you?

21 A. Yes.

22 Q. Because he fondled you? Is that-- is that violent--

23 A. No. Also, he hit me. He hit me as well--

24 Q. --Oh, okay. You didn't tell us that--

25 A. --Several times.

1 Q. You didn't tell us that.
2 A. I wasn't asked.
3 Q. When did he hit you?
4 A. When I was nine and ten.
5 Q. Now, earlier, you told us that he had been doing this to you while you
6 were nine and ten?
7 A. Yes.
8 Q. And then you testified that it wasn't until you were 11 that he was out
9 of the house?
10 A. Right.
11 Q. So, between the age of 10 and 11, he stopped doing it?
12 A. No. When I was ten years old, he was still doing it.
13 Q. Uh-huh. So up until the day he left, he was doing it to you?
14 A. Up until the day that I left to go see my father, yes.
15 Q. Uh-huh. Okay. Now, at first, you told us that E[redacted] was touching
16 you sexually inside your vagina with his fingers?
17 A. Yes.
18 Q. And that he was putting his mouth on your breast?
19 A. Yes.
20 Q. And then you told us that, in fact, he was biting your breast so hard
21 that you had scars lasting years, correct?
22 A. Yes.
23 Q. But when you told us that he put his mouth on your breast, you didn't
24 tell us he was biting you. Did you not know he was biting you?
25 A. It was kind of hard to pay attention to what exactly he was doing to

1 me when all I could think about was, oh, my God, why is he even
2 touching me?--
3 Q. Okay--
4 A. --Because this isn't right.
5 Q. Okay. But now, if he bit on your breasts so hard that he left teeth
6 marks there, wouldn't you have bled?
7 MR. KROLL: Objection.
8 JUDGE MCGUIRE: Sustained.
9 BY MS. RAWICH:
10 Q. Did you ever bleed in any of these--
11 A. I don't recall.
12 Q. Okay. Now, doesn't it seem to you that there are some similarities
13 between what happened to you, with what you tell us happened to you
14 with E[redacted]-- E[redacted] and what happened to M[redacted] with Mr.
15 D[redacted]?
16 A. What's allegedly happened to my sister.
17 MR. KROLL: Objection.
18 JUDGE MCGUIRE: Yeah. Sustained.
19 BY MS. RAWICH:
20 Q. Well, do you know that M[redacted] has said that your mother was never
21 around when Mr. D[redacted] did that to her? Do you know that?
22 A. Mom worked a lot.
23 Q. Sorry?
24 A. My mom worked.
25 Q. No, I'm not asking you that. Do you know--

1 A. Yes, of course, M[redacted] would say that.
2 Q. --That she said that?
3 A. Yes.
4 Q. Okay. And-- now, this mental breakdown that you had in gym, what
5 was the upshot of it? Did you-- this-- was this the-- No, this was not
6 the time that you were banned from school, from March--
7 A. No. That was when I was ten, in the fifth grade, when that-- I got
8 banned from school. I was 12 and in gym when this came out.
9 Q. Uh-huh. And-- so you say you had a mental breakdown, and when
10 you were asked a little bit more about it, you just told the friend not to
11 touch you, that you have a problem with that, right?
12 A. Right.
13 Q. Was the extent of the breakdown?
14 A. Yes.
15 Q. And when did you-- you consider yourself having a breakdown at that
16 point, did you tell your mom that you had a breakdown?
17 A. Only when-- well, I don't remember. I think I cried even more when I
18 was in front of her. I-- I don't remember exactly what I said about
19 that crying in gym class. I--
20 Q. Okay. So that-- that mental breakdown was just you having a big, big
21 cry, am I right about that?
22 A. Pretty much, yes.
23 Q. And did you ever seek to get any kind of counseling because you
24 realize now that you have this sorrow inside you?
25 A. Well, I was in therapy on and off for years.

1 Q. Oh, you were?
2 A. Yeah.
3 Q. With whom?
4 A. Several different people. I don't even remember their names. We
5 went so many places, because they just weren't helping, that--
6 Q. You mean, you went from one therapist to another?
7 A. Yeah.
8 Q. And none of them were able to help you?
9 A. No.
10 Q. Now, M[redacted], who you thought you had a good relation with, did tell
11 you that Mr. D[redacted] hurt her, right?
12 A. But that was the extent of what she said, yes.
13 Q. I understand that. Did that not set off some bells in your mind about
14 what had happened to you, too?
15 A. Well--
16 Q. Tell me the truth. Did you think of it?
17 A. Of course, I thought about what her father had done to me.
18 Q. You think-- you thought of it, right? And--
19 A. But I mean, she had just said "hurt" so it could've been anything. It
20 could've been touching, or it could've been hitting because, I mean,
21 I've gone through every-- everything. It could've been anything that I
22 had gone through. And so, I tried to tell my mother, I tried--
23 Q. Okay. That's-- so my next question to you is, you tried to tell your
24 mother so that she could talk about it with Mr. D[redacted], is that what
25 you meant when you--

1 A. With my sister, so that she could try to get some answers from my
2 sister.
3 Q. And you didn't tell her, so that she could confront Mr. D[redacted] to see
4 if he had been hurting M[redacted]?
5 A. He was also confronted.
6 Q. No, I'm asking you, did you ask your mother to talk to Mr. D[redacted]
7 about whether--
8 A. I didn't ask her to talk to either one of them. I just told her what
9 M[redacted] had said to me and figured she would go about it and ask both
10 of them.
11 Q. Now, you had never, ever told your mother about E[redacted], am I right?
12 That--
13 A. Not until I was 12, no.
14 Q. Yeah. So, doesn't it seem to you like there were-- there were similar
15 things happening to M[redacted] that had happened to you, did you ever feel
16 like you had comradeship with her on account of it?
17 A. With this? No. I didn't really think of anything...
18 Q. I mean, you were an abused child, you -- you believed yourself to be
19 an abused child, and she's telling you she's getting hurt by this step-
20 father, did this--
21 A. But she never said how, so I didn't know what to believe from her.
22 Q. By the way, when you were investigated-- when you were interviewed
23 in the case against E[redacted] by investigators, did you tell them about the
24 scars on your breasts?
25 A. No.

1 Q. When--
2 A. I didn't realize what they were at the time.
3 Q. Even then?
4 A. I had no idea. I was too young. I-- I had no knowledge about sexual
5 things, except for what he had done, and I didn't realize they were bite
6 marks. I didn't. I didn't know.
7 Q. How long did they last, actually?
8 A. I don't remember.
9 Q. Are they still present?
10 A. No.
11 Q. Now, did you ever tell your mother about the bite marks?
12 A. Not until recently.
13 Q. And they were gone already by that time?
14 A. [No response]
15 Q. When you did tell your mother about what E[redacted] had done, what was
16 her response to you?
17 A. She immediately wanted to kill him because he had hurt me.
18 Q. Is that what she said to you?
19 A. She was just very upset. I don't remember exactly what she said, but I
20 don't remember much about that conversation at the therapist's office.
21 Q. Okay. What did you think M[redacted]'s relationship with Mr. D[redacted]
22 was-- was--
23 MR. KROLL: Objection. This is not what the
24 hearing has anything to do with, about Mr. D[redacted]. This
25 is about--

1 JUDGE MCGUIRE: Yeah. I understand that. It's
2 cross, so I'll allow a little bit of that.
3 BY MS. RAWICH:
4 Q. You were living in the house, M[redacted] was living in the house, your
5 mother was living in the house, D[redacted] was living in the house,
6 right?
7 A. Yes.
8 Q. And you observed M[redacted]'s relationship with Mr. D[redacted]?
9 A. They seemed to have a very good relationship. She always asked him
10 for favors, always asked him to do stuff for her. She didn't act afraid
11 of him, whatsoever.
12 Q. Uh-huh. Okay. And how did he act toward her?
13 A. Like a-- like a father figure would.
14 Q. Uh-huh.
15 A. He was good to her.
16 Q. Was he affectionate to her?
17 A. Not grossly, like you keep accusing him of.
18 Q. Well, affection doesn't have to be gross. Can be just touching her
19 hair--
20 A. He loved her like she was his own.
21 Q. --Something like that. What did you say?
22 A. He loved her like she was his own. Me, too.
23 Q. You believe that--
24 A. He loved me the same way that he loved her.
25 Q. --You believe that?

1 A. Oh, yes.
2 Q. In what-- in what way did you find him so loving?
3 A. Because he would-- he was so kind and generous and would've done
4 anything that we had asked him to. He was a very giving person. He
5 is a very giving person.
6 Q. Now, you said that when E[redacted] was abusing you in the shower, you
7 couldn't scream because he put his hand over your mouth?
8 A. Yes.
9 Q. And where was his other hand?
10 A. I don't know. I don't remember.
11 Q. So, his putting his hand over your mouth effectively stopped you from
12 ever telling about it, correct?
13 A. He told me he would kill me.
14 Q. Yeah.
15 A. I didn't want to die.
16 Q. I don't blame you. Now, since that incident in school where a friend
17 touched you on the shoulder and you had a breakdown, have you ever
18 subsequently similar kind of breakdowns?
19 A. Not really, no.
20 Q. If somebody touches you on the shoulder now, you're okay with that?
21 A. Yeah.
22 Q. What year was it that you got thrown out of school for threatening to
23 stab somebody?
24 A. Oh, God. It was the end of fifth grade. I'm not good with years. I
25 have to do the math. In fifth grade-- I-- I don't remember what year

1 this was.
2 Q. Okay. And you also don't remember if you were holding scissors,
3 correct?
4 A. No.
5 Q. Have you ever done anything like that again since-- sine then when
6 you're feeling bad?
7 A. No. I'm not physical or violent.
8 Q. Now, when you told your mom a few months ago that M[redacted] had told
9 you that Mr. D[redacted] had hurt her, what was your mother's response
10 to you?
11 A. She got very emotional and upset and wanted to talk to them
12 immediately.
13 Q. Talk to them?
14 A. Yeah.
15 Q. Meaning M[redacted] and Mr. D[redacted]?
16 A. Yes.
17 Q. And were you present when she tried to talk to M[redacted]?
18 A. Not a first when she tried to talk to her, and then when she wasn't
19 getting anywhere, she tried to pull me in, but even then, it wasn't
20 going anywhere.
21 Q. And how about when she spoke to Mr. D[redacted] about it, were you
22 present when she did that?
23 A. I was in my room.
24 Q. Did you hear her?
25 A. I heard a little bit of it.

1 Q. What did you hear?
2 A. Well, I mostly heard what D[redacted] D[redacted] said.
3 Q. And what did he say?
4 A. That he never would've done anything to hurt her and he loved her--
5 loved her like she was his own. And everything seemed okay after
6 that. They hugged and...
7 Q. So, your mother, apparently, as far as you could tell, was satisfied with
8 his answer, am I right?
9 A. I guess so.
10 MS. RAWICH: Okay. No further questions.
11 BY THE COURT:
12 Q. Okay. I just want to get a timeline here. Now, Mr. R[redacted] moved
13 out of the house when you were ten?
14 A. Eleven.
15 Q. When you were 11?
16 A. Yeah.
17 Q. And you moved out of the house when you were ten to go live with
18 your dad?
19 A. No. I was visiting him for the summer.
20 Q. Okay. Just for the summer?
21 A. Yeah.
22 Q. Okay. And then-- so why did Mr. R[redacted] move out of the house?
23 A. Because they had a horrible domestic dispute, and Mom said that he
24 tried to throw her downs the stairs, and the cops pulled him out of the
25 house.

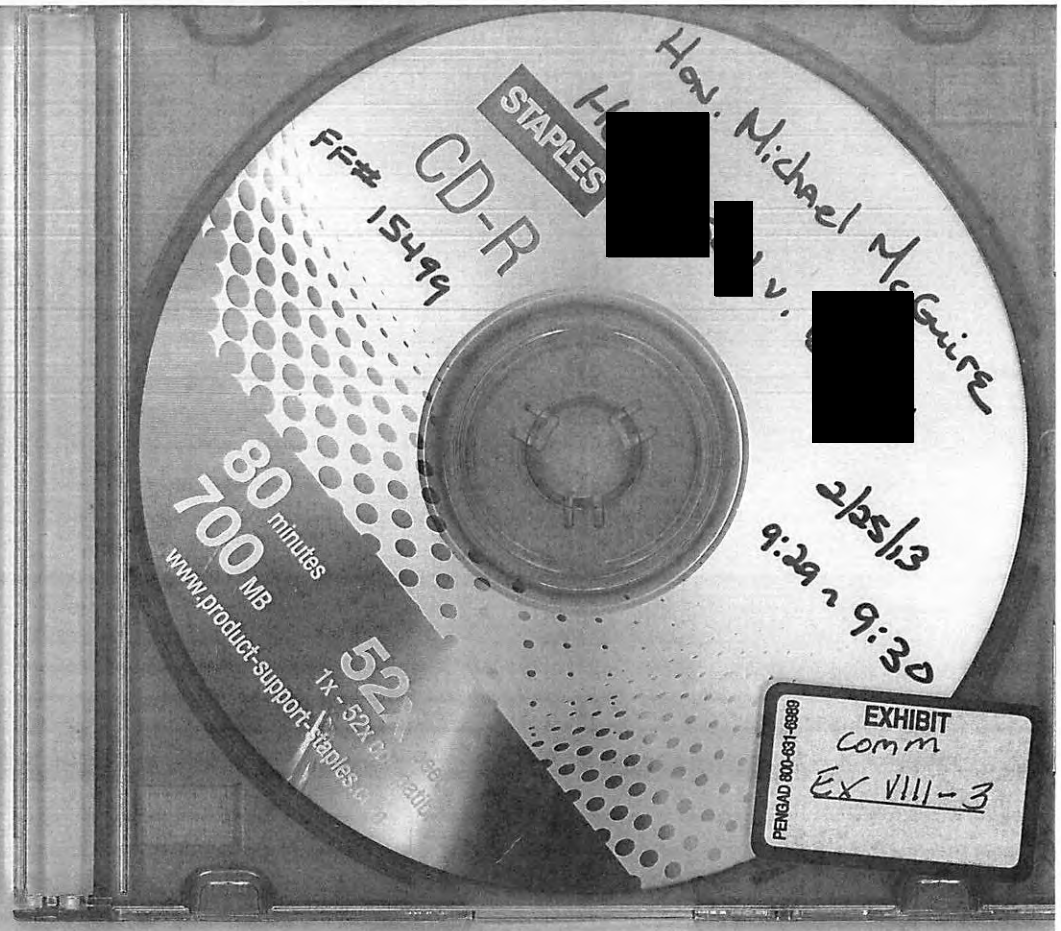
1 Q. Okay. So, Mom reported that he tried to throw her down the stairs?
2 That he tried to throw her down the stairs?
3 A. Well, that he did, I think. She got to like--
4 Q. Then he did throw her down--
5 A. She didn't fall very far, I don't think. I don't know all the details
6 because I wasn't there.
7 Q. Okay. So-- and then it wasn't till a year or so later that you made
8 these disclosures?
9 A. Yes.
10 Q. Okay. And did your mom talk about Mr. R[redacted]right after he left
11 the house?
12 A. I don't remember.
13 Q. Okay.
14 A. I was-- I don't remember much of when I was 11.
15 Q. I understand.
16 A. I was very traumatized still.
17 Q. Okay. I understand. I understand. But now-- so it had been about
18 two years after he stopped abusing you--
19 A. Yeah--
20 Q. --That you made the disclosure?
21 A. He stopped-- well, because I turned 11 in the summer, so it was more
22 like one year, maybe one and a half.
23 Q. Okay. Okay, but he-- so it was a year and a half after that, or so, that
24 he stopped-- that you made your disclosures?
25 A. Yes, sir.

1 Q. And you were still afraid that he could kill you?
2 A. I was just afraid he would find a way to hurt me--
3 Q. Okay.
4 A. --Because I-- I am very-- even now I'm still scared -- [crying]
5 Q. I can see that. I can see that. Now, did you make those disclosures to
6 any police officers? Did you speak to any police officers back then?
7 A. I believe that they made me talk to police investigators or something--
8 Q. Okay--
9 A. --I remember being at the--
10 Q And did you tell them all the things that he had done?
11 A. Not every single thing, but a lot of what had happened.
12 Q. Did you tell them that-- that he bit you on your nipples?
13 A. I didn't say anything about the biting.
14 Q. Did that hurt when he did that?
15 A. I don't recall very much about the pain.
16 Q. You don't know if it hurt?
17 A, All I remember is that it hurt when his fingers were in me.
18 Q. Okay, okay. And when did you first determine that the marks on your
19 breasts were bite marks?
20 A. I don't remember when I figured that out.
21 Q. Okay. Well, do you remember what would cause you to figure that
22 out?
23 A. I guess maybe getting my knowledge about, like, sexual things, and--
24 Q. Okay. So, someone else told you about it?
25 A. I--

1 Q. Or you learned about--
2 A. --I guess so--
3 Q. --In counseling?
4 A. I don't really remember how that--
5 Q. Okay.
6 A. --Came across.
7 Q. Did you learn about the bite marks before they disappeared?
8 A. I thought that they were, like, bug bites or something--
9 Q. Okay.
10 A. --But that didn't make any sense to me as I got older, because they
11 were all around the nipple.
12 Q. Okay. Were they there for a while?
13 A. I don't remember how long--
14 Q. --I mean, did this happen for the whole--
15 A. --But they were gone even when he was-- they were-- I mean, they
16 were still there, like, after he was gone, but I don't remember how
17 long, though.
18 Q. Do you remember him actually biting your nipples?
19 A. I don't remember much about that. I just remember the fingers, the
20 whole thing.
21 Q. Okay. So, what makes you think that you had bite marks if you don't
22 remember being bitten?
23 A. Because I know that he had his mouth on me there and that it did hurt.
24 And I don't remember what he was doing with his mouth, I just
25 remember that it hurt.

1 JUDGE MCGUIRE: Okay. All right. All right.
2 And what I'm going to do is, I'm going to take a-- a very
3 brief recess now. I want to bring in a couple of other cases
4 and give this witness a little chance and then we'll come
5 back to Mr. Kroll for redirect. Okay? Now, you're under
6 oath. I don't want you to speak to anyone about your
7 testimony, okay. Not to you mom, not to Mr. Kroll, not to
8 anybody, not your grandmother.
9 THE WITNESS: Okay.
10 JUDGE MCGUIRE: Don't speak to anybody at all
11 about your testimony. Okay. You can talk to them about
12 the weather, and talk to them about the weekend, but not
13 about your testimony.
14 THE WITNESS: Okay.
15 JUDGE MCGUIRE: Okay? And then you'll come
16 back, and you'll be back up on the stand. Okay?
17 THE WITNESS: Okay.
18 JUDGE MCGUIRE: All right. We'll stand in recess
19 for probably about ten minutes, or so, and we'll get you
20 back in here.
21 (RECESS)
22
23
24
25

1 CERTIFICATION
2
3 I, WANITA GONZALEZ, a Secretary of the State
4 Commission on Judicial Conduct, do hereby certify that the foregoing is a
5 true and accurate transcript of the audio recording of the proceedings
6 transcribed by me, to the best of my knowledge and belief, in the matter
7 held on June 29, 2012.
8
9
10 Dated: April 1, 2019
11 WANITA GONZALEZ
12
13
14
15
16
17
18
19
20
21
22
23
24
25


Hon. Michael McGuire
H[redacted] v. [redacted]
2/25/13
9:29 - 9:30
STAPLES
CD-R
FF# 15499
80 minutes
700 MB
www.product-support.staples.com
52
EXHIBIT
Comm
Ex VIII-3
PENGAD 800-631-6989

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 10, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

N[redacted]H[redacted] v. R[redacted]E[redacted]
Family File # 15499
Date of recording -February 25, 2013
9:29 - 9:30

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/10/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-3

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

DEPARTMENT OF FAMILY SERVICES v. E[redacted]

February 25, 2013
9:29 A.M.

:

1 FEMALE ATTORNEY: Is-- Isn't it on for
2 something else, too?
3 MALE ATTORNEY: What? This is--
4 JUDGE MCGUIRE: It's on for dad's custody.
5 MALE ATTORNEY: --Dad's custody petition.
6 FEMALE ATTORNEY: That's it?
7 MALE ATTORNEY: Yeah.
8 JUDGE MCGUIRE: Which is going to get
9 dismissed, so-- Are they here?
10 UNKNOWN MALE: Yeah.
11 MALE ATTORNEY: Yes, sir.
12 FEMALE ATTORNEY: I kept wondering where
13 Fran was, and I guess that's why, she's not here.
14 JUDGE MCGUIRE: Yeah, you have all three of
15 these children?
16 FEMALE ATTORNEY: Yes.
17 JUDGE MCGUIRE: She has?
18 FEMALE ATTORNEY: She has the dad--
19 JUDGE MCGUIRE: The dad?
20 FEMALE ATTORNEY: --In-- in a neglect, but
21 (unintelligible). I just-- I thought I had the date in my book
22 for-- and that's not till next month, the permanency--
23 JUDGE MCGUIRE: April 2nd?
24 FEMALE ATTORNEY: Right. And that's down in
25 my book, yeah.

1 COURT OFFICER: E[redacted]

2 JUDGE MCGUIRE: [sighs] Miguel, please get cases

3 lined up on the door.

4 COURT OFFICER: We did, Judge.

5 JUDGE MCGUIRE: Is the sergeant here?

6 COURT OFFICER: Please step out.

7 JUDGE MCGUIRE: Is the sergeant here?

8 COURT OFFICER: Yes.

9 JUDGE MCGUIRE: Tell him I want to see him.

10 COURT OFFICER: Part II postponed.

11 JUDGE MCGUIRE: Tell him to meet me in my

12 chambers.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on February 25, 2013.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE COMMISSION ON JUDICIAL CONDUCT
61 Broadway, Suite 1200
New York, New York 10006

Q. I am going to show you what is Commission Exhibit--

A. Okay.

Q. -- 11.

A. Okay.

Q. And this is the transcript for the February 25, 2013 proceeding in *H*[redacted] *v. E*[redacted].

A. Okay.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-4a

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

H[redacted] v. E[redacted]

February 25, 2013
9:29 A.M.

:

1 FEMALE ATTORNEY: Is-- Isn't it on for
2 something else, too?
3 MALE ATTORNEY: What? This is--
4 JUDGE MCGUIRE: It's on for dad's custody.
5 MALE ATTORNEY: --Dad's custody petition.
6 FEMALE ATTORNEY: That's it?
7 MALE ATTORNEY: Yeah.
8 JUDGE MCGUIRE: Which is going to get
9 dismissed, so-- Are they here?
10 UNKNOWN MALE: Yeah.
11 MALE ATTORNEY: Yes, sir.
12 FEMALE ATTORNEY: I kept wondering where
13 Fran was, and I guess that's why, she's not here.
14 JUDGE MCGUIRE: Yeah, you have all three of
15 these children?
16 FEMALE ATTORNEY: Yes.
17 JUDGE MCGUIRE: She has?
18 FEMALE ATTORNEY: She has the dad--
19 JUDGE MCGUIRE: The dad?
20 FEMALE ATTORNEY: --In-- in a neglect, but
21 (unintelligible). I just-- I thought I had the date in my book
22 for-- and that's not till next month, the permit she--
23 JUDGE MCGUIRE: April 2nd?
24 FEMALE ATTORNEY: Right. And that's down in
25 my book, yeah.

1 COURT OFFICER: E[redacted]
2 JUDGE MCGUIRE: [sighs] Miguel, please get
3 cases lined up on the door.
4 COURT OFFICER: We did, Judge.
5 JUDGE MCGUIRE: Is the sergeant here?
6 COURT OFFICER: Please step out.
7 JUDGE MCGUIRE: Is the sergeant here?
8 COURT OFFICER: Yes.
9 JUDGE MCGUIRE: Tell him I want to see him.
10 COURT OFFICER: Part II postponed.
11 JUDGE MCGUIRE: Tell him to meet me in my
12 chambers. Tell him...
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on February 25, 2013.
7
8
9 Dated: February 21, 2017

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5 Q. That was louder than your normal court voice, right?
6 A. Well, my normal court voice is in a conversation tone, the way we
7 are. I was--
8 Q. -- That didn't-- can you answer my question? Was that your normal
9 court voice?
10 A. No.
11 Q. Was that louder than your normal court voice?
12 A. It was louder than my normal court voice.
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-4b

Q. Do you think that you were-- spoke in a patient, dignified and courteous way to Court Officer Diaz on that day, from today's perspective?

A. Yes. Yes, I do.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-4c

Q. Did you ever put your hand, palm up towards Andrea Rogers--

A. -- Well, I might have--

Q. -- When she was trying to get information about a case?

A. -- Well, I may have said, "Hold on a second," I mean, the way I'm demonstrating now.

JUDGE SHEA: And the witness is raising his hand.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-4d

Q Okay. My question for you was, what happened on-- I thought it was January 14, 2015?

A. I think it was January 13th, but it was a Tuesday. I know that.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII -4e

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20 Q. Okay. When you were speaking to Ms. Weiner about talking to the
21 County, the computer people, April--
22 A. -- Right--
23 Q. -- In the County, was your-- what was the level of your voice?
24 A. I'm sure that I was distraught. It was-- to me, it's not analogous, but
25 it would be like there's a fire or a flood. I was distraught, so I'm sure

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-4f

that my voice was probably quivering, and I'm sure that my voice was louder than, certainly, we're conversing right now.

Q. So, was it louder than your usual voice?

A. I'm sure it was.

Q. And did you-- were you yelling at that time? From the time Ms. Weiner came in, until you went to-- to County Court, were you yelling?

A. As I said before, I was agitated and I was distraught. And I wasn't communicating much at all, but when I communicated, I'm sure that my voice was louder than it is now talking to you across the table. I was in a-- I was certainly in an excited state.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex VIII-49

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 8, 2019

RE: M[redacted] V. H[redacted] FF#16597

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

Christina Ben

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IX-1

HAVILLAND COMET

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0650 FAX: 845 794-0199

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

February 20, 2014

M[redacted] A[redacted] M[redacted]
[redacted]

Re: M[redacted] v H[redacted]
File # 16597
Docket #: V-00216-14

Dear Ms. M[redacted]

Enclosed herein please find an order to show cause together with petitions and affidavit of service. <u>You must make arrangements to have one copy of these papers ***served by Personal Service together with the papers upon which it is granted, upon R[redacted] H[redacted] on or before March 3, 2014, be deemed sufficient service.***</u>

The affidavit of service must be completed and signed before a notary public by the person serving the papers and returned to this Court prior to or on the Court date.

Please be advised this matter has been scheduled for **March 10, 2014 at 10:30 AM** at which time all parties are to be in attendance.

Very truly yours,

Karen Benson

Karen Benson,
Sr. Court Office Assistant

PERSONAL SERVICE INSTRUCTIONS:

******A. ***<u>Who may serve papers</u>***:

1. Person over the age of 18 years, ***<u>other than yourself</u>***.
2. Person cannot be a party to the proceedings.

B. Affidavit of service must be completed, signed, notarized, and returned to this Court on or before the hearing date..

C. The papers must be served on or before the date indicated in paragraph one of the above letter.

D. Unless otherwise directed by the Court, papers may not be served on Sundays or holidays.

Court Acti[illegible] File Summary - Sullivan County Family Court

File No: 16597 **Appearance Judge:** Hon. Michael F. McGuire, 2 **Appr Date:** 03/10/2014
Cal. No(s): 23

Docket(s)	Mot	Relief(s)	Purpose	Date Filed	SG Date	Disp Date
V-00216-14		Custody	Arraign	02/10/2014	09/06/2014	03/10/2014

Pedigree Information

M[redacted] A[redacted] M[redacted] DOB: [redacted] Docket(s): V-00216-14 (Petr)
Primary Address: [redacted]

R[redacted] R[redacted] H[redacted] DOB: [redacted] Docket(s): V-00216-14 (Resp)

R[redacted] H[redacted] DOB: [redacted] Docket(s): V-00216-14 (Child)

Appearance Detail

Appearance: 03/10/2014 10:30 AM, Hon. Michael F. McGuire, PT 2, Arraign

Attendance: Present: R[redacted] R[redacted] H[redacted]
M[redacted] A[redacted] M[redacted]

Notes: (V-00216-14)
Resp. received petition

right to counsel given - Resp. waives
Petitioner waives

Resp. [redacted]

allegations read

parties have a settlement
It Legal Phy. to Mom
parenting time Weds 2 -7 and Saturdays 9:30 - 5:30 pm
SOF&D
Children's Bill of Rights

Court to prepare
(Stacey Benton)

Outcomes: Issue Joined (V-00216-14)
Petition Settled (V-00216-14)

 Date printed: 03/10/2014

(23) 10:30 AM V-00216-14 16597

Sor

Names Searched:	Registry Check Status - Results
H[redacted] R[redacted] ([redacted])	Completed - Results Not Found (03/03/2014)
H[redacted] R[redacted] R[redacted] [redacted]) NRF	Completed - Results Not Found (03/03/2014)
M[redacted] M[redacted] A[redacted] ([redacted]) NRF	Completed - Results Not Found (03/03/2014)

F.C.A. §§ 467, 549, 651, 652, 654
D.R.L. § 240

GF18 8/2010

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 3/12, 2014
Christine Dixon

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on March 10, 2014

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Custody/Visitation** Proceeding

File #: 16597
Docket #: V-00216-14

M[redacted] A[redacted] M[redacted]

Petitioner,

- against -

R[redacted] R[redacted] H[redacted]

Respondent.

ORDER OF CUSTODY ON CONSENT

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN INCARCERATION FOR CRIMINAL CONTEMPT.

M[redacted] A[redacted] M[redacted] having filed a petition on February 10, 2014, pursuant to Article 6 of the Family Court Act, requesting an order awarding custody of the following minor child(ren):

Name	Date of Birth
R[redacted] H[redacted]	[redacted]

And R[redacted] R[redacted] H[redacted] having been served with a copy of the petition, and having admitted the allegations of the petition, and having appeared before this Court to answer the petition and to show cause why an order of custody should not be granted

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's child protective records, and having notified the following self-represented parties R[redacted] R[redacted] H[redacted] and M[redacted] A[redacted] M[redacted] of the results of these searches;

And the matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and upon the consent of both parties, it is hereby

ORDERED that the parties shall share joint legal custody of the minor child, R[redacted] H[redacted] who was born on [redacted] with physical custody of the minor child to the Petitioner, M[redacted] M[redacted] and it is further

ORDERED, that the Respondent, R[redacted] H[redacted] shall have parenting time with the minor child every Wednesday from 2:00 p.m. until 7:00 p.m. and every Saturday from 9:30 a.m. to 5:30 p.m.;

and it is further

ORDERED, that there shall be such other, further and different parenting time as the parties can agree; and it is further

ORDERED, that the Addendum to Order of Custody is attached hereto and made a part hereof.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: March 10, 2014 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 3/13/14
☐ Order received in court on [specify date(s) and to whom given]:

CC: R[redacted] R[redacted] H[redacted] Respondent
M[redacted] A[redacted] M[redacted] Petitioner

FAMILY COURT OF THE S[illegible]TE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

7

In the Matter of a **Custody/Visitation** Proceeding

File #: 16597
Docket #: V-00216-14

M[redacted] A[redacted] M[redacted]

Petitioner,

ORDER TO SHOW CAUSE

- against -

R[redacted] R[redacted] H[redacted]

Respondent.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOUR FAILURE TO APPEAR MAY RESULT IN SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL, OCCUPATIONAL AND BUSINESS LICENSES; AND RECREATIONAL AND SPORTING LICENSES AND PERMITS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE COURT TO ASSIGN A LAWYER. IF, AFTER HEARING, THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS FOR CONTEMPT OF COURT.

To: R[redacted] R[redacted] H[redacted]
(Address Unknown)

M[redacted] A[redacted] M[redacted]
[redacted]

Upon the petition of M[redacted] A[redacted] M[redacted] filed on February 10, 2014, annexed hereto, it is

ORDERED that R[redacted] R[redacted] H[redacted] show cause before this Court on

Date/Time: March 10, 2014 at 10:30 AM
Purpose: Arraign
Part: 2
Floor/Room: Floor 1/Room 2
Presiding: Hon. Michael F. McGuire
Location: Government Center
100 North St.
Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Custody should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon R[redacted] R[redacted] H[redacted] on or before March 3, 2014, be deemed sufficient service

Dated: February 20, 2014

ENTER

2/21 Sent

Hon. Michael F. McGuire

Scanned

FCA §§ 467, 549, 651, 652,654; DRL §§75-l, 240[1]

General Form 17
(Petition-Custody, Visitation)
10/2012

3/10
10.30

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

RECEIVED
FEB 10 2014
SULLIVAN COUNTY FAMILY COURT

In The Matter of a Proceeding for
☒Custody ☐Visitation under Article ☐4 ☐5 ☐6
of the Family Court Act or Section 240
of the Domestic Relations Law

M[redacted] Petitioner
Relationship to child: Mother

-against-

R[redacted] Respondent
Relationship to child: father

Docket No.
PETITION
☒ CUSTODY ☐ VISITATION

165917
V-216-14

TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name	Gender	Date of Birth	Current Address	Name of Person with Whom Child Resides
R[redacted] H[redacted]	female	[redacted]	[redacted]	myself

2. a. Petitioner, M[redacted] [check applicable box]: ☒ resides ☐ is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: [redacted]

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: Mother

3. a. Respondent, R[redacted] H[redacted] [check applicable box]: ☐ resides ☒ is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: unsure at moment Unknown

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: father

4. **[DELETE if inapplicable and SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify

---

1 Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act,* Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

Name of Child	Child's Address	Duration (from/to)	Name of Person With Whom Child Resided	Current Address of the Person With Whom Child Resided
R[redacted] H[redacted]	[redacted]	birth – 2/8/14	x M[redacted] R[redacted] H[redacted]	[redacted]
		2/8/14 – Present	x M[redacted]	[redacted]

OMIT 5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. ❑ Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:[2]

❑ Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b ❑ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:[3]

❑ Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

OMIT 6. **[Delete if inapplicable and SKIP to Paragraph 7]:** An order was issued by Court, County, State of , referring the issue of ❑ custody ❑ visitation to the Family Court of the State of New York in and for the County of [specify]:

7. **[Check applicable box(es). Delete inapplicable provisions]:**

a. ☒ The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]: R[redacted] H[redacted]

❑ The father was married to the child(ren)'s mother at the time of the conception or birth.

❑ An order of filiation was made on [specify date and court and attach true copy]:

☒ An acknowledgment of paternity was signed on [specify date]: x Catskill regional at birth by [redacted] [specify who signed and attach a true copy]:

❑ The father is deceased.

b. ❑ The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. ❑ A paternity agreement or compromise, pursuant to former Family Court Act §516,[4] was approved by the Family Court of County on , , concerning [name parties to agreement or compromise and child(ren)]:

2 Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

3 Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

4 The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

A true copy of the agreement or compromise is attached to this petition.

OMIT 8. **[Applicable to cases in which either parent is not a party; if not applicable, SKIP to Paragraph 9]**: The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

OMIT 9. **[Delete if inapplicable and SKIP to Paragraph 10]:** Petitioner has participated as a ☐ party ☐ witness ☐ other capacity [specify]: in other litigation concerning the custody of the same children in ☐ New York State ☐ Other jurisdiction [specify]:[5]
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) ☐ is ☒ is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

OMIT 11. **[Delete if inapplicable and SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Delete if inapplicable and SKIP to Paragraph 13]:**

a. ☒ Petitioner ☐ Respondent obtained custody of the child(ren) on [specify date]:

, as follows

b. ~~☐ Petitioner ☐ Respondent obtained visitation with the child(ren) on [specify date]~~.

~~as follows:~~ The respondent left residence on 2/8/14 and my daughter is with me at current residence.

13. It would be in the best interests of the child(ren) for Petitioner to have ☒ custody ☐ visitation for the following reasons [specify]:
Respondent Currently has been ~~removed~~ left from Petitioners home The relationship has ended and the child lives with me. (Petitioner)

OMIT 14. **[Delete if inapplicable and SKIP to Paragraph 15]:**

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es]: ☐ against Respondent ☐ against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The ☐ Order of Protection ☐ Temporary Order of Protection expired or will expire on [specify date]:

---

5 If litigation occurred in Native-American tribunal, so indicate.

~~b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

15. **[Applicable where one or more parties are not parents of the child(ren); DELETE IF INAPPLICABLE and SKIP to Paragraph 16]]:** The subject child(ren) ❑ are ☒ are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963).

OMIT 16. **[Applicable where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and in which petitioner is a relative or other non-parent or a parent who is not a respondent; DELETE IF INAPPLICABLE and SKIP to Paragraph 17]:**

a. ❑ A child protective petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: alleging that [specify names of respondents on that petition]:

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:

b. ❑ A destitute child petition, Docket # [specify]: , was filed in Family Court, [specify county]: on [specify date]: . The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]:

c. ❑ A permanency report, Docket # [specify]: , pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: on [specify date]: indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. The child's birth mother ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

e. The child's legally-established birth father ❑ has ❑ has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

f. The child has been living with the following foster parent(s)[specify]:

since [specify date]: The foster parent(s) ❑ has/have ❑ has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The local department of social services [specify]: in the related ❑ child abuse or neglect ❑ destitute child ❑ permanency proceeding ❑ has ❑ has not

consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

g. The attorney for the child(ren) [specify]: in the related ❑ child abuse or neglect ❑ permanency proceeding ❑ has ❑ has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ☒ custody ❑ visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: 2/10/14 , 20____

M[redacted] M[redacted]
Petitioner

M[redacted] M[redacted]
Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)
) :ss:
COUNTY OF Sullivan)

M[redacted] M[redacted] being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to ~~(his)~~(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

M[redacted] M[redacted]
Petitioner

Sworn to before me this
10th day of February , 20 14

Christina Br
~~(Deputy)~~ Clerk of the Court
~~Notary Public~~

Supplemental Page for All Petitions: FF: _____

Petitioner: M[redacted] M[redacted]	Respondent: R[redacted] H[redacted]

Cont. of #13:
I am here today to establish a temporary order of custody as the father/respondent has been asked to leave the residence where my daughter lives. I would like him to see/establish visation to see her but believes he will not return her to me without an order thats legal. Would like him to see her before next court date but feel safer knowing I have a legal order in place temporarily.

M[redacted] M[redacted], being duly sworn, says that (s)he is the petitioner in the above named proceeding and that the foregoing petition is true to ~~his~~/her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes to be true.

Sworn to before me this 10th day of February, 2014

_____
(Deputy) Chief Clerk of the Court
Notary Public

x M[redacted] M[redacted]
Signature of Petitioner

**COURT ORI No: NY052023J **COUNTY: SULLIVAN
**ORDER No. 20___ ___ ___ **DATE OF ISSUANCE: _____
**DOCKET/INDEX: _____ **EXPIRATION DATE: _____

Enforcement Agency at which Copy of Order is Filed:
NAME: **Sullivan County Sheriff's Department **POLICE ORI: **NY0520000**

**ACTION TO BE TAKEN:
- ☒ New Order
- ☐ Order Modified/Finalized
- ☐ Corrected Information (Circle all corrected information on ALL documents)

**SERVICE OF ORDER:
- ☐ Police to Serve Order
- ☒ Other at work
- ☐ Order Served in Court (Date: _____)
- ☐ Notification by Mail (Mail Date: _____)
- ☐ Order Previously Served (Date: _____) (No new service to be done)

Your **APPLYING PARTY** (Party Requesting Order) **NOTE: ** are all required fields**

**NAME: (FIRST) M[redacted] (MIDDLE) A[redacted] (LAST) M[redacted]
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: [redacted]
(CITY) [redacted] (STATE) [redacted] **ADDR CONFIDENTIAL? ☐ YES ☒ NO
(ZIP) [redacted] (COUNTY) Sullivan **PROTECTED PARTY? ☐ YES ☐ NO
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): [redacted] | Phone (other ___): ( )
Employers Name: [redacted] | Phone (work): [redacted]
Employers Address: Home address |Hours of Employment:
**DATE OF BIRTH: [redacted] **SEX: ☐ MALE ☒ FEMALE | Social S[redacted]
**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN |Height: 5 2 | Eye Color: green
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 160 | Hair Color: blonde

his **ENJOINED PARTY** (Party Against Whom Order Runs)

**NAME: (FIRST) R[redacted] (MIDDLE) R[redacted] (LAST) H[redacted] | NYSID:
Alias or Nickname: (First) (Last)
**MAILING ADDRESS: ? unknown
(CITY) _____ (STATE) _____ **ADDR CONFIDENTIAL? ☐ YES ☐ NO
(ZIP) _____ (COUNTY) _____
**STREET ADDRESS: *(if different from mailing address)* _____
(CITY) (STATE) (ZIP)
Phone (home): ( ) | Phone (other): _____)
Employers Name: [redacted] | Phone (work): [redacted]
Employers Address: [redacted] |Hours of Employment: 40
**DATE OF BIRTH: 7[redacted] **SEX: ☒ MALE ☐ FEMALE | Social Security Number:
**RACE: ☒ WHITE ☐ BLACK ☐ NATIVE AMERICAN ☐ ASIAN/PACIFIC ISLANDER ☐ UNKNOWN |Height: 6 2 | Eye Color: blue
**ETHNICITY (select one): ☐ HISPANIC ☒ NON-HISPANIC | Weight: 240 | Hair Color: dark blonde

License Plate Number: State:
Drivers ID: State: | Mother's Maiden Name:
Is Police Caution Advised? If yes, why?

Hon. Michael McGuire

M[redacted] v. H[redacted]

3/10/14

11:16 ~ 11:24

STAPLES

CD-R

F-P# 16597

PENGAD 800-631-6989

EXHIBIT

Comm

Ex IX-2

80 minutes

700 MB

52x speed

1x - 52x compatible

www.product-support-staples.com

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 10, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

M[redacted] M[redacted] v. R[redacted] H[redacted]
Family File # 16597
Date of recording -March 10, 2014
11:16 -11 :24

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/10/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex IX-2

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

M[redacted] v. H[redacted]

March 10, 2014
11:16 A.M.

:

PENGAD 800-631-6989
EXHIBIT
Comm
EXIX-2a

1 JUDGE MCGUIRE: Good morning, folks.
2 MS. M[redacted] Good morning.
3 MR. H[redacted] Good morning, sir.
4 JUDGE MCGUIRE: All right. This is case 23 on
5 the docket, the *Matters of M[redacted] and H[redacted]*
6 MS. M[redacted] Yes.
7 JUDGE MCGUIRE: Can I have your names for the
8 record, please? You can be seated.
9 MR. H[redacted] Thank you.
10 MS. M[redacted] M[redacted] M[redacted]
11 MR. H[redacted] R[redacted] H[redacted]
12 JUDGE MCGUIRE: All right. Mr. H[redacted], I have a
13 petition that was filed by Ms. M[redacted] seeking custody of
14 R[redacted]. (Phonetic)
15 MR. H[redacted] Yes, sir.
16 JUDGE MCGUIRE: Do you acknowledge receipt of
17 that petition?
18 MR. H[redacted] Yes, sir.
19 JUDGE MCGUIRE: All right. I would advise that
20 you do have the right to be represented by an attorney at
21 every stage of these proceedings. You have a right to an
22 adjournment of today's proceedings in order to speak with
23 an attorney. If you cannot afford an attorney and you
24 qualify, I can assign an attorney to represent you free of
25 charge. Do you understand those rights?

1 MR. H[redacted] Yes, sir, I do.
2 JUDGE MCGUIRE: And are you seeking an
3 attorney in this matter?
4 MR. H[redacted] No, sir, I'm not. Thank you.
5 JUDGE MCGUIRE: All right. And Ms. M[redacted]
6 you understand the right to counsel?
7 MS. M[redacted] Yes.
8 JUDGE MCGUIRE: And are you seeking an
9 attorney in this matter?
10 MS. M[redacted] No.
11 JUDGE MCGUIRE: All right. So the allegations
12 are that Ms. M[redacted] is living in Mongaup Valley. She
13 doesn't know where the father is living and that the child
14 has been living with her since the parties split up on or
15 about February the 8th when Mr. H[redacted] left the shared
16 residence, leaving the child behind, right?
17 MS. M[redacted] Yes.
18 JUDGE MCGUIRE: So what are we going to do
19 with R[redacted]?
20 MS. H[redacted] She's going to remain with me.
21 JUDGE MCGUIRE: All right.
22 MS. H[redacted] She'll live with me. We would-- we
23 agreed on a Wednesday and Saturday visitation. R[redacted]
24 works overnight, so it's really hard for him to keep her
25 overnight.

1 JUDGE MCGUIRE: Where's he living?

2 MR. H[redacted] Oh, I live in Liberty, on [redacted].

3 [redacted].

4 COURT OFFICER: [redacted] what?

5 MR. H[redacted] [redacted] [redacted].

6 COURT OFFICER: Road?

7 MR. H[redacted] Yeah.

8 JUDGE MCGUIRE: [redacted]? And who are

9 you living there with?

10 MR. H[redacted] Myself.

11 JUDGE MCGUIRE: Living alone?

12 MR. H[redacted] Yeah.

13 JUDGE MCGUIRE: All right. So R[redacted] is not yet

14 two, right?

15 MR. H[redacted] Right.

16 JUDGE MCGUIRE: She turned-- she'll turn two

17 April 24th?

18 MR. H[redacted] Mm-hmm.

19 MS. M[redacted] Right.

20 JUDGE MCGUIRE: So she's not in school, so when

21 would Dad see her? Wednesday and Saturdays?

22 MR. H[redacted] Oh, I meant I can see her anytime

23 during-- after work. I get off at 8:00, I can take her pretty

24 much every time that....

25 JUDGE MCGUIRE: Is that what Mom is saying?

1 Her lip is quivering, so I'm not so sure that she's agreeing
2 with that.
3 MS. M[redacted] Well, I-- in a legality form, would
4 like it to be in writing--
5 JUDGE MCGUIRE: Right.
6 MS. M[redacted] --On Wednesday and Saturday. If
7 he'd like to see her anytime other than that, I agree to that.
8 JUDGE MCGUIRE: Yeah. It's called "such other
9 further and different."
10 MR. H[redacted] Yeah.
11 MS. M[redacted] Right.
12 JUDGE MCGUIRE: So Wednesday to Saturday,
13 Wednesday-- not Wednesday to Saturday, Wednesday and
14 Saturday?
15 MS. M[redacted] Right.
16 MR. H[redacted] Yeah.
17 JUDGE MCGUIRE: What hours?
18 MS. M[redacted] Well, he does work overnights,
19 again, so he needs to sleep, so I would agree afternoon, 2:00
20 to-- what's good? Because you go back to sleep before you
21 go back to work.
22 MR. H[redacted] Well, I mean, like, you-- we should
23 discuss it, but--
24 MS. M[redacted] We did.
25 MR. H[redacted] Yeah. So like, 6:30, 7-ish.

1 MS. M[redacted] Okay. So 2 to 7 on Wednesday.
2 JUDGE MCGUIRE: And then 2 to 7 on Saturday?
3 MR. H[redacted] Saturday--
4 MS. M[redacted] Well, Saturdays I work--
5 MR. H[redacted] --Saturday--
6 MS. M[redacted] -- And he doesn't work overnights
7 on Friday nights, so he's able to take her. He has been.
8 JUDGE MCGUIRE: And where do you work on
9 Saturday?
10 MS. M[redacted] I work in Liberty on Saturdays, so--
11 JUDGE MCGUIRE: Where?
12 MS. M[redacted] In Golden Shears.
13 JUDGE MCGUIRE: Okay.
14 MS. M[redacted] So--
15 MR. H[redacted] On Saturday, I'm free all day.
16 JUDGE MCGUIRE: Okay. So you don't work
17 overnight on Friday?
18 MR. H[redacted] No.
19 MS. M[redacted] Right.
20 JUDGE MCGUIRE: So what time do you go to
21 work? 10:00?
22 MS. M[redacted] Yeah, so--
23 JUDGE MCGUIRE: So do you want him--
24 MS. M[redacted] --10 to 5, about.
25 JUDGE MCGUIRE: Well, 10--

1 MS. M[redacted] That's what we've been doing.
2 JUDGE MCGUIRE: --Are you going to drop her
3 off?
4 MS. M[redacted] Yeah, quarter to 10. We've been
5 doing that.
6 JUDGE MCGUIRE: So let's say 9:30 till-- and if
7 it's a quarter to 10, it's a quarter to 10.
8 MS. M[redacted] Mm-hmm.
9 JUDGE MCGUIRE: 9:30 until-- what time do you
10 get off?
11 MS. M[redacted] Five.
12 JUDGE MCGUIRE: So, 9:30 to 5:30?
13 MS. M[redacted] [No response]
14 JUDGE MCGUIRE: Right?
15 MS. M[redacted] That's good.
16 JUDGE MCGUIRE: And then such other further
17 and different periods of parenting time as the parties can
18 agree. The Children's' Bill of Rights would be part of the
19 order as well. That says that each of you have full access to
20 her medical and education records, that there should be
21 consistency in the routines in the two houses, there's to be
22 no disparaging comments made to or in the presence of the
23 child about the other party, their homes, their paramours,
24 their friends, whatever the case may be.
25 MS. M[redacted] Right.

1 JUDGE MCGUIRE: Those issues-- those are adult
2 issues and they're to be discussed with the two of you.
3 MS. M[redacted] Right.
4 JUDGE MCGUIRE: All right?
5 MS. M[redacted] Yes.
6 MR. H[redacted] Yes, sir.
7 JUDGE MCGUIRE: That's acceptable to both of
8 you?
9 MS. M[redacted] Absolutely.
10 MR. H[redacted] Yeah.
11 JUDGE MCGUIRE: Okay. Any alcohol or drug
12 problems--
13 MS. M[redacted] No.
14 JUDGE MCGUIRE: -- That we should be aware of?
15 MR. H[redacted] No, sir.
16 MS. M[redacted] No.
17 JUDGE MCGUIRE: No? Okay. So let's swear in
18 the parties.
19 COURT OFFICER: Could I have the parties stand
20 and raise their right hand? Do you swear to tell the truth,
21 the whole truth and nothing but the truth? Ma'am?
22 MS. M[redacted] Yes.
23 COURT OFFICER: Sir?
24 MR. H[redacted] Yes, I do.
25 COURT OFFICER: Sir, drop your hand and remain

1 standing.

2 JUDGE MCGUIRE: Okay. So, Ms. M[redacted] and Mr.
3 H[redacted] we're going to settle this case with an order of joint
4 legal custody, physical custody to Ms. M[redacted] parenting
5 time to Mr. H[redacted] on Wednesdays and Saturdays, plus some
6 additional time as the parties can agree with the Children's'
7 Bill of Rights. You understand that?

8 MS. M[redacted] Yes.

9 MR. H[redacted] Yes, sir.

10 JUDGE MCGUIRE: All right. Now, Ms. M[redacted]
11 you were advised of your right to have an attorney?

12 MS. M[redacted] Yes.

13 JUDGE MCGUIRE: And you waive that right?

14 MS. M[redacted] Yes.

15 JUDGE MCGUIRE: All right. Are you comfortable
16 moving forward with this disposition without speaking to an
17 attorney?

18 MS. M[redacted] Yes.

19 JUDGE MCGUIRE: Is anybody forcing,
20 threatening, or coercing you into entering into this
21 agreement?

22 MS. M[redacted] No.

23 JUDGE MCGUIRE: Has anyone made any
24 promises to you other than the promises contained in the
25 agreement?

1 MS. M[redacted] No.

2 JUDGE MCGUIRE: Do you agree to abide by and

3 be bound by this agreement?

4 MS. M[redacted] Yes.

5 JUDGE MCGUIRE: Do you believe it's in the best

6 interest of your daughter?

7 MS. M[redacted] Yes, I do.

8 JUDGE MCGUIRE: All right. You may be seated.

9 And Mr. H[redacted] you understand what's happening here today?

10 MR. H[redacted] I do.

11 JUDGE MCGUIRE: And you were advised of your

12 right to have an attorney?

13 MR. H[redacted] Yes, I have.

14 JUDGE MCGUIRE: You waive that right?

15 MR. H[redacted] I do.

16 JUDGE MCGUIRE: All right. Are you comfortable

17 moving forward with this disposition without speaking to an

18 attorney?

19 MR. H[redacted] Yes, I do.

20 JUDGE MCGUIRE: Is anybody forcing,

21 threatening, or coercing you to enter into this agreement?

22 MR. H[redacted] No, sir.

23 JUDGE MCGUIRE: Has anyone made any

24 promises to you other than the promises contained in the

25 agreement?

1 MR. H[redacted] No, sir.
2 JUDGE MCGUIRE: Do you agree to abide by and
3 be bound by this agreement?
4 MR. H[redacted] I do.
5 JUDGE MCGUIRE: Do you believe it's in the best
6 interest of your daughter?
7 MR. H[redacted] I do.
8 JUDGE MCGUIRE: All right. You may be seated.
9 MR. H[redacted] Thank you.
10 JUDGE MCGUIRE: I want to let the two of you
11 know that I have caused a search to be made of the
12 registries of Child Abuse and Maltreatment, the Sex
13 Offender Registry, and the Registry of Warrants of Arrest
14 and have taken into consideration the results of those
15 searches in approving this order. All right? So you-- that
16 order is in effect as of today, but you won't have a written
17 order for about a week. All right? We'll have to make-- we
18 need to make sure that we have a good mailing address for
19 each of you, so Mr. H[redacted] what's a good mailing address for
20 you?
21 MR. H[redacted] [redacted],
22 [redacted]
23 JUDGE MCGUIRE: Okay. You get mail there?
24 MR. H[redacted] Yes.
25 JUDGE MCGUIRE: All right. And Ma'am?

1 MS. M[redacted]
2 [redacted]
3 JUDGE MCGUIRE: Okay. And you get your mail
4 there?
5 MS. M[redacted] Yes.
6 JUDGE MCGUIRE: All right. So, the two of you
7 had a relationship, produced a child, and now you don't
8 have a relationship. I don't know what went wrong in your
9 relationship, but somehow, somehow, some reason in
10 February caused Mr. H[redacted] to leave. Doesn't mean he was at
11 fault, doesn't mean Ms. M[redacted] was at fault, it certainly
12 doesn't mean R[redacted] was at fault. Whatever occurred, the
13 two of you don't have a relationship, but you have a bond
14 for at least the next 20 years or so, and that bond is called
15 R[redacted]. So it's very important I can notice that the two of
16 you are being civil to one another and you need to continue
17 to do that because that's in your child's best interest. If I
18 was to ask R[redacted], she would say she would want mommy
19 and daddy to be together and sometimes that doesn't always
20 work. And she can be very comfortable with a different
21 situation. But if she has to endure battles, and she has to
22 endure anyone that Mr. H[redacted] dates is a drug addict, a slut,
23 whatever, or anyone that Ms. M[redacted] dates is a drug addict,
24 a slut, a child abuser, whatever, then she is going to have a
25 very difficult time of this. Okay? So keep that in mind if

1 you do date that you don't introduce that person to your
2 daughter until you think it's going to be someone who's
3 going to be stable. And hopefully, the two of you will have
4 good judgment in dealing with that. I wish you the best of
5 luck. In the future, if you have problems, the Court will be
6 here to help you if you need me.
7 MS. M[redacted] Okay.
8 JUDGE MCGUIRE: Okay?
9 MR. H[redacted] Thank you.
10 MS. M[redacted] Thank you.
11 JUDGE MCGUIRE: Good luck, folks.
12 MS. M[redacted] Thank you.
13 MR. H[redacted] Take care.
14 JUDGE MCGUIRE: Mm-hmm.
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on March 10, 2014.
7
8
9 Dated: February 21, 2017

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK
ONEONTA CITY COURT
Public Safety Building
81 Main Street, Oneonta, NY 13820
Phone: 607-376-5380 Fax: 646-963-6433
Hours: 8:00 am to 4:00 pm

Hon. Lucy P. Bernier
Judge

Hon. Richard W. McVinney
Judge

Catherine J. Tisenchek
Chief Clerk

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL CONDUCT

FROM: ONEONTA CITY COURT

DATE: JANUARY 28, 2019

RE: PEO V. W[redacted] M[redacted]
DOCKET NO. 2012-0810

This is to certify that this is a true copy of the original papers filed in this court.

Catherine J. Tisenchek, Chief Clerk
Oneonta City Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex-X-1

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

646-386-4800 TELEPHONE
646-458-0038 FACSIMILE
www.cjc.ny.gov

2017 JUN -5 AM 8:23

JOSEPH W. BELLUCK, CHAIR
PAUL B. HARDING, VICE CHAIR
HON. ROLANDO T. ACOSTA
JOEL COHEN
JODIE CORNGOLD
HON. JOHN A. FALK
TAA GRAYS
HON. LESLIE G. LEACH
RICHARD A. STOLOFF
HON. DAVID A. WEINSTEIN
AKOSUA GARCIA YEBOAH
MEMBERS

JEAN M. SAVANYU, CLERK

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

MARK LEVINE
DEPUTY ADMINISTRATOR

PAMELA TISHMAN
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ
BRENDA CORREA
SENIOR ATTORNEYS

KELVIN S. DAVIS
DANIEL W. DAVIS
STAFF ATTORNEYS

ALAN W. FRIEDBERG
SPECIAL COUNSEL

CONFIDENTIAL

June 1, 2017

Ms. Catherine Tisencheck
Oneonta City Court
81 Main Street
Oneonta, NY 13820

Re: 2015/N-0331

Dear Ms. Tisencheck:

Pursuant to an unsealing order of the Honorable Michael V. Coccoma, Deputy Chief Administrative Judge, a copy of which is enclosed, the Commission on Judicial Conduct respectfully requests a copy of the court case files for *People v W[redacted] M[redacted]*.

Please feel free to contact me or Principal Attorney Pamela Tishman at 646-386-4800 if you have any questions. Thank you for your attention and cooperation in this matter.

Very truly yours,

Mark Levine
Deputy Administrator

Enclosure

RECEIVED
2017 JUN -5 AM 8: 24

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

In the Matter of Releasing Official Records and Papers to the New York State Commission on Judicial Conduct.

ORDER

It appearing from the affirmation of Robert H. Tembeckjian, Administrator of the New York State Commission on Judicial Conduct ("Commission"), and the papers submitted herein, that the following case is a criminal action:

People v W[redacted] M[redacted];

and it further appearing that the official records and papers including transcripts and/or audio recordings in this case reasonably relate to an inquiry being conducted by the Commission pursuant to Article 6, Section 22, of the Constitution and Article 2-A of the Judiciary Law; and it further appearing that justice and the public interest require that the official records and papers, including transcripts and/or audio recordings, if any, be released to the Administrator of the Commission; and it further appearing that such a release is appropriate; pursuant to Judiciary Law Section 42, subdivision 3, it is

ORDERED that the official records and papers, including transcripts and/or audio recordings, if any, in the above-listed case be released to the Administrator of the New York State Commission on Judicial Conduct for use in an inquiry conducted pursuant to Article 6, Section 22, of the Constitution and Article 2-A of the Judiciary Law; and it is

FURTHER ORDERED that this Order and its supporting papers be sealed pending further order of this Court.

Dated: MAY 25, 2017

Hon. Michael V. Coccoma

M[redacted], W[redacted] M[redacted]

DOCKET NO. 2012-0810
VIOL DATE 09-20-2012
ARREST DATE 09-20-2012
ARRAIGN DATE 10/3/12

d/o/b: [redacted] APPEAR: 10-03-2012 CO-DEFT:

ATTORNEY: Mc Guire (AC) BAIL: .00

CHG #1: PL-221.05 -V - A/C:-N-001 DESC:UNLAW POSS MARIHUANA
CHG #2: A/C: DESC:
CHG #3: A/C: DESC:
CHG #4: A/C: DESC:
CHG #5: A/C: DESC:
OP ISSUED: OP EXPIRE: FO:
ARRESTING AGENCY/CASE #
STATE UNIVERSITY POLICE

JUDGE: WARRANT RETURNED:

OTHER:

10-3-12
D. here - is hiring atty
11/27/12 atty cont
8:15 a.m.

11/27/12
Zack Kelson
Delhi

12/5 8:30 a.m.

Adj 1/29/13 per atty - 2/12/13 per atty holiday
Adj 2/26/13 - Atty Michael McGuire App to
submit ACOD Application BY 4-12-2013
RESPOND BY 5-10-2013 - Then give file
to RWM
Control 6-14-13

STATE OF NEW YORK

CITY COURT

20 12-0810

COUNTY OF OTSEGO

CITY of ONEONTA

Defendant: NA
(Relationship to alleged victim)

Alleged Victim: NA
(Relationship to defendant)

THE PEOPLE OF THE STATE OF NEW YORK

-VS.-

	Date of Birth
W[redacted] M M[redacted]	[redacted]

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this INFORMATION, C P BRUNNER, as the Complainant herein, STATIONED at SUNY AT ONEONTA, accuses the above mentioned Defendant(s), with having the VIOLATION, of UNLAWFUL POSSESSION MARIHUANA in violation of Section 221.05, Subdivision _____ of the PENAL Law of the State of New York.

That on or about 9/20/2012 at about 05:52 PM in the CITY of ONEONTA, County of OTSEGO, the defendant(s)

A PERSON IS GUILTY OF UNLAWFUL POSSESSION OF MARIHUANA WHEN HE KNOWINGLY AND UNLAWFULLY POSSESSES MARIHUANA.

FACTS

ON THE ABOVE DATE AND TIME THE DEFENDANT DID KNOWINGLY AND UNLAWFULLY POSSESS MARIHUANA. THE DEFENDANT WAS FOUND NEAR THE ONEONTA CITY WATER TOWER BEHIND THE MACDUFF RESIDENT LOT WITH A GLASS SMOKING PIPE WHICH HE KNEW TO BE RESINATED WITH MARIHUANA. PER THE DEFENDANT'S OWN ADMISSION, HE HAD BEEN USING THE PIPE TO SMOKE MARIHUANA WITH A[redacted] N. S[redacted], J[redacted] A. E[redacted], AND M[redacted] W. F[redacted] WHO WERE ALSO PRESENT.

RECEIVED
ONEONTA CITY COURT
2012 SEP 21 AM 11:4

The above allegations of fact are made by the Complainant herein on direct knowledge.

WHEREAS, an Appearance Ticket was issued to the said Defendant, directing him to appear before this court at 08:30 AM on OCTOBER 03, 2012

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Affirmed under penalty of perjury
this 20th day of SEPTEMBER, 2012

Clifford P Brunner CPB
COMPLAINANT -

-OR-

Subscribes and sworn to before me this _____ day of _____, 20 _____

2012-0810

APPEARANCE TICKET*
SUNY ONEONTA PD

Issued To: W[redacted] M M[redacted] [redacted]

NAME OF DEFENDANT | DATE OF BIRTH

[redacted] [redacted] [redacted] [redacted]

STREET AND NUMBER | CITY OR TOWN | STATE | ZIP CODE

You are hereby directed to appear in the court described below on

10/03/2012 at 08:30 AM in connection with your alleged

commission of the offense of UNLAWFUL POSSESSION MARIHUANA contrary to the

provisions of section 221.05 of the PENAL law.

Name of court ONEONTA CITY COURT

Location of court 81 MAIN ST. ONEONTA NY 13820

* NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:

Mark Cardinale 29

SIGNATURE OF MEMBER | SHIELD

CAMPUS

TZS / DIVISION/PRECINCT

09/20/2012

DATE ISSUED

RECEIVED
ONEONTA CITY COURT
2012 SEP 21 AM 11:14

2012-0810

1. NYSID No.	2. CJTN No.	New York State ARREST REPORT		4. Ref. No.
			12C440091	
5. FBI No.	6. Arrest No. 2335	7. Agency STATE UNIVERSITY OF NEW YORK A NY0380400	8. Div/Precinct POST3	4a.

2335

DEFENDANT INFORMATION

9. Name (Last, First, Middle)						11. Phone Number
M[redacted], W[redacted], M						[redacted]
12. Street Number and Name, Bldg. No., Apt. No.			13. City, State, Zip			14. Residence Status
[redacted]			[redacted]			RESIDENT
15. Place of Birth	16. D.O.B.	17. Age	18. Gender	19. Race		20. Ethnicity
USA	[redacted]	20	MALE	WHITE		NOT HISPANIC
21. Skin	22. Height	23. Weight	24. Hair	25. Eyes	26. Glasses	27. Build
MEDIUM	5 ft. 10 in.	145 lbs.	BROWN	GREEN	YES	MEDIUM
28. Marital Status	29. U.S. Citizen	30. Citizen Of				
SINGLE (NEVER MARRIED)	YES	USA				
31. Soc. Sec. No.	32. Education	33. Religion	35. Employed			
	COLLEGE YEARS (ENTER 13-16) - 14	CATHOLIC	STUDENT			
34. Occupation						
STUDENT						
36. Scars/Marks/Tattoos Description						

RECEIVED ONEONTA CITY COURT 2012 SEP 21 AM 11: 13

ARREST INFORMATION

37. Arresting Officer/ID	39. Assisting Officer/ID	41. Arrest Date	42. Time
BRUNNER C OFFICER 21	CARDINALI MARK OFFICER 29	09/20/2012	17:52

43. Location of Arrest	44. Juvenile	45. Condition of Defendant
WOODS BEHIND MACDUFF RESIDENT LOT ONEONTA, NEW YORK 13820	NO	APPEARS TO BE IMPAIRED WITH DRUGS

48. Miranda	49. Miranda By	50. Miranda Date	51. Miranda Time
YES	BAKER WILLIAM LT	09/20/2012	18:01

52. Statements	54. Search Warrant	55. ID Procedure
VERBAL	NO	NONE

56. Arraign. Court	57. Arraign. Judge
ONEONTA CITY COURT NY038011J	L BERNIER

58. Arraign. Date	59. Arraign. Time	60. Property	61. Evidence	61a. Processed By
10/03/2012	08:30	YES	YES	BRUNNER

61b. Disposition	63. Arrestee Status	64. Bail Amount
EVIDENCE	APPEARANCE TICKET	

65. Bondsman	66. Photo No.	67. Arrest Type	68. Warrant No.
		CRIME IN PROGRESS	

69. Arrest FOA	70. Other Agency	71. F/P Taken
NO		NO

76. Return Court	77. Return Judge

78. Date	79. Time	80. Defendant/Case TOT Agency	80a. Officer Name

81. Case TOT Time	82. Case TOT Date	43a. CTV Code
		ONEONTA CITY 3901

2012-0810

INCIDENT INFORMATION

62. Incident No.	72. Offense Location	73. Offense Date/Time	74. No.Offender	75. No.Victims	Incident Case No.
20965	ONEONTA CITY 3901	09/20/2012 17:29	4	1	12C440091

OFFENSE INFORMATION

83. LAW Article/Section SUB	CL	CAT	DEG	ATT	NAME OF OFFENSE	CTS	NCIC Code	Victim Age Sex Hdcp	ASSOC NO	TYPE
PL 221.05		V	0	C	UNLAWFUL POSSESSION MARIHUANA	1	3562			
								Incident Number: 20965		

86. Arresting Officer Signature	87. ID No.	88. Supervisor Signature	89. ID No.
90. Arrest Made as a Result of SAFIS Print ID? NO	91.	92.	

RECEIVED
ONEONTA CITY COURT
2012 SEP 21 AM 11:13

ONEONTA CITY COURT - THE STATE OF NEW YORK

PERSONAL DATA (FOR COURT USE ONLY)

DATE: 10/3/12 **TIME OF ARRIVAL:** 8 **A.M.**

Full Name: N[redacted] M[redacted] M[redacted] **Date of Birth:** [redacted]

Residence Address: [redacted]

Street & Number City State Zip Code

Mailing Address: (If different from residence):

Telephone No. [redacted] **Cell PhoneNo.** [redacted]

If you wish to have future correspondence and/of fine letters, etc. forwarded to you through an email address or fax number, please complete:

EMAIL ADDRESS..... **FAX #**.....

Employer's Name:..... **Telephone No.**.....

Employer's Address.....

Is an attorney representing you today? (Y/N) Name of Attorney:.....

PLEASE GIVE THE COMPLETED FORM TO THE COURT OFFICER IN THE COURTROOM.

ONEONTA CITY COURT - THE STATE OF NEW YORK

PERSONAL DATA (FOR COURT USE ONLY)

DATE: 11/27/12 **TIME OF ARRIVAL:** 8:00 **A.M.**

Full Name: W[redacted] M[redacted] M[redacted] **Date of Birth:** [redacted]

Residence Address: [redacted]

Street & Number City State Zip Code

Mailing Address: (if different from residence):

Telephone No [redacted] **Cell PhoneNo**

If you wish to have future correspondence and/of fine letters, etc. forwarded to you through an email address or fax number, please complete:

EMAIL ADDRESS **FAX #**

Employer's Name: **Telephone No**

Employer's Address

Is an attorney representing you today? (Y/N) Name of Attorney

PLEASE GIVE THE COMPLETED FORM TO THE COURT OFFICER IN THE COURTROOM.

****

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 607-432-2328

People v. M[redacted]

Dear Ms. Tisenchek:

Enclosed please find my Notice of Appearance for the above captioned matter currently scheduled for an Appearance on Wednesday December 5, 2012, at 8:30 AM. Please be advised that I will be actually engaged in various matters in both County Court and Family Court on December 5, 2012 and thereafter, on December 6 I will commence the Trial of the mater of the People of the State of New York v. B[redacted] H[redacted] which is anticipated to continue for approximately 2 weeks in the County Court, Sullivan County. Accordingly, I have provided herewith an Affirmation of Actual Engagement and would respectfully request the instant matter be adjourned for a period of time. Likewise, by this letter, I would request production of a proper accusatory instrument setting forth facts, of an evidentiary character to establish each of the elements of the charged offense and the defendant's commission thereof. Finally, by this submission, I would respectfully request production the lab report setting forth the nature of quality of the substance alleged to have been possessed by Mr. M[redacted].

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NOTICE OF APPEARANCE

W[redacted] M[redacted]

Defendant.

_____X

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,

MICHAEL F. McGUIRE, Esq
[redacted]

CITY COURT: CITY OF ONEONTA
COUNTY OF OTSEGO : STATE OF NEW YORK
----------X
PEOPLE OF THE STATE OF NEW YORK,

-against-

AFFIRMATION OF ACTUAL ENGAGEMENT

W[redacted] M[redacted]

Defendant
----------X

MICHAEL F. McGUIRE, an attorney duly licensed to practice law in the State of New York, does hereby affirm, under penalty of perjury, as follows:

1. I represent Defendant herein, W[redacted] M[redacted]

2. On or about November 27, 2012, I was Notified by my client that the instant matter was scheduled for an Appearance, at 8:30 A.M. on December 5, 2012.

3. On November 30, 2012 it was determined that I would be representing Mr. M[redacted] in these proceedings.

4. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Regina Roberts, in the County Court of Sullivan County.

5. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Joseph Strong, in the County Court of Sullivan County.

6. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Annibal Santiago, in the County Court of Sullivan County.

7. On December 5, 2012 commencing at 1:30 P.M. I will be Actually Engaged in a Proceeding in the matter of C[redacted] v. C[redacted], in the Family Court of Sullivan County.

1/24

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 8, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

I spoke with a member of your staff on yesterday regarding scheduling of the above captioned matter. Reference the Affirmation of Actual Engagement submitted previously; my trial, which was expected to last for two weeks, settled and therefore I am available during the week of December 10, 2012. Regrettably, I was advised that the captioned matter cannot be placed on the calendar that week, but rather had been placed on the calendar for January 29, 2013. I advised the member of your staff, who I spoke with, that I am scheduled for a trial that day in Family Court, Sullivan County and therefore, I would respectfully request that the captioned matter be scheduled for February 12, 2013. I both apologize for any inconvenience caused by these requests and appreciate the accommodations as I am traveling quite a distance which requires me to clear most of an entire day. I have cleared my calendar for the morning of the 12th of February and can assure that I will not need to request further adjournments absent some unforeseen exigency.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(via Fax: 607-547-4373)*

Oneonta City Court
81 Main Street
Oneonta, New York 13820
Telephone: (607) 432-4480

Lucy P. Bernier
Richard McVinney
City Court Judge(s)

Catherine Tisenchek
Chief Clerk

December 11, 2012

MICHAEL F. MCGUIRE, ESQ.
ATTORNEY AT LAW
111 SULLIVAN AVENUE, SUITE 2-5
FERNDALE, NY 12734

PEOPLE vs. W[redacted] M[redacted]
DOCKET NO. 2012-0810
(1) PL-221.05 -V - (2)
(3) (4)

The above matter has been adjourned by the Court or at the request of the defendant/People.

The next scheduled Court appearance is: **02-12-2013 at 08:15 AM.**

Kindly advise your client of this adjournment. Failure to appear could result in forfeiture of any bail posted in this matter.

Catherine Tisenchek

~~COURT~~ CLERK

CC: CITY PROSECUTOR
Bailor (if applicable): SCANNED

Case was previously scheduled for 1-29-13

Oneonta City Court
81 Main Street
Oneonta, New York 13820
Telephone: (607) 432-4480

Lucy P. Bernier
Richard McVinney
City Court Judge(s)

Catherine Tisenchek
Chief Clerk

December 19, 2012

MICHAEL F. MCGUIRE, ESQ.
ATTORNEY AT LAW
111 SULLIVAN AVENUE, SUITE 2-5
FERNDALE, NY 12734

SCANNED
filed - mailed

PEOPLE vs. W[redacted] M[redacted]
DOCKET NO. 2012-0810
(1) PL-221.05 -V - (2)
(3) (4)

The above matter has been adjourned by the Court or at the request of the defendant/People.

The next scheduled Court appearance is: **02-26-2013 at 08:15 AM.**

Kindly advise your client of this adjournment. Failure to appear could result in forfeiture of any bail posted in this matter.

Catherine Tisenchek
COURT CLERK

SCANNED

CC: CITY PROSECUTOR
Bailor (if applicable):

Case was previously scheduled for 2-12-13 (this is a court holiday

MICHAEL MCGUIRE ESQ.
[redacted]

mailed to both addresses

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

April 8, 2013

HON. RICHARD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RECEIVED
APR 10 2013
ONEONTA CITY COURT

RECEIVED
APR 01 2013
ONEONTA CITY COURT

RE: People v. M[redacted]
Docket # 2012-0810

Dear Judge McVinney;

Enclosed herewith please find a Notice and Omnibus Motion in regard to the above captioned matter. By separate cover, a copy of these papers have been simultaneously provided to the Assistant District Attorney handling the matter, Mr. Getman.

Thank you, in advance, for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very Truly Yours,

Michael F. McGuire, Esq.

Cc: Michael Getman, Esq

CITY COURT : CITY OF ONEONTA:
STATE OF NEW YORK : COUNTY OF OTSEGO
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

-Against-

W[redacted] M[redacted],

Defendant
----------X

RECEIVED
APR 10 2013
ONEONTA CITY COURT

NOTICE OF MOTION

RECEIVED
APR 01 2013
ONEONTA CITY COURT

PLEASE TAKE NOTICE, that upon the annexed affirmation of Michael F. McGuire Esq., attorney for Defendant, W[redacted] M[redacted], and all prior orders, pleadings and proceedings had herein, the undersigned will move this court located at the City of Oneonta Court Court, Oneonta, New York before, Hon. Richard McVinney, on the 10th day of May, 2013 at 9:00 o'clock in the forenoon of that day, or soon thereafter as the parties can be heard, for an:

ORDER: Granting to the defendant the dismissal of the charges herein pursuant to sections 170.30(1)(g) and 170.40 of the Criminal Procedure Law, upon the ground that the conviction or prosecution of the above named defendant by such accusatory instruments would constitute or result in injustice; and for an

ORDER: Dismissing of the accusatory instruments pursuant to CPL §100.40; and for an

ORDER: Precluding the prosecution from using any statements of the Defendant, in their case in chief which have not been noticed, pursuant to §710.30 of the Criminal Procedure Law within 15 days of Arraignment on the instant charge; and for an

ORDER: Granting suppression of any such statements sought to be offered by the People, in their case in chief, as taken in violation of the Defendant's rights under the Constitution of the State of New York and the United States Constitution; and for an

ORDER: Granting defendant a Huntley Hearing to determine the admissibility of any such statements properly noticed pursuant to the mandates of the Criminal Procedure Law; and for an

ORDER: Granting the Defendant an Adjournment of the Matter in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law of the State of New York' and

For such other further relief as to this court may seem just and proper.

Dated: Liberty, N.Y.
April 6, 2013

MICHAEL F. McGUIRE, ESQ
Attorney for W[redacted] M[redacted]

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

AFFIRMATION IN SUPPORT

-Against

M[redacted] H[redacted]

Defendant.

----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about September 20, 2012 defendant was charged upon An Appearance Ticket, with one count of UNLAWFUL POSSESSION OF MARIHUANA, pursuant to §221.05 of the Penal Law of the State of New York.

3. On or about October 3, 2012 Defendant was arraigned in the City of Oneonta Court, before, Hon. Lucy P. Bernier and entered a plea of Not Guilty to all counts.

4. Defendant has not been served with any Notice pursuant to §710.30 of the Criminal Procedure Law providing that the people intended to offer any statements, of the defendant, during their case in chief.

5. At the time of his arrest, defendant was a 20 year old (DOB [redacted]) second year student at the State University of New York, College at Oneonta

6. Defendant is a graduate of Liberty Central School District where he was actively involved in Interscholastic Athletics, was treasurer of his class and graduated with honors. He has been employed for the past several years at the Bethel Woods Center for the Arts most recently as a crew supervisor for the state of the art concert venue in Sullivan County, New York. Prior to the instant matter he had never been arrested, charged, prosecuted for, or convicted of any offense, of any level under the Laws of this or any other state, territory or nation. Indeed, Mr. M[redacted] has never received so much as a traffic infraction.

7. Although a formal long form accusatory instrument has not been received in conjunction with the instant matter, the Defendant does acknowledge receipt of the following recitation of facts provided by Assistant District Attorney, Michael Getman, which the defendant is prepared to deem a Supporting Deposition.

8. On information and belief the source of which is information received from Mr. Getman, on or about September 20, 2012 University Police officers Brunner and Skovira where on a routine bike patrol when they detected what they believed, presumably based upon their own experience, to be the smell of burning marihuana in a wooded area East of the MacDuff Hall Parking lot.

9. Upon investigating the odor, Mr. M[redacted] along with co-defendants M[redacted] R[redacted], A[redacted] S[redacted] and J[redacted] E[redacted] were found in said area and a glass pipe, believed to be resonated with marihuana was found on the ground next to them. It must be noted that there have been no

chemical or scientific tests administered on said pipe to determine if the residue contained therein was marihuana, however the officer proceeding on a mere hunch believed such to be true, without further investigation or confirmation .

10. Initially, each of the four young men denied ownership of the pipe and exercising their constitutional rights refused to respond to the officer's inquiry. The officers, interpreted this exercise of their constitutional right, to remain silent, as the young men being uncooperative by refusing to answer questions. Thereafter, the officers determined that since no owner could be determined, from the information available, they would place all 4 males under arrest.

11. It must be noted that, according to information received from Mr. Getman, after being advised that all 4 of the men were under arrest, co-defendant M[redacted] R[redacted] stated the pipe belonged to him, which in a light most favorable to the University Police Officers should have ended the matter as to the remaining three students.

12. After deciding to arrest all 4 males, charging each with unlawful possession of marihuana, the officers placed each of the 4 males in handcuffs and transported them back to the University Police Office for processing.

13. Prior to advising any of the students of their rights, pursuant to *Miranda,* the Police, after placing the four student under arrest, continued to question all four of the boys, (in violation of their Constitutional rights) who, based upon information received from Mr. Getman, admitted smoking marihuana from the pipe and all 4 admitted to purchasing the marihuana. However, it

should be noted that when the boys refused to disclose who the marihuana was purchased from they were all once again deemed uncooperative because they would not provide a name.

14. The four students were subsequently issued Desk Appearance Tickets and directed to appear in the City of Oneonta Court on October 3, 2013.

15. With respect to Defendant M[redacted], although the attorney retained to address these issues, was unavailable to appear, on November 27, 2012, (the adjourn date following the October 3, 2012 arraignment) but, on information and belief the source of which is my discussion with the former attorney, he had been advised that this Court ***did not recognize*** the provisions of Criminal Procedure Law §170.56, providing for an Adjournment in Contemplation of Dismissal when certain enumerated criteria are satisfied and offered only that the Defendant ***must*** enter a plea of guilty to the charge, an amended charge, outside of §221 of the Penal Law or stand trial. It must be noted that no lab report has yet been provided to establish the nature and content of the residue on the subject pipe. Therefore, although the People seem to have been forcing either a plea or trial, they were no yet able to announce readiness for trial since that had no scientific evidence to establish the nature and quality of the substance alleged to be Marihuana.

16. Because this matter occurred on the SUNY Campus, the University, clearly not ascribing to the Constitutionally protected presumption of innocence, preferring instead to mead out punishment without concern for guilt or non guilt by any standard directed that Mr. M[redacted]

enroll in and complete an educational program regarding marihuana which he has done, with the full support of his parents.

17. The defendant along with counsel appeared on February 26, 2013 and was advised by the Court (Hon. Richard McVinney) that any application for dismissal or ACD must be made on papers.

18. This Affirmation is offered in support of Defendant's Motion for a dismissal in the Interest of Justice, for Dismissal based upon insufficiency of the accusatory instrument (§100.40 CPL) or an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS IN THE INTEREST OF JUSTICE

19. In is respectfully submitted that the Court should issue an order pursuant to Criminal Procedure Law §170.30(1)(f) dismissing the instant matter on the ground that dismissal is required in furtherance of justice, within the meaning of Criminal Procedure Law §170.40, in that compelling factors and circumstances exist which clearly demonstrate that conviction or prosecution of the defendant upon the aforesaid accusatory instrument would constitute or result in injustice.

20. It is most respectfully submitted that it is within the discretion of this Court to dismiss the charges in the furtherance of justice pursuant to Criminal Procedure law §§170.30 and 170.40. Criminal Procedure Law §170.40 is the statutory codification of the criteria to be

Students for sensible Drug Policy Foundation v. Spellings, 523 F3rd 896 (8t Cir 2008). The federal statute applies to convictions while the person is a student, rather than to earlier periods when the person was not a student. A conviction for even a violation level offense of Unlawful Possession of Marihuana, as is the charge in the case at bar, ***will result*** in a one year bar on the student's ability to ***secure a student loan***, effectively preventing the individual for continuing his education at SUNY Oneonta, clearly not a consequence contemplated by the University in authorizing the instant arrest and clearly forming the compelling basis for the provisions set forth under §170.56 as provided herein below.

25. The Extent of Harm Caused by the Offense : As stated previously the extent of harm cased by the conviction will dwarf the extent of harm caused by the offense. Indeed, given recent events involving marihuana across this country and given that Mr. M[redacted] enjoys an ***impeccable reputation*** both on the campus as well as in his home community and when considering that none of the co-defendants were operating a vehicle, there was no indicia of violence, or sale, no indicia of children in the area, indeed there is truly no reliable basis upon which to conclude that any or all of the students charged had even consumed any marihuana, its seems absurd to refer to any harm caused by the offense. Clearly there are social issues which transcend the penal law, and the use or abuse of alcohol and drugs, particularly on college campuses creates the potential for problems, both academically and socially and those problems have existed on our campuses for however long there have been college campuses.

26. The Legislature, however, clearly recognized the relative lack of harm caused by this offense, when, in 1977, it passed the Marihuana Reform Act. Through this legislative

enactment, the Legislature made clear their intent to reduce penalties for both possession and sale of marihuana and took the particular step of decriminalizing the possession of a small amount of marihuana. This purpose was further emphasized by the excision of marihuana offenses from the ambit of Article 220 (drug cases). In the unconsolidated portion of the legislation the Legislature expressed its findings and its purpose:

> The Legislature finds that arrests, criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. The Legislature does not encourage or condone the recreational use of marihuana or any other drug. Rather the purpose of this act is to insure that the many people in New York who commit the conduct ***not be subjected to unduly harsh sanctions***. L.1977 c. 360 §1.

27. In the case at bar, we have a young man who, in a light most favorable to the prosecution shared, along with 3 other individuals, a single pipe of marihuana, none were acting in a manner as to create a reasonable expectation of harm to anyone and at least with respect to Mr. M[redacted], he is a student in very good standing academically (I have no information about the academic standing of the other students involved), he has no record of disciplinary involvement on the campus or in the dormitories, he attends each of his classes regularly as scheduled and participates in a variety of healthy campus centered recreational activities, indeed this is not a student who, because of an abuse of drugs or alcohol, is likely to bring harm to himself or others; physically, emotionally or mentally. The real harm here lies not in the crime but in the prosecution.

28. <u>History, Character, and Condition of the Defendant:</u> W[redacted] M[redacted] is a second year student at SUNY Oneonta he graduated from Liberty High School in 2011 where he enjoyed an outstanding reputation as a student athlete. He was treasurer of his class for four

during encounters with law enforcement People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 AD2d 934 (4th Dept, 1988); People v. Santiago, 132 AD2d 942 (4Th Dept, 1988). Clearly, the officers had no additional indicia of criminal activity afoot after questioning the subjects then they did before and yet, according to the officers it was this "failure to cooperate" that provided the justification, in the minds of the officers, to arrest four individuals for possession of an item found abandoned in the woods. Thereafter, according to the officers, after placing the four under arrest for possession of this item, they failed to advise them of their rights under *Miranda*, yet continued to question the four eliciting certain information which the officers thereafter relied upon to justify their arrest. It must be noted, however, among the information elicited ***post arrest***, was an admission from one of the four that the pipe belonged to him, and yet the officers, apparently intent on enforcing their will and demonstrating their authority over all four students, failed to exercise appropriate discretion preferring instead to file against all 4 even though they now had information which exculpated three of the four. Moreover, there has been no Notice provided pursuant to CPL 710.30 therefore any statements attributable to any of the defendants will not be admissible in the ultimate trial of this matter, regardless of the Constitutional violations associated with the manner in which the alleged statements were elicited.

35. To the extent, therefore that this arrest was achieved without probable cause, based upon the 4 individuals "failure to cooperate" anything which flowed from that illegal arrest constitutes "fruit of the poisonous tree" and must, be excluded from the People's case in chief at trial, People v. Conyers, 68 NY2d 982 (1986); People v. Harris, 77 NY2d 434 (1991); leaving

virtually no evidence upon which to maintain the case against these individuals requiring this court to ultimately dismiss the charges.

36. In sum, it is respectfully submitted that the prosecution of W[redacted] M[redacted], not only would serve no useful purpose it is clearly contrary to the Legislative intent in promulgating Article 221 of the Penal Law. The Legislature has, in enacting the very statute being prosecuted on, set forth that criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. Accordingly and based upon the foregoing factors, considerations and circumstances, it is respectfully requested that the actions pending against Mr. W[redacted] M[redacted] be dismissed in their entirety.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS

37. The Officers Lacked Probable Cause to Make a Lawful Arrest: It is well settled in this state that an arrest is authorized when the officer has probable cause to believe that the person has committed an offense. CPL 140.10; People v. Wroblewski, 109 AD2d 39 (4th Dept, 1985); People v. DeBour, 40 NY2d 210. Where the offense charged is a petty offense, such as the matter at bar, in addition to having probable cause to believe an offense has been committed by the defendant the offense must have been committed in the officer's presence, CPL §140.10; People v. Solomon, 31 AD3d 1178 (4th Dept, 2006); People v. Genovese, 156 Misc. 2d 569 (J. Ct 1992). The Appearance ticket and any supporting deposition together must provide probable cause to believe that the offense in question was committed by the defendant, in the presence of the arresting officer. People v. Kaminiski, 143 Misc. 2d 1089 (City Criminal Court, 1989).

38. In the case at bar the officers allege, in their statement provided to ADA Getman, that they detected the odor of Marihuana in a wooded area and responded to further their investigation and found 4 individuals in said wooded area. The officers thereupon approached the students and requested certain information, such level of intrusion in all respects appropriate pursuant to *DeBour* and it progeny. Thereafter and presumably while speaking to the students the officers observed a glass pipe in the wooded area presumably proximal to the area where the students were standing yet still in a public area open and available to literally several thousand individuals on the SUNY Campus, clearly not an area over which any of the defendants herein exercised dominion or control[1]. Assuming arguendo that this discovery by the police furthered their investigation they may have been justified in escalating the level of intrusion into the liberty of these four students People v. Espinosa, 46 AD3d 311 (1st Dept, 2007). While it is conceded that an officer is entitled to approach a citizen and make inquiry of a more intrusive nature when the officer has a founded suspicion that ***criminal activity*** is afoot and that the individual approached may be involved. In this case, the officers had no such indication that ***criminal activity*** was afoot and therefore likely were ***not justified*** in furthering their investigation by intruding upon the liberty of the students by exposing them to further questioning. In either case and in the absence of further analysis, being mindful that this intrusion occurred outdoors in a public area, there could be no claim of constructive possession as none of the four students exercised dominion and control over the area where the item was found (People v. Manini, 79 NY2d 561 (1992)) and therefore none, particularly the defendant herein, W[redacted] M[redacted],

[1] There is nothing to suggest that the officers observed any of the 4, particularly M[redacted], discard this property therefore the nexus to the individual defendants cannot be established as would be permitted in the case where, for example a pursuing officer observed an individual discard the property. People v. Martinez, 80 NY2d 444.

could be said to have possessed, even constructively, the item, at least not at the time that the officers discovered it.

39. It is critical to note, in the case at bar, even taken in a light most favorable to the People, the investigation herein involved statutorily ***non-criminal activity*** which yields a vastly different standard for police to adhere to when compared to the options available to law enforcement when they have reason to believe that criminal activity is afoot. In this case the police clearly were drawn to an area because of what they perceived to be the smell of burning marihuana. Where there is no indication of criminal activity the person who is questioned has the absolute right not to speak with a police officer and indeed has the absolute right to leave the area (which the defendant did not do in this case and yet the police still based their decision to arrest on the mere fact that the defendants were uncooperative). People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 A.D.2d 934 (4th Dept, 1988). Indeed Courts of this state have ***consistently*** held that a defendant may invoke the right to be "left alone". People v. Perez, 47 A.D.3d 1192 (4th Dept, 2008). Yet in this case, the only additional information possessed by the officers between the time of their initial observation (smell of burning marihuana) and the time of the arrest was the fact that they had deemed the students to be uncooperative by refusing to answer their questions, whereupon, according to the officer's statement they placed all four individuals under arrest.

40. Where, as here, the police seek to make a warrantless arrest for a petty offense (PL §221.05 is a non criminal offense), the Criminal Procedure Law (§140.10) ***requires*** that the offense be committed in the officer's presence. People v. Solomon, 31 A.D.3d 1178 (4th Dept,

2006). People v. Genovese, 156 Misc.2d 569[2]. Here the police seem to rely upon statements elicited ***post arrest*** to bolster their case, specifically that all four had smoked from the subject pipe[3]. Such statements, particularly in the absence of *Miranda* warnings and ***taken post arrest*** cannot be used to establish probable cause to arrest and under any set of circumstances ***do not cure*** the fact that the offense did not occur in the officer's presence. People v. Washburn, 309 A.D.2d 1270 (4th Dept, 2003); People v. Young, 202 A.D.2d 1024 (4th Dept, 1994).

41. Accordingly in this case we are left with nothing more then open air observations of the officers regarding the smell of burning marihuana which is insufficient, ***as a matter of law***, to charge anyone with possession of marihuana. At the outset it must be noted that possession requires that the person possess some tangible property and the smell of burning marihuana, even if the hunch is ultimately confirmed (which is was not in this case) is not tangible and therefore cannot be the subject substance to form the basis for the charge. Moreover, the courts of this state have held that probable cause to arrest cannot be based upon the mere smell of marihuana in the absence of evidence to establish that the officer has had some special training as a drug recognition expert which is not the case here. People v. Hanson, 5 Misc. 3d 67 (App Term, 2004).

---

[2] In the case at bar there can be not cognizable debate over the issue of arrest since the defendant was placed in handcuffs in the back of a patrol vehicle and brought to the police office before being issued an appearance ticket for a petty offense which did not occur in the officer's presence.

[3] Even if these statements were admissible they could not form the basis for a valid arrest since they were obtained post arrest and probable cause to arrest must be established pre-arrest and moreover those statements still do not cure the fact that the offense must have been committed in the officer's presence if the officer is going to issue an Appearance ticket. Where the officer is going to bring an action for a petty offense not committed in the presence of the officer he would be required to present an proper accusatory instrument to the court, containing a sworn to complaint of a witness containing non hearsay allegations to establish each of the elements of the offense charged and have the court thereafter issue a summons, the officer cannot essentially complete a warrantless arrest for a petty offense not committed in their presence.

42. Accordingly, it is respectfully submitted that the Accusatory Instrument in this case ***must*** be Dismissed as the police lacked probable cause to support the arrest at the time of the arrest or anytime thereafter. In the alternative the Defense most respectfully requests a hearing on the issue to determine whether the officers had probable cause to believe that an offense had occurred, in their presence at the time of the arrest.

GRANTING TO THE DEFENDANT PRECLUSION OF ANY ALLEGED STATEMENTS MADE BY THE DEFENDANT, BUT NOT CONTAINED WITHIN THE PEOPLES NOTICE PURSUANT TO CPL §710.30

43. Section 710.30(1) of the Criminal Procedure Law provides, in relevant part that whenever the People intend to offer at trial evidence of a statement made by the defendant to a public servant, they must serve upon the defendant a Notice of such intention, specifying the evidence intended to be offered, within fifteen (15) days after arraignment.

44. The Court of Appeals has held that where the People fail to comply with the requirements of CPL §710.30 the remedy is preclusion of the improperly noticed statement from use during the People's direct case at trial. People v. Lopez, 84 NY2d 425 (1994)

45. In People v. Phillips, 183 AD2d 856 (2nd Dept 1992), the Second Department held that such inadequacy of Notice cannot be cured by Discovery and further that lack of prejudice to the defendant is not relevant to the Court's determination of admissibility.

46. A Motion to preclude only those statements not properly Noticed pursuant to the mandates of §710.30 will not trigger the waiver provisions provided for under CPL §710.30(3). *See also:* People v. Bernier, 73 NY2d 1006 (1989); People v. Amparo, 73 NY2d 728 (1988).

47. Accordingly, the defense requests that any statements not properly Noticed, pursuant to CPL 710.30(1) be precluded from use during the people's direct case, at trial.

HUNTLEY HEARING

48. No §710.30 Notice has been served upon the defense. It is respectfully contended, however, that any and all statements alleged to have been made by the Defendant or attributed to the Defendant were made in violation of his Constitutional rights and his rights pursuant to **Miranda v. Arizona** and must be suppressed as a matter of law. Alternatively, the Court must hold a hearing to determine their legality. As to each statement we respectfully allege as follows:

a. The alleged statements were made in violation of the right of the accused against self-incrimination.

b. The alleged statements were made while the defendant was detained without probable cause to arrest (**Dunaway v. New York**).

c. The alleged statements were made without adequate advice to the suspect of his rights during questioning.

d. The alleged statements were made without any effective waiver by the defendant of his rights pertaining to questioning. As such, it is respectfully requested that this Court suppress all

such statements or, in the alternative, conduct a **Huntley** hearing to determine the legal admissibility of same.

GRANTING TO THE DEFENDANT ADJOURNMENT IN CONTEMPLATION OF DISMISSAL PURSUANT TO CPL §710.56

49. Section 170.56 of the Criminal Procedure Law provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15; 221.35 or 221.40 of the Penal Law and before entry of a plea of guilty thereto or commencement of trial, the court upon motion of the defendant may order that all proceeding be suspended and the action adjourned in contemplation of dismissal or upon a finding that the adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument.

50. The relief provided for under §170.56 is conditioned upon certain conditions precedent specifically; 1) The Defendant has never before granted such an ACD; 2) Never before granted a Dismissal under §170.56; 3. Defendant has never been convicted of any Offense involving a Controlled substance; 4. Defendant has never been convicted of any crime (DA Consent therefore not necessary); Defendant has never been adjudicated a YO on the basis of any act involving controlled substances (DA Consent therefore not necessary).

51. It must be noted, at the outset that §170.55 also provides for an Adjournment in Contemplation of Dismissal and provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15;

54. Under §170.55 an Adjournment in Contemplation of Dismissal (ACD) is available when the prosecutor, defendant and the court are in agreement that this is the proper disposition of the case. Under §170.56 dealing with marijuana offenses, the Legislature has ***specifically omitted*** the language related to ***consent*** of the District Attorney and the ***court*** which is so prominent under §170.55. The Granting of an ACD under §170.56, therefore clearly ***does not require*** the prosecution's consent and indeed can be entered even over the objection of the District Attorney[4].

55. Indeed in appropriate circumstances not only is consent of the District Attorney not required under §170.56 as it is under the more general provisions of §170.55 but in the case of marihuana offenses the arrest itself is deemed a nullity and thus a defendant who is granted an ACD under §170.56 is offered certain benefits not otherwise available to them under the ACD under §170.55. People v. Ford, 104 Misc 458 (NYC Criminal Court, 1980). Under §170.56 the Court has the option of granting an outright dismissal of the charge in the interests of justice an option ***not available*** under §170.55.

56. The People will likely argue that the express language of §170.56 is permissive in nature and therefore the court has inherent discretion whether or not to grant the relief. Such a position, however is ***not supported*** by case law interpreting this section. Indeed even affording the Prosecution with an opportunity to be heard under §170.56 would seem inappropriate as since their consent is not necessary any input they might offer would be at best, moot and at

[4] §170.56(1)(e) requires the consent of the District Attorney only in circumstances where the defendant is seeking an ACD after having previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances.

worst be prejudicial to the Defendant in having the court carry out a duty which has been deemed ministerial in nature.

57. In People v. Mann, 83 Misc 2d 442 (1975), the District Court for Nassau County held that the act of the Judge in granting the Adjournment in Contemplation of Dismissal, under §170.56, is ministerial in nature in that the Court is "***compelled to grant the ACD***" as long as the application sets forth the basic representations upon which such an application can be granted.

58. In the case at bar we have a defendant who has neither been charged or convicted of any offense whatsoever, either involving marihuana or any other offense contained in any statue of the State of New York, the United States of America or any other state or sovereign for that matter. As such, it flows naturally that Mr. M[redacted] has never been granted an Adjournment in Contemplation of Dismissal under either §170.55 or §170.56 (§170.56 (1)(a)); thus he has never before been granted a Dismissal under §170.56 (§170.56(1)(b)); he have never been convicted of any offense involving any controlled substance (§170.56 (1)(c)); he has never been convicted of any crime whatsoever (§170.56(1)(d)); he has never been adjudicated a YO on the basis of any act involving controlled substances or any other crime for that matter (§170.56 (1)(e). Finally the only count involved here is one of violating section 221.05 of the Penal Law of the State of New York. Accordingly, whereas Mr. M[redacted] ***satisfies each*** of the conditions precedent to this court granting the relief requested in accordance with the relevant case law interpreting this section and consistent with the legislative intent in setting forth the criteria for such relief, separate and distinct from that provided for every other offense contemplated by any law of this state, this court is ***compelled to grant*** the ACD.

WHEREFORE, it is respectfully requested that the relief as set froth in the accompanying Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
April 6, 2013

MICHAEL F. McGUIRE, ESQ

5/10

STATE OF NEW YORK : COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

RECEIVED
ONEONTA CITY COURT
2013 MAY -9 PM 3:25

THE PEOPLE OF THE STATE OF NEW YORK

-against-

W[redacted] M[redacted],

Defendant.

AFFIDAVIT IN OPPOSITION
TO DEFENDANT'S MOTION

STATE OF NEW YORK)
: ss.:
COUNTY OF OTSEGO)

Michael F. Getman, being duly sworn, deposes and says:

1. I am the Oneonta City Prosecutor. The People oppose the defendant's requests for dismissal, an adjournment in contemplation of dismissal, preclusion and suppression. However, the People do not object to the Court holding hearings to determine the admissibility of evidence and statements. Therefore, this Opposition will focus on those portions of the defendant's motion seeking dismissal or an adjournment in contemplation of dismissal.

2. This is not a case which cries of injustice. The facts of the case are not significantly different than the hundreds of other Unlawful Possession of Marijuana cases filed in Oneonta City Court each school year. The defendant's personal circumstances are similar to those of many other SUCO students who are caught possessing marijuana by the police.

3. The People do not force pleas from defendants. In this case, the People offered a plea to a non-drug violation as is done in virtually all other Unlawful Possession of Marijuana cases. Upon information and belief, some if not all of the co-defendants accepted the People's offer.

4. The issues raised in support of the defendant's CPL §100.40 motion are really issues which should be decided at a trial or a probable cause hearing.

5. The defendant's request for an adjournment in contemplation of dismissal should be denied. There are no sworn statements to verify or support any of the factors for the Court to consider under CPL §170.56. The Court cannot confirm that the defendant has never before been granted an adjournment in contemplation of dismissal, been convicted of a controlled substance offense or a crime, or been granted youthful offender status.

WHEREFORE, the People request the Court to deny the defendant's motion.

Michael F. Getman
Oneonta City Prosecutor

Sworn to me before this
9th day of May, 2013.

Notary Public – State of New York

JEAN A. KELLER
Notary Public, State of New York
No. 4998697
Qualified in Delaware County
Commission Expires July 6, 2014

RECEIVED
ONEONTA CITY COURT
2013 MAY -9 PM 3:26

STATE OF NEW YORK : COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK

-against-

AFFIDAVIT OF SERVICE

W[redacted] M[redacted],

Defendant.

STATE OF NEW YORK : COUNTY OF OTSEGO : ss:

JEAN A. KELLER, being duly sworn, deposes and says; that she is over the age of 18 years and resides at Bloomville, New York; that on the 9th day of May, 2013, she served the annexed Affidavit in Opposition to Defendant's Motion upon:

Michael F. McGuire, Esq.
Liberty Professional Plaza
111 Sullivan Avenue, Suite 2–5
Ferndale, New York 12734

by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States within the State of New York, directed to said individual at said address mentioned above, that being the address within the state designated for that purpose upon the last papers served in this action or the place where the above then kept offices, according to the best information which can be conveniently obtained.

Jean A. Keller

Jean A. Keller

Sworn to before me this
9th day of Ma, 2013.

Michael F. McGuire

Notary Public - State of New York

12 9 13

RECEIVED
AUG 07 2013
ONEONTA CITY COURT

MICHAEL F. McGUIRE
Attorney and Counselor at Law
[redacted]

August 4, 2013

HON. RICHRD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RE: People v. W[redacted] M[redacted]
Docket Number 2012-0810

Dear Judge McVinney;

Enclosed please find the my Reply Affirmation submitted in response to Mr. Gentman's Affirmation in Opposition to the pending Motion seeking various forms of relief. The delay in providing same was occasioned by the fact that Mr. Getman's papers were sent to an address which is no longer in use and therefore with delays associated with forwarding etc, together with my vacation schedule I did not receive the subject papers until late July. Accordingly, I would respectfully request leave of the court to file this Reply affirmation at this time.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

Cc: Michael F. Getman, Esq

RECEIVED
AUG 07 2013
ONEONTA CITY COURT

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

REPLY AFFIRMATION

-Against

W[redacted] M[redacted]

Defendant.

----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about April 6, 2013, Respondent filed a Motion, seeking various forms of relief including Dismissal of the pending charges (CPL §100.40); Dismissal of the instant matter in furtherance of Justice (CPL §§170.30(1)(g) and 170.40); or in the alternative, an Adjournment in Contemplation of Dismissal (CPL §170.56); Preclusion of any statements allegedly made by the defendant to law enforcement (CPL §710.30).

3. On or about May 9, 2013, Mr. Getman filed Opposition to Defendant's Motion, this Affirmation is offered in Reply to Petitioner's submission.

4. As a preliminary matter, while Defense recognizes that this submission is offered well beyond the customary 7 day period provided for such submissions, it is respectfully requested that the court consider same as due to an error in mailing, your affiant did not receive the Prosecutor's Affirmation in Opposition until late July. Apparently, despite defense requesting

that all mail be submitted to [redacted] (counsel's current address)[1] (Exhibit 1), Counsel, relying on the address listed on letterhead forwarded his Affirmation in Opposition to the address of my former office. The resulting delay in forwarding caused the submission to be received at my proper address in late July of 2013.

5. The Prosecutor is bootstrapped by his own argument in opposition to the Defendant's request for Dismissal pursuant to §100.40 of the Criminal Procedure Law. Mr. Getman's opposition is premised upon an assumption that this case and the consequent impact of such a conviction is not "significantly different than the hundreds of other Unlawful Possession of Marihuana cases filed in the Oneonta City Court each school year." It is respectfully submitted that injustice occasioned by having a college student with an otherwise impeccable reputation in his community being saddled with any criminal or even non criminal penal law conviction, involving drugs, is not cured because the prosecutor apparently routinely advocates that such injustice may be perpetrated on hundreds of other college students each year. Indeed under the facts of this case as provided by the arresting officer (Exhibit 2), in light of the significant misconduct by the arresting officers, even exposing the defendant to the hazard of having to defend himself at trial of this matter yields significant injustice. It is respectfully reiterated that the arrest in the case at bar, based upon the factual narrative provided by the Prosecutor (Exhibit 2), lacked probable cause and involved significant violations of the defendant's rights under the Constitutions of the United States and the State of New York.

6: The People rely upon the fact that they "do not force pleas from defendants", an argument never suggested by the Defense. Defendant acknowledges that an offer of settlement

[1] See Notice Of Appearance and cover letter dated December 2, 2012 copy attached hereto)

was made and rejected, however, it must be pointed out that the subject of plea negotiations are simply irrelevant to the issues presented in defendant's moving papers and moreover it is respectfully submitted that it would be patently improper, indeed constituting reversible error, for this Court to even consider that fact in deciding any of the issues presented in defendant's moving papers. Such an argument is ***irrelevant*** to ***all legal issues*** in this case and can never form the basis for opposing a Defense motion. Indeed such information merely has the effect of inserting a Redd Herring into these proceedings, by encouraging the Court to ignore the facts and the law legal preferring instead to encourage the court to focus its attention on irrelevant factors, thereby having the impact of nullifying the legal issues presented.

7: Counsel argues that the issues raised in support of Defendant's CPL §100.40 Motion are really issues which should be decided at trial or a probable cause hearing. It is respectfully submitted that the People have not put forth any facts upon which the court could find that an evidentiary hearing was necessary in order to resolve a disputed question of fact. The only factual recitation put forth by the prosecution was in the form of a narrative supplied by the arresting officer (Exhibit 2). Relying on those facts, the Defense submits that the officers acted beyond their lawful authority in placing 4 students under arrest for a petty offense, not committed in the officer's presence. Indeed while it is conceded that the Prosecutor's responding papers need not, in all cases, set forth specific facts; The Court of Appeals in People v. Gruden, 42 NY2d 214 set forth that the prosecutor must, at the very least, dispute the facts set forth by the Defense. In the case at bar the defense relied entirely on the facts provided to the defense, by the prosecutor which, it is respectfully submitted, establishes conclusively as a matter of Law that the ***officers lacked probable cause*** to place the 4 students under arrest when

they based their arrest on the fact that they smelled what they believe was the scent of burning marihuana; the discovery of a pipe on the ground (which all 4 initially denied ownership of but which one of the 4 (not W[redacted] M[redacted]) subsequently acknowledged ownership of) and thereafter while attempting to further their investigation the 4 students were deemed "uncooperative" with furthering the officers investigation[2]. There is nothing to suggest that any substance was even field tested to determine whether or not the officer's assumption was supported. Indeed, according to the Officer's narrative (Exhibit 2) it was the defendant's failure to cooperate with the officers in furthering their investigation that was the determining factor in the officer's decision to arrest all 4 individuals. Indeed the prosecutor still has not provided a laboratory test to establish that the subject residue was marihuana and therefore is still incapable of establishing a material element of the proffered charge.

8: Accordingly despite the prosecutor's argument that these issues should be decided at a trial or probable cause, there is ***no basis*** upon which this court can conduct a probable cause hearing as there is ***factual dispute,*** there are only questions of law remaining for the court to determine.

9: The prosecutor argues that the Defendant's application pursuant to §170.56 for an adjournment in contemplation of dismissal should be denied because there are no sworn statements to verify or support any of the facts for the court to consider under §170.56, a burden not borne by the defense under any interpretation of the law. Indeed, your affiant has known the Defendant since the moment of conception and has set forth in an Affirmation submitted in

[2] It must also be noted that there was no field test to establish the nature of the residue found in the subject pipe and therefore at least one material element of the alleged offense could not be determined at the time of the subject arrest

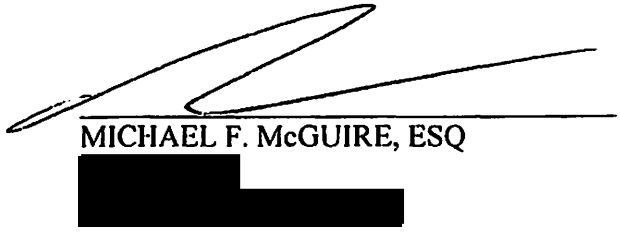
conjunction with the instant motion that the defendant satisfied each of the conditions precedent to be ***entitled*** to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. Indeed, it is respectfully submitted, that upon such an application it would be incumbent upon the prosecution to refute any of the assertions set forth in Defendant's moving papers, which the People have not done. Clearly the prosecution has access to information, not otherwise available to the defense, including but not limited to the Defendant's DCJS report. No such information refuting Defendant's assertion is submitted, rather, the Prosecutor apparently prefers to shift the burden of establishing such ***negatives*** to the Defense, a tactic which is impermissible at any stage of a criminal proceeding. Indeed the Criminal Procedure Law of this state is quite clear that were an affirmative defense is raised (clearly §170.56 is not an affirmative defense but by way of analogy) the burden on the Defense is to set forth such an argument and the burden thereafter shifts to the People to Disprove that Affirmative Defense, Beyond a Reasonable Doubt. It is respectfully submitted that in most Courts throughout this state, applications brought under §170.56 are made orally by counsel (with far less first hand familiarity with their client than exists in the case at bar) and routinely granted upon such an application. The Defense, in this case has gone well beyond that standard by setting forth sworn factual assertions by one with first hand knowledge of the defendants criminal and juvenile history and respectfully submits and reiterates that ***each of the enumerated*** criteria set forth in §170.56 of the Criminal Procedure Law have been satisfied entitling the defendant to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. The People have ***offered nothing*** to refute those assertions and therefore this Court is left with nothing upon which to determine that the factual requisites to granting the Defendant's application, pursuant to §170.56, have not been satisfied. Therefore, as a matter of

law, this court is without authority or basis to deny the instant application. Whereas Mr. Getman has offered no material facts to refute the Defendant's assertions the court, as a matter of law, is obligated to grant Defendant's application even over the objection of the Prosecution[3]. People v. Mann, 83 Misc2d 442 (1975).

10: Whereas the prosecution has not addressed nor opposed the issues raised pursuant to CPL §710.30 the court must grant defendant's application. It is uncontradicted that the People have failed to provide Notice pursuant to §710.30 therefore the Defense is ***entitled to preclusion*** of any such statements attributed to the Defense from use within their case in chief, ***as a matter of law***. The Defense respectfully submits that under the law, this ***court is without authority*** to deny such application and likewise without authority to even conduct a Huntley Hearing.

WHEREFORE, it is respectfully requested that the relief as set froth in the Defendant's Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
August 4, 2013



MICHAEL F. McGUIRE, ESQ
[redacted]

[3] The Express language of §170.56 when compared to §170.55 provides that consent of the District Attorney is not an element of this court's consideration.

EXHIBIT 1

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

Reference my letter and submissions, previously submitted this date, please note in setting the next date for Appearance that I am scheduled to be out of the State between January 5 – 14. Finally I would respectfully request that you avoid Monday Appearances, if at all possible, as my responsibilities require that I be in Sullivan County on those days.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(Via Fax: 607-547-4373)*

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NOTICE OF APPEARANCE

W[redacted] M[redacted]

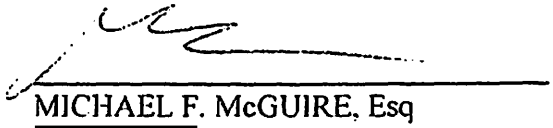
Defendant.

_____X

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,



MICHAEL F. McGUIRE, Esq
[redacted]

EXHIBIT 2

Mr MICHAEL MCGUIRE

From: Zachary Kelson [zacharykelson@[redacted]]
Sent: Friday, November 30, 2012 2:11 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: FW: W[redacted] M[redacted] Case

---------- Forwarded message ----------
From: "michael getman" <oneontacityprosecutor([redacted]>
Date: Nov 30, 2012 2:06 PM
Subject: FW: W[redacted] M[redacted] Case
To: "Zachary Kelson" <zacharykelson[redacted]>

Here's what the officer sent me. I assume it is what he would testify to at a trial. the offer to your guy is still a discon.

From: michael getman [mailto:getmanlaw[redacted]]
Sent: Friday, November 30, 2012 1:32 PM
To: oneontacityprosecutor@[redacted]
Subject: FW: W[redacted] M[redacted] Case

From: Mark.Cardinali([redacted]
To: getmanlaw[redacted]
Date: Wed, 28 Nov 2012 22:15:25 -0500
Subject: W[redacted] M[redacted] Case

Mr. Getman

While on Bike Patrol Officer Brunner and Dispatcher Skovira detected burning marihuana in the wooded area East of the MacDuff Hall Parking lot. Upon investigating the odor, M[redacted] was found with three other males (M[redacted] R[redacted], A[redacted] S[redacted], and J[redacted] E[redacted]) in the woods and a glass pipe resonated with marihuana was found on the ground next to them as Officer Brunner approached. All denied ownership of the pipe and were uncooperative with questioning. Since no owner could be determined all 4 males were arrested. After being advised they were under arrest, M[redacted] R[redacted] then stated the pipe belonged to him. All 4 admitted to smoking marihuana from the pipe and all 4 admitted to pitching in to buy the marihuana they had just smoked. When asked who they had bought the marihuana from, they were all uncooperative and would not provide a name.

I got permission from Lt. O'Donnell to send you a copy of the SJS report if you would like it. If you need anything else let me know.

Also was wondering if this was your alretnate e-mail address: (oneontacityprosecutor([redacted])

I have never recieved a message from you on this one before, just wanted to double check before sending case info to it in the future.

Officer Mark Cardinali

New York State University Police

Oneonta State College

Oneonta, NY 13820

607-436-3550

STATE OF NEW YORK : COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

W[redacted] M. M[redacted],

Defendant.

DECISION AND ORDER

Docket No. 2012-0810

Before Hon. Richard W. McVinney, City Court Judge

Appearances: Michael F. McGuire, Esq.
Michael F. Getman, Esq., City Prosecutor

Defendant, W[redacted] M. M[redacted], was charged by SUNY Oneonta Police with Unlawful Possession of Marihuana, contrary to Penal §221.05, on September 20, 2012. Defendant appeared in Oneonta City Court on October 3, 2012 and the matter was not conferred until February 26, 2013. Attorney Michael F. McGuire was granted time to submit an Application or Motion including an Application for an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law.

Attorney McGuire filed on April 10, 2013. Oneonta City Prosecutor Michael F. Getman filed opposition papers on May 9, 2013. During that time, other cases arose in Oneonta City Court before Judge Lucy Bernier involving motions seeking relief under CPL §170.56. I decided, sua sponte, not to address the issue in this case until Judge Bernier had decided her cases

The reasoning for this was to prevent forum shopping. If the two Oneonta City Court Judges could not agree as to whether CPL §170.56 was "ministerial in nature" or if it should be applied on a case by case basis, havoc would ensue.

Both Judge Bernier and I have reviewed the legislative history of this very odd, and frankly, bizarre addition to the Criminal Procedure Law. We have also both reviewed the extremely limited prior case law. While discussions between Judges are common, they are not generally part of a decision.

To me, CPL §170.56 made some sense when in 1971 simple possession was a crime. But when PL §221.05 was added, basically decriminalizing simple possession, it was added to CPL §170.56. That makes no sense to me.

While I concur in part and take no position in part with Judge Bernier's decision in People v. Gates and others, the instant case can be resolved pursuant to CPL §170.40 or a so-called "Clayton Motion" (see People v. Clayton, 41 AD2d 204 (2nd Dept. 1973).

The criteria set forth in CPL §170.40 include: (1) the seriousness and circumstances of the offense; (2) the extent of harm caused by the offense; (3) the evidence of guilt, whether admissible or inadmissible at trial; (4) the history, character and condition of the defendant; (5) any exceptionally serious misconduct by law enforcement personnel in the investigation, arrest and prosecution of the defendant; (6) the purpose and effect of imposing upon the defendant a sentence authorized by the offense; (7) the impact of dismissal on the safety and welfare of the community; (8) the impact of dismissal on the confidence of the public in the criminal justice system; (9) where the court deems is appropriate, the attitude of the complainant or victim with respect to the motion; and (10) any other relevant fact indicating that a judgment of conviction would serve no useful purpose.

Based upon Attorney McGuire's Affidavit in regards to the first nine issues and recognizing that he is the Defendant's father, he is still an officer of the Court. In this State and most others, we accept an Attorney's Affidavit as true. We do this in real estate transactions, probate, contracts and almost all transactional matters. We rely on the fair dealing and honesty of fellow attorneys.

I don't consider this a serious offense as it is a Penal Law violation that carries a penalty of only a fine. I find little or no harm caused by the offense. The evidence of guilt is questionable as no one saw the Defendant with the pipe in his mouth or saw him consume marihuana. Based upon Attorney McGuire's Affidavit, I find the Defendant to have a fine reputation.

A dismissal here will not impact on the safety or welfare of the community as the Defendant has been disciplined by the College and he has completed a drug and alcohol education program.

While I find no misconduct by law enforcement personnel, the prosecution would be difficult as no CPL §710.30 notice has been filed.

While the sentence is a fine and surcharge, the effect of a guilty verdict after trial would be that the Defendant would have a drug related offense that could be more damaging than any monetary penalty.

I find that there would be no impact on the confidence of the public in the criminal justice system.

Accordingly, the charge against W[redacted] M. M[redacted] is dismissed pursuant to CPL §170.40.

The above constitutes a Decision and Order of this Court.

Dated: August 6th, 2013
at Oneonta, New York

ENTER

Richard W. McVinney
City Court Judge

TO: Michael F. Getman, Esq.
16 Dietz Street
Oneonta, NY 13820

SCANNED

Michael F. McGuire, Esq.
111 Sullivan Avenue, Suite 2-5
Ferndale, NY 12734

Michael McGuire, Esq.
[redacted]

SCANNED

LOCAL COURT CRIMINAL DISPOSITION REPORT
323801L ONEONTA CITY COURT

SERIAL #:
DEF LNAME/F/M:M[redacted] W[redacted] M DOCKET #: 2012-0810
501 #: NYSID #: DOB: [redacted]
AKA: ARST DT:09-20-12 ARN DT:10-03-12 C TYPE:RE

INT DIS DT: CODE: INT DIS DT: CODE:
TRANS TO:

C1: PL-221.05 -V - --N-001 - * DESC: UNLAW POSS MARIHUANA
RED: - - * DESC:
D DT:08-07-13* D CODE:DISM * ACD: * COV BY: *R CT: *
S DT: *S CODE: * FINE: 0* PAID: *
PROB: * CUST/TIME: * YO: *DR L: *

C2: - - * DESC:
RED: - - * DESC:
D DT: * D CODE: * ACD: * COV BY: *R CT: *
S DT: * S CODE: * FINE: 0* PAID: *
PROB: * CUST/TIME: * YO: *DR L: *

C3: - - * DESC:
RED: - - * DESC:
D DT: * D CODE: * ACD: * COV BY: *R CT: *
S DT: * S CODE: * FINE: 0* PAID: *
PROB: * CUST/TIME: * YO: *DR L: *

C4: - - * DESC:
RED: - - * DESC:
D DT: * D CODE: * ACD: * COV BY: *R CT: *
S DT: * S CODE: * FINE: 0* PAID: *
PROB: * CUST/TIME: * YO: *DR L: *

C5: - - * DESC:
RED: - - * DESC:
D DT: * D CODE: * ACD: * COV BY: *R CT: *
S DT: * S CODE: * FINE: 0* PAID: *
PROB: * CUST/TIME: * YO: *DR L: *

SEAL ORDER:
ATTY/DEFT: NON PRINTABLE-SEAL RECORD
ADDRESS:
CITY/ST/ZIP:
SEALED CPL: 160.50 ORDERED BY: RICHARD W. MCVINNEY
SEALED DATE: 08-07-13
AUTHORIZED SIGNATURE:_____

REMARKS:

FAM OFF: REL TO COMP: REL TO VICT:

CONT. SHEET? ARRESTING AGENCY: ONEONSUCO

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court,
81 Main Street
Oneonta, New York 13820

Via Fax: 607-432-2328

People v. M[redacted]

Dear Ms. Tisenchek:

Enclosed please find my Notice of Appearance for the above captioned matter currently scheduled for an Appearance on Wednesday December 5,,2012, at 8:30 AM. Please be advised that I will be actually engaged in various matters in both County Court and Family Court on December 5, 2012 and thereafter, on December 6 I will commence the Trial of the mater of the People of the State of New York v. Brian Hakes which is anticipated to continue for approximately 2 weeks in the County Court, Sullivan County. Accordingly, I have provided herewith an Affirmation of Actual Engagement and would respectfully request the instant matter be adjourned for a period of time. Likewise, by this letter, I would request production of a proper accusatory instrument setting forth facts, of an evidentiary character to establish each of the elements of the charged offense and the defendant's commission thereof. Finally, by this submission, I would respectfully request production the lab report setting forth the nature of quality of the substance alleged to have been possessed by Mr. M[redacted].

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1a

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK

-against-

W[redacted] M[redacted]

Defendant.

NOTICE OF APPEARANCE

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,

MICHAEL F. McGUIRE, Esq
[redacted]

CITY COURT: CITY OF ONEONTA
COUNTY OF OTSEGO : STATE OF NEW YORK
----------X
PEOPLE OF THE STATE OF NEW YORK,

-against-

AFFIRMATION OF ACTUAL ENGAGEMENT

W[redacted] M[redacted]

Defendant
----------X

MICHAEL F. McGUIRE, an attorney duly licensed to practice law in the State of New York, does hereby affirm, under penalty of perjury, as follows:

1. I represent Defendant herein, W[redacted] M[redacted]

2. On or about November 27, 2012, I was Notified by my client that the instant matter was scheduled for an Appearance, at 8:30 A.M. on December 5, 2012.

3. On November 30, 2012 it was determined that I would be representing Mr. M[redacted] in these proceedings.

4. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Regina Roberts, in the County Court of Sullivan County.

5. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Joseph Strong, in the County Court of Sullivan County.

6. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Annibal Santiago, in the County Court of Sullivan County.

7. On December 5, 2012 commencing at 1:30 P.M. I will be Actually Engaged in a Proceeding in the matter of [redacted] v. C[redacted], in the Family Court of Sullivan County.

8. On December 5, 2012 commencing at 1:30 P.M. I will be Actually Engaged in a Child Welfare Proceeding in the matter of Department of Family Services v. R[redacted], in the Family Court of Sullivan County.

9. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Child Welfare Proceeding in the matter of Department of Family Services v. A[redacted] W[redacted], in the Family Court of Sullivan County.

10. Pursuant to Part 125 of the Rules of the Chief Administrator of the Courts I must respectfully request that the captioned matter be set down for an alternate date.

Dated: Liberty, N.Y.
December 2, 2012

MICHAEL F. McGUIRE, ESQ
Attorney for W[redacted] M[redacted]
[redacted]

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

Reference my letter and submissions, previously submitted this date, please note in setting the next date for Appearance that I am scheduled to be out of the State between January 5 – 14. Finally I would respectfully request that you avoid Monday Appearances, if at all possible, as my responsibilities require that I be in Sullivan County on those days.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(Via Fax: 607-547-4373)*

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1b

1/29

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 8, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

I spoke with a member of your staff on yesterday regarding scheduling of the above captioned matter. Reference the Affirmation of Actual Engagement submitted previously; my trial, which was expected to last for two weeks, settled and therefore I am available during the week of December 10, 2012. Regrettably, I was advised that the captioned matter cannot be placed on the calendar that week, but rather had been placed on the calendar for January 29, 2013. I advised the member of your staff, who I spoke with, that I am scheduled for a trial that day in Family Court, Sullivan County and therefore, I would respectfully request that the captioned matter be scheduled for February 12, 2013. I both apologize for any inconvenience caused by these requests and appreciate the accommodations as I am traveling quite a distance which requires me to clear most of an entire day. I have cleared my calendar for the morning of the 12th of February and can assure that I will not need to request further adjournments absent some unforeseen exigency.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(via Fax: 607-547-4373)*

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1C

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

April 8, 2013

HON. RICHARD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RECEIVED
APR 10 2013
ONEONTA CITY COURT

RECEIVED
APR 01 2013
ONEONTA CITY COURT

RE: People v. M[redacted]
Docket # 2012-0810

Dear Judge McVinney;

Enclosed herewith please find a Notice and Omnibus Motion in regard to the above captioned matter. By separate cover, a copy of these papers have been simultaneously provided to the Assistant District Attorney handling the matter, Mr. Getman.

Thank you, in advance, for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very Truly Yours,

Michael F. McGuire, Esq.

Cc: Michael Getman, Esq

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-Id

CITY COURT : CITY OF ONEONTA:
STATE OF NEW YORK : COUNTY OF OTSEGO
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

-Against-

W[redacted] M[redacted],

Defendant,
----------X

RECEIVED
APR 10 2013
ONEONTA CITY COURT

NOTICE OF MOTION

RECEIVED
APR 01 2013
ONEONTA CITY COURT

PLEASE TAKE NOTICE, that upon the annexed affirmation of Michael F. McGuire Esq.. attorney for Defendant, W[redacted] M[redacted], and all prior orders, pleadings and proceedings had herein, the undersigned will move this court located at the City of Oneonta Court Court, Oneonta. New York before, Hon. Richard McVinney, on the 10th day of May, 2013 at 9:00 o'clock in the forenoon of that day, or soon thereafter as the parties can be heard, for an:

ORDER: Granting to the defendant the dismissal of the charges herein pursuant to sections 170.30(1)(g) and 170.40 of the Criminal Procedure Law, upon the ground that the conviction or prosecution of the above named defendant by such accusatory instruments would constitute or result in injustice; and for an

ORDER: Dismissing of the accusatory instruments pursuant to CPL §100.40; and for an

ORDER: Precluding the prosecution from using any statements of the Defendant, in their case in chief which have not been noticed. pursuant to §710.30 of the Criminal Procedure Law within 15 days of Arraignment on the instant charge; and for an

ORDER: Granting suppression of any such statements sought to be offered by the People, in their case in chief, as taken in violation of the Defendant's rights under the Constitution of the State of New York and the United States Constitution; and for an

ORDER: Granting defendant a Huntley Hearing to determine the admissibility of any such statements properly noticed pursuant to the mandates of the Criminal Procedure Law; and for an

ORDER: Granting the Defendant an Adjournment of the Matter in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law of the State of New York' and

For such other further relief as to this court may seem just and proper.

Dated: Liberty, N.Y.
April 6, 2013

MICHAEL F. McGUIRE, ESQ
Attorney for W[redacted] M[redacted]

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

AFFIRMATION IN SUPPORT

-Against

M[redacted] H[redacted]

Defendant.

----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about September 20, 2012 defendant was charged upon An Appearance Ticket, with one count of UNLAWFUL POSSESSION OF MARIHUANA, pursuant to §221.05 of the Penal Law of the State of New York.

3. On or about October 3, 2012 Defendant was arraigned in the City of Oneonta Court, before, Hon. Lucy P. Bernier and entered a plea of Not Guilty to all counts.

4. Defendant has not been served with any Notice pursuant to §710.30 of the Criminal Procedure Law providing that the people intended to offer any statements, of the defendant, during their case in chief.

5. At the time of his arrest, defendant was a 20 year old (DOB [redacted]) second year student at the State University of New York, College at Oneonta

6. Defendant is a graduate of Liberty Central School District where he was actively involved in Interscholastic Athletics, was treasurer of his class and graduated with honors. He has been employed for the past several years at the Bethel Woods Center for the Arts most recently as a crew supervisor for the state of the art concert venue in Sullivan County, New York. Prior to the instant matter he had never been arrested, charged, prosecuted for, or convicted of any offense, of any level under the Laws of this or any other state, territory or nation. Indeed, Mr. M[redacted] has never received so much as a traffic infraction.

7. Although a formal long form accusatory instrument has not been received in conjunction with the instant matter, the Defendant does acknowledge receipt of the following recitation of facts provided by Assistant District Attorney, Michael Getman, which the defendant is prepared to deem a Supporting Deposition.

8. On information and belief the source of which is information received from Mr. Getman, on or about September 20, 2012 University Police officers Brunner and Skovira where on a routine bike patrol when they detected what they believed, presumably based upon their own experience, to be the smell of burning marihuana in a wooded area East of the MacDuff Hall Parking lot.

9. Upon investigating the odor, Mr. M[redacted]e, along with co-defendants M[redacted] R[redacted], A[redacted] S[redacted] and J[redacted] E[redacted] were found in said area and a glass pipe, believed to be resonated with marihuana was found on the ground next to them. It must be noted that there have been no

chemical or scientific tests administered on said pipe to determine if the residue contained therein was marihuana, however the officer proceeding on a mere hunch believed such to be true, without further investigation or confirmation .

10. Initially, each of the four young men denied ownership of the pipe and exercising their constitutional rights refused to respond to the officer's inquiry. The officers, interpreted this exercise of their constitutional right, to remain silent, as the young men being uncooperative by refusing to answer questions. Thereafter, the officers determined that since no owner could be determined, from the information available, they would place all 4 males under arrest.

11. It must be noted that, according to information received from Mr. Getman, after being advised that all 4 of the men were under arrest, co-defendant M[redacted] R[redacted] stated the pipe belonged to him, which in a light most favorable to the University Police Officers should have ended the matter as to the remaining three students.

12. After deciding to arrest all 4 males, charging each with unlawful possession of marihuana, the officers placed each of the 4 males in handcuffs and transported them back to the University Police Office for processing.

13. Prior to advising any of the students of their rights, pursuant to *Miranda*, the Police, after placing the four student under arrest, continued to question all four of the boys, (in violation of their Constitutional rights) who, based upon information received from Mr. Getman, admitted smoking marihuana from the pipe and all 4 admitted to purchasing the marihuana. However, it

should be noted that when the boys refused to disclose who the marihuana was purchased from they were all once again deemed uncooperative because they would not provide a name.

14. The four students were subsequently issued Desk Appearance Tickets and directed to appear in the City of Oneonta Court on October 3, 2013.

15. With respect to Defendant M[redacted], although the attorney retained to address these issues, was unavailable to appear, on November 27, 2012, (the adjourn date following the October 3, 2012 arraignment) but, on information and belief the source of which is my discussion with the former attorney, he had been advised that this Court ***did not recognize*** the provisions of Criminal Procedure Law §170.56, providing for an Adjournment in Contemplation of Dismissal when certain enumerated criteria are satisfied and offered only that the Defendant ***must*** enter a plea of guilty to the charge, an amended charge, outside of §221 of the Penal Law or stand trial. It must be noted that no lab report has yet been provided to establish the nature and content of the residue on the subject pipe. Therefore, although the People seem to have been forcing either a plea or trial, they were no yet able to announce readiness for trial since that had no scientific evidence to establish the nature and quality of the substance alleged to be Marihuana.

16. Because this matter occurred on the SUNY Campus, the University, clearly not ascribing to the Constitutionally protected presumption of innocence, preferring instead to mead out punishment without concern for guilt or non guilt by any standard directed that Mr. M[redacted]

enroll in and complete an educational program regarding marihuana which he has done, with the full support of his parents.

17. The defendant along with counsel appeared on February 26, 2013 and was advised by the Court (Hon. Richard McVinney) that any application for dismissal or ACD must be made on papers.

18. This Affirmation is offered in support of Defendant's Motion for a dismissal in the Interest of Justice, for Dismissal based upon insufficiency of the accusatory instrument (§100.40 CPL) or an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS IN THE INTEREST OF JUSTICE

19. In is respectfully submitted that the Court should issue an order pursuant to Criminal Procedure Law §170.30(1)(f) dismissing the instant matter on the ground that dismissal is required in furtherance of justice, within the meaning of Criminal Procedure Law §170.40, in that compelling factors and circumstances exist which clearly demonstrate that conviction or prosecution of the defendant upon the aforesaid accusatory instrument would constitute or result in injustice.

20. It is most respectfully submitted that it is within the discretion of this Court to dismiss the charges in the furtherance of justice pursuant to Criminal Procedure law §§170.30 and 170.40. Criminal Procedure Law §170.40 is the statutory codification of the criteria to be

Students for sensible Drug Policy Foundation v. Spellings, 523 F3rd 896 (8t Cir 2008). The federal statute applies to convictions while the person is a student, rather than to earlier periods when the person was not a student. A conviction for even a violation level offense of Unlawful Possession of Marihuana, as is the charge in the case at bar, ***will result*** in a one year bar on the student's ability to ***secure a student loan***, effectively preventing the individual for continuing his education at SUNY Oneonta, clearly not a consequence contemplated by the University in authorizing the instant arrest and clearly forming the compelling basis for the provisions set forth under §170.56 as provided herein below.

25. The Extent of Harm Caused by the Offense : As stated previously the extent of harm cased by the conviction will dwarf the extent of harm caused by the offense. Indeed, given recent events involving marihuana across this country and given that Mr. M[redacted] enjoys an ***impeccable reputation*** both on the campus as well as in his home community and when considering that none of the co-defendants were operating a vehicle, there was no indicia of violence, or sale, no indicia of children in the area, indeed there is truly no reliable basis upon which to conclude that any or all of the students charged had even consumed any marihuana, its seems absurd to refer to any harm caused by the offense. Clearly there are social issues which transcend the penal law, and the use or abuse of alcohol and drugs, particularly on college campuses creates the potential for problems, both academically and socially and those problems have existed on our campuses for however long there have been college campuses.

26. The Legislature, however, clearly recognized the relative lack of harm caused by this offense, when, in 1977, it passed the Marihuana Reform Act. Through this legislative

enactment, the Legislature made clear their intent to reduce penalties for both possession and sale of marihuana and took the particular step of decriminalizing the possession of a small amount of marihuana. This purpose was further emphasized by the excision of marihuana offenses from the ambit of Article 220 (drug cases). In the unconsolidated portion of the legislation the Legislature expressed its findings and its purpose:

> The Legislature finds that arrests, criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. The Legislature does not encourage or condone the recreational use of marihuana or any other drug. Rather the purpose of this act is to insure that the many people in New York who commit the conduct ***not be subjected to unduly harsh sanctions.*** L.1977 c. 360 §1.

27. In the case at bar, we have a young man who, in a light most favorable to the prosecution shared, along with 3 other individuals, a single pipe of marihuana, none were acting in a manner as to create a reasonable expectation of harm to anyone and at least with respect to Mr. M[redacted], he is a student in very good standing academically (I have no information about the academic standing of the other students involved), he has no record of disciplinary involvement on the campus or in the dormitories, he attends each of his classes regularly as scheduled and participates in a variety of healthy campus centered recreational activities, indeed this is not a student who, because of an abuse of drugs or alcohol, is likely to bring harm to himself or others; physically, emotionally or mentally. The real harm here lies not in the crime but in the prosecution.

28. <u>History, Character, and Condition of the Defendant:</u> W[redacted] M[redacted] is a second year student at SUNY Oneonta he graduated from Liberty High School in 2011 where he enjoyed an outstanding reputation as a student athlete. He was treasurer of his class for four

years, received a student citizenship award at graduation, earned 16 varsity letters in four years and was named most valuable player in two separate sports and was recognized with the Betty Totten Sportsmanship Award during his senior year in recognition of his commitment to the ideals of the true student-athlete. He has a long history of community based volunteerism offering his time for the local hospital and other charitable organizations including but not limited to Alzheimer's Association. He has been gainfully employed for the past 5 years at the Bethel Woods Center for the Arts, a State of the Art Concert Venue on the site of the original 1969 Woodstock Concert. In that role he has risen to the level of a crew supervisor and his work ethic and commitment to excellence has earned him an impeccable reputation among the administrators of that facility. He has never had any involvement with either the Juvenile or Criminal Justice Systems, indeed he has not so much as received a citation for a traffic infraction, and the instant matter represents his first and only involvement with law enforcement. Indeed the history and character of W[redacted] M[redacted] is exemplary.

29. The Impact of a Dismissal on the Safety or Welfare of the Community: A dismissal of these charges will have ***no impact*** on the safety or welfare of the community. W[redacted] is a young man committed to his studies, his family and developing a career. He has no history of drug or alcohol abuse and is regularly tested for illegal substances through his employment and has passed each test. Clearly, the use of drugs or alcohol must be discouraged however, it is respectfully submitted that ***education and not prosecution*** is the preferred method of communicating that message and it must be noted that the College community has already deemed it appropriate to discipline Mr. M[redacted] and he has had to enroll in and complete a drug and alcohol education program at significant cost to himself. In the absence of any facts tending

to suggest that W[redacted], has been involved in the possession of large quantities of drugs (the allegation is that 4 people possessed a single pipe containing what is alleged to be residue of marihuana and none of the four possessed any marihuana on their persons nor in any area under their dominion and control), there is nothing to suggest that W[redacted] was involved in the distribution of marihuana nor is there any suggestion that W[redacted] was involved in the use of Marihuana with any child under the age of 17. Indeed a conviction would be more likely to imperil the safety and welfare of the Community to the extent of that a conviction would potentially limit W[redacted]'s ability to be employed in the career of his choosing upon successful completion of the course of study at SUNY Oneonta.

30. The Purpose and Effect of Imposing Upon the Defendant a Sentence Authorized for the Offense: A criminal conviction places in peril this young professional as the mere presence of the moniker "convicted of a drug related offense" will likely discourage many from employing W[redacted]. Moreover, this is not an act that derives from criminal motives, any intention to impose his will upon another or any conscious weighing of the criminal consequences of his actions. Indeed the offense alleged is non criminal and of the sort that the legislature has contemplated that no criminal prosecution would be undertaken.

31. The Impact of a Dismissal Upon the Confidence of the Public in the Criminal Justice System: It is respectfully submitted that dismissal of these charges would be far more productive to instilling greater confidence rather than having a negative impact. It is inconceivable that anyone could gain greater confidence in a system which prosecutes an individual for an offense which statutorily is the lowest level of offense conceivable and for which the legislature saw fit

to provide a specific statutory provision, §170.56 of the Criminal Procedure Law, which provides a compelling basis for allowing an offending individual a single transgression of judgment without long lasting consequences which clearly outweigh the nature of the offense. Moreover in the case at bar the officer arrested 4 individuals for an offense without probable cause relying only on the fact that the individuals were deemed uncooperative by virtue of the fact that they refused to answer his questions, a right which is constitutionally protected and a right which the officer had a well settled affirmative obligation to advise them of prior to engaging in any sort of questioning beyond that of an investigatory nature. Here the officer based the arrest not upon the statements of the co-defendants but rather upon the fact that they each refused to answer thereby providing nothing beyond the officer's hunch upon which to base this arrest. It must also noted that according to the officer, one of the individuals ultimately accepted ownership of the article and yet they proceeded with the arrest (and now prosecution) of all four, without any indicia of possession by any of the four as there can be no constructive possession in a case which arose outside where none of the four exercised dominion and control over the area in which the single pipe alleged to contain residue (of marihuana) and which as of this date has not been confirmed by laboratory test. The system is created and survives on certain constitutional protections including the presumption of innocence and the right against self incrimination here the officers, ***clearly abusing*** their authority, used the power of arrest to further their investigation where they lacked probable cause to believe that any of the four had committed any crime (or offense) whatsoever. Clearly, there can be no confidence in a system which prosecutes the facts present in the case at bar, particularly were the police use the power of arrest to punish the defendants for not voluntarily incriminating themselves, by providing requested information to the officers, beyond simple pedigree.

32. The Evidence of Guilt, whether Admissible or Inadmissible at Trial: The evidence of guilt in the case a bar is ***severely lacking***. In order to find W[redacted] M[redacted] guilty of this offense, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements: 1) That on or about September 20, 2012 in Otsego County, W[redacted] M[redacted] possessed marihuana; and second that the defendant did so knowingly and unlawfully. As a preliminary matter, it must be noted that there has been no laboratory test provided here and therefore there is no evidence that the substance allegedly possessed was in fact marihuana, leaving the People with the mere hunch of an officer, which is insufficient as a matter of law to establish that element of the offense. There is nothing to support possession. The criminal procedure law defines possession, within the context of this offense as follows:

> Posses means to have physical possession or otherwise to exercise dominion or control over tangible property

33. In the case at bar the subject item was discovered, by University Officers, abandoned in a wooded area, as such, since the officers are unable to even allege actual possession we are left to presume that the prosecution theory is one rooted in constructive possession. Under our law, a person has tangible property in his or her constructive possession when that person exercises a level of control over the area in which the property is found sufficient to give them the ability to use or dispose of the property People v. Manini, 79 NY2d 561 (1992). In the case at bar the area in which the property was found was public lands on the campus of the State University, accessible to literally several thousand people, clearly none of

the defendants exercised any dominion or control over those lands sufficient to yield a presumption of constructive possession. Where the officers did not observe any of the individuals physical possession of the subject contraband; did not observe anyone discard the item, but rather relied only on their own olfactory perception and thereafter found an item, discarded in a wooded area, they cannot then make a claim of constructive possession as it cannot be shown from this set of facts that anyone, particularly the defendant herein, W[redacted] M[redacted], exercised dominion and control over the wooded area in which the pipe was found. *See also;* People v. Schriber, 34 AD2d 852 (3rd Dept 1970). *See also* §140.10(1)(a) of the Criminal Procedure Law.

34. Any Exceptionally Serious Misconduct by Law Enforcement Personnel in the Investigation, Arrest and Prosecution of the Defendant: At the outset it is conceded that the Office of the District Attorney of Otsego County has, in all respects, handled this matter professionally and appropriately extending all expected courtesies to counsel for which defense counsel is exceedingly appreciative. Regrettably the same cannot be said of the arresting officers who, abused their authority by arresting 4 individuals for possession of a single pipe alleged to contain only residue of a substance which the officers believed, based upon their own olfactory perception to be marihuana. The officers placed the four under arrest because, by their own statement, the four were "uncooperative" with the officers. Since there has been no suggestion that the individuals acted in a combative manner such that an arrest for Obstructing Governmental Administration may lie, it can only be concluded that the lack of cooperation referenced by the officers related to the individuals refusal to provide potentially incriminating responses to the officers questions, a constitutionally protected right afforded all individuals

during encounters with law enforcement People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 AD2d 934 (4th Dept, 1988); People v. Santiago, 132 AD2d 942 (4Th Dept, 1988). Clearly, the officers had no additional indicia of criminal activity afoot after questioning the subjects then they did before and yet, according to the officers it was this "failure to cooperate" that provided the justification, in the minds of the officers, to arrest four individuals for possession of an item found abandoned in the woods. Thereafter, according to the officers, after placing the four under arrest for possession of this item, they failed to advise them of their rights under *Miranda*, yet continued to question the four eliciting certain information which the officers thereafter relied upon to justify their arrest. It must be noted, however, among the information elicited *post arrest*, was an admission from one of the four that the pipe belonged to him, and yet the officers, apparently intent on enforcing their will and demonstrating their authority over all four students, failed to exercise appropriate discretion preferring instead to file against all 4 even though they now had information which exculpated three of the four. Moreover, there has been no Notice provided pursuant to CPL 710.30 therefore any statements attributable to any of the defendants will not be admissible in the ultimate trial of this matter, regardless of the Constitutional violations associated with the manner in which the alleged statements were elicited.

35. To the extent, therefore that this arrest was achieved without probable cause, based upon the 4 individuals "failure to cooperate" anything which flowed from that illegal arrest constitutes "fruit of the poisonous tree" and must, be excluded from the People's case in chief at trial, People v. Convers, 68 NY2d 982 (1986); People v. Harris, 77 NY2d 434 (1991); leaving

virtually no evidence upon which to maintain the case against these individuals requiring this court to ultimately dismiss the charges.

36. In sum, it is respectfully submitted that the prosecution of W[redacted] M[redacted], not only would serve no useful purpose it is clearly contrary to the Legislative intent in promulgating Article 221 of the Penal Law. The Legislature has, in enacting the very statute being prosecuted on, set forth that criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. Accordingly and based upon the foregoing factors, considerations and circumstances, it is respectfully requested that the actions pending against Mr. W[redacted] M[redacted] be dismissed in their entirety.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS

37. The Officers Lacked Probable Cause to Make a Lawful Arrest: It is well settled in this state that an arrest is authorized when the officer has probable cause to believe that the person has committed an offense. CPL 140.10; People v. Wroblewski, 109 AD2d 39 (4th Dept, 1985); People v. DeBour, 40 NY2d 210. Where the offense charged is a petty offense, such as the matter at bar, in addition to having probable cause to believe an offense has been committed by the defendant the offense must have been committed in the officer's presence, CPL §140.10; People v. Solomon, 31 AD3d 1178 (4th Dept, 2006); People v. Genovese, 156 Misc. 2d 569 (J. Ct 1992). The Appearance ticket and any supporting deposition together must provide probable cause to believe that the offense in question was committed by the defendant, in the presence of the arresting officer. People v. Kaminiski, 143 Misc. 2d 1089 (City Criminal Court, 1989).

38. In the case at bar the officers allege, in their statement provided to ADA Getman, that they detected the odor of Marihuana in a wooded area and responded to further their investigation and found 4 individuals in said wooded area. The officers thereupon approached the students and requested certain information, such level of intrusion in all respects appropriate pursuant to *DeBour* and it progeny. Thereafter and presumably while speaking to the students the officers observed a glass pipe in the wooded area presumably proximal to the area where the students were standing yet still in a public area open and available to literally several thousand individuals on the SUNY Campus, clearly not an area over which any of the defendants herein exercised dominion or control[1]. Assuming arguendo that this discovery by the police furthered their investigation they may have been justified in escalating the level of intrusion into the liberty of these four students People v. Espinosa, 46 AD3d 311 (1st Dept, 2007). While it is conceded that an officer is entitled to approach a citizen and make inquiry of a more intrusive nature when the officer has a founded suspicion that ***criminal activity*** is afoot and that the individual approached may be involved. In this case, the officers had no such indication that ***criminal activity*** was afoot and therefore likely were ***not justified*** in furthering their investigation by intruding upon the liberty of the students by exposing them to further questioning. In either case and in the absence of further analysis, being mindful that this intrusion occurred outdoors in a public area, there could be no claim of constructive possession as none of the four students exercised dominion and control over the area where the item was found (People v. Manini, 79 NY2d 561 (1992)) and therefore none, particularly the defendant herein, W[redacted] M[redacted],

[1] There is nothing to suggest that the officers observed any of the 4, particularly M[redacted], discard this property therefore the nexus to the individual defendants cannot be established as would be permitted in the case where, for example a pursuing officer observed an individual discard the property. People v. Martinez, 80 NY2d 444.

could be said to have possessed, even constructively, the item, at least not at the time that the officers discovered it.

39. It is critical to note, in the case at bar, even taken in a light most favorable to the People, the investigation herein involved statutorily ***non-criminal activity*** which yields a vastly different standard for police to adhere to when compared to the options available to law enforcement when they have reason to believe that criminal activity is afoot. In this case the police clearly were drawn to an area because of what they perceived to be the smell of burning marihuana. Where there is no indication of criminal activity the person who is questioned has the absolute right not to speak with a police officer and indeed has the absolute right to leave the area (which the defendant did not do in this case and yet the police still based their decision to arrest on the mere fact that the defendants were uncooperative). People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 A.D.2d 934 (4th Dept, 1988). Indeed Courts of this state have ***consistently*** held that a defendant may invoke the right to be "left alone". People v. Perez, 47 A.D.3d 1192 (4th Dept, 2008). Yet in this case, the only additional information possessed by the officers between the time of their initial observation (smell of burning marihuana) and the time of the arrest was the fact that they had deemed the students to be uncooperative by refusing to answer their questions, whereupon, according to the officer's statement they placed all four individuals under arrest.

40. Where, as here, the police seek to make a warrantless arrest for a petty offense (PL §221.05 is a non criminal offense), the Criminal Procedure Law (§140.10) ***requires*** that the offense be committed in the officer's presence. People v. Solomon, 31 A.D.3d 1178 (4th Dept,

2006). People v. Genovese, 156 Misc.2d 569[2]. Here the police seem to rely upon statements elicited ***post arrest*** to bolster their case, specifically that all four had smoked from the subject pipe[3]. Such statements, particularly in the absence of *Miranda* warnings and ***taken post arrest*** cannot be used to establish probable cause to arrest and under any set of circumstances ***do not cure*** the fact that the offense did not occur in the officer's presence. People v. Washburn, 309 A.D.2d 1270 (4th Dept, 2003); People v. Young, 202 A.D.2d 1024 (4th Dept, 1994).

41. Accordingly in this case we are left with nothing more then open air observations of the officers regarding the smell of burning marihuana which is insufficient, ***as a matter of law***, to charge anyone with possession of marihuana. At the outset it must be noted that possession requires that the person possess some tangible property and the smell of burning marihuana, even if the hunch is ultimately confirmed (which is was not in this case) is not tangible and therefore cannot be the subject substance to form the basis for the charge. Moreover, the courts of this state have held that probable cause to arrest cannot be based upon the mere smell of marihuana in the absence of evidence to establish that the officer has had some special training as a drug recognition expert which is not the case here. People v. Hanson, 5 Misc. 3d 67 (App Term, 2004).

---

[2] In the case at bar there can be not cognizable debate over the issue of arrest since the defendant was placed in handcuffs in the back of a patrol vehicle and brought to the police office before being issued an appearance ticket for a petty offense which did not occur in the officer's presence.

[3] Even if these statements were admissible they could not form the basis for a valid arrest since they were obtained post arrest and probable cause to arrest must be established pre-arrest and moreover those statements still do not cure the fact that the offense must have been committed in the officer's presence if the officer is going to issue an Appearance ticket. Where the officer is going to bring an action for a petty offense not committed in the presence of the officer he would be required to present an proper accusatory instrument to the court, containing a sworn to complaint of a witness containing non hearsay allegations to establish each of the elements of the offense charged and have the court thereafter issue a summons, the officer cannot essentially complete a warrantless arrest for a petty offense not committed in their presence.

42. Accordingly, it is respectfully submitted that the Accusatory Instrument in this case *must* be Dismissed as the police lacked probable cause to support the arrest at the time of the arrest or anytime thereafter. In the alternative the Defense most respectfully requests a hearing on the issue to determine whether the officers had probable cause to believe that an offense had occurred, in their presence at the time of the arrest.

GRANTING TO THE DEFENDANT PRECLUSION OF ANY ALLEGED STATEMENTS MADE BY THE DEFENDANT, BUT NOT CONTAINED WITHIN THE PEOPLES NOTICE PURSUANT TO CPL §710.30

43. Section 710.30(1) of the Criminal Procedure Law provides, in relevant part that whenever the People intend to offer at trial evidence of a statement made by the defendant to a public servant, they must serve upon the defendant a Notice of such intention, specifying the evidence intended to be offered, within fifteen (15) days after arraignment.

44. The Court of Appeals has held that where the People fail to comply with the requirements of CPL §710.30 the remedy is preclusion of the improperly noticed statement from use during the People's direct case at trial. People v. Lopez, 84 NY2d 425 (1994)

45. In People v. Phillips, 183 AD2d 856 (2nd Dept 1992), the Second Department held that such inadequacy of Notice cannot be cured by Discovery and further that lack of prejudice to the defendant is not relevant to the Court's determination of admissibility.

46. A Motion to preclude only those statements not properly Noticed pursuant to the mandates of §710.30 will not trigger the waiver provisions provided for under CPL §710.30(3). *See also:* People v. Bernier, 73 NY2d 1006 (1989); People v. Amparo, 73 NY2d 728 (1988).

47. Accordingly, the defense requests that any statements not properly Noticed, pursuant to CPL 710.30(1) be precluded from use during the people's direct case, at trial.

HUNTLEY HEARING

48. No §710.30 Notice has been served upon the defense. It is respectfully contended, however, that any and all statements alleged to have been made by the Defendant or attributed to the Defendant were made in violation of his Constitutional rights and his rights pursuant to **Miranda v. Arizona** and must be suppressed as a matter of law. Alternatively, the Court must hold a hearing to determine their legality. As to each statement we respectfully allege as follows:

a. The alleged statements were made in violation of the right of the accused against self-incrimination.

b. The alleged statements were made while the defendant was detained without probable cause to arrest (**Dunaway v. New York**).

c. The alleged statements were made without adequate advice to the suspect of his rights during questioning.

d. The alleged statements were made without any effective waiver by the defendant of his rights pertaining to questioning. As such, it is respectfully requested that this Court suppress all

such statements or, in the alternative, conduct a **Huntley** hearing to determine the legal admissibility of same.

GRANTING TO THE DEFENDANT ADJOURNMENT IN CONTEMPLATION OF DISMISSAL PURSUANT TO CPL §710.56

49. Section 170.56 of the Criminal Procedure Law provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15; 221.35 or 221.40 of the Penal Law and before entry of a plea of guilty thereto or commencement of trial, the court upon motion of the defendant may order that all proceeding be suspended and the action adjourned in contemplation of dismissal or upon a finding that the adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument.

50. The relief provided for under §170.56 is conditioned upon certain conditions precedent specifically; 1) The Defendant has never before granted such an ACD; 2) Never before granted a Dismissal under §170.56; 3. Defendant has never been convicted of any Offense involving a Controlled substance; 4. Defendant has never been convicted of any crime (DA Consent therefore not necessary); Defendant has never been adjudicated a YO on the basis of any act involving controlled substances (DA Consent therefore not necessary).

51. It must be noted, at the outset that §170.55 also provides for an Adjournment in Contemplation of Dismissal and provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15;

54. Under §170.55 an Adjournment in Contemplation of Dismissal (ACD) is available when the prosecutor, defendant and the court are in agreement that this is the proper disposition of the case. Under §170.56 dealing with marijuana offenses, the Legislature has ***specifically omitted*** the language related to ***consent*** of the District Attorney and the ***court*** which is so prominent under §170.55. The Granting of an ACD under §170.56, therefore clearly ***does not require*** the prosecution's consent and indeed can be entered even over the objection of the District Attorney[4].

55. Indeed in appropriate circumstances not only is consent of the District Attorney not required under §170.56 as it is under the more general provisions of §170.55 but in the case of marihuana offenses the arrest itself is deemed a nullity and thus a defendant who is granted an ACD under §170.56 is offered certain benefits not otherwise available to them under the ACD under §170.55. People v. Ford, 104 Misc 458 (NYC Criminal Court, 1980). Under §170.56 the Court has the option of granting an outright dismissal of the charge in the interests of justice an option ***not available*** under §170.55.

56. The People will likely argue that the express language of §170.56 is permissive in nature and therefore the court has inherent discretion whether or not to grant the relief. Such a position, however is ***not supported*** by case law interpreting this section. Indeed even affording the Prosecution with an opportunity to be heard under §170.56 would seem inappropriate as since their consent is not necessary any input they might offer would be at best, moot and at

[4] §170.56(1)(e) requires the consent of the District Attorney only in circumstances where the defendant is seeking an ACD after having previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances.

worst be prejudicial to the Defendant in having the court carry out a duty which has been deemed ministerial in nature.

57. In People v. Mann, 83 Misc 2d 442 (1975), the District Court for Nassau County held that the act of the Judge in granting the Adjournment in Contemplation of Dismissal, under §170.56, is ministerial in nature in that the Court is "***compelled to grant the ACD***" as long as the application sets forth the basic representations upon which such an application can be granted.

58. In the case at bar we have a defendant who has neither been charged or convicted of any offense whatsoever, either involving marihuana or any other offense contained in any statue of the State of New York, the United States of America or any other state or sovereign for that matter. As such, it flows naturally that Mr. M[redacted] has never been granted an Adjournment in Contemplation of Dismissal under either §170.55 or §170.56 (§170.56 (1)(a)); thus he has never before been granted a Dismissal under §170.56 (§170.56(1)(b)); he have never been convicted of any offense involving any controlled substance (§170.56 (1)(c)); he has never been convicted of any crime whatsoever (§170.56(1)(d)); he has never been adjudicated a YO on the basis of any act involving controlled substances or any other crime for that matter (§170.56 (1)(e). Finally the only count involved here is one of violating section 221.05 of the Penal Law of the State of New York. Accordingly, whereas Mr. M[redacted] ***satisfies each*** of the conditions precedent to this court granting the relief requested in accordance with the relevant case law interpreting this section and consistent with the legislative intent in setting forth the criteria for such relief, separate and distinct from that provided for every other offense contemplated by any law of this state, this court is ***compelled to grant*** the ACD.

WHEREFORE, it is respectfully requested that the relief as set froth in the accompanying Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
April 6, 2013

MICHAEL F. McGUIRE, ESQ

RECEIVED
AUG 07 2013
ONEONTA CITY COURT

MICHAEL F. McGUIRE
Attorney and Counselor at Law
[redacted]

August 4, 2013

HON. RICHRD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RE: People v. W[redacted] M[redacted]
Docket Number 2012-0810

Dear Judge McVinney;

Enclosed please find the my Reply Affirmation submitted in response to Mr. Gentman's Affirmation in Opposition to the pending Motion seeking various forms of relief. The delay in providing same was occasioned by the fact that Mr. Getman's papers were sent to an address which is no longer in use and therefore with delays associated with forwarding etc, together with my vacation schedule I did not receive the subject papers until late July. Accordingly, I would respectfully request leave of the court to file this Reply affirmation at this time.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

Cc: Michael F. Getman, Esq

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1e

RECEIVED
AUG 07 2013
ONEONTA CITY COURT

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

REPLY AFFIRMATION

-Against

W[redacted] M[redacted]

Defendant.

----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about April 6, 2013, Respondent filed a Motion, seeking various forms of relief including Dismissal of the pending charges (CPL §100.40); Dismissal of the instant matter in furtherance of Justice (CPL §§170.30(1)(g) and 170.40); or in the alternative, an Adjournment in Contemplation of Dismissal (CPL §170.56); Preclusion of any statements allegedly made by the defendant to law enforcement (CPL §710.30).

3. On or about May 9, 2013, Mr. Getman filed Opposition to Defendant's Motion, this Affirmation is offered in Reply to Petitioner's submission.

4. As a preliminary matter, while Defense recognizes that this submission is offered well beyond the customary 7 day period provided for such submissions, it is respectfully requested that the court consider same as due to an error in mailing, your affiant did not receive the Prosecutor's Affirmation in Opposition until late July. Apparently, despite defense requesting

that all mail be submitted to [redacted] (counsel's current address)[1] (Exhibit 1), Counsel, relying on the address listed on letterhead forwarded his Affirmation in Opposition to the address of my former office. The resulting delay in forwarding caused the submission to be received at my proper address in late July of 2013.

5. The Prosecutor is bootstrapped by his own argument in opposition to the Defendant's request for Dismissal pursuant to §100.40 of the Criminal Procedure Law. Mr. Getman's opposition is premised upon an assumption that this case and the consequent impact of such a conviction is not "significantly different than the hundreds of other Unlawful Possession of Marihuana cases filed in the Oneonta City Court each school year." It is respectfully submitted that injustice occasioned by having a college student with an otherwise impeccable reputation in his community being saddled with any criminal or even non criminal penal law conviction, involving drugs, is not cured because the prosecutor apparently routinely advocates that such injustice may be perpetrated on hundreds of other college students each year. Indeed under the facts of this case as provided by the arresting officer (Exhibit 2), in light of the significant misconduct by the arresting officers, even exposing the defendant to the hazard of having to defend himself at trial of this matter yields significant injustice. It is respectfully reiterated that the arrest in the case at bar, based upon the factual narrative provided by the Prosecutor (Exhibit 2), lacked probable cause and involved significant violations of the defendant's rights under the Constitutions of the United States and the State of New York.

6: The People rely upon the fact that they "do not force pleas from defendants", an argument never suggested by the Defense. Defendant acknowledges that an offer of settlement

[1] See Notice Of Appearance and cover letter dated December 2, 2012 copy attached hereto)

was made and rejected, however, it must be pointed out that the subject of plea negotiations are simply irrelevant to the issues presented in defendant's moving papers and moreover it is respectfully submitted that it would be patently improper, indeed constituting reversible error, for this Court to even consider that fact in deciding any of the issues presented in defendant's moving papers. Such an argument is ***irrelevant*** to ***all legal issues*** in this case and can never form the basis for opposing a Defense motion. Indeed such information merely has the effect of inserting a Redd Herring into these proceedings, by encouraging the Court to ignore the facts and the law legal preferring instead to encourage the court to focus its attention on irrelevant factors, thereby having the impact of nullifying the legal issues presented.

7: Counsel argues that the issues raised in support of Defendant's CPL §100.40 Motion are really issues which should be decided at trial or a probable cause hearing. It is respectfully submitted that the People have not put forth any facts upon which the court could find that an evidentiary hearing was necessary in order to resolve a disputed question of fact. The only factual recitation put forth by the prosecution was in the form of a narrative supplied by the arresting officer (Exhibit 2). Relying on those facts, the Defense submits that the officers acted beyond their lawful authority in placing 4 students under arrest for a petty offense, not committed in the officer's presence. Indeed while it is conceded that the Prosecutor's responding papers need not, in all cases, set forth specific facts; The Court of Appeals in People v. Gruden, 42 NY2d 214 set forth that the prosecutor must, at the very least, dispute the facts set forth by the Defense. In the case at bar the defense relied entirely on the facts provided to the defense, by the prosecutor which, it is respectfully submitted, establishes conclusively as a matter of Law that the ***officers lacked probable cause*** to place the 4 students under arrest when

they based their arrest on the fact that they smelled what they believe was the scent of burning marihuana; the discovery of a pipe on the ground (which all 4 initially denied ownership of but which one of the 4 (not W[redacted] M[redacted]) subsequently acknowledged ownership of) and thereafter while attempting to further their investigation the 4 students were deemed "uncooperative" with furthering the officers investigation[2]. There is nothing to suggest that any substance was even field tested to determine whether or not the officer's assumption was supported. Indeed, according to the Officer's narrative (Exhibit 2) it was the defendant's failure to cooperate with the officers in furthering their investigation that was the determining factor in the officer's decision to arrest all 4 individuals. Indeed the prosecutor still has not provided a laboratory test to establish that the subject residue was marihuana and therefore is still incapable of establishing a material element of the proffered charge.

8: Accordingly despite the prosecutor's argument that these issues should be decided at a trial or probable cause, there is ***no basis*** upon which this court can conduct a probable cause hearing as there is ***factual dispute,*** there are only questions of law remaining for the court to determine.

9: The prosecutor argues that the Defendant's application pursuant to §170.56 for an adjournment in contemplation of dismissal should be denied because there are no sworn statements to verify or support any of the facts for the court to consider under §170.56, a burden not borne by the defense under any interpretation of the law. Indeed, your affiant has known the Defendant since the moment of conception and has set forth in an Affirmation submitted in

[2] It must also be noted that there was no field test to establish the nature of the residue found in the subject pipe and therefore at least one material element of the alleged offense could not be determined at the time of the subject arrest

conjunction with the instant motion that the defendant satisfied each of the conditions precedent to be ***entitled*** to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. Indeed, it is respectfully submitted, that upon such an application it would be incumbent upon the prosecution to refute any of the assertions set forth in Defendant's moving papers, which the People have not done. Clearly the prosecution has access to information, not otherwise available to the defense, including but not limited to the Defendant's DCJS report. No such information refuting Defendant's assertion is submitted, rather, the Prosecutor apparently prefers to shift the burden of establishing such ***negatives*** to the Defense, a tactic which is impermissible at any stage of a criminal proceeding. Indeed the Criminal Procedure Law of this state is quite clear that were an affirmative defense is raised (clearly §170.56 is not an affirmative defense but by way of analogy) the burden on the Defense is to set forth such an argument and the burden thereafter shifts to the People to Disprove that Affirmative Defense, Beyond a Reasonable Doubt. It is respectfully submitted that in most Courts throughout this state, applications brought under §170.56 are made orally by counsel (with far less first hand familiarity with their client than exists in the case at bar) and routinely granted upon such an application. The Defense, in this case has gone well beyond that standard by setting forth sworn factual assertions by one with first hand knowledge of the defendants criminal and juvenile history and respectfully submits and reiterates that ***each of the enumerated*** criteria set forth in §170.56 of the Criminal Procedure Law have been satisfied entitling the defendant to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. The People have ***offered nothing*** to refute those assertions and therefore this Court is left with nothing upon which to determine that the factual requisites to granting the Defendant's application, pursuant to §170.56, have not been satisfied. Therefore, as a matter of

law, this court is without authority or basis to deny the instant application. Whereas Mr. Getman has offered no material facts to refute the Defendant's assertions the court, as a matter of law, is obligated to grant Defendant's application even over the objection of the Prosecution[3]. People v. Mann, 83 Misc2d 442 (1975).

10: Whereas the prosecution has not addressed nor opposed the issues raised pursuant to CPL §710.30 the court must grant defendant's application. It is uncontradicted that the People have failed to provide Notice pursuant to §710.30 therefore the Defense is ***entitled to preclusion*** of any such statements attributed to the Defense from use within their case in chief, ***as a matter of law***. The Defense respectfully submits that under the law, this ***court is without authority*** to deny such application and likewise without authority to even conduct a Huntley Hearing.

WHEREFORE, it is respectfully requested that the relief as set froth in the Defendant's Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
August 4, 2013

MICHAEL F. McGUIRE, ESQ
[redacted]

[3] The Express language of §170.56 when compared to §170.55 provides that consent of the District Attorney is not an element of this court's consideration.

EXHIBIT 1

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

Reference my letter and submissions, previously submitted this date, please note in setting the next date for Appearance that I am scheduled to be out of the State between January 5 – 14. Finally I would respectfully request that you avoid Monday Appearances, if at all possible, as my responsibilities require that I be in Sullivan County on those days.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(Via Fax: 607-547-4373)*

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NOTICE OF APPEARANCE

W[redacted] M[redacted]

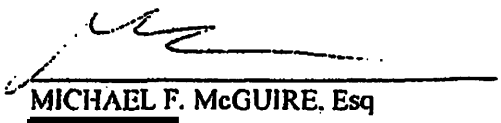
Defendant.

_____X

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,



MICHAEL F. McGUIRE, Esq
[redacted]

EXHIBIT 2

Mr MICHAEL MCGUIRE

From: Zachary Kelson [zacharykelson[redacted]
Sent: Friday, November 30, 2012 2:11 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: FW: W[redacted] M[redacted] Case

---------- Forwarded message ----------
From: "michael getman" <oneontacityprosecutor[redacted]>
Date: Nov 30, 2012 2:06 PM
Subject: FW: W[redacted] M[redacted] Case
To: "Zachary Kelson" <zacharykelson@[redacted]>

Here's what the officer sent me. I assume it is what he would testify to at a trial. the offer to your guy is still a discon.

From: michael getman [mailto:getmanlaw@[redacted]]
Sent: Friday, November 30, 2012 1:32 PM
To: oneontacityprosecutor@[redacted]
Subject: FW: W[redacted] M[redacted] Case

From: Mark.Cardinal[redacted]
To: getmanlaw@[redacted]
Date: Wed, 28 Nov 2012 22:15:25 -0500
Subject: W[redacted] M[redacted] Case

Mr. Getman

While on Bike Patrol Officer Brunner and Dispatcher Skovira detected burning marihuana in the wooded area East of the MacDuff Hall Parking lot. Upon investigating the odor, M[redacted] was found with three other males (M[redacted] R[redacted], A[redacted] S[redacted], and J[redacted] E[redacted]) in the woods and a glass pipe resonated with marihuana was found on the ground next to them as Officer Brunner approached. All denied ownership of the pipe and were uncooperative with questioning. Since no owner could be determined all 4 males were arrested. After being advised they were under arrest, M[redacted] R[redacted] then stated the pipe belonged to him. All 4 admitted to smoking marihuana from the pipe and all 4 admitted to pitching in to buy the marihuana they had just smoked. When asked who they had bought the marihuana from, they were all uncooperative and would not provide a name.

I got permission from Lt. O'Donnell to send you a copy of the SJS report if you would like it. If you need anything else let me know.

Also was wondering if this was your alretnate e-mail address: (oneontacityprosecutor[redacted])

I have never recieved a message from you on this one before, just wanted to double check before sending case info to it in the future.

Officer Mark Cardinali

New York State University Police

Oneonta State College

Oneonta, NY 13820

607-436-3550

STATE OF NEW YORK : COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

-against-

W[redacted] M. M[redacted],

Defendant.

DECISION AND ORDER

Docket No. 2012-0810

Before Hon. Richard W. McVinney, City Court Judge

Appearances: Michael F. McGuire, Esq.
Michael F. Getman, Esq., City Prosecutor

Defendant, W[redacted] M. M[redacted], was charged by SUNY Oneonta Police with Unlawful Possession of Marihuana, contrary to Penal §221.05, on September 20, 2012. Defendant appeared in Oneonta City Court on October 3, 2012 and the matter was not conferred until February 26, 2013. Attorney Michael F. McGuire was granted time to submit an Application or Motion including an Application for an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law.

Attorney McGuire filed on April 10, 2013. Oneonta City Prosecutor Michael F. Getman filed opposition papers on May 9, 2013. During that time, other cases arose in Oneonta City Court before Judge Lucy Bernier involving motions seeking relief under CPL §170.56. I decided, sua sponte, not to address the issue in this case until Judge Bernier had decided her cases

The reasoning for this was to prevent forum shopping. If the two Oneonta City Court Judges could not agree as to whether CPL §170.56 was "ministerial in nature" or if it should be applied on a case by case basis, havoc would ensue.

Both Judge Bernier and I have reviewed the legislative history of this very odd, and frankly, bizarre addition to the Criminal Procedure Law. We have also both reviewed the extremely limited prior case law. While discussions between Judges are common, they are not generally part of a decision.

To me, CPL §170.56 made some sense when in 1971 simple possession was a crime. But when PL §221.05 was added, basically decriminalizing simple possession, it was added to CPL §170.56. That makes no sense to me.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1f

While I concur in part and take no position in part with Judge Bernier's decision in People v. Gates and others, the instant case can be resolved pursuant to CPL §170.40 or a so-called "Clayton Motion" (see People v. Clayton, 41 AD2d 204 (2nd Dept. 1973).

The criteria set forth in CPL §170.40 include: (1) the seriousness and circumstances of the offense; (2) the extent of harm caused by the offense; (3) the evidence of guilt, whether admissible or inadmissible at trial; (4) the history, character and condition of the defendant; (5) any exceptionally serious misconduct by law enforcement personnel in the investigation, arrest and prosecution of the defendant; (6) the purpose and effect of imposing upon the defendant a sentence authorized by the offense; (7) the impact of dismissal on the safety and welfare of the community; (8) the impact of dismissal on the confidence of the public in the criminal justice system; (9) where the court deems is appropriate, the attitude of the complainant or victim with respect to the motion; and (10) any other relevant fact indicating that a judgment of conviction would serve no useful purpose.

Based upon Attorney McGuire's Affidavit in regards to the first nine issues and recognizing that he is the Defendant's father, he is still an officer of the Court. In this State and most others, we accept an Attorney's Affidavit as true. We do this in real estate transactions, probate, contracts and almost all transactional matters. We rely on the fair dealing and honesty of fellow attorneys.

I don't consider this a serious offense as it is a Penal Law violation that carries a penalty of only a fine. I find little or no harm caused by the offense. The evidence of guilt is questionable as no one saw the Defendant with the pipe in his mouth or saw him consume marihuana. Based upon Attorney McGuire's Affidavit, I find the Defendant to have a fine reputation.

A dismissal here will not impact on the safety or welfare of the community as the Defendant has been disciplined by the College and he has completed a drug and alcohol education program.

While I find no misconduct by law enforcement personnel, the prosecution would be difficult as no CPL §710.30 notice has been filed.

While the sentence is a fine and surcharge, the effect of a guilty verdict after trial would be that the Defendant would have a drug related offense that could be more damaging than any monetary penalty.

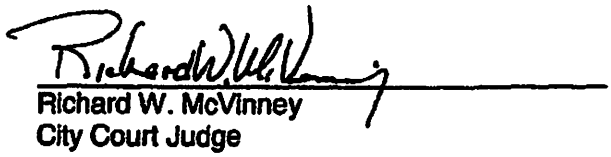
I find that there would be no impact on the confidence of the public in the criminal justice system.

Accordingly, the charge against W[redacted] M. M[redacted] is dismissed pursuant to CPL §170.40.

The above constitutes a Decision and Order of this Court.

Dated: August 6th, 2013
at Oneonta, New York

ENTER



Richard W. McVinney
City Court Judge

TO: Michael F. Getman, Esq.
16 Dietz Street
Oneonta, NY 13820

SCANNED

Michael F. McGuire, Esq.
111 Sullivan Avenue, Suite 2-5
Ferndale, NY 12734

Michael McGuire, Esq.
[redacted]

SCANNED

M[redacted], W[redacted] M DOCKET NO. 2012-0810
[redacted] VIOL DATE 09-20-2012
12754 ARREST DATE 09-20-2012
ARRAIGN DATE 10/3/12

d/o/b: [redacted] APPEAR: 10-03-2012 CO-DEFT:

ATTORNEY: Mc Guire (MC) BAIL: .00

CHG #1: PL-221.05 -V - A/C:-N-001 DESC:UNLAW POSS MARIHUANA
CHG #2: A/C: DESC:
CHG #3: A/C: DESC:
CHG #4: A/C: DESC:
CHG #5: A/C: DESC:
OP ISSUED: OP EXPIRE: FO:
ARRESTING AGENCY/CASE #
STATE UNIVERSITY POLICE

JUDGE: WARRANT RETURNED:_____

OTHER:

10-3-12
A hrg - is hiring atty
11/27/12 atty cont
8:15 a.m.

11/27/12
Zack Kelson
Delhi

12/5 8:30 a.m.

Adj 1/29/13 per atty - 2/12/13 per atty holiday
Adj 2/26/13 - Atty Michael McGuire App to
submit ACOD Application By 4-12-2013
Respond By 5-10-2013 - Then give file
to RWM
Control 6-14-13

EXHIBIT
Comm
Ex X-1g
PENGAD 800-631-6989

STATE OF NEW YORK
ONEONTA CITY COURT
Public Safety Building
81 Main Street, Oneonta, NY 13820
Phone: 607-376-5380 Fax: 646-963-6433
Hours: 8:00 am to 4:00 pm

Hon. Lucy P. Bernier
Judge

Hon. Richard W. McVinney
Judge

Catherine J. Tisenchek
Chief Clerk

February 4, 2019

New York State Commission on Judicial Conduct
Attn: Pamela Tishman, Esq., Principal Attorney
61 Broadway, Suite 1200
New York, NY 10006

Dear Attorney Tishman:

Enclosed please find a copy of the audio recording in regards to the following case:

Peo v. W[redacted] M[redacted]
Docket No. 2012-0810
Your #2015/N-0331
Date of Hearing: February 26, 2013
Starting time: 10:00:42
Ending Time: 10:01:01

I certify that the audio recording is a true copy produced by the Oneonta City Court, which was copied/extracted from the network server of the Criminal Court of the City of Oneonta and State of New York.

Please advise if I can be of further assistance.

Yours truly,

Catherine J. Tisenchek, Chief Clerk
Oneonta City Court
(Court Seal)

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-2

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

Transcript of Oneonta City Court Proceeding in

People v W[redacted] M[redacted]

Judge Richard W. McVinney, City of Oneonta

February 26, 2013

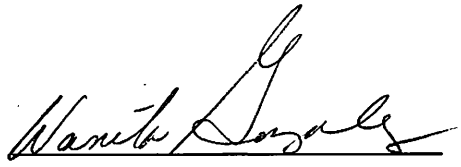
PENGAD 800-631-6989
EXHIBIT
10mm
Ex X-2a

Judge McVinney: This is in the *Matter of People v W*[redacted] *M*[redacted]. I had a conference in chambers with Attorney Michael McGuire and the People, and they're going to submit an application by April 12th. The Court considered that this matter be adjourned in contemplation of dismissal.

CERTIFICATION

I, WANITA GONZALEZ, a Secretary of the State Commission on Judicial Conduct, do hereby certify that the foregoing is a true and accurate transcript of the audio recording of the proceedings transcribed by me, to the best of my knowledge and belief, in the matter held on February 26, 2013.

Dated: April 2, 2019



WANITA GONZALEZ

Town of Wawarsing Justice Court
P O Box 671
108 Canal Street
Ellenville, New York 12428

TO: Commission on Judicial Conduct

From: Diana Stalter, Court Clerk, Town of Wawarsing Justice Court

Date: January 30, 2019

RE: People of the State of New York Versus Corinne McGuire, Dkt # 10050137

This is to certify that this is a true copy of the original papers filed in this office.

Diana J Stalter

Diana J. Stalter
Court Clerk
Town of Wawarisng

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-3

Wawarsing Town Court
108 Canal Street
P.O. Box 671
Ellenville, New York 12428

Charles J. Dechon
Town Justice

845-647-4770
845-647-4776

July 22, 2011

Corinne G. Mcguire
[redacted]

People of the State of New York versus:
Corinne G. Mcguire
[redacted]

Case No: 10050137
DOB: [redacted]

TicketNo.	Officer	Statute/Section	Charge Text
3F1002QDSP	Hastings, D	VTL 1180 0B	Speeding 69/55

You have not responded to the above cited Traffic Ticket. Within the next few days we will be ordering the Department of Motor Vehicles to suspend your driver's license pursuant to section 510-4a of the NYS Vehicle and Traffic Law.

PLEASE NOTE THAT IF YOUR LICENSE IS SUSPENDED THERE IS A NYS MANDATED $70.00 CIVIL FEE TO RELEASE YOUR LICENSE

The only way to protect your driving privilege is to send in your plea immediately You can enter your plea on the bottom of this letter and mail it back to the court. If you are pleading guilty we will mail you a fine letter, if you are pleading not guilty we will send you a trial letter.

Guilty_____

Not Guilty_____

_____
Signature

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
[redacted]

PHONE 845-292-6800
[redacted]

July 25, 2011

Dismiss - [illegible]

HON. CHARLES DECHON
Town of Wawarsing Court
P.O. Box 671
Ellenville, N.Y. 12428

Via Fax: 845-647-4776

Corinne McGuire

Dear Judge Dechon:

I recently received the attached letter, dated July 22, 2011 indicating that the Court had not previously received a responce to the referenced traffic ticket. I attach hereto a copy of my cover letter and Notice of Appearance which was forwarded to the Court on May 25, 2010, thereafter, on or about June 21, 2010 I conferenced the matter with Mr. Bruno who stated his intention to dismiss the referenced matter. Having received no further communication, from the Court, I made the reasonable assumption that the matter had, indeed, been resolved. Whereas I have now taken office, as County Court Judge, I recognize that I am not permitted to represent this or any other client, accordingly, if the court is either unaware of or unwilling to accept this disposition kindly advise. Under such circumstance, I would respectfully request that the Court accept the previously submitted plea and advise of a date for a follow-up Appearance during which I will see to it that Ms. McGuire is represented by counsel such that the matter can be adjudicated in the normal course.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I do apologize for any inconvenience occasioned by this matter. I can assure that there was never a desire or intention to ignore this matter.

Very truly yours,

MICHAEL F. McGUIRE

Cc: Ed Bruno, Esq *Via Fax: 845-913-9200*

Respond at: [redacted]

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

HON. THOMAS A. KLONICK, CHAIR
HON. TERRY JANE RUDERMAN, VICE CHAIR
HON. ROLANDO T. ACOSTA
JOSEPH W. BELLUCK
JOEL COHEN
JODIE CORNGOLD
RICHARD D. EMERY
PAUL B. HARDING
RICHARD A. STOLOFF
HON. DAVID A. WEINSTEIN
MEMBERS

JEAN M. SAVANYU, CLERK

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0038
TELEPHONE FACSIMILE
www.cjc.ny.gov

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

MARK LEVINE
DEPUTY ADMINISTRATOR

PAMELA TISHMAN
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ
BRENDA CORREA
SENIOR ATTORNEYS

KELVIN S. DAVIS
ERICA K. SPARKLER
DANIEL W. DAVIS
STAFF ATTORNEYS

ALAN W. FRIEDBERG
SPECIAL COUNSEL

CONFIDENTIAL

February 16, 2016

By Fax: 845-647-4776
Ms. Diana Stalter
Town of Wawarsing Justice Court
108 Canal Street
PO Box 671
Ellenville, NY 12428

Re: 2015/N-0331

Dear Ms. Stalter:

Pursuant to Section 42(3) of the Judiciary Law and in connection with a confidential matter, the Commission on Judicial Conduct requests a copy of the court case files for the following matter:

Litigant: Corinne McGuire
Court/County: Town of Wawarsing Justice Court
Case Number: 10050137

Thank you for your cooperation in this matter.

Very truly yours,

Mark Levine
Deputy Administrator

STATE OF NEW YORK: COUNTY OF ULSTER
TOWN COURT : TOWN OF WAWARSING

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NOTICE OF APPEARANCE

CORINNE McGUIRE

Defendant.

_____X

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Ferndale, N.Y.
May 25, 2010

Yours, etc,

MICHAEL F. McGUIRE, ESQ
Suite 2-5 Liberty Professional Plaza
111 Sullivan Ave
Ferndale, N.Y. 12734
(845) 292-6800

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

May 25, 2010

Chief Clerk
Town of Wawarsing Court
108 Canal Street
Ellenville, N.Y. 12428

Re: People v. Corinne McGuire

Dear Sir or Madam:

Enclosed herewith please find my Notice of Appearance for the above captioned matter. Kindly enter a plea of Not Guilty on behalf of my clients and notify me of a date for trial. Please note, by this communication I am hereby waiving receipt of Trooper Hasting's Supporting Depositions.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Warmest Personal Regards,

MICHAEL F. McGUIRE, ESQ

Wawarsing Town Court
108 Canal Street
P.O. Box 671
Ellenville, New York 12428

Charles J. Dechon
Town Justice

845-647-4770
845-647-4776

July 22, 2011

Corinne G. Mcguire
[redacted]

People of the State of New York versus:
Corinne G. Mcguire
[redacted]

Case No: 10050137
DOB: [redacted]

TicketNo.	Officer	Statute/Section	Charge Text
3F1002QDSP	Hastings, D	VTL 1180 0B	Speeding 69/55

You have not responded to the above cited Traffic Ticket. Within the next few days we will be ordering the Department of Motor Vehicles to suspend your driver's license pursuant to section 510-4a of the NYS Vehicle and Traffic Law.

PLEASE NOTE THAT IF YOUR LICENSE IS SUSPENDED THERE IS A NYS MANDATED $70.00 CIVIL FEE TO RELEASE YOUR LICENSE

The only way to protect your driving privilege is to send in your plea immediately You can enter your plea on the bottom of this letter and mail it back to the court. If you are pleading guilty we will mail you a fine letter, if you are pleading not guilty we will send you a trial letter.

Guilty_____

Not Guilty_____

_____
Signature

3F1002QDSP

New York State - Department of Motor Vehicles

SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

The people of the State of New York

VS.

NEW YORK STATE POLICE

Local Police Code	Date of Arraignment
15502	

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
MCGUIRE	CORINNE	G		10050137.01

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
[redacted]	[redacted]	[redacted]	○	DM

Client ID Number	Sex	Date Expires
[redacted]	F	10/05/2016

Lic State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]		2007	PONT	BK

Plate Number	Reg State	Registration Expires
DXS3235	NY	04/02/2011

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
3:25PM	05/17/2010	VTL

Violation Section	Traffic Infraction	Misd	Felony
1180 0B	☒	○	○

Description of Violation

SPEED OVER 55 ZONE

MPH	MPH ZONE
69	55

US DOT#

Comm Veh	Bus	HazMat
○	○	○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF WARWARSING	ULSTER	52	5668

Street Name	Hwy Type	NCIC/ORI
STATE 52 W/B	2	15502

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
05/17/2010	2 - Radar	2771	F311

Officer's Last Name	First Name	M.I.
Hastings	D	

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

WAWARSING TOWN COURT

Address

108 CANAL ST.

City	State	Zip
ELLENVILLE	NY	12428

☒ Return by mail before or in person on: / ○ Must appear in person on:	Date	Time
	06/02/10	1:00PM

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY055181J	51410		

Charge Convicted of	Disposition/Sentence	Fine $
○ AS ABOVE ○ VTL ○ Other		Surcharge $

Bail Forfeiture Date / Amount $	○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm DAYS/MONTHS/YEAR

DWI Test Type	DWI Test Results

ORIGINAL

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court	Date

Name of Judge

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒ Non - Speeding(Gen101a) ○

SUPPORTING DEPOSITION / CPL 710.30 NOTICE TO SUPPORT SIMPLIFIED TRAFFIC INFORMATION LOCAL CRIMINAL COURT

COUNTY OF **ULSTER**

STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
VS
CORINNE G. MCGUIRE

UTT NUMBER **3F1002QDSP**

Officer **D Hastings** of the **New York State Police**
a Police Officer and the Complainant alleges that the Defendant committed a violation of
1. (Law/Section/Subsection) **VTL1180 0B 0I0**
2. Description of Violation **SPEED VIOL:EXCEED 55 MPH**
3. Date **05/17/2010** Time **03:25:00 P** C/T/V of **TOWN OF WARWARSING**
4. Vehicle Year **2007** Make **PONT** Color **BK** License Plate No. **DXS3235** State **NY**
5. General Direction of Travel by Defendant **WEST**
6. Highway (Type/Name) **2 / STATE 52 W/B**
7. Defendant's Speed **69 MPH** in a **55 MPH** Zone
8. Charge based on Officer's **Direct observation**
9. Speed Verified by **RADAR** Model **STALKER DUAL**
10. Additional Information

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT PURSUANT TO SECTION 710.30(1)(A) OF THE CRIMINAL PROCEDURE LAW, THE PEOPLE INTEND TO OFFER AT A TRIAL OF THE ABOVE ENTITLED ACTION EVIDENCE OF A STATEMENT MADE BY YOU ON 05/17/2010 AT 03:25:00 P AT STATE 52 W/B, To Officer Name D Hastings a public servant

IN WHICH YOU SUBSTANTIALLY STATED AS FOLLOWS:

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK

Affirmed Under Penalty of Perjury
05/17/2010

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
[redacted]
PHONE 845-292-6800
[redacted]

July 25, 2011

Dismiss - [illegible]

HON. CHARLES DECHON
Town of Wawarsing Court
P.O. Box 671
Ellenville, N.Y. 12428

Via Fax: 845-647-4776

Corinne McGuire

Dear Judge Dechon:

I recently received the attached letter, dated July 22, 2011 indicating that the Court had not previously received a responce to the referenced traffic ticket. I attach hereto a copy of my cover letter and Notice of Appearance which was forwarded to the Court on May 25, 2010, thereafter, on or about June 21, 2010 I conferenced the matter with Mr. Bruno who stated his intention to dismiss the referenced matter. Having received no further communication, from the Court, I made the reasonable assumption that the matter had, indeed, been resolved. Whereas I have now taken office, as County Court Judge, I recognize that I am not permitted to represent this or any other client, accordingly, if the court is either unaware of or unwilling to accept this disposition kindly advise. Under such circumstance, I would respectfully request that the Court accept the previously submitted plea and advise of a date for a follow-up Appearance during which I will see to it that Ms. McGuire is represented by counsel such that the matter can be adjudicated in the normal course.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I do apologize for any inconvenience occasioned by this matter. I can assure that there was never a desire or intention to ignore this matter.

Very truly yours,

MICHAEL F. McGUIRE

Cc: Ed Bruno, Esq *Via Fax: 845-913-9200*

Respond at: [redacted]

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-3a

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

March 17, 2010

MS. LORRAINE GROHS
Claims Representative
Progressive Insurance
300 Westage Business Center
Fishkill, N.Y. 12524-2260

RE: George Matisko, Claim #: 09036377

Dear Ms. Grohs;

In furtherance of Mr. Matisko's claim, enclosed please find a letter received from his physician, Dr. Raymond Barsi. If you require additional information / authorizations please contact me.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X 4

6

Raymond Basri, MD, FACP
236 Crystal Run Rd, Ste. 2
Middletown, NY 10941
(845) 692 – 3100

January 12, 2010

Mr. George Matisko
[redacted]

To Whom It May Concern:

MEDICAL INFORMATION REDACTED

Please let me know if I may be of any further assistance in this matter.

Sincerely,

6

MEDICAL INFORMATION REDACTED

MEDICAL INFORMATION REDACTED

MEDICAL INFORMATION REDACTED

COPY FOR: Raymond S Basri, MD

MEDICAL INFORMATION REDACTED

COPY FOR: Raymond S Basri, MD

Arrow

MICHAEL F. MCGUIRE, ESQ

111 SULLIVAN AVE, SUITE 2-5
FERNDALE, N.Y. 12734
845-292-6800
845-292-6860 – FAX
MIKE-LAW@V[redacted]

MEMORANDUM

To: MS. LORRAINE GROHS

From: Michael F. McGuire, Esq.

Date: August 4, 2010

Regarding: George Matisko

Notes: Ms. Grohs, as per your request enclosed please find a HIPPA release duly executed by my client and providing for you to obtain whatever information is necessary from Mr. Matisko's physician. Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-5

Michael F. McGuire
Attorney and Counselor at Law

Arron 11/12

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

January 20, 2011

MS. LORRAINE GROHS
Claims Representative
Progressive Insurance
300 Westage Business Center
Fishkill, NY 12524

RE: George Matisko, Claim # 093036377

Dear Ms. Grohs:

As per our telephone conversation today, please find enclosed the signed HIPAA form you requested. If you require additional information/authorizations, please contact me.

Thank you in advance for your attention to this matter. If you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire/mas

Michael F. McGuire, Esq.

MFM/mas

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-6

11/12

OCA Official Form No.: 960

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name	[redacted]	Social Security Number [redacted]
GEORGE MATISKO		
Patient Address [redacted]		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:

In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL** and **DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

[redacted]

☐ Medical Record from (insert date) _____ to (insert date) _____

☐ Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

[redacted]

Include: (*Indicate by Initialing*)

gm **Alcohol/Drug Treatment**

gm **Mental Health Information**

gm **HIV-Related Information**

Authorization to Discuss Health Information

(b) ☐ By initialing here _____ I authorize _____

Initials — Name of individual health care provider

to discuss my health information with my attorney, or a governmental agency, listed here:

_____

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:	11. Date or event on which this authorization will expire:
☐ At request of individual ☐ Other:	
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

George Matisko — Date: 11-23-10

Signature of patient or representative authorized by law.

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

10

PROGRESSIVE®

Progressive Claims Branch
300 Westage Business Center Dr
Fishkill , NY 125242260

Telephone: (845) 896-7015
Facsimile: (845) 897-2430

January 21, 2011

3rd Notice

Michael Mcquire, Esq.
111 Sullivan Avenue, #2-5
Ferndale, NY 12734

Policyholder:	Arrow Expresspacking &
Claim Number:	093036377
Underwritten by:	National Continental Insurance Company
Date of Loss:	September 29, 2009
Your Client:	George Matisko

I am attempting to evaluate your client's claim, however, I have not received any medical documentation regarding your client. Please send to my attention, all documentation currently in your possession, so that I may begin to evaluate your client's injuries.

In order for me to properly evaluate your client's claim, the specific information needed is listed below:

- No Fault Authorization
- The name and address of your client's no-fault carrier, as well as the corresponding claim number

Should you have any questions, please contact me directly at 845-896-3846.

Sincerely,

Lorraine Grohs Ext.3846
Claims Representative
LFL/ss
Enc.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-7

13

PROGRESSIVE CLAIMS
3243 ROUTE 112
SUITE # 2
MEDFORD, NY 11763

PROGRESSIVE®

Underwritten By:
National Continental Insurance Company

Claim Number: 09-3036377
Loss Date: September 29, 2009
Document Date: October 7, 2011
Page 1 of 1

MICHAEL MCQUIRE, ESQ.
111 SULLIVAN AVENUE, #2-5
FERNDALE, NY 12734

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Change in Claims Representative

This letter is to advise you that I will be handling all future activity on GEORGE MATISKO's claim. I will be contacting you periodically to address the status of this claim.

If you have any questions, please contact me. I look forward to working with you.

IRA SAFFRON
Claims Department
1-631-716-4734
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-631-716-0130

Form Z458.01 XX (01/08) - NY

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-8

14

PROGRESSIVE CLAIMS
3243 ROUTE 112
SUITE # 2
MEDFORD, NY 11763

PROGRESSIVE®

Underwritten By:
National Continental Insurance Company

Claim Number: 09-3036377
Loss Date: September 29, 2009
Document Date: October 7, 2011
Page 1 of 1

MICHAEL MCQUIRE, ESQ.
111 SULLIVAN AVENUE, #2-5
FERNDALE, NY 12734

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Contact Request
Please call our office at your earliest convenience

As you may be aware, we are currently handling GEORGE MATISKO's claim resulting from an incident that occurred on September 29, 2009. Unfortunately, we have been unable to reach you. It is important that we speak to you immediately in order to complete our investigation.

If you have any questions, please contact us.

IRA SAFFRON
Claims Department
1-631-716-4734
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-631-716-0130

Form Z455.01 XX (01/08) - NY

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-9

CLOSE DOCS

MICHAEL F. MCGUIRE, ESQ.
P.O. Box 128
Ferndale, NY 12734

December 23, 2011

Ira Saffron, Claims Adjuster
Progressive Insurance
3243 Route 112, Suite #2
Medford, NY 11763

Re: Georg Matisko
Claim No.: 09-3036377
Loss Date: September 29, 2009

Dear Mr. Saffron:

As per your discussions, enclosed is a fully executed and notarized release for settlement in regard this matter.

Thank you again for your help and assistance.

Very truly yours,

Wendy Weiner

Wendy Weiner
Confidential Secretary to the
Hon. Michael F. McGuire
Direct Dial: (845) 807-0655

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-1D

CLOSE DOCS

To all to whom these Presents shall come or may Concern,

Know That GEORGE MATISKO, residing at [redacted]

as **RELEASOR,**

in consideration of the sum of $1,000.00

XXXX

received from Progressive Insurance , Ford Motor Credit, Sovereign Bank, Arrow Express Packing, and Jose Guillen as **RELEASEE,**

receipt whereof is hereby acknowledged, releases and discharges, Ford Motor Credit, Sovereign Bank, Arrow Express Packing, and Jose Guillen

the **RELEASEE, RELEASEE'S** heirs, executors, administrators, successors, and assigns from all actions, causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law, admiralty or equity, which against the **RELEASEE**, the **RELEASOR, RELEASOR'S** heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may, have for, upon, or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this **RELEASE.**

In particular for injuries sustained on September 29, 2009.

Whenever the text hereof requires, the use of singular number shall include the appropriate plural number as the text of the within instrument may require.

The words "**RELEASOR**" and "**RELEASEE**" include all Releasor's and all Releasee's under this **RELEASE.**

This **RELEASE** may not be changed orally, and this release is in full and final settlement, and there can be no subrogation.

IN WITNESS WHEREOF, the **RELEASOR** has hereunto set **RELEASOR'S** hand and seal on the 23rd day of December, 2011.

IN PRESENCE OF

George Matisko L.S.

STATE OF NEW YORK, COUNTY OF KINGS ss.:

On the 23 day of December, 2011, before me personally came GEORGE MATISKO, to me known, and known to me to be the individual described in, and who executed the foregoing Release, and duly acknowledged to me that he/she executed the same.

Wendy Weiner
NOTARY PUBLIC

WENDY WEINER
Notary Public, State of New York
Qualified in Sullivan County
Registration No. 01WE4969056
Commission Expires November 25, 2013

TAX ID NO.: [redacted]

MICHAEL F. MCGUIRE, ESQ.
P.O. Box 128
Ferndale, NY 12734

January 25, 2012

Ira Saffron, Claims Adjuster
Progressive Insurance
Via Fax: (631) 716-0130

Re: George Matisko
Claim No.: 09-3036377
Loss Date: September 29, 2009

Dear Ira:

As per your conversation with my secretary, this letter is to confirm that I received the settlement check in the above matter approximately a week ago and have since misplaced the check. Could you kindly stop payment on the check and re-issue a new check in the amount of $1,000?

Again, I apologize for any inconvenience that I may have caused your office.

Thank you for your courtesy and cooperation.

Very truly yours,

Michael F. McGuire

Michael F. McGuire, Esq.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-11

VOID IF NOT PRESENTED WITHIN 6 MONTHS AFTER DATE OF ISSUE

Policy #	Insured	Date Issued	Area Code	Draft Number	
0434587-000	ARROW EXPRESSPAC	1/26/2012	619	473082823	06-249
Claim #	Claimant	Date of Loss	State Code	Office Issued At	PAC
09300637	MATESKO, GEORGE	9/29/2009	NY	NY-DSPCA-BRN-	

Dollars $ ******1,000.00

Pay ONE THOUSAND AND 00/100

In Payment Of
FULL & FINAL BODILY INJURY SETTLEMENT

CDC Code 12PCL

Payable through **PNC Bank, N.A. 070**
Ashland, Ohio 1-877-410-5566

National Continental Insurance Company

Pay To The Order Of GEORGE MATESKO ADULT MALE & MICHAEL MCGUIRE, ESQ., AS ATTORNEY ********** [redacted]

By _____
Authorized Signature

[redacted]

[redacted]

George Matesko
Full Release only

3355 90679

MAR 28 96

DATE OF NEGOTIATION
WITHIN 120 DAYS PAID
12/2/12

4270918150

EXHIBIT
Comm
Ex X-12

PENGAD 800-631-6989

NOV-10-2016 10:27 From:212-766-3252 Page:2/2

```
CMSD2340 /CMSM2340                P A C M A N                    JAN 26 12 -  6:45
OPID: ICS0001                CLAIM PAYMENT INQUIRY               TERMID: ?005
INSD: ARROW EXPRESSPACKING &                                     POL: 04345857 -0
DOL : SEP 29 09  NY-ALCMP1-GRP-   CLM:  093036377  INACTV  REP: I  SAFFRON

 PAY TO THE ORDER OF:                    TOTAL DRAFT AMOUNT:          1,000.00

 LINE 1:  GEORGE MATISKO ADULT MALE & MICHAEL MCGUIRE, ESQS., AS *****
 LINE 2:  ATTORNEY ************************************************
 LINE 3:

 ADDRESS: [redacted]

CITY: [redacted]                          ST/PR* [redacted]  ZIP/CPC: [redacted]        CNTRY* USA

IN PAYMENT OF:  FULL & FINAL BODILY INJURY SETTLEMENT

1099      ? Y    FEDERAL TAX ID: [redacted]  LAST UPDT REP: ICS0001
CDS CODE * 12 PCL  EFT TRACE #:             ISSUING REP:  I SAFFRON
BANK CODE* AS2     ISSUE DATE : JAN 02 12   APPROVED BY:
STATE    * NY      AREA       * 619         REVIEW DATE:       00 00
STOP RSN *         DRAFT #    : 472844008   REVIEWED BY:

COMMAND:
```

```
CMSD2340 /CMSM2340                P A C M A N                JAN 26 12 -  6:45
OPID: ICS0001               CLAIM PAYMENT INQUIRY            TERMID: ?005
INSD: ARROW EXPRESSPACKING &                                 POL: 04345857 -0
DOL : SEP 29 09  NY-ALCMP1-GRP-   CLM:  093036377  INACTV    REP: I  SAFFRON

 PAY TO THE ORDER OF:                  TOTAL DRAFT AMOUNT:          1,000.00

 LINE 1:  GEORGE MATISKO ADULT MALE & MICHAEL MCGUIRE, ESQS., AS *****
 LINE 2:  ATTORNEY ***************************************************
 LINE 3:

 ADDRESS: P.O. BOX 128

CITY: FERNDALE                        ST/PR* NY  ZIP/CPC: 12734       CNTRY* USA

IN PAYMENT OF:  FULL & FINAL BODILY INJURY SETTLEMENT

1099     ? Y    FEDERAL TAX ID: [redacted]  LAST UPDT REP: ICS0001
CDS CODE * 12 PCL  EFT TRACE #:             ISSUING REP:  I SAFFRON
BANK CODE* AS2      ISSUE DATE : JAN 02 12  APPROVED BY:
STATE    * NY       AREA       * 619        REVIEW DATE:      00 00
STOP RSN *          DRAFT #    : 472844008  REVIEWED BY:

COMMAND:
```

EXHIBIT
Comm
Ex X-13a

Authored By: LORRAINE F GROHS

[redacted]

PIP 11-26-10 06:17 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

[redacted]

File Intervention 01-20-11 01:45 PM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS
REV'D
HAVE NOT YET REC'D CC PIP M/AUTH FROM ATTY

Contact Information 01-20-11 01:48 PM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS
CLLD ATTY, SPOKE WITH L/A MARYANNE....
- INQ'D IF SHE HAS CC PIP M/AUTH TO SEND ME
- SHE SAID SHE DOESN'T KNOW
- ADV'D I SPOKE TO ATTY ON 11/23/10 AND HE INFORMED HE WOULD SEND TO ME
- SHE APOLOGIZED AND SAID RIGHT AROUND THAT TIME ATTY WAS ELECTED COUNTY JUDGE & THINGS WERE CRAZY
- SHE WILL ELEVATE MY REQUEST TO ATTY AGAIN FOR THE M/AUTH AND INJ/TX STATUS

THANKED SAME.

Contact Information 01-20-11 01:51 PM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS

[redacted]

File Intervention 01-20-11 01:52 PM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS
SHEILA,
PLZ SEND '2ND/3RD?' REQUEST LTR TO ATTY REQ'G HIS CLIENT'S CC NO-FAULT M/AUTH
THANKS, LORRAINE!

Contact Information 01-20-11 03:17 PM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS
REC'D CALL BACK FROM MARYANNE
- SHE SAID SHE HAS AN ORIGINAL BLANK HIPPA M/AUTH
- SHE WILL SEND ME COPY SO I CAN GET WHATEVER I NEED

THANKED SAME.

Claims Processor 01-21-11 02:57 PM ET SRS0019/SRS0019
Authored By: SHEILA R SCANDARIATO
PRPRD & MAILED LT.

File Intervention 01-26-11 03:25 PM ET LFL0002/LFL0002

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-14

File Intervention 10-07-11 10:35 AM ET LFL0002/LFL0002
Authored By: LORRAINE F GROHS

[redacted]

File Review 10-07-11 10:37 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON
SENT ATTY CTC LTR AS I CALL AND WENT INTO THE FAX MACHINE

File Review 10-07-11 10:40 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON

[redacted]

Claims Processor 10-07-11 02:30 PM ET SRS0019/SRS0019
Authored By: SHEILA R SCANDARIATO

[redacted]

Claims Processor 10-10-11 09:08 AM ET DLH0014/DLH0014
Authored By: DEBRA L HARTLEY

[redacted]

Medicare 10-15-11 10:29 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

[redacted]

File Review 10-31-11 09:21 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON
CALLED ATTY AGAIN, GOES TO FAX MACHINE
CLOSING FILE, LTR SENT, NO RESPONSE
DIARING OUT 6 MONTHS

File Review 10-31-11 02:46 PM ET ICS0001/ICS0001
Authored By: IRA SAFFRON
THE ATTY OFFICE WENDY WEINER CALLED THE ATTY BECAME A JUDGE, ASKED GTO RESOLVE FOR 1K WILL HONOR SAME

Injury Evaluation 10-31-11 02:50 PM ET ICS0001/ICS0001
Authored By: IRA SAFFRON

[redacted]

Medicare 11-12-11 10:26 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

[redacted]

Coverage 01-02-12 06:30 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON

Coverage 01-02-12 06:30 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON

Injury Evaluation 01-02-12 07:02 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON

Medicare 01-14-12 10:33 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

File Review 01-26-12 06:52 AM ET ICS0001/ICS0001
Authored By: IRA SAFFRON
ATTY CALLED LOST DRAFT, PUT STOP ON DRAFT AND REISSUED DRAFT

Medicare 02-04-12 10:35 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

Payment 03-17-12 05:28 AM ET PACMAN/PACMAN
Authored By: PACMAN SYSTEM

Wendy A. Weiner - RE: Claim No.: 09-3036377, Matisko Release

From: Ira Saffron <Ira_Saffron@P[redacted]
To: "Wendy A. Weiner" <wweiner@[redacted]>
Date: 11/30/2011 2:25 PM
Subject: RE: Claim No.: 09-3036377, Matisko Release

Please put the same names in the area Received from you have only Progressive, please add all the names and sign the release and have the signature notarized and mail to Progressive ins, 3243 Route 112, Suite #2 in Medford, NY 11763 to my attention, thanks for your help

---

From: Wendy A. Weiner [mailto:wweiner@[redacted]
Sent: Wednesday, November 30, 2011 2:13 PM
To: Ira Saffron
Subject: Claim No.: 09-3036377, Matisko Release
Importance: Low

George back tomorrow & will look for you.

Dear Ira,

Attached is a copy of the release for your review and approval. If I , additional, please advise. If we are good to go, I will have the client in and the release

The original fully executed release will then be forwarded to your office.

Thank you again for all your help and assistance.

Sincerely,

Wendy Weiner
Confidential Secretary to the
Hon. Michael F. McGuire
County Judge & Surrogate
Acting Judge Family Court

Sullivan County Government Center
100 North Street
Monticello, NY 12701
Tel: (845) 807-0655
Fax: (845) 791-6252
wweiner@[redacted]

Please consider the environment before printing this email. Thank you!

EXHIBIT
Comm
Ex X-15
PENGAD 800-631-6989

STATE OF NEW YORK
ULSTER COUNTY ss:

I, Nina Postupack, Clerk of the County of Ulster, and also Clerk of the Supreme and County Courts, in and for said County do HEREBY CERTIFY that I have compared this copy with the original thereof filed or recorded in my office on

DESCRIPTION: DEED
DATE: 10/27/2014
INSTRUMENT#: 2014-13069

And the same is a correct transcript from said original document and the whole thereof,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County and Courts on

Date: February 21st, 2019

Nina Postupack

Nina Postupack
Ulster County Clerk

EXHIBIT
Comm
Ex X-16

PENGAD 800-631-6989

Ulster County
Nina Postupack
County Clerk
Kingston, NY 12401

60 2014 00013069

Volm-5799 Pg-290

Instrument Number: 2014- 00013069

Recorded On: October 27, 2014 — As: D01 - Deed

Parties: PENNYMAC MORTGAGE INVESTMENT TRUST HOLDINGS I LLC
To
MOORE PHILIP E

Billable Pages: 5

Recorded By: ALL COUNTY TITLE

Num Of Pages: 5

Comment:

**** Examined and Charged as Follows: ****

D01 - Deed	65.00	RP5217-125	125.00	Tax Affidavit TP 584	5.00
Recording Charge:	195.00				

	Amount	Consideration Amount	RS#/CS#				
Tax-Transfer	540.00	135,000.00	1160	Basic	0.00		
WAWARSING				Local	0.00	Special Additional	0.00
				Additional	0.00	Transfer	540.00
Tax Charge:	540.00						

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Document Number: 2014- 00013069
Receipt Number: 1409645
Recorded Date/Time: October 27, 2014 01:21:35P
Book-Vol/Pg: Bk-D Vl-5799 Pg-290
Cashier / Station: s smar / Cashier Station 6

Record and Return To:

ALL COUNTY TITLE/ESCROW
PO BOX 90
444 BROADWAY SUITE 5
MONTICELLO NY 12701

SEAL OF ULSTER COUNTY 1683 STATE OF NEW YORK

Nina Postupack

Nina Postupack Ulster County Clerk

5
TN 51089

AML COUNTY TITLE/ESCROW
(845) 794-3050
TITLE # ACA- 14301

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 12 day of Aug, two thousand fourteen

BETWEEN

PennyMac Mortgage Investment Trust Holdings I, LLC.
6101 Condor Drive., Suite 300
Moorpark, CA 93021

party of the first part, and

Philip E. Moore and Eileen E. Moore
[redacted] Eugene St Napanoch NY 12458

party of the second part,

WITNESSETH, that the party of the first part, in consideration of One Hundred Thirty Five Thousand Dollars ($135,000.00) and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL, that certain plot piece of parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the County of Ulster, and the State of New York, being more particularly described in Exhibit A attached hereto and made a part hereof,

SEE SCHEDULE "A" ATTACHED

TOGETHER with all right, title, and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires

CHECKED DC
ENTERED SM
MARK/OFF

All County Abstract
Title # 14-ACA-14301

Town: Wawarsing
SBL: 83.6-5-66

Schedule A Description

ALL that tract or parcel of land, situate in the Town of Wawarsing, County of Ulster and State of New York, briefly described as follows: being Lot Nos. 44, 45, 46, 47, 48, 49, 50 and part of Lot No. B as laid out on Map of the First Subdivision of the Pine Grove Tract situated at Napanoch, Ulster County, New York, made by P. E. Clark and filed in the Ulster County Clerk's Office on June 23, 1913, bounded as follows:

BEGINNING at the Southwesterly corner of Eugene Street and Circle Street; and

RUNNING THENCE South 40 degrees 58 minutes East along the Westerly side of Circle Street, 264.61 feet to the Northerly side of Hart Street;

THENCE along the same South 57 degrees 48 minutes West, 122.79 feet to a corner;

THENCE still along said Hart Street, North 83 degrees 32 minutes West, 207.66 feet to a bend in said street;

THENCE North 40 degrees 58 minutes West through Lot No. B to the Southerly side of Eugene Street;

THENCE along the same Northeasterly to the place of BEGINNING.

IT WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

PennyMac Mortgage Investment Trust Holdings I, LLC.
BY: PennyMac Loan Services, LLC, its attorney-in-fact

By: _____

_____ Name: POA- Rec 10/14/14 V: 5793 pg 336

_____ Title: Michael Drawdy
Senior Vice President, Asset Management

STATE OF)
) SS.:
COUNTY OF)

On the ___ day of SEE ATTACHMENT, 2014, before me the undersigned personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Bargain and Sale Deed

PennyMac Mortgage Investment Trust Holdings I, LLC

TO

County: Ulster
Section: 83.6
Block: 5
Lot: 66
Street Address: [redacted] Eugene Street
Napanoch, NY 12458

Philip E. Moore and Eileen E. Moore

File #01-067744-R00

Record and Return to:

All County Title/Escrow
PO Box 90/444 Broadway, Suite 5
Monticello, New York 12701
(845) 794-3050

ACKNOWLEDGMENT

State of California
County of Ventura)

On 8-12- 2014 before me, Cynthia Hoff, Notary Public
(insert name and title of the officer)

personally appeared Michael Drawdy,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CYNTHIA HOFF
Commission # 1946931
Notary Public - California
Los Angeles County
My Comm. Expires Sep 2, 2015

INSTRUCTIONS(RP-5217-PDF-INS): www.orps.state.ny.us

FOR COUNTY USE ONLY

C1. SWIS Code 51,5689

C2. Date Deed Recorded 10 / 27 / 14 (Month Day Year)

C3. Book 5799 C4. Page 290

13069

New York State Department of **Taxation and Finance**

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location: [redacted] (* STREET NUMBER) Eugene Street (* STREET NAME)
~~Napanoch~~ Wawarsing (* CITY OR TOWN) NY (VILLAGE) 12458 (* ZIP CODE)

2. Buyer Name: Moore (* LAST NAME/COMPANY) Philip E. (FIRST NAME)
Moore (LAST NAME/COMPANY) Eileen E. (FIRST NAME)

3. Tax Billing Address: Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form) (LAST NAME/COMPANY) (FIRST NAME)
(STREET NUMBER AND NAME) (CITY OR TOWN) (STATE) (ZIP CODE)

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR ☐ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:
4A. Planning Board with Subdivision Authority Exists ☐
4B. Subdivision Approval was Required for Transfer ☐
4C. Parcel Approved for Subdivision with Map Provided ☐

5. Deed Property Size: (* FRONT FEET) X (* DEPTH) OR 1.00 (* ACRES)

6. Seller Name: PennyMac Mortgage Investm (* LAST NAME/COMPANY) Trust Holdings I, LLC (FIRST NAME)
(LAST NAME/COMPANY) (FIRST NAME)

*7. Select the description which most accurately describes the use of the property at the time of sale:
A. One Family Residential

Check the boxes below as they apply:
8. Ownership Type is Condominium ☐
9. New Construction on a Vacant Land ☐
10A. Property Located within an Agricultural District ☐
10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District ☐

SALE INFORMATION

11. Sale Contract Date

*12. Date of Sale/Transfer 10/10/2014

*13. Full Sale Price 135,000 ~~753,000.00~~

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) *Please round to the nearest whole dollar amount.*

14. Indicate the value of personal property included in the sale .00

15. Check one or more of these conditions as applicable to transfer:
☐ A. Sale Between Relatives or Former Relatives
☐ B. Sale between Related Companies or Partners in Business.
☐ C. One of the Buyers is also a Seller
☒ D. Buyer or Seller is Government Agency or Lending Institution
☐ E. Deed Type not Warranty or Bargain and Sale (Specify Below)
☐ F. Sale of Fractional or Less than Fee Interest (Specify Below)
☐ G. Significant Change in Property Between Taxable Status and Sale Dates
☐ H. Sale of Business is Included in Sale Price
☐ I. Other Unusual Factors Affecting Sale Price (Specify Below)
☐ J. None

Comment(s) on Condition:

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 14

*17. Total Assessed Value 2,750

*18. Property Class 210 - ___

*19. School District Name Ellenville

*20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))
83.6-5-66

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE
(SELLER SIGNATURE) (DATE) 9/26/14

BUYER SIGNATURE
Philip E. Moore
Eileen E. Moore
(BUYER SIGNATURE) (DATE) 10/10/14

BUYER CONTACT INFORMATION
(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

Moore (* LAST NAME) Philip (FIRST NAME)
[redacted] (* AREA CODE) [redacted] (* TELEPHONE NUMBER (Ex: 5559999))
PO B (* STREET NUMBER) [redacted] (* STREET NAME)
NAPANOCH (* CITY OR TOWN) NY (* STATE) 12458 (* ZIP CODE)

BUYER'S ATTORNEY
(LAST NAME) (FIRST NAME)
(AREA CODE) (TELEPHONE NUMBER (Ex: 5559999))

KENNETH J. McGUIRE, ESQ

P.O. Box 1128
Ferndale, N.Y. 12734
[redacted]

July 30, 2014

MS. MARY ANN SCHULTZ
Frankel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, N.Y. 11706

RE: PennyMac to Moore File Number01-067744-ROO

Dear Ms. Schultz;

Enclosed please find three (4) Counterparts of the contracts of sale and our Rider, signed by the buyer, together with his downpayment check in the amount of $13,000.00 made payable to your firm, as attorney. Please note that Title has already been ordered, in anticipation of receiving fully executed contracts and we are in the process of arranging an engineer's inspection of the subject premises, accordingly while I anticipate that we should be able to close quickly, I must insist that any delay occasioned by our receipt of signed contracts or delays in receiving a final title report do not cause my clients to incur additional costs, forfeiture or per diam charges.

Please advise if there is any existing title and survey work and forward copies of same, if any, as soon as possible.

Thank you for your time and attention.

Very truly yours,

KENNETH J. McGUIRE

KM/
Encls.
cc:

EXHIBIT
Comm
Ex X-17
PENGAD 800-631-6989

Jointly prepared by the Real Property Section of the New York State Bar Association, The New York State Land Title Association, the Committee on Real Property Law of the Association of the Bar of the City of New York and the Committee on Real Property Law of the New York County Lawyers Association.

WARNING: NO REPRESENTATION IS MADE THAT THIS FORM OF CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE COMPLIES WITH SECTION 5-702 OF THE GENERAL OBLIGATIONS LAW (PLAIN LANGUAGE).

CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT

NOTE: FIRE AND CASUALTY LOSSES AND CONDEMNATION.
This contract form does not provide for what happens in the event of fire, or other casualty loss or condemnation before the title closing. Unless different provision is made in this contract. Section 5-1311 of the General Obligations Law will apply. One part of that law makes a Purchaser responsible for fire and casualty loss upon taking possession of the Premises before the title closing.

Residential Contract of Sale

Contract of Sale made as of July , 2014 BETWEEN

PennyMac Loan Services, LLC
6101 Condor Drive
Moorpark, CA 93021

Social Security Number/ Fed. I.D. No(s):
[redacted]

hereinafter called Seller and

Philip E Moore and Eileen E. Moore

Address:

Social Security Number/ Fed. I.D. No(s):

hereinafter called Purchaser.

Subject to PennyMac Counter Offer Addendum

Subject to PennyMac Counter Offer Addendum

The parties hereby agree as follows:

1. **Premises.** Seller shall sell and convey and Purchaser shall purchase the property, together with all buildings and improvements thereon (collectively the Premises). More fully described on a separate page marked Schedule A, annexed hereto and made apart hereof and also known as:

Street Address: [redacted] Eugene Street, Napanoch, NY 12458

Tax Map Designation: Section: 83.6; Block: 5; Lot: 66

Together with Seller s ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

2. **Personal Property.** This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Seller represents and warrants that at Closing they will be paid for and owned by Seller, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include, but are not limited to, plumbing, heating, lighting and cooking fixtures, bathroom and kitchen cabinets, mantels, door mirrors, switch plates and door hardware, Venetian blinds, window treatments, shades, screens, awnings, storm windows, storm doors, window boxes, mail box, TV aerials, weather vane, flagpole, pumps, shrubbery, fencing, outdoor statuary, tool shed, dishwasher, washing machine, clothes dryer, garbage disposal unit, range, oven, refrigerator, freezer, air conditioning equipment and installations, wall to wall carpeting and built-ins not excluded below *(Strike out inapplicable items).*
ALL IS AS PRESENTLY EXISTS

Excluded from this sale are furniture and household furnishings and

3. **Purchase Price.** The Purchase Price is

$135,000.00

payable as follows:
(a) on the signing of this contract, by Purchaser s Bank/Certified check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to paragraph 6 of this contract (the Down payment):
$13,000.00
~~(b) by allowance for the principal amount unpaid on the existing mortgage on the date hereof, payment of which shall assume by joinder in the deed: $~~
~~(c) by a purchase money note and mortgage from Purchaser to Seller: $~~
(d) balance at Closing in accordance with paragraph 7:
$122,000.00

~~4. Existing Mortgage. *(Delete if inapplicable)* If this sale is subject to an existing mortgage as indicated in paragraph 3(b) above:~~
~~(a) The Premises shall be conveyed subject to continuing lien of the existing mortgage, which is presently payable, with interest at the rate of percent per annum, in monthly installments of $~~
~~which include principal, interest and escrow payments, if any, and with any balance of principal being due and payable on~~
~~(b) To the extent that any required payments are made on the existing mortgage between the date hereof and Closing which reduce the unpaid principal amount thereof below the amount shown in paragraph 3 (b) shall be increased by the amount of the payments of principal. Seller represents and warrants that the amount shown in paragraph 3(b) is substantially correct and agrees that only payments required by the existing mortgage will be made between the date hereof and Closing.~~
~~(c) If there is a mortgagee escrow account, Seller shall assign it to Purchaser, if it can be assigned, and in that case Purchaser shall pay the amount in the escrow account to Seller at Closing.~~

EXHIBIT
Comm
Ex X-18
PENGAD 800-631-6989

~~(d) Seller shall deliver to Purchaser at Closing a certificate dated not more than 30 days before Closing signed by the holder of the existing mortgage, in form for recording, certifying the amount of unpaid principal, the date to which interest has been paid and the amounts, if any, claimed to be unpaid for principal and interest, itemizing the same. Seller shall pay the fees for recording such certificate. If the holder of the existing mortgage is a bank or other institution as defined in Section 274-a of the Real Property Law (Institutional Lender), it may, instead of the certificate, furnish a letter signed by a duly authorized officer, employee or agent, dated not more than 30 days before the Closing, containing the same information.~~

~~(e) Seller represents and warrants that (i) Seller has delivered to Purchaser true and complete copies of the existing mortgage, the note secured thereby and any extensions and modifications thereof, (ii) the existing mortgage is not now, and at the time of Closing will not be, in default, and (iii) the existing mortgage does not contain any provision that permits the holder of the mortgage to require its immediate payment in full or to change any other term thereof by reason of the sale or conveyance of the Premises.~~

~~5. Purchase Money Mortgage. *(Delete if inapplicable)* If there is to be a purchase money mortgage as indicated in paragraph 3(e) above:~~

~~(a) The purchase money note and mortgage shall be drawn by the attorney for Seller in the form attached or, if not, in the standard form adopted by the New York State Land Title Association. Purchaser shall pay at Closing the mortgage recording tax, recording fees and the attorney's fees in the amount of $_____ for its preparation.~~

~~(b) The purchase money note and mortgage shall also provide that it is subject and subordinate to the lien of the existing mortgage and any extensions, modifications, replacements or consolidations of the existing mortgage, provided that (i) the interest rate thereof shall not be greater than _____ Percent per annum and the total debt service thereunder shall not be greater than $_____ Per annum, and (ii) if the principal amount thereof shall exceed the amount of principal owing and unpaid on the existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess be paid to the holder of such purchase money mortgage in reduction of the principal thereof. The purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of the principal payable thereunder and that the holder thereof will, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.~~

6. **Down payment in Escrow.** (a) Seller's attorney ("Escrowee") shall hold the Down payment for Seller's account in escrow in a segregated bank account at
Bank of America, Islip, New York
until Closing or sooner termination of this contract and shall pay over or apply the Down payment in accordance with the terms of this contract. Escrowee shall *not (Delete if inapplicable)* hold the Down payment in an interest-bearing account for the benefit of the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Down payment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Down payment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to the Escrowee upon request. At Closing, the Down payment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 25) to Escrowee demanding payment of the Down payment, Escrowee shall give prompt notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If escrowee does receive such Notice of objection within such 10 day period or if any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by notice from the parties to the contract or a final, nonappealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Down payment and the interest thereon with the clerk of a court in the county in which the Premises are located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that, although Escrowee is holding the Down payment for Seller's account, for all other purposes Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this contract or involving gross negligence on the part of the Escrowee. Seller and Purchaser jointly and severally agree to defend, indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard to this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advise of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

(d) Escrowee acknowledges receipt of the Down payment by check subject to collection and Escrowee's agreement to the provision of this paragraph by signing in the place indicated on the signature page of this contract.

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Down payment or any other dispute between the parties whether or not Escrowee is in possession of the Down payment and continues to act as Escrowee.

7. **Acceptable Funds.** All money payable under this contract, unless otherwise specified, shall be paid as follows:

(a) Down payment shall only be by official bank or certified check;

(b) Balance due at closing shall only be paid by wire transfer.

8. ~~**Mortgage Contingency.** *(Delete if inapplicable)* The obligation of Purchaser hereunder are conditioned upon issuance on or before October 6, 2013 , (the "Commitment Date") of a written commitment from any Institutional Lender agree to make a first mortgage loan, other than a VA, FHA or other governmentally insured loan, to Purchaser, at Purchaser's sole cost and expense, of $223,250.00 or such lesser sum as Purchaser shall be willing to accept, at the prevailing fixed rate of interest not to exceed _____ for a term of at least 30 years and on other customary commitment terms, whether or not conditional upon any factors other than an appraisal satisfactory to the Institutional Lender. Purchaser shall (a) make prompt application to an Institutional Lender for such mortgage loan, (b) furnish accurate and complete information regarding Purchaser and members of Purchaser's family, as required, (c) pay all fees, points and charges required in connection with such application and loan, (d) pursue such application with diligence, (e) cooperate in good faith with such Institutional Lender to obtain such commitment and (f) promptly give Notice to Seller of the name and address of each Institutional Lender to which Purchaser has made such application. Purchaser shall comply with all requirements of such commitment (or of any other commitment accepted by Purchaser) and shall furnish Seller with a copy thereof promptly after receipt thereof. If such commitment is not issued on or before the Commitment Date, then unless Purchaser has accepted a commitment that does not comply with the requirements set forth above, Purchaser may cancel this contract by giving Notice to Seller within 5 business days after the Commitment Date, in which case this contract shall be deemed canceled and thereafter neither party shall have any further rights against, or obligations or liabilities to, the other by reason of this contract, except that the Down payment shall be promptly refunded to Purchaser and except as set forth in paragraph 27. If Purchaser fails to give notice of cancellation or if Purchaser shall accept a commitment that does not comply with the terms set forth above, then Purchaser shall be deemed to have waived Purchaser's right to cancel this contract and to~~

Subject to PennyMac Counter Offer Addendum

~~receive a refund of the Down payment by reason of the contingency contained in this paragraph. Notwithstanding the foregoing, Seller, at their sole option, may extend Purchaser's time 30 days to obtain said commitment. In the event the Purchasers' mortgage commitment contains a contingency with respect to the sale and/or lease of the Purchasers' present home, it be shall be deemed that the commitment is unconditional and shall accepted by the Purchaser in full compliance with the conditions of this Contract.~~

9. Permitted exceptions. The Premises are sold and shall be conveyed subject to:

(a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use;

(b) Consents for the erection of any structures on, under or above any streets on which the premises abut;

(c) Encroachments of stoops, areas, cellar steps, driveways, trim and cornices, if any, upon any street or highway;

(d) Real estate taxes that are a lien, but are not yet due and payable; and

(e) Any state of facts an accurate survey would show, provided title is not thereby rendered unmarketable;

(f) Covenants, restrictions, easements and consents, if any, contained in former instruments of record;

(g) Rights, if any, relating to construction and maintenance in connection with any public utility of wires, poles, pipes, conduits and appurtenances thereto on, under or across the premises;

(h) Party walls and party wall agreements, if any; and

(i) Rent regulations or laws now or hereafter if effect.

~~10. Governmental Violations and Orders. (a) Seller shall comply with all notes or notices of violations of law or municipal ordinances, order or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.~~

~~(b) (*Delete if inapplicable*) All obligations affecting the premises pursuant to the Administrative Code of the City of New York incurred prior to closing and payable in money shall be discharged by Seller at or prior to closing.~~

11. Seller's Representations. (a) Seller represents and warrants to Purchaser that:

(i) The Premises abut or have a right of access to a public road;

(ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this Contract;

(iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");

~~(iv) The Premises are not affected by any abatements of taxes; and~~

(v) Seller has been known by no other name for the past ten years, except

(b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.

(c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive closing.

12. Condition of Property. Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based upon Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Premises or the other property included in the sale, given or made by Seller or its representatives, and shall accept the same "as is" in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of closing ~~(except as otherwise set forth in paragraph 16(f))~~, without any reduction in the purchase price or claim of any kind for any change in condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

13. Insurable Title. Seller shall give and Purchaser shall accept such title as any reputable title insurance company shall be willing to approve and insure in accordance with its standard form of title policy approves by the New York State Insurance Department, subject only to the matters provided for in this contract.

14. Closing, Deed and Title. (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a Bargain and Sale Deed with covenants against grantor's acts in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

15. Closing Date and Place. Closing shall take place at the office of FRENKEL LAMBERT WEISS WEISMAN & GORDON, LLP at Ten O'clock on or before August 16, 2014 or, upon reasonable notice (by telephone or otherwise) by Purchaser, at the office of Purchaser's lending institution. This date shall be deemed "TIME OF THE ESSENCE."

16. Conditions to Closing. This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.

~~(b) The delivery by Seller to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all other improvements located on the property authorizing their use as a _____ Family dwelling at the date of Closing.~~

(c) The delivery by Seller to Purchaser of a duly executed and sworn affidavit (in form prescribed by law) claiming exemption of the sale contemplated hereby, if such be the case, under Article 31-B of the Tax Law of the State of New York and the Regulations promulgated thereunder, as the same may be amended from time to time (collectively the "Gains Tax Law"); or if such sale shall not be exempt under the Gains Tax Law, Seller and Purchaser agree to comply in a timely manner with the requirements of the Gains Tax Law and, at Closing, Seller shall deliver to Purchaser (i) an official return showing no tax due, or (ii) an official return accompanied by a certified or official bank check drawn on a New York State banking institution payable to the order of the New York State Department of Taxation and Finance in the amount of the tax shown to be due thereon. Seller shall (x) pay promptly any additional tax that may become due

Subject to PennyMac Counter Offer Addendum

under the Gains Tax Law, together with interest and penalties thereon, if any, which may be assessed or become due after Closing, and/or execute any other documents that may be required in respect thereof, and (y) indemnify, defend and save Purchaser harmless from and against any of the foregoing and any damage, liability, cost or expense (including reasonable attorneysÛ fees) which may be suffered or incurred by Purchaser by reason of the nonpayment thereof. The provisions of this subparagraph (c) shall survive Closing.

(d) The delivery by Seller to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Seller fails to deliver the aforesaid certification or if Purchaser is not entitled under FIRPTA to rely on such certification, Purchaser shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.

(e) The delivery of the Premises and all building(s) ~~and improvements comprising a part thereof in broom clean condition, vacant and free of leases or tenancies, together with keys to the Premises.~~

~~(f) All plumbing (including water supply and septic systems, if any), heating and air conditioning, if any, electrical and mechanical systems, equipment and machinery in the building(s) located on the property and all appliances which are included in this sale being in working order as of the date of Closing.~~

~~(g) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm device or devices.~~

(h) The delivery by the parties of any other affidavits required as a condition of recording the deed.

17. Deed Transfer and Recording Taxes. At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by law or by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after closing. The obligation to pay additional tax or deficiency and any interest or penalties thereon shall survive Closing. Regardless of local custom or practice, purchaser will pay the applicable New York State and New York City transfer taxes, by certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, together with any required tax returns duly executed and sworn to; and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive closing.

18. Apportionments and Other Adjustments; Water Meter and Installment Assessments. (a) To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing:

(i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed; ~~(ii) fuel; (iii) interest on the existing mortgage; (iv) premiums on existing transferable insurance policies and renewals of those expiring prior to Closing; (v) vault charges; (vi) rents as and when collected.~~

(b) If closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest valuation.

~~(c) If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.~~

(d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Purchaser.

(e) Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.

~~**19. Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five business days after Closing, provided that official bills therefor computed to said date are produced at Closing.~~

20. Use of Purchase Price to Remove Encumbrances. If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As alternative Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to insure PurchaserÛs title clear of the matters or insure against their enforcement out of the Premises and will insure PurchaserÛs Institutional Lender clear of such matters. Upon notice (by telephone or otherwise), given not less than 3 business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

21. Title Examination; SellerÛs Inability to Convey; Limitations of Liability. (a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency set forth in paragraph 8, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly and at least 15 days prior to the closing date.

(b)(i) If at the date of Closing Seller is unable to transfer title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens, encumbrances or other objections to title or otherwise (herein collectively called ÛDefectsÛ), other than those subject to which Purchaser is obligated to accept hereunder or which Purchaser may have waived and other than those which Seller has expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at SellerÛs sole election, either to take such action as Seller may deem advisable to remove, remedy or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate (but not extending beyond the date upon which PurchaserÛs mortgage commitment, if any, shall expire or can be extended to), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period.

Subject to PennyMac Counter Offer Addendum

If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.

(c) If this contract is canceled pursuant to its terms, other than as a result of PurchaserÛs default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Down payment to Purchaser and, unless canceled as a result of PurchaserÛs default or pursuant to paragraph 8, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey, and (ii) the obligations under paragraph 27 shall survive the termination of this contract.

22. Affidavit as to Judgments, bankruptcies, etc. If a title examination discloses judgments, bankruptcies or other returns against persons having names the same or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

23. Defaults and Remedies. (a) If Purchaser defaults hereunder, SellerÛs sole remedy shall be to receive and retain the Down payment as liquidated damages, it being agreed that SellerÛs damages in case of PurchaserÛs default might be impossible to ascertain and that the Down payment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

~~(b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.~~ **If Seller defaults hereunder, PurchaserÛs sole remedy shall be the return of the downpayment to purchaser, this contract shall be null & void and no party shall have any rights or obligations hereunder. This shall be purchaserÛs exclusive remedy.

24. PurchaserÛs Lien. All money paid on account of this contract, and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

25. Notices. Any notice or other communication (ÛNoticeÛ) shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, or

(b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any Notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

Subject to PennyMac Counter Offer Addendum

~~date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.~~

~~(c) If this contract is canceled pursuant to its terms, other than~~

26. No Assignment. This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.

27. Broker. Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than

24/7 Realty Inc.

(ÛBrokerÛ) and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs, claims and expenses, including reasonable attorneysÛ fees, arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this contract. This paragraph shall not be construed as creating or assigning any rights in or to the broker named herein.

28. Miscellaneous. (a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or canceled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as other wise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

29. Regardless of whether this transaction closes via mail or at a closing attended by Seller's attorney and regardless of local custom or practice, Purchaser shall deliver the funds due to Seller by wire transfer to Seller's attorney, prior to the delivery of the deed by the Seller to the Purchaser. Only a wire transfer of the funds will be accepted. Seller's attorney will refuse payment in any manner other than wired funds. If payment of the funds due to Seller is tendered in any form other than wired funds to Seller's attorney, including but not limited to Certified checks, Official Bank checks, Attorney Escrow checks, personal checks, Money Orders and Cash, the funds will be rejected and returned to Purchaser, whereby the closing will be deemed canceled.

30. Buyer and Seller acknowledge that this Purchase Agreement is being executed concurrently with that certain PennyMac Counter Offer Addendum. In the event there is any conflict between the Addendum and this Purchase Agreement or any escrow instructions or any other documents attached and made part of this Agreement, the terms of the PennyMac Counter Offer Addendum shall take precedence and shall prevail, except as prohibited by law.

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

8-6-14

PennyMac Loan Services, LLC - Seller

Jon Mason, Vice President, REO
PennyMac Loan Services, LLC

Philip E. Moore
Philip E. Moore - Purchaser

Eileen E. Moore
Eileen E. Moore - Purchaser

Attorney for Seller:
FRENKEL LAMBERT WEISS WEISMAN & GORDON, LLP

Address [redacted]

Tel: [redacted] Fax: 631-982-1460

Attorney for Purchaser: Ken McGuire, Esq.

Address: [redacted]

Tel: [redacted] e-mail: obleinky[redacted]

Receipt of the Down payment is acknowledged and the undersigned agrees to act in accordance with the provisions of paragraph 6 above.

FRENKEL LAMBERT WEISS WEISMAN & GORDON, LLP Escrowee

Contract of Sale

TITLE NO.
PennyMac Loan Services, LLC

TO

Philip E. Moore and Eileen E. Moore

File #01-067744-R00

PREMISES

County: Ulster
Section: 83.6
Block: 5
Lot: 66
Street Address: [redacted] Eugene Street
Napanoch, NY 12458

Subject to PennyMac Counter Offer Addendum

From: Mary Ann Schultz <MSchultz@[redacted]
Sent: Monday, July 28, 2014 11:50 AM
To: 'obieinky@[redacted]'
Cc: 'laurenbertsche@[redacted]'; 'jeff.dolfinger@[redacted]'
Subject: Contract, Philip and Eileen Moore, [redacted] Eugene Street, 01-067744-R00
Attachments: CONTRACT_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning Mr. McGuire:

Attached please find the original proposed Contract of Sale in the above captioned matter. Kindly copy and have your client sign four (4) copies of the contract and return them to the above address with a certified/bank check or money order payable to Frenkel Lambert Weiss Weisman & Gordon LLP, as attorney, in the amount of $13, 000.00.

This office will hold the down payment pending execution of the contracts by my client whereupon I will forward to you two duplicate originals and deposit the down payment in the escrow account.

As per our client, any alterations to this contract will cause same to become null and void. Therefore, any changes to the contract can only be done through an additional addendum.

My client has not seen the contract in its final form; therefore, it does not constitute an offer to sell upon the terms contained therein. When the signed Contract is returned by you together with the necessary down payment, I will present it to my client for acceptance and signature.

PLEASE NOTE: Closing proceeds are to be forwarded by WIRE ONLY. We will give you our wiring instructions at the time of closing.

As such, at your earliest convenience please forward the title report.

If you have any questions, please do not hesitate to call me at 631-969-3100 ext. 1120. I look forward to working with you on this matter.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP

PENGAD 800-631-6989
EXHIBIT
Comm
Ex-X-19

From: Mary Ann Schultz <MSchultz@[redacted]>
Sent: Tuesday, August 12, 2014 1:42 PM
To: 'obieinky@[redacted]'
Cc: 'aurenbertsche@[redacted]; 'jeff.dolfinger@[redacted]'
Subject: [redacted] Eugene Street, PennyMac to Moore, 01-067744-R00
Attachments: CONTRACT_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Afternoon Mr. McGuire,
Attached please find the fully executed contract from my client. They have denied your rider and is not included in same.

At this time, we have deposited your client's $13,000 down payment in our escrow account. As per the agent, he is awaiting the dewinterization; therefore, I will be forwarding you an extension Addendum.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]

Please email comments or concerns to: Feedback@FLWLAW.com

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-20

From: Mary Ann Schultz <MSchultz[redacted]>
Sent: Tuesday, August 12, 2014 1:59 PM
To: 'obieinky@[redacted]'
Cc: 'jeff.dolfinger@[redacted]'
Subject: Extension, [redacted] Eugene Street, 01-067744-R00
Attachments: Addendum_1.PDF

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Mr. McGuire:
Attached please find a closing extension to 8/29/14 to be signed by purchasers. Thank you.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]

Please email comments or concerns to: Feedback@FLWLAW.com

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-21

From: Mary Ann Schultz <MSchultz[redacted]>
Sent: Monday, August 25, 2014 2:19 PM
To: 'jeff.dolfinger@[redacted]'; 'laurenbertsche@[redacted]'
Cc: 'obieinky@[redacted]'
Subject: Urgent! [redacted] Eugene Street, 01-067744-R00
Attachments: Addendum_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Hi Jeff,
I sent an extension to PA on 8/12/14 and have not received the signed extension back. Is the e-mail copied the correct one for the buyer's attorney? I need to know status and get this closed.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706

Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]

Please email comments or concerns to: Feedback@FLWLAW.com

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-22

From: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>
Sent: Monday, August 25, 2014 8:09 PM
To: Mary Ann Schultz
Subject: [redacted] Eugen Street. Napanoch

Ms.Schultz;

I have tried to call you several times, as I understand it we are waiting to get the utilities turned on in the house so that we can get the home inspection completed, pursuant to the contract. Once we get that completed I believe we will be ready to close within a matter of days. One of the issues that I had called about previously was that I was not going to have my clients keep signing addendums, but rather believed the you and I could handle these procedural extensions between lawyers without my having to keep my clients in to sign these extensions, therefore, I will tell you that I am in receipt of your addendum for August 29, but given that as of this date we still do not have the ability to complete the home inspection it is doubtful that we will be able to close on that date. I would also note that one of my clients recently went through some major surgery and while that will not hold up closing at all, it does make it difficult for them to get in to keep signing addendums, therefore I would prefer to just do memorandums of understanding between attorneys if that is agreeable with you, I would suggest that we agree to just adjourn without date until we have the clearance to complete the home inspection once we get the approval to move forward with the inspection (notice that the utilities are all on), then you and I can agree upon a closing date within a matter of a few days thereafter.

If that is agreeable with you, kindly let me know,. If you have any questions, concerns or comments please feel free to contact me at [redacted]-8568 or though e-mail.

Ken McGuire, Esq

PENGAD 800-631-6989
EXHIBIT
COMM
EX X-23

From: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>
Sent: Tuesday, August 26, 2014 5:16 AM
To: Mary Ann Schultz
Subject: Procedure

I am told that you have had issues getting a response from me, I would comment that I have left at least a dozen phone messages for you and have received no response, one such message suggested that there was no reason to set a closing date until such time as we know when we are ablet to get into the house, to agree to such a date would merely put my clients in the position of being obligated under a contract to close on a property whcih they have not been afforded the opportunity to inspect. Sine there is a provision in the main body of the original contract which provides them with the right to conduct such an inspection I do not want to agree to a closing date in an addendum that can well be interpreted as modifing the main body of the contract to the extent that it could be interpreted that they would somehow waive the right of inspection in order to modify the contract to get a closing date. I can asure you that my clients are anxious to close and the funds necessary to close are liquid and available, but it makes no sense to set a series of unrealistic closing dates until we know when we will be able to inspect the premises, once we have that date, we can set a closing date, money will be wired per contract to you and I will assume that funds will be held in escrow until transfer documents have been received by my title company. I will provide address for delivery of closing documents once we set the date.

I would respectfully request that messages not be sent to me through the real estate broker with whom I have no releationship to do so merely creates problems and does nothing to move this matter forward. I prior communications you have asked that I contact you by phone, I have done so many times and received no response, I submit that is the most efficient means of communication, since I am often unable to check e-mail during the business day it is most efficient that you contact me by phone or text message [redacted]8568 if there is a pressing matter the requires my attention during the day,I cannot imagine same though since we are just waiting to be able to have access to the house so that I can schedule my home inspection which I have had to cancel twice already becuase the house is not prepared for an inspection since there are no utilities on. As set forth in an earlier communicaton I still need a signed counterpart of the contract (you had asked that I send you 4 counterparts which I did therefore I am entitled to have a counterpart returned to me), I would also suggest that any further modifications to the contract with respect to a closing date, if they involve just the issue of the date, but achieved by memoranda between counsel and once we have a date certain which incorporates access to the house, availability of inspector and reeipt and review of report we will be able to set a date certain and at that point, if you wish we can incorporate that as an amendment to the original contract by having parties sign off. Given that one of my clients is recovering from major surgery and is not ambulatory it creates a hardship to have them keep signing off on documents becuase I must drive an hour each way to have them sign off and as I said one of my clients is recovering from surgery and is not ambulatory.

Thank you in advance for your attention to this matter if you have any questions, concerns or comments please feel free to contact me by phone ([redacted]-8568 voice or text) or e-mail either of the two emails which you have. Do not attempt to contact me through the realtor as that message will not get to me.

Ken McGuire

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-24

From: Mary Ann Schultz <MSchultz@[redacted]
Sent: Tuesday, August 26, 2014 8:09 AM
To: 'judgemcguire[redacted]'
Cc: 'obieinky@[redacted]
Subject: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00
Attachments: Addendum_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning:
Please be advised that our firm represents seller in this REO contract. First, I want to apologize for not having your information as point of contact from the agent. My contact for buyer's attorney is Ken McGuire and was given the e-mail copied above. On 8/12/14 I e-mailed an extension to obieinky@[redacted] and have not received the signed extension back. I left a message for Ken McGuire yesterday.

However, the closing is being further extended to 9/9/14, due to Seller's de-winterization not being completed. Kindly have your clients sign the attached addendum and return to me at your earliest convenience.

Thank you.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706

Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]

Please email comments or concerns to: Feedback@FLWLAW.com

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-25

From: Jeff Dolfinger <jeff.dolfinger@[redacted]
Sent: Tuesday, August 26, 2014 8:24 AM
To: Mary Ann Schultz
Cc: Jeff Dolfinger; judgemcguire@[redacted]t
Subject: Re: Follow UP

Ok thanks.

Jeff

On Aug 26, 2014, at 8:19 AM, Mary Ann Schultz <MSchultz[redacted]> wrote:

Jeff,
Mr. McGuire and I just spoke.

Mary Ann Schultz
Managing Paralegal
<image54e42c.GIF>
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: Jeff Dolfinger [mailto:jeff.dolfinger@[redacted]
Sent: Tuesday, August 26, 2014 8:19 AM
To: judgemcguire@[redacted]
Subject: Re: Follow UP

I will advise the seller of your position and do my best to tell them that they need to de winterize ASAP.

I honestly don't know if they will allow Phil to stay in contract if we can't get them back.

But that's a decision between you and your client to which I will not get in the middle.

Sellers counsel will reach out to you again this morning at this email.

Jeff

On Aug 26, 2014, at 7:49 AM, judgemcguire@[redacted] wrote:

We are not in Northern New York we are in Southern NewYork, my concern is your sophomoric comments about e-mails etc, frankly I could care less about what your client directs you to do, if it involves a legal issue neither you nor they have the right to speak directly with my client, kindly advise when the house is ready for an inspection. Neither your client nor their attorney have the legal authority to direct you to act with respect to a legal matter. This is not Northern New York the property is not North of Albany and My clients

have elected to have an attorney guide them through this process so you need to respect that relationship. If either your client or their attorney have an issue with that concept they should contact me. With respect to the addendum in the inbox, I would advise that I cannot have my clients sign committing to a closing when they have not yet been afforded the opportunity for an inspection. Having handled many foreclosures I am well aware that time is of the essence and therefore I cannot commit to a closing when I cannot be sure that my client will have a reasonable opportunity to enter into the transaction intelligently. Therefore they will not be coerced into signing and committing to a schedule which is contrary to their legal interests. Since the only reason we are not closed already is because the house has not been made available, pursuant to contract for an inspection I cannot have them sign committing to close on a date certain. That is why it has sat in my inbox and seller's counsel was advised of that.

Ken

On 08/26/14, Jeff Dolfinger<jeff.dolfinger@[redacted]> wrote:

I am sure you have tried to contact the sellers attorney and have not gotten a response. It's a common complaint.

I had to look at my email yesterday to Heather. We didn't speak. I made no crude comment. I will not make any crude comments. Would you like me to forward the emails of yesterday? To paraphrase " this has been in your attorney's email since 08/18 ". That is the only manner in which you were mentioned. Your not even mentioned in the second email.

Please quote why you are so upset? I have no issue with an apology or retraction if one is due. I'm not seeing where I was crude.

I can not stay out of a transaction when my client and or their lawyer directs me to act.

I don't do these things on my own.

To answer your next email. I didn't prepare the extension addendum's. Sellers counsel did. Sellers counsel asked me to get them to the buyer. Seller requested the same.

It is common practice everywhere except lower NY for the broker do handle contracts and addendum's. It happens everyday north of Albany and in most other states for that matter. It's not against the law in lower NY it's just not customary.

I would never practice law without a license. I wouldn't know where to begin. It not my area of expertise. I pride myself in knowing my job. I wouldn't even pick up a hammer I am not a carpenter.

We have to get through this transaction.

If documents are requested to be sent to the buyer I have no choice but to follow my clients instructions. I will in the future CC you.

As with regards to the de winterization, again it's simply out of my hands and I am as frustrated as your clients.

It should take 2 days to get everything running. I am at a loss as to the delay. It is what it is... Unfortunate for all especially Phil.

Jeff

On Aug 26, 2014, at 3:47 AM, "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]> wrote:

> You need to get your facts straight, every time that seller's Paralegal has reached out for me they have gotten a response within hours, any suggestion that they have not is a straight misrepresentation. Human communication is not an old way of communicating it is the standard method of communicating, indeed I have documented more than a dozen attempts to contact them by various methods and have gotten 0 response each time. The fact that you may have done thousands in many states says little as your level of professionalism leaves much to be desired. Attorneys do not take direction from brokers, I have never looked for anything from mail other than the original contracts which I believe in all 50 states I am not only entitled to but they are required to provide, moreover, not sure why they would ask for me to prepare 4 counterparts, provide me with an address to mail them to and ask that I contact them by phone if they were intent on communicating by e-mail only. It is quite simple, get the house ready for an inspection and stay out of the legal end of this transaction that will be accomplished by the attorneys, I am directing that you cease and desist from making any of your crude comments to my clients, if they persist I will have not option but to take action against you. Your level of professionalism belies the resume which you claim.
>
> ---
>
> **From:** Jeff Dolfinger [mailto:jeff.dolfinger@[redacted]
> **Sent:** Monday, August 25, 2014 10:18 PM
> **To:** Mr MICHAEL MCGUIRE
> **Subject:** Re: Follow UP
>
> " I might add "

That I have done more than " thousands " of transactions many of them being bulk sales or purchases of assets acquired from the FDIC, RTC or other lending institutions during the last crisis in the 90's.

I understand that for an attorney to take direction and or directives from the sellers broker is not what most lawyers are accustomed.

It is something that lawyers need to get their head around with foreclosures, it's not meant to be an offensive process.

The sellers lawyer also takes instruction from my office.

When I ran an equity firm we used to have a saying. A lawyer is a tool just like an accountant. We direct which implement gets used to satisfy our needs. The implement does not direct the director.

Now I hope we can get past this spat. It's nothing but a waste of time.

Please feel free to call me with any of your needs. I sincerely mean that.

Jeff

On Aug 25, 2014, at 8:55 PM, "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]> wrote:

> I might add that you would be well served as would each of the parties if you re-doubled your efforts to get the house ready for an inspection as the only thing that is keeping us from closing is your inability to prepare the house for same, my interest or otherwise in using e-mail has not delayed this process by even 1minute while we have been waiting several weeks to get water and power in the house, accordingly, I would avoid casting aspersions on anyone until you can answer for you own shortfalls.
>
> Ken McGuire

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

From: Jeff Dolfinger <jeff.dolfinger@[redacted]
Sent: Tuesday, August 26, 2014 7:59 AM
To: Mr MICHAEL MCGUIRE
Subject: [redacted] Eugene

I found where I said " learn to use email "

My apologies. While I wouldn't agree that it is crude it wasn't professional.

If you would like me to send an email to your client with an apology I will do so.

I am as have always been aware of your position with respect to the law. Upon reflection I do see how those words could be considered offensive.

Again my sincerest apologies.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-27

From: judgemcguire[redacted]
Sent: Wednesday, September 03, 2014 11:45 AM
To: Mary Ann Schultz
Subject: Re: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Wonderful just let me know, I had gotten a message earlier that you were out of the office.

On 09/03/14, Mary Ann Schultz<MSchultz@[redacted] wrote:

It was great, thanks! I'll follow up with my client.

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire@[redacted] [mailto:judgemcguire@[redacted]]
Sent: Wednesday, September 03, 2014 10:33 AM
To: Mary Ann Schultz
Subject: Re: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Good morning Mary Ann, I hope you had a good Labor Day weekend, wanted to check on the status of the de-winterization of that house in Napanoch. I am on vacation from September 16 - 24 so I am hopeful that we can get the house ready, inspected and close prior to that date, please let me know what the status is.
Ken McGuire

On 08/26/14, Mary Ann Schultz<MSchultz@[redacted] wrote:

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning:
Please be advised that our firm represents seller in this REO contract. First, I want to apologize for not having your information as point of contact from the agent. My contact for buyer's attorney is Ken McGuire and was given the e-mail copied above. On 8/12/14 I e-mailed an extension to obieinky@[redacted] and have not received the signed extension back. I left a message for Ken McGuire yesterday.

However, the closing is being further extended to 9/9/14, due to Seller's de-winterization not being completed. Kindly have your clients sign the attached addendum and return to me at your earliest

convenience.

Thank you.

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

From: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>
Sent: Tuesday, September 09, 2014 8:05 PM
To: Mary Ann Schultz
Subject: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Mary Ann;

Good evening just checking in to see how we are coming along with the dewinterization, recalling that I am out of town from the 15th ()Monday) through the 24th I am hoping to get some progress but the window is closing on that. I will be in contact while I am away and if the house is ready for inspection while I am away I will be able to get the inspection done but might be tough to pull off the closign with getting funds into escrow and wired off to you. Let me know what the status is, hope all is well with you and your family.

Ken McGuire

From: Mary Ann Schultz [mailto:MSchultz@[redacted]
Sent: Tuesday, August 26, 2014 9:35 AM
To: 'judgemcguire[redacted]'
Subject: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Thank you,
I will keep you updated on the dewinterization.

Mary Ann Schultz
Managing Paralegal
FRENKEL LAMBERT
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire@[redacted] [mailto:judgemcguire[redacted]]
Sent: Tuesday, August 26, 2014 8:48 AM
To: Mary Ann Schultz
Subject: Re: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

it was nice to speak with you I have attached hereto the addendum signed by myself as Attorney. Please note that I will not be available to close between September 15 and 24 so hopefully we can get this closed by September 9, we are ready to go as soon as I get the go ahead to get my inspector into the house we will move quickly to get the matter closed up. It was very nice to speak with you and I wish you rmom a full and speedy recovery. To clear up the confusion I am handling this matter but Mike is my brother, also an attorney but not practicing full time right now, and so you may from time to time speak with him as well. Sorry for the confusion.

Ken

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-29

From: judgemcguire@[redacted]
Sent: Friday, September 19, 2014 2:57 PM
To: MSchultz@[redacted]
Subject: Re: FW: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Maryann;

I will assault that what you are sending me is an amendment to the contract for a new closing date. The document attached either will not open for me or it is blank with just your firm name at the top when I try to open it. I will agree to whatever closing date you need to set and as along as we can get the inspection done we are 100% ready to close just need to get a hard date so that we can apportion taxes and get a final number for the wire to you. I look forward to getting this matter closed as soon as you hear anything about the dewinterization please let me know.

Ken

On 09/18/14, Mary Ann Schultz<MSchultz@[redacted]> wrote:

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: Jeff Dolfinger [mailto:jeff.dolfinger@[redacted]
Sent: Wednesday, September 17, 2014 5:12 PM
To: Mary Ann Schultz
Subject: Re: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

De winterization is complete per the company that the seller hired.

Jeff

On Sep 17, 2014, at 1:03 PM, Mary Ann Schultz <MSchultz@[redacted]> wrote:

See below from buyer's attorney.

Mary Ann Schultz
Managing Paralegal
<imagef0fec0.GIF>
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120

Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire@[redacted] [mailto:judgemcguire@[redacted]
Sent: Wednesday, September 17, 2014 12:45 PM
To: Mary Ann Schultz; judgemcguire@[redacted]
Subject: Re: RE: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Mary ANn;

Good morning I am down in Florida but do maintain an office here so I can keep up to date on progress, any word on the dewinterization of that house, we are all set I believe that you have received the Title Report which looks fine, just need to get the inspection and we can set a closing date (hard date) compute the tax apportionments and get this matter closed, let me know if you hear anything.

Ken

On 09/03/14, Mary Ann Schultz<MSchultz@[redacted] wrote:

Just took of my "out of office". Wishful thinking!

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire[redacted] [mailto:judgemcguire@[redacted]]
Sent: Wednesday, September 03, 2014 11:45 AM
To: Mary Ann Schultz
Subject: Re: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Wonderful just let me know, I had gotten a message earlier that you were out of the office.

On 09/03/14, Mary Ann Schultz<MSchultz@[redacted] wrote:

It was great, thanks! I'll follow up with my client.

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120

Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire[redacted] [mailto:judgemcguire[redacted]]
Sent: Wednesday, September 03, 2014 10:33 AM
To: Mary Ann Schultz
Subject: Re: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Good morning Mary Ann, I hope you had a good Labor Day weekend, wanted to check on the status of the de-winterization of that house in Napanoch. I am on vacation from September 16 - 24 so I am hopeful that we can get the house ready, inspected and close prior to that date, please let me know what the status is.
Ken McGuire

On 08/26/14, Mary Ann Schultz<MSchultz@[redacted]> wrote:

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning:
Please be advised that our firm represents seller in this REO contract. First, I want to apologize for not having your information as point of contact from the agent. My contact for buyer's attorney is Ken McGuire and was given the e-mail copied above. On 8/12/14 I e-mailed an extension to obieinky@[redacted] and have not received the signed extension back. I left a message for Ken McGuire yesterday.

However, the closing is being further extended to 9/9/14, due to Seller's de-winterization not being completed. Kindly have your clients sign the attached addendum and return to me at your earliest convenience.

Thank you.

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein

(including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

From: Jeff Dolfinger <jeff.dolfinge[redacted]>
Sent: Wednesday, August 27, 2014 8:18 AM
To: Mary Ann Schultz
Cc: obieinky[redacted] jeff.dolfinge[redacted]
Subject: Re: Extension, [redacted] Eugene Street, 01-067744-R00

As of yesterday the field service company had still not completed the job.

I asked for permission to retain one of my vendors if this could not be completed this week.

Jeff

On Aug 27, 2014, at 8:15 AM, Mary Ann Schultz <MSchultz[redacted]> wrote:

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Dear Mr. McGuire:
Attached please find fully executed extension to 9/9/14 from my client. I am still waiting to hear back from my client regarding the status of dewinterization of the property.

Mary Ann Schultz
Managing Paralegal
<imaged2a4ee.GIF>
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

<Addendum_1.PDF>

PENGAD 800-631-6989
EXHIBIT
Comm Ex X-31

From: obieinky[redacted]
Sent: Thursday, August 28, 2014 10:37 AM
To: Mary Ann Schultz
Cc: jeff.dolfinge[redacted]
Subject: Re: Extension, [redacted] Eugene Street, 01-067744-R00

Thank you.

Sent from my iPhone

On Aug 27, 2014, at 8:15 AM, Mary Ann Schultz <MSchultz@[redacted]> wrote:

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Dear Mr. McGuire:
Attached please find fully executed extension to 9/9/14 from my client. I am still waiting to hear back from my client regarding the status of dewinterization of the property.

Mary Ann Schultz
Managing Paralegal
<imaged2a4ee.GIF>
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

<Addendum_1.PDF>

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-32

From: obieinky@[redacted]
Sent: Thursday, August 28, 2014 10:37 AM
To: Jeff Dolfinger
Cc: Mary Ann Schultz; jeff.dolfinge[redacted]
Subject: Re: Extension, [redacted] Eugene Street, 01-067744-R00

Thank you very much for the update.

Sent from my iPhone

On Aug 27, 2014, at 8:18 AM, Jeff Dolfinger <jeff.dolfinger@[redacted]> wrote:

As of yesterday the field service company had still not completed the job.

I asked for permission to retain one of my vendors if this could not be completed this week.

Jeff

On Aug 27, 2014, at 8:15 AM, Mary Ann Schultz <MSchultz@[redacted]> wrote:

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Dear Mr. McGuire:
Attached please find fully executed extension to 9/9/14 from my client. I am still waiting to hear back from my client regarding the status of dewinterization of the property.

Mary Ann Schultz
Managing Paralegal
<imaged2a4ee.GIF>
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz@[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential,

PENGAD 800-631-6989
EXHIBIT
Comm Ex X-33

and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

<Addendum_1.PDF>

From: judgemcguire[redacted]
Sent: Thursday, September 18, 2014 10:54 AM
To: MSchultz[redacted]
Subject: Re: RE: RE: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Great thank you just let me know what the situation is.

Ken

On 09/17/14, Mary Ann Schultz<MSchultz@[redacted]> wrote:

Not yet. I'll check with my client.

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz[redacted]
Please email comments or concerns to: Feedback@FLWLAW.com
From: judgemcguire[redacted] [mailto:judgemcguir[redacted]]
Sent: Wednesday, September 17, 2014 12:45 PM
To: Mary Ann Schultz; judgemcguire[redacted]
Subject: Re: RE: RE: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00

Mary ANn;

Good morning I am down in Florida but do maintain an office here so I can keep up to date on progress, any word on the dewinterization of that house, we are all set I believe that you have received the Title Report which looks fine, just need to get the inspection and we can set a closing date (hard date) compute the tax apportionments and get this matter closed, let me know if you hear anything.

Ken

On 09/03/14, Mary Ann Schultz<MSchultz[redacted]> wrote:

Just took of my "out of office". Wishful thinking!

Mary Ann Schultz
Managing Paralegal
Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz[redacted]

From: Robin DeCarlo <robin@[redacted]
Sent: Thursday, August 28, 2014 8:18 AM
To: obieinky@[redacted]; Mary Ann Schultz
Subject: PennyMac Mortgage Investment Trust Holdings I, LLC to Moore Title # 14-ACA-14301
Attachments: doc08750020140828081532.pdf

Dear Ken and Mary Ann,

Good morning…as promised please find the title commitment attached…. Title is clear to close whenever you are ready….

Have a wonderful day……

Thank you

Robin G. DeCarlo, PhD
Principal
All County Abstract
444 Broadway Suite 5
Monticello, NY 12701
Tel: (845) 794-3050 Fax: (845) 794-3214
Please note my new email as: robin[redacted]

PENGAD 800-631-6989
EXHIBIT
Comm
EX X-35

Sarah Katzman

From: Wendy A. Weiner
Sent: Tuesday, August 05, 2014 10:53 AM
To: Sarah Katzman; Rita Guarnaccia
Cc: Tara Hirsch; Marcelo Adiong
Subject: Judge McGuire's Vacation Schedule!

Hello,

Please note that upon review of Judge McGuire's calendar, it appears that he will be away from Tuesday, September 16, 2014 thru Tuesday, September 23, 2014. He will return into the office on September 24, 2014.

As such, we need to adjourn the Surrogate's calendar set for September 16, 2014. Rite, I did not look but if there is nothing yet scheduled, we can just not hold this month. If there is, Call me and I will work out a new date for adjournment if necessary. Please let me know.

Sarah, **Paul Weeden** was just scheduled for Wednesday, September 17, 2014 and I note that the Sentencing of William Everett scheduled for September 23, 2014 was adjourned until October 1, 2014. Please let me know the new dates and times re: Weeden. Also on Weeden, the motion date may need to be pushed too as he like conference before same? Let me know.

Please mark our calendars accordingly so we do not schedule anything further for these dates.

Thanks,
Wendy Weiner
Confidential Secretary to the
Hon. Michael F. McGuire
County Judge & Surrogate
Acting Judge Family Court
Acting Judge Supreme Court

Sullivan County Government Center
100 North Street
Monticello, NY 12701
Tel: (845) 807-0655
Fax: (845) 791-6252
wweiner[redacted]

Please consider the environment before printing this email. Thank you!

Confidentiality Notice

This email and the information contained herein and attachments hereto are legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this email is not the intended recipient, you are hereby notified that any forwarding, dissemination, distribution or copying of this email and/or its attachments, or the taking of any action in reliance on the contents thereof is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply email, delete the email and any attachments and destroy all copies of the original message.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-36

Wendy A. Weiner

From: Wendy A. Weiner
Sent: Wednesday, January 07, 2015 11:59 AM
To: Hon. Michael F. McGuire
Subject: Please Call

Hello,

When you can, please call Ilene and Philip Moore. I spoke to Ilene and told her you were on vacation but that I would reach out to you.

There is concern on a bill where penalties are accruing as a check has never been received.

Thanks,

Wendy Weiner
Confidential Secretary to the
Hon. Michael F. McGuire
County Judge & Surrogate
Acting Judge Family Court
Acting Judge Supreme Court

Sullivan County Government Center
100 North Street
Monticello, NY 12701
Tel: (845) 807-0655
Fax: (845) 791-6252
wweiner@[redacted]

Please consider the environment before printing this email. Thank you!

Confidentiality Notice

This email and the information contained herein and attachments hereto are legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this email is not the intended recipient, you are hereby notified that any forwarding, dissemination, distribution or copying of this email and/or its attachments, or the taking of any action in reliance on the contents thereof is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply email, delete the email and any attachments and destroy all copies of the original message.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-37

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: MORTGAGE
DATE: 07/09/2010
INSTRUMENT#: 2010-56498

Clerk in Office Daniel L Briggs.

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 01/11/2019

Daniel L. Briggs

By:

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-38

SULLIVAN COUNTY – STATE OF NEW YORK
DANIEL L BRIGGS, COUNTY CLERK
100 NORTH STREET, MONTICELLO, NY 12701

COUNTY CLERK'S RECORDING PAGE
*****THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH*****

RECEIPT NO. : 2010288602

Clerk: KF
Instr #: 2010-56498
Rec Date: 07/09/2010 02:53:06 PM
Doc Grp: RP
Descrip: MORTGAGE
Num Pgs: 7
Rec'd Frm: MICHAEL F MCGUIRE

Party1: CLARK BARBARA
Party2: PAGAN RICKY
Town: FALLSBURG

Recording:

Cover Page	5.00
Recording Fee	50.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
Sub Total:	75.00
Basic Tax Amount	40.00
SONYMA Tax Amount	20.00
Special Tax Amount	0.00
Local Tax Amount	20.00
Sub Total:	80.00
Total:	155.00

**** NOTICE: THIS IS NOT A BILL ****

***** Mortgage Tax *****
Serial #: DB-0486
Calc Method: 1-2 Family Home
Mtg Amt: 8000.00

Basic	40.00
SONYMA	20.00
Special	0.00
Local	20.00
Total:	80.00

I hereby certify that the within and foregoing was recorded in the Sullivan County Clerk's Office

Daniel L. Briggs

Daniel L. Briggs
Sullivan County Clerk

Record and Return To:

MICHAEL F MCGUIRE
STE 2-5
111 SULLIVAN AVE
FERNDALE NY 12734-4317

*****THIS IS NOT AN INVOICE*****

— First Mortgage - Individual or Corporation

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS MORTGAGE, made the 15th day of April in the year 2010

BETWEEN

BARBARA CLARK, JOAN McGURRIN, TIMOTHY CLARK, DUSTIN CLARK and DANIELLE SCAGLIONE,

the mortgagor, [redacted] CNTY RTE 76, Adams CTR. N.Y., 13606

and

RICKY PAGAN, the mortgagee, of [redacted] Cochshielddoke, NY 12759

WITNESSETH, that to secure the payment of an indebtedness in the sum of

5000.00 dollars,

lawful money of the United States, to be paid

with interest thereon to be computed from the date hereof, at the rate of 9% per centum per annum, and to be paid on the 14TH day of July in the year 2010, next ensuing and thereafter, in 12 consecutive monthly installments in the amount of FOUR HUNDRED THRITY SEVEN DOLLARS AND TWENTY-SIX Cents ($437.26), said payments to be due and payable on the thirteenth (14TH) dayof each month until June 14, 2011 when the entire prinicpal balance, shall be due and payable, plus any unpaid interest and charges. In the event that mortgagor conveys said property to mortgagee prior to July 14, 2010, the entire amount of this Mortgage shall be credited against the purchase price of $8,000.00 and this Mortgage shall be deemed satisfied.

according to a certain bond,

note or obligation bearing even date herewith, the mortgagor hereby mortgages to the mortgagee

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

Town of Fallsburg, County of Sullivan, State of New York and more particulary bounded and described on Schedule "A" annexed hereto and made part hereof, being and intended to be the same premises being conveyed by Barney Vorisek to Barbara Clark, Joan McGurrin, Timothy Clark, Dustin Clark, and Danielle Scaglione, by deed dated September 21, 2002 and recoreded in the office of the Sullivan County Clerk, June 16, 2006.

TOGETHER with all right, title and interest of the mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;

TOGETHER with all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including but not limited to furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto;

TOGETHER with all awards heretofore and hereafter made to the mortgagor for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for changes of grade of streets, which said awards are hereby assigned to the mortgagee, who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor, and to apply the same toward the payment of the mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the said mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning said awards to the mortgagee, free, clear and discharged of any encumbrances of any kind or nature whatsoever.

AND the mortgagor covenants with the mortgagee as follows:

1. That the mortgagor will pay the indebtedness as hereinbefore provided.

2. That the mortgagor will keep the buildings on the premises insured against loss by fire for the benefit of the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.

3. That no building on the premises shall be altered, removed or demolished without the consent of the mortgagee.

4. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any instalment of principal or of interest for fifteen days; or after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbetore provided; or after default upon request in furnishing a statement of the amount due on the mortgage and whether any offsets or defenses exist against the mortgage debt, as hereinafter provided. An assessment which has been made payable in instalments at the application of the mortgagor or lessee of the premises shall nevertheless, for the purpose of this paragraph, be deemed due and payable in its entirety on the day the first instalment becomes due or payable or a lien.

5. That the holder of this mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.

6. That the mortgagor will pay all taxes, assessments, sewer rents or water rates, and in default thereof, the mortgagee may pay the same.

7. That the mortgagor within five days upon request in person or within ten days upon request by mail will furnish a written statement duly acknowledged of the amount due on this mortgage and whether any offsets or defenses exist against the mortgage debt.

8. That notice and demand or request may be in writing and may be served in person or by mail.

9. That the mortgagor warrants the title to the premises.

10. That the fire insurance policies required by paragraph No. 2 above shall contain the usual extended coverage endorsement; that in addition thereto the mortgagor, within thirty days after notice and demand, will keep the premises insured against war risk and any other hazard that may reasonably be required by the mortgagee. All of the provisions of paragraphs No. 2 and No. 4 above relating to fire insurance and the provisions of Section 254 of the Real Property Law construing the same shall apply to the additional insurance required by this paragraph.

11. That in case of a foreclosure sale, said premises, or so much thereof as may be affected by this mortgage, may be sold in one parcel.

12. That if any action or proceeding be commenced (except an action to foreclose this mortgage or to collect the debt secured thereby), to which action or proceeding the mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this mortgage (including reasonable counsel fees), shall be paid by the mortgagor, together with interest thereon at the rate of six per cent per annum, and any such sum and the interest thereon shall be a lien on said premises, prior to any right, or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this mortgage, and shall be deemed to be secured by this mortgage. In any action or proceeding to foreclose this mortgage, or to recover or collect the debt secured thereby, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

13. That the mortgagor hereby assigns to the mortgagee the rents, issues and profits of the premises as further security for the payment of said indebtedness, and the mortgagor grants to the mortgagee the right to enter upon and to take possession of the premises for the purpose of collecting the same and to let the premises or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of said indebtedness. This assignment and grant shall continue in effect until this mortgage is paid. The mortgagee hereby waives the right to enter upon and to take possession of said premises for the purpose of collecting said rents, issues and profits, and the mortgagor shall be entitled to collect and receive said rents, issues and profits until default under any of the covenants, conditions or agreements contained in this mortgage, and agrees to use such rents, issues and profits in payment of principal and interest becoming due on this mortgage and in payment of taxes, assessments, sewer rents, water rates and carrying charges becoming due against said premises, but such right of the mortgagor may be revoked by the mortgagee upon any default, on five days' written notice. The mortgagor will not, without the written consent of the mortgagee, receive or collect rent from any tenant of said premises or any part thereof for a period of more than one month in advance, and in the event of any default under this mortgage will pay monthly in advance to the mortgagee, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of said premises or of such part thereof as may be in the possession of the mortgagor, and upon default in any such payment will vacate and surrender the possession of said premises to the mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.

14. That the whole of said principal sum and the interest shall become due at the option of the mortgagee: (a) after failure to exhibit to the mortgagee, within ten days after demand, receipts showing payment of all taxes, water rates, sewer rents and assessments; or (b) after the actual or threatened alteration, demolition or removal of any building on the premises without the written consent of the mortgagee; or (c) after the assignment of the rents of the premises or any part thereof without the written consent of the mortgagee; or (d) if the buildings on said premises are not maintained in reasonably good repair; or (e) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the premises within three months from the issuance thereof; or (f) if on application of the mortgagee two or more fire insurance companies lawfully doing business in the State of New York refuse to issue policies insuring the buildings on the premises; or (g) in the event of the removal, demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances thereon and free from any reservation of title thereto; or (h) after thirty days' notice to the mortgagor, in the event of the passage of any law deducting from the value of the land for the purposes of taxation any lien thereon, or changing in any way the taxation of mortgages or debts secured thereby for state or local purposes; or (i) if the mortgagor fails to keep, observe and perform any of the other covenants, conditions or agreements contained in this mortgage.

15. That the mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

This mortgage may not be changed or terminated orally. The covenants contained in this mortgage shall run with the land and bind the mortgagor, the heirs, personal representatives, successors and assigns of the mortgagor and all subsequent owners, encumbrancers, tenants and subtenants of the premises, and shall enure to the benefit of the mortgagee, the personal representatives, successors and assigns of the mortgagee and all subsequent holders of this mortgage. The word "mortgagor" shall be construed as if it read "mortgagors" and the word "mortgagee" shall be construed as if it read "mortgagees" whenever the sense of this mortgage so requires.

IN WITNESS WHEREOF, this mortgage has been duly executed by the mortgagor.

IN PRESENCE OF:

Barbara Clark

BARBARA CLARK

JOAN MCGURRIN

TIMOTHY CLARK

DUSTIN CLARK

DANIELLE SCAGLIONE

JEFF DEBARE
Notary Public, State of New York
Sullivan County Clerk's #2567
Commission Expires March 25, 2014

SCHEDULE A DESCRIPTION

Town of Fallsburg, County of Sullivan, State of NY,

BEGINNING AT A POINT on the easterly bounds of Louis Drive at the NW corner of Lot #131 and running thence from said point of beginning along said Easterly bounds of Lewis Drive North 34 Degrees, 34 East a distance of 17.06 feet and North 29 Degrees, 26 Minutes East a distance of 102.94 feet to the southerly bounds of Ray Lane; thence running along said southerly bounds of ray Lane South 60 Degrees 38 Minutes East a distance of 83.40 feet to the northwest corner of lot #121 thence running along the westerly bounds of 120.00 feet to the northeast corner of Lot #131; thence along the northerly bounds of said Lot #131 North 60 Degrees 38 minutes West a distance of 80.85 feet to the place of point of beginning containing .22 acre of land to be the same more or less. Being the same premises described in a deed from new Sheldrake Shores, Inc., to Barney Vorisek and Ana Vorisek, his wife, dated December 18, 1985 and recorded in the Office of the Sullivan County Clerk on December 18, 1985 in Liber 1201 of Deeds at Page 176.

ACKNOWLEDGMENT BY A PERSON WITHIN NEW YORK STATE

State of New York)
) ss.:
County of Jefferson)

On the 15th day of April in the year 2010 before me, the undersigned, personally appeared **JOAN McGURRIN** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Nickol M H Clark
NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2012

ACKNOWLEDGMENT BY A PERSON WITHIN NEW YORK STATE

State of New York)
) ss.:
County of Jefferson)

On the 15th day of April in the year 2010 before me, the undersigned, personally appeared **DUSTIN CLARK** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Nickol M H Clark
NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2012

ACKNOWLEDGMENT BY A PERSON WITHIN NEW YORK STATE

State of New York)
) ss.:
County of Jefferson)

On the 15th day of April in the year 2010 before me, the undersigned, personally appeared **TIMOTHY CLARK** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Nickol M H Clark
NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2012

FIRST MORTGAGE

Section: 19
Block: 8.0
Lot: 7.0
Town of Fallsburg

BARBARA CLARK, JOAN McGURRIN
TIMOTHY CLARK, DUSTIN CLARK
AND DANIELLE SCAGLIONE

TO

RICKY PAGAN

Return by Mail To:
MICHAEL F. McGUIRE, ESQ
111 Sullivan Ave, Suite 2-5
Ferndale, N.Y. 12734

ACKNOWLEDGMENT BY A PERSON WITHIN NEW YORK STATE

State of New York)
) ss.:
County of Jefferson)

On the 15th day of April in the year 2010 before me, the undersigned, personally appeared **BARBARA CLARK** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2012

ACKNOWLEDGMENT BY A PERSON WITHIN NEW YORK STATE

State of New York)
) ss.:
County of Jefferson)

On the 17 day of April in the year 2010 before me, the undersigned, personally appeared **DANIELLE SCAGLIONE** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

FIRST MORTGAGE

JEFF DEBARE
Notary Public, State of New York
Sullivan County Clerk's #2567
Commission Expires March 25, 2017

Section: 19
Block: 8.0
Lot: 7.0
Town of Fallsburg

BARBARA CLARK, JOAN McGURRIN
TIMOTHY CLARK, DUSTIN CLARK
AND DANIELLE SCAGLIONE

TO

RICKY PAGAN

Return by Mail To:
MICHAEL F. McGUIRE, ESQ
111 Sullivan Ave, Suite 2-5
Ferndale, N.Y. 12734

45
@ 80-
80-

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: DEED
DATE: 11/14/2013
INSTRUMENT#: 2013-8812

Clerk in Office Daniel L. Briggs.

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 01/11/2019

Daniel L. Briggs

By:

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X 39

SULLIVAN COUNTY – STATE OF NEW YORK
DANIEL L BRIGGS, COUNTY CLERK
100 NORTH STREET, MONTICELLO, NY 12701

COUNTY CLERK'S RECORDING PAGE
*****THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH*****

INSTRUMENT #: 2013-8812

Receipt#: 2013447359
Clerk: KF
Rec Date: 11/14/2013 04:03:15 PM
Doc Grp: RP
Descrip: DEED
Num Pgs: 6
Rec'd Frm: MCGUIRE

Party1: CLARK BARBARA
Party2: PAGAN RICKY
Town: FALLSBURG

Recording:	
Cover Page	5.00
Recording Fee	45.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00
Sub Total:	325.00
Transfer Tax	
Transfer Tax	32.00
Sub Total:	32.00
Total:	357.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
Transfer Tax #: 880
Transfer Tax
Consideration: 8000.00

Transfer Tax	32.00
Total:	32.00

I hereby certify that the within and foregoing was recorded in the Sullivan County Clerk's Office

Daniel L. Briggs

Daniel L. Briggs
Sullivan County Clerk

Record and Return To:

RICKY PAGAN
PO BOX 44
LOCH SHELDRAKE, NY 12759

*****THIS IS NOT AN INVOICE*****

Bargain and Sale Deed, with Covenant against Grantor's Acts - Individual or Corporation (Single Sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 5th day of March, in the year 2013

BETWEEN BARBARA CLARK, JOAN McGURRIN, TIMOTHY CLARK, DUSTIN CLARK and DANIELLE SCAGLIONE, of [redacted] County Route 76, Adams Center, New York 13606

party of the first part, and RICKY PAGAN of [redacted], Loch Sheldrake, N.Y. 12759
party of the second part,
WITNESSETH, that the party of the first part, in consideration of

$10.00 dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Fallsburg, County of Sullivan and State of New York and being more particularly bounded and described on Schedule A which has been annexed hereto and is made part hereof, being and intended to be the same premises conveyed by Barney Vorisek to Barbara Clark, Joan McGurrin, Timothy Clark, Dustin Clark and Danielle Scaglione by deed dated September 21, 2002 and recorded and filed in the Office of the Clerk of Sullivan County on June 16, 2006.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Danielle Scaglione
DANIELLE SCAGLIONE

Barbara Clark
BARBARA CLARK

Timothy Clark
TIMOTHY CLARK

DUSTIN CLARK

Joan McGurrin
JOAN MCGURRIN

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the _____ day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the _____ day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the

subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof), that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of , County of , ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Bargain and Sale Deed
With Covenants

SECTION: 19

BLOCK: 8.0

LOT: 7.0

COUNTY OR TOWN: COUNTY OF SULLIVAN

Title No.

BARBARA CLARK, JOAN McGURRIN, TIMOTHY CLARK, DUSTIN CLARK and DANIELLE SCAGLIONE

TO

RICKY PAGAN

DISTRIBUTED BY

YOUR TITLE EXPERTS
The Judicial Title Insurance Agency LLC
800-281-TITLE (8485) FAX: 800-FAX-9396

RETURN BY MAIL TO:

MICHAEL F. McGUIRE
P.O. Box 128
Ferndale, New York 12334

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 13th day of MARCH, in the year 2013 before me, the undersigned personally appeared TIMOTHY CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that he executed the same in his capacity and that be his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

VICKI L COTE
NOTARY PUBLIC, STATE OF NEW YORK
JEFFERSON COUNTY
LIC. # 01LC5003392
COMMISSION EXPIRES AUGUST 18, 2013

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of ~~Jefferson~~ }

On the 26 day of MARCH, in the year 2013 before me, the undersigned personally appeared DANIELLE SCAGLIONE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STACEY WALKER
Notary Public, State of New York
Sullivan County Clerk's No. 2770
Commission Expires Sept. 21, 2013

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 15 day of MARCH, in the year 2013 before me, the undersigned personally appeared BARBARA CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

MARJORIE J. LYNDAKER
Notary Public, State of New York
No. 01LY6244423
Qualified in Lewis County
Commission Expires July 11, 2015

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 19th day of MARCH, in the year 2013 before me, the undersigned personally appeared JOAN McGURRIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2016

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of ~~Jefferson~~ Onondaga }

On the 14th day of MARCH, in the year 2013 before me, the undersigned personally appeared DUSTIN CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that he executed the same in His capacity and that be his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

JULIE M. WHITMAN
Notary Public, State of New York
Qual. in Oswego Co. No. 01WH6246235
Commission Expires August 8, 2015

SCHEDULE A DESCRIPTION

Town of Fallsburg, County of Sullivan, State of NY,

BEGINNING AT A POINT on the easterly bounds of Louis Drive at the NW corner of Lot #131 and running thence from said point of beginning along said Easterly bounds of Lewis Drive North 34 Degrees, 34 East a distance of 17.06 feet and North 29 Degrees, 26 Minutes East a distance of 102.94 feet to the southerly bounds of Ray Lane; thence running along said southerly bounds of ray Lane South 60 Degrees 38 Minutes East a distance of 83.40 feet to the northwest corner of lot #121 thence running along the westerly bounds of 120.00 feet to the northeast corner of Lot #131; thence along the northerly bounds of said Lot #131 North 60 Degrees 38 minutes West a distance of 80.85 feet to the place of point of beginning containing .22 acre of land to be the same more or less. Being the same premises described in a deed from new Sheldrake Shores, Inc., to Barney Vorisek and Ana Vorisek, his wife, dated December 18, 1985 and recorded in the Office of the Sullivan County Clerk on December 18, 1985 in Liber 1201 of Deeds at Page 176.

45-
5 25
250-
5
350-

State of New York
Chambers of the Town Court
Town of Liberty Government Center

HAROLD J. BAUMAN
JUDGE

KIRK O. ORSECK
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
Clerk of the Court

LILLIAN RUBIO
Deputy Clerk of the Court

DAWN BILANCIONE
Court Clerk

NANCY SAUCIER
Court Clerk

CERTIFICATION

TO: **NYS COMMISSION ON JUDICIAL CONDUCT**

FROM: **LIBERTY TOWN COURT, SULLIVAN COUNTY, NY**

DATE: **January 4, 2019**

SUBJECT: **People of the State of New York v. C. Lockwood**
Ticket No. Sc01007F8P

This is to certify that this is a true copy of the original papers filed in this office.

HON. HAROLD J. BAUMAN
TOWN JUSTICE

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-40

LOCKWOOD, C

[redacted]

SIMPL NG TO VEHICLES

Case No: 10060212

SC01007F8P
The people of The State of New York
VS.

SHERIFF'S OFFICE	
Local Police Code 0520000	

Last Name (Defendant)	First Name	M.I.
LOCKWOOD	C	L

Number and Street	Photo Lic Shown
[redacted]	Yes

City	State	Zip Code	Oper Owns Veh	Lic. Class
LIBERTY	NY	12754	N	DJ

Client ID Number	Sex	Date Expires
[redacted]	M	1/28/14

Lic. State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]	1	2008	JEEP	GR

Plate Number	Reg. State	Registration Expires
EDK5666	NY	05/13/2012

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date	IN VIOLATION OF
9:22:00 PM	6/6/10	Vehicle and Traffic Law

Violation Section	Tr Inf / Misd / Fel	MPH	MPH Zone
1180B	Infraction	75	55

Description of Violation	US DOT#		
SPEED OVER 55 ZONE	Com Veh	Bus	Haz Mat

C/T/V Name	County	Hwy Type	NCIC/ORI
LIBERTY T.J.	SULLIVAN	2	05200

Street Name	Hwy. No.	Loc. Code
STATE ROUTE 52	52	5358

326

Officer's Signature Affirmed Under Penalty of Perjury

326

Officer Operating Radar Signature

Date Affirmed	Off Assign	Badge/Shield	Arrest Type
6/6/10	601	326	2

Officer's Name
Percy Ramos

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

LIBERTY T.J.

Address
120 NORTH MAIN ST.

City	State	Zip
LIBERTY	NY	12754

Return by mail before or in person on:	Date	Time
	7/8/10	09:30:00 A

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentenced Imposed
NY052051J			

Charge Convicted of AS ABOVE VTL OTHER	Disposition/Sentence	Fine Amt
		Surcharge

Bail Forfeiture Amt	Date	License	Registration
		Rev Susp Mand Perm	Month/Day/Yrs

DWI Test Type	DWI Test Results

Supporting Deposition Issued Speeding(Gen101)

10/11/11 50

(48)

Court Adjournment Record	Docket Number

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES,MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judges or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

Signature of Judge or Clerk of Court	Date

Name of Judge

SUPPORTING DEPOSITION / CPL 710.30(1)(A) NOTICE TO SUPPORT SIMPLIFIED TRAFFIC INFORMATION LOCAL CRIMINAL COURT

County of **SULLIVAN**

STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
VS

C L LOCKWOOD

TT NUMBER **SC01007F8P**

fficer **Percy Ramos** of the **SHERIFF'S OFFICE**
Police Officer and the Complainant alleges that the Defendant committed a violation of

1. VTL Section **1180B** Description **SPEED OVER 55 ZONE**
2. Date **6/6/10** Time **9:02:00 PM** C/T/V of **TOWN OF LIBERTY**
3. Vehicle Year **2008** Make **JEEP** Color **GR**
   License Plate No. **EDK5666** State **NY**
4. General Direction of Travel by Defendant **WEST**
5. Highway (Type/Name) **2 - STATE** **STATE ROUTE 52**
6. Defendants Speed **75** MPH in a **55** MPH Zone
7. Charge based on Officer's **DIRECT OBSERVATION**
8. Speed Verified By **RADAR** MODEL **KUSTOM KR-10**
9. Additional Information

TO THE ABOVE NAMED DEFENDANT:
PLEASE TAKE NOTICE THAT PURSUANT TO SECTION 710.30 OF THE CRIMINAL PROCEDURE LAW, THE PEOPLE INTEND TO OFFER AT A TRIAL OF THE ABOVE ENTITLED ACTION EVIDENCE OF A STATEMENT MADE BY YOU

on **6/6/10** at **9:02:00 PM** at **STATE ROUTE 52** , To
ercy Ramos a public servant,

N WHICH YOU SUBSTANTIALLY STATED AS FOLLOWS:

SORRY, I JUST GOT TO GET HOME.

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK

Affirmed Under Penalty of Perjury

Opn 326

6/6/10

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

June 19, 2010

HON. CONNIE VANKEUREN
Town of Liberty Court
120 North Main Street
Liberty, N.Y. 12754

Re: People v. Christopher Lockwood

Dear Connie:

Enclosed herewith please find my Notice of Appearance for the above captioned matter. Kindly enter a plea of Not Guilty on behalf of my client and notify me of date for trial. Please note, by this communication I am hereby acknowledging receipt of Deputy Ramos, Supporting Deposition in this matter.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Warmest Personal Regards,

MICHAEL F. McGUIRE, ESQ

RECEIVED
TOWN COURT
LIBERTY NY

STATE OF NEW YORK: COUNTY OF SULLIVAN
TOWN COURT : TOWN OF LIBERTY

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

CHRISTOPHER LOCKWOOD

Defendant.

_____X

NOTICE OF APPEARANCE

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Ferndale, N.Y.
June 19, 2010

Yours, etc,

MICHAEL F. McGUIRE, Esq
Suite 2-5 Liberty Professional Plaza
111 Sullivan Ave
Ferndale, N.Y. 12734
(845) 292-6800

State of New York
Chambers of the Town Court
Town of Liberty Government Center

BRIAN P. ROURKE
JUDGE

HAROLD J. BAUMAN
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
COURT CLERK

ANN FRIEDMAN
COURT CLERK

CONNIE VAN KEUREN
DEPUTY COURT CLERK

HJB
January 4, 2011

MICHAEL MCGUIRE ESQ.
111 SULLIVAN AVE
SUITE 2-5
FERNDALE, NY12734

People of the State of New York versus:

C LOCKWOOD
[redacted]

Ticket No.	Officer	Statute	Section	Charge Text
SC01007F8P	PR	VTL	1180B	SPEED VIOL 75/55

Next Date: 2/28/11 Time: 1:00PM

Dear Sir or Madam:

The Court accepts your not guilty plea. You have been scheduled for a an Appearance/Pre-Trial Conference at the time and date shown above. **THIS IS NOT A TRIAL DATE.** If you plan to be represented by an attorney, he or she should accompany you and be ready for conference as scheduled.

ADDITIONALLY:
This Court will grant no adjournment unless either party has notified this Court at least five (5) business days prior to the scheduled Appearance/Pre-Trial Conference. Request for adjournment must be in writing. Unless adjournment is confirmed by the Court, you must appear ready for an Appearance/Pre-Trial Conference.

The failure of the above named to appear as required by this Court for an Appearance/Pre-Trial Conference will result in the suspension of his/her drivers license and may result in the issuance of a warrant of arrest.

In accordance with Section 1806-a.(1) of N.Y.S., V & T Law, in the event a person does not appear for the Appearance/Pre-Trial Conference as directed, this Court may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the Court within the amount authorized by law.

Proper attire is required.

Town Justice

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

February 1, 2011

KENNETH C, KLEIN, ESQ
Town of Liberty Court
120 North Main Street
Liberty, N.Y. 12754

RE: People v. Chris Lockwood

Dear Ken;

Pursuant to our various e-mails, I have enclosed herewith the completed application to amend a traffic infraction along with a copy of Mr. Lockwood's driving abstract. You will recall that this matter is going to be adjourned for a period of 6 weeks to afford him the opportunity to complete a defensive driving course whereupon the plea to the amended charge of violating §1201A will be entered.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Kenneth J. McGuire, Esq.

State of New York
Chambers of the Town Court
Town of Liberty Government Center

BRIAN P. ROURKE
JUDGE

HAROLD J. BAUMAN
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
COURT CLERK

ANN FRIEDMAN
COURT CLERK

CONNIE VAN KEUREN
DEPUTY COURT CLERK

HJB
September 12, 2011

MICHAEL MCGUIRE ESQ.
111 SULLIVAN AVE
SUITE 2-5
FERNDALE, NY12734

C LOCKWOOD
[redacted]

Statute	Section	Charge Text	Disposition	Fine	Surcharge
VTL	1201A	PARKED ON PAVEMENT	Fine	$ 150.00	$ .00
			TOTAL DUE:	$ 150.00	

Due Date: 10/12/11

Dear Sir or Madam:

This court has accepted your guilty plea for the charge(s) listed above. The listing also shows the fine(s) and any mandatory fee(s) imposed by this Court. Your payment of fines and surcharges must arrive in this Court before the due date shown above.

NO PERSONAL CHECKS. **MONEY ORDERS, CERTIFIED CHECKS, CREDIT CARDS ONLY! CANADIANS MUST PAY IN US FUNDS! PLEASE RETURN THIS NOTICE WITH YOUR PAYMENT (EXACT AMOUNT ONLY).**

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license. SUSPENDED LICENSES WILL BE SUBJECT TO A TERMINATION OF SUSPENSION FEE.

PLEASE MAKE CERTIFIED CHECKS AND MONEY ORDERS PAYABLE TO: LIBERTY JUSTICE COURT.

If using Credit Card:

VISA ( ) MASTERCARD ( ) EXPIRATION DATE (/ /)
3 DIGIT SECURITY CODE ( )
CARDHOLDER NAME: _____ CARD NUMBER: _____
(Print Name as it Appears on Card)

I hereby accept the fine amount(s) imposed by the Court and authorized payment thereof on the above-noted credit card. NOTE: Should a bank reject your transaction a suspension will be issued without further notice.

_____
(Signature as it appears on Card)

Kindly include a self-addressed stamped envelope for the return of your receipt. NO RETURNS unless the self-addressed, stamped envelope is enclosed.

Failure to comply with the explicit directions above could lead to a suspension or revocation of your driving privileges and a possible issuance of a warrant for your arrest.

MICHAEL F. MCGUIRE, ESQ.
P.O. Box 128
Ferndale, NY 12734

August 5, 2011

Connie VanKuren, Justice Court Clerk
Town of Liberty Justice Court
120 North Main Street
Liberty, NY 12754

Re: People v. Christopher Lockwood

Dear Connie:

As per your request, enclosed is the properly executed Application to Amend Traffic Infraction. If you require anything further, please do not hesitate to call.

Thank you for all your help and support in this matter.

Very truly yours,

Michael F. McGuire

Michael F. McGuire, Esq.

APPLICATION TO AMEND TRAFFIC INFRACTION
(Returned form must contain all original signatures)

SECTION 1

YOU MUST COMPLETE AND SIGN THIS SECTION

RE: People v. Christopher Lockwood
(Your Name on Ticket)
List Charge(s): 1180 B - Speed Viol 75/55

Ticket#: SC01007F8P

The following information is made in support of this Application to Amend Traffic Infraction(s) pending against the above named defendant:

X There was no accident involved in this incident.
____ There was an accident but there are no outstanding civil liabilities. I have enclosed either releases from the other party in the accident or written acknowledgment of liability from my insurance company.
X Defendant has no criminal record.
X Defendant has no prior or pending alcohol related offenses.
____ Defendant has 0 traffic convictions in the past ____ months.
X Defendant has no other pending charges.

EXPLANATION AS TO WHY A REDUCTION IS REQUESTED:
Interest of Justice

(Add any additional information which you think might aid your request on a separate piece of paper.)

Date: 2-1-11 Signature [signature]
(Have you included your Driver's Abstract and Self-Addressed Stamped Return Envelope ?)

False statements made in the foregoing instrument are punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Accordingly and with notice of the foregoing I hereby affirm that the foregoing statements are true, under penalty of perjury this ____ day of _____, 20__.

SECTION 2

Based upon the foregoing facts, the People move as follows:
____ Plea as charged to _____
X Amend 1180B to 1201-A } All amendments are conditioned
____ Amend _____ to _____ } upon a plea of guilty to
____ Amend _____ to _____ } the amended charge(s)
____ Dismiss _____
____ Defendant must complete a Defensive Driving Course prior to this disposition.
Sentencing is left to the sound discretion of the Court. Respectfully,
Dated X [signature]
Town Attorney *(Sign and print your name)*

SECTION 3

Waiver and Entry of Plea I have read the above and wish to accept the above proposed disposition. I waive my right to appear in Court and plead guilty to the amended charge(s). I hereby constitute my attorney, if any, to appear for me and enter my guilty plea.
Date: 2-1-11 Signature [signature]
MAIL THIS COMPLETED FORM TO THE COURT AS SHOWN ON YOUR TICKET

SECTION 4

Trial Requested: _____
(Signature)

State of New York DEPARTMENT OF MOTOR VEHICLES, Empire State Plaza, Albany, New York 12228

ABSTRACT OF DRIVING RECORD

Document # ALJAK001 Total Fee Paid $10.00
PRINT DATE: 01/21/2011 TIME: 09:12:72 OPERATOR: JAK OFFICE: MTC

CLIENT ID#: [redacted]

LOCKWOOD,C,L
[redacted]

DOB: [redacted] SEX: M
HEIGHT: 6-0 EYE COLOR: BLUE
COUNTY: SULL
MI #: [redacted]

NAME ON LICENSE/ID: LOCKWOOD
CHRISTOPHER,LOUIS

LICENSE CLASS: *D* STATUS:VALID EXPIRATION: 01/28/2014
PROBATION START: 06/17/2010 END: 10/14/2010
LIMITED USE ENDING DATE 01/14/2010

********** ACTIVITY **********

CLASS CHANGE: 04/16/2010	NEW: *DJ*	OLD: PERMIT
CLASS CHANGE: 06/17/2010	NEW: *D*	OLD: *DJ*

*** END OF RECORD ***

This is to certify that this document is a true and complete copy of an electronic record on file in the New York State Department of Motor Vehicles, Albany, New York. The record was made in regular course of New York State Department of Motor Vehicles daily business. It is the business of the New York State Department of Motor Vehicles to create and maintain the records of drivers in the state of New York. Entries in this document are made at the time the recorded transactions or events took place or within a reasonable time thereafter. The person who reports the information is under a business duty to do so accurately.

ABS-3 (01/11)

EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES

LOCKWOOD, C [redacted]

10/11/11 50

SIMPL[redacted]NG TO VEHICLES

Case No: 10060212

SC01007F8P
The people of The State of New York
VS.

SHERIFF'S OFFICE				
Local Police Code 0520000				
Last Name (Defendant) LOCKWOOD	First Name C		M.I. L	
Number and Street [redacted]			Photo Lic Shown Yes	
City [redacted]	State [redacted]	Zip Code [redacted]	Oper Owns Veh N	Lic. Class DJ
Client ID Number [redacted]			Sex M	Date Expires 1/28/14
Lic. State NY	Date of Birth [redacted]	Veh. Type 1	Year 2008	Make JEEP	Color GR
Plate Number EDK5666	Reg. State NY	Registration Expires 05/13/2012		

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date	IN VIOLATION OF		
9:02:00 PM	6/6/10	Vehicle and Traffic Law		
Violation Section 1180B		Tr Inf / Misd / Fel Infraction	MPH 75	MPH Zone 55
Description of Violation SPEED OVER 55 ZONE		US DOT#		
		Com Veh	Bus	Haz Mat
C/T/V Name LIBERTY T.J.		County SULLIVAN	Hwy Type 2	NCIC/ORI 05200
Street Name STATE ROUTE 52		Hwy. No. 52	Loc. Code 5358	

Dnr 326

Officer's Signature Affirmed Under Penalty of Perjury

Dnr 326

Officer Operating Radar Signature

Date Affirmed	Off Assign	Badge/Shield	Arrest Type
6/6/10	601	326	2

Officer's Name
Percy Ramos

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

LIBERTY T.J.

Address
120 NORTH MAIN ST.

City	State	Zip
LIBERTY	NY	12754

Return by mail before or in person on:	Date	Time
	7/8/10	09:30:00 A

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentenced Imposed
NY052051J			
Charge Convicted of AS ABOVE VTL OTHER		Disposition/Sentence	Fine Amt
			Surcharge
Bail Forfeiture Amt	Date	License	Registration
		Rev Susp Mand Perm	Month/Day/Yrs
DWI Test Type		DWI Test Results	
Supporting Deposition Issued Speeding(Gen101)			

(HB) [redacted]ment

Court Adjournment Record	Docket Number

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judges or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

Signature of Judge or Clerk of Court	Date
Name of Judge	

EXHIBIT Comm Ex X-40a

PENGAD 800-631-6989

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

June 19, 2010

HON. CONNIE VANKEUREN
Town of Liberty Court
120 North Main Street
Liberty, N.Y. 12754

Re: People v. Christopher Lockwood

Dear Connie:

Enclosed herewith please find my Notice of Appearance for the above captioned matter. Kindly enter a plea of Not Guilty on behalf of my client and notify me of date for trial. Please note, by this communication I am hereby acknowledging receipt of Deputy Ramos, Supporting Deposition in this matter.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Warmest Personal Regards,

MICHAEL F. McGUIRE, ESQ

RECEIVED
TOWN COURT
LIBERTY NY
2010 JUN 21 AM 10 41

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-40b

STATE OF NEW YORK: COUNTY OF SULLIVAN
TOWN COURT : TOWN OF LIBERTY

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

CHRISTOPHER LOCKWOOD

Defendant.

_____X

NOTICE OF APPEARANCE

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Ferndale, N.Y.
June 19, 2010

Yours, etc,

MICHAEL F. McGUIRE, Esq
Suite 2-5 Liberty Professional Plaza
111 Sullivan Ave
Ferndale, N.Y. 12734
(845) 292-6800

State of New York
Chambers of the Town Court
Town of Liberty Government Center

BRIAN P. ROURKE
JUDGE

HAROLD J. BAUMAN
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
COURT CLERK

ANN FRIEDMAN
COURT CLERK

CONNIE VAN KEUREN
DEPUTY COURT CLERK

HJB
January 4, 2011

MICHAEL MCGUIRE ESQ.
111 SULLIVAN AVE
SUITE 2-5
FERNDALE, NY12734

People of the State of New York versus:

C LOCKWOOD
[redacted]

Ticket No.	Officer	Statute	Section	Charge Text
SC01007F8P	PR	VTL	1180B	SPEED VIOL 75/55

Next Date: 2/28/11 Time: 1:00PM

Dear Sir or Madam:

The Court accepts your not guilty plea. You have been scheduled for a an Appearance/Pre-Trial Conference at the time and date shown above. **THIS IS NOT A TRIAL DATE.** If you plan to be represented by an attorney, he or she should accompany you and be ready for conference as scheduled.

ADDITIONALLY:
This Court will grant no adjournment unless either party has notified this Court at least five (5) business days prior to the scheduled Appearance/Pre-Trial Conference. Request for adjournment must be in writing. Unless adjournment is confirmed by the Court, you must appear ready for an Appearance/Pre-Trial Conference.

The failure of the above named to appear as required by this Court for an Appearance/Pre-Trial Conference will result in the suspension of his/her drivers license and may result in the issuance of a warrant of arrest.

In accordance with Section 1806-a.(1) of N.Y.S., V & T Law, in the event a person does not appear for the Appearance/Pre-Trial Conference as directed, this Court may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the Court within the amount authorized by law.

Proper attire is required.

Town Justice

PENGAD 800-631-6989
EXHIBIT
Tbmm
Ex X-40c

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

February 1, 2011

KENNETH C, KLEIN, ESQ
Town of Liberty Court
120 North Main Street
Liberty, N.Y. 12754

RE: People v. Chris Lockwood

Dear Ken;

Pursuant to our various e-mails, I have enclosed herewith the completed application to amend a traffic infraction along with a copy of Mr. Lockwood's driving abstract. You will recall that this matter is going to be adjourned for a period of 6 weeks to afford him the opportunity to complete a defensive driving course whereupon the plea to the amended charge of violating §1201A will be entered.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Kenneth J. McGuire, Esq.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-40d

MICHAEL F. MCGUIRE, ESQ.
P.O. Box 128
Ferndale, NY 12734

August 5, 2011

Connie VanKuren, Justice Court Clerk
Town of Liberty Justice Court
120 North Main Street
Liberty, NY 12754

Re: People v. Christopher Lockwood

Dear Connie:

As per your request, enclosed is the properly executed Application to Amend Traffic Infraction. If you require anything further, please do not hesitate to call.

Thank you for all your help and support in this matter.

Very truly yours,

Michael F. McGuire

Michael F. McGuire, Esq.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-402

APPLICATION TO AMEND TRAFFIC INFRACTION
(Returned form must contain all original signatures)

SECTION 1

YOU MUST COMPLETE AND SIGN THIS SECTION

RE: People v. Christopher Lockwood
(Your Name on Ticket)

List Charge(s): 1180 B - Speed Viol 75/55

Ticket#: SC01007F8P

The following information is made in support of this Application to Amend Traffic Infraction(s) pending against the above named defendant:

X There was no accident involved in this incident.

____ There was an accident but there are no outstanding civil liabilities. I have enclosed either releases from the other party in the accident or written acknowledgment of liability from my insurance company.

X Defendant has no criminal record.

X Defendant has no prior or pending alcohol related offenses.

____ Defendant has 0 traffic convictions in the past ____ months.

X Defendant has no other pending charges.

EXPLANATION AS TO WHY A REDUCTION IS REQUESTED:
Interest of Justice

(Add any additional information which you think might aid your request on a separate piece of paper.)

Date: 2-1-11 Signature [signature]
(Have you included your Driver's Abstract and Self-Addressed Stamped Return Envelope ?)

False statements made in the foregoing instrument are punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. Accordingly and with notice of the foregoing I hereby affirm that the foregoing statements are true, under penalty of perjury this ____ day of _____, 20__.

SECTION 2

Based upon the foregoing facts, the People move as follows:

____ Plea as charged to _____

X Amend 1180B to 1201-A } All amendments are conditioned

____ Amend _____ to _____ } upon a plea of guilty to

____ Amend _____ to _____ } the amended charge(s)

____ Dismiss _____

____ Defendant must complete a Defensive Driving Course prior to this disposition.

Sentencing is left to the sound discretion of the Court. Respectfully,

Dated X [signature]

Town Attorney *(Sign and print your name)*

SECTION 3

Waiver and Entry of Plea I have read the above and wish to accept the above proposed disposition. I waive my right to appear in Court and plead guilty to the amended charge(s). I hereby constitute my attorney, if any, to appear for me and enter my guilty plea.

Date: 2-1-11 Signature [signature]

MAIL THIS COMPLETED FORM TO THE COURT AS SHOWN ON YOUR TICKET

SECTION 4

Trial Requested: _____
(Signature)

State of New York
Chambers of the Town Court
Town of Liberty Government Center

BRIAN P. ROURKE
JUDGE

HAROLD J. BAUMAN
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
COURT CLERK

ANN FRIEDMAN
COURT CLERK

CONNIE VAN KEUREN
DEPUTY COURT CLERK

HJB
September 12, 2011

MICHAEL MCGUIRE ESQ.
111 SULLIVAN AVE
SUITE 2-5
FERNDALE, NY12734

C LOCKWOOD
[redacted]

Statute	Section	Charge Text	Disposition	Fine	Surcharge
VTL	1201A	PARKED ON PAVEMENT	Fine	$ 150.00	$ .00
			TOTAL DUE:	$ 150.00	

Due Date: 10/12/11

Dear Sir or Madam:

This court has accepted your guilty plea for the charge(s) listed above. The listing also shows the fine(s) and any mandatory fee(s) imposed by this Court. Your payment of fines and surcharges must arrive in this Court before the due date shown above.

NO PERSONAL CHECKS. **MONEY ORDERS, CERTIFIED CHECKS, CREDIT CARDS ONLY! CANADIANS MUST PAY IN US FUNDS! PLEASE RETURN THIS NOTICE WITH YOUR PAYMENT (EXACT AMOUNT ONLY).**

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license. SUSPENDED LICENSES WILL BE SUBJECT TO A TERMINATION OF SUSPENSION FEE.

PLEASE MAKE CERTIFIED CHECKS AND MONEY ORDERS PAYABLE TO: LIBERTY JUSTICE COURT.

If using Credit Card:

VISA ( ) MASTERCARD ( ) EXPIRATION DATE (/ /)
3 DIGIT SECURITY CODE ( )
CARDHOLDER NAME: _____ CARD NUMBER: _____
(Print Name as it Appears on Card)

I hereby accept the fine amount(s) imposed by the Court and authorized payment thereof on the above-noted credit card. NOTE: Should a bank reject your transaction a suspension will be issued without further notice.

_____
(Signature as it appears on Card)

Kindly include a self-addressed stamped envelope for the return of your receipt. NO RETURNS unless the self-addressed, stamped envelope is enclosed.

Failure to comply with the explicit directions above could lead to a suspension or revocation of your driving privileges and a possible issuance of a warrant for your arrest.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-40f

1
2
3
4 Q. Now, I'm going to show you what is marked Commission Exhibit 2.
5 And this is an email:
6 FROM: obieinky@[redacted]
7 TO: Wendy A. Weiner
8 DATE: February 22, 2011, 12:17 P.M.
9 SUBJECT: Re: Weekly Calendar
10 Q. If you can look at this? And when you've had an opportunity, let me
11 know.
12 A. Okay.
13 Q. To begin with, it's to Wendy Weiner, who's Wendy Weiner?
14 A. Wendy Weiner was my secretary when we opened-- when we started
15 on the bench.
16 Q. So, on the date of this email, the February 2, 2011, which is the date,
17 Wendy Weiner was your secretary in chambers?
18 A. Yes, ma'am.
19 Q. Okay. And it's from "obieinky" -- if I'm pronouncing it right--
20 @[redacted] And who is that?
21 A. That's my wife. My wife was-- you want me to…?
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-41a

Wendy A. Weiner - Re: Weekly Calendar

From: <obieinky[redacted]>
To: "Wendy A. Weiner" <wweine[redacted]>
Date: 2/22/2011 12:17 PM
Subject: Re: Weekly Calendar

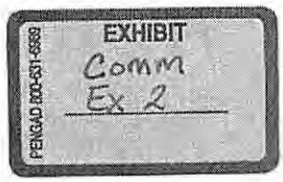
Thanks wendy..also, if anyone calls for mikes personal email or old clients looking for him or old acquaintances,or attorneys, please let them know his new email is: judgemcguire@[redacted] (the mike-law@[redacted] is no longer working)

Sent from my Verizon Wireless BlackBerry

From: "Wendy A. Weiner" <wweiner@[redacted]
Date: Tue, 22 Feb 2011 09:03:06 -0500
To: <obieinky@[redacted]>
Subject: Weekly Calendar

Please note the Judge Biesel will be here at 3:00 on Friday, no scheduling for our Judge in Family Court after his 1:30 - 2:20 appearances. FYI

Wendy



Q. And what was the name of the law firm?

A. The Law Office of Michael McGuire.

Q. And the address?

A. 111 Sullivan Avenue.

Q. And was that Suite 2-5?

A. It was Suite 2-- I had to think about it, because we had-- we took up two suites at one point, but it was 2-- 2-5 is what we used for our address. We also had Suite 2-6.

Q. And--

A. -- And Liberty-- Ferndale, New York 12734.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-4b

1
2
3
4
5
6
7 Q. Now, this P.O. Box 128, was that associated with you--
8 A. -- It was.
9 Q. -- At any time? Yes? And can you explain to us--
10 A. -- I can. When I closed the office, the-- the mail for the office was
11 delivered to the office itself. We had a-- it was a professional
12 building and there were mailboxes located on the premises of that
13 building. Of course, I could not use that mailbox anymore because,
14 presumably, someone else would be renting the office and would have
15 that box. My concern when I closed the office was that I had had a
16 substantial practice for many years and where people may need to
17 contact me to request copies of documents, their files, their files to be
18 transferred to another lawyer, I would need to have some way for
19 them to contact me. So, the Ferndale Post Office is located directly
20 across the street from where my office complex was, so I knew that
21 anything that came to the Law Office of Michael McGuire, 111
22 Sullivan Avenue, with a rural post office, the postmaster would know
23 that that was no longer there and would stick it in the post office box.
24 Q. So, that's when you got P.O. Box 128?
25 A. Correct.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex. X-4/c

1
2
3
4
5 Q. Okay. When you were in private practice, did you have a voicemail?
6 A. The voicemail that I had when I was in private practice was on my
7 cell phone. What I would do when I was out of the office, we would
8 forward the office calls to my cell phone. And so, if we were out of
9 the office, the cell phone voicemail would pick up.
10 Q. And what was the voicemail? Do you remember?
11 A. Probably something in the neighborhood, "You've reached the Law
12 Office of Mike McGuire. There's no one available to take your call
13 right now, but if you leave your name, your number, and a message
14 when you hear the tone, someone will get back to you as soon as
15 possible."
16 Q. When you became a judge in January of 2011, did you change your
17 voicemail?
18 A. I probably was negligent at that. I probably didn't. Of all-- all the
19 details that I was dealing with, I probably did not change that for-- for
20 a while.
21 Q. When you say "probably," did you not change-- either you changed it
22 or you didn't change it.
23 A. Yeah, I didn't. I didn't right away. That was-- that was a pure
24 oversight. Of all the details that we're doing, that was one of the
25 things that-- that did not get done: changing the voicemail on my

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-41d

1 phone. However, we stopped forwarding calls from my phone. We
2 kept the [redacted]-[redacted] number active. I don't know if I'm jumping ahead
3 of your question.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2 Q. Now, what is your cell phone number?
3 A. [redacted]
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-4e

1
2
3
4
5
6 Q. Now, you said that you did not change your-- the voicemail right
7 away. When did you change it?
8 A. At some time after-- I don't-- I don't honestly remember when, but it
9 was a while after. Because--
10 Q. Okay. Well, let's go backwards. Do you currently use-- have that
11 voicemail--
12 A. -- No--
13 Q. -- On your cell phone?
14 A. No, I do not.
15 Q. Did you change it in 2016?
16 A. Oh, it was before that.
17 Q. How about 2015?
18 A. It may have been between 2013 and 2015. Somewhere in that
19 neighborhood.
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-41f

1
2
3 Q. Do you, from today's perspective, think having your voicemail on
4 your personal phone be a law firm violated the Rules?
5 A. I do.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-4lg

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. So, after you became a judge, if someone called you at the law firm,
22 they would get a voicemail?
23 A. Correct.
24 Q. And was that the same voicemail that had been on your cell phone?
25 A. No.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X 41h

1 Q. What was the-- that voicemail?

2 A. In sub and substance, "You've reached Mike McGuire. The law
3 offices are now closed. If you're a former client, or need information
4 about cases that we had handled, please leave your number. We'll get
5 back to you as soon as possible." I'm paraphrasing.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. Did you ever use your private law firm letterhead after you became a
22 judge?
23 A. Well, we just saw an exhibit here where I did use that.
24 Q. Were there other cases?
25 A. There probably were. The way the office was set up, my wife was the

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-41i

1 office manager--
2 Q. -- Your private, you're talking about?
3 A. Yeah, private office. My law office prior to December 31, 2010, and
4 then the lease was paid until April and she was closing up business.
5 Her desk computer was loaded with letterhead. She would do all of
6 the correspondence. She would do notices of appearance. She would
7 do all of that stuff. So she continued to send out-- if there was orders
8 that came in, if there was stuff that had to be filed, submitting orders
9 of notice of entry on stuff that I had done prior. So I'm sure that--
10 frankly, we never even gave it a thought, we just-- she continued to
11 use the letterhead. So I'm sure that there was, as we used up the
12 letterhead. I'm sure there was.
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16 Q. Did you ever handle real estate closings after you were elected judge?
17 A. I had one family who was a friend-- in-laws of a close friend of mine,
18 who didn't hire a lawyer, who I didn't--
19 JUDGE SHEA: I'm sorry, did you say family or in-
20 laws of a friend? They're two different things.
21 THE WITNESS: I'm sorry. They were my friend,
22 his in-laws, were buying a cash foreclosure, and they didn't
23 want to hire a lawyer. They didn't think they needed a
24 lawyer. They were familiar with the house. He asked me--
25 they asked me, "What do we need to do?" I told him, "You

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42a

1 need to get a title, you need to probably get a survey, you
2 need to get a home inspection." They probably asked me,
3 from time-- actually, Chris probably asked me from time to
4 time what they need to do, A, B, and C. I never went to the
5 closing. I never prepared a closing statement. I never
6 prepared docs. I never reviewed documents whatsoever.
7 BY MS. TISHMAN:
8 Q. You used the name "Chris." Who's Chris?
9 A. Chris Depugh.
10 Q. Is that your friend?
11 A. Yes.
12 Q. And who were his in-laws?
13 A. His in-laws were the Moores.
14 Q. Eileen and Philip?
15 A. Correct.
16
17
18
19
20
21
22
23
24
25

1
2
3 Q. Did you go to the Moores' house to leave off papers regarding-- well,
4 let me withdraw that. Did you drop off a contract of sale to them?
5 A. I dropped off-- I did. On my way-- I literally passed their house on the
6 way back from my brother's house.
7 Q. And you dropped off the contract of sale?
8 A. Yes.
9 Q. And did you stay while they signed it?
10 A. I visited them for 10 minutes. They signed them, and I think I visited
11 with them on their front porch-- I remember it was summertime. I
12 think I visited with them on their front porch for a few minutes and
13 then left.
14 Q. But they signed them in your presence?
15 A. I don't recall. I honestly don't recall.
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-426

Q. Now, the listing broker for PennyMac was Jeff Dolfinger. Did you have any contact with Mr. Dolfinger?

A. I believe I may have had a contact with Mr. Dolfinger about going in to inspect the house. I believe-- I vaguely-- I may have.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42c

From: Mary Ann Schultz <MSchultz[redacted]>
Sent: Monday, July 28, 2014 11:50 AM
To: 'obieinky[redacted]'
Cc: 'laurenbertsche[redacted]'; 'jeff.dolfinger[redacted]'
Subject: Contract, Philip and Eileen Moore, [redacted] Eugene Street, 01-067744-R00
Attachments: CONTRACT_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning Mr. McGuire:

Attached please find the original proposed Contract of Sale in the above captioned matter. Kindly copy and have your client sign four (4) copies of the contract and return them to the above address with a certified/bank check or money order payable to Frenkel Lambert Weiss Weisman & Gordon LLP, as attorney, in the amount of $13, 000.00.

This office will hold the down payment pending execution of the contracts by my client whereupon I will forward to you two duplicate originals and deposit the down payment in the escrow account.

As per our client, any alterations to this contract will cause same to become null and void. Therefore, any changes to the contract can only be done through an additional addendum.

My client has not seen the contract in its final form; therefore, it does not constitute an offer to sell upon the terms contained therein. When the signed Contract is returned by you together with the necessary down payment, I will present it to my client for acceptance and signature.

PLEASE NOTE: Closing proceeds are to be forwarded by WIRE ONLY. We will give you our wiring instructions at the time of closing.

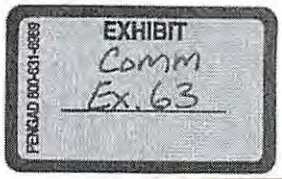
As such, at your earliest convenience please forward the title report.

If you have any questions, please do not hesitate to call me at 631-969-3100 ext. 1120. I look forward to working with you on this matter.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 Q. I'm going to show you what's marked Commission Exhibit 63. It's an
20 email, July 28, 2014, 11:50 A.M. from Mary Ann Schultz to ob--
21 obienky@[redacted], cc'd Lauren Bertsche and Jeff Dolfinger. Now,
22 obeinky, that's your wife, right?
23 A. Correct.
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex #-42e

From: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>
Sent: Monday, August 25, 2014 8:09 PM
To: Mary Ann Schultz
Subject: [redacted] Eugen Street. Napanoch

Ms.Schultz;

I have tried to call you several times, as I understand it we are waiting to get the utilities turned on in the house so that we can get the home inspection completed, pursuant to the contract. Once we get that completed I believe we will be ready to close within a matter of days. One of the issues that I had called about previously was that I was not going to have my clients keep signing addendums, but rather believed the you and I could handle these procedural extensions between lawyers without my having to keep my clients in to sign these extensions, therefore, I will tell you that I am in receipt of your addendum for August 29, but given that as of this date we still do not have the ability to complete the home inspection it is doubtful that we will be able to close on that date. I would also note that one of my clients recently went through some major surgery and while that will not hold up closing at all, it does make it difficult for them to get in to keep signing addendums, therefore I would prefer to just do memorandums of understanding between attorneys if that is agreeable with you, I would suggest that we agree to just adjourn without date until we have the clearance to complete the home inspection once we get the approval to move forward with the inspection (notice that the utilities are all on), then you and I can agree upon a closing date within a matter of a few days thereafter.

If that is agreeable with you, kindly let me know,. If you have any questions, concerns or comments please feel free to contact me at [redacted] or though e-mail.

Ken McGuire, Esq

1
2
3
4
5
6
7
8
9
10
11 Q. I'm going to show you what is marked Commission Exhibit 66. This
12 is an email from Michael McGuire, judgemcguire@[redacted] to
13 Mary Ann Schultz, August 25, 2014. judgemcguire@[redacted],
14 that's your email address, right?
15 A. It was. It's not anymore.
16 Q. I know. But at this time, on August 25, 2014, that was your email
17 address?
18 A. It was.
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42g

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25 Q. Now, the last sentence in the email, "If you have any questions,

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42h

1 concerns, or comments, please feel free to contact me at [redacted]
2 8568 or through email." You told us on the first day that that was
3 your cell phone number.
4 A. It is.
5 Q. So it has your-- your email address and your cell phone number on
6 this?
7 A. It does.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8 Q. Were you involved in representing the Moores?
9 A. I was not, but like I said, I did kind of give them guidance. I didn't
10 give them legal advice. I didn't give them legal advice. I did speak to
11 the Moores on at least one or two occasions. I did speak with their
12 daughter. I don't-- I don't have any recollection of being involved at
13 this level. That's my only answer to that.
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42i

From: Mary Ann Schultz <MSchultz[redacted]m>
Sent: Tuesday, August 26, 2014 8:09 AM
To: 'judgemcguire@[redacted]'
Cc: 'obieinky@[redacted]'
Subject: PennyMac to Moore, [redacted] Eugene Street, Napanoch,01-067744-R00
Attachments: Addendum_1.PDF

Importance: High

Client Ref #: [redacted]
FL File Number: 01-067744-R00
Premises Address: [redacted] Eugene Street, Napanoch, NY 12458
File Ref: [redacted] Eugene St Napanoch, NY 12458

Good Morning:
Please be advised that our firm represents seller in this REO contract. First, I want to apologize for not having your information as point of contact from the agent. My contact for buyer's attorney is Ken McGuire and was given the e-mail copied above. On 8/12/14 I e-mailed an extension to obieinky[redacted] and have not received the signed extension back. I left a message for Ken McGuire yesterday.

However, the closing is being further extended to 9/9/14, due to Seller's de-winterization not being completed. Kindly have your clients sign the attached addendum and return to me at your earliest convenience.

Thank you.

Mary Ann Schultz
Managing Paralegal

FRENKEL LAMBERT

Frenkel Lambert Weiss Weisman & Gordon, LLP
53 Gibson Street
Bay Shore, NY 11706
Phone: (631) 969-3100 x1120
Fax: (631) 982-1460
MSchultz[redacted]

Please email comments or concerns to: Feedback@FLWLAW.com

EXHIBIT
Comm
Ex. 67
PENGAD 800-631-6989

EXHIBIT
Comm
Ex X-42j
PENGAD 800-631-6989

1
2
3
4
5 Q. Now I'm going to show you what is marked Commission Exhibit 67.
6 It's an email, Mary Ann Schultz-- from Mary Ann Schultz, Tuesday,
7 August 26, at 8:09 to judgemcguire@[redacted], cc'd to
8 obeinky@[redacted]. Did you send this email?
9 A. No. This is from Mary Ann Schultz.
10 Q. Did you receive this email?
11 A. I probably did.
12 Q. Do you remember reviewing it?
13 A. I probably would have forwarded it to my wife.
14 Q. Did you know that your email address was being used?
15 A. Well, if I received-- when I received this email, I certainly would have
16 known that.
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42K

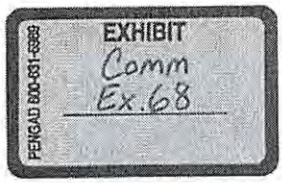
From: Mr MICHAEL MCGUIRE <judgemcguire[redacted]t>
Sent: Tuesday, August 26, 2014 5:16 AM
To: Mary Ann Schultz
Subject: Procedure

I am told that you have had issues getting a response from me, I would comment that I have left at least a dozen phone messages for you and have received no response, one such message suggested that there was no reason to set a closing date until such time as we know when we are ablet to get into the house, to agree to such a date would merely put my clients in the position of being obligated under a contract to close on a property whcih they have not been afforded the opportunity to inspect. Sine there is a provision in the main body of the original contract which provides them with the right to conduct such an inspection I do not want to agree to a closing date in an addendum that can well be interpreted as modifing the main body of the contract to the extent that it could be interpreted that they would somehow waive the right of inspection in order to modify the contract to get a closing date. I can asure you that my clients are anxious to close and the funds necessary to close are liquid and available, but it makes no sense to set a series of unrealistic closing dates until we know when we will be able to inspect the premises, once we have that date, we can set a closing date, money will be wired per contract to you and I will assume that funds will be held in escrow until transfer documents have been received by my title company. I will provide address for delivery of closing documents once we set the date.

I would respectfully request that messages not be sent to me through the real estate broker with whom I have no releationship to do so merely creates problems and does nothing to move this matter forward. I prior communications you have asked that I contact you by phone, I have done so many times and received no response, I submit that is the most efficient means of communication, since I am often unable to check e-mail during the business day it is most efficient that you contact me by phone or text message [redacted] if there is a pressing matter the requires my attention during the day,I cannot imagine same though since we are just waiting to be able to have access to the house so that I can schedule my home inspection which I have had to cancel twice already becuase the house is not prepared for an inspection since there are no utilities on. As set forth in an earlier communicaton I still need a signed counterpart of the contract (you had asked that I send you 4 counterparts which I did therefore I am entitled to have a counterpart returned to me), I would also suggest that any further modifications to the contract with respect to a closing date, if they involve just the issue of the date, but achieved by memoranda between counsel and once we have a date certain which incorporates access to the house, availability of inspector and reeipt and review of report we will be able to set a date certain and at that point, if you wish we can incorporate that as an amendment to the original contract by having parties sign off. Given that one of my clients is recovering from major surgery and is not ambulatory it creates a hardship to have them keep signing off on documents becuase I must drive an hour each way to have them sign off and as I said one of my clients is recovering from surgery and is not ambulatory.

Thank you in advance for your attention to this matter if you have any questions, concerns or comments please feel free to contact me by phone ([redacted] voice or text) or e-mail either of the two emails which you have. Do not attempt to contact me through the realtor as that message will not get to me.

Ken McGuire



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25 Q. I'll show you Commission Exhibit 68. August 26, 2014, 5:16 A.M.,

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42m

1 from Michael McGuire to Mary Ann Schultz. First line, "I am told
2 that you have had issues getting a response from me." Then the
3 bottom last paragraph, "Thank you in advance for your attention to
4 this matter. If you have any questions, concerns, or comments, please
5 feel free to contact me by phone, [redacted], voice or text, or
6 email, either of the two emails that you have. Do not attempt to
7 contact me through the realtor as that message will not get to me."
8 The phone number given, that's your cell phone number.
9 A. It is.
10 Q. And that's your email address?
11 A. It is.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

From: Jeff Dolfinger <jeff.dolfinge[redacted]>
Sent: Tuesday, August 26, 2014 8:24 AM
To: Mary Ann Schultz
Cc: Jeff Dolfinger; judgemcguire[redacted]
Subject: Re: Follow UP

Ok thanks.

Jeff

On Aug 26, 2014, at 8:19 AM, Mary Ann Schultz <MSchultz@[redacted]> wrote:

> Jeff,
> Mr. McGuire and I just spoke.
>
> Mary Ann Schultz
> Managing Paralegal
> <image54e42c.GIF>
> Frenkel Lambert Weiss Weisman & Gordon, LLP
> 53 Gibson Street
> Bay Shore, NY 11706
> Phone: (631) 969-3100 x1120
> Fax: (631) 982-1460
> MSchultz@[redacted]
> Please email comments or concerns to: Feedback@FLWLAW.com
> **From:** Jeff Dolfinger [mailto:jeff.dolfinger@[redacted]]
> **Sent:** Tuesday, August 26, 2014 8:19 AM
> **To:** judgemcguire@[redacted]
> **Subject:** Re: Follow UP
>
> I will advise the seller of your position and do my best to tell them that they need to de winterize ASAP.
>
> I honestly don't know if they will allow Phil to stay in contract if we can't get them back.
>
> But that's a decision between you and your client to which I will not get in the middle.
>
> Sellers counsel will reach out to you again this morning at this email.
>
> Jeff
>
> On Aug 26, 2014, at 7:49 AM, judgemcguire@[redacted] wrote:
>
>> We are not in Northern New York we are in Southern NewYork, my concern is your sophomoric comments about e-mails etc, frankly I could care less about what your client directs you to do, if it involves a legal issue neither you nor they have the right to speak directly with my client, kindly advise when the house is ready for an inspection. Neither your client nor their attorney have the legal authority to direct you to act with respect to a legal matter. This is not Northern New York the property is not North of Albany and My clients

have elected to have an attorney guide them through this process so you need to respect that relationship. If either your client or their attorney have an issue with that concept they should contact me. With respect to the addendum in the inbox, I would advise that I cannot have my clients sign committing to a closing when they have not yet been afforded the opportunity for an inspection. Having handled many foreclosures I am well aware that time is of the essence and therefore I cannot commit to a closing when I cannot be sure that my client will have a reasonable opportunity to enter into the transaction intelligently. Therefore they will not be coerced into signing and committing to a schedule which is contrary to their legal interests. Since the only reason we are not closed already is because the house has not been made available, pursuant to contract for an inspection I cannot have them sign committing to close on a date certain. That is why it has sat in my inbox and seller's counsel was advised of that.

Ken

On 08/26/14, Jeff Dolfinger<jeff.dolfinger@[redacted]> wrote:

I am sure you have tried to contact the sellers attorney and have not gotten a response. It's a common complaint.

I had to look at my email yesterday to Heather. We didn't speak. I made no crude comment. I will not make any crude comments. Would you like me to forward the emails of yesterday? To paraphrase " this has been in your attorney's email since 08/18 ". That is the only manner in which you were mentioned. Your not even mentioned in the second email.

Please quote why you are so upset? I have no issue with an apology or retraction if one is due. I'm not seeing where I was crude.

I can not stay out of a transaction when my client and or their lawyer directs me to act.

I don't do these things on my own.

To answer your next email. I didn't prepare the extension addendum's. Sellers counsel did. Sellers counsel asked me to get them to the buyer. Seller requested the same.

It is common practice everywhere except lower NY for the broker do handle contracts and addendum's. It happens everyday north of Albany and in most other states for that matter. It's not against the law in lower NY it's just not customary.

I would never practice law without a license. I wouldn't know where to begin. It not my area of expertise. I pride myself in knowing my job. I wouldn't even pick up a hammer I am not a carpenter.

We have to get through this transaction.

If documents are requested to be sent to the buyer I have no choice but to follow my clients instructions. I will in the future CC you.

As with regards to the de winterization, again it's simply out of my hands and I am as frustrated as your clients.

It should take 2 days to get everything running. I am at a loss as to the delay. It is what it is... Unfortunate for all especially Phil.

Jeff

On Aug 26, 2014, at 3:47 AM, "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]> wrote:

> You need to get your facts straight, every time that seller's Paralegal has reached out for me they have gotten a response within hours, any suggestion that they have not is a straight misrepresentation. Human communication is not an old way of communicating it is the standard method of communicating, indeed I have documented more than a dozen attempts to contact them by various methods and have gotten 0 response each time. The fact that you may have done thousands in many states says little as your level of professionalism leaves much to be desired. Attorneys do not take direction from brokers, I have never looked for anything from mail other than the original contracts which I believe in all 50 states I am not only entitled to but they are required to provide, moreover, not sure why they would ask for me to prepare 4 counterparts, provide me with an address to mail them to and ask that I contact them by phone if they were intent on communicating by e-mail only. It is quite simple, get the house ready for an inspection and stay out of the legal end of this transaction that will be accomplished by the attorneys, I am directing that you cease and desist from making any of your crude comments to my clients, if they persist I will have not option but to take action against you. Your level of professionalism belies the resume which you claim.
>
> ---
>
> **From:** Jeff Dolfinger [mailto:jeff.dolfinger@[redacted]]
> **Sent:** Monday, August 25, 2014 10:18 PM
> **To:** Mr MICHAEL MCGUIRE
> **Subject:** Re: Follow UP
>
> " I might add "

That I have done more than " thousands " of transactions many of them being bulk sales or purchases of assets acquired from the FDIC, RTC or other lending institutions during the last crisis in the 90's.

I understand that for an attorney to take direction and or directives from the sellers broker is not what most lawyers are accustomed.

It is something that lawyers need to get their head around with foreclosures, it's not meant to be an offensive process.

The sellers lawyer also takes instruction from my office.

When I ran an equity firm we used to have a saying. A lawyer is a tool just like an accountant. We direct which implement gets used to satisfy our needs. The implement does not direct the director.

Now I hope we can get past this spat. It's nothing but a waste of time.

Please feel free to call me with any of your needs. I sincerely mean that.

Jeff

On Aug 25, 2014, at 8:55 PM, "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]> wrote:

> I might add that you would be well served as would each of the parties if you re-doubled your efforts to get the house ready for an inspection as the only thing that is keeping us from closing is your inability to prepare the house for same, my interest or otherwise in using e-mail has not delayed this process by even 1minute while we have been waiting several weeks to get water and power in the house, accordingly, I would avoid casting aspersions on anyone until you can answer for you own shortfalls.
>
> Ken McGuire

This transmission and its contents, whether received electronically, printed, or in any format whatsoever, may contain information that is privileged, confidential, and/or disclosure prohibited under applicable law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or use of the information contained herein (including any reliance thereon) is STRICTLY PROHIBITED. If you received this transmission in error, please immediately contact the sender and destroy the material in its entirety, whether in electronic or hard copy format.
Please consider our environment before printing this email.

1
2
3
4
5
6
7
8
9 Q. I'm sorry, thank you very much. judgemcguire@[redacted] wrote:
10 I might add that you would be well served, as
11 would each of the parties, if you redoubled
12 your effort to get the house ready for an
13 inspection as the only thing that is keeping us
14 from closing is your inability to prepare the
15 house for same. My interest or otherwise in
16 using email has not delayed this process by
17 even one minute, but we have been waiting
several weeks to get water and power in the
house. Currently I would avoid casting
aspersions on anyone until you can answer for
your own shortfalls.
18 Did you send this email?
19 A. It's sent on my email. I'm going to guess that my wife probably
20 drafted it, but it certainly is on my email.
21 Q. Did you see it after your wife drafted it?
22 A. I was probably aware that they were trying to get these things
23 organized to get into the house to get it inspected, to get the thing
24 moving.
25 Q. Were you aware they were using your email address?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-420

1 A. I was. By that time I probably was. I don't dispute that I was.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Now, right above that is August 26, 2014 at 3:47 A.M. judgemcguire@[redacted] wrote-- if you can read that to yourself.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-42p

1 A. Mm-hmm. I have.
2 Q. You read that whole thing?
3 A. Mm-hmm.
4 Q. Did you write that?
5 A. I don't recall writing that. I don't recall writing it.
6 Q. Well, it's 3:47 A.M. You're up at that time, aren't you?
7 A. I am.
8 Q. It's not signed by Ken as the August 25, 2014, 8:55 P.M. email is.
9 A. Yeah, my guess is that I probably opened the earlier one, and then I
10 may-- I may have drafted that response.
11 Q. The August 26, 2014?
12 A. It's possible. Yeah. At 3:47, there's not many other creatures that are
13 up.
14 Q. Is your brother up at that time?
15 A. Sometimes he is, actually.
16 Q. But your memory is that you drafted that?
17 A. My memory is that-- that I may have.
18 Q. And do you think that that is practicing law?
19 A. Quite frankly, I see that email as not a legal issue, but a peeing contest
20 between two people. I don't really see it as any-- I mean, a realtor
21 could write that letter. Anybody could write-- that's not a legal letter.
22 There's no legal representation involved in there, but I'll take
23 responsibility for that because, given the time-- and I probably had
24 seen the other email come in.
25 Q. Well, the last couple of sentences in that email, it says:

1 It is quite simple. Get the house ready for an
2 inspection and stay out of the legal end of this
3 transaction. That will be accomplished by the
4 attorneys. I am directing that you cease and
5 desist from making any crude comments to
6 my clients. If they persist, I will have no
7 option but to take action against you. Your
8 level of professionalism belies the resume
9 which you claim.
10 You don't think that that is acting like a lawyer?
11 A. It probably is.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Did you ever help Mr. Pagan in a real estate transaction?
A. I did.
Q. And he bought property behind his house, right?
A. He did. He bought a vacant lot behind his house.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X429

1
2
3
4 Q. -- Call from who?
5 A. Call from the woman in Binghamton who was the owner of the
6 property. She was a representative of the owners. Not an attorney. It
7 was-- the property had been willed to her and her four or five siblings
8 or nieces and nephews, cousins. And so this woman called. I called
9 her back. And it turned out that the property was-- she had been
10 noticed on a foreclosure again. So I sent Ricky a message and said,
11 "You need to get to the treasurer's office because that property's
12 about to be foreclosed." With that, I didn't hear from him again.
13 Then maybe a year later, Ricky calls and says, "I have the money." I
14 said, "All right." He brought me a check. We took the documents
15 that had already been drafted, mailed them up to Binghamton, they
16 mailed them back, and I think I gave them to Ricky and he took them
17 down and got them recorded, but it's possible that I went and recorded
18 them.
19 Q. And this was while you were a judge?
20 A. The thing finished while I was a judge, yes. All of the legal work was
21 done before.
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
comm
Ex X-42r

SULLIVAN COUNTY – STATE OF NEW YORK
DANIEL L BRIGGS, COUNTY CLERK
100 NORTH STREET, MONTICELLO, NY 12701

COUNTY CLERK'S RECORDING PAGE
*****THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH*****

INSTRUMENT #: 2013-8812

Receipt#: 2013447359
Clerk: KF
Rec Date: 11/14/2013 04:03:15 PM
Doc Grp: RP
Descrip: DEED
Num Pgs: 6
Rec'd Frm: MCGUIRE

Party1: CLARK BARBARA
Party2: PAGAN RICKY
Town: FALLSBURG

Recording:

Cover Page	5.00
Recording Fee	45.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00
Sub Total:	325.00
Transfer Tax	
Transfer Tax	32.00
Sub Total:	32.00
Total:	357.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
Transfer Tax #: 880
Transfer Tax
Consideration: 8000.00

Transfer Tax	32.00
Total:	32.00

I hereby certify that the within and foregoing was recorded in the Sullivan County Clerk's Office.

Daniel L. Briggs
Daniel L. Briggs
Sullivan County Clerk

Record and Return To:

RICKY PAGAN
[redacted]

THIS IS NOT AN INVOICE

EXHIBIT
Comm
Ex X-43a
PENGAD 800-631-6989

EXHIBIT
Comm
Ex. 80
PENGAD 800-631-6989

Bargain and Sale Deed, with Covenant against Grantor's Acts — Individual or Corporation (Single Sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 5th day of March, in the year 2013

BETWEEN BARBARA CLARK, JOAN McGURRIN, TIMOTHY CLARK, DUSTIN CLARK and DANIELLE SCAGLIONE, of [redacted]

party of the first part, and **RICKY** [redacted]
party of the second part,
WITNESSETH, that the party of the first part, in consideration of

$10.00 dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Fallsburg, County of Sullivan and State of New York and being more particularly bounded and described on Schedule A which has been annexed hereto and is made part hereof, being and intended to be the same premises conveyed by Barney Voriek to Barbara Clark, Joan McGurrin, Timothy Clark, Dustin Clark and Danielle Scaglione by deed dated September 21, 2002 and recorded and filed in the Office of the Clerk of Sullivan County on June 16, 2006.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; **TOGETHER** with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Danielle Scaglione
DANIELLE SCAGLIONE

Barbara Clark
BARBARA CLARK

Timothy Clark
TIMOTHY CLARK

DUSTIN CLARK

Joan McGurrin
JOAN MCGURRIN

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the _____ day of in the year . before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of _____, ss:

On the _____ day of in the year . before me, the undersigned, a Notary Public in and for said State, personally appeared . the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof; that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of . ss:

On the day of in the year . before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of . County of . ss:

*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year . before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Bargain and Sale Deed
With Covenants

SECTION: 19

BLOCK: 8.0

LOT: 7.0

COUNTY OR TOWN: COUNTY OF SULLIVAN

Title No.

BARBARA CLARK, JOAN McGURRIN, TIMOTHY CLARK, DUSTIN CLARK and DANIELLE SCAGLIONE

TO

RICKY PAGAN

DISTRIBUTED BY

YOUR TITLE EXPERTS

The Judicial Title Insurance Agency LLC

800-281-TITLE (8485) FAX: 800-FAX-8888

RETURN BY MAIL TO:

MICHAEL F. McGUIRE
P.O. Box 128
Fallsburg, New York 12733

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 13th day of MARCH, in the year 2013 before me, the undersigned personally appeared TIMOTHY CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that he executed the same in his capacity and that be his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

VICKI L COTE
NOTARY PUBLIC, STATE OF NEW YORK
JEFFERSON COUNTY
LIC. #01CO6[illegible]
COMMISSION EXPIRES AUGUST 18, 2013

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 26 day of MARCH, in the year 2013 before me, the undersigned personally appeared DANIELLE SCAGLIONE, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STACEY WALKER
Notary Public, State of New York
Sullivan County Clerk's No. 2770
Commission Expires Sept. 21, 2013

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 15 day of MARCH, in the year 2013 before me, the undersigned personally appeared BARBARA CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

MARGARET J. LYNDAKER
Notary Public, State of New York
No. 01LY6044428
Qualified in Lewis County
Commission Expires July 11, 20 15

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 19th day of MARCH, in the year 2013 before me, the undersigned personally appeared JOAN McGURRIN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that she executed the same in her capacity and that be her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

NICKOL M H CLARK
Notary Public, State of New York
No. 01CL6190738
Qualified in Jefferson County
Commission Expires July 28, 2014

ACKNOWLEDGEMENT BY A PERSON WITHIN NEW YORK STATE

State of New York }
}ss.
County of Jefferson }

On the 14th day of MARCH, in the year 2013 before me, the undersigned personally appeared DUSTIN CLARK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me to that he executed the same in His capacity and that be his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

JULIE M. WHITMAN
Notary Public, State of New York
Qual. in Oswego Co. No. 01WH6246235
Commission Expires August 8, 2015

SCHEDULE A DESCRIPTION

Town of Fallsburg, County of Sullivan, State of NY,

BEGINNING AT A POINT on the easterly bounds of Louis Drive at the NW corner of Lot #131 and running thence from said point of beginning along said Easterly bounds of Lewis Drive North 34 Degrees, 34 East a distance of 17.06 feet and North 29 Degrees, 26 Minutes East a distance of 102.94 feet to the southerly bounds of Ray Lane; thence running along said southerly bounds of ray Lane South 60 Degrees 38 Minutes East a distance of 83.40 feet to the northwest corner of lot #121 thence running along the westerly bounds of 120.00 feet to the northeast corner of Lot #131; thence along the northerly bounds of said Lot #131 North 60 Degrees 38 minutes West a distance of 80.85 feet to the place of point of beginning containing .22 acre of land to be the same more or less. Being the same premises described in a deed from new Sheldrake Shores, Inc., to Barney Vorisek and Ana Vorisek, his wife, dated December 18, 1985 and recorded in the Office of the Sullivan County Clerk on December 18, 1985 in Liber 1201 of Deeds at Page 176.

45-
3 25
2 32-
3
32-

PLEASE TYPE OR PRESS FIRMLY WHEN WRITING ON FORM
INSTRUCTIONS (RP-5217-INS): www.orps.state.ny.us

FOR COUNTY USE ONLY
C1. SWIS Code: 4 8 2 8 9
C2. Date Deed Recorded: 11 / 14 / 13 (Month Day Year)
C3. Book: 2013 C4. Page: 5812

New York State Department of **Taxation and Finance**
Office of Real Property Tax Services
RP- 5217
Real Property Transfer Report (SHS)

PROPERTY INFORMATION

1. Property Location: Louise Drive (Street Number / Street Name)
Fallsburg (City or Town) — (Village) — 12759 (ZIP Code)

2. Buyer Name: Pagan (Last Name / Company) — Ricky (First Name)
(Last Name / Company) — (First Name)

3. Tax Billing Address: Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form): Pagan (Last Name / Company) — Ricky (First Name)
[redacted] (Street Number and Street Name) — [redacted] (City or Town) — [redacted] (State) — [redacted] (ZIP Code)

4. Indicate the number of Assessment Roll parcels transferred on the deed: 1 # of Parcels OR ☐ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:
4A. Planning Board with Subdivision Authority Exists ☐
4B. Subdivision Approval was Required for Transfer ☐
4C. Parcel Approved for Subdivision with Map Provided ☐

5. Dead Property Size: 120 (Front Feet) x 83.40 (Depth) OR ____ (Acres)

6. Seller Name: Clark (Last Name / Company) — Barbara (First Name)
Mc Guirin (Last Name / Company) — Juan (First Name)

7. Check the box below which most accurately describes the use of the property at the time of sale:

A ☐ One Family Residential
B ☐ 2 or 3 Family Residential
C ☒ Residential Vacant Land
D ☐ Non-Residential Vacant Land
E ☐ Agricultural
F ☐ Commercial
G ☐ Apartment
H ☐ Entertainment / Amusement
I ☐ Community Service
J ☐ Industrial
K ☐ Public Service
L ☐ Forest

Check the boxes below as they apply:
8. Ownership Type is Condominium ☐
9. New Construction on Vacant Land ☐
10A. Property Located within an Agricultural District ☐
10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District ☐

SALE INFORMATION

11. Sale Contract Date: 06 / 10 / 10 (Month Day Year)

12. Date of Sale / Transfer: 03 / 5 / 13 (Month Day Year)

13. Full Sale Price: 8,000.00
(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) *Please round to the nearest whole dollar amount.*

14. Indicate the value of personal property included in the sale: 0.00

15. Check one or more of these conditions as applicable to transfer:
A ☐ Sale Between Relatives or Former Relatives
B ☐ Sale Between Related Companies or Partners in Business
C ☐ One of the Buyers is also a Seller
D ☐ Buyer or Seller is Government Agency or Lending Institution
E ☐ Deed Type not Warranty or Bargain and Sale (Specify Below)
F ☐ Sale of Fractional or Less than Fee Interest (Specify Below)
G ☐ Significant Change in Property Between Taxable Status and Sale Dates
H ☐ Sale of Business is Included in Sale Price
I ☐ Other Unusual Factors Affecting Sale Price (Specify Below)
J ☐ None

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken: 13

17. Total Assessed Value (of all parcels in transfer): 14,500

18. Property Class: 311

19. School District Name: Fallsburg

20. Tax Map Identifier(s) / Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))
19-8-7

CERTIFICATION

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE
Barbara Clark — 11/9/13
(Seller Signature) (Date)

BUYER SIGNATURE
11/6/13
(Buyer Signature) (Date)

BUYER'S ATTORNEY
(Last Name) (First Name)
(Area Code) (Telephone Number)

COUNTY DIRECTOR COPY

BUYER CONTACT INFORMATION
(Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)

Pagan (Last Name) — Ricky (First Name)
(Area Code) (Telephone Number)
[redacted] (Street Number) (Street Name)
[redacted] (City or Town) — [redacted] (State) — [redacted] (ZIP Code)

Q. Now I'm going to show you what is marked Commission Exhibit 80. And this is Sullivan County, State of New York, county clerk's recording page, and the right-- the left column, it's "received date, 11/14/2013, 4:03:15 P.M., description: deed, received from McGuire."

A. Right.

Q. Is this the time that you were a judge?

A. It was.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-43b

1
2
3
4
5
6
7 Q. The third page of this document, it's acknowledgment taken-- I think
8 it's the deed itself. It says, "return by mail to"-- at the bottom right
9 corner, third page of the document.
10 A. Mm-hmm.
11 Q. And that's your name, right?
12 A. Yeah.
13 Q. And that's your P.O. box?
14 A. Correct.
15 Q. Now, did Mr. Pagan discuss this transaction with you after you
16 became a judge?
17 A. No. The only thing he discussed was that he had the money and could
18 we send the documents up to the woman now.
19 Q. And did you send the documents?
20 A. I did.
21 Q. And you were a judge at that time?
22 A. When I sent the documents, I was.
23 Q. And did you communicate with the seller?
24 A. Only by sending the documents and having her return them to me.
25 Q. Did you send a letter to the seller, like a cover letter with the

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-43c

1 documents?
2 A. I probably did.
3 Q. And this was when you were a judge?
4 A. It was.
5 Q. And what letterhead would you have used?
6 A. I don't recall. It could have been my office letterhead or it could have
7 been just a generic letterhead.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Q. The letter that you sent to the seller had instructions for them, right?
25 A. It probably had instructions to get-- you know, generic instructions,

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-43d

1 get them signed and return them to me.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Overnight Express

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

March 17, 2010

MS. LORRAINE GROHS
Claims Representative
Progressive Insurance
300 Westage Business Center
Fishkill, N.Y. 12524-2260

RE: George Matisko, Claim #: 09036377

Dear Ms. Grohs;

In furtherance of Mr. Matisko's claim, enclosed please find a letter received from his physician, Dr. Raymond Barsi. If you require additional information / authorizations please contact me.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex. 84

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-44a

1
2
3
4
5
6
7
8 Q. Now, I'm going to show you Commission Exhibit 84.
9 JUDGE SHEA: Thank you.
10 A. Oh.
11 MR. BONACIC: Thank you.
12 Q. This is a March 17, 2010 letter from you, Michael McGuire, to
13 Lorraine Grohs, Claims Representative, Progressive Insurance, March
14 17, 2010. This letter's on your letterhead, right?
15 A. It is, and that's my signature.
16 Q. And your signature's on the bottom?
17 A. It is.
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X44b

Michael F. McGuire
Attorney and Counselor at Law

Arron

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

January 20, 2011

MS. LORRAINE GROHS
Claims Representative
Progressive Insurance
300 Westage Business Center
Fishkill, NY 12524

RE: George Matisko, Claim # 093036377

Dear Ms. Grohs:

As per our telephone conversation today, please find enclosed the signed HIPAA form you requested. If you require additional information/authorizations, please contact me.

Thank you in advance for your attention to this matter. If you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire/mas

Michael F. McGuire, Esq.

MFM/mas

EXHIBIT
Comm
Ex. 87
PENGAD 800-631-6989

EXHIBIT
Comm
Ex X-44c
PENGAD 800-631-6989

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 Q. I'm going to show you Commission Exhibit 87. This is a January 20,
24 2011 letter to Ms. Lorraine Grohs of Progressive Insurance from
25 Michael McGuire. Is this letter on your letterhead?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-44d

1 A. It is.
2 Q. And is that your law firm letterhead?
3 A. It was.
4 Q. And on January 20, 2011, the date of the letter, were you a judge?
5 A. I was.
6 Q. And on the bottom it says-- in the bottom left, it says, in capital letters,
7 "MFM" dash-- in lower case-- dash "mas." Is "MFM" your initials?
8 A. It is.
9 Q. And after the dash, it's "mas," is--
10 JUDGE SHEA: It's a slash, not a dash.
11 MS. TISHMAN: A slash. Thank you.
12 BY MS. TISHMAN:
13 Q. The slash of "mas," is that Mary Ann Schars?
14 A. It is.
15 Q. -- Schares?
16 A. I assume so, yes. Yes.
17 Q. And she was-- is your sister or sister-in-law?
18 A. She is my sister, and she worked in the office.
19
20
21
22
23
24
25

EXHIBIT
Comm
Ex X-44e
PENGAD 800-631-6989

VOID IF NOT PRESENTED WITHIN 6 MONTHS AFTER DATE OF ISSUE

56-389
412

Policy #	Insured	Date Issued	Area Code	Draft Number	
04345857 -000	ARROW EXPRESSPAC	1/26/2012	619	[redacted]	
Claim #	**Claimant**	**Date of Loss**	**State Code**	**Office Issued At**	**PAC**
093036377	MATISKO, GEORGE	9/29/2009	NY	NY-DSPCA-BRN-	

Dollars $******1,000.00

Pay ONE THOUSAND AND 00/100

In Payment Of	CDS CODE
FULL & FINAL BODILY INJURY SETTLEMENT	12PCL

National Continental Insurance Company

Pay To The Order Of

GEORGE MATISKO ADULT MALE & MICHAEL MCGUIRE, ESQS., AS *****
ATTORNEY **********
P.O. BOX 128
FERNDALE NY 12734

REP ID :ICS0001
ORG CODE :34199

Form # 27130 - 06/01

EXHIBIT
Comm
Ex. 95
PENGAD 800-631-6989

Q. I'm going to show you what's marked Commission Exhibit 95. This is a check paying $1,000, dated January 26, 2012, paid to George Matisko, adult male, and Michael McGuire, Esq. The date of this check is January 26, 2012, were you a judge?

A. I was.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-44f

VOID IF NOT PRESENTED WITHIN 6 MONTHS AFTER DATE OF ISSUE

Policy #	Insured	Date Issued	Area Code	Draft Number	
04343857-000	ARROW EXPRESSPAC	1/26/2012	619	[redacted]	64-389 / 419
Claim #	Claimant	Date of Loss	State Code	Office Issued At	PAC
09300637	MATISKO, GEORGE	9/29/2009	NY	NY-DSPCA-BRN-	

Dollars $******1,000.00

Pay ONE THOUSAND AND 00/100

In Payment Of
FULL & FINAL BODILY INJURY SETTLEMENT

CDC Code 12PCL

Payable through **PNC Bank, N.A. 070**
Ashland, Ohio 1-877-440-9544

National Continental Insurance Company

Pay To The Order Of GEORGE MATISKO ADULT MALE & MICHAEL MCGUIRE, ESQS., AS******
ATTORNEY *****\

1
2 MS. TISHMAN: -- Commission Exhibit 96
3 THE WITNESS: I mean, it would-- no, I'm not
4 going to say anything.
5 MS. TISHMAN: And that--
6 THE WITNESS: -- That's my signature stamp.
7 BY MS. TISHMAN:
8 Q. What's your signature stamp?
9 A. That "MC."
10 Q. So, it's endorsed by George Matisko, "For Deposit Only," and the
11 "MC" below it?
12 A. That is what my signature stamp looks like.
13 JUDGE SHEA: Is it also what your signature looks
14 like?
15 THE WITNESS: It's-- it's-- it's closer to my
16 signature than the others, but my signature has devolved
17 over time. But--
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-44h

3F1002QDSP

New York State - Department of Motor Vehicles

SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

The people of the State of New York vs.

NEW YORK STATE POLICE

Local Police Code	Date of Arraignment
15502	

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
MCGUIRE	CORINNE	G		10050137.01

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
LIBERTY	NY	12754	○	DM

Client ID Number	Sex	Date Expires
[redacted]	F	10/05/2016

Lic State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]		2007	PONT	BK

Plate Number	Reg State	Registration Expires
[redacted]	NY	04/02/2011

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
3:25PM	05/17/2010	VTL

Violation Section	Traffic Infraction	Misd	Felony
1180 0B	☒	○	○

Description of Violation: SPEED OVER 55 ZONE

MPH	MPH ZONE
69	55

US DOT#

Comm Veh	Bus	HazMat
○	○	○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF WARWARSING	ULSTER	52	5668

Street Name	Hwy Type	NCIC/ORI
STATE 52 W/B	2	15502

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
05/17/2010	2 - Radar	2771	F311

Officer's Last Name	First Name	M.I.
Hastings	D	

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

WAWARSING TOWN COURT

Address: 108 CANAL ST.

City	State	Zip
ELLENVILLE	NY	12428

	Date	Time
☒ Return by mail before or in person on:	06/02/10	1:00PM
○ Must appear in person on:		

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY055181J	51410		

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other

Disposition/Sentence

Fine $

Surcharge $

Bail Forfeiture Date

Amount $

○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm DAYS/MONTHS/YEAR

DWI Test Type

DWI Test Results

ORIGINAL

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court | Date

Name of Judge

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒ Non - Speeding(Gen101a) ○

UTO-1.7(4/02)

EXHIBIT Comm Ex 97

EXHIBIT Comm Ex X-45a

PENGAD 800-631-6989

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

May 25, 2010

Chief Clerk
Town of Wawarsing Court
108 Canal Street
Ellenville, N.Y. 12428

Re: People v. Corinne McGuire

Dear Sir or Madam:

Enclosed herewith please find my Notice of Appearance for the above captioned matter. Kindly enter a plea of Not Guilty on behalf of my clients and notify me of a date for trial. Please note, by this communication I am hereby waiving receipt of Trooper Hasting's Supporting Depositions.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Warmest Personal Regards,

MICHAEL F. McGUIRE, ESQ

EXHIBIT
Comm
Ex 98

STATE OF NEW YORK: COUNTY OF ULSTER
TOWN COURT : TOWN OF WAWARSING

_____X

THE PEOPLE OF THE STATE OF NEW YORK

-against-

NOTICE OF APPEARANCE

CORINNE McGUIRE

Defendant.

_____X

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Ferndale, N.Y.
May 25, 2010

Yours, etc,

MICHAEL F. McGUIRE, ESQ
Suite 2-5 Liberty Professional Plaza
111 Sullivan Ave
Ferndale, N.Y. 12734
(845) 292-6800

Wawarsing Town Court
108 Canal Street
P.O. Box 671
Ellenville, New York 12428

Charles J. Dechon
Town Justice

845-647-4770
845-647-4776

July 22, 2011

Corinne G. Mcguire
[redacted]

People of the State of New York versus:
Corinne G. Mcguire
[redacted]

Case No: 10050137
DOB: [redacted]

TicketNo.	Officer	Statute/Section	Charge Text
3F1002QDSP	Hastings, D	VTL 1180 0B	Speeding 69/55

You have not responded to the above cited Traffic Ticket. Within the next few days we will be ordering the Department of Motor Vehicles to suspend your driver's license pursuant to section 510-4a of the NYS Vehicle and Traffic Law.

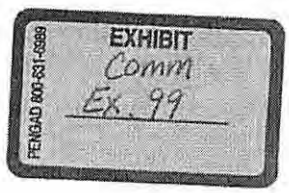
PLEASE NOTE THAT IF YOUR LICENSE IS SUSPENDED THERE IS A NYS MANDATED $70.00 CIVIL FEE TO RELEASE YOUR LICENSE

The only way to protect your driving privilege is to send in your plea immediately You can enter your plea on the bottom of this letter and mail it back to the court. If you are pleading guilty we will mail you a fine letter, if you are pleading not guilty we will send you a trial letter.

Guilty_____

Not Guilty_____

_____
Signature



Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
[redacted]
PHONE 845-292-6800
[redacted]

July 25, 2011

Dismiss - QD

HON. CHARLES DECHON
Town of Wawarsing Court
P.O. Box 671
Ellenville, N.Y. 12428

Via Fax: 845-647-4776

Corinne McGuire

Dear Judge Dechon:

I recently received the attached letter, dated July 22, 2011 indicating that the Court had not previously received a responce to the referenced traffic ticket. I attach hereto a copy of my cover letter and Notice of Appearance which was forwarded to the Court on May 25, 2010, thereafter, on or about June 21, 2010 I conferenced the matter with Mr. Bruno who stated his intention to dismiss the referenced matter. Having received no further communication, from the Court, I made the reasonable assumption that the matter had, indeed, been resolved. Whereas I have now taken office, as County Court Judge, I recognize that I am not permitted to represent this or any other client; accordingly, if the court is either unaware of or unwilling to accept this disposition kindly advise. Under such circumstance, I would respectfully request that the Court accept the previously submitted plea and advise of a date for a follow-up Appearance during which I will see to it that Ms. McGuire is represented by counsel such that the matter can be adjudicated in the normal course.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I do apologize for any inconvenience occasioned by this matter, I can assure that there was never a desire or intention to ignore this matter.

Very truly yours,

MICHAEL F. McGUIRE

Cc: Ed Bruno, Esq *Via Fax: 845-913-9200*

Respond at: [redacted]

EXHIBIT
Comm
Ex 100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20 Q. This is a July 25, 2011 letter to the Honorable Charles Dechon, Town
21 of Warwarsing Court. The letterhead is Michael F. McGuire. The
22 address is crossed out. And it's-- in the bottom, it says, "Very truly
23 yours, Michael McGuire." Is that your signature?
24 A. It is.
25 Q. And at the bottom-- the top, the address is crossed out, but the bottom

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-456

1 has an address. It says, "Respond at" and it has-- is that your home
2 address?
3 A. It is.
4 Q. And is that your cell phone number?
5 A. It is.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6 Q. Do you think that you violated the Rule 100.2(C) when you mentioned
7 that you were a County Court Judge?
8 A. I don't, because I-- I wasn't--
9 Q. -- Did-- firstly, I'm sorry to interrupt you, but I just want to make sure,
10 do you know what that rule is?
11 A. I do.
12 Q. Okay.
13 A. And I-- I was-- I was letting him know why I can't-- that I had
14 represented him, that I thought the matter had in fact been resolved,
15 and according to the records in our office, it had been resolved in June
16 of 2010. So, I didn't know why she was-- obviously, if I wrote this
17 letter, I must've been aware of Exhibit 99. I just didn't have any
18 recollection of it when I saw it. And I wasn't representing myself as a
19 County Court Judge to get anything. I was letting him know that's
20 why I can't practice, that there's a Notice of Appearance there, and
21 because I'm a County Court Judge, I'm not permitted to practice.
22 So...
23 Q. Do you believe you lent the prestige of judicial office to advance the
24 interest of another, that being your wife?
25 A. No. No, it wasn't lending the prestige of my office. It was just letting

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-45c

him know that that's why I can't practice.

Q. Have you ever represented Christopher Lockwood?

A. I did.

Q. And that was in June 2010 when he received a speeding ticket?

A. Correct.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-46a

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

February 1, 2011

KENNETH C, KLEIN, ESQ
Town of Liberty Court
120 North Main Street
Liberty, N.Y. 12754

RE: People v. Chris Lockwood

Dear Ken;

Pursuant to our various e-mails, I have enclosed herewith the completed application to amend a traffic infraction along with a copy of Mr. Lockwood's driving abstract. You will recall that this matter is going to be adjourned for a period of 6 weeks to afford him the opportunity to complete a defensive driving course whereupon the plea to the amended charge of violating §1201A will be entered.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Kenneth J. McGuire

Kenneth J. McGuire, Esq.

EXHIBIT
Comm
Ex 103

State of New York DEPARTMENT OF MOTOR VEHICLES, Empire State Plaza, Albany, New York 12228

ABSTRACT OF DRIVING RECORD

Document # ALJAK001 Total Fee Paid $10.00

PRINT DATE: 01/21/2011 TIME: 09:12:72 OPERATOR: JAK OFFICE: MTC

CLIENT ID#: [redacted]

LOCKWOOD C L [redacted]

DOB: [redacted] SEX: M

HEIGHT: 6-0 EYE COLOR: BLUE

COUNTY: SULL

MI #: L115115 85336 451190 93

NAME ON LICENSE/ID: LOCKWOOD
CHRISTOPHER LOUIS

LICENSE CLASS: *D* STATUS:VALID EXPIRATION: 01/28/2014

PROBATION START: 06/17/2010 END: 10/14/2010

LIMITED USE ENDING DATE 01/14/2010

********** ACTIVITY **********

CLASS CHANGE: 04/16/2010 NEW: *DJ* OLD: PERMIT

CLASS CHANGE: 06/17/2010 NEW: *D* OLD: *DJ*

*** END OF RECORD ***

This is to certify that this document is a true and complete copy of an electronic record on file in the New York State Department of Motor Vehicles, Albany, New York. The record was made in regular course of New York State Department of Motor Vehicles daily business. It is the business of the New York State Department of Motor Vehicles to create and maintain the records of drivers in the state of New York. Entries in this document are made at the time the recorded transactions or events took place or within a reasonable time thereafter. The person who reports the information is under a business duty to do so accurately.

ABS-3 (01/11)

EXECUTIVE DEPUTY COMMISSIONER OF MOTOR VEHICLES

1

2 Q. I'm going to show you what is marked Commission Exhibit 103.

3 A. Mm-hmm.

4 Q. And this is a February 1, 2011 letter to Ken Klein, Kenneth Klein,

5 regarding *People v. Christopher Lockwood*. It's-- the salutation is,

6 "Very truly yours, Kenneth J. McGuire, Esq." Is that your brother's

7 signature?

8 A. I'm going to guess that that's my wife, because I know that there is in

9 the file in our office, now in storage, in the *Chris Lockwood* file,

10 there's this letter, not on letterhead, and that's typically what my

11 brother would do if he wasn't down is, he would email it to Corinne

12 and she would send it out, improperly, I now know, on this letterhead

13 which we discussed a couple of days ago. So, my guess is that

14 Corinne probably signed his name.

15 Q. "This letterhead," you're referring to the letterhead, "Michael F.

16 McGuire"--

17 A. -- Correct.

18 Q. -- "Attorney and Counselor at Law"?

19 A. Correct.

20 Q. You were a judge at that time, right?

21 A. I was.

22 Q. And that is your-- the address in the top right is the address for your

23 law firm?

24 A. That was the law office address, yes.

25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-46b

1
2
3
4
5
6
7
8
9
10
11 Q. Did you at that point understand that you shouldn't-- that as a judge,
12 you shouldn't be sending things out on your law firm letterhead?
13 A. I-- I knew at that time, because I had learned in a class, that a judge
14 can-- a judge's name cannot appear on a law office's letterhead. But
15 frankly, I didn't even give it a thought, because this wasn't a-- this
16 wasn't a law office that was-- it was being wound down, so-- I know
17 now that it was improper and I also know now that there's no more of
18 that letterhead in existence.
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-4ac

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15 Q. At this time on-- this time period, February 2011, January 2011, were
16 you aware that letters were going out with your legal letterhead?
17 A. I was aware.
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-46d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22 Q. Now, W[redacted] M[redacted] is your son, right?
23 A. He is.
24 Q. And he got arrested for a 221.05 in 2012?
25 A. He did.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47a

Gmail

Zachary Kelson <zacharykelson@[redacted]>

(no subject)

5 messages

Zachary Kelson <zacharykelson[redacted]> Wed, Nov 21, 2012 at 11:09 AM
To: judgemcguire@[redacted]

The appellate division just affirmed your decision in the shapiro estate. Happy thanksgiving

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Wed, Nov 21, 2012 at 4:25 PM
To: Zachary Kelson <zacharykelson@[redacted]>

Thank you MG sent is to me earlier today, anythng with the guy in Oneonta. Have a great Thanksgiving give my best to the family

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 21, 2012 11:09 AM
To: judgemcguire[redacted]
Subject:

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Thu, Nov 22, 2012 at 10:49 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Nothing from oneonta . I will try again on monday morning. Send your son to court as planned
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Fri, Nov 23, 2012 at 9:54 AM
To: Zachary Kelson <zacharykelson[redacted]>

I will do that thank you.

We will be back in town of Sunday afternoon I will make sure he is in court on Tuesday.

Mike

EXHIBIT
Comm
Ex 139
PENGAD 800-631-6989

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Thursday, November 22, 2012 10:49 AM
To: Mr MICHAEL MCGUIRE

EXHIBIT
Comm
Ex X-47b
PENGAD 800-631-6989

Subject: Re:

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Fri, Nov 23, 2012 at 10:36 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Safe trip back

[Quoted text hidden]

1
2
3
4
5
6
7
8
9 Q. So, November 21st--
10 A. --Mm-hmm.
11 Q. -- 2012 email. The 4:40-- 4:25 P.M. email--
12 A. -- Mm-hmm.
13 Q. -- That's sent by you at your judgemcguire address, that's during court
14 hours?
15 A. That's-- I was away on vacation.
16 Q. You say--
17 A. -- That was Thanksgiving week.
18 Q. You say:
19 Thank you. MG sent is *[sic]* to me earlier today.
20 Q. "MG" being Mary Grace?
21 A. Correct.
22 Q. Conneely?
23 A. Mm-hmm.
24 Q. And then you say:
25 Anything with the guy in--

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47c

1 A. -- "Oneonta."
2 Q. -- "Oneonta." What is that referring to?
3 A. Okay. So, I was-- I will set it in context. So I sent-- asked-- told W
4 to go to court and ask for the ACD. When he went there, two of the
5 other co-defendants, his friends, had hired an attorney. So, he called
6 me and he said, "Well, Dad, two of them hired an attorney." I said,
7 "Okay. Well, see what the attorney does. You can always ask for an
8 adjournment to get an attorney, but go and ask for the ACD." He
9 went and he called me afterwards and W said to me that the ADA
10 said, "We don't give ACDs on marijuana charges in this court." And
11 the other two people with the attorney pled guilty to disorderly
12 conduct and paid a fine. So, that didn't make sense to me because
13 170.56 of the Criminal Procedure Law makes an ACD virtually a
14 requirement. So, Zach happened to be in my chambers at one point
15 after W had spoken to me, and I said to him, "Would you mind
16 calling the ADA and just find out if they offer an ACD on this?" So, I
17 didn't have him represent my son, I just wanted to find out if the
18 information my son was giving me was accurate. And then we went
19 away on vacation, and there was a series of emails back and forth.
20 And--
21 Q. -- So--
22 A. -- Ultimately, I learned through Zach that that is the case, that they
23 won't give an ACD.
24
25

Gmail

Zachary Kelson <zacharykelson@[redacted]>

RE: FW: W[redacted] M[redacted] Case

7 messages

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Mon, Dec 3, 2012 at 3:53 AM
To: Zachary Kelson <zacharykelson@[redacted]>

This guy is a nit wit and once he gets a lab report I will very much enjoy going at his cop...seems one guy admitting the pipe was his, after he had arrested all three...so were the Mirandized we will see, W[redacted] says no. They will need a lab report I will look forward to receiving that, I am also going to look forward to seeing how that make out the Dominion and Control element when the cop comes up and the pipe is on the ground, is it that they are going to argue that the each individually exercised Dominion and Control over the pipe when the held it to smoke, that will start us down a slippery slope of charing people with possession when they test positive for any drug. Moreover I submit going forward given the prevailing feelings in the country today a Discon is worse than a UPM.

I can't thank you enough for everything you have done and are donig, I have submitted Notice of Appearance and an Affirmation of Actual Engagement for the case, between my brother and I we will handle it. When I go up I will make the application for an ACD and see what they do, I have some caselaw which says that it is a ministerial act and really not discretionary but the langauge speak of the court "may" grant same on application even over the opposition of the DA. We went through this same debate about 10 years ago in this county, it is good to see that Otsego County is so free from cirme that the senior ADA can be bothered going to trial over a case like this one.

Speak soon.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Sunday, December 02, 2012 9:13 PM
To: michael getman
Subject: RE: FW: W[redacted] M[redacted] Case

The statute is clear and inequivocal. This is not the crime of the century and I see no reason to treat this as the lindberg kidnapping. If the defendant moves for the acd I trust all involved will follow the law. Thank you.

On Dec 2, 2012 8:58 PM, "michael getman" <oneontacityprosecutor@[redacted]> wrote:
>
> I don't view it as being "required" and apparently neither does the judge. It's a discon or a trial.
>
>
>
> From: Zachary Kelson [mailto:zacharykelsor[redacted]]
> Sent: Friday, November 30, 2012 2:55 PM
> To: michael getman
>
> Subject: RE: FW: W[redacted] M[redacted] Case
>
>
>
> Come on. its required by law. Can we talk today?
>
> On Nov 30, 2012 2:51 PM, "michael getman" <oneontacityprosecutor@[redacted]> wrote:
>
> There has been some discussion recently among the local defense bar, the judge and me about cpl 170.56. as of this past tuesday, the judge stated her position that she would not be inclined to grant an acd on a upm charge. It sort of surprised me, coming from her. Sometimes I ask myself if I am from another planet when I am in front of her. More accurately, I suppose, I wonder what planet she is from. She is about as liberal and defense-oriented as any judge I have known.
>

EXHIBIT Comm Ex 141 PENGAD 800-631-6989

EXHIBIT Comm Ex X-47d PENGAD 800-631-6989

>
>
> From: Zachary Kelson [mailto:zacharykelson@[redacted]]
> Sent: Friday, November 30, 2012 2:11 PM
> To: michael getman
> Subject: Re: FW: W[redacted] M[redacted] Case
>
>
>
> Maybe I am from another planet but isnt mr mcguire entitled to an acd as it is his first offense. ? Please advise
>
> On Nov 30, 2012 2:06 PM, "michael getman" <oneontacityprosecutor@[redacted]> wrote:
>
> Here's what the officer sent me. I assume it is what he would testify to at a trial. the offer to your guy is still a discon.
>
>
>
> From: michael getman [mailto:getmanlaw@[redacted]]
> Sent: Friday, November 30, 2012 1:32 PM
> To: oneontacityprosecuto[redacted]
> Subject: FW: W[redacted] M[redacted] Case
>
>
>
>
>
>
> _____
>
> From: Mark.Cardinali[redacted]
> To: getmanlaw@[redacted]
> Date: Wed, 28 Nov 2012 22:15:25 -0500
> Subject: W[redacted] M[redacted] Case
>
> Mr. Getman
>
>
>
> While on Bike Patrol Officer Brunner and Dispatcher Skovira detected burning marihuana in the wooded area East of the MacDuff Hall Parking lot. Upon investigating the odor, M[redacted] was found with three other males (M[redacted] R[redacted] A[redacted] S[redacted], and J[redacted] E[redacted]) in the woods and a glass pipe resonated with marihuana was found on the ground next to them as Officer Brunner approached. All denied ownership of the pipe and were uncooperative with questioning. Since no owner could be determined all 4 males were arrested. After being advised they were under arrest, M[redacted] R[redacted] then stated the pipe belonged to him. All 4 admitted to smoking marihuana from the pipe and all 4 admitted to pitching in to buy the marihuana they had just smoked. When asked who they had bought the marihuana from, they were all uncooperative and would not provide a name.
>
> I got permission from Lt. O'Donnell to send you a copy of the SJS report if you would like it. If you need anything else let me know.
>
>
>
> Also was wondering if this was your alretnate e-mail address: (oneontacityprosecutor@[redacted])
>
> I have never recieved a message from you on this one before, just wanted to double check before sending case info to it in the future.
>
>
>
> Officer Mark Cardinali
>
> New York State University Police
>
> Oneonta State College
>

> Oneonta, NY 13820
>
> 607-436-3550

Zachary Kelson <zacharykelson@[redacted]> Mon, Dec 3, 2012 at 10:46 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Thanks for your kind words. I just feel as if I failed you because I couldnt get the case resolved without involving you or your brother. If the administrative judges wife calls me back I will try to find out whats going on in that court between the prosecutor and the judge.
[Quoted text hidden]
--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

---

michael getman <oneontacityprosecutor@[redacted]> Mon, Dec 3, 2012 at 12:49 PM
To: Zachary Kelson <zacharykelson[redacted]>

I take offense to your email. I am treating this case the same way I treat similar cases.

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted] Mon, Dec 3, 2012 at 12:52 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Omg

--------- Forwarded message ---------
From: "michael getman" <oneontacityprosecutor@[redacted]>
Date: Dec 3, 2012 12:49 PM
Subject: RE: FW: W[redacted] M[redacted] Case
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Mon, Dec 3, 2012 at 6:48 PM
To: Zachary Kelson <zacharykelson[redacted]>

That sounds great, don't worry you did not fail me at all, we will handle it you are great and a wonderful friend.

Missed you at Brother Bruno's today.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Monday, December 03, 2012 10:46 AM
To: Mr MICHAEL MCGUIRE
[Quoted text hidden]

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Mon, Dec 3, 2012 at 6:49 PM
To: Zachary Kelson <zacharykelson[redacted]>

This guy needs to get a life I must believe that they have very little crime in this county becuase to go this over the top on a dog UPM that they cannot prove is incredible.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Monday, December 03, 2012 12:52 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: RE: FW: W[redacted] M[redacted] Case

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Mon, Dec 3, 2012 at 7:10 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Agreed

[Quoted text hidden]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15 Q. Did you submit a Notice of Actual Engagement-- a Notice of
16 Appearance?
17 A. Notice of Appearance. I did.
18 Q. And we can go to the third page, December 3, 2012 at 10:46 A.M.,
19 Mr. Kelson to you, he says:
20 Thanks for your kind words. I just feel as if I
21 failed you because I couldn't get the case resolved
22 without involving you and your brothers.
23 Q. So, you had asked Mr. Kelson then to resolve it? You said you asked
24 him just to make a phone call.
25 A. I asked him to see, because obviously, if they would offer the ACD,

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47e

1 then it would've been resolved.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

RECEIVED CITY COURT 3 AM 10: 08

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court,
81 Main Street
Oneonta, New York 13820

Via Fax: 607-432-2328

People v. M[redacted]

Dear Ms. Tisenchek:

Enclosed please find my Notice of Appearance for the above captioned matter currently scheduled for an Appearance on Wednesday December 5, 2012, at 8:30 AM. Please be advised that I will be actually engaged in various matters in both County Court and Family Court on December 5, 2012 and thereafter, on December 6 I will commence the Trial of the mater of the People of the State of New York v. Brian Hakes which is anticipated to continue for approximately 2 weeks in the County Court, Sullivan County. Accordingly, I have provided herewith an Affirmation of Actual Engagement and would respectfully request the instant matter be adjourned for a period of time. Likewise, by this letter, I would request production of a proper accusatory instrument setting forth facts, of an evidentiary character to establish each of the elements of the charged offense and the defendant's commission thereof. Finally, by this submission, I would respectfully request production the lab report setting forth the nature of quality of the substance alleged to have been possessed by Mr. McGuire.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq

PENGAD 800-631-6989
EXHIBIT
Comm
Ex 142

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47f

RECEIVED CITY COURT 2012 DEC -3 AM 10:07

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK

-against-

W[redacted] M[redacted]

Defendant.

NOTICE OF APPEARANCE

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,

MICHAEL F. McGUIRE, Esq
[redacted]

RECEIVED 3 AM 10:07

CITY COURT: CITY OF ONEONTA
COUNTY OF OTSEGO : STATE OF NEW YORK
----------X
PEOPLE OF THE STATE OF NEW YORK,

-against-

AFFIRMATION OF ACTUAL ENGAGEMENT

W[redacted] M[redacted] Defendant
----------X

MICHAEL F. McGUIRE, an attorney duly licensed to practice law in the State of New York, does hereby affirm, under penalty of perjury, as follows:

1. I represent Defendant herein, W[redacted] M[redacted]

2. On or about November 27, 2012, I was Notified by my client that the instant matter was scheduled for an Appearance, at 8:30 A.M. on December 5, 2012.

3. On November 30, 2012 it was determined that I would be representing Mr. M[redacted] in these proceedings.

4. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Regina Roberts, in the County Court of Sullivan County.

5. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Joseph Strong, in the County Court of Sullivan County.

6. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Felony Criminal Proceeding in which the Defendant is currently incarcerated in the matter of People of the State of New York v. Annibal Santiago, in the County Court of Sullivan County.

7. On December 5, 2012 commencing at 1:30 P.M. I will be Actually Engaged in a Proceeding in the matter of [redacted] v. [redacted], in the Family Court of Sullivan County.

8. On December 5, 2012 commencing at 1:30 P.M. I will be Actually Engaged in a Child Welfare Proceeding in the matter of Department of Family Services v. R[redacted], in the Family Court of Sullivan County.

9. On December 5, 2012 commencing at 9:00 A.M. I will be Actually Engaged in a Child Welfare Proceeding in the matter of Department of Family Services v. A[redacted] W[redacted], in the Family Court of Sullivan County.

10. Pursuant to Part 125 of the Rules of the Chief Administrator of the Courts I must respectfully request that the captioned matter be set down for an alternate date.

Dated: Liberty, N.Y.
December 2, 2012

MICHAEL F. McGUIRE, ESQ
Attorney for W[redacted] M[redacted]
[redacted]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18 Q. I am going to show you what is marked Commission Exhibit 142.
19 Wait. I think-- can you hand that back to me, please? And this is a
20 letter from you--
21 A. -- Mm-hmm.
22 Q. -- To the Chief Clerk of Oneonta Court.
23 A. Mm-hmm.
24 Q. Is that your signature on the bottom?
25 A. It is.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47g

1 Q. It's a December 2, 2012 letter. Is that your law firm sig-- law firm
2 letterhead?
3 A. It was.
4 Q. And in it, you say:
5 Enclosed please find my Notice of Appearance for
6 the above-captioned matter.
7 A. Mm-hmm.
8 Q. And attached to this is the Notice of Appearance, correct?
9 A. Mm-hmm, yes.
10 Q. And then you say, "Accordingly" -- further down in that paragraph,
11 you talk about Affirmation of Actual Engagement.
12 A. Mm-hmm.
13 Q. And that's attached to this document also?
14 A. It is.
15 Q. And-- and you request that the instant matter be adjourned?
16 A. Correct.
17 Q. You were acting as your son's attorney--
18 A. -- I am.
19 Q. -- Weren't you?
20 A. I am.
21
22
23
24
25

1
2
3
4
5 Q. Now, if we can go back to the prior letter, 142, you say you're actually
6 engaged in various matters in both County Court and Family Court--
7 A. --Mm-hmm.
8 Q. -- In the first paragraph, on December 5, 2012?
9 A. Correct.
10 Q. You're engaged because you're a judge, right?
11 A. Correct, but I don't say that in the actual engagement.
12 Q. Right, but that's the reason you were engaged?
13 A. Correct.
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47h

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

RECEIVED ONEONTA CITY COURT 2012 DEC 13 AM 10: 06

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

Reference my letter and submissions, previously submitted this date, please note in setting the next date for Appearance that I am scheduled to be out of the State between January 5 – 14. Finally I would respectfully request that you avoid Monday Appearances, if at all possible, as my responsibilities require that I be in Sullivan County on those days.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(Via Fax: 607-547-4373)*

PENGAD 800-631-6989 EXHIBIT Comm Ex 143

PENGAD 800-631-6989 EXHIBIT Comm Ex X-47i

Q. I'm going to show you what is going to be marked Commission Exhibit 143. It's a December 2, 2012 letter, the same date as the other letter, but a different letter. It's from you to the same chief clerk, Ms. Tisencheck. Did you sign this letter?

A. I did.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47j

1 Q. And you talk about just scheduling, right?
2 A. Yes.
3 Q. And this is a letter acting as your son's attorney?
4 A. It is.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1/29

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - S
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

December 8, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]e

Dear Ms. Tisenchek:

I spoke with a member of your staff on yesterday regarding scheduling of the above captioned matter. Reference the Affirmation of Actual Engagement submitted previously; my trial, which was expected to last for two weeks, settled and therefore I am available during the week of December 10, 2012. Regrettably, I was advised that the captioned matter cannot be placed on the calendar that week, but rather had been placed on the calendar for January 29, 2013. I advised the member of your staff, who I spoke with, that I am scheduled for a trial that day in Family Court, Sullivan County and therefore, I would respectfully request that the captioned matter be scheduled for February 12, 2013. I both apologize for any inconvenience caused by these requests and appreciate the accommodations as I am traveling quite a distance which requires me to clear most of an entire day. I have cleared my calendar for the morning of the 12th of February and can assure that I will not need to request further adjournments absent some unforeseen exigency.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(via Fax: 607-547-4373)*

PENGAD 800-631-6989
EXHIBIT
Comm
Ex 144

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47K

1
2
3
4
5
6
7
8
9
10
11
12
13
14 Q. I'm going to show you what is marked Commission Exhibit 144. Oh,
15 that's yours. This is a December 8, 2012 letter to, again, Catherine
16 Tisencheck, and it says, "Very truly yours, Michael F. McGuire, Esq."
17 Did you sign this letter?
18 A. I did.
19 Q. And is it on your law firm letterhead?
20 A. It is.
21 Q. And with the fax number on top, it says, "McGuire Law," what fax
22 number is that?
23 A. That was our fax machine from home. That was our home fax
24 machine. It had been in the law office and then we moved it to home
25 and we had it set up. But actually, it was in the attic and we set it up

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-471

1 to send-- we would set it up whenever we needed to send a fax.
2 Q. So, this was almost two years after your-- you became a judge, right?
3 A. Correct, yes.
4 Q. And you still had your fax machine having your legal fax ID on it?
5 A, We-- we took it out of the office and put it in the attic, and then when
6 I needed to fax something, it came out of the attic. It hadn't been
7 touched in two years.
8 Q. But when you faxed things, it said "McGuire Law"?
9 A. Yeah. Frankly, I didn't even know that that was what the stamp said.
10 Q. Had you made any effort to change the fax machine after--
11 A. --No --
12 Q. -- You didn't do the law--
13 A. -- It had been in the attic.
14 Q. So, the answer to that question is?
15 A. Is no.
16 Q. Okay. And it says, the first sentence of this document, 144, it says:
17 I spoke with a member of your staff yesterday
18 regarding scheduling of the above-captioned
19 matter.
20 Q. So, you were talking to the clerk's office as a lawyer on behalf of your
21 son?
22 A. I was.
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20 Q. This is an email, February 27th, two-- February 26, 2013 at 5:42 P.M.
21 It's the first email. The second email, it's from you to Zach Kelson,
22 February 27, 2013 at 3:48 A.M. Here you say you need to make the
23 motion for an ACD on papers. Here-- let me read it:
24 There are real-- rather incredible, but I need to
25 make the motion for an ACD on papers which I

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47m

1 will do along with several other prayers for relief,
2 including a Clayton motion and a Motion for
3 Dismissal for lack of probable cause.
4 Q. Had you gone to court that day?
5 A. I don't remember if it was that day or not.
6 Q. If we go down to the day before, February 26, 2013 at 5:42 P.M., Mr.
7 Kelson asks, "So how'd it go?"
8 A. So, I probably went either-- I probably went Tuesday or Monday. I
9 don't remember the exact date.
10 Q. But you had gone to court?
11 A. I had absolutely gone to court.
12 Q. And the one below, the-- the email below is February 27, 2013 at 9:23
13 A.M., says, "Go get them"?
14 A. Correct.
15 Q. And the email below that, February 28, 2013 at 5:25-- at 3:56 A.M., it
16 says-- from Mr. -- from Judge McGuire to Zachary Kelson:
17 Thank you. It is good to keep skills sharp.
18 Q. What skills were you referring to?
19 A. Legal research.
20 Q. And being in court, or--
21 A. -- Yeah.
22 Q. -- Acting as an advocate?
23 JUDGE SHEA: I actually have this on a previous
24 exhibit.
25 MS. TISHMAN: Okay. I think that happened when

1 my papers fell, so thank you. So, you might have it also,
2 but we will make a copy for you.
3 MR. BONACIC: Okay. Thank you.
4 BY MS. TISHMAN:
5 Q. So--
6 A. -- Keep my advocacy skills sharp.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

April 8, 2013

HON. RICHARD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RECEIVED
APR 10 2013
ONEONTA CITY COURT

RECEIVED
APR 01 2013
ONEONTA CITY COURT

RE: People v. M[redacted]
Docket # 2012-0810

Dear Judge McVinney;

Enclosed herewith please find a Notice and Omnibus Motion in regard to the above captioned matter. By separate cover, a copy of these papers have been simultaneously provided to the Assistant District Attorney handling the matter, Mr. Getman.

Thank you, in advance, for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very Truly Yours,

Michael F. McGuire, Esq.

Cc: Michael Getman, Esq

EXHIBIT
Comm
Ex 146
PENGAD 800-631-6989

EXHIBIT
Comm
Ex X-47n
PENGAD 800-631-6989

CITY COURT : CITY OF ONEONTA:
STATE OF NEW YORK : COUNTY OF OTSEGO

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

-Against-

W[redacted] M[redacted],

Defendant,

----------X

RECEIVED
APR 10 2013
ONEONTA CITY COURT

NOTICE OF MOTION

RECEIVED
APR 01 2013
ONEONTA CITY COURT

PLEASE TAKE NOTICE, that upon the annexed affirmation of Michael F. McGuire Esq., attorney for Defendant, W[redacted] M[redacted] and all prior orders, pleadings and proceedings had herein, the undersigned will move this court located at the City of Oneonta Court Court, Oneonta, New York before, Hon. Richard McVinney, on the 10th day of May, 2013 at 9:00 o'clock in the forenoon of that day, or soon thereafter as the parties can be heard, for an:

ORDER: Granting to the defendant the dismissal of the charges herein pursuant to sections 170.30(1)(g) and 170.40 of the Criminal Procedure Law, upon the ground that the conviction or prosecution of the above named defendant by such accusatory instruments would constitute or result in injustice; and for an

ORDER: Dismissing of the accusatory instruments pursuant to CPL §100.40; and for an

ORDER: Precluding the prosecution from using any statements of the Defendant, in their case in chief which have not been noticed, pursuant to §710.30 of the Criminal Procedure Law within 15 days of Arraignment on the instant charge; and for an

ORDER: Granting suppression of any such statements sought to be offered by the People, in their case in chief, as taken in violation of the Defendant's rights under the Constitution of the State of New York and the United States Constitution; and for an

ORDER: Granting defendant a Huntley Hearing to determine the admissibility of any such statements properly noticed pursuant to the mandates of the Criminal Procedure Law; and for an

ORDER: Granting the Defendant an Adjournment of the Matter in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law of the State of New York' and

For such other further relief as to this court may seem just and proper.

Dated: Liberty, N.Y.
April 6, 2013

MICHAEL F. McGUIRE, ESQ
Attorney for W[redacted] M[redacted]

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

AFFIRMATION IN SUPPORT

-Against

M[redacted] H[redacted]

Defendant.
----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about September 20, 2012 defendant was charged upon An Appearance Ticket, with one count of UNLAWFUL POSSESSION OF MARIHUANA, pursuant to §221.05 of the Penal Law of the State of New York.

3. On or about October 3, 2012 Defendant was arraigned in the City of Oneonta Court, before, Hon. Lucy P. Bernier and entered a plea of Not Guilty to all counts.

4. Defendant has not been served with any Notice pursuant to §710.30 of the Criminal Procedure Law providing that the people intended to offer any statements, of the defendant, during their case in chief.

5. At the time of his arrest, defendant was a 20 year old (DOB[redacted]) second year student at the State University of New York, College at Oneonta

6. Defendant is a graduate of Liberty Central School District where he was actively involved in Interscholastic Athletics, was treasurer of his class and graduated with honors. He has been employed for the past several years at the Bethel Woods Center for the Arts most recently as a crew supervisor for the state of the art concert venue in Sullivan County, New York. Prior to the instant matter he had never been arrested, charged, prosecuted for, or convicted of any offense, of any level under the Laws of this or any other state, territory or nation. Indeed, Mr. M[redacted] has never received so much as a traffic infraction.

7. Although a formal long form accusatory instrument has not been received in conjunction with the instant matter, the Defendant does acknowledge receipt of the following recitation of facts provided by Assistant District Attorney, Michael Getman, which the defendant is prepared to deem a Supporting Deposition.

8. On information and belief the source of which is information received from Mr. Getman, on or about September 20, 2012 University Police officers Brunner and Skovira where on a routine bike patrol when they detected what they believed, presumably based upon their own experience, to be the smell of burning marihuana in a wooded area East of the MacDuff Hall Parking lot.

9. Upon investigating the odor, Mr. M[redacted], along with co-defendants M[redacted] R[redacted], A[redacted] S[redacted] and J[redacted] B[redacted] were found in said area and a glass pipe, believed to be resonated with marihuana was found on the ground next to them. It must be noted that there have been no

chemical or scientific tests administered on said pipe to determine if the residue contained therein was marihuana, however the officer proceeding on a mere hunch believed such to be true, without further investigation or confirmation .

10. Initially, each of the four young men denied ownership of the pipe and exercising their constitutional rights refused to respond to the officer's inquiry. The officers, interpreted this exercise of their constitutional right, to remain silent, as the young men being uncooperative by refusing to answer questions. Thereafter, the officers determined that since no owner could be determined, from the information available, they would place all 4 males under arrest.

11. It must be noted that, according to information received from Mr. Getman, after being advised that all 4 of the men were under arrest, co-defendant M[redacted] R[redacted] stated the pipe belonged to him, which in a light most favorable to the University Police Officers should have ended the matter as to the remaining three students.

12. After deciding to arrest all 4 males, charging each with unlawful possession of marihuana, the officers placed each of the 4 males in handcuffs and transported them back to the University Police Office for processing.

13. Prior to advising any of the students of their rights, pursuant to *Miranda*, the Police, after placing the four student under arrest, continued to question all four of the boys, (in violation of their Constitutional rights) who, based upon information received from Mr. Getman, admitted smoking marihuana from the pipe and all 4 admitted to purchasing the marihuana. However, it

should be noted that when the boys refused to disclose who the marihuana was purchased from they were all once again deemed uncooperative because they would not provide a name.

14. The four students were subsequently issued Desk Appearance Tickets and directed to appear in the City of Oneonta Court on October 3, 2013.

15. With respect to Defendant M[redacted], although the attorney retained to address these issues, was unavailable to appear, on November 27, 2012, (the adjourn date following the October 3, 2012 arraignment) but, on information and belief the source of which is my discussion with the former attorney, he had been advised that this Court *did not recognize* the provisions of Criminal Procedure Law §170.56, providing for an Adjournment in Contemplation of Dismissal when certain enumerated criteria are satisfied and offered only that the Defendant *must* enter a plea of guilty to the charge, an amended charge, outside of §221 of the Penal Law or stand trial. It must be noted that no lab report has yet been provided to establish the nature and content of the residue on the subject pipe. Therefore, although the People seem to have been forcing either a plea or trial, they were no yet able to announce readiness for trial since that had no scientific evidence to establish the nature and quality of the substance alleged to be Marihuana.

16. Because this matter occurred on the SUNY Campus, the University, clearly not ascribing to the Constitutionally protected presumption of innocence, preferring instead to mead out punishment without concern for guilt or non guilt by any standard directed that Mr. M[redacted]

enroll in and complete an educational program regarding marihuana which he has done, with the full support of his parents.

17. The defendant along with counsel appeared on February 26, 2013 and was advised by the Court (Hon. Richard McVinney) that any application for dismissal or ACD must be made on papers.

18. This Affirmation is offered in support of Defendant's Motion for a dismissal in the Interest of Justice, for Dismissal based upon insufficiency of the accusatory instrument (§100.40 CPL) or an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS IN THE INTEREST OF JUSTICE

19. In is respectfully submitted that the Court should issue an order pursuant to Criminal Procedure Law §170.30(1)(f) dismissing the instant matter on the ground that dismissal is required in furtherance of justice, within the meaning of Criminal Procedure Law §170.40, in that compelling factors and circumstances exist which clearly demonstrate that conviction or prosecution of the defendant upon the aforesaid accusatory instrument would constitute or result in injustice.

20. It is most respectfully submitted that it is within the discretion of this Court to dismiss the charges in the furtherance of justice pursuant to Criminal Procedure law §§170.30 and 170.40. Criminal Procedure Law §170.40 is the statutory codification of the criteria to be

Students for sensible Drug Policy Foundation v. Spellings, 523 F3rd 896 (8t Cir 2008). The federal statute applies to convictions while the person is a student, rather than to earlier periods when the person was not a student. A conviction for even a violation level offense of Unlawful Possession of Marihuana, as is the charge in the case at bar, ***will result*** in a one year bar on the student's ability to ***secure a student loan***, effectively preventing the individual for continuing his education at SUNY Oneonta, clearly not a consequence contemplated by the University in authorizing the instant arrest and clearly forming the compelling basis for the provisions set forth under §170.56 as provided herein below.

25. The Extent of Harm Caused by the Offense : As stated previously the extent of harm cased by the conviction will dwarf the extent of harm caused by the offense. Indeed, given recent events involving marihuana across this country and given that Mr. M[redacted] enjoys an ***impeccable reputation*** both on the campus as well as in his home community and when considering that none of the co-defendants were operating a vehicle, there was no indicia of violence, or sale, no indicia of children in the area, indeed there is truly no reliable basis upon which to conclude that any or all of the students charged had even consumed any marihuana, its seems absurd to refer to any harm caused by the offense. Clearly there are social issues which transcend the penal law, and the use or abuse of alcohol and drugs, particularly on college campuses creates the potential for problems, both academically and socially and those problems have existed on our campuses for however long there have been college campuses.

26. The Legislature, however, clearly recognized the relative lack of harm caused by this offense, when, in 1977, it passed the Marihuana Reform Act. Through this legislative

enactment, the Legislature made clear their intent to reduce penalties for both possession and sale of marihuana and took the particular step of decriminalizing the possession of a small amount of marihuana. This purpose was further emphasized by the excision of marihuana offenses from the ambit of Article 220 (drug cases). In the unconsolidated portion of the legislation the Legislature expressed its findings and its purpose:

> The Legislature finds that arrests, criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. The Legislature does not encourage or condone the recreational use of marihuana or any other drug. Rather the purpose of this act is to insure that the many people in New York who commit the conduct *not be subjected to unduly harsh sanctions*. L.1977 c. 360 §1.

27. In the case at bar, we have a young man who, in a light most favorable to the prosecution shared, along with 3 other individuals, a single pipe of marihuana, none were acting in a manner as to create a reasonable expectation of harm to anyone and at least with respect to Mr. M[redacted], he is a student in very good standing academically (I have no information about the academic standing of the other students involved), he has no record of disciplinary involvement on the campus or in the dormitories, he attends each of his classes regularly as scheduled and participates in a variety of healthy campus centered recreational activities, indeed this is not a student who, because of an abuse of drugs or alcohol, is likely to bring harm to himself or others; physically, emotionally or mentally. The real harm here lies not in the crime but in the prosecution.

28. <u>History, Character, and Condition of the Defendant:</u> W[redacted] M[redacted] is a second year student at SUNY Oneonta he graduated from Liberty High School in 2011 where he enjoyed an outstanding reputation as a student athlete. He was treasurer of his class for four

years, received a student citizenship award at graduation, earned 16 varsity letters in four years and was named most valuable player in two separate sports and was recognized with the Betty Totten Sportsmanship Award during his senior year in recognition of his commitment to the ideals of the true student-athlete. He has a long history of community based volunteerism offering his time for the local hospital and other charitable organizations including but not limited to Alzheimer's Association. He has been gainfully employed for the past 5 years at the Bethel Woods Center for the Arts, a State of the Art Concert Venue on the site of the original 1969 Woodstock Concert. In that role he has risen to the level of a crew supervisor and his work ethic and commitment to excellence has earned him an impeccable reputation among the administrators of that facility. He has never had any involvement with either the Juvenile or Criminal Justice Systems, indeed he has not so much as received a citation for a traffic infraction, and the instant matter represents his first and only involvement with law enforcement. Indeed the history and character of W[redacted] M[redacted] is exemplary.

29. <u>The Impact of a Dismissal on the Safety or Welfare of the Community</u>: A dismissal of these charges will have ***no impact*** on the safety or welfare of the community. W[redacted] is a young man committed to his studies, his family and developing a career. He has no history of drug or alcohol abuse and is regularly tested for illegal substances through his employment and has passed each test. Clearly, the use of drugs or alcohol must be discouraged however, it is respectfully submitted that ***education and not prosecution*** is the preferred method of communicating that message and it must be noted that the College community has already deemed it appropriate to discipline Mr. M[redacted] and he has had to enroll in and complete a drug and alcohol education program at significant cost to himself. In the absence of any facts tending

to suggest that W[redacted] has been involved in the possession of large quantities of drugs (the allegation is that 4 people possessed a single pipe containing what is alleged to be residue of marihuana and none of the four possessed any marihuana on their persons nor in any area under their dominion and control), there is nothing to suggest that W[redacted] was involved in the distribution of marihuana nor is there any suggestion that W[redacted] was involved in the use of Marihuana with any child under the age of 17. Indeed a conviction would be more likely to imperil the safety and welfare of the Community to the extent of that a conviction would potentially limit W[redacted]s ability to be employed in the career of his choosing upon successful completion of the course of study at SUNY Oneonta.

30. <u>The Purpose and Effect of Imposing Upon the Defendant a Sentence Authorized for the Offense:</u> A criminal conviction places in peril this young professional as the mere presence of the moniker "convicted of a drug related offense" will likely discourage many from employing W[redacted]. Moreover, this is not an act that derives from criminal motives, any intention to impose his will upon another or any conscious weighing of the criminal consequences of his actions. Indeed the offense alleged is non criminal and of the sort that the legislature has contemplated that no criminal prosecution would be undertaken.

31. <u>The Impact of a Dismissal Upon the Confidence of the Public in the Criminal Justice System</u>: It is respectfully submitted that dismissal of these charges would be far more productive to instilling greater confidence rather than having a negative impact. It is inconceivable that anyone could gain greater confidence in a system which prosecutes an individual for an offense which statutorily is the lowest level of offense conceivable and for which the legislature saw fit

to provide a specific statutory provision, §170.56 of the Criminal Procedure Law, which provides a compelling basis for allowing an offending individual a single transgression of judgment without long lasting consequences which clearly outweigh the nature of the offense. Moreover in the case at bar the officer arrested 4 individuals for an offense without probable cause relying only on the fact that the individuals were deemed uncooperative by virtue of the fact that they.. refused to answer his questions, a right which is constitutionally protected and a right which the officer had a well settled affirmative obligation to advise them of prior to engaging in any sort of questioning beyond that of an investigatory nature. Here the officer based the arrest not upon the statements of the co-defendants but rather upon the fact that they each refused to answer thereby providing nothing beyond the officer's hunch upon which to base this arrest. It must also noted that according to the officer, one of the individuals ultimately accepted ownership of the article and yet they proceeded with the arrest (and now prosecution) of all four, without any indicia of possession by any of the four as there can be no constructive possession in a case which arose outside where none of the four exercised dominion and control over the area in which the single pipe alleged to contain residue (of marihuana) and which as of this date has not been confirmed by laboratory test. The system is created and survives on certain constitutional protections including the presumption of innocence and the right against self incrimination here the officers, *clearly abusing* their authority, used the power of arrest to further their investigation where they lacked probable cause to believe that any of the four had committed any crime (or offense) whatsoever. Clearly, there can be no confidence in a system which prosecutes the facts present in the case at bar, particularly were the police use the power of arrest to punish the defendants for not voluntarily incriminating themselves, by providing requested information to the officers, beyond simple pedigree.

32. The Evidence of Guilt, whether Admissible or Inadmissible at Trial: The evidence of guilt in the case a bar is *severely lacking*. In order to find W[redacted] M[redacted] guilty of this offense, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements: 1) That on or about September 20, 2012 in Otsego County, W[redacted] M[redacted] possessed marihuana; and second that the defendant did so knowingly and unlawfully. As a preliminary matter, it must be noted that there has been no laboratory test provided here and therefore there is no evidence that the substance allegedly possessed was in fact marihuana, leaving the People with the mere hunch of an officer, which is insufficient as a matter of law to establish that element of the offense. There is nothing to support possession. The criminal procedure law defines possession, within the context of this offense as follows:

> Posses means to have physical possession or otherwise to exercise dominion or control over tangible property

33. In the case at bar the subject item was discovered, by University Officers, abandoned in a wooded area, as such, since the officers are unable to even allege actual possession we are left to presume that the prosecution theory is one rooted in constructive possession. Under our law, a person has tangible property in his or her constructive possession when that person exercises a level of control over the area in which the property is found sufficient to give them the ability to use or dispose of the property People v. Manini, 79 NY2d 561 (1992). In the case at bar the area in which the property was found was public lands on the campus of the State University, accessible to literally several thousand people, clearly none of

the defendants exercised any dominion or control over those lands sufficient to yield a presumption of constructive possession. Where the officers did not observe any of the individuals physical possession of the subject contraband; did not observe anyone discard the item, but rather relied only on their own olfactory perception and thereafter found an item, discarded in a wooded area, they cannot then make a claim of constructive possession as it cannot be shown from this set of facts that anyone, particularly the defendant herein, W[redacted] M[redacted], exercised dominion and control over the wooded area in which the pipe was found. *See also:* People v. Schriber, 34 AD2d 852 (3rd Dept 1970). *See also* §140.10(1)(a) of the Criminal Procedure Law.

34. Any Exceptionally Serious Misconduct by Law Enforcement Personnel in the Investigation, Arrest and Prosecution of the Defendant: At the outset it is conceded that the Office of the District Attorney of Otsego County has, in all respects, handled this matter professionally and appropriately extending all expected courtesies to counsel for which defense counsel is exceedingly appreciative. Regrettably the same cannot be said of the arresting officers who, abused their authority by arresting 4 individuals for possession of a single pipe alleged to contain only residue of a substance which the officers believed, based upon their own olfactory perception to be marihuana. The officers placed the four under arrest because, by their own statement, the four were "uncooperative" with the officers. Since there has been no suggestion that the individuals acted in a combative manner such that an arrest for Obstructing Governmental Administration may lie, it can only be concluded that the lack of cooperation referenced by the officers related to the individuals refusal to provide potentially incriminating responses to the officers questions, a constitutionally protected right afforded all individuals

during encounters with law enforcement People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 AD2d 934 (4th Dept, 1988); People v. Santiago, 132 AD2d 942 (4Th Dept, 1988). Clearly, the officers had no additional indicia of criminal activity afoot after questioning the subjects then they did before and yet, according to the officers it was this "failure to cooperate" that provided the justification, in the minds of the officers, to arrest four individuals for possession of an item found abandoned in the woods. Thereafter, according to the officers, after placing the four under arrest for possession of this item, they failed to advise them of their rights under *Miranda*, yet continued to question the four eliciting certain information which the officers thereafter relied upon to justify their arrest. It must be noted, however, among the information elicited *post arrest*, was an admission from one of the four that the pipe belonged to him, and yet the officers, apparently intent on enforcing their will and demonstrating their authority over all four students, failed to exercise appropriate discretion preferring instead to file against all 4 even though they now had information which exculpated three of the four. Moreover, there has been no Notice provided pursuant to CPL 710.30 therefore any statements attributable to any of the defendants will not be admissible in the ultimate trial of this matter, regardless of the Constitutional violations associated with the manner in which the alleged statements were elicited.

35. To the extent, therefore that this arrest was achieved without probable cause, based upon the 4 individuals "failure to cooperate" anything which flowed from that illegal arrest constitutes "fruit of the poisonous tree" and must, be excluded from the People's case in chief at trial, People v. Conyers, 68 NY2d 982 (1986); People v. Harris, 77 NY2d 434 (1991); leaving

virtually no evidence upon which to maintain the case against these individuals requiring this court to ultimately dismiss the charges.

36. In sum, it is respectfully submitted that the prosecution of W[redacted] M[redacted], not only would serve no useful purpose it is clearly contrary to the Legislative intent in promulgating Article 221 of the Penal Law. The Legislature has, in enacting the very statute being prosecuted on, set forth that criminal prosecution and criminal penalties are inappropriate for people who possess small quantities of marihuana for personal use. Accordingly and based upon the foregoing factors, considerations and circumstances, it is respectfully requested that the actions pending against Mr. W[redacted] M[redacted] be dismissed in their entirety.

DISMISSAL OF THE ACCUSATORY INSTRUMENTS

37. The Officers Lacked Probable Cause to Make a Lawful Arrest: It is well settled in this state that an arrest is authorized when the officer has probable cause to believe that the person has committed an offense. CPL 140.10; People v. Wroblewski, 109 AD2d 39 (4th Dept, 1985); People v. DeBour, 40 NY2d 210. Where the offense charged is a petty offense, such as the matter at bar, in addition to having probable cause to believe an offense has been committed by the defendant the offense must have been committed in the officer's presence, CPL §140.10; People v. Solomon, 31 AD3d 1178 (4th Dept, 2006); People v. Genovese, 156 Misc. 2d 569 (J. Ct 1992). The Appearance ticket and any supporting deposition together must provide probable cause to believe that the offense in question was committed by the defendant, in the presence of the arresting officer. People v. Kaminiski, 143 Misc. 2d 1089 (City Criminal Court, 1989).

38. In the case at bar the officers allege, in their statement provided to ADA Getman, that they detected the odor of Marihuana in a wooded area and responded to further their investigation and found 4 individuals in said wooded area. The officers thereupon approached the students and requested certain information, such level of intrusion in all respects appropriate pursuant to *DeBour* and it progeny. Thereafter and presumably while speaking to the students the officers observed a glass pipe in the wooded area presumably proximal to the area where the students were standing yet still in a public area open and available to literally several thousand individuals on the SUNY Campus, clearly not an area over which any of the defendants herein exercised dominion or control[1]. Assuming arguendo that this discovery by the police furthered their investigation they may have been justified in escalating the level of intrusion into the liberty of these four students People v. Espinosa, 46 AD3d 311 (1st Dept, 2007). While it is conceded that an officer is entitled to approach a citizen and make inquiry of a more intrusive nature when the officer has a founded suspicion that *criminal activity* is afoot and that the individual approached may be involved. In this case, the officers had no such indication that *criminal activity* was afoot and therefore likely were *not justified* in furthering their investigation by intruding upon the liberty of the students by exposing them to further questioning. In either case and in the absence of further analysis, being mindful that this intrusion occurred outdoors in a public area, there could be no claim of constructive possession as none of the four students exercised dominion and control over the area where the item was found (People v. Manini, 79 NY2d 561 (1992)) and therefore none, particularly the defendant herein, W[redacted] M[redacted],

[1] There is nothing to suggest that the officers observed any of the 4, particularly M[redacted], discard this property therefore the nexus to the individual defendants cannot be established as would be permitted in the case where, for example a pursuing officer observed an individual discard the property. People v. Martinez, 80 NY2d 444.

could be said to have possessed, even constructively, the item, at least not at the time that the officers discovered it.

39. It is critical to note, in the case at bar, even taken in a light most favorable to the People, the investigation herein involved statutorily ***non-criminal activity*** which yields a vastly different standard for police to adhere to when compared to the options available to law enforcement when they have reason to believe that criminal activity is afoot. In this case the police clearly were drawn to an area because of what they perceived to be the smell of burning marihuana. Where there is no indication of criminal activity the person who is questioned has the absolute right not to speak with a police officer and indeed has the absolute right to leave the area (which the defendant did not do in this case and yet the police still based their decision to arrest on the mere fact that the defendants were uncooperative). People v. Howard, 50 NY2d 583 (1980); People v. McFadden, 136 A.D.2d 934 (4th Dept, 1988). Indeed Courts of this state have ***consistently*** held that a defendant may invoke the right to be "left alone". People v. Perez, 47 A.D.3d 1192 (4th Dept, 2008). Yet in this case, the only additional information possessed by the officers between the time of their initial observation (smell of burning marihuana) and the time of the arrest was the fact that they had deemed the students to be uncooperative by refusing to answer their questions, whereupon, according to the officer's statement they placed all four individuals under arrest.

40. Where, as here, the police seek to make a warrantless arrest for a petty offense (PL §221.05 is a non criminal offense), the Criminal Procedure Law (§140.10) ***requires*** that the offense be committed in the officer's presence. People v. Solomon, 31 A.D.3d 1178 (4th Dept,

2006). People v. Genovese, 156 Misc.2d 569[2]. Here the police seem to rely upon statements elicited *post arrest* to bolster their case, specifically that all four had smoked from the subject pipe[3]. Such statements, particularly in the absence of *Miranda* warnings and *taken post arrest* cannot be used to establish probable cause to arrest and under any set of circumstances *do not cure* the fact that the offense did not occur in the officer's presence. People v. Washburn, 309 A.D.2d 1270 (4th Dept, 2003); People v. Young, 202 A.D.2d 1024 (4th Dept, 1994).

41. Accordingly in this case we are left with nothing more then open air observations of the officers regarding the smell of burning marihuana which is insufficient, *as a matter of law*, to charge anyone with possession of marihuana. At the outset it must be noted that possession requires that the person possess some tangible property and the smell of burning marihuana, even if the hunch is ultimately confirmed (which is was not in this case) is not tangible and therefore cannot be the subject substance to form the basis for the charge. Moreover, the courts of this state have held that probable cause to arrest cannot be based upon the mere smell of marihuana in the absence of evidence to establish that the officer has had some special training as a drug recognition expert which is not the case here. People v. Hanson, 5 Misc. 3d 67 (App Term, 2004).

[2] In the case at bar there can be not cognizable debate over the issue of arrest since the defendant was placed in handcuffs in the back of a patrol vehicle and brought to the police office before being issued an appearance ticket for a petty offense which did not occur in the officer's presence.

[3] Even if these statements were admissible they could not form the basis for a valid arrest since they were obtained post arrest and probable cause to arrest must be established pre-arrest and moreover those statements still do not cure the fact that the offense must have been committed in the officer's presence if the officer is going to issue an Appearance ticket. Where the officer is going to bring an action for a petty offense not committed in the presence of the officer he would be required to present an proper accusatory instrument to the court, containing a sworn to complaint of a witness containing non hearsay allegations to establish each of the elements of the offense charged and have the court thereafter issue a summons, the officer cannot essentially complete a warrantless arrest for a petty offense not committed in their presence.

42. Accordingly, it is respectfully submitted that the Accusatory Instrument in this case *must* be Dismissed as the police lacked probable cause to support the arrest at the time of the arrest or anytime thereafter. In the alternative the Defense most respectfully requests a hearing on the issue to determine whether the officers had probable cause to believe that an offense had occurred, in their presence at the time of the arrest.

GRANTING TO THE DEFENDANT PRECLUSION OF ANY ALLEGED STATEMENTS MADE BY THE DEFENDANT, BUT NOT CONTAINED WITHIN THE PEOPLES NOTICE PURSUANT TO CPL §710.30

43. Section 710.30(1) of the Criminal Procedure Law provides, in relevant part that whenever the People intend to offer at trial evidence of a statement made by the defendant to a public servant, they must serve upon the defendant a Notice of such intention, specifying the evidence intended to be offered, within fifteen (15) days after arraignment.

44. The Court of Appeals has held that where the People fail to comply with the requirements of CPL §710.30 the remedy is preclusion of the improperly noticed statement from use during the People's direct case at trial. People v. Lopez, 84 NY2d 425 (1994)

45. In People v. Phillips, 183 AD2d 856 (2nd Dept 1992), the Second Department held that such inadequacy of Notice cannot be cured by Discovery and further that lack of prejudice to the defendant is not relevant to the Court's determination of admissibility.

46. A Motion to preclude only those statements not properly Noticed pursuant to the mandates of §710.30 will not trigger the waiver provisions provided for under CPL §710.30(3). *See also:* People v. Bernier, 73 NY2d 1006 (1989); People v. Amparo, 73 NY2d 728 (1988).

47. Accordingly, the defense requests that any statements not properly Noticed, pursuant to CPL 710.30(1) be precluded from use during the people's direct case, at trial.

HUNTLEY HEARING

48. No §710.30 Notice has been served upon the defense. It is respectfully contended, however, that any and all statements alleged to have been made by the Defendant or attributed to the Defendant were made in violation of his Constitutional rights and his rights pursuant to Miranda v. Arizona and must be suppressed as a matter of law. Alternatively, the Court must hold a hearing to determine their legality. As to each statement we respectfully allege as follows:

a. The alleged statements were made in violation of the right of the accused against self-incrimination.

b. The alleged statements were made while the defendant was detained without probable cause to arrest (Dunaway v. New York).

c. The alleged statements were made without adequate advice to the suspect of his rights during questioning.

d. The alleged statements were made without any effective waiver by the defendant of his rights pertaining to questioning. As such, it is respectfully requested that this Court suppress all

such statements or, in the alternative, conduct a Huntley hearing to determine the legal admissibility of same.

GRANTING TO THE DEFENDANT ADJOURNMENT IN CONTEMPLATION OF DISMISSAL PURSUANT TO CPL §710.56

49. Section 170.56 of the Criminal Procedure Law provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15; 221.35 or 221.40 of the Penal Law and before entry of a plea of guilty thereto or commencement of trial, the court upon motion of the defendant may order that all proceeding be suspended and the action adjourned in contemplation of dismissal or upon a finding that the adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument.

50. The relief provided for under §170.56 is conditioned upon certain conditions precedent specifically; 1) The Defendant has never before granted such an ACD; 2) Never before granted a Dismissal under §170.56; 3. Defendant has never been convicted of any Offense involving a Controlled substance; 4. Defendant has never been convicted of any crime (DA Consent therefore not necessary); Defendant has never been adjudicated a YO on the basis of any act involving controlled substances (DA Consent therefore not necessary).

51. It must be noted, at the outset that §170.55 also provides for an Adjournment in Contemplation of Dismissal and provides in relevant part as follows:

> Upon or after arraignment in a local criminal court upon an information where the sole remaining count charges a violation of section 221.05, 221.10; 221.15;

54. Under §170.55 an Adjournment in Contemplation of Dismissal (ACD) is available when the prosecutor, defendant and the court are in agreement that this is the proper disposition of the case. Under §170.56 dealing with marijuana offenses, the Legislature has ***specifically omitted*** the language related to ***consent*** of the District Attorney and the ***court*** which is so prominent under §170.55. The Granting of an ACD under §170.56, therefore clearly ***does not require*** the prosecution's consent and indeed can be entered even over the objection of the District Attorney[4].

55. Indeed in appropriate circumstances not only is consent of the District Attorney not required under §170.56 as it is under the more general provisions of §170.55 but in the case of marihuana offenses the arrest itself is deemed a nullity and thus a defendant who is granted an ACD under §170.56 is offered certain benefits not otherwise available to them under the ACD under §170.55. People v. Ford, 104 Misc 458 (NYC Criminal Court, 1980). Under §170.56 the Court has the option of granting an outright dismissal of the charge in the interests of justice an option ***not available*** under §170.55.

56. The People will likely argue that the express language of §170.56 is permissive in nature and therefore the court has inherent discretion whether or not to grant the relief. Such a position, however is ***not supported*** by case law interpreting this section. Indeed even affording the Prosecution with an opportunity to be heard under §170.56 would seem inappropriate as since their consent is not necessary any input they might offer would be at best, moot and at

[4] §170.56(1)(c) requires the consent of the District Attorney only in circumstances where the defendant is seeking an ACD after having previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances.

worst be prejudicial to the Defendant in having the court carry out a duty which has been deemed ministerial in nature.

57. In People v. Mann, 83 Misc 2d 442 (1975), the District Court for Nassau County held that the act of the Judge in granting the Adjournment in Contemplation of Dismissal, under §170.56, is ministerial in nature in that the Court is "*compelled to grant the ACD*" as long as the application sets forth the basic representations upon which such an application can be granted.

58. In the case at bar we have a defendant who has neither been charged or convicted of any offense whatsoever, either involving marihuana or any other offense contained in any statue of the State of New York, the United States of America or any other state or sovereign for that matter. As such, it flows naturally that Mr. M[redacted] has never been granted an Adjournment in Contemplation of Dismissal under either §170.55 or §170.56 (§170.56 (1)(a)); thus he has never before been granted a Dismissal under §170.56 (§170.56(1)(b)); he have never been convicted of any offense involving any controlled substance (§170.56 (1)(c)); he has never been convicted of any crime whatsoever (§170.56(1)(d)); he has never been adjudicated a YO on the basis of any act involving controlled substances or any other crime for that matter (§170.56 (1)(e). Finally the only count involved here is one of violating section 221.05 of the Penal Law of the State of New York. Accordingly, whereas Mr. M[redacted] *satisfies each* of the conditions precedent to this court granting the relief requested in accordance with the relevant case law interpreting this section and consistent with the legislative intent in setting forth the criteria for such relief, separate and distinct from that provided for every other offense contemplated by any law of this state, this court is *compelled to grant* the ACD.

WHEREFORE, it is respectfully requested that the relief as set froth in the accompanying Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
April 6, 2013

MICHAEL F. McGUIRE, ESQ

1 Q. Okay. I'm going to show you what's marked Commission Exhibit
2 146. And this is April 8, 2013. It's a letter from you to the Judge,
3 Honorable Richard McVinney. Is that your signature on this?
4 A. It is.
5 Q. And is that your law firm letterhead?
6 A. It is.
7 Q. And is that a cover letter for the omnibus motion?
8 A. Yes.
9 Q. And did you-- you drafted--
10 A. -- I did.
11 Q. -- An omnibus motion and you filed it with the court?
12 A. I did.
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-470

RECEIVED
AUG 0 7 2013
ONEONTA CITY COURT

MICHAEL F. McGUIRE
Attorney and Counselor at Law
[redacted]

August 4, 2013

HON. RICHRD McVINNEY
City Court of the City of Oneonta
81 Main Street
Oneonta, New York 13820

RE: People v. W[redacted] M[redacted]
Docket Number 2012-0810

Dear Judge McVinney;

Enclosed please find the my Reply Affirmation submitted in response to Mr. Gentman's Affirmation in Opposition to the pending Motion seeking various forms of relief. The delay in providing same was occasioned by the fact that Mr. Getman's papers were sent to an address which is no longer in use and therefore with delays associated with forwarding etc, together with my vacation schedule I did not receive the subject papers until late July. Accordingly, I would respectfully request leave of the court to file this Reply affirmation at this time.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

Cc: Michael F. Getman, Esq

RECEIVED
AUG 07 2013
ONEONTA CITY COURT

CITY COURT : CITY OF ONEONTA
COUNTY OF OTSEGO:

----------X

THE PEOPLE OF THE STATE OF NEW YORK,

REPLY AFFIRMATION

-Against

W[redacted] M[redacted]

Defendant.

----------X

MICHAEL F. McGUIRE, an attorney duly authorized to practice law in the State of New York, under the penalties of perjury, hereby affirms the following:

1. I am Attorney for Defendant, herein, W[redacted] M[redacted] and, as such, I am fully familiar with the facts and circumstances surrounding the above entitled matter.

2. On or about April 6, 2013, Respondent filed a Motion, seeking various forms of relief including Dismissal of the pending charges (CPL §100.40); Dismissal of the instant matter in furtherance of Justice (CPL §§170.30(1)(g) and 170.40); or in the alternative, an Adjournment in Contemplation of Dismissal (CPL §170.56); Preclusion of any statements allegedly made by the defendant to law enforcement (CPL §710.30).

3. On or about May 9, 2013, Mr. Getman filed Opposition to Defendant's Motion, this Affirmation is offered in Reply to Petitioner's submission.

4. As a preliminary matter, while Defense recognizes that this submission is offered well beyond the customary 7 day period provided for such submissions, it is respectfully requested that the court consider same as due to an error in mailing, your affiant did not receive the Prosecutor's Affirmation in Opposition until late July. Apparently, despite defense requesting

that all mail be submitted to [redacted] (counsel's current address)[1] (Exhibit 1), Counsel, relying on the address listed on letterhead forwarded his Affirmation in Opposition to the address of my former office. The resulting delay in forwarding caused the submission to be received at my proper address in late July of 2013.

5. The Prosecutor is bootstrapped by his own argument in opposition to the Defendant's request for Dismissal pursuant to §100.40 of the Criminal Procedure Law. Mr. Getman's opposition is premised upon an assumption that this case and the consequent impact of such a conviction is not "significantly different than the hundreds of other Unlawful Possession of Marihuana cases filed in the Oneonta City Court each school year." It is respectfully submitted that injustice occasioned by having a college student with an otherwise impeccable reputation in his community being saddled with any criminal or even non criminal penal law conviction, involving drugs, is not cured because the prosecutor apparently routinely advocates that such injustice may be perpetrated on hundreds of other college students each year. Indeed under the facts of this case as provided by the arresting officer (Exhibit 2), in light of the significant misconduct by the arresting officers, even exposing the defendant to the hazard of having to defend himself at trial of this matter yields significant injustice. It is respectfully reiterated that the arrest in the case at bar, based upon the factual narrative provided by the Prosecutor (Exhibit 2), lacked probable cause and involved significant violations of the defendant's rights under the Constitutions of the United States and the State of New York.

6: The People rely upon the fact that they "do not force pleas from defendants", an argument never suggested by the Defense. Defendant acknowledges that an offer of settlement

[1] See Notice Of Appearance and cover letter dated December 2, 2012 copy attached hereto)

was made and rejected, however, it must be pointed out that the subject of plea negotiations are simply irrelevant to the issues presented in defendant's moving papers and moreover it is respectfully submitted that it would be patently improper, indeed constituting reversible error, for this Court to even consider that fact in deciding any of the issues presented in defendant's moving papers. Such an argument is ***irrelevant*** to ***all legal issues*** in this case and can never form the basis for opposing a Defense motion. Indeed such information merely has the effect of inserting a Redd Herring into these proceedings, by encouraging the Court to ignore the facts and the law legal preferring instead to encourage the court to focus its attention on irrelevant factors, thereby having the impact of nullifying the legal issues presented.

7: Counsel argues that the issues raised in support of Defendant's CPL §100.40 Motion are really issues which should be decided at trial or a probable cause hearing. It is respectfully submitted that the People have not put forth any facts upon which the court could find that an evidentiary hearing was necessary in order to resolve a disputed question of fact. The only factual recitation put forth by the prosecution was in the form of a narrative supplied by the arresting officer (Exhibit 2). Relying on those facts, the Defense submits that the officers acted beyond their lawful authority in placing 4 students under arrest for a petty offense, not committed in the officer's presence. Indeed while it is conceded that the Prosecutor's responding papers need not, in all cases, set forth specific facts; The Court of Appeals in People v. Gruden, 42 NY2d 214 set forth that the prosecutor must, at the very least, dispute the facts set forth by the Defense. In the case at bar the defense relied entirely on the facts provided to the defense, by the prosecutor which, it is respectfully submitted, establishes conclusively as a matter of Law that the ***officers lacked probable cause*** to place the 4 students under arrest when

they based their arrest on the fact that they smelled what they believe was the scent of burning marihuana; the discovery of a pipe on the ground (which all 4 initially denied ownership of but which one of the 4 (not W[redacted] M[redacted]) subsequently acknowledged ownership of) and thereafter while attempting to further their investigation the 4 students were deemed "uncooperative" with furthering the officers investigation[2]. There is nothing to suggest that any substance was even field tested to determine whether or not the officer's assumption was supported. Indeed, according to the Officer's narrative (Exhibit 2) it was the defendant's failure to cooperate with the officers in furthering their investigation that was the determining factor in the officer's decision to arrest all 4 individuals. Indeed the prosecutor still has not provided a laboratory test to establish that the subject residue was marihuana and therefore is still incapable of establishing a material element of the proffered charge.

8: Accordingly despite the prosecutor's argument that these issues should be decided at a trial or probable cause, there is ***no basis*** upon which this court can conduct a probable cause hearing as there is ***factual dispute,*** there are only questions of law remaining for the court to determine.

9: The prosecutor argues that the Defendant's application pursuant to §170.56 for an adjournment in contemplation of dismissal should be denied because there are no sworn statements to verify or support any of the facts for the court to consider under §170.56, a burden not borne by the defense under any interpretation of the law. Indeed, your affiant has known the Defendant since the moment of conception and has set forth in an Affirmation submitted in

[2] It must also be noted that there was no field test to establish the nature of the residue found in the subject pipe and therefore at least one material element of the alleged offense could not be determined at the time of the subject arrest

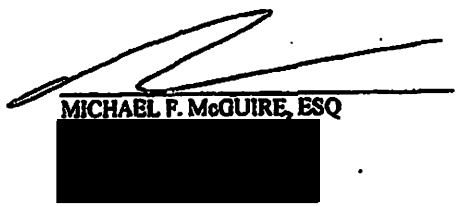
conjunction with the instant motion that the defendant satisfied each of the conditions precedent to be *entitled* to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. Indeed, it is respectfully submitted, that upon such an application it would be incumbent upon the prosecution to refute any of the assertions set forth in Defendant's moving papers, which the People have not done. Clearly the prosecution has access to information, not otherwise available to the defense, including but not limited to the Defendant's DCJS report. No such information refuting Defendant's assertion is submitted, rather, the Prosecutor apparently prefers to shift the burden of establishing such *negatives* to the Defense, a tactic which is impermissible at any stage of a criminal proceeding. Indeed the Criminal Procedure Law of this state is quite clear that were an affirmative defense is raised (clearly §170.56 is not an affirmative defense but by way of analogy) the burden on the Defense is to set forth such an argument and the burden thereafter shifts to the People to Disprove that Affirmative Defense, Beyond a Reasonable Doubt. It is respectfully submitted that in most Courts throughout this state, applications brought under §170.56 are made orally by counsel (with far less first hand familiarity with their client than exists in the case at bar) and routinely granted upon such an application. The Defense, in this case has gone well beyond that standard by setting forth sworn factual assertions by one with first hand knowledge of the defendants criminal and juvenile history and respectfully submits and reiterates that *each of the enumerated* criteria set forth in §170.56 of the Criminal Procedure Law have been satisfied entitling the defendant to an Adjournment in Contemplation of Dismissal pursuant to §170.56 of the Criminal Procedure Law. The People have *offered nothing* to refute those assertions and therefore this Court is left with nothing upon which to determine that the factual requisites to granting the Defendant's application, pursuant to §170.56, have not been satisfied. Therefore, as a matter of

law, this court is without authority or basis to deny the instant application. Whereas Mr. Getman has offered no material facts to refute the Defendant's assertions the court, as a matter of law, is obligated to grant Defendant's application even over the objection of the Prosecution[3]. People v. Mann, 83 Misc2d 442 (1975).

10: Whereas the prosecution has not addressed nor opposed the issues raised pursuant to CPL §710.30 the court must grant defendant's application. It is uncontradicted that the People have failed to provide Notice pursuant to §710.30 therefore the Defense is ***entitled to preclusion*** of any such statements attributed to the Defense from use within their case in chief, ***as a matter of law***. The Defense respectfully submits that under the law, this ***court is without authority*** to deny such application and likewise without authority to even conduct a Huntley Hearing.

WHEREFORE, it is respectfully requested that the relief as set froth in the Defendant's Notice of Motion be granted in its entirety together with such other and further relief as the Court deems equitable and proper.

Dated: Liberty, New York
August 4, 2013



MICHAEL F. McGUIRE, ESQ
[redacted]

[3] The Express language of §170.56 when compared to §170.55 provides that consent of the District Attorney is not an element of this court's consideration.

EXHIBIT 1

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6880

December 2, 2012

HON. CHATHERINE TISENCHEK
Chief Clerk, City of Oneonta Court
81 Main Street
Oneonta, New York 13820

Via Fax: 646-963-6433

People v. M[redacted]

Dear Ms. Tisenchek:

Reference my letter and submissions, previously submitted this date, please note in setting the next date for Appearance that I am scheduled to be out of the State between January 5 – 14. Finally I would respectfully request that you avoid Monday Appearances, if at all possible, as my responsibilities require that I be in Sullivan County on those days.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me. I would note that the address listed herein is no longer active and would request that you direct any correspondence to the address listed below.

Very truly yours,

MICHAEL F. McGUIRE, ESQ
[redacted]

Cc: Michael Getman, Esq *(Via Fax: 607-547-4373)*

STATE OF NEW YORK: COUNTY OF OTSEGO
CITY COURT : CITY OF ONEONTA

THE PEOPLE OF THE STATE OF NEW YORK

-against-

W[redacted] M[redacted]

Defendant.

NOTICE OF APPEARANCE

Please take Notice, that the undersigned appears as counsel for the defendant named herein and respectfully requests that all motions, notices and other papers be served upon him at the address listed below.

Dated: Liberty, N.Y.
December 2, 2012

Yours, etc,

MICHAEL F. McGUIRE, Esq

[redacted]

EXHIBIT 2

Mr MICHAEL MCGUIRE

From: Zachary Kelson [zacharykelson@[redacted]
Sent: Friday, November 30, 2012 2:11 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: FW: W[redacted] M[redacted] Case

---------- Forwarded message ----------
From: "michael getman" <oneontacityprosecutor@[redacted]>
Date: Nov 30, 2012 2:06 PM
Subject: FW: W[redacted] M[redacted] Case
To: "Zachary Kelson" <zacharykelson@[redacted]>

Here's what the officer sent me. I assume it is what he would testify to at a trial. the offer to your guy is still a discon.

From: michael getman [mailto:getmanlaw@[redacted]
Sent: Friday, November 30, 2012 1:32 PM
To: oneontacityprosecutor@[redacted]
Subject: FW: W[redacted] M[redacted] Case

From: Mark.Cardinali@[redacted]
To: getmanlaw@H[redacted]
Date: Wed, 28 Nov 2012 22:15:25 -0500
Subject: W[redacted] M[redacted] Case

Mr. Getman

While on Bike Patrol Officer Brunner and Dispatcher Skovira detected burning marihuana in the wooded area East of the MacDuff Hall Parking lot. Upon investigating the odor, M[redacted] was found with three other males (M[redacted] R[redacted], A[redacted] S[redacted], and J[redacted] E[redacted]) in the woods and a glass pipe resonated with marihuana was found on the ground next to them as Officer Brunner approached. All denied ownership of the pipe and were uncooperative with questioning. Since no owner could be determined all 4 males were arrested. After being advised they were under arrest, M[redacted] R[redacted] then stated the pipe belonged to him. All 4 admitted to smoking marihuana from the pipe and all 4 admitted to pitching in to buy the marihuana they had just smoked. When asked who they had bought the marihuana from, they were all uncooperative and would not provide a name.

I got permission from Lt. O'Donnell to send you a copy of the SJS report if you would like it. If you need anything else let me know.

Also was wondering if this was your alretnate e-mail address: (oneontacityprosecutor@[redacted]

I have never recieved a message from you on this one before, just wanted to double check before sending case info to it in the future.

Officer Mark Cardinali

New York State University Police

Oneonta State College

Oneonta, NY 13820

607-436-3550

8/4/2013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17 Q. When you-- how many times did you appear in court?
18 A. Once.
19 Q. And when you appeared in court, did you go on the record?
20 A. No.
21 Q. Was it a conference in chambers?
22 A. It was.
23 Q. With the judge?
24 A. With the judge and the ADA.
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex X-47a

Gmail

Zachary Kelson <zacharykelson[redacted]>

(no subject)

5 messages

Zachary Kelson <zacharykelson[redacted]> Wed, Nov 21, 2012 at 11:09 AM
To: judgemcguire[redacted]

The appellate division just affirmed your decision in the shapiro estate. Happy thanksgiving

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Wed, Nov 21, 2012 at 4:25 PM
To: Zachary Kelson <zacharykelson@[redacted]>

Thank you MG sent is to me earlier today, anythng with the guy in Oneonta. Have a great Thanksgiving give my best to the family

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 21, 2012 11:09 AM
To: judgemcguire@[redacted]
Subject:

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Thu, Nov 22, 2012 at 10:49 AM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Nothing from oneonta . I will try again on monday morning. Send your son to court as planned
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> Fri, Nov 23, 2012 at 9:54 AM
To: Zachary Kelson <zacharykelson[redacted]>

I will do that thank you.

We will be back in town of Sunday afternoon I will make sure he is in court on Tuesday.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]
Sent: Thursday, November 22, 2012 10:49 AM
To: Mr MICHAEL MCGUIRE

EXHIBIT
Comm
Ex XI-1
PENGAD 800-631-6989

Subject: Re:

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Fri, Nov 23, 2012 at 10:36 AM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]t>

Safe trip back

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

People v. W[redacted] M. M[redacted] - Violation of Section 221.05 of the NYS Penal Law

10 messages

Zachary Kelson <zacharykelson[redacted]> Tue, Nov 20, 2012 at 2:23 PM
To: oneontacityprosecuto[redacted]
Bcc: judgemcguire[redacted]

Hon. Michael Getman,
Chief Assistant District Attorney
City of Oneonta

Dear Mr. Getman:

You may recall that you and I spoke several months ago concerning this matter. You indicated that you were going to speak to the SUNY Police Officer concerning the circumstances resulting in this Defendant's arrest. As I indicated to you previously, the Defendant's father cross-examined his son up and down concerning the incident. Apparently, this Defendant had nothing to do with the use or possession of marijuana and was merely standing outside near the actual user. While clearly Mr. M[redacted] was at the wrong place at the wrong time, I ask for your consideration by dismissing this charge in the interests of justice, rather than offering an ACD.

Could you please let me know what you want to do by return e-mail?

Thank you,

Respectfully yours,
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> Wed, Nov 21, 2012 at 4:28 PM
To: Zachary Kelson <zacharykelson[redacted]>

Thank you let me know if you hear anything back.,. recall that they cannot mantain thse charges as there is no presumption of possession even in a car or a house much less in an open parking lot. They really have no case but lets see what they want to do.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, November 20, 2012 2:24 PM
To: oneontacityprosecuto[redacted]
Subject: People v. W[redacted] M. M[redacted] - Violation of Section 221.05 of the NYS Penal Law

[Quoted text hidden]

PENGAD 800-631-6989
EXHIBIT
COMM
Ex XI-2

---

michael getman <oneontacityprosecutor@[redacted]> Tue, Nov 27, 2012 at 1:41 PM
To: Zachary Kelson <zacharykelson[redacted]>

I haven't heard from the upd officer yet. I will reach out to him again. Do you know who it is?

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, November 20, 2012 2:24 PM
To: oneontacityprosecutor@[redacted]
Subject: People v. W[redacted] M. M[redacted] - Violation of Section 221.05 of the NYS Penal Law

Hon. Michael Getman,

[Quoted text hidden]

Zachary Kelson <zacharykelson@g[redacted]> Tue, Nov 27, 2012 at 1:49 PM
To: michael getman <oneontacityprosecutor@[redacted]>

I am attaching the appearance ticket. Although my vision is getting worse as I get older, it looks like the campus officer is Mark Cardinal, Shield #29. Hope this helps.

Your cooperation is solicited for which I thank you in advance.

—
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Appearance Ticket.pdf
24K

Zachary Kelson <zacharykelson[redacted]> Tue, Nov 27, 2012 at 1:51 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]t>

[Quoted text hidden]
--
[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Tue, Nov 27, 2012 at 1:51 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]t>

[Quoted text hidden]

Appearance Ticket.pdf
24K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> Tue, Nov 27, 2012 at 10:06 PM
To: Zachary Kelson <zacharykelson[redacted]>

Thanks Zach, Will got a bit of a chewing out today from the court and the AD denied that there had been any contact and they are looking for either an Appearance or a Notice of Appearance by next Wednesday morning. We need to get this ADA on board with something, if he wants an appearance I will be happy to go but I am not available next

Wednesday as I am picking a jury in a felony case. The University has already taken their pound of flesh from these kids, they had to take a class (not a big deal) and they have some sort of probation situation where they could loose dorms for next year, all on a BS case that the ADA must admit he cannot prove: 1) no lab will test the residue in a pipe, 2) the cop cannot say who possessed the pipe at any time, there is never a presumption of possession for any drug outdoors there is only a presumption in an automobile but not for marihuana. This ADA needs to not hang these kids out in court by denying that there has been any contact, makes us all look bad in front of the city court. I am pissed but acknowledge I am too close to the case to be rationale so I am staying calm.

Thank you for everything, let me know how you want to deal with this next week issue, we need to have one of us file a Notice of Appearance, I can do it and then put in a Affirmation of Actual Engagement.

Speak soon, I am up on the hill on trial all week.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, November 27, 2012 1:52 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: People v. W[redacted] M. M[redacted] - Violation of Section 221.05 of the NYS Penal Law

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Wed, Nov 28, 2012 at 6:42 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]t>

I will find you tommorrow and we will talk

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted] Wed, Nov 28, 2012 at 9:34 PM
To: Zachary Kelson <zacharykelson[redacted]>

Sum and Charge at 9:00 and then I will be free.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 28, 2012 6:43 AM
To: Mr MICHAEL MCGUIRE
Subject: RE: People v. W[redacted] M. M[redacted] - Violation of Section 221.05 of the NYS Penal Law

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Thu, Nov 29, 2012 at 6:42 AM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Ok. Think I have someone to cover the case

APPEARANCE TICKET*
SUNY ONEONTA PD

Issued To: W[redacted] M M[redacted] [redacted]

NAME OF DEFENDANT — DATE OF BIRTH

[redacted] [redacted] [redacted] [redacted]

STREET AND NUMBER — CITY OR TOWN — STATE — ZIP CODE

You are hereby directed to appear in the court described below on

10/03/2012 at 08:30 AM in connection with your alleged

commission of the offense of UNLAWFUL POSSESSION MARIHUANA contrary to the

provisions of section 221.05 of the PENAL law.

Name of court ONEONTA CITY COURT

Location of court 81 MAIN ST. ONEONTA NY 13820

*** NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).**

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:

Mark Cardish [illegible] 29

SIGNATURE OF MEMBER — SHIELD

CAMPUS

TZS / DIVISION/PRECINCT

09/20/2012

DATE ISSUED

607432
3530

Gmail

Zachary Kelson <zacharykelson@[redacted]>

RE: FW: W[redacted] M[redacted] Case

7 messages

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]t> Mon, Dec 3, 2012 at 3:53 AM
To: Zachary Kelson <zacharykelson[redacted]>

This guy is a nit wit and once he gets a lab report I will very much enjoy going at his cop...seems one guy admitting the pipe was his, after he had arrested all three...so were the Mirandized we will see, Will says no. They will need a lab report I will look forward to receiving that, I am also going to look forward to seeing how that make out the Dominion and Control element when the cop comes up and the pipe is on the ground, is it that they are going to argue that the each individually exercised Dominion and Control over the pipe when the held it to smoke, that will start us down a slippery slope of charing people with possession when they test positive for any drug. Moreover I submit going forward given the prevailing feelings in the country today a Discon is worse than a UPM.

I can't thank you enough for everything you have done and are donig, I have submitted Notice of Appearance and an Affirmation of Actual Engagement for the case, between my brother and I we will handle it. When I go up I will make the application for an ACD and see what they do, I have some caselaw which says that it is a ministerial act and really not discretionary but the langauge speak of the court "may" grant same on application even over the opposition of the DA. We went through this same debate about 10 years ago in this county, it is good to see that Otsego County is so free from cirme that the senior ADA can be bothered going to trial over a case like this one.

Speak soon.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]
Sent: Sunday, December 02, 2012 9:13 PM
To: michael getman
Subject: RE: FW: W[redacted] M[redacted] Case

The statute is clear and inequivocal. This is not the crime of the century and I see no reason to treat this as the lindberg kidnapping. If the defendant moves for the acd I trust all involved will follow the law. Thank you.

On Dec 2, 2012 8:58 PM, "michael getman" <oneontacityprosecutor[redacted]> wrote:
>
> I don't view it as being "required" and apparently neither does the judge. It's a discon or a trial.
>
>
>
> From: Zachary Kelson [mailto:zacharykelson[redacted]]
> Sent: Friday, November 30, 2012 2:55 PM
> To: michael getman
>
> Subject: RE: FW: W[redacted] M[redacted] Case
>
>
>
> Come on. its required by law. Can we talk today?
>
> On Nov 30, 2012 2:51 PM, "michael getman" <oneontacityprosecutor[redacted]> wrote:
>
> There has been some discussion recently among the local defense bar, the judge and me about cpl 170.56. as of this past tuesday, the judge stated her position that she would not be inclined to grant an acd on a upm charge. It sort of surprised me, coming from her. Sometimes I ask myself if I am from another planet when I am in front of her. More accurately, I suppose, I wonder what planet she is from. She is about as liberal and defense-oriented as any judge I have known.
>

EXHIBIT
Comm
Ex XI-3
PENGAD 800-631-6989

>
>
> From: Zachary Kelson [mailto:zacharykelsor[redacted]]
> Sent: Friday, November 30, 2012 2:11 PM
> To: michael getman
> Subject: Re: FW: W[redacted] M[redacted] Case
>
>
>
> Maybe I am from another planet but isnt mr mcguire entitled to an acd as it is his first offense. ? Please advise
>
> On Nov 30, 2012 2:06 PM, "michael getman" <oneontacityprosecutor@[redacted]> wrote:
>
> Here's what the officer sent me. I assume it is what he would testify to at a trial. the offer to your guy is still a discon.
>
>
>
> From: michael getman [mailto:getmanlaw[redacted]]
> Sent: Friday, November 30, 2012 1:32 PM
> To: oneontacityprosecutor@[redacted]
> Subject: FW: W[redacted] M[redacted] Case
>
>
>
>
>
>
> _____
>
> From: Mark.Cardinali@[redacted]
> To: getmanlaw[redacted]
> Date: Wed, 28 Nov 2012 22:15:25 -0500
> Subject: W[redacted] M[redacted] Case
>
> Mr. Getman
>
>
>
> While on Bike Patrol Officer Brunner and Dispatcher Skovira detected burning marihuana in the wooded area East of the MacDuff Hall Parking lot. Upon investigating the odor, M[redacted] was found with three other males (M[redacted] R[redacted], A[redacted] S[redacted], and J[redacted] E[redacted]) in the woods and a glass pipe resonated with marihuana was found on the ground next to them as Officer Brunner approached. All denied ownership of the pipe and were uncooperative with questioning. Since no owner could be determined all 4 males were arrested. After being advised they were under arrest, M[redacted] R[redacted] then stated the pipe belonged to him. All 4 admitted to smoking marihuana from the pipe and all 4 admitted to pitching in to buy the marihuana they had just smoked. When asked who they had bought the marihuana from, they were all uncooperative and would not provide a name.
>
> I got permission from Lt. O'Donnell to send you a copy of the SJS report if you would like it. If you need anything else let me know.
>
>
>
> Also was wondering if this was your alretnate e-mail address: (oneontacityprosecuto[redacted])
>
> I have never recieved a message from you on this one before, just wanted to double check before sending case info to it in the future.
>
>
>
> Officer Mark Cardinali
>
> New York State University Police
>
> Oneonta State College
>

> Oneonta, NY 13820
>
> 607-436-3550

Zachary Kelson <zacharykelsor[redacted]> Mon, Dec 3, 2012 at 10:46 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Thanks for your kind words. I just feel as if I failed you because I couldnt get the case resolved without involving you or your brother. If the administrative judges wife calls me back I will try to find out whats going on in that court between the prosecutor and the judge.
[Quoted text hidden]
--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

---

michael getman <oneontacityprosecutor@[redacted]> Mon, Dec 3, 2012 at 12:49 PM
To: Zachary Kelson <zacharykelson@[redacted]>

I take offense to your email. I am treating this case the same way I treat similar cases.

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Mon, Dec 3, 2012 at 12:52 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]t>

Omg

--------- Forwarded message ---------
From: "michael getman" <oneontacityprosecuto[redacted]>
Date: Dec 3, 2012 12:49 PM
Subject: RE: FW: W[redacted] M[redacted] Case
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Mon, Dec 3, 2012 at 6:48 PM
To: Zachary Kelson <zacharykelson@[redacted]>

That sounds great, don't worry you did not fail me at all, we will handle it you are great and a wonderful friend.

Missed you at Brother Bruno's today.

Mike

From: Zachary Kelson [mailto:zacharykelsor[redacted]]
Sent: Monday, December 03, 2012 10:46 AM
To: Mr MICHAEL MCGUIRE
[Quoted text hidden]

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]t> Mon, Dec 3, 2012 at 6:49 PM
To: Zachary Kelson <zacharykelsor[redacted]>

This guy needs to get a life I must believe that they have very little crime in this county becuase to go this over the top on a dog UPM that they cannot prove is incredible.

Mike

From: Zachary Kelson [mailto:zacharykelsor[redacted]]
Sent: Monday, December 03, 2012 12:52 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: RE: FW: W[redacted] M[redacted] Case

[Quoted text hidden]

Zachary Kelson <zacharykelsor[redacted]> Mon, Dec 3, 2012 at 7:10 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Agreed

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

Oneonta

4 messages

Zachary Kelson <zacharykelson@[redacted]> Tue, Feb 26, 2013 at 5:42 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

So. How did it go?

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Wed, Feb 27, 2013 at 3:48 AM
To: Zachary Kelson <zacharykelson[redacted]>

They are rather incredible, but I need to make the motion for an ACD on papers which I will do along with several other prayers for relief including a Clayton Motion and a Motion for dismissal for lack of probable cause. They simply lead these kids to slaughter and the other 2 kids involved have already plead to a discon and paid a fine, they have no lab reports and the arrest was based upon the fact that none of the three would say who owned the pipe so we have no probable cause because we have no possession. It is amazing that they take this line on these cases, but for a city court it really is not very busy, it was about like a Town of Callicoon size calendar.

Thank you for everything, speak soon.

Mike

From: Zachary Kelson [mailto:zacharykelson@g[redacted]]
Sent: Tuesday, February 26, 2013 5:42 PM
To: Mr MICHAEL MCGUIRE
Subject: Oneonta

So. How did it go?

Zachary Kelson <zacharykelson[redacted]> Wed, Feb 27, 2013 at 9:23 AM
To: Michael McGuire <judgemcguire[redacted]>

Go get em.

[Quoted text hidden]

EXHIBIT
COMM
Ex XI-4
PENGAD 800-631-6989

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Feb 28, 2013 at 3:56 AM
To: Zachary Kelson <zacharykelson[redacted]>

Thank you it is good to keep skills sharp. Speak soon, been very busy between work and C[redacted] but we are coming along.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, February 27, 2013 9:24 AM
To: Michael McGuire
Subject: RE: Oneonta

[Quoted text hidden]

RICHMONDVILLE TOWN COURT
104 MUNICIPAL LANE- Off Podpadic Road- Physical Address
P.O. Box 7 - Mailing Address
Richmondville, NY 12149
Phone: 518-294-8851
Fax: 518-294-3221
Hon. Herbert Needleman
E-mail: richmondvilletowncourt@[redacted]

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL CONDUCT

FROM: RICHMONDVILLE TOWN COURT

DATE: JANUARY 11, 2019

SUBJECT: Tina P. McTighe

This is to certify that this is a true copy of the original papers filed in this office.

Arlene B Needleman
Court Clerk

EXHIBIT
Comm
Ex XI-5
PENGAD 800-631-6989

CERTIFICATE OF DISPOSITION

STATE OF NEW YORK
SCHOHARIE COUNTY

RICHMONDVILLE TOWN COURT
CRIMINAL PART

PEOPLE OF THE STATE OF NEW YORK

VS.

TINA P. MCTIGHE; Defendant

CASE NO: 12070045

Date of Birth: [redacted]
Date of Arrest: 07/07/2012
Adjudication Date: 11/07/2012
Disposition Date: 12/04/2012

Section Charged	Section Disposed	Ticket No & Description	Disposition	Fine	Civil-Fee	Surchg
VTL 1180 0D	VTL 1201 0A	3G4602XPSP STOP/PARK VIOL	Fine	150.00	0.00	0.00

Upon a proper request for an official statement of disposition, I certify that the above named defendant having appeared before this court was charged as shown above. Each of the charges was disposed of as indicated.

Dated: The 11th day of January 2019

Hon. Herbert Needleman

NOTE: A copy of the request will be filed with this certificate in the case records.

CAUTION: This information must not be divulged if the case is sealed or where the defendant has been adjudicated a youthful offender.

Copies: ___ Court, ___ Defendant, ___ Agency, ___ DA

Richmondville Town Court
Case History Report
Judge Herbert Needleman

Case Number: 12070045
Printed: 01/09/2019 at: 04:00PM

Name: TINA P. MCTIGHE
% JOHN J LINDSEY ESQ.
PO BOX 1523
GUILDERLAND, NY 12084

DOB: [redacted]
Sex: F
Motorist ID: 292-602-235

Crime: 07/07/2012 **Arrest:** 07/07/2012 **Arraign:** 11/07/2012
Adjudicate: 11/07/2012 **Sentence:** 11/07/2012 **Dispose:** 12/04/2012

Reference/ Ticket No.	Stat/Sec	Charge Text	Disposition	Fine	CivilFee	Schg
	VTL	*Reduced from: VTL 1180 0D Speeding 87/65*				
3G4602XPSP	1201 0A	STOP/PARK VIOL	Fine	150.00	0.00	0.00

Prosecuter: **Attorney:**

Police Officer: Timothy Preston
Agency: SPC

Scheduled Appearances:

12/04/12 Disposed
11/07/12 Pay mail-in fine
11/07/12 V&T Trial
10/03/12 V&T Trial
08/07/12 1st Appearance V&T

Financial Transactions:

Bank Dt	Report Dt	Reason	Bail	Fine	Civ-Fee	Schg	Other	Rect/Ck#	Jdg
12/04/12	12/04/12	Fine Payment	0.00	150.00	0.00	0.00	0.00	32365	hn

Letters Sent:

08/22/2012 Pre-Trial Conference Letter (051)
08/22/2012 Plea Reduction Form (055)
10/16/2012 Adjournment Confirmation (007)
10/16/2012 Adjournment Confirmation (007)
11/07/2012 Fine Notice (008)

Notes:

Copy

3G4602XPSP

New York State - Department of Motor Vehicles
SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

NEW YORK STATE POLICE

The people of the State of New York
VS.

Local Police Code	Date of Arraignment
14701	11/07/2012

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
MCTIGHE	TINA	P		12070045.01

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
[redacted]	[redacted]	[redacted]	☒	D

Client ID Number	Sex	Date Expires
[redacted]	F	01/30/2013

Lic State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]	1	2008	CHEV	GY

Plate Number	Reg State	Registration Expires
FFL9141	NY	12/15/2012

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
06:17PM	07/07/2012	VTL

Violation Section: 1180 0D

Traffic Infraction ☒ Misd ○ Felony ○

Description of Violation: SPEED IN ZONE

MPH: 87 | MPH ZONE: 65

US DOT#:

Comm Veh ○ Bus ○ HazMat ○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF RICHMONDVILLE	SCHOHARIE	88	4860

Street Name	Hwy Type	NCIC/ORI
INTERSTATE 88	1	14701

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
07/07/2012	2 - Radar	2264	G341

Officer's Last Name: Preston

First Name: T | M.I.:

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

RICHMONDVILLE TOWN COURT

Address: 340 EAST MAIN ST.

City	State	Zip
RICHMONDVILLE	NY	12149

	Date	Time
☒ Return by mail before or in person on:		
○ Must appear in person on:	08/07/12	04:00PM

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY047211J	43239		

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other | Disposition/Sentence | Fine $ | Surcharge $

Bail Forfeiture Date
Amount $

○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm
DAYS/MONTHS/YEAR

DWI Test Type | DWI Test Results

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court | Date

Name of Judge

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒ Non - Speeding(Gen101a) ○

SUPPORTING DEPOSITION / CPL 710.30 NOTICE TO SUPPORT SIMPLIFIED TRAFFIC INFORMATION LOCAL CRIMINAL COURT

COUNTY OF **SCHOHARIE**

STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
VS
TINA P. MCTIGHE

UTT NUMBER **3G4602XPSP**

Officer **T Preston** of the **New York State Police**

a Police Officer and the Complainant alleges that the Defendant committed a violation of

1. (Law/Section/Subsection) **VTL1180 0D 0I0**
2. Description of Violation **SPEED IN ZONE**
3. Date **07/07/2012** Time **06:17:00 P** C/T/V of**TOWN OF RICHMONDVILLE**
4. Vehicle Year **2008** Make **CHEV** Color **GY** License Plate No. **FFL9141** State **NY**
5. General Direction of Travel by Defendant **EAST**
6. Highway (Type/Name) **1 / INTERSTATE 88**
7. Defendant's Speed **87 MPH** in a **65 MPH** Zone
8. Charge based on Officer's **Direct observation**
9. Speed Verified by **RADAR** Model **STALKER DUAL**
10. Additional Information

    87 DRIVING LANE MM83

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT PURSUANT TO SECTION 710.30(1)(A) OF THE CRIMINAL PROCEDURE LAW, THE PEOPLE INTEND TO OFFER AT A TRIAL OF THE ABOVE ENTITLED ACTION EVIDENCE OF A STATEMENT MADE BY YOU ON 07/07/2012 AT 06:17:00 P AT INTERSTATE 88, To Officer Name T Preston a public servant

IN WHICH YOU SUBSTANTIALLY STATED AS FOLLOWS:

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK

Affirmed Under Penalty of Perjury
07/07/2012

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

Zachary Kelson <zacharykelson@[redacted]> Thu, Oct 11, 2012 at 9:06 AM
To: Corinne McGuire <cmcguiresk[redacted]>
Cc: judgemcguire@[redacted]

PLEASE have Tina sign this and get it to my office ASAP.

Thanks.
Zach

---------- Forwarded message ----------
From: **John Lindsey** <johnjlindsey@[redacted]>
Date: Wed, Oct 10, 2012 at 6:59 PM
Subject: Re: T/ Richmondville
To: zacharykelson@[redacted]

[Quoted text hidden]
[Quoted text hidden]

waiver.pdf
96K

EXHIBIT
Comm
Ex XI-6
PENGAD 800-631-6989

Richmondville Town Court
County of Schoharie
State of New York

The People of the State of New York		Waiver of Right to be Present During Pre-Trial and Trial Proceedings and Attorney Authorization
V.		
Tina McTighe Defendant		

Tina McTighe, being duly sworn, deposes and says:

1. I am the defendant in the above matter currently pending before the above Court.
2. I understand that this case will appear on the calendar of the Court for trial or any other purpose or date set by the Court.
3. I further understand that I have a right to be present at all proceedings pertaining to case.
4. I specifically waive my right to be present at on date it may be called by the Court.
5. Further, I specifically authorize my attorney, John J. Lindsey, and his associates and of-counsel, to make statements and/or agreements on my behalf, and to settle the matter if the attorney deems that to be an appropriate action.
6. Further, I authorize my attorney to represent me at trial when I am present or absent from Court and execute documents on my behalf.
7. I understand that I will be bound by any actions taken by John J. Lindsey, and his associates and of-counsel, on my behalf, and that I will be required to pay any fines and adhere to any other sentencing requirements that may be set by the Court.
8. I further authorize John J. Lindsey and his associates and of-counsel, to access and view my NY driving record for the limited purpose of defending the above action.

By: _____ Dated: _____
Tina McTighe

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Sat, Oct 13, 2012 at 4:42 AM
To: zacharykelson[redacted]

Not a problem

From: zacharykelson@[redacted] [mailto:zacharykelson[redacted]]
Sent: Friday, October 12, 2012 7:32 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: T/ Richmondville

Ok. Iwill run her license

Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>

Date: Fri, 12 Oct 2012 03:44:37 -0400

To: 'Zachary Kelson'<zacharykelson[redacted]>

Subject: RE: T/ Richmondville

Thank you I will get that done for you within the next couple days.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Thursday, October 11, 2012 9:07 AM
To: Corinne McGuire
Cc: judgemcguire@[redacted]
Subject: Fwd: T/ Richmondville

PLEASE have Tina sign this and get it to my office ASAP.

Thanks.

Zach

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-7

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

zacharykelson@[redacted] <zacharykelson[redacted]> Sat, Oct 13, 2012 at 5:27 AM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Good morning. She has 2 points on her license already. Your wife dropped off the waiver yesterday
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]>
Date: Sat, 13 Oct 2012 04:42:50 -0400
To: <zacharykelson[redacted]>
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Sat, Oct 13, 2012 at 5:31 AM
To: zacharykelson[redacted]

Great are we going to be able to get a 1201-a out of this one.

Glad to see you are up bright and early.

Mike

From: zacharykelson[redacted] [mailto:zacharykelson[redacted]]
Sent: Saturday, October 13, 2012 5:27 AM

[Quoted text hidden]

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

zacharykelson@[redacted] <zacharykelson[redacted]> Wed, Nov 7, 2012 at 6:09 PM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Not bad. Can you have inky print out the fine notice and have tina take care of paying the fine?
[Quoted text hidden]

Fine Notice - Parking.pdf
484K

EXHIBIT
Comm
Ex XI-8
PENGAD 800-631-6989

Richmondville Town Court

PO Box 7,
Richmondville, NY 12149

Herbert Needleman
Town Justice

Phone: (518)294-8851
Fax: (518)294-3221

November 7, 2012

Tina P. Mctighe
% John J Lindsey Esq.
[redacted]

Case Number: 12070045
Viol. Date: 07/07/2012

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
3G4602XPSP	VTL 1201 0A	STOP/PARK VIOL	Fine	150.00	0.00

Total Due: $ 150.00

Payment Due Date: 12/07/2012

**** (NO PERSONAL CHECKS OR PARTIAL PAYMENTS ACCEPTED) ****

EXACT AMOUNT ONLY OR PAYMENT WILL BE RETURNED

This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

NO PERSONAL CHECKS. * MONEY ORDERS, CERTIFIED CHECKS, CHARGE CARDS ONLY! CANADIANS MUST PAY IN US FUNDS! PLEASE RETURN THIS NOTICE WITH YOUR PAYMENT (EXACT AMOUNT ONLY) ALONG WITH A SELF ADDRESSED STAMPED ENVELOPE.

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license. SUSPENDED LICENSES WILL BE SUBJECT TO A $70.00 SUSPENSION TERMINATION FEE.

******PLEASE MAKE CERTIFIED CHECKS AND MONEY ORDERS PAYABLE TO RICHMONDVILLE TOWN COURT.**

*** IF YOU WISH TO USE YOUR CREDIT CARD, PLEASE FILL IN ALL THE INFORMATION ASKED FOR BELOW. (including expiration date and the 3 digit character code). ***

CREDIT CARD: VISA____ MASTERCARD____ EXPIRATION DATE:_____ 3 CHARACTER CODE: _____

CARD HOLDER:_____ CARD NUMBER:_____
(Print Name As It Appears On Card)

I hereby accept the fine amount (s) imposed by the Court and authorized payment thereof on the above-noted credit card. NOTE: Should a bank reject your transaction a suspension will be issued without further notice.

_____
(Signature As It Appears On Card)

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Nov 8, 2012 at 3:43 AM
To: zacharykelson[redacted]

Absolutely , I will take care of that thank you.

Mike

From: zacharykelson@[redacted] [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 07, 2012 6:10 PM
To: Mr MICHAEL MCGUIRE
Subject: Fw: T/ Richmondville

[Quoted text hidden]

State of New York
Chambers of the Town Court
Town of Liberty Government Center

HAROLD J. BAUMAN
JUDGE

KIRK O. ORSECK
JUDGE

120 NORTH MAIN STREET
LIBERTY, NEW YORK 12754

TEL: (845) 292-6980
FAX: (845) 292-2562

DENISE CURRY
Clerk of the Court

LILLIAN RUBIO
Deputy Clerk of the Court

DAWN BILANCIONE
Court Clerk

NANCY SAUCIER
Court Clerk

CERTIFICATION

TO: **NYS COMMISSION ON JUDICIAL CONDUCT**

FROM: **LIBERTY TOWN COURT, SULLIVAN COUNTY, NY**

DATE: **January 4, 2019**

SUBJECT: **County of Sullivan dba Sullivan County Adult Care Center v. Estate of Lydia Fernandez Index No. 330/331**

This is to certify that this is a true copy of the original papers filed in this office.

HON. HAROLD J. BAUMAN
TOWN JUSTICE

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-9

JUSTICE COURT TOWN OF LIBERTY
COUNTY OF SULLIVAN : STATE OF NEW YORK

MLZ FILE #1883771

INDEX # 330/331

COUNTY OF SULLIVAN DBA SULLIVAN
COUNTY ADULT CARE CENTER

Plaintiff,

-against-

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ

Defendants.

SUMMONS
Plaintiff's Address:
PO BOX 671 LIBERTY , NY
Defendant's Address:

[redacted]

The basis of venue is: PLAINTIFF OR DEFENDANTS RESIDE OR DO BUSINESS IN THE TOWN

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED

and required to appear and answer the complaint in the JUSTICE COURT TOWN OF LIBERTY , SULLIVAN County, New York, at 120 N MAIN ST LIBERTY, NY , on: March 22, 2012 , THURSDAY 11:00 AM

Upon your failure to answer, judgment will be taken against you for the relief demanded in the complaint, together with the costs of this action.

DATED: 11-11-11

M.L. ZAGER, P.C. *Attorneys for Plaintiff*
543 Broadway, P.O. Box 948, Monticello, New York 12701, (845) 794-3660

Joseph Loughlin, Esq.
Robert Hunter, Esq.
Law Offices of M.L. Zager P.C.
543 Broadway/P.O. Box 948
Monticello, NY 12701
(845) 794-3660

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

4/19/12 - Consent Decree
Stip of settlement entered.

JUSTICE COURT TOWN OF LIBERTY
COUNTY OF SULLIVAN : STATE OF NEW YORK

MLZ FILE #1883771

INDEX #

COUNTY OF SULLIVAN DBA SULLIVAN
COUNTY ADULT CARE CENTER

Plaintiff,

-against-

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ

Defendants.

VERIFIED COMPLAINT

Plaintiff, by its attorneys, complaining of the defendants, respectfully alleges:

1. Plaintiff is a DOMESTIC NOT FOR PROFIT CORPORATION .

2. That the defendants reside in the county in which this action is brought; or that the defendants transacted business within the county in which this action is brought in person or through his agent and that the instant cause of action arose out of said transaction.

3. Defendant, Lydia Fernandez (hereinafter "Resident"), entered Plaintiff's facility for rehabilitation and healthcare services on or about May 16, 2008.

4. Plaintiff, at the express or implied request of defendants, rendered necessary nursing home health care and related services and/or supplies.

5. Plaintiff duly rendered the services and/or supplies.

6. The reasonable value of the services and/or supplies that remain unpaid is $1,528.00, together with reasonable attorney's fees.

7. No part of the balance set forth above has been paid, although duly demanded.

FOR A SECOND CAUSE OF ACTION

8. Plaintiff repeats and re-alleges paragraphs numbered (1-7) as though fully set forth.

9. Upon admission, Resident and Defendant, Jerry Fernandez (hereinafter "Responsible Party"), duly entered into an Admission Agreement with Plaintiff, in which Responsible Party agreed to be responsible for handling financial transactions to plaintiff on his and the Resident's behalf.

10. Pursuant to the Admission Agreement, Resident agreed to meet all financial obligations arising out of the Admission Agreement. The Responsible Party agreed to make all reasonable effort to assist the Resident to meet such obligations.

11. Pursuant to the Admission Agreement, the Responsible Party, agreed to remit to the Plaintiff immediately upon receipt of the income (i.e. Social Security, etc.) or otherwise, the Net Available Monthly Income.

12. Pursuant to the Admission Agreement, defendant agreed that the Responsible Party shall be responsible for and agree to monitor the resources of the Resident to assure uninterrupted payment to the facility and timely application to Medicaid or other payor sources.

13. Pursuant to the Admission Agreement, if necessary to meet the Resident's payment obligations to Plaintiff, the Responsible Party personally agreed to pay any deductibles, coinsurance or co-pays and the daily basic rate from the Resident's funds to which he has access or control.

14. Defendant and Responsible Party, Jerry Fernandez, failed in his position as the duly authorized "Responsible Party" in that he failed to ensure that monthly income payments made on behalf of the Resident were paid to the account of Resident maintained with Plaintiff.

15. Defendant and Responsible Party, Jerry Fernandez, breached the Admission Agreement with Plaintiff and the amount of $1,528.00 remains unpaid and due as a result, together with reasonable attorney's fees.

FOR A THIRD CAUSE OF ACTION

16. Plaintiff rendered and delivered to defendants monthly statements of account, which statements were received by defendants without objection.

WHEREFORE, Plaintiff demands Judgment against Defendants in the sum of $1,528.00 with interest from 07-01-10 together with reasonable attorney's fees, costs and disbursements.

M.L. ZAGER, P.C. *Attorneys for Plaintiff*
543 Broadway, P.O. Box 948, Monticello, New York 12701, (845) 794-3660

STATE OF NEW YORK, COUNTY OF

The undersigned, being duly sworn, deposes and says: I am the administrator of plaintiff ; I have read the foregoing complaint, and the same is true to my knowledge, except those matters alleged upon information and belief, and as to those matters, I believe it to be true; the grounds of my belief as to all matters stated upon my knowledge are the plaintiff's records maintained in the regular course of business, it being within plaintiff's regular course of business to maintain such records.

DATED: 11-11-11

JAMES GALLIGAN

Sworn to before me 12 / 09 / 11

NOTARY

JOANNE GIRARDI
Notary Public, State of New York
Sullivan County Clerk's #2331
Commission Expires August 8, 2014

Joseph Loughlin, Esq.
Robert Hunter, Esq.
Law Offices of M.L. Zager P.C.
543 Broadway/P.O. Box 948
Monticello, NY 12701
(845) 794-3660

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

JUSTICE COURT OF THE STATE OF NEW YORK:
COUNTY OF SULLIVAN:TOWN OF LIBERTY
COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER,
Plaintiff(s),

MLZ FILE #: 1883771
INDEX #:

-against-

AFFIDAVIT OF SERVICE OF SUMMONS and VERIFIED COMPLAINT

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ,
Defendant(s).

STATE OF NEW YORK, COUNTY OF SULLIVAN: SS: The undersigned, being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at
[redacted]

That on February 29, 2012 at 11:50AM at [redacted]
deponent served he within SUMMONS and VERIFIED COMPLAINT on JERRY FERNANDEZ defendant therein named.

INDIVIDUAL by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as defendant therein.

SUITABLE AGE PERSON by delivering thereat a true copy of each to _____ a person of suitable age and discretion. Said premises is respondent's – *actual place of business – dwelling place – usual place of abode* – within the State.

AFFIXING TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is the defendant's ~~*actual place of business*~~ – *dwelling place – usual place of abode* – within the State. Deponent was unable, with due diligence to find the defendant or a person of suitable age and discretion thereat, having called there:
On 2/24/12 @ 8:30pm, On 2/25/12 @ 8:30am and 4pm and On 2/29/12 @ 11:50am

MAILING TO RESIDENCE ~~**BUSINESS**~~ deponent also enclosed a copy of same in a postpaid envelope, properly addressed to the defendant at defendant's – *last known address* – ~~*actual place of business*~~ – at [redacted] and PO Box 29, Ferndale, NY 12734 and deposited said envelope in a Post Office under the care and custody of the United States Postal Service within New York State. The envelope bore the legend *"Personal and Confidential"* and gave no indication that the communication was from an attorney or concerned a legal action.

APPROXIMATE DESCRIPTION Sex _____ Color _____ Hair _____ Height _____ Weight _____ Age _____
Other _____

MILITARY SERVICE I asked the person spoken to _____ whether the defendant was in active military service of the United States in any capacity whatever. Person responded in the negative. The source of my information and the grounds of my belief is the conversation narrated. Upon information and belief I aver that the defendant is not in the military service of the United States as that term is defined in Federal Statutes.

Michael E Brennan
MICHAEL E BRENNAN

Sworn to before me on 9th day of March, 2012

Lori A Karadonte
NOTARY

LORI A. KARADONTES
Notary Public, State of New York
Sullivan County
Commission Expires Feb. 28, 2014

Joseph Loughlin, Esq.
Robert Hunter, Esq.
Jacob Billig, Esq.
Law Offices of M.L. Zager, P.C.
543 Broadway/P.O. Box 948
Monticello, NY 12701
(845) 794-3660

JUSTICE COURT OF THE STATE OF NEW YORK:
COUNTY OF SULLIVAN:TOWN OF LIBERTY
COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER,
Plaintiff(s),

MLZ FILE #: 1883771
INDEX #:

-against-

AFFIDAVIT OF SERVICE OF SUMMONS and VERIFIED COMPLAINT

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ,
Defendant(s).

STATE OF NEW YORK, COUNTY OF SULLIVAN: SS: The undersigned, being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at
[redacted]

That on February 29, 2012 at 11:50AM at [redacted]
deponent served he within SUMMONS and VERIFIED COMPLAINT on JERRY FERNANDEZ defendant therein named.

INDIVIDUAL by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as defendant therein.

SUITABLE AGE PERSON by delivering thereat a true copy of each to _____ a person of suitable age and discretion. Said premises is respondent's – *actual place of business – dwelling place – usual place of abode* – within the State.

AFFIXING TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is the defendant's ~~*actual place of business*~~ – *dwelling place – usual place of abode* – within the State. Deponent was unable, with due diligence to find the defendant or a person of suitable age and discretion thereat, having called there:
On 2/24/12 @ 8:30pm, On 2/25/12 @ 8:30am and 4pm and On 2/29/12 @ 11:50am

MAILING TO RESIDENCE ~~BUSINESS~~ deponent also enclosed a copy of same in a postpaid envelope, properly addressed to the defendant at defendant's – *last known address* – ~~*actual place of business*~~ – at [redacted] and PO Box 29, Ferndale, NY 12734 and deposited said envelope in a Post Office under the care and custody of the United States Postal Service within New York State. The envelope bore the legend *"Personal and Confidential"* and gave no indication that the communication was from an attorney or concerned a legal action.

APPROXIMATE DESCRIPTION Sex _____ Color _____ Hair _____ Height _____ Weight _____ Age _____
Other _____

MILITARY SERVICE I asked the person spoken to _____ whether the defendant was in active military service of the United States in any capacity whatever. Person responded in the negative. The source of my information and the grounds of my belief is the conversation narrated. Upon information and belief I aver that the defendant is not in the military service of the United States as that term is defined in Federal Statutes.

Michael E Brennan
MICHAEL E BRENNAN

Sworn to before me on 9th **day of** March, **2012**

Lori A Karadontes
NOTARY

LORI A. KARADONTES
Notary Public, State of New York
Sullivan County Clerk's #2291
Comission Expires Feb. 26, 2014

Joseph Loughlin, Esq.
Robert Hunter, Esq.
Jacob Billig, Esq.
Law Offices of M.L. Zager, P.C.
543 Broadway/P.O. Box 948
Monticello, NY 12701
(845) 794-3660

TOWN JUSTICE COURT : TOWN OF LIBERTY
COUNTY OF SULLIVAN : STATE OF NEW YORK
----------X
COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER,

Plaintiff,

-against-

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ,

Defendant.
----------X

STIPULATION OF SETTLEMENT

WHEREAS, an proceeding was commenced by the Plaintiff, County of Sullivan d/b/a Sullivan County Adult Care Center against the above-named Defendants in the Town of Liberty Justice Court on or about March 22, 2012; and

WHEREAS, the Defendant, Jerry Fernandez has appeared by his attorney, Zachary D. Kelson, Esq., and entered a general denial to all of the material allegations contained in Plaintiff's Complaint; and

WHEREAS, the parties are desirous of resolving this action,

NOW, THEREFORE in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration, payment of which is hereby waived, it is hereby stipulated and agreed by and between the respective parties and their attorneys, that the above-mentioned proceeding be and the same hereby is settled upon the following terms and conditions:

1. There have been no formal estate proceedings commenced for Lydia Fernandez, no has any estate representative been appointed.

2. The above-entitled action be and the same hereby is settled for the total sum of One Thousand Five Hundred Twenty Eight and 00/100 ($1,528.00) Dollars together with the actual cost of service of the Summons and Complaint in the sum of Forty and 00/100 ($40.00) Dollars and the filing fee of the Town of Liberty Justice Court in the sum of Twenty and 00/100 ($20.00) Dollars for a total amount due of One Thousand Five Hundred Eighty Eight and 00/100 ($1,588.00) Dollars, which shall be paid without interest and/or other costs or disbursements as set forth below.

3. The Defendant, Jerry Fernandez, shall pay the sum of Fifty and 00/100 ($50.00) Dollars each month, commencing on the 15th day of May, 2012, and a like sum of Fifty and 00/100 ($50.00) Dollars shall be paid on the 15th day of each month thereafter until the total amount due in the sum of One Thousand Five Hundred Eighty Eight and 00/100 ($1,588.00) Dollars is paid in full.

4. All payments shall be made payable to the County of Sullivan and shall be delivered to the Plaintiff's attorney, M.L. Zager, P.C., 543 Broadway, PO Box 948, Monticello, New York 12701.

5. In the event the Defendant, Jerry Fernandez, fails to make any payment set forth hereinabove, the Plaintiff's attorney shall forward to the Defendant's attorney by fax and regular mail, written notice of Defendant's default, which notice shall be deemed complete upon receipt of a fax confirmation by the Plaintiff's attorney. The Defendant shall have five (5) business days thereafter to cure any default.

6. In the event the Defendant fails to cure such default, then and in that event, the Plaintiff shall be entitled to enter judgment for the full amount sought in Plaintiff's

Complaint in the sum of One Thousand Five Hundred Twenty Eight and 00/100 ($1,528.00) Dollars less any payments made on account by or on behalf of the Defendant, plus accrued interest, costs and disbursements as provided for by law. The Plaintiff shall be entitled to execute upon said judgment as provided for by law without further notice.

7. All notices under this agreement shall be forwarded as follows:

Attorney for the Plaintiff
M.L. Zager, P.C.
PO Box 948
Monticello, New York 12701
Fax: (845) 794-3919

Attorney for the Defendant
Zachary D. Kelson, Esq.
PO Box 1210
Monticello, New York 12701
Fax: (845) 794-1422

8. This Stipulation of Settlement may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Stipulation as of the date hereinbelow set forth.

Dated: Monticello, New York
April 19, 2012

M.L. ZAGER, P.C., Attorneys for Plaintiff

By: _____
ROBERT HUNTER, ESQ.

_____
ZACHARY D. KELSON, ESQ.
Attorney for Defendant

COUNTY OF SULLIVAN, Plaintiff

By: _____

_____
JERRY FERNANDEZ, Defendant

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Jerry Fernandez

3 messages

Zachary Kelson <zacharykelson@[redacted]> Thu, Apr 19, 2012 at 4:44 PM
To: judgemcguire[redacted]t

FYI

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
162K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Apr 19, 2012 at 7:35 PM
To: Zachary Kelson <zacharykelson[redacted]>

Thank You very much, I cannot tell you how much I appreciate your friendship, our lunch breaks are great therapy for me:

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Thursday, April 19, 2012 4:44 PM
To: judgemcguire[redacted]t
Subject: Jerry Fernandez

[Quoted text hidden]

---

zacharykelson@[redacted] <zacharykelson[redacted]> Thu, Apr 19, 2012 at 8:19 PM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

My pleasure. Works for me too
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]
Date: Thu, 19 Apr 2012 19:35:15 -0400
To: 'Zachary Kelson'<zacharykelson[redacted]>
Subject: RE: Jerry Fernandez
[Quoted text hidden]

PENGAD 800-631-6989
EXHIBIT
comm
Ex XI-10

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

April 19, 2012

VIA E-MAIL AND REGULAR MAIL

Mr. Jerry Fernandez
PO Box 29
Ferndale, NY 12734

Re: County of Sullivan vs. Estate of Lydia Fernandez/Jerry Fernandez

Dear Jerry:

I appeared at the Town of Liberty Justice Court on your behalf today in connection with the above-entitled action. Robert Hunter, Esq., on behalf of the County of Sullivan, forwarded a Stipulation of Settlement to me which was unacceptable. I then prepared a revised Stipulation of Settlement which was signed by me and Mr. Hunter as attorneys for the respective parties and a copy of the same is enclosed for your ready reference.

Please note that you must commence making payments in the sum of $50.00 to M.L. Zager P.C., 543 Broadway, PO Box 948, Monticello, NY 12701 on May 15, 2012 and a like sum of $50.00 must be paid on or before the 15th day of each month thereafter until the total amount due in the sum of $1,588.00 is paid in full. Payment must be received by Zager's office on or before the 15th of each month. I believe payment can also be made online at www.mzager.com by credit or debit card. You should utilize their file number: **MLZ File #1883771** when making any payment.

You should note that I have obtained a payment schedule without interest which, if paid on time, will take approximately two and a half years. If payment is not received before the 15th of each month, I will get notice from the Plaintiff's attorney. You will then have five business days to make payment or judgment will be entered against you for the full amount together with interest, costs and disbursements, less a credit for any payments you have made. Based upon the Stipulation of Settlement I have obtained, it is in your best interests to make every payment on time.

There is no charge for my services rendered.

Kindly acknowledge receipt of this letter and enclosures.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
Encls.

TOWN JUSTICE COURT : TOWN OF LIBERTY
COUNTY OF SULLIVAN : STATE OF NEW YORK

----------X

COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER,

Plaintiff,

-against-

ESTATE OF LYDIA FERNANDEZ
JERRY FERNANDEZ,

Defendant.

STIPULATION OF SETTLEMENT

----------X

WHEREAS, an proceeding was commenced by the Plaintiff, County of Sullivan d/b/a Sullivan County Adult Care Center against the above-named Defendants in the Town of Liberty Justice Court on or about March 22, 2012; and

WHEREAS, the Defendant, Jerry Fernandez has appeared by his attorney, Zachary D. Kelson, Esq., and entered a general denial to all of the material allegations contained in Plaintiff's Complaint; and

WHEREAS, the parties are desirous of resolving this action,

NOW, THEREFORE in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration, payment of which is hereby waived, it is hereby stipulated and agreed by and between the respective parties and their attorneys, that the above-mentioned proceeding be and the same hereby is settled upon the following terms and conditions:

1. There have been no formal estate proceedings commenced for Lydia Fernandez, no has any estate representative been appointed.

2. The above-entitled action be and the same hereby is settled for the total sum of One Thousand Five Hundred Twenty Eight and 00/100 ($1,528.00) Dollars together with the actual cost of service of the Summons and Complaint in the sum of Forty and 00/100 ($40.00) Dollars and the filing fee of the Town of Liberty Justice Court in the sum of Twenty and 00/100 ($20.00) Dollars for a total amount due of One Thousand Five Hundred Eighty Eight and 00/100 ($1,588.00) Dollars, which shall be paid without interest and/or other costs or disbursements as set forth below.

3. The Defendant, Jerry Fernandez, shall pay the sum of Fifty and 00/100 ($50.00) Dollars each month, commencing on the 15th day of May, 2012, and a like sum of Fifty and 00/100 ($50.00) Dollars shall be paid on the 15th day of each month thereafter until the total amount due in the sum of One Thousand Five Hundred Eighty Eight and 00/100 ($1,588.00) Dollars is paid in full.

4. All payments shall be made payable to the County of Sullivan and shall be delivered to the Plaintiff's attorney, M.L. Zager, P.C., 543 Broadway, PO Box 948, Monticello, New York 12701.

5. In the event the Defendant, Jerry Fernandez, fails to make any payment set forth hereinabove, the Plaintiff's attorney shall forward to the Defendant's attorney by fax and regular mail, written notice of Defendant's default, which notice shall be deemed complete upon receipt of a fax confirmation by the Plaintiff's attorney. The Defendant shall have five (5) business days thereafter to cure any default.

6. In the event the Defendant fails to cure such default, then and in that event, the Plaintiff shall be entitled to enter judgment for the full amount sought in Plaintiff's

Complaint in the sum of One Thousand Five Hundred Twenty Eight and 00/100 ($1,528.00) Dollars less any payments made on account by or on behalf of the Defendant, plus accrued interest, costs and disbursements as provided for by law. The Plaintiff shall be entitled to execute upon said judgment as provided for by law without further notice.

7. All notices under this agreement shall be forwarded as follows:

Attorney for the Plaintiff
M.L. Zager, P.C.
PO Box 948
Monticello, New York 12701
Fax: (845) 794-3919

Attorney for the Defendant
Zachary D. Kelson, Esq.
PO Box 1210
Monticello, New York 12701
Fax: (845) 794-1422

8. This Stipulation of Settlement may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Stipulation as of the date hereinbelow set forth.

Dated: Monticello, New York
April 19, 2012

M.L. ZAGER, P.C., Attorneys for Plaintiff

By: _____
ROBERT HUNTER, ESQ.

_____
ZACHARY D. KELSON, ESQ.
Attorney for Defendant

COUNTY OF SULLIVAN, Plaintiff

By: _____

_____

JERRY FERNANDEZ, Defendant

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Jerry Fernandez

12 messages

Zachary Kelson <zacharykelson@[redacted]> Tue, Jan 21, 2014 at 1:37 PM
To: Michael McGuire <judgemcguire[redacted]

Mike:

Kindly review the attached. Can you get in touch with Jerry and see what's going on? I mailed him the attached.

–
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
53K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> Wed, Jan 22, 2014 at 3:45 AM
To: Zachary Kelson <zacharykelsor[redacted]>

Yes I will get in contact with Jerry, I see him most every day, restaurant slow this time of the year and that is likely why he fell behind, let Zager know that he will get caught up over the next couple months, have them pull back, it is not like it is a huge amount of money.

Thanks for staying on top of that for me.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, January 21, 2014 1:37 PM
To: Michael McGuire
Subject: Jerry Fernandez

[Quoted text hidden]

PENGAD 800-631-6989
EXHIBIT
comm
Ex XT-11

Zachary Kelson <zacharykelsor[redacted]> Wed, Jan 22, 2014 at 11:38 AM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

I just spoke with account rep marie wallace at zagers office re jerry fernandez. He has not made a payment since august of 2013. He was supposed to pay $50 per month so including this coming february he owes $350. Zagers office will hold off for a week from today and call me before they do anything else. If you can reach out to Jerry and have him contact me it would be appreciated.

Thanks in advance
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Jan 23, 2014 at 3:40 AM
To: Zachary Kelson <zacharykelson[redacted]>

Not a problem you will have a check for the $350.00 within a week, Jerry is off on Wednesday, I stopped by his place yesterday but he was not in, I will see or speak with him today.

Thank you for everything.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, January 22, 2014 11:39 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Thu, Jan 23, 2014 at 12:01 PM
To: Michael McGuire <judgemcguire[redacted]>

Just got $400 from him . Thanks for the push
Zdk

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Thu, Jan 23, 2014 at 1:58 PM
To: Michael McGuire <judgemcguire[redacted]>

Kindly review the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez 003.pdf
38K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Fri, Jan 24, 2014 at 5:52 PM
To: Zachary Kelson <zacharykelson[redacted]>

My pleasure what was the response after today

From: Zachary Kelson [mailto:zacharykelson[redacted]
Sent: Thursday, January 23, 2014 12:01 PM
To: Michael McGuire
Subject: RE: Jerry Fernandez

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Fri, Jan 24, 2014 at 5:55 PM
To: Michael McGuire <judgemcguire[redacted]t>

The reference to dr king was amazing. Burt was right about you.

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> Fri, Jan 24, 2014 at 5:57 PM
To: Zachary Kelson <zacharykelson@[redacted]>

Thank you....I thought the silence was very telling. I have so much respect for Burt, I would never do anything to disappoint him, I want to continue to earn his respect every day.

Have a great weekend.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Friday, January 24, 2014 5:56 PM

[Quoted text hidden]

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Wed, Jul 2, 2014 at 2:26 PM
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

Re Jerry Fernandez adv County of Sullivan
Mike
In reviewing my file thought it wise to check with Zagers office on the status of this matter. It appears that Jerry owes a total balance of $188 to close out the file. If you could remind Jerry it would be appreciated. Seems to me it would make to sense to pay off the balance this summer when things might be going better.
Let me know if you hear from Jerry
Zach
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Jul 3, 2014 at 5:56 AM
To: Zachary Kelson <zacharykelson[redacted]>

Thank you I will see him today and get that taken care of today.

Have a great holiday weekend. Speak soon

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, July 02, 2014 2:26 PM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

Re Jerry Fernandez adv County of Sullivan

B Mike

In reviewing my file B thought it wise to check with Zagers office on the status of this matter. It appears that Jerry owes a total balance of $188 to close out the file. If you could remind Jerry it would be appreciated. Seems to me it would make to sense to pay off the balance this summer when things might be going better.

Let me know if you hear from Jerry

Zach

On Thu, Jan 23, 2014 at 3:40 AM, Mr MICHAEL MCGUIRE <judgemcguire[redacted]> wrote:

Not a problem you will have a check for the $350.00 within a week, Jerry is off on Wednesday, I stopped by his place yesterday but he was not in, I will see or speak with him today.

B

Thank you for everything.

B

Mike

B

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, January 22, 2014 11:39 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

B

I just spoke with account rep marie wallace at zagers office re jerry fernandez. He has not made a payment since august of 2013. He was supposed to pay $50 per month so including this coming february he owes $350. Zagers office will hold off for a week from today and call me before they do anything else. If you can reach out to Jerry and have him contact me it would be appreciated.

Thanks in advance

B

On Wed, Jan 22, 2014 at 3:45 AM, Mr MICHAEL MCGUIRE <judgemcguire[redacted]t> wrote:

Yes I will get in contact with Jerry, I see him most every day, restaurant slow this time of the year and that is likely why he fell behind, let Zager know that he will get caught up over the next couple months, have them pull back, it is not like it is a huge amount of money.

Thanks for staying on top of that for me.

Mike

From: Zachary Kelson [mailto:zacharykelso[redacted]]
Sent: Tuesday, January 21, 2014 1:37 PM
To: Michael McGuire
Subject: Jerry Fernandez

Mike:

Kindly review the attached. Can you get in touch with Jerry and see what's going on? I mailed him the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

B

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street

PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson@[redacted]> Thu, Jul 3, 2014 at 6:53 AM
To: Michael McGuire <judgemcguire@[redacted]>

Same to you and the family

[Quoted text hidden]

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

January 21, 2014

Mr. Jerry Fernandez
PO Box 29
[redacted]

Re: County of Sullivan vs. Estate of Lydia Fernandez/Jerry Fernandez

Dear Jerry:

I received the attached Notice from M.L. Zager, P.C. indicating that you have not kept current in your payments to their office in connection with the above-entitled action. Please contact me following your receipt of this letter and enclosures to discuss what is going on. If you do not bring this matter current, a judgment will be entered against you, less any payments you have made on account.

I look forward to hearing from you.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
Encls.

THE LAW OFFICES OF

M.L. ZAGER, P.C.

461 Broadway - P.O. Box 948
Monticello, New York 12701
(845) 794-3660; (845) 794-3919 (fax)

JACOB R. BILLIG
ROBERT B. HUNTER
JOSEPH LOUGHLIN
MICHAEL L. ZAGER,
Of Counsel

01-17-14

#BWNBFDF
ZACHARY KELSON, ESQ.
P.O. BOX 1210
MONTICELLO NY 12701

M.L. ZAGER, P.C. FILE#:	1883772
CLIENT:	COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER
CLIENT ACCOUNT #:	
RESPONSIBLE PARTY:	JERRY FERNANDEZ
SERVICES RENDERED TO:	JERRY FERNANDEZ
DATE OF SERVICE:	07-01-10
ACCT. REPRESENTATIVE:	MARIE WALLACE

TO MAKE A PAYMENT ONLINE GO TO: WWW. ZAGERPAY.COM

Your client is in default with respect to our prior agreement. Unless your client promptly cures their default in accordance with our prior agreement, we will proceed.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

Very truly yours,
M.L. Zager, P.C.
S/
by: Joseph Loughlin

DETACH HERE (FILL OUT BELOW)

M.L. ZAGER, P.C. FILE #1883772 AMOUNT TO CHARGE: $688.00
TO MAKE A PAYMENT ONLINE GO TO: WWW. ZAGERPAY.COM

_____MASTERCARD _____DISCOVER _____VISA _____CHECK/MONEY ORDER ____AMEX

ACCOUNT # _____ EXP. DATE _____

CARDHOLDER SIGNATURE (PRINT BELOW LINE)

SIGNATURE: _____
T1STIP

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

January 23, 2014

Law offices of M.L. Zager, P.C.
PO Box 948
Monticello, NY 12701

Attention: Marie Wallace, Account Representative

Re: County of Sullivan d/b/a Sullivan County Adult Care Center vs. Jerry Fernandez
Your file number: [redacted]

Dear Ms. Wallace:

In accordance with our conversation today, I enclose herewith my attorney's escrow check payable to your firm's order in the sum of $400.00 representing the $50.00 monthly payments due from September 2013 through and including April 2014. The next payment due for Mr. Fernandez will be in May 2014 in the sum of $50.00. This will further confirm that unless Mr. Fernandez has made additional monthly payments, the balance due after the enclosed payment will be $388.00.

Kindly acknowledge receipt of this letter and enclosures.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Mr. Jerry Fernandez

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Jerry Fernandez

3 messages

Zachary Kelson <zacharykelson[redacted]> Tue, Jul 29, 2014 at 1:45 PM
To: Michael McGuire <judgemcguire[redacted]t>

Sorry to bother you but I just got a call from Michael Zagers office indicating that Jerry didnt make his July payment. Could you please remind him gently that he needs to take care of this asap.
Thanks,
Zach

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]t> Wed, Jul 30, 2014 at 3:43 AM
To: Zachary Kelson <zacharykelson@[redacted]>

I will take care of it first thing this morning. Could you shoot me a text today with the name of the guy that you are using currently for home inspections. I have a friend who is being a home in Napanoch, he is an attorney from out of the area and called me yesterday to ask who we use up here, since I have obviously not done a real estate transaction in the past few years I just want to see who people are using now. Thanks.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, July 29, 2014 1:45 PM
To: Michael McGuire
Subject: Jerry Fernandez

Sorry to bother you but I just got a call from Michael Zagers office indicating that Jerry didnt make his July payment. Could you please remind him gently that he needs to take care of this asap.

B Thanks,

B Zach

--
ZACHARY D. KELSON
Attorney & Counsellor at Law

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-12

10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson@[redacted]> Wed, Jul 30, 2014 at 7:06 AM
To: Michael McGuire <judgemcguire[redacted]>

I recommend jim carnell (former thompson building inspector) his #s are [redacted] (mobile)or [redacted](office) he does a great job and I use him when I can.

Zach

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

Jerry Fernandez

Zachary Kelson <zacharykelson@[redacted]> Wed, Oct 1, 2014 at 4:45 PM
To: Michael McGuire <judgemcguire[redacted]>

Can you reach him?

---------- Forwarded message ----------
From: "Zachary Kelson" <zacharykelson[redacted]>
Date: Oct 1, 2014 4:17 PM
Subject: Jerry Fernandez
To: "Zachary Kelson" <zacharykelson[redacted]>
Cc:

Zager's office just called. Mr. Fernandez is behind; only owes $188.00 to pay in full.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-13

Gmail

Zachary Kelson <zacharykelson[redacted]

Jerry Fernandez

Mr MICHAEL MCGUIRE <judgemcguire[redacted] Thu, May 28, 2015 at 11:37 AM
To: Zachary Kelson <zacharykelson[redacted]>

Will be paid by Friday and be done, not a problem and thank you for following up.

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, October 01, 2014 4:46 PM
To: Michael McGuire
Subject: Fwd: Jerry Fernandez

Can you reach him?

--------- Forwarded message ---------
From: "Zachary Kelson" <zacharykelson[redacted]>
Date: Oct 1, 2014 4:17 PM
Subject: Jerry Fernandez
To: "Zachary Kelson" <zacharykelson[redacted]>
Cc:

Zager's office just called.B Mr. Fernandez is behind; only owes $188.00 to pay in full.B

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

PURSUANT TO CPLR 4518
CERTIFICATION OF RECORDS
MAINTAINED IN THE REGULAR COURSE OF BUSINESS

IN THE MATTER OF

EYE PHYSICIANS OF ORANGE COUNTY
V
GERARDO FERNANDEZ

DOCKET # 14100173

I, **KAJORNSAK RANGSITYOTHIN**,
(Name)

COURT CLERK,
(Title)

of the **TOWN OF GOSHEN COURT** having been duly designated and authorized, do hereby certify and authenticate, pursuant to subdivision c of Rule 4518 of the Civil Practice Law and Rules, that the copies annexed hereto are exact photocopies of the original record which I have in my possession, custody and control.

I further certify that the original record was made in the regular course of business of the above stated institution or agency, that it is its regular course of business to make such a record, and that such record was made at the time of each event recorded in it or within a reasonable time thereafter.

Dated: **JANUARY 03, 2019**

(Signature)

EXHIBIT
Comm
Ex XI-14
PENGAD 800-631-6989

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0038
TELEPHONE FACSIMILE
www.cjc.ny.gov

MARK LEVINE
DEPUTY ADMINISTRATOR

PAMELA TISHMAN
BRENDA CORREA
PRINCIPAL ATTORNEYS

KELVIN S. DAVIS
DANIEL W. DAVIS
STAFF ATTORNEYS

ALAN W. FRIEDBERG
MELISSA DIPALO
SPECIAL COUNSELS

CONFIDENTIAL

January 3, 2019

By Fax: 845-294-4456
Mr. Kaj Rangsityothin
Goshen Town Justice Court
41 Webster Ave
Goshen, NY 10924

Re: 2015/N-0331

Dear Mr. Rangsityothin:

As we discussed the Commission is requesting certified records for the court files in the following Goshen Town Justice Court case:

1. *Eye Physicians of Orange County v Gerardo Fernandez* (Case No. 14100173)

If you have any questions feel free to contact me at [redacted] or tishman@[redacted]. Thank you in advance for your cooperation in this matter.

Very truly yours,

Pamela Tishman

Pamela Tishman
Principal Attorney

RECEIVED
JAN - 7 2019
NYS COMMISSION ON
JUDICIAL CONDUCT NYC

NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

JOSEPH W. BELLUCK, CHAIR
PAUL B. HARDING, VICE CHAIR
HON. ROLANDO T. ACOSTA
JOEL COHEN
JODIE CORNGOLD
HON. JOHN A. FALK
TAA GRAYS
HON. LESLIE G. LEACH
RICHARD A. STOLOFF
HON. DAVID A. WEINSTEIN
AKOSUA GARCIA YEBOAH
MEMBERS

JEAN M. SAVANYU, CLERK

61 BROADWAY, SUITE 1200
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0038
TELEPHONE FACSIMILE
www.cjc.ny.gov

ROBERT H. TEMBECKJIAN
ADMINISTRATOR & COUNSEL

MARK LEVINE
DEPUTY ADMINISTRATOR

PAMELA TISHMAN
PRINCIPAL ATTORNEY

ROGER J. SCHWARZ
BRENDA CORREA
SENIOR ATTORNEYS

KELVIN S. DAVIS
ERICA K. SPARKLER
DANIEL W. DAVIS
STAFF ATTORNEYS

ALAN W. FRIEDBERG
SPECIAL COUNSEL

CONFIDENTIAL

April 10, 2017

By Fax: 845-294-4456
Mr. Kaj Rangsityothin
Goshen Town Justice Court
41 Webster Ave
Goshen, NY 10924

RECEIVED
APR 1 0 REC'D
GOSHEN TOWN COURT

Re: 2015/N-0331

Dear Mr. Rangsityothin:

Pursuant to Section 42(3) of the Judiciary Law and in connection with a confidential matter, the Commission on Judicial Conduct respectfully requests a copy of the case file for the following matter:

Case Name: *Eye Physicians of Orange County v Gerardo Fernandez*
Case Number: 14100173
Year: 2014

Thank you for your cooperation in this matter.

Very truly yours,

Mark Levine
Deputy Administrator

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

October 28, 2014

RECEIVED
OCT 29 REC'D
GOSHEN TOWN COURT

VIA FAX & REGULAR MAIL

Hon. Thomas Cione, Town Judge
Town of Goshen
41 Webster Ave.
Goshen, NY 10924

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Judge Cione:

The undersigned was retained last night to represent the Defendant in connection with the above-entitled action and I enclose herewith my Special Notice of Appearance for filing with the Court. I will be actually engaged before the Hon. Michael F. McGuire, Sullivan County Family Court Judge, in the Sullivan County Family Court this afternoon in a proceeding entitled "In the Matter of Sullivan County DFS vs. 'C.'" and will be unable to appear on this matter before Your Honor and respectfully request that the matter be adjourned.

I am making a special appearance in this case because I believe the Court has not acquired jurisdiction over the Defendant. Section 403 of the Uniform Justice Court Act requires that the Defendant be served with the Summons in the same County in which the Court is located. After checking with the Clerk of the Court, it appears that service of the Summons was allegedly made upon the Defendant in Youngsville, New York, which is located within the County of Sullivan. None of the exceptions contained in §403 of the Uniform Justice Court Act apply, as at all times relevant, the Defendant has always resided in Sullivan County and therefore, in order to obtain jurisdiction over this Defendant in the Goshen Town Court, he must be served within the County of Orange. I therefore ask that the action be dismissed.

In the event the Court denies my application, I respectfully request that the matter be adjourned to a different date. I have attempted to communicate with Greher Law Offices in order to discuss this matter and obtain an adjournment; however, both attorneys in the firm are unavailable to return my call due to their engagement in Court.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Greher Law Offices, P.C.
Mr. Gerardo Fernandez

TOWN COURT : TOWN OF GOSHEN
COUNTY OF ORANGE : STATE OF NEW YORK
----------X
EYE PHYSICIANS OF ORANGE COUNTY, P.C.,

Plaintiffs,

-against-

GERARDO FERNANDEZ,

Defendant.

----------X

SPECIAL NOTICE OF APPEARANCE

S I R :

PLEASE TAKE NOTICE that the Defendant, GERARDO FERNANDEZ, hereby makes special appearance in the above entitled action, and that the undersigned has been retained as attorney for said Defendant and demand that a copy of the Complaint and all papers in this action be served upon the undersigned at the office and post office address stated below.

Dated: October 28, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant Gerardo Fernandez
10 St. John Street - P.O. Box 1210
Monticello, New York 12701-8210
Telephone: (845) 794-1000

To: Clerk of the Town Court
Town of Goshen
41 Webster Avenue
Goshen, NY 10924

Greher Law Offices, P.C.
Attorneys for Plaintiff
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

GREHER LAW OFFICES, P.C.

WARREN GREHER
ANDREW N. GREHER

ATTORNEYS AT LAW

1161 LITTLE BRITAIN ROAD, SUITE B
NEW WINDSOR, NEW YORK 12553
TEL.(845) 567-1002 Fax (845) 567-0025
THIS OFFICE DOES NOT ACCEPT SERVICE BY FACSIMILE OR E-MAIL

Legal Assistants
Nancy Castelli
Kathleen J. Damone
JoAnn Olson

Website:
www.greherlaw.com

E-mail Address:
warrengreher@hvc.rr.com

October 21, 2014

RECEIVED
GOSHEN JUDICIAL COURT

Attention: Court Clerk
Justice Court of the Town of Goshen
41 Webster Avenue, P. O. Box 667
Goshen, New York 10924

RE: Eye Physicians of Orange County, P. C. v. Gerardo Fernandez
Court Date: October 28, 2014, at 12:00 p.m.

Dear Sir/Madam:

Enclosed please find Summons and Complaint, Affidavit of Service and check in the sum of $20.00 for the filing fee in the above matter.

Kindly place this on the court's calendar for the above date and time.

GREHER LAW OFFICES, P. C.

s/ Warren Greher

WARREN GREHER
Signed in writer's absence to avoid delay

WG/kjd
Enclosures

Justice Court of the Town of Goshen
County of Orange : State of New York

----------x

EYE PHYSICIANS OF ORANGE COUNTY, P. C.

Plaintiff(s)

-against-

GERARDO FERNANDEZ

[redacted]

Defendant(s)

----------x

Plaintiff's Residence or Business Address:
One Hatfield Lane, Goshen, NY

Summons

Basis of Jurisdiction

Defendant did business in the municipality

To the Above Named Defendant(s):

You Are Hereby Summoned and required to appear and answer this endorsed summons in the Justice Court of the Town of Goshen, 41 Webster Avenue, Goshen, County of Orange and State of New York, on the **28th day of October, 2014, at 12:00** in the afternoon.

Upon your failure to appear and answer, judgment will be taken against you for the sum of **$1,089.63** with interest thereon from the **25th day of July, 2013**, together with the costs of this action.

Dated: October 8, 2014

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553

Endorsed Complaint

Defendant owes plaintiff **$1,089.63** for professional services provided.

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
Attorney for Plaintiff
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553
Tel. 567-1002 Fax 567-0025

AFFIDAVIT OF SERVICE
JUSTICE COURT OF THE TOWN OF GOSHEN
COUNTY OF ORANGE STATE OF NEW YORK

EYE PHYSICIANS OF ORANGE COUNTY P.C PLAINTIFF(S) Against GERARDO FERNANDEZ DEFENDANT(S)	INDEX#:

ORANGE COUNTY, NEW YORK STATE: SCOTT BAUMAN being sworn, says: Deponent is not a party herein is over 18 years of age and resides at 9 Majestic Court, Newburgh, NY 12550

On 10/16/ 2014 at 8:37AM at [redacted] deponent served the within
___summons and complaint
ON GERARDO FERNANDEZ defendant,

*Individual

by delivering a true copy of each to said recipient personally: deponent knew the person so served to the person described as said recipient therein.

DEPONENT DESCRIBES THE INDIVIDUAL AS FOLLOWS:

SEX	APPROX. AGE	APPROX HEIGHT	APPROX. WEIGHT	COLOR OF SKIN	COLOR OF HAIR
MALE	45-55	5'4"-5'7"	175-199	WHITE	GRAY
OTHER: MUSTACHE					

X Deponent asked the indicated person whether the defendant and/ or present occupant was presently in the military service of the United States Government or on active duty in the military service in the State of New York or a dependant of anybody in the military and was told defendant and/ or present occupant was not.

Sworn to before me on the 19 day of October 20 14

SCOTT BAUMAN

MELISSA A. ROOT
NOTARY PUBLIC STATE OF NEW YORK
NO. 01RO6211157
QUALIFIED IN ORANGE COUNTY
COMMISSION EXPIRES SEPTEMBER 14, 2017

RECEIVED
OCT 24 2014
GOSHEN COURT OFFICE

DATE	RECEIPT NO.	RECEIVED FROM	AMOUNT	CASH	M.O.	C.C.	DEFENDANT	STATUTE AND SECTION	DESCRIPTION	BY
0/04	77283	Grener	20	Ck			Eye Physicians	V Fernandez		Ju

77283

TOWN OF GOSHEN
JUSTICE COURT
THOMAS J. CIONE
P.O. BOX 667 41 WEBSTER AVE
GOSHEN, NY 10924

RETAIN THIS RECEIPT FOR YOUR RECORDS

Flo Nelson
SIGNATURE

DATE	RECEIPT NO.	RECEIVED FROM	AMOUNT	CASH	M.O.	C.C.	DEFENDANT	STATUTE AND SECTION	DESCRIPTION	B'
0/04	77283	Greiner	20	Ck			Eye Physicians	V Fernandez		

77283

TOWN OF GOSHEN
JUSTICE COURT
THOMAS J. CIONE
P.O. BOX 667 41 WEBSTER AVE
GOSHEN, NY 10924

RETAIN THIS RECEIPT FOR YOUR RECORDS

Flo Nelson
SIGNATURE

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

October 28, 2014

RECEIVED
OCT 29 2014

VIA FAX & REGULAR MAIL

Hon. Thomas Cione, Town Judge
Town of Goshen
41 Webster Ave.
Goshen, NY 10924

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Judge Cione:

The undersigned was retained last night to represent the Defendant in connection with the above-entitled action and I enclose herewith my Special Notice of Appearance for filing with the Court. I will be actually engaged before the Hon. Michael F. McGuire, Sullivan County Family Court Judge, in the Sullivan County Family Court this afternoon in a proceeding entitled "In the Matter of Sullivan County DFS vs. 'C.'" and will be unable to appear on this matter before Your Honor and respectfully request that the matter be adjourned.

I am making a special appearance in this case because I believe the Court has not acquired jurisdiction over the Defendant. Section 403 of the Uniform Justice Court Act requires that the Defendant be served with the Summons in the same County in which the Court is located. After checking with the Clerk of the Court, it appears that service of the Summons was allegedly made upon the Defendant in Youngsville, New York, which is located within the County of Sullivan. None of the exceptions contained in §403 of the Uniform Justice Court Act apply, as at all times relevant, the Defendant has always resided in Sullivan County and therefore, in order to obtain jurisdiction over this Defendant in the Goshen Town Court, he must be served within the County of Orange. I therefore ask that the action be dismissed.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XT-14a

In the event the Court denies my application, I respectfully request that the matter be adjourned to a different date. I have attempted to communicate with Greher Law Offices in order to discuss this matter and obtain an adjournment; however, both attorneys in the firm are unavailable to return my call due to their engagement in Court.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Greher Law Offices, P.C.
Mr. Gerardo Fernandez

TOWN COURT : TOWN OF GOSHEN
COUNTY OF ORANGE : STATE OF NEW YORK
----------X
EYE PHYSICIANS OF ORANGE COUNTY, P.C.,

Plaintiffs,

-against-

GERARDO FERNANDEZ,

Defendant.

----------X

SPECIAL NOTICE OF APPEARANCE

S I R :

PLEASE TAKE NOTICE that the Defendant, GERARDO FERNANDEZ, hereby makes special appearance in the above entitled action, and that the undersigned has been retained as attorney for said Defendant and demand that a copy of the Complaint and all papers in this action be served upon the undersigned at the office and post office address stated below.

Dated: October 28, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant Gerardo Fernandez
10 St. John Street - P.O. Box 1210
Monticello, New York 12701-8210
Telephone: (845) 794-1000

To: Clerk of the Town Court
Town of Goshen
41 Webster Avenue
Goshen, NY 10924

Greher Law Offices, P.C.
Attorneys for Plaintiff
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

Gmail

Zachary Kelson <zacharykelson[redacted]

Fwd: FW:

5 messages

judgemcguire@[redacted] <judgemcguire@[redacted] Mon, Oct 27, 2014 at 1:09 PM
To: zacharykelson@[redacted]

Zach;

This is the summons I told you about with respect to Jerry. What he wants to do is get a payment plan and pay this debt to the doctor, if the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

I will be off the bench by 3:30 if you need to talk to me.

Thank you for anything you can do with Warren.

Mike

---------Original Message---------

From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:
To: Sweetie <judgemcguire[redacted]

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

Summons-Eye Phtsicians of OC.pdf
33K

Zachary Kelson <zacharykelson@[redacted]> Tue, Oct 28, 2014 at 10:58 AM
To: Michael McGuire <judgemcguire[redacted]>

FYI
[Quoted text hidden]
--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
86K

Zachary Kelson <zacharykelson@[redacted]> Thu, Oct 30, 2014 at 2:45 PM
To: Michael McGuire <judgemcguire@[redacted]>

Andy greher refused to return my calls . Finally I got on the phone and spoke to his father. The goshen summons was withdrawn. Warren agreed to accept $ 100 per month until paid in full. He will send me a stip. In the meantime could you please let Jerry know its settled. He should get a check ready for $100 payable to warren greher as atty. He can forward it to me,
Any questions ,please call

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire[redacted]t> wrote:
[Quoted text hidden]

–
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson[redacted] Mon, Dec 8, 2014 at 1:45 PM
To: Michael McGuire <judgemcguire[redacted]>

Mike:

Attached is a copy of my correspondence to Mr. Greher which is self-explanatory. Can you get me Jerry's e-mail address so I can forward a copy to him directly rather than bother you?

Thanks.

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire@[redacted] wrote:
[Quoted text hidden]

–
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
84K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, May 28, 2015 at 11:37 AM
To: Zachary Kelson <zacharykelson[redacted]>

Sure I will get that for you.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Monday, December 08, 2014 1:46 PM
To: Michael McGuire
Subject: Re: FW:

Mike:

Attached is a copy of my correspondence to Mr. Greher which is self-explanatory. Can you get me Jerry's e-mail address so I can forward a copy to him directly rather than bother you?

Thanks.B

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire[redacted]> wrote:

Zach:

B

This is the summons I told you about with respect to Jerry.B What he wants to do is get a payment plan and pay this debt to the doctor, if the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

B

I will be off the bench by 3:30 if you need to talk to me.

B

Thank you for anything you can do with Warren.

B

B

Mike

B

-------Original Message-------

From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:

To: Sweetie <judgemcguire@[redacted]
B

B

B

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

B

B

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Justice Court of the Town of Goshen
County of Orange : State of New York

EYE PHYSICIANS OF ORANGE COUNTY, P. C.

Plaintiff(s)

-against-

GERARDO FERNANDEZ
[redacted]

Defendant(s)

Plaintiff's Residence or Business Address:
One Hatfield Lane, Goshen, NY

Summons

Basis of Jurisdiction

Defendant did business in the municipality

To the Above Named Defendant(s):

You Are Hereby Summoned and required to appear and answer this endorsed summons in the Justice Court of the Town of Goshen, 41 Webster Avenue, Goshen, County of Orange and State of New York, on the 28th day of October, 2014, at 12:00 in the afternoon.

Upon your failure to appear and answer, judgment will be taken against you for the sum of $1,089.63 with interest thereon from the 25th day of July, 2013, together with the costs of this action.

Dated: October 8, 2014

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553

Endorsed Complaint

Defendant owes plaintiff $1,089.63 for professional services provided.

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
Attorney for Plaintiff
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553
Tel. 567-1002 Fax 567-0025

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

October 28, 2014

VIA FAX & REGULAR MAIL

Hon. Thomas Cione, Town Judge
Town of Goshen
41 Webster Ave.
Goshen, NY 10924

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Judge Cione:

The undersigned was retained last night to represent the Defendant in connection with the above-entitled action and I enclose herewith my Special Notice of Appearance for filing with the Court. I will be actually engaged before the Hon. Michael F. McGuire, Sullivan County Family Court Judge, in the Sullivan County Family Court this afternoon in a proceeding entitled "In the Matter of Sullivan County DFS vs. 'C.'" and will be unable to appear on this matter before Your Honor and respectfully request that the matter be adjourned.

I am making a special appearance in this case because I believe the Court has not acquired jurisdiction over the Defendant. Section 403 of the Uniform Justice Court Act requires that the Defendant be served with the Summons in the same County in which the Court is located. After checking with the Clerk of the Court, it appears that service of the Summons was allegedly made upon the Defendant in Youngsville, New York, which is located within the County of Sullivan. None of the exceptions contained in §403 of the Uniform Justice Court Act apply, as at all times relevant, the Defendant has always resided in Sullivan County and therefore, in order to obtain jurisdiction over this Defendant in the Goshen Town Court, he must be served within the County of Orange. I therefore ask that the action be dismissed.

In the event the Court denies my application, I respectfully request that the matter be adjourned to a different date. I have attempted to communicate with Greher Law Offices in order to discuss this matter and obtain an adjournment; however, both attorneys in the firm are unavailable to return my call due to their engagement in Court.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Greher Law Offices, P.C.
Mr. Gerardo Fernandez

TOWN COURT : TOWN OF GOSHEN
COUNTY OF ORANGE : STATE OF NEW YORK

----------X

EYE PHYSICIANS OF ORANGE COUNTY, P.C.,

Plaintiffs,

-against-

GERARDO FERNANDEZ,

Defendant.

----------X

SPECIAL NOTICE OF APPEARANCE

S I R :-

PLEASE TAKE NOTICE that the Defendant, GERARDO FERNANDEZ, hereby makes special appearance in the above entitled action, and that the undersigned has been retained as attorney for said Defendant and demand that a copy of the Complaint and all papers in this action be served upon the undersigned at the office and post office address stated below.

Dated: October 28, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant Gerardo Fernandez
10 St. John Street - P.O. Box 1210
Monticello, New York 12701-8210
Telephone: (845) 794-1000

To: Clerk of the Town Court
Town of Goshen
41 Webster Avenue
Goshen, NY 10924

Greher Law Offices, P.C.
Attorneys for Plaintiff
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

December 8, 2014

Warren Greher, Esq.
Greher Law Offices, P.C.
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Warren:

I apologize for the delay in getting back to you with respect to the Stipulation of Settlement which you forwarded to me in connection with the above-entitled action. The Stipulation you forwarded will not work because jurisdiction was not obtained over the Defendant in the Goshen Town Court action. I suggest that you and I agree on behalf of our respective clients that the matter will be disposed of as follows:

1. Commencing on the December 15, 2014, Gerardo Fernandez shall pay the sum of $100.00 every month and he shall pay a like sum of $100.00 on or before the 15th day of each month thereafter until the full amount without interest is paid in full. The first check payable to your firm's order in the sum of $100.00 is enclosed.

2. Payment will be paid to Greher Law Offices P.C. and mailed to 1161 Little Britain Rd., Suite B, New Windsor, NY 12553.

3. If Mr. Fernandez does not make each and every payment as required by this agreement, you will provide me with written notice to cure the default, with a ten day cure period. If that payment is not made, you may commence an action in the Town of Liberty Justice Court.

In order to avoid your client incurring expense, I will agree to accept service of the Summons on the Defendant's behalf in the Town of Liberty Justice Court action. If the default is not cured and suit is instituted, you will be able to receive the principal balance due, less any payments made, together with interest at the rate of nine percent per annum from July 5, 2013.

Please sign at the foot of this letter to confirm your acceptance of this agreement as well as to confirm that you are authorized to enter into this agreement on your client's behalf and that you are authorized to bind them to the same. I represent that I am likewise authorized to enter into this agreement on Mr. Fernandez' behalf and that I am authorized to bind him to the same.

Thank you.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
cc: Mr. Gerardo Fernandez

. . . . . .

AGREED AND ACCEPTED
Greher Law Offices, P.C.

By: _____
Warren Greher, Esq. *Date*

1165

MISTER G'S GRILLE, LLC
79 SULLIVAN AVE.
LIBERTY, NEW YORK 12754

DATE 10/30/14

50-934-219

PAY TO THE ORDER OF Warren Greher as Attorney $ 100.00

One hundred DOLLARS

JEFF BANK
www.jeffbank.com

FOR

[redacted]

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Re: Re: Re: FW:

2 messages

judgemcguire@[redacted] <judgemcguire@[redacted]t> Fri, Oct 31, 2014 at 3:59 PM
To: zacharykelson[redacted]

Will do lets set a day, I have the first check from Jerry so lets try to hook up early next week and I can give it to you, or if you are coming over this way let me know and I will have it here for you.

Mike

On 10/30/14, Zachary Kelson<zacharykelson[redacted]> wrote:

Only if you inky and the kids join us

On Oct 30, 2014 4:44 PM, <judgemcguire[redacted]> wrote:
Perfect that is great he will be happy. Let me know when you want to go to dinner at his restaurant I will set it up

On 10/30/14, Zachary Kelson<zacharykelson[redacted]> wrote:

Andy greher refused to return my calls . Finally I got on the phone and spoke to his father. The goshen summons was withdrawn. Warren agreed to accept $ 100 per month until paid in full. He will send me a stip. In the meantime could you please let Jerry know its settled. He should get a check ready for $100 payable to warren greher as atty. He can forward it to me,
Any questions ,please call

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire[redacted]> wrote:
Zach;

This is the summons I told you about with respect to Jerry. What he wants to do is get a payment plan and pay this debt to the doctor, If the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

I will be off the bench by 3:30 if you need to talk to me.

Thank you for anything you can do with Warren.

Mike

---------Original Message---------

From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:
To: Sweetie <judgemcguire[redacted]>

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

—
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson[redacted]> Fri, Oct 31, 2014 at 4:21 PM
To: Michael McGuire <judgemcguire[redacted]>

ok
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

Fernandez

Zachary Kelson <zacharykelson[redacted]> Tue, May 26, 2015 at 11:07 AM
To: Michael McGuire <judgemcguire[redacted]t>

M2
Please see the attached

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

greherleterfernandez.pdf
401K

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-17

GREHER LAW OFFICES, P.C.

1161 LITTLE BRITAIN ROAD, SUITE B
NEW WINDSOR, NEW YORK 12553
Tel (845) 567-1002 Fax (845) 567-0025
THIS OFFICE DOES NOT ACCEPT SERVICE BY FACSIMILE OR E-MAIL

WARREN GREHER
ANDREW N. GREHER

KATHRYN M. LANG

Legal Assistants
Nancy Castelli
Kathleen Damone
JoAnn Olson

Website:
www.greherlaw.com
E-mail address:
warrengreher@[redacted]

May 20, 2015

Zachary D. Kelson
10 St. John St.
PO Box 1210
Monticello, New York 12701

Re: Eye Physicians vs Gerard o Fernandez

Dear Zach:

I wish to advise you that your client is in default of the Settlement Agreement. I refer you to your letter of December 8, 2014. I am giving you ten days notice to cure said default.

Very truly yours,

GREHER LAW OFFICES, P.C.

S/W G 30

WARREN GREHER

WG/jo

Gmail

Zachary Kelson <zacharykelson[redacted]

Jerry Fernandez

Zachary Kelson <zacharykelson@[redacted]> Wed, Dec 16, 2015 at 10:11 AM
To: Michael McGuire <judgemcguire@v[redacted]>

Were you able to talk to jerry?is he bringing the payments current?let me know .
Thanks
Zach

On Dec 12, 2015 5:34 AM, "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]> wrote:

Yea that is not a problem, I think that it is a bit expense for lunch at a pizza shop with notoriously bad food, I have a dental appointment and will not be eating lunch but will stop by at about 1:15 when I get finished with the dentist. Thank you again for taking the time to join me yesterday at Goshen, it was great to have you along. Speak soon, enjoy the weekend, give my best to R[redacted] and Michelle,

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]
Sent: Friday, December 11, 2015 7:01 PM
To: Frances S. Clemente
Subject: Re: AFC Luncheon on 12/22 at noon at Albella Restaurant in Monticello

I thought we were paying for the judges.we should
Z

On Dec 9, 2015 6:15 PM, "Frances S Clemente, ESQ" <fclemente[redacted]> wrote:

Dear Judge Kane,

Holiday Greetings!!

We would like to invite you to our annual "Law Guardian" party which will be away from the court this year. Judge Ledina has accepted & I presume our Family Court Judges will be attending. Judge Schick is coming & Judge LaBuda has been invited.

Our cost for a luncheon of 3 meal choices of penna alla vodka, chicken franciase w/pasta or eggplant parm w/pasta is $30 which includes tax, tip, soft drinks, dessert, prizes and a subsidy for the family court support staffers & officers.

EXHIBIT
Comm
EX XI-18
PENGAD 800-631-6989

We would be very pleased to have your company. Because we are on a strict schedule, lunch will be served at 12:45 as Family Court has its 12:30 to 1:30 window.

Please let me know if you can make it & if so, what your food choice would be. Thank You, Fran

Frances S. Clemente, Esq.
32 Lower Main St, P.O. Box 866
Callicoon, NY 12723
Tel: (845) 887-6344
Fax: (845) 887-6341

Gmail

Zachary Kelson <zacharykelson[redacted]

RE: Jerry

Mr MICHAEL MCGUIRE <judgemcguire[redacted] Thu, May 28, 2015 at 11:37 AM
To: Zachary Kelson <zacharykelson[redacted]

Zach did you get my e-mail a few days back regarding the Complain filed against Jerry, by Warren Greher seeking about $1,000 from an eye doctor. I need to see if you can contact Warren for him and just set up a payment plan, he wants to make good but he has huge debt from when he was diagnosed with MRSA last year and spent 2 weeks at WMC, he had an initial stop at ORMC and I guess that is where this doctor treated him for a day. IT is scheduled in the Village of Goshen Court on the 29th so I want to get to Warren before that so that Jerry does not need to go to court.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, October 21, 2014 12:53 PM
To: Michael McGuire
Subject: Fwd: Reminder Eugene D. Nesin Scholarship Recital: Sunday October 26 at 3:00pm

---------- Forwarded message ----------
From: <ann[redacted]>
Date: Oct 20, 2014 9:54 AM
Subject: Reminder Eugene D. Nesin Scholarship Recital: Sunday October 26 at 3:00pm
To:
Cc:

Reserve your tickets today for:
B
TheB 6th Annual Eugene D. Nesin Scholarship Recital

October 26, 2014B atB 3:00pm

Eugene D. Nesin Theatre, 22 Saint John Street, Monticello, NY, US
B

Featured performers are Monticello Music Department faculty, alumni Jessica Nesin, Lori Orestano-James and Jennifer VanEtten as well as community members Alan Sorensen and Jeff Yeung.B

The fund has given over $10,000 in scholarships since its beginning. Help us support our future artists!B

Please reserve your ticket or make a donation by visitingB www.nesinculturalarts.org.B

B
B

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XT-19

Plattekill Town Court
1915 Route 44/55,
P.o. Box 87
Modena, NY 12548

Honorable Robert W. Murphy
Town Justice

Phone: (845) 883-5805
Fax: (845) 883-6730

February 15, 2019

New York State Commission on Judicial Conduct
Attn: Pamela Tishman Esq.
61 Broadway, Suite 1200
New York, New York 10006

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL CONDUCT

FROM: TOWN OF PLATTEKILL JUSTICE COURT

DATE: FEBRUARY 15, 2019

SUBJECT: AMOROSO, LINDSAY M. DKT# 11070268

This is to certify that this is a true copy of the original papers filed at the Town of Plattekill Justice Court.

Donna Fuentes
Court Clerk
Town of Plattekill Justice Court

RECEIVED

FEB 26 2019

NYS COMMISSION ON
JUDICIAL CONDUCT NYC

EXHIBIT
Comm
Ex XI-20

PENGAD 800-631-6989

Driver History Report
Plattekill Town Court

DMV_Call

DRIVER INFORMATION:	HISTORY: AS OF 06/18/2012
AMOROSO, LINDSAY M [redacted]	**NOTES:**
SEX: F DOB: [redacted] EYES: BROWN HEIGHT: 5-3 M ID#: A13567 40363 73216490 CLIENT: [redacted] CLASS: *D* RSTRCT: NONE STATUS: VALID EXPIRE: 03/13/2019 COUNTY: PUTN	

LIMITED USE ENDING DATE 10/27/2006

********** ACTIVITY **********

CLASS CHANGE: 02/10/2007 NEW: *DJ* OLD: PERMIT
CLASS CHANGE: 03/13/2007 NEW: *D* OLD: *DJ*
ACCIDENT PREVENTION COURSE COMPLETED ON: 03/08/2010
POINT REDUCTION ELIGIBLE FOR VIOLATIONS OCCURRING FROM 09/08/2008 - 03/08/2010
N/A - NON 19-A DRIVER OR COURSE PRIOR TO 01/01/94

*** END OF RECORD ***

JUSTICE COURT : TOWN OF PLATTEKILL
ULSTER COUNTY : STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

Lindsay Amoroso

Defendant.

MEMORANDUM
OF NEGOTIATED PLEA

40.00 2 wks

ORIGINAL CHARGE(S):

A. 1180(b)(69/55)

B.

C.

D.

REDUCED TO:

A. 1201(a)

B.

C.

D.

The People consent to such disposition for the following reasons:

( ) No prior record.

( ) Interest of justice – list reasons:

1.
2.

( ) Difficulties in proof.

( ) Accident ___ yes ___ no
if yes, personal injury ___ yes ___ no
property damage ___ yes ___ no

CONDITIONS OF AGREEMENT:

( ) No promise made to sentence. ( ) None
( ) The following promise(s) made as to sentence:

Min. Fine

The above constitutes the agreement among the People, the Defendant and the Court as to the disposition of the original charge(s) and the Defendant, by his signature hereto, affirms that he consents the with the full appreciation of his rights and being duly aware of the terms of this agreement.

The Defendant hereby acknowledges that any reduction and plea to a violation of Vehicle and Tra Law Section 1201(a) is expressly contingent upon the Defendant paying the fine within _____ days of t date of this Memorandum. In the event the fine is not paid within such time, the Court shall schedule a trial the ticket(s) as originally written, and no further plea bargains or reductions will be entertained.

Vehicle and Traffic Prosecutor

Defendant

Attorney for Defendant

Dated: 6/18/12
Kelsa

Hon. John Sisti, Town Justice

Plattekill Town Court
1915 Route 44/55,
P.o. Box 87
Modena, NY 12548

Honorable John G. Sisti
Town Justice

Phone: (845) 883-5805
Fax: (845) 883-6730

March 28, 2012

Zachary D. Kelson, Esq.
[redacted], P.O. Box 1210
Monticello, NY 12701

People of the State of New York versus:
Lindsay M. Amoroso
[redacted]

Case No: 11070268
DOB: [redacted]

TicketNo.	Officer	Statute/Section	Charge Text
3F200PJXSP	Hastings,	VTL 1180 0B	Speeding 69/55

Court date: 06/18/2012 Time: 07:30PM

The Court accepts your not guilty plea. Pursuant to Vehicle & Traffic Law Section 1806 your case has been scheduled for a pre-trial conference. If you are unable to reach an agreement at conference, your case will proceed to trial on this date. The trial calendar will proceed at the end of the conference calendar.

Written requests for adjournment need to arrive at the Court 5-days prior to conference/trials for consideration.
The Court reserves the right to re-schedule any and all confernence/trials.

PROPER ATTIRE must be worn at all times NO SHORTS, NO TANK TOPS, NO HALTER TOPS, AND NO OFFENSIVE LANGUAGE /LOGO SHIRTS. ALSO NO CHILDREN, NO CELLPHONES OR WEAPONS WILL BE PERMITTED.

Hon. John G. Sisti
Town Justice

3F200PJXSP

New York State - Department of Motor Vehicles

SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

The people of the State of New York

vs.

NEW YORK STATE POLICE

Local Police Code	Date of Arraignment
15502	

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
AMOROSO	LINDSAY	M		11070268.01

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
[redacted]	[redacted]	[redacted]	○	D

Client ID Number	Sex	Date Expires
[redacted]	F	03/13/2019

Lic State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]		2005	ACUR	GY

Plate Number	Reg State	Registration Expires
FAH4913	NY	/ /

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
03:48PM	07/26/2011	VTL

Violation Section: 1180 0B

Traffic Infraction ☒ Misd ○ Felony ○

Description of Violation: SPEED OVER 55 ZONE

MPH: 69 MPH ZONE: 55

US DOT#

Comm Veh ○ Bus ○ HazMat ○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF PLATTEKILL	ULSTER	32	5661

Street Name	Hwy Type	NCIC/ORI
STATE 32 N/B	2	15502

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
07/26/2011	2 - Radar	2771	F311

Officer's Last Name: Hastings

First Name: D M.I.:

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

PLATTEKILL TOWN COURT

Address: PO BOX 45

City	State	Zip
MODENA	NY	12548

	Date	Time
☒ Return by mail before or in person on:	08/15/11	06:00PM
○ Must appear in person on:		

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY055131J	51379		

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other

Disposition/Sentence

Fine $

Surcharge $

Bail Forfeiture Date

Amount $

○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm DAYS/MONTHS/YEAR

DWI Test Type

DWI Test Results

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court Date

Name of Judge

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒ Non - Speeding(Gen101a) ○

UTO-1.7(4/02)

SUPPORTING DEPOSITION / CPL 710.30 NOTICE TO SUPPORT SIMPLIFIED TRAFFIC INFORMATION LOCAL CRIMINAL COURT

COUNTY OF **ULSTER**

STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
VS
LINDSAY M. AMOROSO

UTT NUMBER **3F200PJXSP**

Officer **D Hastings** of the **New York State Police**
a Police Officer and the Complainant alleges that the Defendant committed a violation of

1. (Law/Section/Subsection) **VTL1180 0B 0I0**
2. Description of Violation **SPEED OVER 55 ZONE**
3. Date **07/26/2011** Time **03:48:00 P** C/T/V of**TOWN OF PLATTEKILL**
4. Vehicle Year **2005** Make **ACUR** Color **GY** License Plate No. **FAH4913** State **NY**
5. General Direction of Travel by Defendant **NORTH**
6. Highway (Type/Name) **2 / STATE 32 N/B**
7. Defendant's Speed **69 MPH** in a **55 MPH** Zone
8. Charge based on Officer's **Direct observation**
9. Speed Verified by **RADAR** Model **STALKER DUAL**
10. Additional Information

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT PURSUANT TO SECTION 710.30(1)(A) OF THE CRIMINAL PROCEDURE LAW, THE PEOPLE INTEND TO OFFER AT A TRIAL OF THE ABOVE ENTITLED ACTION EVIDENCE OF A STATEMENT MADE BY YOU ON 07/26/2011 AT 03:48:00 P AT STATE 32 N/B, To Officer Name D Hastings a public servant

IN WHICH YOU SUBSTANTIALLY STATED AS FOLLOWS:

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK

Affirmed Under Penalty of Perjury
07/26/2011

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

August 8, 2011

Clerk of the Town Court
Town of Plattekill
PO Box 45
Modena, NY 12548

Re: People vs. Lindsay M. Amoroso
UTT No.: 3F200PJXSP
Violation of §1180(b) of the NYS Vehicle & Traffic Law

Dear Madam Clerk:

The undersigned has been retained to represent Lindsay M. Amoroso in connection with the above-entitled uniform traffic ticket. I hereby enter a plea of not guilty on behalf of Ms. Amoroso and enclose herewith my Notice of Appearance for filing with the Court. Kindly advise as to the date and time of the pre-trial conference once the same is scheduled.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Ms. Lindsay M. Amoroso

TOWN COURT : TOWN OF PLATTEKILL
COUNTY OF ORANGE : STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against- **NOTICE OF APPEARANCE**

LINDSAY M. AMOROSO, **UTT No. 3F200PJXSP**

Defendant. **Violation of §1180(b) of the NYS Vehicle and Traffic Law**

----------X

S I R :

PLEASE TAKE NOTICE that the Defendant, LINDSAY M. AMOROSO, hereby appears in the above-entitled action, and that the undersigned has been retained as Attorney for said Defendant and demands that a copy of the Complaint and all papers in this action be served upon the undersigned at the office and post office address stated below.

Dated: August 8, 2011

ZACHARY D. KELSON, ESQ.
Attorney for Defendant Lindsay M. Amoroso
10 St. John Street - PO Box 1210
Monticello, New York 12701-8210
Telephone: (845) 794-1000

To: Clerk of the Town Court
Town of Plattekill
PO Box 45
Modena, NY 12548

STATE OF NEW YORK: COUNTY OF ULSTER
TOWN COURT: TOWN OF PLATTEKILL

THE PEOPLE OF THE STATE OF NEW YORK

AFFIDAVIT

-Against-

LINDSAY AMOROSO
Defendant

STATE OF NEW YORK)
COUNTY OF ULSTER)ss:

LINDSAY AMOROSO being duly sworn, deposes and says:

1: I am Defendant in the above captioned matter charged with violations of section 1180D of the Vehicle and Traffic Law of the State of New York, Speeding.

2: I hereby authorize my attorney, ZACHARY KELSON, ESQ, on my behalf at the trial of this action, to interpose any pre-trail motions on my behalf and / or accept a plea of guilty on my behalf to a reduced charge.

3: I hereby agree to pay any and all fines and or surcharges connected therewith.

4: I understand that my license to drive a motor vehicle and certificate of registration, if any, could be subject to suspension and revocation as prescribed by law.

Lindsay Amoroso
LINDSAY AMOROSO

Sworn to before me this
7th day of September, 2011

Notary Public

ALBERT TORQUATO
Notary Public, State of New York
Reg. No. 01TO6095989
Qualified in Ulster County
Commission Expires July 21, 2015

Plattekill Town Court

June 18, 2012

Lindsay M. Amoroso

[redacted]

1915 Route 44/55, PO Box 45
Modena, NY 12548
Phone: (845) 883-5805

Receipt # 3014747

Case no: 11070268
Paid by: Lindsay M. Amoroso
Reason: Fine Payment

	Fine	Surchg	Civil Fee	Bail	Other	Total
Amount Received:	**40.00**	**0.00**	**0.00**	**0.00**	**0.00**	**40.00**

Ticket #	Statute/Section	Charge Text	Disposition	Fine	CivFee	SurChg
3F200PJX	VTL 1201 0A	STOP/PARK VIOL	Fine	40.00	0.00	0.00

Paid In Full
Method of Payment: Cash

Judge John G. Sisti

Plattekill Town Court

June 18, 2012

Lindsay M. Amoroso

[redacted]

1915 Route 44/55, PO Box 45
Modena, NY 12548
Phone: (845) 883-5805

Receipt # 3014747

Case no: 11070268
Paid by: Lindsay M. Amoroso
Reason: Fine Payment

	Fine	Surchg	Civil Fee	Bail	Other	Total
Amount Received:	**40.00**	**0.00**	**0.00**	**0.00**	**0.00**	**40.00**

Ticket #	Statute/Section	Charge Text	Disposition	Fine	CivFee	SurChg
3F200PJX	VTL 1201 0A	STOP/PARK VIOL	Fine	40.00	0.00	0.00

Paid In Full
Method of Payment: Cash

Judge John G. Sisti

CERTIFICATE OF DISPOSITION

STATE OF NEW YORK
ULSTER COUNTY

PLATTEKILL TOWN COURT
CRIMINAL PART

PEOPLE OF THE STATE OF NEW YORK

VS.

LINDSAY M. AMOROSO; Defendant

CASE NO: 11070268

Date of Birth: [redacted]
Date of Arrest: 07/26/2011
Adjudication Date: 06/18/2012
Disposition Date: 06/18/2012

Section Charged	Section Disposed	Ticket No & Description	Disposition	Fine	Civil-Fee	Surchg
VTL 1180 0B	VTL 1201 0A	3F200PJXSP STOP/PARK VIOL	Fine	40.00	0.00	0.00

Upon a proper request for an official statement of disposition, I certify that the above named defendant having appeared before this court was charged as shown above. Each of the charges was disposed of as indicated.

Dated: The 28th day of April 2016

Hon. Robert W. Murphy

NOTE: A copy of the request will be filed with this certificate in the case records.

CAUTION: This information must not be divulged if the case is sealed or where the defendant has been adjudicated a youthful offender.

Copies: ___ Court, ___ Defendant, ___ Agency, ___ DA

Plattekill Town Court
Case History Report
Judge John G. Sisti

Case Number: 11070268
Printed: 04/28/2016 at: 11:09AM

Name: LINDSAY M. AMOROSO
[redacted]

DOB: [redacted]
Sex: F
Motorist ID: [redacted]

Crime: 07/26/2011 **Arrest:** 07/26/2011 **Arraign:** / /
Adjudicate: 06/18/2012 **Sentence:** 06/18/2012 **Dispose:** 06/18/2012

Reference/ Ticket No.	Stat/Sec	Charge Text Attempt Y/N	Disposition	Fine	CivilFee	Schg
	VTL	*Reduced from: VTL 1180 0B Speeding 69/55*				
3F200PJXSP	1201 0A	STOP/PARK VIOL N	Fine	40.00	0.00	0.00

Prosecutor: Daniel Rusk, Esq.

Police Officer: Dennis Hastings
Agency: SPK

Attorney: Zachary D. Kelson, Esq.
10 St. John St., P.O. Box 1210
Monticello, NY 12701
914-794-1000

Scheduled Appearances:
06/18/12 Disposed
08/15/11 1st app V&T
06/18/12 Conference
08/10/11 N/G plea recvd

Financial Transactions:

Bank Dt	Report Dt	Reason	Bail	Fine	Civ-Fee	Schg	Other	Rect/Ck#	Jdg
06/18/12	06/18/12	Fine Payment	0.00	40.00	0.00	0.00	0.00	3014747	jgs

Letters Sent:
03/28/2012 Not Guilty Trial Notice II (097)
04/28/2016 Certificate of Disposition (011)

Notes:

6/18/12 Page 1

TOWN OF PLATTEKILL JUSTICE COURT

Attorneys only
Please print

Attorney	Client Name
1. [redacted]	
2. [redacted]	
3. [redacted]	
4. Todd Kelsen	Lindsay Amorosso
5. [redacted]	
6. [redacted]	
7. [redacted]	
8. [redacted]	
9. [redacted]	
10. [redacted]	
11.	
12.	
13.	
14.	

Court Calendar
Plattekill Town Court

Judge John G. Sisti Court Date: 06/18/2012 67 Records

Listing created: 06/18/2012 at: 02:52PM Sorted by: Name

Clerk: _____ Steno: _____ ADA: _____ PD: _____

Amoroso, Lindsay M,

[redacted]

STATE OF NEW YORK: COUNTY OF ULSTER
TOWN COURT: TOWN OF PLATTEKILL

THE PEOPLE OF THE STATE OF NEW YORK

AFFIDAVIT

-Against-

LINDSAY AMOROSO
Defendant

STATE OF NEW YORK)
COUNTY OF ULSTER)ss:

LINDSAY AMOROSO being duly sworn, deposes and says:

1: I am Defendant in the above captioned matter charged with violations of section 1180D of the Vehicle and Traffic Law of the State of New York, Speeding.

2: I hereby authorize my attorney, ZACHARY KELSON, ESQ, on my behalf at the trial of this action, to interpose any pre-trail motions on my behalf and / or accept a plea of guilty on my behalf to a reduced charge.

3: I hereby agree to pay any and all fines and or surcharges connected therewith.

4: I understand that my license to drive a motor vehicle and certificate of registration, if any, could be subject to suspension and revocation as prescribed by law.

Lindsay Amoroso
LINDSAY AMOROSO

Sworn to before me this
7 day of September, 2011

Notary Public

ALBERT TORQUATO
Notary Public, State of New York
Reg. No. 01TO6095989
Qualified in Ulster County
Commission Expires July 21, 20 15

EXHIBIT
Comm
Ex XI-2Da
PENGAD 800-631-6989

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Amoroso

4 messages

Zachary Kelson <zacharykelson[redacted]> Mon, Aug 8, 2011 at 4:12 PM
To: judgemcguire[redacted]t

Mike, attached is Ms. Amoroso's waiver. Do you want me to mail it to her? Do you have an e-mail address?

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Waiver.pdf
27K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Tue, Aug 9, 2011 at 5:06 AM
To: Zachary Kelson <zacharykelson@[redacted]>

Great Corinne is getting an e-mail address for you. Also when Zach gets back have him call me I had a religious gentleman that has an AUO 3rd in the Town of Thompson.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Monday, August 08, 2011 4:13 PM
To: judgemcguire[redacted]
Subject: Amoroso

[Quoted text hidden]

zacharykelson@[redacted] <zacharykelson[redacted]> Tue, Aug 9, 2011 at 12:31 PM
Reply-To: zacharykelson@[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>, Zachary Kelson <zacharykelson[redacted]

Spoke to my brother todd. Prosecutor in plattekill is john sisti , a friendly. There should be no problem with a 1201

Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]t>
Date: Tue, 09 Aug 2011 05:06:07 -0400
To: 'Zachary Kelson'<zacharykelson[redacted]>
Subject: RE: Amoroso

EXHIBIT
Comm
Ex XI-21
PENGAD 800-631-6989

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted] Wed, Aug 10, 2011 at 5:07 AM
To: zacharykelsor[redacted]

Great that will be terrific, it would be great if we could get that with a recommendation for a low fine.

Enjoy your vacation

Mike

From: zacharykelson@[redacted] [mailto:zacharykelso[redacted]]
Sent: Tuesday, August 09, 2011 12:32 PM
To: Mr MICHAEL MCGUIRE; Zachary Kelson
Subject: Re: Amoroso

[Quoted text hidden]

TOWN COURT : TOWN OF PLATTEKILL
COUNTY OF ORANGE : STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against-

AFFIRMATION, WAIVER AND CONSENT TO DISPOSITION

LINDSAY M. AMOROSO,

UTT No. 3F200PJXSP

Defendant.
----------X

The undersigned hereby affirms as follows:

1. I am the Defendant herein, in which I am charged with violation of Section 1180(b) of the New York State Vehicle and Traffic Law. I have retained Zachary D. Kelson, Esq., of 10 St. John Street, PO Box 1210, Monticello, New York, 12701, to represent my interests therein.

2. I hereby grant full authority to my said attorney and to his designee to represent me. I request and consent that all proceedings, including the trial herein, be conducted in my absence. I hereby authorize my said attorney or his designee to enter a plea of guilty on my behalf to any violation of the Vehicle and Traffic Law that he considers appropriate in satisfaction and disposition of all charges pending against me.

3. I understand that false statements made herein are punishable as a class A misdemeanor, pursuant to §210.45 of the Penal Law.

Dated: August _____, 2011

_____
LINDSAY M. AMOROSO

Gmail

Zachary Kelson <zacharykelson@[redacted]>

AMOROSO

2 messages

Zachary Kelson <zacharykelson@[redacted]> Wed, Nov 30, 2011 at 11:03 AM
To: judgemcguire@[redacted]

I just spoke with the Court - this matter has not been scheduled for trial yet. They are backed up.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Wed, Nov 30, 2011 at 9:10 PM
To: Zachary Kelson <zacharykelson[redacted]>

OK Great just let me know if you need anything.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 30, 2011 11:03 AM
To: judgemcguire[redacted]
Subject: AMOROSO

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

Amoroso

4 messages

Zachary Kelson <zacharykelson[redacted]> Tue, Apr 3, 2012 at 11:21 AM
To: judgemcguire[redacted]

Please see the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Amoroso.pdf
56K

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Tue, Apr 3, 2012 at 8:15 PM
To: Zachary Kelson <zacharykelson[redacted]

Zach that looks great, thank you. I have the trial notice for John Clemens I will leave it with Wendy if you could pick it up, it is not on until May.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Tuesday, April 03, 2012 11:22 AM
To: judgemcguire[redacted]
Subject: Amoroso

[Quoted text hidden]

---

zacharykelson@[redacted] <zacharykelson[redacted]> Tue, Apr 3, 2012 at 8:20 PM
Reply-To: zacharykelson@[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]

Great. I tried to find the clements # to no avail. Could you jot it on the notice? This way I can send them a waiver to sign.
Enjoy your vacation
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]>
Date: Tue, 03 Apr 2012 20:15:09 -0400
To: 'Zachary Kelson'<zacharykelson[redacted]>
Subject: RE: Amoroso

EXHIBIT
Comm
Ex XI-23
PENGAD 800-631-6989

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Tue, Apr 3, 2012 at 9:49 PM
To: zacharykelson@[redacted]

OK not sure I have it but I can get it.

Mike

From: zacharykelson[redacted] [mailto:zacharykelson@[redacted]
Sent: Tuesday, April 03, 2012 8:20 PM
To: Mr MICHAEL MCGUIRE
Subject: Re: Amoroso

[Quoted text hidden]

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

April 3, 2012

Ms. Lindsay M. Amoroso
[redacted]

Re: People vs. Lindsay M. Amoroso
Town of Plattekill Justice Court

Dear Ms. Amoroso:

Enclosed herewith please find notice received from the Town of Plattekill Justice Court rescheduling the pre-trial conference in connection with the above-entitled uniform traffic ticket for June 18, 2012 at 7:30 p.m. Your appearance will not be necessary on that date and time, since you have previously executed a Waiver and Consent and I will appear on your behalf for the trial.

I will of course, keep you advised of the outcome.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.

Plattekill Town Court
1915 Route 44/55,
P.o. Box 87
Modena, NY 12548

Honorable John G. Sisti
Town Justice

Phone: (845) 883-5805
Fax: (845) 883-6730

March 28, 2012

Zachary D. Kelson, Esq.
10 St. John St., P.O. Box 1210
Monticello, NY 12701

People of the State of New York versus:
Lindsay M. Amoroso
[redacted]

Case No: 11070268
DOB: [redacted]

TicketNo.	Officer	Statute/Section	Charge Text
3F200PJXSP	Hastings,	VTL 1180 0B	Speeding 69/55

Court date: 06/18/2012 Time: 07:30PM

The Court accepts your not guilty plea. Pursuant to Vehicle & Traffic Law Section 1806 your case has been scheduled for a pre-trial conference. If you are unable to reach an agreement at conference, your case will proceed to trial on this date. The trial calendar will proceed at the end of the conference calendar.

Written requests for adjournment need to arrive at the Court 5-days prior to conference/trials for consideration.
The Court reserves the right to re-schedule any and all confernence/trials.

PROPER ATTIRE must be worn at all times NO SHORTS, NO TANK TOPS, NO HALTER TOPS, AND NO OFFENSIVE LANGUAGE /LOGO SHIRTS. ALSO NO CHILDREN, NO CELLPHONES OR WEAPONS WILL BE PERMITTED.

Hon. John G. Sisti
Town Justice

Gmail

Zachary Kelson <zacharykelson[redacted]>

Lindsay amoroso

2 messages

Zachary Kelson <zacharykelson[redacted]> Mon, Jun 18, 2012 at 5:50 PM
To: judgemcguire[redacted]

Todd handled the matter tonite. Speed reduced to 1201a. Fine was $40 and was paid on the spot. kathleen will send her letter tomorrow

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Tue, Jun 19, 2012 at 4:21 AM
To: Zachary Kelson <zacharykelson[redacted]>

Great thank you very much.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Monday, June 18, 2012 5:50 PM
To: judgemcguire[redacted]
Subject: Lindsay amoroso

[Quoted text hidden]

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-24

TF4201465L

New York State - Department of Motor Vehicles

SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

The people of the State of New York

VS.

TOWN OF FALLSBURG PD

Local Police Code	Date of Arraignment
05254	

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
WILLIAMS	WILLIE			11090085.01

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
N[redacted]	[redacted]	068504211	☒	D

Client ID Number	Sex	Date Expires
[redacted]	M	08/06/2012

Lic State	Date of Birth	Veh. Type	Year	Make	Color
CT	[redacted]		1998	OLDS	BK

Plate Number	Reg State	Registration Expires
493YRF	CT	04/08/2013

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
06:15PM	09/09/2011	VTL

Violation Section	Traffic Infraction	Misd	Felony
1180 0D	☒	○	○

Description of Violation: SPEED IN ZONE (218')

MPH	MPH ZONE
46	30

US DOT#

Comm Veh	Bus	HazMat
○	○	○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF FALLSBURG	SULLIVAN	104	5354

Street Name	Hwy Type	NCIC/ORI
CR-104	3	05254

AFFIRMED UNDER PENALTY OF PERJURY

PO M Dotoratos

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
09/09/2011	L - Laser	321	F160

Officer's Last Name: Dotoratos

First Name: M

M.I.:

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

FALLSBURG TOWN COURT

Address: POB 2019 19 RAILROAD PL

City: SOUTH FALLSBURG

State: Zip:

☒ Return by mail before or in person on:

○ Must appear in person on:

Date: 09/28/11

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated
NY052181J	48205	

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other

Dispositi

Bail Forfeiture Date

Amount $

○ LIC ○ REG ○ Rev ○ Susp ○

DWI Test Type

DWI Test Resul

Supporting Deposition Issued: None ☒ Speeding(Gen101) ○ N

EXHIBIT Comm Ex XT-25

FENGAD 800-631-6989

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant [illegible]

Re: Docket #11090085

I, Tracey Leszczynski, Justice Court Clerk of the Town of Fallsburg, do hereby certify that I have compared the foregoing copy of a file for Willie Williams with the original now remaining on file in this Court, and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court this 15th Day of January, 2019.

TRACEY LESZCZYNSKI
Town of Fallsburg Court Clerk

SUPPORTING DEPOSITION / CPL 710.30 NOTICE TO SUPPORT SIMPLIFIED TRAFFIC INFORMATION LOCAL CRIMINAL COURT

COUNTY OF **SULLIVAN**

STATE OF NEW YORK
THE PEOPLE OF THE STATE OF NEW YORK
VS
WILLIE WILLIAMS

UTT NUMBER **1F1205Z3SP**

Officer **ROSER E** of the **New York State Police**
a Police Officer and the Complainant alleges that the Defendant committed a violation of
1. (Law/Section/Subsection) **VTL1180 0D 0I0**
2. Description of Violation **SPEED IN ZONE**
3. Date **01/22/2012** Time **02:55:00 P** C/T/V of**TOWN OF FALLSBURG**
4. Vehicle Year **1995** Make **OLDS** Color **BK** License Plate No. **493YRF** State **CT**
5. General Direction of Travel by Defendant **SOUTH**
6. Highway (Type/Name) **3 / CR 104**
7. Defendant's Speed **45 MPH** in a **30 MPH** Zone
8. Charge based on Officer's **Direct observation**
9. Speed Verified by **RADAR** Model **STALKER DUAL**
10. Additional Information

PATROL STATIONARY BY RUSSELLS GARAGE. BLACK SEDAN TRAVELING SOUTH AT HIGH RATE OF SPEED, VE 40 MPH. ACTIVATED RADAR,READINGS 43/44/45 MPH IN 30 MPH ZONE

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE THAT PURSUANT TO SECTION 710.30(1)(A) OF THE CRIMINAL PROCEDURE LAW, THE PEOPLE INTEND TO OFFER AT A TRIAL OF THE ABOVE ENTITLED ACTION EVIDENCE OF A STATEMENT MADE BY YOU ON 01/22/2012 AT 02:55:00 P AT CR 104, To Officer Name ROSER E a public servant

IN WHICH YOU SUBSTANTIALLY STATED AS FOLLOWS:

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK

Affirmed Under Penalty of Perjury
01/22/2012

1F1205Z4SP

New York State - Department of Motor Vehicles
SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

The people of the State of New York
VS.

NEW YORK STATE POLICE

Local Police Code	Date of Arraignment
15201	

Last Name(Defendant)	First Name	M.I.	Court Adjournment Record	Docket Number
WILLIAMS	WILLIE			12010154.02

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
[redacted]	[redacted]	[redacted]	○	D

Client ID Number	Sex	Date Expires
[redacted]	M	08/06/2012

Lic State	Date of Birth	Veh. Type	Year	Make	Color
CT	[redacted]		1995	OLDS	BK

Plate Number	Reg State	Registration Expires
493YRF	CT	12/31/2012

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
02:55PM	01/22/2012	VTL

Violation Section	Traffic Infraction	Misd	Felony
0306 B	☒	○	○

Description of Violation
UNINSPECTED MOTOR VEHICLE

MPH	MPH ZONE

US DOT#

Comm Veh	Bus	HazMat
○	○	○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF FALLSBURG	SULLIVAN	104	5354

Street Name	Hwy Type	NCIC/ORI
CR 104	3	15201

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
01/22/2012	2 - Radar	4135	F111

Officer's Last Name	First Name	M.I.
E	ROSER	

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

FALLSBURG TOWN COURT

Address
POB 2019 19 RAILROAD PL

City	State	Zip
SOUTH FALLSBURG	NY	12779

	Date	Time
☒ Return by mail before or in person on:	02/08/12	07:00PM
○ Must appear in person on:		

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY052181J	48205		

Charge Convicted of	Disposition/Sentence	Fine $
○ AS ABOVE ○ VTL ○ Other		Surcharge $

Bail Forfeiture Date	
Amount $	○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm DAYS/MONTHS/YEAR

DWI Test Type	DWI Test Results

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court	Date

Name of Judge

Supporting Deposition Issued: None ☒ Speeding(Gen101) ○ Non - Speeding(Gen101a) ○

4/1/13
$140 - suspd + fees
PD
R# 38687

New York State Department of Motor Vehicles
Traffic Safety Law Enforcement and Disposition Bureau

NOTICE OF APPEARANCE

1F12052485

I certify that the driver named below has replied to the ticket specified.

Name: Willie Williams	Date of Birth: 8/6/88	Ticket No.: 1F12052485
[redacted]		Date of Violation: 1/22/12
		NCIC/ORI No.: 052254
		Adjourned to Date: 5/15/13
Callsburg Justice Court		Date of Appearance: 3/28/13
▶ CM Ogle	48205	3/28/13
Signature of Magistrate or Clerk of Court	Justice Code	Date

UT-26 (5/08)

COURT: SEND THIS DOCUMENT TO YOUR ASSIGNED DATA ENTRY LOCATION

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

April 1, 2013

Willie Williams
[redacted]

Re. Case No.	Statute/Section	Description:	Ticket No.
12010154.01	VTL 1180 0D	Speeding 45/30	1F1205Z3SP
12010154.02	VTL 0306 B	NO INSP CERT	1F1205Z4SP

Next Date: 05/15/2013 Time: 05:30PM

The court accepts your not guilty plea. You have been scheduled for a pre-trial conference, with the Assistant Town Attorney, at the time and date shown above. If you plan to be represented by an attorney he/she should accompany you to this meeting.

ADJOURNMENTS WILL NOT BE GRANTED WITHIN 5 BUSINESS DAYS. ALL REQUESTS MUST BE MAILED TO THE COURT IN WRITING.

Sincerely yours,

Ivan Kalter
Town Justice

JUSTICE COURT OF THE TOWN OF FALLSBURG
COUNTY OF SULLIVAN : STATE OF NEW YORK

----------X Docket No. _____

PEOPLE OF THE STATE OF NEW YORK

-against-

APPLICATION TO AMEND SIMPLIFIED TRAFFIC INFORMATIONS AND U.T.T

WILLIE WILLIAMS ----------X

The undersigned hereby affirms as follows:

1. I am the complainant who issued simplified traffic information number
1F1201235P
1F1201245P

2. I hereby move to amend the said simplified traffic information and the uniform traffic ticket issued thereon from the charge of speeding no inspection, in violation of section 1180 OP 0306D of the vehicle and traffic law to the charge of parking prohibited in violation of section • 1201 E N of the vehicle traffic law.

3. I make this request with the express understanding that the defendant will plead guilty to the simplified traffic information as amended.

4. I understand that a false statement made herein are punishable as a class A misdemeanor, pursuant to section 210.45 of the New York State Penal Law.

5. This Stipulation is based upon payment made as specified to the Court and if not made timely the original charges will be reinstated and scheduled for trial without compromise.

Date: 1/11/2013

Complainant

Defendant

1) 1201-A- $175F

6/19/13
pay

TOWN JUSTICE COURT : TOWN OF FALLSBURG
COUNTY OF SULLIVAN : STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against-

WILLIE WILLIAMS,

Defendant.
----------X

AFFIRMATION, WAIVER AND CONSENT TO DISPOSITION

UTT# 1F1205Z3SP
1F1205Z4SP and
TF4201465L

The undersigned hereby affirms as follows:

1. I am the Defendant herein, in which I am charged with violation of Sections 1180(d) and 306(b) and of the New York State Vehicle and Traffic Law. I have retained the law firm of Zachary D. Kelson, Esq., of 10 St. John Street, P.O. Box 1210, Monticello, New York, 12701, to represent my interests therein.

2. I hereby grant full authority to my said attorney and to his designee to represent me. I request and consent that all proceedings, including the trial herein, be conducted in my absence. I hereby authorize my said attorney or his designee to enter a plea of guilty on my behalf to and violation of the Vehicle and Traffic Law that he considers appropriate in satisfaction and disposition of all charges pending against me.

3. I understand that false statements made herein are punishable as a class A misdemeanor, pursuant to §210.45 of the Penal Law.

Dated: May 14, 2013

Willie Williams

WILLIE WILLIAMS

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

June 20, 2013

Willie Williams
[redacted]

Case Number: 12010154
Viol. Date: 01/22/2012

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
1F1205Z3SP	VTL 1201 0A	STOP/PARK VIOL	Fine	175.00	0.00
1F1205Z4SP	VTL 0306 B	NO INSP CERT	Covered	0.00	0.00

Total Due: $ 175.00

Payment Due Date: 06/19/2013 Time: 07:00PM

This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

******If bail has been posted on the above charge(s), the bail may be applied to the fine(s). Please send a notarized letter by the person posting the bail requesting that the bail be applied to the fine(s).**** IF PAYMENT IS NOT RECEIVED WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE, BAIL WILL BE FORFEITED******

NO PERSONAL CHECKS, ONLY MONEY ORDERS AND CERTIFIED CHECKS ACCEPTED! CANADIANS MUST PAY IN US FUNDS!

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license.

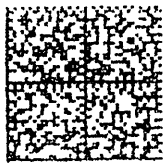
*******FAILURE TO APPEAR/PAY BY THE DUE DATE ABOVE MAY RESULT IN A BENCH/ARREST WARRANT BEING ISSUED FOR YOUR ARREST. YOU MAY ALSO BE SUBJECT TO RE-SENTENCING WHICH MAY INVOLVE A JAIL SENTENCE AND/OR FINES OR INCREASED FINES*******

Very truly yours,

Ivan Kalter
Town Justice

OWN OF FALLSBURG
JUSTICE COURT
P.O. BOX 2019
FALLSBURG, NEW YORK 12779

06850830017



UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 000.46⁰
0003138284 JUN 26 2013
MAILED FROM ZIP CODE 12779

Regarding your client:

Willie Williams
[redacted]

NIXIE 100 DE 1 0006/26/13
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

BC: 12779201919 *1483-02384-26-18

12779@2019

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

June 20, 2013

Willie Williams
[redacted]

Case Number: 12010154
Viol. Date: 01/22/2012

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
1F1205Z3SP	VTL 1201 0A	STOP/PARK VIOL	Fine	175.00	0.00
1F1205Z4SP	VTL 0306 B	NO INSP CERT	Covered	0.00	0.00

Total Due: $ 175.00

Payment Due Date: 06/19/2013 Time: 07:00PM

This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

******If bail has been posted on the above charge(s), the bail may be applied to the fine(s). Please send a notarized letter by the person posting the bail requesting that the bail be applied to the fine(s).**** IF PAYMENT IS NOT RECEIVED WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE, BAIL WILL BE FORFEITED******

NO PERSONAL CHECKS, ONLY MONEY ORDERS AND CERTIFIED CHECKS ACCEPTED! CANADIANS MUST PAY IN US FUNDS!

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license.

*******FAILURE TO APPEAR/PAY BY THE DUE DATE ABOVE MAY RESULT IN A BENCH/ARREST WARRANT BEING ISSUED FOR YOUR ARREST. YOU MAY ALSO BE SUBJECT TO RE-SENTENCING WHICH MAY INVOLVE A JAIL SENTENCE AND/OR FINES OR INCREASED FINES*******

Very truly yours,

Ivan Kalter
Town Justice

1F1205Z3SP

New York State - Department of Motor Vehicles
SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

$100

NEW YORK STATE POLICE

The people of the State of New York
VS.

Local Police Code	15201
Date of Arraignment	
Last Name(Defendant)	WILLIAMS
First Name	WILLIE
M.I.	
Court Adjournment Record	
Docket Number	12010154.01
Number and Street	[redacted]
Apt. No.	
Photo Lic Shown	☒
City	[redacted]
State	[redacted]
Zip Code	[redacted]
Owner is Oper.	○
Lic. Class	D
Client ID Number	[redacted]
Sex	M
Date Expires	08/06/2012
Lic State	CT
Date of Birth	[redacted]
Veh. Type	
Year	1995
Make	OLDS
Color	BK
Plate Number	493YRF
Reg State	CT
Registration Expires	12/31/2012

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	02:55PM
Date of Offense	01/22/2012
IN VIOLATION OF	VTL
Violation Section	1180 0D
Traffic Infraction	☒
Misd	○
Felony	○
Description of Violation	SPEED IN ZONE
MPH	45
MPH ZONE	30
US DOT#	
Comm Veh	○
Bus	○
HazMat	○
C/T/V/Name	TOWN OF FALLSBURG
County	SULLIVAN
Hwy.No	104
Loc.Code	5354
Street Name	CR 104
Hwy Type	3
NCIC/ORI	15201

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
01/22/2012	2 - Radar	4135	F111

Officer's Last Name	E
First Name	ROSER
M.I.	

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

FALLSBURG TOWN COURT

Address: POB 2019 19 RAILROAD PL

City: SOUTH FALLSBURG

☒ Return by mail before or in person on: Date 02/08/12

○ Must appear in person on:

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicate
NY052181J	48205	

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other Dis

Bail Forfeiture Date
Amount $

○ LIC ○ REG ○ Rev ○ Su

DWI Test Type DWI Test

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒

EXHIBIT
COMM
Ex XI-25a

PENGAD 800-631-6989

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court: Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally

Re: Docket # 12010154

I, Tracey Leszczynski, Justice Court Clerk of the Town of Fallsburg, do hereby certify that I have compared the foregoing copy of a file for Willie Williams with the original now remaining on file in this Court, and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court this 15th Day of January, 2019.

TRACEY LESZCZYNSKI
Town of Fallsburg Court Clerk

UTO-1.7(4/02)

New York State Department of Motor Vehicles
Traffic Safety Law Enforcement and Disposition Bureau

NOTICE OF APPEARANCE

I certify that the driver named below has replied to the ticket specified.

Name: William Williams	Date of Birth: 8/6/88	Ticket No.: TF4201468
Mailing Address (Include Street, Number and Apt. No.): [redacted]		Date of Violation: 9/9/11
		NCIC/ORI No.: OS0S9
		Adjourned to Date: 03/15/13
Court of: Goldburg Justice Court		Date of Appearance: 3/28/13

C M Ogle — Signature of Magistrate or Clerk of Court

48205 — Justice Code

3/28/13 — Date

UT-26 (5/08)

COURT: SEND THIS DOCUMENT TO YOUR ASSIGNED DATA ENTRY LOCATION

#22 4/1/13 susp lift fee pd
Ck # 38688

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

April 1, 2013

Willie Williams
[redacted]

Re. Case No.	Statute/Section	Description:	Ticket No.
11090085.01	VTL 1180 0D	Speeding 46/30	TF4201465L

Next Date: 05/15/2013 Time: 07:00PM

The court accepts your not guilty plea. You have been scheduled for a pre-trial conference, with the Assistant Town Attorney, at the time and date shown above. If you plan to be represented by an attorney he/she should accompany you to this meeting.

ADJOURNMENTS WILL NOT BE GRANTED WITHIN 5 BUSINESS DAYS. ALL REQUESTS MUST BE MAILED TO THE COURT IN WRITING.

Sincerely yours,

Ivan Kalter
Town Justice

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

April 3, 2013

Willie Williams
[redacted]

Re. Case No.	Statute/Section	Description:	Ticket No.
11090085.01	VTL 1180 0D	Speeding 46/30	TF4201465L

Next Date: 05/15/2013 Time: 05:30PM

The court accepts your not guilty plea. You have been scheduled for a pre-trial conference, with the Assistant Town Attorney, at the time and date shown above. If you plan to be represented by an attorney he/she should accompany you to this meeting.

ADJOURNMENTS WILL NOT BE GRANTED WITHIN 5 BUSINESS DAYS. ALL REQUESTS MUST BE MAILED TO THE COURT IN WRITING.

Sincerely yours,

Ivan Kalter
Town Justice

JUSTICE COURT OF THE TOWN OF FALLSBURG
COUNTY OF SULLIVAN : STATE OF NEW YORK

----------X Docket No. _____

PEOPLE OF THE STATE OF NEW YORK

-against-

APPLICATION TO AMEND SIMPLIFIED TRAFFIC INFORMATIONS AND U.T.T

WILLIE WILLIAMS
----------X

The undersigned hereby affirms as follows:

1. I am the complainant who issued simplified traffic information number TF420146 5.L

2. I hereby move to amend the said simplified traffic information and the uniform traffic ticket issued thereon from the charge of SPEEDING, in violation of section 1180 OP of the vehicle and traffic law to the charge of parking on pavement in violation of section 1201 CN of the vehicle traffic law.

3. I make this request with the express understanding that the defendant will plead guilty to the simplified traffic information as amended.

4. I understand that a false statement made herein are punishable as a class A misdemeanor, pursuant to section 210.45 of the New York State Penal Law.

5. This Stipulation is based upon payment made as specified to the Court and if not made timely the original charges will be reinstated and scheduled for trial without compromise.

Date: 5/15/2013

Complainant

Defendant

1) 1201-A - $175F

6/19/13
pay

TOWN JUSTICE COURT, TOWN OF FALLSBURG
COUNTY OF SULLIVAN, STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against-

WILLIE WILLIAMS,

Defendant.
----------X

AFFIRMATION, WAIVER AND CONSENT TO DISPOSITION

UTT# 1F1205Z3SP
1F1205Z4SP and
TF4201465L

The undersigned hereby affirms as follows:

1. I am the Defendant herein, in which I am charged with violation of Sections 1180(d) and 306(b) and of the New York State Vehicle and Traffic Law. I have retained the law firm of Zachary D. Kelson, Esq., of 10 St. John Street, P.O. Box 1210, Monticello, New York, 12701, to represent my interests therein.

2. I hereby grant full authority to my said attorney and to his designee to represent me. I request and consent that all proceedings, including the trial herein, be conducted in my absence. I hereby authorize my said attorney or his designee to enter a plea of guilty on my behalf to and violation of the Vehicle and Traffic Law that he considers appropriate in satisfaction and disposition of all charges pending against me.

3. I understand that false statements made herein are punishable as a class A misdemeanor, pursuant to §210.45 of the Penal Law.

Dated: May 14, 2013

Willie Williams

WILLIE WILLIAMS

2 tickets tort 7/20/13

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

June 20, 2013

Zachary Kelson
Box 1210
Monticello, NY 12701

Regarding your client:

Willie Williams
[redacted]

Case Number: 11090085
Viol. Date: 09/09/2011

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
TF4201465L	VTL 1201 0A	STOP/PARK VIOL	Fine	175.00	0.00

Total Due: $ 175.00

Payment Due Date: 06/19/2013 Time: 07:00PM
This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

******If bail has been posted on the above charge(s), the bail may be applied to the fine(s). Please send a notarized letter by the person posting the bail requesting that the bail be applied to the fine(s).**** IF PAYMENT IS NOT RECEIVED WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE, BAIL WILL BE FORFEITED******

NO PERSONAL CHECKS, ONLY MONEY ORDERS AND CERTIFIED CHECKS ACCEPTED! CANADIANS MUST PAY IN US FUNDS!

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license.

*******FAILURE TO APPEAR/PAY BY THE DUE DATE ABOVE MAY RESULT IN A BENCH/ARREST WARRANT BEING ISSUED FOR YOUR ARREST. YOU MAY ALSO BE SUBJECT TO RE-SENTENCING WHICH MAY INVOLVE A JAIL SENTENCE AND/OR FINES OR INCREASED FINES*******

Very truly yours,

Ivan Kalter
Town Justice

Fallsburg Justice Court

PO Box 2019
19 Railroad Plaza
South Fallsburg, NY 12779

Ivan Kalter
Town Justice

Phone: (845)434-4574
Fax: (845)436-4372

June 20, 2013

Zachary Kelson
Box 1210
Monticello, NY 12701

Regarding your client:

Willie Williams
[redacted]

Case Number: 11090085
Viol. Date: 09/09/2011

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
TF4201465L	VTL 1201 0A	STOP/PARK VIOL	Fine	175.00	0.00

Total Due: $ 175.00

Payment Due Date: 06/19/2013 Time: 07:00PM

This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

******If bail has been posted on the above charge(s), the bail may be applied to the fine(s). Please send a notarized letter by the person posting the bail requesting that the bail be applied to the fine(s).**** IF PAYMENT IS NOT RECEIVED WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE, BAIL WILL BE FORFEITED******

NO PERSONAL CHECKS, ONLY MONEY ORDERS AND CERTIFIED CHECKS ACCEPTED! CANADIANS MUST PAY IN US FUNDS!

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license.

*******FAILURE TO APPEAR/PAY BY THE DUE DATE ABOVE MAY RESULT IN A BENCH/ARREST WARRANT BEING ISSUED FOR YOUR ARREST. YOU MAY ALSO BE SUBJECT TO RE-SENTENCING WHICH MAY INVOLVE A JAIL SENTENCE AND/OR FINES OR INCREASED FINES*******

Very truly yours

Ivan Kalter
Town Justice

ZACHARY D. KELSON

ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

June 28, 2013

Hon. Tracey Lesczynski, Court Clerk
Town of Fallsburg
PO Box 2019
South Fallsburg, NY 12779

Re: People v. Willie Williams III
Case #12010154

Dear Tracey:

Enclosed herewith please find my attorney's check payable to the Court's order in the sum of $150.00 representing payment of the fine imposed in full in connection with the above-entitled Uniform Traffic Ticket. Kindly forward a receipt for the same to this office at your earliest convenience.

The Defendant will be forwarding a Lost Bail Receipt Affidavit to you under separate cover so that the bail previously posted by him in the sum of $200.00 can be applied towards the fine imposed by the Court.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Mr. Willie Williams, III

7/2/13
rec'd
$200 Ck# 1303
Rt# 29164

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Traffic Ticket

Mr MICHAEL MCGUIRE <judgemcguire@[redacted] Thu, May 23, 2013 at 3:45 AM
To: Zachary Kelson <zacharykelson[redacted]>

That is nice to see he really is a nice young man, thank you again.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]
Sent: Tuesday, May 21, 2013 8:31 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: Re: Traffic Ticket

Nice

---------- Forwarded message ----------
From: "Willie Williams III" <wwilliams3rdct[redacted]>
Date: May 21, 2013 7:40 PM
Subject: Re: Traffic Ticket
To: "Zachary Kelson" <zacharykelson[redacted]>
Cc:

Thank you so much for your services. I am honored to have you work on my behalf. I will begin to pay on those ticket ASAP. Thank you again.

Sent from my iPhone

On May 17, 2013, at 4:29 PM, Zachary Kelson <zacharykelson[redacted]> wrote:

> I appeared on your behalf at the Town of Fallsburg Justice Court for the pre-trial conference in connection with the Uniform Traffic Tickets pending against you on May 15, 2013. Following negotiations with the Town Prosecutor, I was able to obtain a disposition of the first speeding violation pending against you by the entry of a plea of guilty on your behalf to the charge of §1201(a) of the New York State Vehicle & Traffic Law (Parked on Pavement). I was also able to obtain a disposition of the second speeding violation pending against you by the entry of a plea of guilty on your behalf to an additional charge of §1201(a) of the New York State Vehicle & Traffic Law (Parked on Pavement). These are non-moving violations and therefore, no points were assessed against your license. The inspection ticket was dismissed
>
> Had you been convicted of both of the original speeding charges, eight points would have been imposed upon your license.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-26

The Court imposed a total fine in the sum of $350.00 which is to be paid by you no later than June 19, 2013.

The Court will apply the bail which you previously posted in the sum of $100.00 towards the fine if you return the original bail receipt to the Court with your signature on the back.

The fine must be made payable to the Town of Fallsburg Court and must be paid by bank check, certified check or money order. Please forward the balance of the fine in the sum of $250.00 together with the signed bail receipt directly to the Court at PO Box 2019, South Fallsburg, NY 12779. You should reference case #: 12010154 when remitting your fine. If you want the Court to forward a receipt to you, you must also enclose a self-addressed stamped envelope with your payment.

Your failure to pay the fine imposed on or before June 19, 2013 will result in the suspension of your license.

I am glad I was able to obtain such favorable results on your behalf.

Thank you for giving me the opportunity of being of service to you in connection with this matter.

Should you have any questions, please do not hesitate to contact me.

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Gmail

Zachary Kelson <zacharykelson[redacted]

shepish to gilbert

Zachary Kelson <zacharykelson[redacted]> Thu, Mar 12, 2015 at 4:35 PM
To: tuffstuff13@[redacted]
Bcc: Michael McGuire <judgemcguire@[redacted]t>

Dear Ms. Shepish,
It was nice speaking with you today. This will confirm my fee for representing you in connection with this transaction will be $750, plus disbursements, if any. My contact information is set forth below. Please forward to me a copy of your deed, title policy , survey, and any court order discharging the mortgage on your property which involved your ex husbands mis-deeds. I look forward to working with you

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

PENGAD 800-631-6989
EXHIBIT
Comm
EXT-27

Gmail

Zachary Kelson <zacharykelson[redacted]

shepish to gilbert

Mr MICHAEL MCGUIRE <judgemcguire[redacted]
To: Zachary Kelson <zacharykelson[redacted]

Thu, May 28, 2015 at 11:37 AM

Thank you Zach

From: Zachary Kelson [mailto:zacharykelso[redacted]]
Sent: Thursday, March 12, 2015 4:36 PM
To: tuffstuff13[redacted]
Subject: shepish to gilbert

Dear Ms. Shepish,

B It was nice speaking with you today. This will confirm my fee for representing you in connection with this transaction will be $750, plus disbursements, if any. My contact information is set forth below. Please forward to me a copy of your deed, title policy , survey, and any court order discharging the mortgage on your property which involved your ex husbands mis-deeds. I look forward to working with youB

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Gmail

Zachary Kelson <zacharykelso[redacted]

shepish to gilbert

Zachary Kelson <zacharykelso[redacted]
To: Michael McGuire <judgemcguire@[redacted]>

Thu, May 28, 2015 at 11:38 AM

She was a sweet heart. Thanks for the referral

On May 28, 2015 11:36 AM, "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]> wrote:

Thank you Zach

From: Zachary Kelson [mailto:zacharykelso[redacted]]
Sent: Thursday, March 12, 2015 4:36 PM
To: tuffstuff13[redacted]
Subject: shepish to gilbert

Dear Ms. Shepish,

B It was nice speaking with you today. This will confirm my fee for representing you in connection with this transaction will be $750, plus disbursements, if any. My contact information is set forth below. Please forward to me a copy of your deed, title policy , survey, and any court order discharging the mortgage on your property which involved your ex husbands mis-deeds. I look forward to working with youB

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

MICHAEL F. McGUIRE
CORINNE G. McGUIRE
[redacted]

1290
50-693/219
325

10-10-15
Date

Pay to the Order of [redacted] $ 100.00

One-Hundred 00/100 Dollars

KeyBank National Association
Kerhonkson, New York 12446
1-800-KEY2YOU Key.com

Key Privilege Select

For Congratulations!

[redacted]

EXHIBIT
Comm
Ex XI-28

PENGAD 800-631-6989

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/15/2019 09:10:19 AM

Case #: 2014-166
Court: SUPREME

Rec Date: 01/23/2014 11:31:41 AM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: MASSEY ROCHELLE

Defendant: SULLIVAN COUNTY BOARD OF ELECTIONS
SOLOMON DOUGLAS
WEYER JILL KENNY
KENNYWEYER JILL
ALLEN OSWALD
ORESTANO WILLIAM AKA
CHAIRMAN TOWN OF THOMPSON DEM COMMITTEE
JAMES BILL AKA
CHAIRMAN TOWN OF THOMPSON DEM COMMITTEE

Notes:

Plaintiff Attorney: SUSSMAN & WATKINS

---- DOCKET ITEMS -----

Rec Date	Description
01/23/2014	RJI
01/23/2014	VERIFIED PETITION
01/23/2014	AFFID OF R MASSEY
01/23/2014	EXHIBITS 1 THROUGH 3
01/23/2014	COPY 1ST PG OSC
	Comment: MARY JO W TOOK TOOK ALL PAPERS TO COURT
01/24/2014	5 AFFID OF SERV
02/18/2014	AFFIRMATION IN RESPONSE
02/18/2014	OBJECTIONS IN POINT OF LAW
02/18/2014	ORDER TO SHOW CAUSE, MEDDAUGH, 01/23/2014
02/18/2014	COPY DOCS
02/18/2014	EXHIBITS 1 - 3
12/14/2016	SENT TO COURT PER ANNE
01/04/2017	FILE BACK FROM COURT
05/08/2018	CERTIFIED COURT TRANSCRIPT

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary Index #- 2014-166 Massey US. SC Bd of Elections **with the original now remaining on** file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.
January 23, 2014
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 14th **day of** January **A.D.,** 2019.

Daniel L. Briggs, Clerk

EXHIBIT
Comm
Ex XI-29
PENGAD 800-631-6989

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index No.: 166-2014

----------X

ROCHELLE MASSEY, on her own behalf and on behalf of all similarly situated voters,

Plaintiff

-against-

SULLIVAN COUNTY BOARD OF ELECTIONS, DOUGLAS SOLOMON, JILL KENNY-WEYER, AND OSWALD ALLEN, all candidates for Democratic Party nomination for Village of Monticello Board of Trustees and WILLIAM ORESTANO [a/k/a BILL JAMES] Chairman, Town of Thompson Democratic Committee

Defendants.

----------X

OBJECTIONS IN POINT OF LAW AND VERIFIED ANSWER

RECEIVED

The Defendant, William Orestano, by his attorney, Zachary D. Kelson, Esq., as and for his objections in point of law and answer to the Verified Petition of Rochelle Massey, Plaintiff, respectfully shows to the Court and alleges as follows:

1. Denies knowledge or information sufficient to form a belief with respect to the allegations contained and set forth in Paragraphs designated 5, 7, 8 and paragraphs 10 through 34 Plaintiff's Petition. It is respectfully submitted that the Petition of the Plaintiff, Rochelle Massey must be dismissed in its entirety pursuant to CPLR §7804(f) based upon the following objections in point of law and affirmative defenses.

2. The instant Petition of the Plaintiff, Rochelle Massey must be dismissed as a matter of law as the Plaintiff lacks standing to bring this action. The Petition pending before this Court is completely devoid of any allegations that confer standing on the Plaintiff to assert the claims made by her. The Petition merely alleges that the Plaintiff is a registered

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-29a

voter, African American and candidate for election to the position of Village Trustee of the Village of Monticello. These allegations are woefully inadequate to allege or even suggest standing on the part of the Plaintiff.

3. It is well settled that "a court may act only when the rights of the party requesting relief are affected." Matter of Brighten Residents Against Violence to Children v. MW Props., 304 A.D.2d 53, 56 (4th Dept. 2003). See: Society of Plastics Indus. v. County of Suffolk, 77 N.Y.2d 761 (1991). Standing is a threshold decision, which requires a petitioner to "show an injury-in-fact — an actual legal stake in the matter being adjudicated — and that the interest or injury asserted falls within the zone of interest to be protected by the statute or constitutional guarantee." Matter of LaSalle Ambulance v. New York State Dept. of Health, 245 A.D.2d 724, 724 (3d Dept. 1997). The injury suffered must be "different in kind or degree from that suffered by the public at large." Id.

4. "To establish standing in a proceeding pursuant to CPLR article 78, a petitioner must show that he or she will suffer an injury in fact that is distinct from that of the general public." Concerned Taxpayers of Stony Point v. Town of Stony Point, 28 A.D.3d 657, 658 (2d Dept. 2006). "Thus, a private citizen who does not show any special rights or interests in the matter in controversy, other than those common to all taxpayers and citizens, has no standing to sue." Id.; Meehan v. County of Westchester, 3 A.D.3d 533, 534 (2d Dept. 2004). Indeed, the Court of Appeals has held that the "zone of interests test, tying the in-fact injury asserted to the governmental act challenged, circumscribes the universe of persons who may

challenge the administrative action." Society of Plastics Indus. v. County of Suffolk, 77 N.Y.2d 761, 773 (1991).

5. Moreover, a plaintiff's injury-in-fact must be "fairly traceable to the defendant's allegedly unlawful conduct" in order to have standing to bring an action against a defendant. People ex rel Spitzer v. Grasso, 54 A.D.3d 180, 198 (1st Dept. 2008); Silver v. Pataki, 96 N.Y.2d 532, 539 (2001); Bernstein v. Feiner, 787 N.Y.S.2d 357, 358 (2d Dept. 2004) (stating that "a party seeking to challenge a governmental or administrative action must show an injury-in-fact distinct from that of the general public which falls within the `zone of interest' that the relevant statute seeks to promote or protect").

6. The burden of proof is on the Plaintiff to demonstrate that she has standing to bring this action, and this Plaintiff has failed to do so. The Plaintiff apparently bases her claim of standing upon the claim that the Plaintiff is a registered voter, African American and candidate for election to the position of Village Trustee of the Village of Monticello. As the case law above demonstrates, these allegations do not confer standing to prosecute an Article 78 proceeding. Importantly, the Plaintiff does not allege any particularized injury-in-fact, nor do she allege that her purported interests are within a zone of interest sought to be protected. It cannot be said that the Plaintiff has a special right or interest in the location of the polling place for the Village of Monticello Democratic primary that is different than that of all of the voters of the Village of Monticello.

7. The Plaintiff has not demonstrated that she has suffered an injury-in-fact, let

alone one within a protected zone of interest, and therefore she has no standing to challenge the selection of the polling place for the Village of Monticello Democratic primary.

8. In addition, the act of designating the Monticello Joint Fire District Firehouse as the polling place for the Democratic primary was neither arbitrary nor capricious and in fact, numerous valid bases exist resulting in a determination that the Ted Stroebel Community Center was not going to be used as a polling place for the upcoming primary.

9. Based upon the fact that this Petition was served late yesterday afternoon and your deponent was retained late last evening, I took the opportunity on the way to work this morning to calculate the road distances between the Plaintiff's residence located at [redacted] and the Monticello Joint Fire District Firehouse located at 23 Richardson Avenue, Monticello, New York and the distance between the Plaintiff's residence and the Ted Stroebel Community Center located at 2 Jefferson Street, Monticello, New York.

10. The distance between the front door of the Plaintiff's residence and the Monticello Joint Fire District Firehouse is three-tenths (3/10) of a mile.

11. The distance between the front door of the Plaintiff's residence and the Ted Stroebel Community Center is nine-tenths (9/10) of a mile.

12. The foregoing demonstrates that the Plaintiff has in fact suffered no injury and has no standing to bring the instant proceeding.

WHEREFORE, Defendant William Orestano demands judgment to be entered in his favor and against the Plaintiff as follows:

(A) For a judgment dismissing Plaintiff's Petition in its entirety pursuant to CPLR §7804(f);

(B) For a judgment be entered in favor of the Defendant William Orestano and against the Plaintiff for an award of legal fees in connection with the defense of this proceeding; and

(C) For such other, further and/or different relief as to the Court may seem just and proper under the circumstances.

Dated: Monticello, New York
January 24, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant, William Orestano
10 St. John Street - PO Box 1210
Monticello, New York 12701
Phone: (845) 794-1000

To: Sussman & Watkins
Attorney for Plaintiff
PO Box 1005
Goshen, NY 10924

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

WILLIAM ORESTANO, being duly sworn, deposes and says:

I am one of the Defendants herein; I have read the annexed Objections in Point of Law and Answer, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

William Orestano
WILLIAM ORESTANO

Sworn to before me this
24th day of January, 2014

Notary Public - State of New York

ZACHARY D. KELSON
Notary Public, State of New York
Sullivan County Clerk's #1878
Commission Expires Sept. 30, 2014

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index No.: 166-2014

----------X

ROCHELLE MASSEY, on her own behalf and on behalf of all similarly situated voters,

Plaintiff

-against-

SULLIVAN COUNTY BOARD OF ELECTIONS, DOUGLAS SOLOMON, JILL KENNY-WEYER, AND OSWALD ALLEN, all candidates for Democratic Party nomination for Village of Monticello Board of Trustees and WILLIAM ORESTANO [a/k/a BILL JAMES] Chairman, Town of Thompson Democratic Committee

Defendants.

----------X

OBJECTIONS IN POINT OF LAW AND VERIFIED ANSWER

RECEIVED

The Defendant, William Orestano, by his attorney, Zachary D. Kelson, Esq., as and for his objections in point of law and answer to the Verified Petition of Rochelle Massey, Plaintiff, respectfully shows to the Court and alleges as follows:

1. Denies knowledge or information sufficient to form a belief with respect to the allegations contained and set forth in Paragraphs designated 5, 7, 8 and paragraphs 10 through 34 Plaintiff's Petition. It is respectfully submitted that the Petition of the Plaintiff, Rochelle Massey must be dismissed in its entirety pursuant to CPLR §7804(f) based upon the following objections in point of law and affirmative defenses.

2. The instant Petition of the Plaintiff, Rochelle Massey must be dismissed as a matter of law as the Plaintiff lacks standing to bring this action. The Petition pending before this Court is completely devoid of any allegations that confer standing on the Plaintiff to assert the claims made by her. The Petition merely alleges that the Plaintiff is a registered

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XT-29a

voter, African American and candidate for election to the position of Village Trustee of the Village of Monticello. These allegations are woefully inadequate to allege or even suggest standing on the part of the Plaintiff.

3. It is well settled that "a court may act only when the rights of the party requesting relief are affected." Matter of Brighten Residents Against Violence to Children v. MW Props., 304 A.D.2d 53, 56 (4th Dept. 2003). See: Society of Plastics Indus. v. County of Suffolk, 77 N.Y.2d 761 (1991). Standing is a threshold decision, which requires a petitioner to "show an injury-in-fact — an actual legal stake in the matter being adjudicated — and that the interest or injury asserted falls within the zone of interest to be protected by the statute or constitutional guarantee." Matter of LaSalle Ambulance v. New York State Dept. of Health, 245 A.D.2d 724, 724 (3d Dept. 1997). The injury suffered must be "different in kind or degree from that suffered by the public at large." Id.

4. "To establish standing in a proceeding pursuant to CPLR article 78, a petitioner must show that he or she will suffer an injury in fact that is distinct from that of the general public." Concerned Taxpayers of Stony Point v. Town of Stony Point, 28 A.D.3d 657, 658 (2d Dept. 2006). "Thus, a private citizen who does not show any special rights or interests in the matter in controversy, other than those common to all taxpayers and citizens, has no standing to sue." Id.; Meehan v. County of Westchester, 3 A.D.3d 533, 534 (2d Dept. 2004). Indeed, the Court of Appeals has held that the "zone of interests test, tying the in-fact injury asserted to the governmental act challenged, circumscribes the universe of persons who may

challenge the administrative action." Society of Plastics Indus. v. County of Suffolk, 77 N.Y.2d 761, 773 (1991).

5. Moreover, a plaintiff's injury-in-fact must be "fairly traceable to the defendant's allegedly unlawful conduct" in order to have standing to bring an action against a defendant. People ex rel Spitzer v. Grasso, 54 A.D.3d 180, 198 (1st Dept. 2008); Silver v. Pataki, 96 N.Y.2d 532, 539 (2001); Bernstein v. Feiner, 787 N.Y.S.2d 357, 358 (2d Dept. 2004) (stating that "a party seeking to challenge a governmental or administrative action must show an injury-in-fact distinct from that of the general public which falls within the `zone of interest' that the relevant statute seeks to promote or protect").

6. The burden of proof is on the Plaintiff to demonstrate that she has standing to bring this action, and this Plaintiff has failed to do so. The Plaintiff apparently bases her claim of standing upon the claim that the Plaintiff is a registered voter, African American and candidate for election to the position of Village Trustee of the Village of Monticello. As the case law above demonstrates, these allegations do not confer standing to prosecute an Article 78 proceeding. Importantly, the Plaintiff does not allege any particularized injury-in-fact, nor do she allege that her purported interests are within a zone of interest sought to be protected. It cannot be said that the Plaintiff has a special right or interest in the location of the polling place for the Village of Monticello Democratic primary that is different than that of all of the voters of the Village of Monticello.

7. The Plaintiff has not demonstrated that she has suffered an injury-in-fact, let

alone one within a protected zone of interest, and therefore she has no standing to challenge the selection of the polling place for the Village of Monticello Democratic primary.

8. In addition, the act of designating the Monticello Joint Fire District Firehouse as the polling place for the Democratic primary was neither arbitrary nor capricious and in fact, numerous valid bases exist resulting in a determination that the Ted Stroebel Community Center was not going to be used as a polling place for the upcoming primary.

9. Based upon the fact that this Petition was served late yesterday afternoon and your deponent was retained late last evening, I took the opportunity on the way to work this morning to calculate the road distances between the Plaintiff's residence located at [redacted] and the Monticello Joint Fire District Firehouse located at 23 Richardson Avenue, Monticello, New York and the distance between the Plaintiff's residence and the Ted Stroebel Community Center located at 2 Jefferson Street, Monticello, New York.

10. The distance between the front door of the Plaintiff's residence and the Monticello Joint Fire District Firehouse is three-tenths (3/10) of a mile.

11. The distance between the front door of the Plaintiff's residence and the Ted Stroebel Community Center is nine-tenths (9/10) of a mile.

12. The foregoing demonstrates that the Plaintiff has in fact suffered no injury and has no standing to bring the instant proceeding.

WHEREFORE, Defendant William Orestano demands judgment to be entered in his favor and against the Plaintiff as follows:

(A) For a judgment dismissing Plaintiff's Petition in its entirety pursuant to CPLR §7804(f);

(B) For a judgment be entered in favor of the Defendant William Orestano and against the Plaintiff for an award of legal fees in connection with the defense of this proceeding; and

(C) For such other, further and/or different relief as to the Court may seem just and proper under the circumstances.

Dated: Monticello, New York
January 24, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant, William Orestano
10 St. John Street - PO Box 1210
Monticello, New York 12701
Phone: (845) 794-1000

To: Sussman & Watkins
Attorney for Plaintiff
PO Box 1005
Goshen, NY 10924

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

WILLIAM ORESTANO, being duly sworn, deposes and says:

I am one of the Defendants herein; I have read the annexed Objections in Point of Law and Answer, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

William Orestano
WILLIAM ORESTANO

Sworn to before me this
24th day of January, 2014

Notary Public - State of New York

ZACHARY D. KELSON
Notary Public, State of New York
Sullivan County Clerk's #1878
Commission Expires Sept. 30, 2014

1

2 SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

3

4 ROCHELLE MASSEY,

5 Plaintiff,

6 -against- Index No. 166-2014

7

8 SULLIVAN COUNTY BOARD OF ELECTIONS, DOUGLAS SOLOMON, JILL KENNY-WEYER AND OSWALD ALLEN, all candidates for Democratic Party nomination for
9 Village of Monticello Board of Trustees and WILLIAM ORESTANO (a/k/a BILL JAMES), Chairman,
10 Town of Thompson Democratic Committee,

11 Defendants.

RECEIVED
OFFICE OF COURT CLERK
2018 APR 19 AM 10: 28

12

ORDER TO SHOW CAUSE

13

Lawrence H. Cooke
14 Sullivan County Courthouse
Monticello, New York 12701
15 January 24, 2014

16 B E F O R E:

17 HONORABLE MICHAEL F. McGUIRE,
Acting Justice of the Supreme Court.

18

APPEARANCES:

19

SUSSMAN & WATKINS, ESQ.
20 Attorneys for Plaintiff
One Railroad Avenue, Third Floor
21 P.O. Box 1005
Goshen, New York 10924
22 BY: MICHAEL H. SUSSMAN, ESQ. and
MARY JO WHATELEY, ESQ.

23

(Appearances continued next page)

24

Georgette H. Sayers, RMR
25 Senior Court Reporter.

EXHIBIT
Comm
Ex XI-296
PENGAD 800-631-6989

1

2 APPEARANCES CONTINUED:

3 SAM YASGUR, ESQ.
County Attorney, Sullivan County
4 Attorney for Board of Elections
100 North Street
5 Monticello, New York 12701
BY: THOMAS W. CAWLEY, ESQ.
6

RICCIANI & JOSE, LLP
7 Attorneys for Defendant Solomon
17 St. John Street
8 Monticello, New York 12701
BY: DANIELLE JOSE-DECKER, ESQ.
9

ORSECK LAW OFFICES
10 Attorneys for Defendant Kenny-Weyer
1924 Route 52
11 Liberty, New York 12754
BY: KIRK ORSECK, ESQ.
12

GERSTMAN & KELSON, ESQS.
13 Attorneys for Defendant Orestano
10 St. John Street
14 Monticello, New York 12701
BY: ZACHARY KELSON, ESQ.
15
16
17
18
19
20
21
22
23
24
25

1 P R O C E E D I N G S
2 THE COURT: All right. I appreciate
3 everybody getting up here, I was concerned
4 that there may have been some confusion
5 about where we were going to hold this
6 proceeding, but it appears that certainly
7 all people that I would expect to be here
8 are here and I know that in Family Court
9 if anyone is down there, they're telling
10 them to come up here. And I do apologize
11 also for having you wait a little bit, I'm
12 in the middle of a trial down in Family
13 Court.
14 So with that said, this is an Order
15 to Show Cause that was brought by
16 Mr. Sussman on behalf of his client, Miss
17 Massey, regarding the village Democratic
18 primary, correct?
19 MR. SUSSMAN: Yes.
20 THE COURT: Could we just get
21 appearances for the record, please?
22 MR. SUSSMAN: Michael Sussman, Mary
23 Jo Whateley appearing for the plaintiff.
24 MS. WHATELEY: Morning, Your Honor.
25 THE COURT: Good morning.

1 P R O C E E D I N G S
2 MR. CAWLEY: Thomas Cawley,
3 Assistant County Attorney on behalf of the
4 Sullivan County Board of Elections.
5 MR. KELSON: Zachary Kelson,
6 attorney for William Orestano.
7 MS. JOSE-DECKER: Danielle Jose-
8 Decker, attorney for Doug Solomon.
9 MR. ORSECK: Kirk Orseck, attorney
10 for Jill Kenny-Weyer.
11 THE COURT: All right. Very good.
12 Mr. Sussman.
13 MR. SUSSMAN: First of all, Your
14 Honor, let me thank you for hearing the
15 matter as promptly as you have. I
16 apologize for the Court bringing it on as
17 late as we did, but we just found out
18 about the facts as outlined in the
19 affidavit which I'm sure you looked at --
20 THE COURT: That's fine, yes.
21 MR. SUSSMAN: -- and the matter
22 which allowed us to bring it on when we
23 did. As the Court well knows, in our
24 society and in our law there's no more
25 precious right than the right to vote.

1 P R O C E E D I N G S
2 And I think all Americans take seriously
3 the notion that vote should not be
4 suppressed in any election. This is a
5 very unfortunate matter, and I recognize
6 there's a context to it and I'm sure the
7 Court being -- essentially being in this
8 county understands the context, but I just
9 want to spend one moment on the context --
10 THE COURT: Sure.
11 MR. SUSSMAN: -- because I think it
12 is important. Rochelle Massey was
13 appointed to the village board by Gordon
14 Jenkins because under the village law in
15 New York State, the Mayor has the right to
16 appoint when there is a vacancy. There
17 was a great deal of turmoil about that
18 appointment because Miss Rochelle lives
19 with Gordon and has lived with him for 27
20 years, and there was concern in the
21 community amongst some at least that the
22 appointment was inappropriate for that
23 reason. But in fact under the village law
24 and under the laws of the regulations of
25 the village, the appointment stood. Now,

1 P R O C E E D I N G S
2 I understand that there may be individuals
3 who don't like and didn't like that
4 appointment, and as you know, there'll be
5 a primary and individuals in our society
6 who don't like persons elected or
7 appointed have the right to come out and
8 vote and to, if you will, throw the bums
9 out of office. It's also clear that since
10 that appointment, Mayor Jenkins has again
11 become the subject of significant
12 controversy which has in fact, may not
13 like it, been quite racially polarizing
14 and I've acknowledged that as his
15 attorney. It's clear. He made comments
16 about the police department which were
17 highly polarizing comments, but he
18 believed them as he I believe did, whether
19 he felt they were justified as he believed
20 them, that's again for a different forum
21 and a different day, but it affects, I
22 believe, the context we're in today. As a
23 consequence of those comments which are
24 fairly recent comments, a group of
25 individuals got together from different

1 P R O C E E D I N G S
2 political parties in Monticello and as is
3 their right, decided to mount a campaign
4 against Rochelle and her running mate
5 Mr. Allen, and again, I take no issue of
6 that. They have every right to run for
7 primary, that's the American way, she did
8 not get the party endorsement, party
9 endorsement went to former Chief Solomon
10 who again I know and respect and this
11 again as to him is not personal and his
12 running mate and they have a right to be
13 on the ballot and no one is in any way
14 contesting that here today.
15 Now, New York -- I'm going to switch
16 now to the legal side of this. New York
17 State law, Judge, has a provision, 4-104
18 which is explicit and states and I think
19 it was miscited unfortunately in my
20 papers, one of the counsel points that
21 out. It is the only provision in law in
22 the election law which explicitly states
23 and it states -- quote -- "for all
24 elections." That's pretty significant
25 language. But specifically states who is

1 P R O C E E D I N G S
2 to select places for elections. And it
3 rests that in the board of elections of
4 the county.
5 Now as you know, Sam Yasgur and I
6 visited about this for hours yesterday.
7 Sam Yasgur, the County Attorney. The
8 board of elections in this case takes the
9 position that they have nothing to do with
10 the selection of a voting place and that
11 that resides with and only with the
12 political party because this is a
13 primary. Well, anticipating that, the
14 political party represented by Mr. James
15 who apparently made the selection or at
16 least he says he did to Miss Massey is
17 also represented in this case and he's the
18 Chairman of the Town of Thompson
19 Democratic party which is apparently
20 running the primary. I put both of them
21 in because frankly the statute to me reads
22 one way when it says "in all elections,"
23 there's no other -- actually when you read
24 carefully the other provisions, there's no
25 other provision which says who is to make

1 P R O C E E D I N G S
2 the selection. There is a provision which
3 says in a primary, the chairman or whoever
4 it is running that election is to give
5 notice of a location and time but that
6 does not say as it could have that he or
7 she is to select. I don't think the Court
8 necessarily needs to reach that issue,
9 because both are parties here and somehow
10 or another there's a place selected. So
11 we address next the place selected. I
12 just want you to be clear, the individual
13 candidates are here not because we allege
14 they did anything wrong. They're here
15 cause they're necessary parties in an
16 election case.
17 THE COURT: Right.
18 MR. SUSSMAN: The County board of
19 elections is here because, as I read the
20 statute, it and only it has the right to
21 select places for elections because, as I
22 said before, "all elections" as I said and
23 I interpret that to mean primary
24 elections. They do not. And for instance
25 the New York State Council of Mayors has

1 P R O C E E D I N G S
2 an advisory opinion saying in primaries
3 that doesn't apply. That's their opinion,
4 but it's not what the law says.
5 THE COURT: Isn't there a separate
6 section that deals with primary
7 elections?
8 MR. SUSSMAN: There is and that's
9 what I was referring to earlier. In the
10 separate section, it says that the
11 chairman is to provide notice of the place
12 and time. It does not state the chairman
13 or the party is to select the location.
14 They interpret it to mean that and again,
15 I'm leaving that alone, I'm in a sense
16 neutral between that because I want
17 relief, and whoever it is selected the
18 place or should have selected the place,
19 they're both here and from my point of
20 view, that gives the Court authority to
21 enter relief --
22 THE COURT: Okay. Okay.
23 MR. SUSSMAN: -- whoever it thinks
24 the relief should be against, and I'm in a
25 way neutral on that --

1 P R O C E E D I N G S
2 THE COURT: Okay.
3 MR. SUSSMAN: -- because it's
4 unclear to me. That's why I put it in the
5 papers being unclear to me. I think the
6 statute says one thing, practice seems to
7 say something else and as you say
8 correctly, Your Honor, there's a provision
9 which does give the party the right to run
10 the primary, whether that includes
11 selecting the places or not is not
12 statutorily clear, and frankly, I found no
13 case law on it. And I didn't see any
14 cited by anyone else.
15 THE COURT: But the section that you
16 cite, the correct section that was -- that
17 was mistaken in the papers and I think we
18 all have the right section now --
19 MR. SUSSMAN: Yes.
20 THE COURT: -- does talk about
21 primaries in terms of the polling places
22 that are acceptable polling places, and
23 that statute, that statutory section
24 really seems to deal more with the makeup
25 of an appropriate polling place, and that

1 P R O C E E D I N G S
2 the village is obligated to notify the
3 county board of elections where those
4 proper places are going to be and the
5 statute is pretty clear about ADA
6 accessibility, not a place where sells
7 alcohol, if it's a church, they don't have
8 to be open -- or synagogue, they don't
9 have to be open on Saturdays, so that's
10 what that section seems to deal with.
11 MR. SUSSMAN: I agree with that.
12 THE COURT: Okay.
13 MR. SUSSMAN: That section though I
14 think it's also fair to say and that's why
15 there's -- these statutes may not be the
16 best drafted statutes but it's what we
17 have to work with. I'm not blaming the
18 Court and I'm not blaming anyone on the
19 other side of this case for that. All
20 same saying about this issue is if you
21 read through the whole election law and
22 you try to determine who is to -- who is
23 to determine the place, the only place
24 where selection is explicitly discussed
25 and it says in all -- in any election, all

1 P R O C E E D I N G S
2 elections whichever it is, but they mean
3 the same is the board of elections. And
4 I'm moving off that simply because I
5 think, as I said earlier, they're both
6 here, so I'm not sure that's the most
7 material issue. Now --
8 THE COURT: And you're not raising
9 the issue that the person, however it was
10 selected, that that process was wrong,
11 just that the outcome of that process has
12 created a potential hardship.
13 MR. SUSSMAN: Right. There are two
14 -- there is an issue in the complaint, in
15 the petition, which is raised with regard
16 to the failure to consult, which is part
17 of this -- explicitly part of the statute,
18 and the Court's given your interpretation
19 of that consultation process, I think
20 myself, that it's probably more individual
21 to each election and there's supposed to
22 be a consultative process with the village
23 as to where are we going to have this
24 election. That's how I read the
25 provision, and that didn't happen here and

1 P R O C E E D I N G S
2 that's alleged.
3 THE COURT: Okay.
4 MR. SUSSMAN: But I'm moving beyond
5 that even, 'cause I think we're really
6 here about the heart of the matter. The
7 heart of the matter is this -- and again,
8 I want the Court and I'm sure you
9 understand this but I want everyone else
10 to understand it because there'll be
11 confusion publicly about this, we have
12 never taken the position that the
13 Monticello Fire Station in and of itself
14 is an inappropriate place, and if you read
15 our papers, which I'm sure you did, we
16 didn't ask that the election not use that
17 facility. We appreciate that's on the
18 other side of town, it's more contiguous
19 to voters, some voters, and it should be
20 utilized for their convenience in 5 degree
21 weather. Okay. We appreciate that. What
22 we don't appreciate, what we're here
23 about, is not using the Stroeble Community
24 Center, and I'll tell you briefly the
25 reasons for that.

1 P R O C E E D I N G S
2 First of all, let me address the
3 issue of standing. Mr. Kelson has raised
4 the issue of standing, essentially it's in
5 his objections. In order to do that, I
6 have to go back a little bit. This case
7 is brought under both Article 78 but also
8 under Section 1983, and as this Court I'm
9 sure knows -- I'm not sure you've heard
10 cases under 1983, but this Court has
11 concurrent jurisdiction to hear 1983 cases
12 which is a -- 1983 is a jurisdiction
13 bearing provision which gives both state
14 and federal courts the right to
15 effectively enforce individual rights as
16 provided by the 14th amendment. The
17 Voting Rights Act 41 United States Code
18 1973 is a statute which is passed in 1965
19 and has been interpreted, and the Supreme
20 Court interpreted this in Hathorn,
21 H-A-T-H-O-R-N, versus Lovorn, L-O-V-O-R-N,
22 cited at 458 United States 1131, 103
23 Supreme Court 15, as giving co-extensive
24 jurisdiction to federal and state courts
25 to enforce the Voting Rights Act. Again,

1 P R O C E E D I N G S
2 that's not well known because almost all
3 voting rights cases and almost all 1983
4 cases are brought in federal court. But
5 you do have jurisdiction in those cases.
6 And in terms of standing, it couldn't be
7 clearer that a candidate as Miss Rochelle
8 Massey is does have standing to assert
9 that voter suppression against members of
10 her group which is what she's asserting is
11 occurring due to a particular change in
12 polling places, for instance. So while
13 Mr. Kelson focuses on Article 78 and says
14 she doesn't have standing, she's nearer to
15 one voting place than another, it doesn't
16 personally affect her, she's here as the
17 petition makes clear by stating on her own
18 behalf and on behalf of all similarly
19 situated voters and identifying the issue
20 as one of racial voting suppression to
21 represent the interests, and I do want to
22 be clear on that. And the case law
23 couldn't be clearer on that frame. I
24 understand you didn't have time to address
25 it, but if the Court wants by the end of

1 P R O C E E D I N G S
2 the day a brief on that, it can be
3 submitted.
4 So then the question comes is this a
5 case of voter suppression. That becomes
6 the heart issue. And again, under Section
7 2 of the Voting Rights Act and the Equal
8 Protection Clause, there are numerous
9 cases which hold that where you have a
10 change of voting place and that change of
11 voting place disproportionately affects a
12 racial group and it's relatively clear
13 here from the demographics of Monticello
14 as attested to by Miss Massey and not
15 contested by Mr. Orestano who provided a
16 verified answer, points of objection, that
17 the Stroeble place, first of all, having
18 been used for decades but from our point
19 of view, a long number of years as a
20 polling place, there's no dispute as to
21 that. The papers we submitted show that
22 both of these are polling places utilized
23 for different wards -- they're not really
24 wards -- or districts, in Monticello. And
25 county legislative races, they were used

1 P R O C E E D I N G S
2 in the race Your Honor ran in, they were
3 used, both places are used. And if one
4 goes there and sees who votes there, it's
5 very clear that almost all of those, the
6 large, large, large number of those who
7 vote there are racial minorities, and it's
8 not to say that there aren't racial
9 minorities who vote at the other
10 facility. There are some. But
11 disproportionately as has been attested to
12 by Miss Massey, has been in this community
13 essentially her whole life and is someone
14 as a candidate previous could attest to
15 this, it's very clear.
16 Now, that brings us to why anyone
17 would oppose using both polling places.
18 And that brings us to the beginning of the
19 argument. And frankly, this is the part
20 of the situation which is most, if you
21 will, upsetting and concerning. If Doug
22 Solomon and Jill Weyer win this primary
23 and go on to lead this community as two of
24 the five members of the board -- that may
25 happen, it may not happen -- they should

1 P R O C E E D I N G S
2 do so without the burden of serious
3 allegations of voter suppression of a
4 group of this community that represents
5 approximately 40 percent of the voters.
6 They should want to lead the community
7 with a fully fair election. They
8 shouldn't want to lead the community
9 having run in an election where a major
10 polling place which is contiguous to
11 public housing projects, senior citizen
12 projects, where those people who are of
13 limited means -- and we can tell that
14 because of where they live. They're not
15 in those projects because they have means,
16 who can't afford cabs, who can't afford to
17 get to polling place as mile away and who
18 have a place they've always voted in two
19 blocks away have been disenfranchised. So
20 for the integrity of the system as well as
21 to vindicate the rights of those people,
22 this facility should be used in Tuesday's
23 election. It will make for more
24 integrity, it will make for a result which
25 can be embraced by the entire community.

1 P R O C E E D I N G S
2 Now, that doesn't dictate the result. I
3 don't know what the result will be. I
4 want to see an election and the Court
5 doesn't and the Court shouldn't be
6 involved in it, and frankly, neither
7 should either the Board of Elections or
8 the Democratic party, qua Democratic
9 party. A political party may endorse
10 candidates but they have to separate that
11 function from the function of running a
12 fair primary. I think we can all agree on
13 that. I've run in the Democratic primary
14 for county executive of my own county. I
15 was not favored at the convention. I won
16 the primary by 58 percentage points. It
17 was a fair primary. Had those who had
18 been at that convention, running the
19 convention tried to make it an unfair
20 primary by not having any voting in the
21 communities that I was popular in, so to
22 speak, it would have been transparently
23 ridiculous. And in a certain way that's
24 what's happening here. And it shouldn't
25 happen in our society. That's the basic

1 P R O C E E D I N G S
2 bottom line. And unfortunately, the Court
3 is the place of last resort in exigencies
4 like this and I realize it puts a strain
5 on the Court as you say you're in the
6 middle of another trial and you have to
7 decide a difficult issue, but everyone
8 should agree, and that's what I was hoping
9 would happen today, frankly, rather than
10 force the Court to decide, that the
11 primary will be held in both places.
12 They've both been used historically, of
13 course the new firehouse is new so it
14 doesn't have a great a history as a
15 Stroeble Center as a polling place, but
16 since it's been built, they've both been
17 used as historical polling places and the
18 reason for that is different parts of the
19 community vote at them. We don't want an
20 election which disenfranchises people or
21 is understood --
22 THE COURT: Well, isn't that because
23 in county wide elections or legislative
24 elections, those two polling places are
25 servicing different voting districts?

1 P R O C E E D I N G S
2 MR. SUSSMAN: Yes, there are --
3 THE COURT: So in the village,
4 traditionally there's only been one voting
5 district.
6 MR. SUSSMAN: In the district,
7 Stroeble has always been used in
8 primaries.
9 THE COURT: Okay. But I'm saying --
10 MR. SUSSMAN: As has the firehouse.
11 There have been two used.
12 THE COURT: But in village elec...
13 -- well, in elections when both have been
14 used, county wide elections, to reference
15 my election just for a point of reference,
16 this has nothing to do with my election --
17 MR. SUSSMAN: Oh, absolutely.
18 THE COURT: Yeah. -- but there was
19 a reason because -- to have both places
20 was not for convenience of the voters to
21 go wherever they wanted, it was because
22 there was two separate voting districts,
23 the voters that lived in a particular
24 district were required to go to either the
25 firehouse or to the Stroeble Center or to

1 P R O C E E D I N G S
2 any of the other numerous districts around
3 the County.
4 MR. SUSSMAN: But what I'm saying is
5 in prior village elections where
6 considerations you just raised were
7 absent, both have been used.
8 THE COURT: But -- okay. So in
9 prior village elections --
10 MR. SUSSMAN: Primaries.
11 THE COURT: Okay. In prior village
12 primaries, they've used the Stroeble
13 Center --
14 MR. SUSSMAN: Yeah.
15 THE COURT: -- correct? Well,
16 doesn't that disenfranchise the non
17 African American voters then?
18 MR. SUSSMAN: And that might have
19 been a valid argument to raise, and I'm
20 not arguing that one should be used, as I
21 said to you earlier, rather than the
22 other. I'm not here telling you that the
23 fire station shouldn't be used --
24 THE COURT: Okay.
25 MR. SUSSMAN: -- 'cause I appreciate

1 P R O C E E D I N G S
2 the argument that -- and as I've argued.
3 That -- I'm not -- I wasn't there and I'm
4 not arguing that --
5 THE COURT: Okay.
6 MR. SUSSMAN: -- position. Nobody
7 came to me and said I'm disenfranchised by
8 only using the Stroeble Center. Had they,
9 I might very well be before you, but
10 that's really not the issue you need to
11 face.
12 THE COURT: Correct, correct,
13 correct.
14 MR. SUSSMAN: You need to face the
15 issue of whether this does represent and
16 to disenfranchise.
17 THE COURT: Correct.
18 MR. SUSSMAN: And here's another way
19 to look at it, just to be a bit clearer.
20 Let's say as is the case the history was
21 to use the Stroeble Center in this
22 community and it was understood that that
23 center was more convenient to a block of
24 voters who happened to be of one group
25 racially. If that were the situation and

1 P R O C E E D I N G S
2 then an intentional decision was made to
3 stop using that center and to use
4 somewhere on the other side of town, so to
5 speak, an argument, as is here, could
6 reasonably be made that the purpose of
7 that was disenfranchisement. So -- and
8 that to me is exactly what you're facing.
9 THE COURT: Right.
10 MR. SUSSMAN: Now your -- the
11 argument is only one place needs to use
12 it, put it that way, there obviously has
13 to be somewhere everyone has to vote --
14 THE COURT: Sure.
15 MR. SUSSMAN: -- you can't vote at
16 home -- you'll be able to do that in ten
17 years -- to the argument that well, some
18 place has to be used, my point is simply
19 this, if you choose the place that
20 effectively disenfranchises in the context
21 we're in, which is one of unfortunately
22 perhaps two African American candidates
23 running against two Caucasian candidates
24 and that is the situation, whether we like
25 it or not, that's -- there are two slates

1 P R O C E E D I N G S
2 for village trustee.
3 MR. KELSON: Your Honor, just -- and
4 I apologize for interrupting. I think
5 that Mr. Sussman left out one part that we
6 should mention. There is another person
7 running on the line that the line that
8 Miss Weyer and Mr. Solomon are running on
9 and that is Josephine Finn, someone who's
10 an African American. Now, she is not
11 being primaried but I just wanted to --
12 and I'm sure Mr. Sussman will clarify that
13 this --
14 THE COURT: I understand.
15 MR. KELSON: -- this is not a white
16 versus black team. This is one team
17 versus another team.
18 THE COURT: I don't see this --
19 frankly, I don't see this in terms of the
20 candidates -- the race of the candidates
21 to me is irrelevant.
22 MR. SUSSMAN: Okay.
23 THE COURT: I want to make sure that
24 the election is carried out fair. I don't
25 know who's going to vote for who and the

1 P R O C E E D I N G S
2 beauty of this country is we'll never know
3 who voted for who. I follow your
4 argument. I don't see this as a candidate
5 centered argument. This is a voter
6 centered argument.
7 MR. SUSSMAN: That's fine. And I
8 think, again, we haven't had time to do
9 discovery, we can't at this point with
10 this kind of time period present to the
11 Court arguments about racial black voting
12 in Monticello and the Court's indicated in
13 a sense that's not in that way the issue.
14 It is the issue in terms of the case law
15 to some extent because a racially
16 polarized electorate is one of the factors
17 that is of concern for Voting Rights Act
18 and the like. I acknowledge that Judge
19 Finn is on the ballot. And I acknowledge
20 that shes not being primaried --
21 THE COURT: But not for the primary.
22 MR. SUSSMAN: -- she's not being
23 primaried so I don't know why it's being
24 raised. She's in the literature. It's
25 kind of strange that she's in the

1 P R O C E E D I N G S
2 literature and in a way, you know, this
3 could give rise to an argument, which I
4 don't think we need to seriously advance,
5 that race is being used as a factor here,
6 but I don't think it matters. I don't
7 think that's the issue. The issue is
8 whether the selection of the Stroeble --
9 the exclusion of the Stroeble Center
10 represents an effort of voter suppression
11 which I believe it does. I think you've
12 got the argument. If you have any other
13 questions, we'll obviously address them.
14 THE COURT: You said that there's a
15 housing project that's two blocks from the
16 Stroeble Center, which --
17 MR. SUSSMAN: Evergreen it's
18 called.
19 THE COURT: Evergreen is -- okay.
20 Well, I think it's more than two blocks
21 from the Stroeble Center. I wasn't sure
22 which one you're referring to. Okay.
23 Evergreen we have.
24 MR. SUSSMAN: There is a senior
25 center right --

1 P R O C E E D I N G S
2 MS. MASSEY: 450.
3 THE COURT: That's over on -- next
4 to the bus station, the school -- the
5 Short Line or Coach USA station is the
6 senior citizens' complex, that's what you
7 were referring to?
8 MS. MASSEY: You have Evergreen, you
9 have 450, you have Moon Manor, Harmony
10 Lane, Greenwood, Winwood.
11 THE COURT: Moon Manor is not a
12 senior citizen's --
13 MR. SUSSMAN: No, I said there was
14 lower income housing --
15 THE COURT: Right, right, but --
16 okay. I understand.
17 MR. SUSSMAN: -- I said both.
18 THE COURT: I just want to make sure
19 that -- I'm not concerned whether it's two
20 blocks or not, my concern is that we're
21 referencing the same facilities. I'm
22 certainly familiar with that area as you
23 go over, approach the high school and pass
24 the high school, there's a number of
25 different neighborhoods over there. I

1 P R O C E E D I N G S
2 don't know that I'm entirely aware of all
3 the demographics in those neighborhoods,
4 but that will be borne out.
5 Okay. Mr. Cawley?
6 MR. CAWLEY: Thank you, Your Honor.
7 Counsel argues that 4-104 is obviously
8 applicable here because of the language in
9 the statute which says for any election
10 may be held. There is a problem with
11 that. If you stop reading after the first
12 sentence, I'd almost concede that. But
13 unfortunately for Counsel there's a second
14 sentence which reads: The board of
15 trustees of each village in which a
16 general and special elections conducted by
17 the Board of Election are held at a time
18 other than the time of the general
19 election shall submit such a list of
20 polling places for each village elections
21 to the board of elections. This is
22 neither a general nor a special election.
23 The statute clearly differentiates general
24 and special elections and perhaps a town
25 or county wide primary election. Those

1 P R O C E E D I N G S
2 first two sentences read one into the
3 next. I don't think it was intentional,
4 but it's certainly a misrepresentation of
5 the statute here. It is not applicable in
6 this situation. If this was a general or
7 special election, the board of elections,
8 as they always do, would have issued the
9 notices, the polling places, and all
10 this. To clarify that even more and in my
11 papers I've presented to Your Honor two
12 other sections which clearly deal with
13 village primary elections, quirky although
14 it may be, only in the sense of a village
15 primary election and no other one that I
16 have found out, these two sections are
17 applicable. I'm assuming that the
18 legislature doesn't have the all the time
19 in the world to burn to throw -- to create
20 two statutes that are applicable in a
21 village primary election, and then forget
22 that there's an over superseding statute
23 that would apply in this case. They
24 compete against each other in a sense,
25 only if you read the language "any

1 P R O C E E D I N G S
2 election" to mean encompassing all. I
3 don't. And I don't think that's what was
4 intended. I do concede that perhaps it
5 could have been clearer, maybe they should
6 have put in excepting language saying
7 except in the case of a village primary
8 election and the following rules -- they
9 didn't do that, I assume 'cause 4-104 was
10 written first. The fact is, Your Honor,
11 is that 6-202 and 15-108 both put the
12 obligation on the primary election upon
13 the local political party. The board of
14 elections has not and does not involve
15 themselves in that. Absent a better
16 phrase, it's more like a political caucus
17 than it is a proper primary election.
18 They set the rules, they can have
19 absentees, not have absentees, it doesn't
20 involve my client in any, shape, or form.
21 We're not a proper party here. We should
22 not have been a named defendant. We don't
23 involve ourselves in local politics. That
24 extent of a village primary, the village
25 primary, the definition of 6-202 is party

1 P R O C E E D I N G S
2 nominations. I think that's telling.
3 It's a nominating, caucus-type situation,
4 not the traditional sense of a primary
5 election that you would normally see in
6 every other circumstance, in any other --
7 any other election in the county.
8 Designation and nomination of candidates
9 is 5-108. Again, it's telling you there's
10 a different procedure in a village
11 election and a primary is not treated like
12 a town or a county primary or a general or
13 special election in the village. It's not
14 -- there's a certain set of separate
15 rules. Why, I don't know. It doesn't
16 matter. But they're clear, and it states
17 that the notice dictates the time and
18 place or places of the primary.
19 THE COURT: So 6-202, if I'm reading
20 it correctly, discusses the authority for
21 setting the time and place for the village
22 primary election.
23 MR. CAWLEY: It -- it discusses that
24 the authority for that vests with the
25 local county political party and it states

1 P R O C E E D I N G S
2 that --
3 THE COURT: The county committee,
4 not the town committee.
5 MR. CAWLEY: But then it says the
6 proper party official in -- in Section 2,
7 it states that the village officers to be
8 filed at a village election shall be given
9 by the proper party authorities by
10 publication. I don't take any position on
11 who the proper authorities is. I'll leave
12 that up to Mr. Kelson and his client
13 because again, it's not -- it's clear from
14 both dictates from the board of elections
15 at the state level and directions from my
16 clients who are here today, that we don't
17 -- we meaning the county board of
18 elections does not involve ourselves in
19 local village primaries. It's
20 inappropriate. It's a party practice.
21 It's governed by their rules. It's not
22 governed nor does it involve the board of
23 elections. Ancillary after the fact that
24 there's named candidates and a ballot and
25 things that would follow from that, yes,

1 P R O C E E D I N G S
2 but not at this stage and not the accused
3 conduct. We had nothing to do with the
4 polling place. We take no position. I
5 want that to be clear. We're neutral in
6 this argument. We don't state one side or
7 the other, which -- which whether it was
8 proper or appropriate, I'll leave that to
9 the other parties.
10 THE COURT: Likewise the county
11 wouldn't get involved in a caucus.
12 MR. CAWLEY: Correct.
13 THE COURT: Which is a more limited
14 proceeding to select a candidate.
15 MR. CAWLEY: And if you read the --
16 if you read the definitions in the -- I
17 quoted three of the sections from each,
18 both of those statutes, 6-202 and 15-108,
19 basically mirror each other. But it's
20 clearly -- especially when you look at the
21 title of those sections, it's a political
22 function, it's more akin to a political
23 caucus, I would say, than it is to an
24 election and that would dictate to me and
25 make sense to me that the local party will

1 P R O C E E D I N G S
2 decide how we're going to conduct
3 ourselves, where are we going to have the
4 meeting, where are we going to have the
5 primary election. That's really what
6 we're talking about.
7 THE COURT: And the local party can
8 determine whether they're going to do a
9 caucus or a primary.
10 MR. CAWLEY: I believe so. I don't
11 know -- again, Your Honor, I don't want to
12 speak for the rules, I don't know them --
13 THE COURT: Right, right. Okay.
14 Fair enough.
15 MR. CAWLEY: -- so I don't want to
16 do that. But it clearly states in Section
17 2 of both Subsection 2 and 2B of 15-108
18 that the notices to be done by the local
19 party, the proper party authorities, sub 4
20 states that the notice shall specify time,
21 place, or places. I think altogether when
22 you read those two statutes, and the -- I
23 would say not a clear, but clear enough
24 for me, an exception to village primary
25 elections are treated differently, 104

1 P R O C E E D I N G S
2 doesn't directly state, 104 sub 1 doesn't
3 say "except for," but when it states
4 specifically that the board of trustees
5 should contact the board of elections,
6 being the county board of elections, for a
7 general and special, I would take the
8 assumption that means they don't context
9 and don't involve us in other elections.
10 This is another election. This is a
11 village primary election. So I don't
12 think we're an appropriate party. I think
13 the statutes are clear enough. Are they
14 definitive, can I say matter of factly
15 that there's no gray area here? No. But
16 I think if you weigh it one way or the
17 other, you have two statutes that say how
18 the rules and procedures are. Wouldn't it
19 be quirky if the board of elections has
20 nothing to do with the notices, has
21 nothing to do with rules, is not privy to
22 those rules nor should they be but yet is
23 going to determine where the primary
24 election would be conducted? That doesn't
25 make sense, Your Honor, it just doesn't.

1 P R O C E E D I N G S
2 And it's something my client doesn't do
3 and has never done in a village primary
4 election. I ask that we be excluded from
5 this hearing, that we not be named, our
6 named -- the board of elections be
7 stricken from the caption, that the county
8 has no interest in this from a legal sense
9 and we should be excluded as a party.
10 Thank you.
11 THE COURT: Thank you, Mr. Cawley.
12 Mr. Kelson?
13 MR. KELSON: Yes, Your Honor, and I
14 did -- I didn't want to interrupt
15 Mr. Cawley when he was making his
16 presentation, but I did take the
17 opportunity of making copies of the
18 relevant statutes for the Court, with the
19 Court's permission I will approach and try
20 to give --
21 THE COURT: What -- what statutes
22 are those?
23 MR. KELSON: We're talking about
24 4-104 --
25 THE COURT: We have them.

1 P R O C E E D I N G S
2 MR. KELSON: --6-202 and 15-106.
3 THE COURT: We have them.
4 MR. KELSON: I'm sorry, all right,
5 so I have the wrong --
6 THE COURT: I don't need them.
7 MR. KELSON: Okay.
8 THE COURT: Fortunately the Office
9 of Court Administration continues to
10 supply the judges with books --
11 MR. KELSON: Are they up to date?
12 THE COURT: -- and access, they're
13 up to date as far as we know. Justice
14 Lippman has seen fit that we have those
15 and we appreciate Justice Lippman's
16 foresight in seeing that we have copies of
17 the law. Appreciate that.
18 MR. KELSON: I hope that my books
19 are up to date also, Your Honor. I thank
20 you for allowing me to make a short
21 presentation.
22 THE COURT: Certainly.
23 MR. KELSON: I'm not clear in
24 something that Mr. Sussman said, and I
25 generally like to have -- don't like to

1 P R O C E E D I N G S
2 have colloquy among counsel but with
3 respect to the standing issue which I've
4 raised in my objections and point of law
5 and answer, Mr. Sussman appeared to -- I
6 don't know if he's dragging the fence or
7 not -- indicate that perhaps my standing
8 issue might be correct on the Article 78
9 position but that under the voting rights
10 issue, it might not be, and I don't know
11 whether Mr. Sussman is prepared to concede
12 that his client does not have standing
13 under the Article 78 proceeding based on
14 the case law and what I've submitted to
15 the Court.
16 MR. SUSSMAN: No, I don't.
17 MR. KELSON: Okay.
18 THE COURT: That's noted.
19 MR. KELSON: I would argue -- and
20 thank you for clarifying that.
21 MR. SUSSMAN: Sure. No problem.
22 MR. KELSON: I would say, Your
23 Honor -- and I apologize, I received these
24 papers late last evening, I haven't looked
25 -- I didn't look at them till 10:00

1 P R O C E E D I N G S
2 o'clock at night and of course we're
3 struggling this morning to get some
4 response to the Court, so I apologize if
5 the form isn't correct or if it has a
6 couple of typos, it's generally not my
7 work product.
8 THE COURT: That's fine.
9 MR. KELSON: And I also apologize to
10 the litigants who are sitting in Family
11 Court waiting for us to hear this matter
12 because in my opinion, this proceeding
13 should have never been brought and it is
14 unfortunately a waste of our time. I
15 recognize the right of Mr. Sussman and his
16 client to bring the proceeding.
17 Nevertheless, I would adopt the arguments
18 that Mr. Cawley has made with respect to
19 why the board of elections is in this case
20 or why it shouldn't be in this case. What
21 I will tell the Court is I had an
22 opportunity to briefly ask both election
23 commissioners whether they've ever been
24 supplied in the last year with a list of
25 polling places as required by 4-104 and I

1 P R O C E E D I N G S
2 will acknowledge, Mr. Sussman, that we can
3 deem his petition amended to reflect that
4 it's 4-104 not 4-404, and the answer that
5 I got from both election commissioners is
6 no, we haven't gotten that, that notice.
7 The issue of how people have voted
8 previously is really irrelevant here. It
9 is not the respondent's burden of proof
10 here to show what we did right. It's the
11 petitioner or the plaintiff's obligation,
12 it's their burden to go forward to show
13 that they've met a bare minimum to show
14 that there's some reason why the elections
15 or the primaries should be conducted in a
16 location other than the firehouse, and I
17 submit to the Court that there's been no
18 showing whatsoever. None whatsoever. You
19 can jump up and down and argue race, race,
20 race, but you got to back it up. You got
21 to back it up with demographics, you got
22 to back it up with a list, and I am
23 concerned that a candidate for office
24 would come before this Court as another
25 candidate once did who brought voters in,

1 P R O C E E D I N G S
2 you might -- Your Honor might remember
3 that candidate who brought voters in who
4 wanted to ask voters how they were voting,
5 how dare the plaintiff say every Afro-
6 American's going to vote for me and
7 therefore I want to make sure every Afro-
8 American gets their vote.
9 THE COURT: I don't believe that
10 Miss Massey said that.
11 MR. KELSON: I think they are. I
12 think they are.
13 THE COURT: I think she said that
14 African Americans, regardless of who
15 they're going to vote for, would be
16 disproportionately impacted by the
17 relocation of the voting place. I didn't
18 hear either Mr. Sussman or in any of the
19 papers I read Miss Massey making any
20 representation that she would be favored
21 by one group or the other.
22 MR. KELSON: I read between the
23 lines.
24 THE COURT: Okay.
25 MR. KELSON: And what I would say,

1 P R O C E E D I N G S
2 Your Honor --
3 THE COURT: Early this morning I
4 didn't have an opportunity to read between
5 the lines. I had all I could do to read
6 the lines.
7 MR. KELSON: Understood. And Your
8 Honor, the point that I'm making is is
9 that there's been no showing to this
10 Court. You can claim that there's a
11 violation of a constitutional right by
12 moving -- by not conducting the election
13 at the Stroeble Center, that's their right
14 to ask, to claim that, and I don't believe
15 that there's any merit to it for the
16 reasons in the papers. But
17 notwithstanding that, there's got to be
18 more than a naked I've been or other
19 people, Afro-Americans have been
20 disenfranchised, because that's the
21 argument that Afro-Americans have been
22 disenfranchised by this act. What we
23 haven't talked about is how many Afro-
24 Americans live near the Stroeble Center.
25 Well, we have no documentary evidence

1 P R O C E E D I N G S
2 about that, no statistics, no nothing,
3 just a mere allegation that there are more
4 Afro-Americans over there and I'm pointing
5 towards -- towards the Stroeble Center --
6 than there are over there, and that's just
7 not right. That's just not how a court
8 should determine whether the relief that
9 they ask for should be granted. They have
10 a greater burden than to argue that.
11 Where are the supermarkets in this town,
12 Your Honor? Well, the supermarkets are
13 down in the Town of Thompson on Route 42,
14 and there's one called Aldi, and many
15 people shop at both of those
16 supermarkets. There aren't really any
17 supermarkets down near the Stroeble
18 Center, I think the Court can take
19 judicial notice. Is that -- is that
20 racial prejudice? Is that something that
21 is akin to depriving someone of their
22 rights? The answer is no. People get in
23 their car and they drive there or they get
24 in their car or they walk there or they
25 ask for a ride to the polls. Because you

1 P R O C E E D I N G S
2 know, when you ask -- when you solicit a
3 kid, you say do you need a ride to the
4 polls? The question is is, the leap of
5 faith that the petitioners are making
6 between there's a racial issue here, that
7 there's been a deprivation of rights
8 because we're not conducting it at the
9 Stroeble Center versus at the firehouse,
10 there's just not enough connection. The
11 mere allegation, you know, it's the
12 yelling "fire" in a crowded theater. You
13 just can't yell it. And that's what I
14 would submit is happening here. It's not
15 appropriate.
16 The other thing that we haven't
17 talked about, and I think that the
18 plaintiff has not met their burden, but
19 assuming for argument sake that the Court
20 feels in some manner that that has
21 happened, I think the Court ought to
22 consider that there's a bona fide reason
23 why the election's being conducted over
24 there, and as raised in our papers as an
25 affirmative defense, notwithstanding the

1 P R O C E E D I N G S
2 arguments that Mr. Cawley has made, in
3 order for the plaintiff to succeed in
4 their action insofar as under Article 78,
5 they need to show it's arbitrary or
6 capricious for Mr. James, Mr. Orestano to
7 schedule the only polling place being at
8 the firehouse. What we haven't heard
9 about -- and I remember this from when I
10 was village manager in 2007, the darn
11 lights at the Stroeble Center don't work.
12 So when you go there at night, there's no
13 lights outside. That -- we haven't talked
14 about that. I notice that Mr. Sussman
15 didn't mention that. He makes this
16 presentation to you as if Stroeble Center
17 is as good a facility and as proper a
18 facility to conduct an election as the
19 firehouse is. Unfortunately, that becomes
20 a subjective issue and I would argue that
21 the issue of standing takes care of that,
22 it's an objective issue. But if you do
23 want to reach the subjective issue, this
24 is what I'm going to tell the Court.
25 Number one, there is -- the lighting's not

1 P R O C E E D I N G S
2 working in front of the village -- the
3 Stroeble Center, it hasn't been working
4 for a long time. In fact, police reports
5 have been -- reports have been made to the
6 police asking to get the lights on the
7 front. So now if we grant what
8 Ms. Massey's asking for, voters are going
9 to come there at night, election goes till
10 evening, 9:00 o'clock, there will be no
11 lights outside. Let's also not forget
12 because I know the Court passes by that
13 building multiple times per day, there's
14 limited parking in the front. Most of
15 it's handicapped parking and then the
16 ambulance corps or whoever else is there,
17 sorry, other people are there, but there's
18 limited parking for people to come and
19 vote. On the back where you can come
20 through the justice court, the steps are
21 broken up, there's -- you have to come
22 around from the parking there and come
23 around, all the way around the building, a
24 substantial distance. At the firehouse
25 there's no such problem, there's plenty of

1 P R O C E E D I N G S
2 parking, it's all level, there's no broken
3 up steps, there's appropriate lighting,
4 there's appropriate bathroom facilities,
5 there's appropriate all the other things.
6 And so when the chairman selects this
7 location, he does that with that in mind.
8 And I think he has a right to do that and
9 unless plaintiff can show that there was
10 some other reason to do it, I think the
11 Court ought to leave it alone.
12 The last part which Mr. Sussman has
13 forgotten or doesn't know about -- and I'm
14 sorry, Mr. Sussman, if I say that -- is
15 that there's construction going on in the
16 Stroeble Center right now. One of the
17 reasons why the balloting's going to take
18 place for the primary at the firehouse is
19 village government has decided to move the
20 code enforcement officer and code
21 enforcement office into the Stroeble
22 Center, and there's construction going on
23 there right now. And I'm pretty sure if
24 we were to subpoena Mr. Snowden right now,
25 he'd testify that there's construction

1 P R O C E E D I N G S
2 going on all over on the first floor. Now
3 how are you going to conduct a primary
4 when you've got construction going on in
5 that facility, and I'm not talking
6 about --
7 THE COURT: The first floor being
8 the --
9 MR. KELSON: First floor meaning the
10 ground level of where you would come in to
11 vote.
12 THE COURT: Jefferson Street level.
13 MR. KELSON: Correct, the Jefferson
14 Street level. Why should Mr. James'
15 judgment be questioned about that? The
16 answer is because, well, it doesn't meet
17 the race argument 'cause that's what --
18 that's the sound bite that Mr. Sussman and
19 his client want. What we say is there is
20 nobody is being deprived of a right to
21 vote. There are many Afro-Americans,
22 there are many minorities, there are many
23 jews, there are many Christians, there are
24 many voters, let's talk as the voters in
25 the Village of Monticello, who vote at

1 P R O C E E D I N G S
2 that place, who vote at the firehouse.
3 The question is is what's the hardship;
4 what's the prejudice? Are they saying
5 there's no method of transportation? I
6 don't think they're saying that. They're
7 just saying it's a race issue without any
8 -- anything behind it.
9 I would also mention to the Court
10 that we don't identify who's what in this
11 village. We don't look at them that way.
12 We don't say what your background is,
13 whether your Afro-American, whether you're
14 Hispanic, whether you're this, whether
15 you're that, white or black, we don't do
16 that. And -- and I don't really think
17 that people need to be standing up and
18 stood up and counted and say I'm this or
19 I'm that. I think it's inappropriate.
20 The bottom line is that chairman has
21 the power to do that. I don't think it's
22 arbitrary, I don't think it's capricious.
23 And there's one other thing I just have to
24 mention and I'm sorry, Your Honor, I was
25 taught that when there's something that's

1 P R O C E E D I N G S
2 said that's wrong, you have to correct the
3 record. And I heard Mr. Sussman say
4 something that materially offended my
5 sensibilities and I was taught when your
6 sensibilities are offended, you need to
7 respectfully tell someone that they've
8 done something that's inappropriate, and I
9 must tell you, Mr. Sussman's a quality
10 attorney, I've known him for over 50
11 years. He may not admit that but I will
12 tell you I have known him that long. And
13 he's an experienced attorney. I think he
14 misspoke when he said that the comments in
15 the beginning -- 'cause he want to give
16 you a little background and I'm not going
17 to go into all the background -- he
18 indicated that based on the Mayor's recent
19 arrest that the Mayor may have made
20 racially polarizing statements. I think
21 that's wrong. Not -- not what he said,
22 but that Mr. Sussman said that that was
23 racially polarizing. What he really meant
24 was that he used the N word and nobody
25 should use the N word. And there's a

1 P R O C E E D I N G S
2 difference between saying you made a
3 racially polarizing statement, and using
4 the N word. Nobody should use that word,
5 Mr. Sussman.
6 I ask that this Court dismiss this
7 proceeding. It appears that the board of
8 elections has done everything they have to
9 do to the extent that they have any
10 involvement in this. It appeared that the
11 notice, the notices which are in today's
12 paper and if the Court wants to take
13 judicial notice that they've been
14 published, I can tell you that they're --
15 THE COURT: I believe Miss Massey
16 states in her affidavit that they have,
17 that she learned the location by virtue of
18 the publication or some notice in the
19 paper, so that's in the papers, I would
20 assume that's conceded by the plaintiffs
21 that it's in the paper.
22 MR. SUSSMAN: That's correct.
23 MR. KELSON: Okay. I just have
24 that --
25 THE COURT: It's in Mr. Sussman's

1 P R O C E E D I N G S
2 affirmation and in Miss Massey's
3 affidavit, as I recall.
4 MR. KELSON: If the Court wants to
5 have testimony on the condition, I'm
6 happy, I have photographs and I am
7 prepared to enter those into evidence if
8 the Court wants them. I can tell you
9 these photographs were taken yesterday of
10 the Stroeble Center, in which they depict
11 the exterior deplorable conditions which
12 we believe make it inappropriate for them
13 to conduct the primary in that location.
14 THE COURT: Okay. I just will
15 comment one very brief part of
16 Mr. Kelson's presentation. I am not
17 privy, I'm not aware of any specific
18 comments that are attributed to Mayor
19 Jenkins, I don't attend village board
20 meetings either in my town or here because
21 I'm -- we're in Monticello, not because
22 I'm not interested, I just don't --
23 there's only so much time, so I'm not
24 aware of what comments may or may not have
25 been made, so that issue is really going

1 P R O C E E D I N G S
2 to be given virtually no weight by the
3 Court. I know many of the individuals
4 involved here, and know them to all be
5 well meaning and good spirited people as
6 people. So leave that at that. I'm not
7 aware of what comments are made, so
8 doesn't mean anything to me.
9 Miss Jose-Decker.
10 MS. JOSE-DECKER: Yes, Your Honor.
11 First I would like to thank Mr. Sussman
12 for the notice. I'm really not going to
13 concede that we're a necessary party under
14 the Election Law and would ask to be
15 released from the lawsuit but as I said, I
16 appreciate the notice. I will say that I
17 think Mr. Sussman hit a good point when he
18 said when you read the first sentence of
19 -- oh, actually it was Mr. Cawley, when
20 you read the first sentence of something,
21 often it seems to apply but if you read a
22 little bit deeper into 4-104 1, it
23 indicates that the county board of
24 elections has to designate polling places
25 annually and then Section 6-202 applies

1 P R O C E E D I N G S
2 where the county -- where the town
3 chairman in this case because that's the
4 practice has control of setting up how the
5 primary elections go.
6 THE COURT: But would you read those
7 statutes together --
8 MS. JOSE-DECKER: I would.
9 THE COURT: -- as meaning that the
10 selection of location must be in one of
11 those accepted polling places?
12 MS. JOSE-DECKER: I would, and I've
13 spoken to Mr. Gable who indicates that the
14 county has designated by May of each year
15 which they're required to do, that both
16 are designated --
17 THE COURT: And published.
18 MS. JOSE-DECKER: And published, and
19 also I would note that the firehouse
20 during town elections has three districts
21 where the Ted Stroeble Center has two
22 districts. So frankly there are more
23 districts that are represented by the
24 firehouse than there would be by the Ted
25 Stroeble Center. So it may be a more

1 P R O C E E D I N G S
2 inclusive location if the party did not
3 want to bear the expense of having two
4 locations which I believe is entirely
5 their right.
6 THE COURT: Okay. And Mr. Sussman
7 provided the Court as exhibit 2, I
8 believe, the list of polling places really
9 for the whole county, that came off of, I
10 assume, the county website.
11 MR. SUSSMAN: Yes, Your Honor. And
12 there are three -- three districts, just
13 to be clear, at the Stroeble Center not
14 two, I don't know what counsel's referring
15 to but --
16 THE COURT: Okay, okay, but that's
17 for county wide --
18 MS. JOSE-DECKER: Maybe I misspoke.
19 THE COURT: -- not town wide
20 elections.
21 MR. SUSSMAN: It's clear from the
22 document, yes.
23 MS. JOSE-DECKER: And that's what
24 the obligation of the county board of
25 elections is. I may have misspoke on the

1 P R O C E E D I N G S
2 number of districts but I believe it's
3 within the purview of the party to follow
4 6-202 and 15-108 and to deal with those
5 issues.
6 THE COURT: Thank you, Miss Jose-
7 Decker. Mr. Orseck?
8 MR. ORSECK: I'd like to reiterate
9 what's been said previously. The
10 candidates are really no longer
11 appropriate parties to this action
12 especially now that the stay has been
13 denied, but having said that, and still
14 wanting to put our two cents in, we do
15 also believe that 6-202 is really the more
16 appropriate statute here and it states
17 exactly that the village chairman or here
18 where we have a village and town sort of
19 joint chairman shall have the general
20 party responsibility for the conduct of
21 the village caucus or primary election.
22 And that's pretty much the extent of 6-202
23 of what the criteria are for the polling
24 place.
25 Something which hadn't been

1 P R O C E E D I N G S
2 addressed by the other parties, but had
3 been brought up by Mr. Sussman is the
4 necessity for board review in these
5 situations. That is a 4-104 requirement
6 and it is for general elections, special
7 elections and does not arise for under
8 caucuses or primaries here.
9 THE COURT: Board review being board
10 of elections review, or are you referring
11 to village board or the town board?
12 MR. ORSECK: I think it's the
13 village board, sir, must approve of --
14 it's inapplicable in this case.
15 THE COURT: Okay.
16 MR. ORSECK: We were joining in
17 Zach's contentions or actually not lack of
18 contention, that there are some problems
19 at the Stroeble Center. Mr. Sussman has a
20 difficult burden to overcome here. When
21 we're dealing with a 1983 situation, those
22 are generally onerous claims or even
23 require scrutiny to the extent of some
24 sort of only rational basis for us to
25 demonstrate. We've been -- first of all,

1 P R O C E E D I N G S
2 he hasn't demonstrated at all except for a
3 single statement in Miss Massey's
4 affidavit stating that it's racially
5 disproportionate. Again, I had 35 minutes
6 to prepare for this before knowing that
7 this occurred, were retained but I do
8 recall from law school and the cases
9 escape me that previous cases in which
10 there had been a claim of some change,
11 geographic change in affecting the voters,
12 because these cases are so onerous had to
13 be backed up by census material or more
14 materials. We just don't know here. And
15 for rational reasons we certainly have
16 everything that Zach mentioned previously,
17 we've had infrastructure problems, we've
18 had some concerns about ADA access, light
19 and heat problems, just general
20 construction problems which certainly give
21 a very rational reasons to move this -- to
22 move this polling over to the firehouse.
23 It should be noted and I believe you
24 can take judicial notice on this, one of
25 the attorneys here has driven the actual

1 P R O C E E D I N G S
2 distance, double checked and I checked it
3 on Mapquest and I believe judicial notice
4 will confirm that the distance between the
5 two polling places are either 0.3 or 0.4
6 miles. It's not a significant distance.
7 MR. KELSON: I did it this morning,
8 Your Honor, I'm sorry, and I put it in my
9 papers. From the firehouse to Miss Massey
10 and Mr. Jenkins' location is .3 miles.
11 THE COURT: To their -- to their
12 residence?
13 MR. KELSON: Correct. Okay. And
14 from -- and from the -- and it's from
15 their residence to the Stroeble Center is
16 .9.
17 MR. ORSECK: That's right. I
18 misspoke when I said previously, that's
19 the residence. It's under a mile the
20 difference.
21 THE COURT: Okay, but the basis of
22 standing is not the affect on Miss Massey,
23 it's the affect on the -- on the voter
24 pool and the demographic divide, if you
25 will --

1 P R O C E E D I N G S
2 MR. KELSON: Well, that's correct.
3 THE COURT: -- in the county.
4 MR. KELSON: There's been no -- we
5 don't know how many Afro-American people
6 live down this way versus how many live up
7 that way. I don't think there's enough --
8 and I think that's what Mr. Orseck is
9 saying, there's not enough information for
10 this Court to be able to even make a
11 finding.
12 THE COURT: I understand that.
13 Mr. Orseck and I know that it's very
14 difficult when you've only had a few
15 minutes to prepare for these, so I don't
16 -- I don't hold to the standard I normally
17 enjoy. I believe that what he said and we
18 can have it read back was that the
19 distance between the Stroeble Center and
20 the firehouse was .3.
21 MR. ORSECK: I misspoke.
22 THE COURT: And I don't know what it
23 is, I could probably go and measure it but
24 I'm pretty sure it's more than three-
25 tenths of a mile.

1 P R O C E E D I N G S
2 MR. ORSECK: It is .9 miles.
3 THE COURT: .9 miles, okay. Having
4 been a runner for many years, that would
5 be a -- probably closer to my guess. I
6 think yesterday off the top of my head
7 it's about a mile and then Mr. Sussman's
8 papers say it's about a mile. So --
9 MR. SUSSMAN: May I be heard to
10 respond to --
11 THE COURT: Yes, I'm going to give
12 you a chance to respond.
13 MR. ORSECK: For the necessary
14 burden of proof to show this, we just
15 haven't arrived at it. We have no proof
16 other than a single affidavit stating
17 this. We believe this action should be
18 dismissed.
19 THE COURT: Okay. Mr. Orseck, thank
20 you.
21 MS. JOSE-DECKER: Could I make just
22 one more statement?
23 THE COURT: Sure.
24 MS. JOSE-DECKER: I just also want
25 to comment on the argument raised that

1 P R O C E E D I N G S
2 there's a change of polling place that the
3 county did in some way. The county
4 generates an annual list, that's their
5 obligation. There's no change. Now it's
6 incumbent upon Mr. James to select among
7 those places a -- an appropriate place for
8 the primary, and that's what he did.
9 THE COURT: Just to follow-up on
10 your point, it was never announced other
11 than what's been done in the past, but it
12 was never announced for 2013 January 28
13 that the primary would be held at any
14 place other than the firehouse. Was there
15 ever an announcement --
16 MR. KELSON: No.
17 MS. JOSE-DECKER: No.
18 THE COURT: -- that it would be
19 other than there? Okay. So there really
20 isn't a change, this is what it was
21 designated.
22 MS. JOSE-DECKER: It's designated
23 as. I just want to make that clear.
24 THE COURT: All right. So the
25 record should be clear there was no change

1 P R O C E E D I N G S
2 other than from past years, it's a
3 different location from past years.
4 MR. KELSON: And just to clarify
5 looking at 4-104, it does not appear that
6 the village board even submitted to the
7 board of elections, even if you look at
8 that, these list of polling places that
9 they thought were appropriate.
10 Notwithstanding that, I just want to just
11 mention that in 4-104, at the end it says
12 that the board of elections has the right
13 to change locations -- even assuming
14 Mr. Sussman's right and his argument about
15 the statute which I don't agree with, says
16 that they can change if there is a health,
17 safety, and welfare issue, basically it's
18 right in the bottom of the statute.
19 THE COURT: Okay. But they didn't
20 change it 'cause they have no role as
21 Mr. Cawley argued.
22 MR. CAWLEY: Correct.
23 MR. KELSON: I'm just saying I'm
24 talking about what the legislative intent
25 is and what is common sense, is that the

1 P R O C E E D I N G S
2 common sense here is that it's an
3 inappropriate facility to conduct anything
4 right now at. Maybe we should go over
5 there and take a look.
6 MR. CAWLEY: Your Honor, just as a
7 point of clarity in my papers that I put
8 together --
9 THE COURT: I'm sorry, Mr. Sussman.
10 MR. CAWLEY: -- I argued that
11 there's two mirroring sections 6-202 and
12 15-108. When I quoted 15-108, I believe I
13 misquoted it. The subsections that mirror
14 are all in subsection 2. It should be A,
15 B, and D, not 1, 2, and 3. Just when you
16 pull it up. The language is almost
17 identical, I would think you'd probably
18 figure it out but --
19 THE COURT: Appreciate that.
20 MR. CAWLEY: It's important to
21 have -- I realized I quoted them, the
22 subsections incorrectly.
23 THE COURT: I appreciate that.
24 Thank you, Mr. Cawley. Mr. Sussman.
25 MR. SUSSMAN: Judge, I think in a

1 P R O C E E D I N G S
2 situation like this it's critical to stay
3 away from the personalization or
4 demonization of anyone. I'm distressed by
5 counsel's comments, personalization of
6 them is inappropriate in a court, totally
7 inappropriate, whether you know someone
8 for five minutes or 50 years. Second of
9 all, there is no denial in the papers
10 submitted, no denial at all, that the
11 animated factor here was the factor we've
12 identified. The broader community has to
13 have confidence in the electoral process
14 and there's some facts I just want to
15 reiterate so the Court understands in the
16 context of some of your questions, Your
17 Honor, how we would address those
18 questions. For instance, there was no
19 announcement until a week ago, let's say,
20 it wasn't that long ago but a few days ago
21 where this election would be. How does
22 that cut in this sort of case?
23 Historically, the community which we
24 believe is predominantly African American
25 and it is more contiguous to this Stroeble

1 P R O C E E D I N G S
2 Center, and that's been affirmed by Miss
3 Massey and not denied in any similar
4 affirmation by anyone. It -- excuse me.
5 No one interrupted you. Please be quiet.
6 That community has been voting at the
7 Stroeble Center in primary elections and
8 general elections including the 2012
9 general elections at the Stroeble Center.
10 That is where that community is used to,
11 if you will, voting. So while it's
12 correct to say that until literally
13 earlier this week, within a week of the
14 primary, it wasn't stated definitively
15 that it would only be somewhere else, it's
16 fair to infer that members of that
17 community have and continue to expect to
18 vote there, that is the Stroeble Center.
19 They would have no reason not to.
20 Now, we talk about voter suppression
21 as a -- both historic and current matter,
22 what we're talking about is a change in
23 practice, and the Court's correct, it
24 wasn't announced one way and changed for
25 this primary, no one's arguing it was, but

1 P R O C E E D I N G S
2 there is a change in the voting place for
3 those individuals as a historic matter and
4 that's what sows voter suppression because
5 people are used to doing something at a
6 certain place which is in their community,
7 neighborhood and now suddenly they don't
8 and there's no real notice. Now, you can
9 say, well, it's in the newspaper. Well,
10 that's not honestly, practically real
11 notice.
12 THE COURT: But in a practical sense
13 that does happen. I mean, it has happened
14 elsewhere in this county where -- just
15 call to mind in the Town of Liberty I
16 believe they used the ambulance building
17 for many, many years --
18 MR. KELSON: Right.
19 THE COURT: -- and then moved I
20 think to the firehouse. So I mean that
21 does happen and --
22 MR. SUSSMAN: Was it publicized, if
23 I may ask, in some period of time? I
24 don't want to get into the judge being a
25 witness but --

1 P R O C E E D I N G S
2 THE COURT: Yeah, no --
3 MR. SUSSMAN: My concern --
4 THE COURT: -- as I recall -- just
5 to respond to your question, this is not
6 evidentiary in nature -- as I recall,
7 there was a sign put on the door of the
8 ambulance building maybe by the ambulance
9 folks to let people know that the -- there
10 was no voting there that day and that they
11 would be voting elsewhere. The other
12 question that I would raise is -- one of
13 the attorneys touched on it, and it does
14 call to mind that the folks who live at
15 Evergreen, at Sleepy Hollow, Moon Manor,
16 and the other housing complexes that are
17 around the school district, there's a
18 couple of housing developments in there,
19 in that area, they do grocery shop, so
20 they do get to one of the grocery stores,
21 presumably, which are both in the area in
22 proximity to the firehouse, and I only
23 raise that because how much hardship is it
24 really to get the extra mile down the road
25 and can't the -- the confusion be dealt

1 P R O C E E D I N G S
2 with by either a sign or a -- a worker
3 being at the Stroeble Center to remind
4 people to go back. Now I understand it's
5 cold and I understand that some people may
6 be walking, but I also am aware that --
7 well, I think your client -- you put as
8 the third exhibit in your papers a flier
9 that I acknowledge was put in place by the
10 other candidates that said the voting is
11 going to be here, if you need a ride, give
12 us a call. So if you go and post that
13 around at Evergreen, you may address your
14 hardship issue because those people can
15 make a call and get a ride, those that
16 don't drive.
17 MR. SUSSMAN: I don't want to
18 address, because it seems to me I don't
19 mean cynical in an intentional way but
20 it's a bit cynical in a political sense,
21 we've both run for political office,
22 different kinds of office. Generally a
23 candidate knows where his or her voters
24 are, and rides are available, but normally
25 you give rides to people you know are

1 P R O C E E D I N G S
2 going to be your supporters and you don't
3 generally make rides available to the
4 whole world, that's generally how
5 campaigns are run, so I can't comment on
6 whether if people from particular areas or
7 demographics in this particular election
8 call the number for rides, they would get
9 rides or not, I can't comment, I don't
10 know.
11 THE COURT: Who knows. We don't
12 know.
13 MR. SUSSMAN: I don't want -- I
14 don't really want to get down that road.
15 I do think the issue though of where
16 people shop and whether there's a skew in
17 demographics in terms of the location of
18 the supermarkets is not quite the issue
19 posed by the Voting Rights Act. I think
20 the burdens are different. And I think
21 that it -- the way I view it -- and I
22 don't mean this in any insulting fashion,
23 believe me -- it detracts from the
24 purposes of the constitutional and
25 statutory provisions to equate one to the

1 P R O C E E D I N G S
2 other. It may in fact be a hardship for
3 people in the African American community
4 as it is in other communities to have to
5 go a significant distance to shop. And
6 they don't, as has been pointed out by
7 counsel, have an alternative for whatever
8 reason, a good alternative. That's
9 different than saying that it's
10 permissible to impose where there's a
11 reasonable alternative that same burden on
12 them with respect to the exercise of the
13 right to vote. And to conflate the two to
14 me, minimizes the second right, meaning
15 the right to vote. So I don't -- I won't,
16 again, go into that further but I don't
17 think that's really an argument that has a
18 whole lot of steam. It's more rhetorical
19 than real.
20 I do think there are a couple of
21 other things that should be mentioned.
22 Counsel has talked about the Stroeble
23 Center and the condition it's in and not
24 in. My understanding, Your Honor, is that
25 there is some painting that is projected

1 P R O C E E D I N G S
2 or perhaps started, some painting on the
3 first floor which as it's been explained
4 to me would have absolutely no affect on
5 the ability --
6 THE COURT: That's the Jefferson
7 Street entrance, Jefferson Street level.
8 MR. SUSSMAN: Yes. -- to conduct an
9 election at the site. The conditions
10 which counsel mentioned are conditions
11 which have been present for the various
12 elections held there, to our knowledge
13 have not deterred voters, caused
14 accidents, or otherwise. The site was not
15 as counsel pointed out could have been
16 taken off the approved list by the board
17 of elections, it remains on the list as is
18 the other site. So I don't think honest
19 and credible argument could be made.
20 I think in all honesty, this does
21 remind me of another situation. I'm going
22 to close with this just to try to
23 illustrate the point and the problem, as I
24 see it. When I was on the village board
25 in the Town of Chester in 1990, we were

1 P R O C E E D I N G S
2 making a full time police department and
3 there were applicants and the most
4 qualified applicant was a female, and she
5 had experience as a police officer and she
6 was very well qualified and we had our
7 meeting to decide and several members of
8 the board said it's our first full time
9 police officer. We can't have a woman.
10 And I said -- this is 1990, okay -- I
11 said, well, you took an oath to the United
12 States Constitution and I'm going to
13 propose her on the floor because she's the
14 most qualified candidate, and if you don't
15 want to vote for her, please go out on the
16 floor and tell everyone your reason. And
17 tell them the reason is that you don't
18 think the first policewoman should be --
19 first police officer should be a woman so
20 we can have a dialogue that's real. Let's
21 have a dialogue that's real. And of
22 course there was a 3-0 vote and the two
23 abstained, they were very principled, they
24 didn't vote for her, they didn't vote
25 against her. And about six months later

1 P R O C E E D I N G S
2 we have the same exact experience except
3 the second full time police officer was
4 going to be African American and we had
5 the same discussion in the executive
6 session, we're in the Town of Chester and
7 we don't have too many of them and are you
8 kidding me? And I said he's the most
9 qualified person, so we're going to have
10 the same discussion, and again it was a
11 3-0, two vote. Both of them served with
12 distinction as police officers. The point
13 I'm making is simply this. We have to be
14 honest about these issues in our country,
15 and I think -- I know we're in Monticello
16 and not in -- somewhere in Mississippi
17 where I started my career with these kinds
18 of cases, but frankly, frankly, this is
19 the same thing I dealt with in 1978
20 unfortunately in Mobile, Alabama, it's
21 exactly the same thing. And Mr. Kelson
22 can scream and yell and tell me it's not
23 but the same kinds of excuses were given
24 there for why a polling place contiguous
25 to those voters who were known to be

1 P R O C E E D I N G S
2 African American would be changed, closed,
3 and otherwise not used and those voters
4 would be significantly inconvenienced. No
5 one's saying they can't vote. I'm not
6 saying, Judge, they can't go the extra
7 mile. They could. What I'm saying is it
8 does impose a burden and that burden
9 shouldn't be imposed where there's another
10 center which has historically been used
11 for voting in this community. Thank you.
12 THE COURT: Thank you. All right.
13 MR. CAWLEY: Just quickly, Your
14 Honor?
15 THE COURT: Yes.
16 MR. CAWLEY: Mr. Sussman had
17 indicated that no one had opposed large
18 parts of his application. It would be
19 highly inappropriate for me on behalf of
20 the board of elections to do that simply
21 because we don't have a dog in this
22 fight. We're not here, we're not part of
23 it. I have no idea the basis of the
24 reason whether it's proper or not, so I --
25 it would be disingenuous at best for me to

1 P R O C E E D I N G S
2 argue the validity of the arguments when
3 we didn't make them nor can we, in my
4 opinion, statutorily. So that's why I
5 made no factual or material opposition.
6 It would be highly inappropriate, and I
7 don't have that knowledge and my client
8 doesn't have a position.
9 But to follow Mr. Sussman's lead, he
10 made no attempt in his rebuttal to argue
11 against my interpretation of the statute.
12 He just says it's up in the air, there's
13 no case law on point. Doesn't have to be
14 if it's clear, and I think it's clear.
15 Mr. Sussman had the opportunity on
16 rebuttal to argue why my interpretation of
17 104 juxtaposed to 6-202 and 15-108 is the
18 proper way to read it, he didn't attempt
19 to do that, he went back to his arguments
20 that I'm not going to -- I'm not going to
21 bandy about because I don't have, as I
22 said, an argument to be made on that
23 stead. So I would take the position that
24 the statutory interpretation that I've
25 presented to the Court is the appropriate

1 P R O C E E D I N G S
2 one, it's the only one presented here
3 today, I'd ask you to honor it, Your
4 Honor, and let the board of elections out.
5 MR. SUSSMAN: Just could I just
6 briefly so the record's clear on this?
7 THE COURT: Sure.
8 MR. SUSSMAN: I think that I did in
9 the initial -- initial statement, Your
10 Honor, address the issue Mr. Cawley's
11 raised.
12 THE COURT: Go ahead.
13 MR. SUSSMAN: I don't want to
14 disrespect the Court.
15 THE COURT: I apologize. Not a
16 security issue. Go ahead.
17 MR. SUSSMAN: Okay. And what I said
18 to the Court, I think from a
19 professionally honest point of view is
20 that I don't see the statute as being
21 particularly clear. I think both parties
22 are here and they're -- those are the
23 parties sufficient to give me the relief I
24 need. And I've indicated some
25 indifference actually to my interpretation

1 P R O C E E D I N G S
2 because I agree that there are two
3 interpretations, and if the Court were to
4 choose Mr. Cawley's and say the decision
5 rests only with the Democrat committee and
6 provides the relief, I'm not screaming
7 yelling about that. So I have addressed
8 his argument and I think that it's not
9 critical to my position that the board of
10 elections remain in the case if the Court
11 feels that the -- the relief, interim
12 relief could be granted as against the
13 committee. So I think I made that clear
14 earlier.
15 THE COURT: I appreciate that. The
16 other issue here is we're all aware that
17 election cases come up on very short
18 notice, attorneys are pressed into service
19 on very short notice, and it's because of
20 how fundamentally critical elections are
21 and fair elections are to our way of life
22 in this country that the Court drops
23 everything as do counsel to be here.
24 Because of that, I recognize that there is
25 not the amount of time to fully brief

1 P R O C E E D I N G S
2 issues and fully develop issues you really
3 want to get into court. So while I
4 appreciate counsel getting papers, I'm not
5 going to -- I will take papers and oral
6 arguments together in terms of
7 understanding the relevant pro --
8 positions of the parties. In the same
9 context, these cases are critically
10 important to our way of life in this
11 country. And all over the world, agree
12 with it or not, men and women are dying
13 for us to have the right to be here. And
14 for every person who's an eligible voter
15 in the Village of Monticello to walk into
16 a polling place and not be intimidated and
17 feel comfortable and feel free to express
18 their opinion with respect to who should
19 lead the Village of Monticello, the
20 Village of Liberty, the Village of
21 Woodridge, whatsoever. Because of that,
22 it would be grossly unfair to the -- all
23 of the people of the Village of
24 Monticello, County of Sullivan, the State
25 of New York, for this Court to give a

1 P R O C E E D I N G S
2 short sighted opinion based on the Court
3 also having had a very short amount of
4 time -- literally oppositional papers were
5 handed to me as I was robing, that is
6 unfair. I did have an opportunity to read
7 Miss Massey and Mr. Sussman's papers just
8 by the virtue of the way things go. I
9 don't want to have given more reflection
10 to one and not the other. So what I am
11 going to do -- and I recognize that time
12 is critical. If we're to use alternate
13 site or sites, arrangements have to be
14 made, and I'm aware it's Friday
15 afternoon. So what I'm going to do is I'm
16 going to ask that we reconvene at 4:00
17 o'clock this afternoon, that will give me
18 an opportunity to digest all of the
19 arguments, to review the statute, the
20 relevant case law, the cites that have
21 been made to both the federal and the
22 state statutes, then I can give you a
23 learned opinion based on all of the
24 arguments, free from emotion, and free
25 from any personality. I will also say

1 P R O C E E D I N G S
2 that I know all of the personalities
3 professionally involved here and respect
4 the work that everyone has done in
5 representing their clients, and nobody
6 should take offense to the -- the zeal
7 with which people have been represented.
8 This is our way of life here that we come
9 into a court of law in an ordered way. So
10 I'd ask -- I know it's inconvenient but
11 I'm going to ask that you come back at
12 4:00 so that the proper amount of time can
13 be given to these arguments.
14 MS. JOSE-DECKER: Your Honor, can I
15 just give one more statement? I'm sorry.
16 THE COURT: Sure.
17 MR. KELSON: Just everybody --
18 everybody will acknowledge, I served some
19 papers on everybody and I presume
20 Mr. Sussman and Mr. Cawley will
21 acknowledge because we didn't have time to
22 do admissions or proof of service unless
23 somebody says otherwise, everybody --
24 THE COURT: Enough people have
25 referenced the papers on the record --

1 P R O C E E D I N G S
2 MR. KELSON: Yes, sorry.
3 MS. JOSE-DECKER: That's okay.
4 THE COURT: Counsels' all
5 acknowledged they received whatever papers
6 they received?
7 MR. SUSSMAN: Yes, and we have the
8 affidavits of service for the Court's
9 records and the originals have been
10 filed.
11 THE COURT: That's fine. Thank you.
12 MS. JOSE-DECKER: I just want to
13 again state that the while we don't
14 believe we have a dog in this fight, we
15 have no power to change any of the things
16 that are complained of. I represent
17 Mr. Solomon --
18 THE COURT: Correct.
19 MS. JOSE-DECKER: -- I would note
20 that if Mr. Sussman's arguments are
21 correct, then his application should be
22 dismissed outright for failure to serve
23 the village board, because the village
24 board under 4-104 has an obligation to
25 provide information to the county which is

1 P R O C E E D I N G S
2 not alleged has been done here, so based
3 upon that, even if the Court adopts
4 Mr. Sussman's arguments, this whole
5 application should be dismissed.
6 THE COURT: Thank you, Miss Jose-
7 Decker. See everyone at 4:00 o'clock.
8 (Whereupon, the proceedings
9 continued at 4:00 p.m.)
10 THE COURT: All right. Parties and
11 the attorneys have returned to the
12 courtroom. We have spent the better part
13 of the interim going through in detail the
14 arguments, the papers, the related case
15 law, the statutory case law, and I will
16 give you this decision. I'm going to -- I
17 apologize in advance, I'm going to work
18 from some prepared notes because much of
19 this was the product of my scribble as
20 we're going through.
21 Somewhat unrelated to my decision,
22 one of the arguments, anecdotes that
23 really struck me was Mr. Sussman's
24 argument at the end where he discussed his
25 experiences on the Village Board in

1 P R O C E E D I N G S
2 Chester and the reluctance to appoint a
3 chief or a line officer based upon
4 qualifications, relying instead on gender
5 or race, and that's despicable, quite
6 frankly, and it strikes at the very core
7 of what this country is about, and it
8 tells us that despite our best efforts,
9 despite the fact that we have elected a
10 president of African American origin, some
11 of these feelings continue to be harbored,
12 although I think that that probably
13 occurred prior to our electing an African
14 American president, but be that as it may,
15 indulge me for just a second.
16 Mr. Sussman, what he said, was poignant.
17 He said that -- the point that he made was
18 let's get out in the open our real issues
19 so that we can address them and not hide
20 behind some closet issues. Let's get the
21 real issues out, and I'm not saying it as
22 eloquently as Mr. Sussman did, I'm
23 paraphrasing, but I think everybody here
24 was in the courtroom, so you heard it.
25 And to some extent that probably is part

1 P R O C E E D I N G S
2 of what's at play here. I don't know what
3 was in the mind of Mr. James when he made
4 a decision where to hold the vote, and I
5 don't know entirely what's in the mind of
6 Miss Massey, but I think that we would all
7 have our head firmly planted in the sand
8 to not think that Miss Massey believes
9 that this will have a disparate effect on
10 her and her candidacy as opposed to
11 whether or not certain group of people
12 would be disenfranchised. I know Miss
13 Massey, and I know her -- her values, I've
14 known of her as a area leader for many,
15 many years, I'm not casting any aspersions
16 here toward anybody. We're all
17 competitive. Miss Massey is here bringing
18 this petition 'cause I think at her core,
19 she wants things to be fair and unbiased
20 and give everybody a fair opportunity to
21 have their votes count which is sum and
22 substance, paraphrasing Mr. Sussman's
23 argument. Just I'm not sure that she
24 would be here if she didn't feel like
25 counting votes that that group of people

1 P R O C E E D I N G S
2 that may be allegedly disenfranchised
3 would be more favoring her philosophical
4 positions than others, 'cause I certainly
5 would hope that on the week we celebrate
6 Dr. Martin Luther King that we are not
7 judging people's votes by the color of
8 their skin rather than by the content of
9 their character. So I sure hope that
10 nobody's even suggesting that people of
11 African American origin are voting for
12 Miss Massey because she's of African
13 American origin. They're voting for her
14 because they believe philosophically that
15 her vision for the Village of Monticello
16 is preferential to her opponents' which is
17 what our country is built on and that's
18 what the electoral process is all about.
19 So I appreciate that, and I think that
20 that gave us -- at least it gave me some
21 -- some pause for some -- some academic
22 thought process.
23 But I come back to the law. As I
24 said, I have considered very carefully the
25 arguments of counsel, and I'm not going to

1 P R O C E E D I N G S
2 take the time now to recount them, but I
3 applaud counsel for their preparation
4 under fire, working under very tight time
5 constraints to put together their papers
6 and the -- the minor typographical errors
7 and all, you getting a pass on those.
8 One of the issues that was raised is
9 that of standing. Mr. Sussman addressed
10 standing by a two -- a divergent
11 approach. Under Article 78, Mr. Sussman
12 did not -- clearly did not concede that
13 there was no standing. His argument was
14 focused on the Federal statute saying that
15 the Federal statute had a -- must be
16 interpreted much more broadly in terms of
17 standing and that a candidate would have
18 standing where they believed that any part
19 of the voting populous is to be
20 disenfran... -- would be disenfranchised
21 by a decision of whether it be the board
22 of elections, whether it be the local
23 committee in a primary. But this action
24 is brought in the name of Miss Massey and
25 others similarly situated, and those

1 P R O C E E D I N G S
2 similar situation is not people of African
3 American descent. Miss Massey's harm,
4 potentially, I mean, there is -- and we
5 got out 1983 and spent several hours with
6 it looking to see is there some special
7 standing provision there, and it's not
8 there. And so the basic principles of
9 standing apply to 1983, and the person
10 must have some injury to be redressed.
11 The injury is at best speculative with
12 respect to Miss Massey. It's at best
13 speculative, because the injury would be
14 if a percentage of people that vote for
15 her are in fact disenfranchised. And it's
16 speculative. I don't see where there is
17 any injury, whether I conduct the analysis
18 under 1983 or under Article 78. I -- I
19 cannot reach where Miss Massey is an
20 injured party here. And so I find that
21 there is no standing here for Miss Massey
22 to bring this action.
23 Now, voting and the -- the ability
24 for all people to vote is -- it's the most
25 fundamental right that we have in this

1 P R O C E E D I N G S
2 country 'cause everything flows from
3 that. And so because of that, we went
4 further, we looked at the merits of the
5 case. Too much work was gone into by
6 lawyers, by people, there's too much
7 emotion pent up in this, and if I thought
8 that I could cure the social divide in a
9 village, a town, or a state, or a country,
10 then I probably would not be sitting as a
11 judge, I would probably be writing a book,
12 and so I wanted to -- I wanted to go -- it
13 was important to me to go beyond that.
14 And where we're dealing with a fundamental
15 right, the burden on the moving party, I
16 will acknowledge, is probably not that
17 great because we want to err on the side
18 of fostering the electorate to feel
19 comfortable in voting rather than
20 preventing them from that. But there is
21 some burden, it's not we make an
22 allegation and it is so. And while I may
23 not need a listing of the national origin
24 of every person that lives in the Village
25 of Monticello and work out a exacting

1 P R O C E E D I N G S
2 demographic map, I need to see
3 preliminarily that there is some disparate
4 distribution of the populous. I know and
5 have interacted with many people that live
6 in some of the neighborhoods that were
7 discussed, I've represented some of them,
8 I've had some of them as litigants in
9 various courts in various proceedings, and
10 I can't say that they are overwhelmingly
11 African American; some are of Hispanic
12 origin, some are Latin American, some are
13 Caucasian. I don't know the percentage
14 because I don't know all of them.
15 Secondly, there's an allegation that most
16 of those people vote at the Ted Stroeble
17 Center. Well, that's a function of where
18 they live and where the voting takes
19 place. There's an allegation that they
20 walk there. Okay, that's an allegation,
21 but I have no -- no facts of an
22 evidentiary nature that establish that. I
23 have no facts of an evidentiary nature
24 that establish any burden whatsoever to
25 traverse the area from the Ted Stroeble

1 P R O C E E D I N G S
2 Center to the firehouse. Acknowledging
3 that this time of the year the weather is
4 cold, frankly there's better sidewalks
5 between the Ted Stroeble Center and the
6 firehouse than there is between Evergreen
7 and the Ted Stroeble Center, but we'll
8 leave that to the village board, whoever
9 makes it up to address that issue. But
10 there is -- there is some burden of proof,
11 there's some obligation on the moving
12 party to establish some level of
13 hardship. We live in a community where
14 people are accustomed by virtue of where
15 we live to having to travel relatively
16 great distances to do simple daily tasks,
17 routine tasks, doctors, lawyers, courts,
18 hospitals, grocery stores, pharmacies and
19 the like. And I don't know what
20 percentage of people have cars, have
21 friends that have cars, have friends with
22 neighbors that can drive them, but I don't
23 see that a burden has been established,
24 and if you can get to the Ted Stroeble
25 Center, then I don't see why you can't get

1 P R O C E E D I N G S
2 to the firehouse. I haven't heard
3 anything to suggest that the environs of
4 the firehouse would have a chilling effect
5 on the electorate. I haven't heard that
6 this is a place where people of known
7 racial motivation hang -- I haven't heard
8 that about the Ted Stroeble Center
9 either. I don't know what the demographic
10 makeup of the fire company is, but I do
11 know that when Mayor Jenkins ran for mayor
12 the first time, his reception was held in
13 the firehouse in Monticello. I know
14 that. I know that 'cause I was there.
15 And so I don't -- and I don't find that
16 the Stroeble Center is a place where
17 people who are not of African American
18 descent would feel unsafe or unwelcome.
19 I've been in there I won't say thousands
20 of times but I've certainly been in there
21 hundreds of times for various activities,
22 senior citizens activities. And so I just
23 -- I don't find -- and I don't find either
24 that the rationale that was put forth on
25 the record is arbitrary and capricious or

1 P R O C E E D I N G S
2 calculated to disenfranchise or create a
3 chilling effect to any part of the voting
4 populous. Mr. Sussman said it in response
5 to my inquiry suggesting, tongue embedded
6 in cheek, that Miss Massey avail herself
7 of the flier that her opponents put out
8 and have these people call for rides.
9 Mr. Sussman answered it I'm sure
10 appropriately, that those rides may arrive
11 at those people's doorsteps at two minutes
12 after 9:00. I'm also aware that that has
13 become a very common practice in this
14 county that's spread out so much and where
15 often there's a distance for voting. And
16 based on that, I am confident that Miss
17 Massey and her resources will have some
18 volunteers who will offer rides to people
19 who are homebound or not able to get here,
20 because even a walk from -- from Sleepy
21 Hollow to the Ted Stroeble Center in zero
22 degree temperature would probably have a
23 chilling effect of its own in somebody
24 going out to vote, might even have a
25 freezing effect on somebody coming out to

1 P R O C E E D I N G S
2 vote. So I'm sure that -- that Miss
3 Massey and her people will have those
4 kinds of accommodations.
5 And so, based on a review, a
6 thorough review, as thorough as is
7 possible and practicable under the
8 circumstances, I am going to dismiss the
9 petition on standing grounds with a review
10 of the merits as well, and find that even
11 if the Court were to reach the merits,
12 that I would find that the application
13 lacks merit to the extent -- I don't want
14 to create the impression that the Court is
15 not somewhat aware of some of the tensions
16 that have been in the village or of the
17 apparent national origin or race of the
18 people involved, I just don't find that
19 the location would have and should have
20 any chilling effect whatsoever. I'm sure
21 that our local law enforcement will ensure
22 that everybody who wishes to vote will
23 vote, and I can assure you that this Court
24 will be on duty that day, and if there is
25 anyone who asserts that they have been

1 P R O C E E D I N G S
2 denied the right, we will deal with that,
3 and we'll deal with it so as not to
4 disenfranchise them.
5 That is the decision and order of
6 the Court. I will so order a transcript.
7 If anybody needs a transcript to ask for
8 the case to be reviewed, we certainly will
9 so order the transcript so that we can
10 expedite getting a written decision. I
11 apologize for not giving a written
12 decision to you, but time constraints just
13 did not allow for that. Again, I thank
14 the attorneys for their work. Mr. Sussman
15 is asking for a transcript?
16 MR. SUSSMAN: I just want on the
17 record be clear how you want to handle
18 this. If we seek review in the Second
19 Department, we would need an order. Given
20 the lateness of the hour, is it the
21 Court's view that we could take your
22 opinion as you've rendered it as the order
23 and judgment rather than try to make a
24 submission to you for a specific signed
25 order, is that acceptable?

1 P R O C E E D I N G S
2 THE COURT: Yeah, yeah, I will so
3 order the transcript, and I have the
4 outline of what would have been a written
5 order, and if the Second Department won't
6 accept the transcript, we probably in
7 fairly short order Monday could complete
8 what would be a decision and order by
9 filling in some of the gaps in my own
10 notes.
11 MR. SUSSMAN: But you're willing at
12 this point so that I can represent that if
13 I choose to assert --
14 THE COURT: Yes.
15 MR. SUSSMAN: -- to the Second
16 Department to represent that that would be
17 your decision and order as you've dictated
18 it and read it?
19 THE COURT: Yes.
20 MR. SUSSMAN: And that would be the
21 order from which we would essentially seek
22 review.
23 THE COURT: Yes, yes.
24 MR. SUSSMAN: Okay. Just so that's
25 clear on the record. I just don't think

1 P R O C E E D I N G S
2 they would demand, given the time as you
3 said earlier, extraordinary voting rights
4 cases, they understand the problems.
5 THE COURT: Sure.
6 MR. SUSSMAN: Okay. Appreciate your
7 attention.
8 THE COURT: So if anyone wants to
9 order a transcript, see Gigi. If anyone
10 does order it, just provide a copy to
11 chambers as well, and electronic is fine.
12 All right. Are there any other
13 issues that we need to address? Again I
14 thank everyone for their patience in
15 coming together today, and I wish
16 everybody the best of luck.
17 MR. CAWLEY: Your Honor, if I may,
18 the County's issue is this thing separate
19 from the merits, I don't know if you were
20 planning on addressing -- I know the
21 matter's dismissed, I don't want to
22 belabor it, but if someone brings that
23 type of action again, Board of
24 Elections --
25 THE COURT: I find -- we did do some

1 P R O C E E D I N G S
2 research on that and I do find
3 independently that as to the County,
4 County Board of Elections, the County of
5 Sullivan plays no direct role in the
6 selection of candidates which includes the
7 primary process or the caucus process and
8 so the County is an improper party.
9 Likewise the specific candidates who are
10 seeking office play no role in the
11 decision of where to hold or how to
12 conduct the caucus or other nomination
13 process, in this case a primary, and so
14 the individual candidates are also not
15 necessary or proper parties. The party
16 would be the county or local committees.
17 * * * * * * *
18 C E R T I F I C A T I O N
19 Certified to be a true and correct
20 transcript of the proceedings held above.
21 Georgette H Sayers
22 Georgette H. Sayers, RMR,
23 Senior Court Reporter.
24
25

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/15/2019 10:26:57 AM

Case #: 2014-857
Court: SUPREME

Rec Date: 04/22/2014 11:48:02 AM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: FIA CARD SERVICES NA

Defendant: FISHBAIN SANDRA
FISHBAIN SANDRA R NAME AMENDED

Notes:

Plaintiff Attorney: MULLOOLY, JEFFREY, ROONEY & FLYNN LLP

CORRECTIONS: (As of 01/15/2019 10:26 AM)
12/10/2014 ADD PARTY2 FISHBAIN SANDRA R NAME AMENDED

---- DOCKET ITEMS -----

Rec Date	Description
04/22/2014	SUMMONS
04/22/2014	COMPLAINT
05/20/2014	AFFIDAVIT OF SERVICE
06/02/2014	ANSWER
06/02/2014	AFFIDAVIT OF SERVICE
09/19/2014	NOTICE OF MOTION
09/19/2014	RJI
09/19/2014	LTTR
09/19/2014	AFFID OF SERV

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary index#-2014-857 fia card serv. na vs. fishbain **with the original now remaining on** file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.

April 22, 2014
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 15th **day of** January **A.D.,** 2019.

Daniel L. Briggs, **Clerk**

07/22/2016 DECISION & ORDER, MCGUIRE, 7/18/16
07/22/2016 COPY DOCS
07/22/2016 SUBMISSION REQUESTED
07/22/2016 AFFIDAVIT IN SUPPORT
07/22/2016 COPY DOCS
07/22/2016 AFFIRMATION IN SUPPORT
07/22/2016 EXHIBIT 1 - 4
07/22/2016 AFFIDAVIT
07/29/2016 LETTER
08/05/2016 COVER LETTER
08/05/2016 BILL OF COSTS

EXHIBIT
COMM
Ex. XI-30
PENGAD 800-631-6989

08/05/2016	NOTICE OF SETTLEMENT
08/05/2016	COPY DOC
08/05/2016	AFFIRMATION OF ATTORNEY
08/05/2016	COPY DOCS
08/05/2016	AFFIDAVIT
08/05/2016	JUDGMENT, MCGUIRE, 8/1/16
08/10/2016	LTTR
08/10/2016	NOTICE OF ENTRY AFFID OF SERV
08/10/2016	COPY DOCS
08/29/2016	NOTICE OF ENTRY & AFFIDAVIT OF SERVICE W/COPY ORDER
12/14/2016	SENT TO COURT PER ANNE
01/04/2017	FILE BACK FROM COURT

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF SULLIVAN **Index #: 2014-857**

----------X

FIA CARD SERVICES, N.A.,

Plaintiff,

-against- **ANSWER**

SANDRA FISHBAIN,

Defendant.

----------X

The Defendant, SANDRA FISHBAIN, by her attorney, Zachary D. Kelson, Esq., as and for her answer to the Complaint of the Plaintiff respectfully shows to the Court and alleges as follows:

1. Defendant denies each and every allegation contained in Paragraphs designated 2, 3, 4 and 5 of Plaintiff's complaint.

2. Denies knowledge or information sufficient to form a belief with respect to the allegation contained and set forth in Paragraph designated 1 of Plaintiff's Complaint.

WITH RESPECT TO THE PLAINTIFF'S
SECOND CAUSE OF ACTION:

3. The Defendant repeats and realleges the same denials with respect to each and every allegation referred to in paragraph designated 2, 3, 4 and 5 of Plaintiff's complaint.

4. Defendant denies each and every allegation contained in the Paragraph designated 6 of Plaintiff's complaint.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-30a

AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

5. That Plaintiff's Complaint fails to state a Cause of Action upon which relief can be granted by this Court.

AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

6. That the Court lacks jurisdiction over the Defendant in connection with this action.

AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

7. The Plaintiff is not the holder and owner of the agreement in question nor of any obligation allegedly due and owing by the Defendant and any purported assignment of said credit card agreement from the original creditor is invalid and of no force and effect.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

8. That the Plaintiff has failed to commence the instant action in a timely manner and therefore, the instant action is barred by the applicable statute of limitations.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

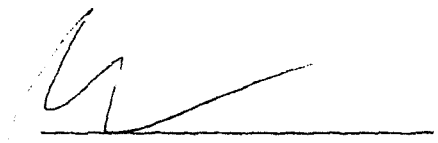
9. That the Plaintiff comes to this Court "with unclean hands" and, therefore, cannot recover of the Defendant, nor maintain this action.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

10. That the Plaintiff is guilty of laches and therefore cannot recover of the Defendant, nor maintain this action.

WHEREFORE it is respectfully requested that a Judgment be entered in favor of the Defendant and against the Plaintiff dismissing the Plaintiff's Complaint and each and every cause of action contained therein in its entirety and that judgment be entered in favor of the Defendant and against the Plaintiff for the costs and disbursements of this action together with such other, further and/or different relief as to the Court may seem just and proper under the circumstances.

Dated: Monticello, New York
May 22, 2014



ZACHARY D. KELSON
Attorney for Defendant, Sandra Fishbain
Office and Post Office Box
10 St. John St., P.O. Box 1210
Monticello, New York 12701
Telephone: (845) 794-1000

To: Mullooly, Jeffrey, Rooney & Flynn LLP
Attorneys for Plaintiff
PO Box 9036
Syosset, NY 11791

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF SULLIVAN **Index #: 2014-857**

----------X

FIA CARD SERVICES, N.A.,

Plaintiff,

-against- **AFFIDAVIT OF SERVICE**

SANDRA FISHBAIN,

Defendant.

----------X

STATE OF NEW YORK)
) ss:
COUNTY OF SULLIVAN)

KATHLEEN BRAWLEY, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside at Monticello, New York.

On May 22, 2014, I served a true copy of the annexed Answer, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addresses of the addressee(s) as indicated below:

Mullooly, Jeffrey, Rooney & Flynn LLP
Attorneys for Plaintiff
PO Box 9036
Syosset, NY 1179

KATHLEEN BRAWLEY

Sworn to before me on this
22nd day of May, 2014

Notary Public

ZACHARY D. KELSON
Notary Public, State of New York
Sullivan County Clerk's #1878
Commission Expires Sept. 30, 2014

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF SULLIVAN **Index #: 2014-857**

----------X

FIA CARD SERVICES, N.A.,

Plaintiff,

-against- **ANSWER**

SANDRA FISHBAIN,

Defendant.

----------X

The Defendant, SANDRA FISHBAIN, by her attorney, Zachary D. Kelson, Esq., as and for her answer to the Complaint of the Plaintiff respectfully shows to the Court and alleges as follows:

1. Defendant denies each and every allegation contained in Paragraphs designated 2, 3, 4 and 5 of Plaintiff's complaint.

2. Denies knowledge or information sufficient to form a belief with respect to the allegation contained and set forth in Paragraph designated 1 of Plaintiff's Complaint.

WITH RESPECT TO THE PLAINTIFF'S
SECOND CAUSE OF ACTION:

3. The Defendant repeats and realleges the same denials with respect to each and every allegation referred to in paragraph designated 2, 3, 4 and 5 of Plaintiff's complaint.

4. Defendant denies each and every allegation contained in the Paragraph designated 6 of Plaintiff's complaint.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-30a

AS AND FOR A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

5. That Plaintiff's Complaint fails to state a Cause of Action upon which relief can be granted by this Court.

AS AND FOR A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

6. That the Court lacks jurisdiction over the Defendant in connection with this action.

AS AND FOR A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

7. The Plaintiff is not the holder and owner of the agreement in question nor of any obligation allegedly due and owing by the Defendant and any purported assignment of said credit card agreement from the original creditor is invalid and of no force and effect.

AS AND FOR A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

8. That the Plaintiff has failed to commence the instant action in a timely manner and therefore, the instant action is barred by the applicable statute of limitations.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

9. That the Plaintiff comes to this Court "with unclean hands" and, therefore, cannot recover of the Defendant, nor maintain this action.

AS AND FOR A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE

10. That the Plaintiff is guilty of laches and therefore cannot recover of the Defendant, nor maintain this action.

WHEREFORE it is respectfully requested that a Judgment be entered in favor of the Defendant and against the Plaintiff dismissing the Plaintiff's Complaint and each and every cause of action contained therein in its entirety and that judgment be entered in favor of the Defendant and against the Plaintiff for the costs and disbursements of this action together with such other, further and/or different relief as to the Court may seem just and proper under the circumstances.

Dated: Monticello, New York
May 22, 2014

ZACHARY D. KELSON
Attorney for Defendant, Sandra Fishbain
Office and Post Office Box
10 St. John St., P.O. Box 1210
Monticello, New York 12701
Telephone: (845) 794-1000

To: Mullooly, Jeffrey, Rooney & Flynn LLP
Attorneys for Plaintiff
PO Box 9036
Syosset, NY 11791

SUPREME COURT OF THE CITY OF NEW YORK
COUNTY OF SULLIVAN **Index #: 2014-857**

----------X

FIA CARD SERVICES, N.A.,

Plaintiff,

-against- **AFFIDAVIT OF SERVICE**

SANDRA FISHBAIN,

Defendant.

----------X

STATE OF NEW YORK)
) ss:
COUNTY OF SULLIVAN)

KATHLEEN BRAWLEY, being duly sworn, deposes and says: I am not a party to the action, am over 18 years of age and reside at Monticello, New York.

On May 22, 2014, I served a true copy of the annexed Answer, by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known addresses of the addressee(s) as indicated below:

Mullooly, Jeffrey, Rooney & Flynn LLP
Attorneys for Plaintiff
PO Box 9036
Syosset, NY 1179

KATHLEEN BRAWLEY

Sworn to before me on this
22nd day of May, 2014

Notary Public

ZACHARY D. KELSON
Notary Public, State of New York
Sullivan County Clerk's #1878
Commission Expires Sept. 30, 2014

45 Ad

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------x

FIA CARD SERVICES, N.A.

Plaintiff,

-against-

SANDRA FISHBAIN

Defendant.

----------x

NOTICE OF MOTION TO AMEND

INDEX# 2014-857

MJRF FILE # 1065095

SIR:

PLEASE TAKE NOTICE, that upon the annexed affirmation of **TIMOTHY F. ROONEY**, affirmed to be true under the penalties of perjury pursuant to CPLR §2106 this 16th day of September, 2014, upon all of the papers and proceedings heretofore filed and had herein, the undersigned will move this Court at a Motion Term thereof to be held at the Courthouse, located at 414 Broadway, Monticello, New York, on the 16th day of October, 2014, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order pursuant to sections 305(c) and 3025(c) of the Civil Practice Law and Rules amending the summons and complaint filed herein on April 22, 2014, of FIA CARD SERVICES, N.A. against SANDRA FISHBAIN so as to read as follows:

FIA CARD SERVICES, N.A.

Plaintiff,

-against-

SARAH R. FISHBAIN

Defendant(s).

and for such other and further relief as this Court may deem just and proper.

RECEIVED
JF CLERK
2014 SEP 19 PM 4:55

FILED IN SULLIVAN COUNTY CLERKS OFFICE 10/24/2014

EXHIBIT
Comm
Ex XI-30b
PENGAD 800-631-6989

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR 2214(b) answering affidavits in opposition to the within motion must be served not less than seven (7) days prior to the return date of this motion.

This communication is from a debt collector. This is an attempt to collect a debt. Any information gathered will be used for this purpose.

Dated: Syosset, New York
September 16, 2014

MULLOOLY, JEFFREY, ROONEY & FLYNN, LLP
BY: TIMOTHY F. ROONEY, ESQ.
Attorneys for Plaintiff
Office & P.O. Box Addresses
6851 Jericho Turnpike, Suite 220
P.O. Box 9036
Syosset, New York 11791-9036
(516) 656-5300

TO: ZACHARY D. KELSON, ESQ.
Attorney for Defendant
10 St. John Street
P. O. Box 1210
Monticello, New York 12701
845-794-1000

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN
----------x
FIA CARD SERVICES, N.A.,

Plaintiff,

-against-

SANDRA FISHBAIN

Defendant(s).
----------x

AFFIRMATION

INDEX # 2014-857

MJRF FILE # 1065095

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

TIMOTHY F. ROONEY, under the penalties of perjury and pursuant to CPLR §2106, respectfully states the following to be true:

1. I am a member of the firm of **MULLOOLY, JEFFREY, ROONEY & FLYNN, LLP**, attorneys for the plaintiff relative to the above-titled action, and as such I am fully familiar with all the facts and circumstances herein.

2. An action was commenced in this Court by the filing of a summons and complaint, on or about April 22, 2014, subsequent to which the service of same was effectuated upon the defendant, on or about May 8, 2014. Copies of both the summons and complaint, as well as the affidavit of service are annexed hereto as Exhibit "1". The issue was joined on or about May 22, 2014, upon the filing of defendant's answer in response to the summons and complaint, a copy of which is annexed hereto as Exhibit "2".

3. Due to a clerical error, the defendant was incorrectly named as SANDRA FISHBAIN, when the correct name of the defendant is SARAH R. FISHBAIN. Annexed hereto as Exhibit "3" are copies of the account statements for the subject-matter account, demonstrating the correct spelling of the defendant's name, as it should read on the pleadings.

RECEIVED
IEF COURT CLE
2014 SEP 19 PM 4:5

FILED IN SULLIVAN COUNTY CLERKS OFFICE 10/24/2014

4. Pursuant to CPLR Sections 305 (c) and 3025 (b), liberty is allowed with respect to the amending of a pleading to correct my firms information input error in the caption of this action. A copy of the proposed amended summons and complaint is annexed hereto as Exhibit "4".

5. It is respectfully submitted that there can be no prejudice shown the defendant by the granting of this amendment to the caption.

WHEREFORE, deponent prays for an order amending the caption of the summons and complaint so as to designate the defendant as "SARAH R. FISHBAIN", together with such other and further relief as this Court may deem just and proper.

Affirmed to be true under the
penalties of perjury pursuant
to CPLR 2106 this 16th day of
September, 2014

TIMOTHY F. ROONEY

MICHAEL F. MCGUIRE
Acting Supreme Court Justice
Sullivan County Government Center
100 North Street
Monticello, NY 12701
(845) 807-0655 / (845) 791-6252 fax

Principal Law Clerk
Mary Grace Conneely, Esq.

Confidential Secretary
Wendy Weiner

October 20, 2014

Decision/Order

Timothy F. Rooney, Esq.
Mullooly, Jeffrey, Rooney & Flynn LLP
Via Fax: (516) 921-2131

Re: FIA Card Services v. Fishbain
Index No.: 2014-857

Dear Counsel,

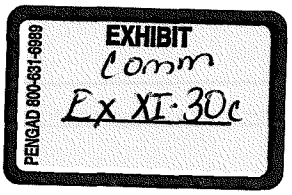
The Court has received and reviewed your Motion to Amend which has been granted without opposition. Accordingly, the Court directs that you submit a proposed order for review and signature.

The Court has calendared this matter for the submission of the order, on notice, by **October 30, 2014.**

So Ordered:

Hon. Michael F. McGuire
County Judge & Surrogate

cc: **Sullivan County Clerk's Office (w/original order)**
Hon. Sarah Katzman, Chief Clerk Supreme/County Court
Zachary D. Kelson, Esq.
Via Fax: (845) 794-1422



FILED IN SULLIVAN COUNTY CLERKS OFFICE 10/24/2014

At the Supreme Court, held in and for the County of Sullivan, located at 100 North Street, Monticello, New York on the 30th day of October, 2014

RECEIVED
DEC 10 AM 10: 00
SULLIVAN COUNTY, N.Y.

PRESENT:

MICHAEL F. McGUIRE
A. J.S.C.

----------x

FIA CARD SERVICES, N.A.,

Plaintiff,

-against-

SANDRA FISHBAIN,

Defendant.

----------x

ORDER

INDEX #2014-857

MJRF FILE #1065095

Plaintiff, having moved for an order pursuant to CPLR §305 (c) and 3025 (c), amending the summons and complaint filed on April 22, 2014 to correctly designate the defendant as "Sarah R. Fishbain", and said motion having regularly come to be heard before me on the 16th day of October, 2014;

NOW, upon reading and filing the Notice of Motion, dated September 16, 2014, the Affirmation of **TIMOTHY F. ROONEY**, affirmed to be true on the 16th day of September, 2014, and the exhibits annexed thereto, with due proof of service upon the attorney for defendant, in support of the motion, and upon all the pleadings and proceedings heretofore had herein, and due deliberation having been had thereon, and there being no opposition to said Motion, and the Court having rendered its Decision/Order on the 20th day of October, 2014,

EXHIBIT
Comm
Ex XI-30

NOW, on motion of **MULLOOLY, JEFFREY, ROONEY & FLYNN LLP**, 6851 Jericho Turnpike, P.O. Box 9036, Syosset, New York 11791-9036, attorneys for the plaintiff, FIA CARD SERVICES, N.A., it is

ORDERED AND ADJUDGED, that the caption of the action is hereby amended to read: FIA CARD SERVICES, N.A., Plaintiff, against SARAH R. FISHBAIN, Defendant; and it is further

ORDERED, ADJUDGED AND DECREED, that the Amended Summons and Complaint annexed to the plaintiff's Motion herein be deemed served and filed.

10-30-14

ENTER:

HON. MICHAEL F. McGUIRE

MICHAEL F. MCGUIRE
Acting Supreme Court Justice
Sullivan County Government Center
100 North Street
Monticello, NY 12701
(845) 791-3523 / (845) 476-3644 fax
McGuireChambers@[redacted]

Principal Law Clerk
Mary Grace Conneely, Esq

Confidential Secretary to Judge
Brittany Benton

July 18, 2016

Timothy Rooney, Esq.
Via Fax No. (516) 921-2131

Zachary Kelson, Esq.
Via Fax No. (845) 794-1422

Re: FIA Card Services, N.A. v. Sarah R. Fishbain
Index No. 0857-2014

Dear Counsel:

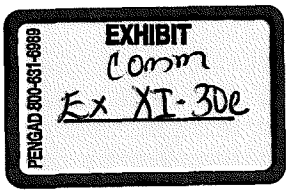
Enclosed please find a copy of the signed Decision and Order, relative to the above matter. **Please be advised that this is not the Notice of Entry date.**

The original Order, together with the supporting papers, have been forwarded by the Court to the Sullivan County Clerk's office for filing. The filing of these original documents by the Court does not relieve counsel from the obligation to serve a copy of the documents, together with Notice of Entry, pursuant to CPLR § 5513(a).

Please allow the County Clerk's office at least 2 weeks from the date of this letter to file the paperwork and return to you a date, time stamped copy of the Order. If you did not provide the Court with a self-addressed stamped envelope, then you will need to contact the **Sullivan County Clerk at 845-807-0411** to obtain the Notice of Entry date.

Chambers of Michael F. McGuire,
Acting Supreme Court Justice

cc: Sullivan County Clerk's Office



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

FIA CARD SERVICES, N.A.,

Plaintiff

- against -

SARAH R. FISHBAIN,

Defendant.

Decision & Order

Motion Return Date: July 15, 2016
RJI No.: 52-38179-16
Index No.: 857-2014

Appearances: Mullooly, Jeffrey, Rooney & Flynn, LLP
Attorneys for Plaintiff
6851 Jericho Turnpike - P.O. Box 9036
Syosset, New York 11791-9036
By: Timothy F. Rooney, Esq.

MCGUIRE, J., Acting J.S.C.:

Plaintiff FIA Card services, N.A. moves for summary judgment against defendant on its claims of breach of contract and account stated seeking a balance due on a credit card statement. Defendant has interposed an answer but has not opposed the motion.

Plaintiff's amended complaint seeks to recover $3,761.41, the claimed balance due, together with the costs and disbursements of this action on a Bank of America, N.A. credit card. In support of summary judgment, plaintiff submitted the affidavit of Wendy Parnell, a custodian of records, authorized officer, and employee of Bank of America, N.A. (BANA), who avers that she has personal knowledge of the facts and circumstances relating to this instant matter. According to Ms. Parnell, plaintiff made, in the regular course of business, records of the monthly statements evidencing defendant's use of the subject credit card. Attached to the Parnell affidavit, are copies of the monthly statements mailed to the defendant which serve to evince a buyer's subsequent use of the credit card and acceptance of the original card or revised terms of credit (*e.g. Citibank (South Dakota), N.A. v Martin*, 1 Misc.3d 219 [Civil Ct, New York County, December 16, 2005]). The defendant agreed to

pay plaintiff for all goods and services and cash advances provided pursuant to the agreement. Ms. Parnell avers that the last payment made by the defendant on or about June 2, 2011, was in the amount of $95.00, and that defendant is now in default notwithstanding demand for payment of same.

Plaintiff has made a prima facie showing that it is entitled to judgment as a matter of law on its cause of action for breach of contract against the defendant.

Plaintiff has also met its initial burden of demonstrating entitlement to judgment as a matter of law on its claim for account stated by establishing, with evidence in admissible form, the receipt and retention of bills by the defendant and there is proof that defendant remitted numerous partial payments in response thereto to plaintiff (*Jovee Contr. v AIA Envtl. Corp.*, 283 AD2d 398 [2nd Dept 2001]). Furthermore, there is no evidence that defendant disputed the billing statements as required by federal law.

Defendant's answer contains a general denial and six affirmative defenses, including lack of personal jurisdiction. Defendant further alleges that the complaint fails to state a cause of action upon which relief can be granted by the Court; that the plaintiff is not the holder and owner of the agreement in question nor of the obligation allegedly due and owing by the defendant and therefore, ostensibly, lacks standing; that the action is barred by the statute of limitations; that the defendant is guilty of laches and unclean hands. Regarding defendant's claim of lack of personal jurisdiction, inasmuch as defendant failed to move for judgment on that ground within 60 days of service of the answer which contained that objection, she has waived such defense (*see* CPLR 3211 [e]). Nor is there any merit to the remainder of the defenses as is evinced by the documentary evidence. Clearly the plaintiff is, and at all relevant times was, the first-party original creditor.

Thus, in light of the above, plaintiff has established, as a matter of law, its entitlement to summary judgment to its causes of action for breach of contract and account stated.

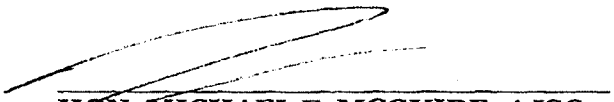
Accordingly, plaintiff's motion for summary judgment against the defendant is granted in the sum of $3,761.41, together with the costs and disbursements of this action. Plaintiff's attorney is to submit a proposed judgment and a bill of costs, on notice, within 10 days of entry of this decision and order.

This shall constitute the Decision and Order of this Court. All papers, including the original copy of this Decision and Order, are being filed with the Sullivan County Clerk's

Office. Counsel are not relieved from the provisions of CPLR 2220 regarding service with notice of entry.

Dated: Monticello, New York
July 18, 2016

ENTER



HON. MICHAEL F. MCGUIRE, AJSC

Papers considered:

Notice of motion for summary judgment, affidavit of Wendy Parnell, dated May 25, 2016, and affirmation of Timothy P. Rooney, Esq., dated June 8, 2016, and exhibits.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

I.A.S. Part/Assigned Justice:
Hon. Michael F. McGuire, A.J.S.C.

----------x

FIA CARD SERVICES, N.A.,

Plaintiff,

against-

SARAH R FISHBAIN,

Defendant.

----------x

JUDGMENT

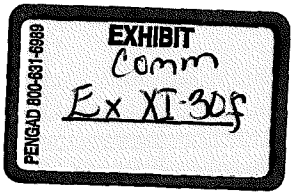
INDEX # 857-2014

MJRF FILE # 1065095

Plaintiff, **FIA CARD SERVICES, N.A.**, having moved for an order pursuant to CPLR §3212, striking the answer of the defendant, **SARAH R FISHBAIN,** and granting summary judgment in favor of the plaintiff, **FIA CARD SERVICES, N.A.**, and said motion having come on to be heard in the I.A.S. Motion Part of the Hon. Michael F. McGuire, A.J.S.C., on July 15th, 2016 and the defendant having submitted no opposition to the Plaintiff's motion, and due deliberation having been had thereon, and the Court having rendered its decision on the 18th day of July, 2016, granting plaintiff's motion, and the written decision of the Hon. Michael F. McGuire, A.J.S.C., dated July 18th, 2016, issued as a result thereof, granting plaintiff's request for summary judgment to be entered in against the defendant, **SARAH R FISHBAIN,** in the amount of three thousand seven hundred sixty-one dollars and forty-one cents ($3,761.41), together with the costs and disbursements of this action;

NOW, on motion of **MULLOOLY, JEFFREY, ROONEY & FLYNN, LLP**, 6851 Jericho Turnpike, P.O. Box 9036, Syosset, New York 11791-9036, attorneys for the plaintiff, **FIA CARD SERVICES, N.A.**, it is

ORDERED AND ADJUDGED, that the plaintiff, **FIA CARD SERVICES, N.A.**, 655 Papermill Road, Newark, Delaware 19711, do recover of the defendant, **SARAH R FISHBAIN,** residing at [redacted], the sum of $ 3,761.41, together with the



costs and disbursements of the herein action totaling $545.00, for a total amount of $4,306.41, and that plaintiff, **FIA CARD SERVICES, N.A.**, have execution therefore; and it is further

ORDERED, ADJUDGED AND DECREED, that the Clerk of the Court enter and docket this judgment in favor of the plaintiff, **FIA CARD SERVICES, N.A.**, and against the defendant, **SARAH R FISHBAIN**, as hereinbefore stated.

JUDGMENT signed this 1 day of August, 2016.

ENTER:

HON. MICHAEL F. MCGUIRE, A.J.S.C.

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/15/2019 12:02:08 PM

Case #: 2013-1906
Court: SUPREME

Rec Date: 07/31/2013 10:01:55 AM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: MILLER JEFFREY H

Defendant: ASSESSOR OF THE TOWN OF LIBERTY
BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY

Notes:

Plaintiff Attorney: ZACHARY D KELSON

---- DOCKET ITEMS -----

Rec Date	Description

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary Index # - 2013-1906 Miller vs. Assessor Liberty **with the original now remaining on** file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.

July 31, 2013
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 15th **day of** January **A.D.,** 2019

Daniel L. Briggs, Clerk

EXHIBIT
Comm
Ex XI-31
PENGAD 800-631-6989

RECEIVED
13 AUG -1 AM 10: 14

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1906-13

----------X

In the Matter of the Application of

JEFFREY H. MILLER,

Petitioner,

-against-

NOTICE OF PETITION

ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

RECEIVED
SULLIVAN COUNTY CLERK
13 JUL 31 AM 9: 44

PLEASE TAKE NOTICE that upon the annexed verified petition, an application will be made at a Term of this Court, to be held at the Lawrence H. Cooke Sullivan County Courthouse, 414 Broadway, Monticello, New York, on the 9th day of September, 2013 at 9:30 o'clock of the forenoon on that day, or as soon thereafter as counsel can be heard, for review under Article 7 of the Real Property Tax Law of the State of New York, of the tax assessment of certain real property of the petitioner appearing on the assessment rolls for the year 2013, as set forth in said petition, to the end that all proceedings, decisions and actions in the matter of said assessment of said real property may be reviewed and the said assessment corrected, modified or vacated, on the merits by such Court, and seeking other and further relief as may seem just and proper, together with the costs and disbursements of

RECEIVED
13 JUL 22 AM 10: 08

EXHIBIT
Comm
Ex XI-31a
PENGAD 800-631-6989

this proceeding.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Uniform Rules of Practice, your appearance or submission in opposition to this application is not required on the return date. The matter shall be adjourned generally, and all issues raised herein shall be deemed automatically denied by you, pending judicial intervention, pursuant to Section 712 of the Real Property Tax Law.

BY SUBMISSION ON PAPERS ONLY.

Dated: Monticello, New York
July 17, 2012

Yours etc.,

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

To: Hon. Kathy Sprague, Sole Assessor
Town of Liberty
120 North Main Street
Liberty, New York 12754

Board of Assessment Review
Town of Liberty
120 North Main Street
Liberty, New York 12754

Hon. Ira J. Cohen,
Sullivan County Treasurer
100 North Street
Monticello, NY 12701

Mr. Michael Vanyo
Superintendent of Schools
Liberty Central School District
15 Buckley Street
Liberty, NY 12754

Hon. Judy Zurawski,
Village Clerk/Treasurer
Village of Liberty
167 North Main Street
Liberty, NY 12754

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1906-13

----------X

In the Matter of the Application of

JEFFREY H. MILLER,

Petitioner,

-against-

PETITION

ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

RECEIVED
SULLIVAN COUNTY CLERK
13 JUL 31 AM 9:47

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

1. Petitioner is the owner of certain real property situate in the Town of Liberty, County of Sullivan, State of New York, described on the assessment roll of the Town as follows:

RECEIVED
SUPREME COURT CLERK
AUG -1 AM 10:14

Tax Map No.	Property Location
[redacted]	[redacted]

2. Respondents are the Assessor of the Town of Liberty and the Board of Assessment Review of the Town of Liberty, which are charged with the duty of reviewing the assessments of real property within the Town for the purposes of taxation. The Liberty Central School District is the school district in which the property is located.

3. Upon information and belief, on or about May 1, 2013, the Assessor of the Town of Liberty prepared and completed a tentative assessment roll for all real property in

the Town for the year 2013. The Assessor then filed the assessment roll with the Town Clerk so that it might be seen and examined.

4. The land and premises owned by petitioner was tentatively assessed on such assessment roll as follows:

Tax Map No.	Tax Assessment
[redacted]	$182,800.00

5. On or before May 28, 2013, petitioner protested the tentative assessment of its property by timely filing with respondents a written complaint for review and correction of the assessments, collectively annexed as Exhibit "A", which included a statement under oath specifying the respects in which the assessment was incorrect and a request for a reduction of the assessment. The attached complaint was received by respondents without objection and within the time fixed by law for the making and hearing of complaints, and the same is incorporated herein by reference.

6. Respondents thereafter made their final determination on petitioner's complaint and on or about July 1, 2013, the assessment roll for the Town for the year 2013 was finally completed and filed by respondents.

7. Upon information and belief, respondents gave notice of the completion and filing of the assessment roll on or about the same date.

8. The assessment of petitioner's real property as it appears on the assessment roll as finally completed and filed as follows:

Tax Map No.	Tax Assessment
[redacted]	$182,800.00

9. The valuation and assessment as it appears on the assessment roll is excessive because the assessed value exceeds the full value of the property.

10. Upon information and belief, the full market value of the property is

Tax Map No.	Full Market Value
[redacted]	$145,000.00

11. The assessment is unequal because the assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.

12. Upon information and belief, the latest equalization rate for the Town is 81.73%. To be equal with other properties, the subject property's assessment should be reduced to:

Tax Map No.	Reduced Value
[redacted]	$118,508.50

13. Petitioner is aggrieved and will be injured by the inequality, excessive and unlawfulness of its assessment because it will be compelled to pay taxes which it would not be required by law to pay if its assessment had been made correctly and properly. Furthermore, the unequal and excessive assessment will subject petitioner to the payment of a larger portion of the taxes of the taxing jurisdictions than its fair and equal share.

14. Thirty (30) days have not elapsed since the final completion of the assessment roll and the filing and posting of notice thereof, and no previous application to review petitioner's assessment or tax levy for the year under review has been made by petitioner.

WHEREFORE, petitioner respectfully requests that the Court (1) review the foregoing assessments of his real property as provided in Article 7 of the Real Property Tax Law and

reduce the assessments to those set forth in paragraphs 10 and 12 of this petition and (2) grant to the petitioner such other and further relief as to the Court may seem just and proper, including costs, disbursements and an additional allowance as allowed by RPTL §722.

Dated: Monticello, New York
July 29, 2013

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

JEFFREY H. MILLER, being duly sworn, deposes and says:

I am the Petitioner herein; I have read the annexed Notice of Petition and Petition, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

JEFFREY H. MILLER

Sworn to before me this
29 day of July, 2013

Kathleen Brawley
Notary Public - State of New York

KATHLEEN BRAWLEY
Notary Public, State of New York
Sullivan County Clerk's # 2445
Commission Expires Nov. 3, 2013

92

RP-524 (3/09)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

COMPLAINT ON REAL PROPERTY ASSESSMENT FOR 20

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR V/Liberty/Sullivan County
(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s)
Jeffrey Miller

Day no. [redacted]

Evening no. ( )

2. Mailing Address of owner(s)
[redacted]

Email (optional)

3. Name, address and telephone no. of representative of owner, if representative is filing application. (if applicable, complete Part Four on page 4.)

4. Property location
[redacted]
Street Address

[redacted]
Village (if any)

[redacted]
City/Town

[redacted]
County

[redacted]
School District

5. Property identification (see tax bill or assessment roll)
Tax map number or section/block/lot [redacted]

Type of property: Residence X Farm ____ Vacant land ____
Commercial ____ Industrial ____ Other ____

Description: Single Family

6. Assessed value appearing on the assessment roll:
Land $ 19,500 Total $ 182,800

7. Property owner's estimate of market value of property as of valuation date (see instructions) $ 145,000

RECEIVED
MAY 0 3 2013

Exhibit "A"

PART TWO: INFORMATION NECESSARY TO DETERMINE VALUE OF PROPERTY
(If additional explanation or documentation is necessary, please attach)

Information to support the value of property claimed in Part One, item 7 (complete one or more):

1. N/A Purchase price of property: ..... $ _____

a. Date of purchase: _____

b. Terms _____ Cash _____ Contract _____ Other (explain)

c. Relationship between seller and purchaser (parent-child, in-laws, siblings, etc.): _____

d. Personal property, if any, included in purchase price (furniture, livestock, etc.; attach list and sales tax receipt): _____

2. N/A Property has been recently offered for sale (attach copy of listing agreement, if any):

When and for how long: _____

How offered: _____ Asking price: $ _____

3. ✓ Property has been recently appraised (attach copy): When: 2.17.13 By Whom: Capital Appraisal Group

Purpose of appraisal: Market Value/Tax Grievance Appraised value: $ 145,000

4. ✓ Description of any buildings or improvements located on the property, including year of construction and present condition:

See attached Appraisal

5. ___ Buildings have been recently remodeled, constructed or additional improvements made:

Cost $ N/A

Date Started: _____ Date Completed: _____

Complainant should submit construction cost details where available.

6. N/A Property is income producing (e.g., leased or rented), commercial or industrial property and the complainant is prepared to present detailed information about the property including rental income, operating expenses, sales volume and income statements.

7. ✓ Additional supporting documentation (check if attached).

See attached Appraisal

PART THREE: GROUNDS FOR COMPLAINT

A. UNEQUAL ASSESSMENT (Complete Items 1-4)

1. The assessment is unequal for the following reason: (check a or b)
   - ___ a. The assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.
   - ___ b. The assessed value of real property improved by a one, two or three family residence is at a higher percentage of full (market) value than the assessed value of other residential property on the assessment roll or at a higher percentage of full (market) value than the assessed value of all real property on the assessment roll.
2. The complainant believes this property should be assessed at % of full value based on one or more of the following (check one or more):
   - ___ a. The latest State equalization rate for the city, town or village in which the property is located is %.
   - ___ b. The latest residential assessment ratio established for the city, town or village in which the residential property is located. Enter latest residential assessment ratio only if property is improved by a one, two or three family residence %.
   - ___ c. Statement of the assessor or other local official that property has been assessed at %.
   - ___ d. Other (explain on attached sheet).
3. Value of property from Part one #7 ..... $ _____
4. Complainant believes the assessment should be reduced to ..... $ _____

B. EXCESSIVE ASSESSMENT (Check one or more)

The assessment is excessive for the following reason(s):

1. ___ The assessed value exceeds the full value of the property.
   - a. Assessed value of property ..... $ 182,800
   - b. Complainant believes that assessment should be reduced to full value of (Part one #7) $ 145,000
   - c. Attach list of parcels upon which complainant relies for objection, if applicable.
2. ___ The taxable assessed value is excessive because of the denial of all or portion of a partial exemption.
   - a. Specify exemption (e.g., senior citizens, veterans, school tax relief [STAR]) _____
   - b. Amount of exemption claimed ..... $ _____
   - c. Amount granted, if any ..... $ _____
   - d. If application for exemption was filed, attach copy of application to this complaint.
3. ___ Improper calculation of transition assessment. (Applicable only in approved assessing unit which has adopted transition assessments.)
   - a. Transition assessment ..... $ _____
   - b. Transition assessment claimed ..... $ _____

C. UNLAWFUL ASSESSMENT (Check one or more)

The assessment is unlawful for the following reason(s):

1. ___ Property is wholly exempt. (Specify exemption (e.g., nonprofit organization))
2. ___ Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located.
3. ___ Property has been assessed and entered on the assessment roll by a person or body without the authority to make the entry.
4. ___ Property cannot be identified from description or tax map number on the assessment roll.
5. ___ Property is special franchise property, the assessment of which exceeds the final assessment thereof as determined by the Office of Real Property Tax Services. (Attach copy of certificate.)

D. MISCLASSIFICATION (Check one)

The property is misclassified for the following reason (relevant only in approved assessing unit which establish homestead and non-homestead tax rates):

___ Class designation on the assessment roll: ..... _____

1. ___ Complainant believes class designation should be ..... _____
2. ___ The assessed value is improperly allocated between homestead and non-homestead real property.

Allocation of assessed value on assessment roll		Claimed allocation
Homestead	$ _____	$ _____
Non-Homestead	$ _____	$ _____

PART FOUR: DESIGNATION OF REPRESENTATIVE TO MAKE COMPLAINT

I, Jerry Murphy, as complainant (or officer thereof) hereby designate Robert G. Buckles to act as my representative in any and all proceedings before the board of assessment review of the city/town/village/county of Liberty/Sullivan County for purposes of reviewing the assessment of my real property as it appears on the 2012 (year) tentative assessment roll of such assessing unit.

4/15/17
Date

Signature of owner (or officer thereof)

PART FIVE: CERTIFICATION

I certify that all statements made on this application are true and correct to be best of my knowledge and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false instruments.

5-3-13
Date

Signature of owner (or representative)

PART SIX: STIPULATION

The complainant (or complainant's representative) and assessor (or assessor designated by a majority of the board of assessors) whose signatures appear below stipulate that the following assessed value is to be applied to the above described property on the (year) assessment roll: Land $ Total $

(Check box if stipulation approves exemption indicated in Part Three, section B.2. or C.1.)

Complainant or representative | Assessor | Date

SPACE BELOW FOR USE OF BOARD OF ASSESSMENT REVIEW

Disposition

- ☐ Unequal assessment
- ☐ Unlawful assessment
- ☐ Ratification of stipulated assessment
- ☑ Excessive assessment
- ☐ Misclassification
- ☑ No change in assessment

Reason:

Vote on Complaint

- ☐ All concur
- ☑ All concur except: Murphy (Name) ☐ against ☑ abstain ☐ absent
- (Name) ☐ against ☐ abstain ☐ absent

	Tentative assessment	Claimed assessment	Decision by Board of Assessment Review
Total assessment	$ 182880	$ 145000 FM	$ N/C
Transition assessment (if any)	$	$	$
Exempt amount	$	$	$
Taxable assessment	$	$	$

Class designation and allocation of assessed value (if any):

Homestead	$	$	$
Non-homestead	$	$	$

Date notification mailed to complainant

STATE OF NEW YORK
SUPREME COURT: COUNTY OF SULLIVAN
INDIVIDUAL ASSIGNMENT JUDGE: Michael F. McGuire, Acting J.S.C.

----------x

Jeffrey Miller

Petitioner(s)

-against-

Town of Liberty

Respondent(s)

TAX ASSESSMENT REVIEW PROCEEDING
PRELIMINARY CONFERENCE STIPULATION AND ORDER
(22NYCRR §202.59)

Index No.: 1906-2013
RJI No.: 52-34494-2013

----------x

NO DATE MAY BE MORE THAN 10 MONTHS FROM DATE OF FILING OF THE RJI (Request for Judicial Intervention).

Petitioners herein, by their attorney, Jeffrey Kelson, and Respondents, by their attorney, Walter Farrington, having stipulated to the entry of an Order scheduling the time for the parties to file their respective appraisal reports in the above-referenced tax certiorari proceedings, it is

ORDERED, that this proceeding shall be dismissed without further order of this Court unless Petitioners file a Statement of Income and Expenses in the above-referenced certiorari proceeding on or before N/A (22 NYCRR § 202.59(b); and it is further

ORDERED, that Petitioners shall file their respective appraisal reports in the above-referenced certiorari proceeding on or before 3/31/2014 (22 NYCRR § 202.59(e); and it is further

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-31b

ORDERED, that, in the event that Petitioners shall file their appraisal report and serve the income and expenses statement within the times prescribed by the Order, Respondents shall file an appraisal report in the above-referenced tax certiorari proceeding on or before 6/30/2014 (within 60 days after Petitioners file their appraisal report); and it is further

ORDERED, that upon filing of their respective appraisal reports, each party shall serve upon their adversaries a notice of the date of such filing, and it is further

ORDERED, ~~that all disclosure proceedings shall be completed by~~ _____, ~~and~~ Petitioner shall file a note of issue/certificate of readiness by that same date; and it is further

ORDERED, that a final (post note of issue) conference will be held on 7/21/2014 (to be scheduled by the Court); and it is further

ORDERED, that a copy of this stipulation and order, an affirmation stating that the terms of the stipulation and order have been complied with, and an affidavit of service of the affirmation and note of issue on all appearing parties shall be served and filed with the note of issue on or before said date; and it is further

ORDERED, that this stipulation and order shall be filed with the ~~Columbia~~ Sullivan County Clerk forthwith by petitioner with notice of entry thereof to respondent; and it is further

ORDERED, that extensions of this stipulation are granted only if necessary. Applications may be made by submitting an explanation outlining the discovery completed and outstanding, together with an amended schedule or a "consent letter" which shows all new dates to be affected and which includes at the end a "SO ORDERED" line for the Judge's signature if the application is approved. ANY APPLICATIONS MUST BE RECEIVED BY THE COURT BEFORE THE

EXPIRATION OF THE DATE(S) TO BE EXTENDED; and it is further

ORDERED, that failure to comply with the provisions of this stipulation and order may result in the imposition of costs or sanctions or other action authorized by law.

SO STIPULATED.

Dated: 9-9-2013

Attorney for Petitioner(s)

Dated: 9/9/2013

Attorney for Respondent(s)

SO ORDERED.

Dated: 9-9-2013
Monticello, New York

ENTER:

Michael F. McGuire, Acting J.S.C.

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/15/2019 12:47:38 PM

Case #: 2014-1792
Court: SUPREME

Rec Date: 07/30/2014 12:47:46 PM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: MILLER JEFFREY H
IN THE MATTER OF APPLICATION

Defendant: ASSESSOR TOWN OF LIBERTY
BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY
TOWN OF LIBERTY BOARD OF ASSESSMENT REVIEW

Notes:

Plaintiff Attorney: ZACHARY D. KELSON, ESQ

DOCKET ITEMS

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary index# -2014-1792 Miller vs. Liberty assessor **with the original now remaining on** file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.
July 30, 2014
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 15th **day of** January **A.D.,** 2019.

Daniel L. Briggs, **Clerk**

EXHIBIT
Comm
Ex XI-32
PENGAD 800-631-6989

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (3/2011)

Supreme COURT, COUNTY OF Sullivan

Index No: 2014-1792 Date Index Issued: 07/30/2014

For Court Clerk Use Only
IAS Entry Date
RECEIVED
Judge Assigned
CLERK
Date

CAPTION: Enter the complete case caption. Do not use "et al" or "et ano." If more space is required, attach a captionless sheet.

JEFFREY H. MILLER

Plaintiff(s)/Petitioner(s)

-against-

Assessor of the Town of Liberty and the Board of Assessment Review of the Town of Liberty
To review a certain real property assessment for the year 2014 under Article 7 of the Real Property Tax Law

HON. MICHAEL F. McGUIRE

52-35838-14
"D"
related case

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check ONE box only and specify where indicated.

MATRIMONIAL
- ○ Contested
- ○ Uncontested

NOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum.**

TORTS
- ○ Asbestos
- ○ Breast Implant
- ○ Environmental: _____ (specify)
- ○ Medical, Dental, or Podiatric Malpractice
- ○ Motor Vehicle
- ○ Products Liability: _____ (specify)
- ○ Other Negligence: _____ (specify)
- ○ Other Professional Malpractice: _____ (specify)
- ○ Other Tort: _____ (specify)

COMMERCIAL
- ○ Business Entity (including corporations, partnerships, LLCs, etc.)
- ○ Contract
- ○ Insurance (where insurer is a party, except arbitration)
- ○ UCC (including sales, negotiable instruments)
- ○ Other Commercial: _____ (specify)

NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the **COMMERCIAL DIV RJI Addendum.**

REAL PROPERTY How many properties does the application include?
- ○ Condemnation
- ○ Foreclosure

Property Address: _____ Street Address City State Zip

NOTE: For Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJI Addendum.**

- ◉ Tax Certiorari - Section: 104 Block: 11 Lot: 15
- ○ Other Real Property: _____ (specify)

OTHER MATTERS
- ○ Certificate of Incorporation/Dissolution [see NOTE under Commercial]
- ○ Emergency Medical Treatment
- ○ Habeas Corpus
- ○ Local Court Appeal
- ○ Mechanic's Lien
- ○ Name Change
- ○ Pistol Permit Revocation Hearing
- ○ Sale or Finance of Religious/Not-for-Profit Property
- ○ Other: _____ (specify)

SPECIAL PROCEEDINGS
- ○ CPLR Article 75 (Arbitration) [see NOTE under Commercial]
- ○ CPLR Article 78 (Body or Officer)
- ○ Election Law
- ○ MHL Article 9.60 (Kendra's Law)
- ○ MHL Article 10 (Sex Offender Confinement-Initial)
- ○ MHL Article 10 (Sex Offender Confinement-Review)
- ○ MHL Article 81 (Guardianship)
- ○ Other Mental Hygiene: _____ (specify)
- ○ Other Special Proceeding: _____ (specify)

2014 AUG - 1 PM 3 3
RECEIVED JEFFERSON COUNTY CLERK

STATUS OF ACTION OR PROCEEDING: Answer YES or NO for EVERY question AND enter additional information where indicated.

	YES	NO	
Has a summons and complaint or summons w/notice been filed?	○	◉	If yes, date filed: _____
Is this action/proceeding being filed post-judgment?	○	◉	If yes, judgment date: _____

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-32a

NATURE OF JUDICIAL INTERVENTION Check ONE box only AND enter additional information where indicated.

- ○ Infant's Compromise
- ○ Note of Issue and/or Certificate of Readiness
- ○ Notice of Medical, Dental, or Podiatric Malpractice — Date Issue Joined: _____
- ○ Notice of Motion — Relief Sought: _____ — Return Date: _____
- ◉ Notice of Petition — Relief Sought: Tax Assessment Review — Return Date: 09/08/2014
- ○ Order to Show Cause — Relief Sought: _____ — Return Date: _____
- ○ Other Ex Parte Application — Relief Sought: _____
- ○ Poor Person Application
- ○ Request for Preliminary Conference
- ○ Residential Mortgage Foreclosure Settlement Conference
- ○ Writ of Habeas Corpus
- ○ Other (specify): _____

RELATED CASES List any related actions. For Matrimonial actions, include any related criminal and/or family court cases. If additional space is required, complete and attach the RJI Addendum. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case
Jeffrey Miller vs. Assessor of Town of Liberty et al	1906/2013	Supreme Court, Sullivan County	Hon. Michael F. McGuire, AJSC	

PARTIES If additional space is required, complete and attach the RJI Addendum. For parties without an attorney, check "Un-Rep." box AND enter party address, phone number and e-mail address in Attorneys' space.

Un-Rep.	Parties: List parties in caption order and indicate party role(s) (e.g. defendant, 3rd-party plaintiff)	Attorneys: Provide name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case	Issue Joined (Y/N)	Insurance Carrier(s)
☐	Miller (Last Name); Jeffrey H. (First Name); Primary Role: Petitioner; Secondary Role (if any):	Kelson (Last Name); Zachary D. (First Name); Firm Name: ; 10 St. John St., PO Box 1210 (Street Address); Monticello (City); New York (State); 12701 (Zip); +1 (845) 794-1000 (Phone); +1 (845) 794-1422 (Fax); zacharykelson@[redacted] (e-mail)	○ YES ◉ NO	N/A
☐	Assessor, Town of Liberty (Last Name); First Name; Primary Role: Respondent; Secondary Role (if any):	Klein (Last Name); Kenneth C. (First Name); Firm Name: ; PO Box 600 (Street Address); Jeffersonville (City); New York (State); 12748 (Zip); +1 (845) 482-5000 (Phone); +1 (845) 482-5002 (Fax); ker[redacted] (e-mail)	○ YES ○ NO	N/A
☐	Town of Liberty (Last Name); Board of Assessment Review (First Name); Primary Role: Respondent; Secondary Role (if any):	Klein (Last Name); Kenneth C. (First Name); Firm Name: ; PO Box 600 (Street Address); Jeffersonville (City); New York (State); 12748 (Zip); +1 (845) 482-5000 (Phone); +1 (845) 482-5002 (Fax); ken@[redacted] (e-mail)	○ YES ○ NO	
☐	Last Name; First Name; Primary Role: ; Secondary Role (if any):	Last Name; First Name; Firm Name: ; Street Address; City; State; Zip; Phone; Fax; e-mail	○ YES ○ NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 07/30/2014

SIGNATURE

1900604
ATTORNEY REGISTRATION NUMBER

ZACHARY D. KELSON, ESQ.
PRINT OR TYPE NAME

Print Form

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 2014-1792

----------X

In the Matter of the Application of

JEFFREY H. MILLER,

Petitioner,

-against-

NOTICE OF PETITION

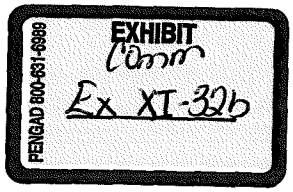
ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

PLEASE TAKE NOTICE that upon the annexed verified petition, an application will be made at a Term of this Court, to be held at the Lawrence H. Cooke Sullivan County Courthouse, 414 Broadway, Monticello, New York, on the 8th day of September, 2014 at 9:30 o'clock of the forenoon on that day, or as soon thereafter as counsel can be heard, for review under Article 7 of the Real Property Tax Law of the State of New York, of the tax assessment of certain real property of the petitioner appearing on the assessment rolls for the year 2014, as set forth in said petition, to the end that all proceedings, decisions and actions in the matter of said assessment of said real property may be reviewed and the said assessment corrected, modified or vacated, on the merits by such Court, and seeking other and further relief as may seem just and proper, together with the costs and disbursements of



this proceeding.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Uniform Rules of Practice, your appearance or submission in opposition to this application is not required on the return date. The matter shall be adjourned generally, and all issues raised herein shall be deemed automatically denied by you, pending judicial intervention, pursuant to Section 712 of the Real Property Tax Law.

BY SUBMISSION ON PAPERS ONLY.

Dated: Monticello, New York
July 28, 2014

Yours etc.,

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

To: Hon. Kathy Sprague, Sole Assessor
Town of Liberty
120 North Main Street
Liberty, New York 12754

Board of Assessment Review
Town of Liberty
120 North Main Street
Liberty, New York 12754

Hon. Ira J. Cohen,
Sullivan County Treasurer
100 North Street
Monticello, NY 12701

Mr. Michael Vanyo
Superintendent of Schools
Liberty Central School District
15 Buckley Street
Liberty, NY 12754

Hon. Judy Zurawski,
Village Clerk/Treasurer
Village of Liberty
167 North Main Street
Liberty, NY 12754

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 2014-1792

----------X

In the Matter of the Application of

JEFFREY H. MILLER,

Petitioner,

-against-

PETITION

ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

1. Petitioner is the owner of certain real property situate in the Town of Liberty, County of Sullivan, State of New York, described on the assessment roll of the Town as follows:

Tax Map No.	Property Location
[redacted]	[redacted]

2. Respondents are the Assessor of the Town of Liberty and the Board of Assessment Review of the Town of Liberty, which are charged with the duty of reviewing the assessments of real property within the Town for the purposes of taxation. The Liberty Central School District is the school district in which the property is located.

3. Upon information and belief, on or about May 1, 2014, the Assessor of the Town of Liberty prepared and completed a tentative assessment roll for all real property in

the Town for the year 2014. The Assessor then filed the assessment roll with the Town Clerk so that it might be seen and examined.

4. The land and premises owned by petitioner was tentatively assessed on such assessment roll as follows:

Tax Map No.	**Tax Assessment**
[redacted]	$182,800.00

5. On or before May 23, 2013, petitioner protested the tentative assessment of its property by timely filing with respondents a written complaint for review and correction of the assessments, collectively annexed as Exhibit "A", which included a statement under oath specifying the respects in which the assessment was incorrect and a request for a reduction of the assessment. The attached complaint was received by respondents without objection and within the time fixed by law for the making and hearing of complaints, and the same is incorporated herein by reference.

6. Respondents thereafter made their final determination on petitioner's complaint and on or about July 1, 2014, the assessment roll for the Town for the year 2014 was finally completed and filed by respondents.

7. Upon information and belief, respondents gave notice of the completion and filing of the assessment roll on or about the same date.

8. The assessment of petitioner's real property as it appears on the assessment roll as finally completed and filed as follows:

Tax Map No.	**Tax Assessment**
[redacted]	$182,800.00

9. The valuation and assessment as it appears on the assessment roll is excessive because the assessed value exceeds the full value of the property.

10. Upon information and belief, the full market value of the property is

Tax Map No.	Full Market Value
[redacted]	$145,000.00

11. The assessment is unequal because the assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.

12. Upon information and belief, the latest level of assessment for the Town is 83.69%. To be equal with other properties, the subject property's assessment should be reduced to:

Tax Map No.	Reduced Value
[redacted]	$121,350.50

13. Petitioner is aggrieved and will be injured by the inequality, excessive and unlawfulness of its assessment because it will be compelled to pay taxes which it would not be required by law to pay if its assessment had been made correctly and properly. Furthermore, the unequal and excessive assessment will subject petitioner to the payment of a larger portion of the taxes of the taxing jurisdictions than its fair and equal share.

14. Thirty (30) days have not elapsed since the final completion of the assessment roll and the filing and posting of notice thereof, and no previous application to review petitioner's assessment or tax levy for the year under review has been made by petitioner.

WHEREFORE, petitioner respectfully requests that the Court (1) review the foregoing assessments of his real property as provided in Article 7 of the Real Property Tax Law and reduce the assessments to those set forth in paragraphs 10 and 12 of this petition and (2) grant to the petitioner such other and further relief as to the Court may seem just and proper, including costs, disbursements and an additional allowance as allowed by RPTL §722.

Dated: Monticello, New York
July 28, 2014

JEFFREY H. MILLER

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

JEFFREY H. MILLER, being duly sworn, deposes and says:

I am the Petitioner herein; I have read the annexed Notice of Petition and Petition, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

JEFFREY H. MILLER

Sworn to before me this
28 day of July, 2014

Kathleen Brawley
Notary Public - State of New York

KATHLEEN BRAWLEY
Notary Public, State of New York
Sullivan County Clerk's # 2445
Commission Expires Nov. 3, 2017

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/24/2019 03:03:15 PM

Case #: 2013-1908
Court: SUPREME

Rec Date: 07/31/2013 10:01:56 AM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: TWO SULLIVAN STREET TRUST
2 SULLIVAN STREET TRUST

Defendant: ASSESSOR OF THE TOWN OF LIBERTY
BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY

Notes:

Plaintiff Attorney: ZACHARY D KELSON

---- DOCKET ITEMS -----

Rec Date	Description
07/31/2013	RJI
07/31/2013	NOTICE OF PETITION
07/31/2013	VERIFIED PETITION
07/31/2013	EXHIBIT A
08/02/2013	5 AFFIDAVITS OF SERVICE
09/25/2013	PRELIM CONF STIP & ORDER 9/9/13 JDG MCGUIRE
02/23/2016	RJI DUP ORIG
02/23/2016	NOTICE OF PETITION
02/23/2016	PETITION
02/23/2016	COPY DOCS
02/23/2016	LETTER
01/19/2017	SENT TO COURT PER SARAH
01/23/2017	RETURNED FROM COURT

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary index # - 2013-1908 - 2 Sullivan Street Trust vs. **with the original now remaining on** Liberty assessor file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.

July 31, 2013
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 24th **day of** January **A.D.,** 2019.

Daniel L. Briggs, **Clerk**

EXHIBIT
Comm
Ex XI-33
PENGAD 800-631-6989

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1908-13

----------X

In the Matter of the Application of

TWO SULLIVAN STREET TRUST,

Petitioner,

-against-

NOTICE OF PETITION

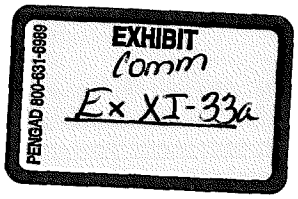
ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

PLEASE TAKE NOTICE that upon the annexed verified petition, an application will be made at a Term of this Court, to be held at the Lawrence H. Cooke Sullivan County Courthouse, 414 Broadway, Monticello, New York, on the 9th day of September, 2013 at 9:30 o'clock of the forenoon on that day, or as soon thereafter as counsel can be heard, for review under Article 7 of the Real Property Tax Law of the State of New York, of the tax assessment of certain real property of the petitioner appearing on the assessment rolls for the year 2013, as set forth in said petition, to the end that all proceedings, decisions and actions in the matter of said assessment of said real property may be reviewed and the said assessment corrected, modified or vacated, on the merits by such Court, and seeking other and further relief as may seem just and proper, together with the costs and disbursements of



this proceeding.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Uniform Rules of Practice, your appearance or submission in opposition to this application is not required on the return date. The matter shall be adjourned generally, and all issues raised herein shall be deemed automatically denied by you, pending judicial intervention, pursuant to Section 712 of the Real Property Tax Law.

BY SUBMISSION ON PAPERS ONLY.

Dated: Monticello, New York
July 29, 2013

Yours etc.,

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

To: Hon. Kathy Sprague, Sole Assessor
Town of Liberty
120 North Main Street
Liberty, New York 12754

Board of Assessment Review
Town of Liberty
120 North Main Street
Liberty, New York 12754

Hon. Ira J. Cohen,
Sullivan County Treasurer
100 North Street
Monticello, NY 12701

Mr. Michael Vanyo
Superintendent of Schools
Liberty Central School District
15 Buckley Street
Liberty, NY 12754

Hon. Judy Zurawski,
Village Clerk/Treasurer
Village of Liberty
167 North Main Street
Liberty, NY 12754

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1908-13

----------X

In the Matter of the Application of

TWO SULLIVAN STREET TRUST,

Petitioner,

-against-

PETITION

ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

1. Petitioner is the owner of certain real property situate in the Town of Liberty, County of Sullivan, State of New York, described on the assessment roll of the Town as follows:

Tax Map No.	**Property Location**
121-3-1.1	7 Sullivan Avenue

2. Respondents are the Assessor of the Town of Liberty and the Board of Assessment Review of the Town of Liberty, which are charged with the duty of reviewing the assessments of real property within the Town for the purposes of taxation. The Liberty Central School District is the school district in which the property is located.

3. Upon information and belief, on or about May 1, 2013, the Assessor of the Town of Liberty prepared and completed a tentative assessment roll for all real property in

the Town for the year 2013. The Assessor then filed the assessment roll with the Town Clerk so that it might be seen and examined.

4. The land and premises owned by petitioner was tentatively assessed on such assessment roll as follows:

Tax Map No.	**Tax Assessment**
121-3-1.1	$689,100.00

5. On or before May 28, 2013, petitioner protested the tentative assessment of its property by timely filing with respondents a written complaint for review and correction of the assessments, collectively annexed as Exhibit "A", which included a statement under oath specifying the respects in which the assessment was incorrect and a request for a reduction of the assessment. The attached complaint was received by respondents without objection and within the time fixed by law for the making and hearing of complaints, and the same is incorporated herein by reference.

6. Respondents thereafter made their final determination on petitioner's complaint and on or about July 1, 2013, the assessment roll for the Town for the year 2013 was finally completed and filed by respondents.

7. Upon information and belief, respondents gave notice of the completion and filing of the assessment roll on or about the same date.

8. The assessment of petitioner's real property as it appears on the assessment roll as finally completed and filed as follows:

Tax Map No.	**Tax Assessment**
121-3-1.1	$689,100.00

9. The valuation and assessment as it appears on the assessment roll is excessive because the assessed value exceeds the full value of the property.

10. Upon information and belief, the full market value of the property is

Tax Map No.	**Full Market Value**
121-3-1.1	$730,000.00

11. The assessment is unequal because the assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.

12. Upon information and belief, the latest equalization rate for the Town is 81.73%. To be equal with other properties, the subject property's assessment should be reduced to:

Tax Map No.	**Reduced Value**
121-3-1.1	$596,629.00

13. Petitioner is aggrieved and will be injured by the inequality, excessive and unlawfulness of its assessment because it will be compelled to pay taxes which it would not be required by law to pay if its assessment had been made correctly and properly. Furthermore, the unequal and excessive assessment will subject petitioner to the payment of a larger portion of the taxes of the taxing jurisdictions than its fair and equal share.

14. Thirty (30) days have not elapsed since the final completion of the assessment roll and the filing and posting of notice thereof, and no previous application to review petitioner's assessment or tax levy for the year under review has been made by petitioner.

WHEREFORE, petitioner respectfully requests that the Court (1) review the foregoing assessments of his real property as provided in Article 7 of the Real Property Tax Law and

reduce the assessments to those set forth in paragraphs 10 and 12 of this petition and (2) grant to the petitioner such other and further relief as to the Court may seem just and proper, including costs, disbursements and an additional allowance as allowed by RPTL §722.

Dated: Monticello, New York
July 29, 2013

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

JEFFREY H. MILLER, being duly sworn, deposes and says:

I am the President of Sam's Towing & Recovery, Inc., the Tenant and beneficial owner of the property owned by the Petitioner herein; I have read the annexed Notice of Petition and Petition, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

JEFFREY H. MILLER

Sworn to before me this
29th day of July, 2013

Kathleen Brawley
Notary Public - State of New York

KATHLEEN BRAWLEY
Notary Public, State of New York
Sullivan County Clerk's # 2445
Commission Expires Nov. 3, 2013

25

RP-524 (3/09)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

COMPLAINT ON REAL PROPERTY ASSESSMENT FOR 20

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR V/Liberty /Sullivan County
(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s)
Two Sullivan Street

Day no. [redacted]

Evening no. ( )

2. Mailing Address of owner(s)
7 Sullivan Avenue
Liberty, NY 12754

Email (optional)

3. Name, address and telephone no. of representative of owner, if representative is filing application. (if applicable, complete Part Four on page 4.)

4. Property location
7 Sullivan Ave — Street Address
Liberty — Village (if any)
Liberty — City/Town
Sullivan — County
Liberty — School District

5. Property identification (see tax bill or assessment roll)
Tax map number or section/block/lot 121.-3-1.1
Type of property: Residence ____ Farm ____ Vacant land ____
Commercial X Industrial ____ Other ____
Description: Gas Station/Auto Body Shop

6. Assessed value appearing on the assessment roll:
Land $ 46,200 Total $ 689,100

7. Property owner's estimate of market value of property as of valuation date (see instructions) $ 730,000

RECEIVED
MAY 0 3 2013

Exhibit "A"

Jul 30 2013 3:29PM HP Fax 8452920492 page 12

PART TWO: INFORMATION NECESSARY TO DETERMINE VALUE OF PROPERTY
(If additional explanation or documentation is necessary, please attach)

Information to support the value of property claimed in Part One, item 7 (complete one or more):

1. N/A Purchase price of property: ..... $ _____

a. Date of purchase: _____

b. Terms _____ Cash _____ Contract _____ Other (explain)

c. Relationship between seller and purchaser (parent-child, in-laws, siblings, etc.): _____

d. Personal property, if any, included in purchase price (furniture, livestock, etc.; attach list and sales tax receipt): _____

2. N/A Property has been recently offered for sale (attach copy of listing agreement, if any):

When and for how long: _____

How offered: _____ Asking price: $ _____

3. ✓ Property has been recently appraised (attach copy): When: 2.9.13 By Whom: Capital Appraisal Gro

Purpose of appraisal: Market Value/Tax Grievance Appraised value: $ 230,000

4. ✓ Description of any buildings or improvements located on the property, including year of construction and present condition:

See attached Appraisal

5. ___ Buildings have been recently remodeled, constructed or additional improvements made:

Cost $ N/A

Date Started: _____ Date Completed: _____

Complainant should submit construction cost details where available.

6. N/A Property is income producing (e.g., leased or rented), commercial or industrial property and the complainant is prepared to present detailed information about the property including rental income, operating expenses, sales volume and income statements.

7. ✓ Additional supporting documentation (check if attached).

See attached appraisal

PART THREE: GROUNDS FOR COMPLAINT

A. UNEQUAL ASSESSMENT (Complete Items 1-4)

1. The assessment is unequal for the following reason: (check a or b)
   - ____ a. The assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.
   - ____ b. The assessed value of real property improved by a one, two or three family residence is at a higher percentage of full (market) value than the assessed value of other residential property on the assessment roll or at a higher percentage of full (market) value than the assessed value of all real property on the assessment roll.
2. The complainant believes this property should be assessed at % of full value based on one or more of the following (check one or more):
   - ____ a. The latest State equalization rate for the city, town or village in which the property is located is %.
   - ____ b. The latest residential assessment ratio established for the city, town or village in which the residential property is located. Enter latest residential assessment ratio only if property is improved by a one, two or three family residence %.
   - ____ c. Statement of the assessor or other local official that property has been assessed at %.
   - ____ d. Other (explain on attached sheet).
3. Value of property from Part one #7 ..... $ _____
4. Complainant believes the assessment should be reduced to ..... $ _____

B. EXCESSIVE ASSESSMENT (Check one or more)

The assessment is excessive for the following reason(s):

1. ✓ The assessed value exceeds the full value of the property.
   - a. Assessed value of property $689,100
   - b. Complainant believes that assessment should be reduced to full value of (Part one #7) $730,000
   - c. Attach list of parcels upon which complainant relies for objection, if applicable.
2. ____ The taxable assessed value is excessive because of the denial of all or portion of a partial exemption.
   - a. Specify exemption (e.g., senior citizens, veterans, school tax relief [STAR]) _____
   - b. Amount of exemption claimed ..... $ _____
   - c. Amount granted, if any ..... $ _____
   - d. If application for exemption was filed, attach copy of application to this complaint.
3. ____ Improper calculation of transition assessment. (Applicable only in approved assessing unit which has adopted transition assessments.)
   - a. Transition assessment ..... $ _____
   - b. Transition assessment claimed ..... $ _____

C. UNLAWFUL ASSESSMENT (Check one or more)

The assessment is unlawful for the following reason(s):

1. ____ Property is wholly exempt. (Specify exemption (e.g., nonprofit organization))
2. ____ Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located.
3. ____ Property has been assessed and entered on the assessment roll by a person or body without the authority to make the entry.
4. ____ Property cannot be identified from description or tax map number on the assessment roll.
5. ____ Property is special franchise property, the assessment of which exceeds the final assessment thereof as determined by the Office of Real Property Tax Services. (Attach copy of certificate.)

D. MISCLASSIFICATION (Check one)

The property is misclassified for the following reason (relevant only in approved assessing unit which establish homestead and non-homestead tax rates):

____ Class designation on the assessment roll: ..... _____

1. ____ Complainant believes class designation should be ..... _____
2. ____ The assessed value is improperly allocated between homestead and non-homestead real property.

Allocation of assessed value on assessment roll		Claimed allocation
Homestead	$ _____	$ _____
Non -Homestead	$ _____	$ _____

RP-524 (03/09) 4

PART FOUR: DESIGNATION OF REPRESENTATIVE TO MAKE COMPLAINT

I, Jeffrey [illegible], as complainant (or officer thereof) hereby designate Robert G. Buckles to act as my representative in any and all proceedings before the board of assessment review of the city/town/village/county of Liberty Sullivan County for purposes of reviewing the assessment of my real property as it appears on the 2012 (year) tentative assessment roll of such assessing unit.

4/5/13
Date

Signature of owner (or officer thereof)

PART FIVE: CERTIFICATION

I certify that all statements made on this application are true and correct to be best of my knowledge and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false instruments.

5-3-13
Date

Signature of owner (or representative)

PART SIX: STIPULATION

The complainant (or complainant's representative) and assessor (or assessor designated by a majority of the board of assessors) whose signatures appear below stipulate that the following assessed value is to be applied to the above described property on the (year) assessment roll: Land $ Total $

(Check box if stipulation approves exemption indicated in Part Three, section B.2. or C.1.)

Complainant or representative | Assessor | Date

SPACE BELOW FOR USE OF BOARD OF ASSESSMENT REVIEW

Disposition

- ☐ Unequal assessment
- ☐ Unlawful assessment
- ☐ Ratification of stipulated assessment
- ☒ Excessive assessment
- ☐ Misclassification
- ☒ No change in assessment

Reason:

Vote on Complaint

- ☐ All concur
- ☒ All concur except: Murphy (Name) ☐ against ☒ abstain ☐ absent
- (Name) ☐ against ☐ abstain ☐ absent

	Tentative assessment	Claimed assessment	Decision by Board of Assessment Review
Total assessment	$ 689,100	$ 730,000 FMV	$ N/C
Transition assessment (if any)	$	$	$
Exempt amount	$	$	$
Taxable assessment	$	$	$

Class designation and allocation of assessed value (if any):

Homestead	$	$	$
Non-homestead	$	$	$

Date notification mailed to complainant

STATE OF NEW YORK
SUPREME COURT: COUNTY OF SULLIVAN
INDIVIDUAL ASSIGNMENT JUDGE: Michael F. McGuire, Acting J.S.C.

----------x

Two Sullivan Street Trust

Petitioner(s)

-against-

County of Sullivan

Respondent(s)

TAX ASSESSMENT REVIEW PROCEEDING
PRELIMINARY CONFERENCE STIPULATION AND ORDER
(22NYCRR §202.59)

Index No.: 1908-2013
RJI No.: 52-34196-2013

----------x

NO DATE MAY BE MORE THAN 10 MONTHS FROM DATE OF FILING OF THE RJI (Request for Judicial Intervention).

Petitioners herein, by their attorney, Jeffrey Kelson, and Respondents, by their attorney, Walter Fanglino, having stipulated to the entry of an Order scheduling the time for the parties to file their respective appraisal reports in the above-referenced tax certiorari proceedings, it is

ORDERED, that this proceeding shall be dismissed without further order of this Court unless Petitioners file a Statement of Income and Expenses in the above-referenced certiorari proceeding on or before 11/30/2013 (22 NYCRR § 202.59(b); and it is further

ORDERED, that Petitioners shall file their respective appraisal reports in the above-referenced certiorari proceeding on or before 3/31/2014 (22 NYCRR § 202.59(e); and it is further

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-33b

ORDERED, that, in the event that Petitioners shall file their appraisal report and serve the income and expenses statement within the times prescribed by the Order, Respondents shall file an appraisal report in the above-referenced tax certiorari proceeding on or before 6/30/2014 (within 60 days after Petitioners file their appraisal report); and it is further

ORDERED, that upon filing of their respective appraisal reports, each party shall serve upon their adversaries a notice of the date of such filing, and it is further

ORDERED, ~~that all disclosure proceedings shall be completed by~~ _____, ~~and~~ petitioner shall file a note of issue/certificate of readiness by that same date; and it is further

ORDERED, that a final (post note of issue) conference will be held on 7/21/2014 (to be scheduled by the Court); and it is further

ORDERED, that a copy of this stipulation and order, an affirmation stating that the terms of the stipulation and order have been complied with, and an affidavit of service of the affirmation and note of issue on all appearing parties shall be served and filed with the note of issue on or before said date; and it is further

ORDERED, that this stipulation and order shall be filed with the ~~Columbia~~ Sullivan County Clerk forthwith by petitioner with notice of entry thereof to respondent; and it is further

ORDERED, that extensions of this stipulation are granted only if necessary. Applications may be made by submitting an explanation outlining the discovery completed and outstanding, together with an amended schedule or a "consent letter" which shows all new dates to be affected and which includes at the end a "SO ORDERED" line for the Judge's signature if the application is approved. ANY APPLICATIONS MUST BE RECEIVED BY THE COURT BEFORE THE

EXPIRATION OF THE DATE(S) TO BE EXTENDED; and it is further

ORDERED, that failure to comply with the provisions of this stipulation and order may result in the imposition of costs or sanctions or other action authorized by law.

SO STIPULATED.

Dated: 9/9/13

Attorney for Petitioner(s)

Dated: 9/9/13

Attorney for Respondent(s)

SO ORDERED.

Dated: 9-9-2013
Monticello, New York

ENTER:

Michael F. McGuire, Acting J.S.C.

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/11/2019 04:14:30 PM

Case #: 2013-1907
Court: SUPREME

Rec Date: 07/31/2013 10:01:56 AM
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: SAMS TOWING & RECOVERY INC
SAMS TOWING AND RECOVERY INC

Defendant: ASSESSOR OF THW TOWN OF LIBERTY
BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY

Notes:

Plaintiff Attorney: ZACHARY D KELSON

STATE OF NEW YORK
Sullivan County Clerk's Office } **ss.:**

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary Index # - 2013-1907 Sams towing vs Liberty Assessor **with the original now remaining on** file **in this office and that the same is a correct transcript therefrom and of the whole of said original.**

ENDORSED, FILED.
July 31, 2013
Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 15th **day of** January **A.D.,** 2019.

Daniel L. Briggs, **Clerk**

EXHIBIT
Comm
Ex XI-34
PENGAD 800-631-6989

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1907-13

----------X

In the Matter of the Application of

SAM'S TOWING & RECOVERY, INC.,

Petitioner,

-against-

NOTICE OF PETITION

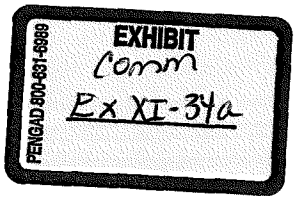
ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

PLEASE TAKE NOTICE that upon the annexed verified petition, an application will be made at a Term of this Court, to be held at the Lawrence H. Cooke Sullivan County Courthouse, 414 Broadway, Monticello, New York, on the 9th day of September, 2013 at 9:30 o'clock of the forenoon on that day, or as soon thereafter as counsel can be heard, for review under Article 7 of the Real Property Tax Law of the State of New York, of the tax assessment of certain real property of the petitioner appearing on the assessment rolls for the year 2013, as set forth in said petition, to the end that all proceedings, decisions and actions in the matter of said assessment of said real property may be reviewed and the said assessment corrected, modified or vacated, on the merits by such Court, and seeking other and further relief as may seem just and proper, together with the costs and disbursements of



this proceeding.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Uniform Rules of Practice, your appearance or submission in opposition to this application is not required on the return date. The matter shall be adjourned generally, and all issues raised herein shall be deemed automatically denied by you, pending judicial intervention, pursuant to Section 712 of the Real Property Tax Law.

BY SUBMISSION ON PAPERS ONLY.

Dated: Monticello, New York
July 29, 2013

Yours etc.,

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

To: Hon. Kathy Sprague, Sole Assessor
Town of Liberty
120 North Main Street
Liberty, New York 12754

Board of Assessment Review
Town of Liberty
120 North Main Street
Liberty, New York 12754

Hon. Ira J. Cohen,
Sullivan County Treasurer
100 North Street
Monticello, NY 12701

Mr. Michael Vanyo
Superintendent of Schools
Liberty Central School District
15 Buckley Street
Liberty, NY 12754

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

Index Number: 1907-13

----------X

In the Matter of the Application of

SAM'S TOWING & RECOVERY, INC.,

Petitioner,

-against-

PETITION

ASSESSOR OF THE TOWN OF LIBERTY AND THE BOARD OF ASSESSMENT REVIEW OF THE TOWN OF LIBERTY,

Respondents

To review a certain real property assessment for the year 2013 under Article 7 of the Real Property Tax Law

----------X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

1. Petitioner is the owner of certain real property situate in the Town of Liberty, County of Sullivan, State of New York, described on the assessment roll of the Town as follows:

Tax Map No.	**Property Location**
29-3-2	~~8 Columbia Street~~ SULLIVAN STREET 32

2. Respondents are the Assessor of the Town of Liberty and the Board of Assessment Review of the Town of Liberty, which are charged with the duty of reviewing the assessments of real property within the Town for the purposes of taxation. The Liberty Central School District is the school district in which the property is located.

3. Upon information and belief, on or about May 1, 2013, the Assessor of the Town of Liberty prepared and completed a tentative assessment roll for all real property in

the Town for the year 2013. The Assessor then filed the assessment roll with the Town Clerk so that it might be seen and examined.

4. The land and premises owned by petitioner was tentatively assessed on such assessment roll as follows:

Tax Map No.	Tax Assessment
29-3-2	~~$182,800.00~~ $120,300

5. On or before May 28, 2013, petitioner protested the tentative assessment of its property by timely filing with respondents a written complaint for review and correction of the assessments, collectively annexed as Exhibit "A", which included a statement under oath specifying the respects in which the assessment was incorrect and a request for a reduction of the assessment. The attached complaint was received by respondents without objection and within the time fixed by law for the making and hearing of complaints, and the same is incorporated herein by reference.

6. Respondents thereafter made their final determination on petitioner's complaint and on or about July 1, 2013, the assessment roll for the Town for the year 2013 was finally completed and filed by respondents.

7. Upon information and belief, respondents gave notice of the completion and filing of the assessment roll on or about the same date.

8. The assessment of petitioner's real property as it appears on the assessment roll as finally completed and filed as follows:

Tax Map No.	Tax Assessment
29-3-2	~~$182,800.00~~ $120,300

9. The valuation and assessment as it appears on the assessment roll is excessive because the assessed value exceeds the full value of the property.

10. Upon information and belief, the full market value of the property is

Tax Map No.	Full Market Value
29-3-2	$~~145,000.00~~ 120,000.00

11. The assessment is unequal because the assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.

12. Upon information and belief, the latest equalization rate for the Town is 81.73%. To be equal with other properties, the subject property's assessment should be reduced to:

Tax Map No.	Reduced Value
29-3-2	~~$118,508.50~~ 98,076.00

13. Petitioner is aggrieved and will be injured by the inequality, excessive and unlawfulness of its assessment because it will be compelled to pay taxes which it would not be required by law to pay if its assessment had been made correctly and properly. Furthermore, the unequal and excessive assessment will subject petitioner to the payment of a larger portion of the taxes of the taxing jurisdictions than its fair and equal share.

14. Thirty (30) days have not elapsed since the final completion of the assessment roll and the filing and posting of notice thereof, and no previous application to review petitioner's assessment or tax levy for the year under review has been made by petitioner.

WHEREFORE, petitioner respectfully requests that the Court (1) review the foregoing assessments of his real property as provided in Article 7 of the Real Property Tax Law and

reduce the assessments to those set forth in paragraphs 10 and 12 of this petition and (2) grant to the petitioner such other and further relief as to the Court may seem just and proper, including costs, disbursements and an additional allowance as allowed by RPTL §722.

Dated: Monticello, New York
July 29, 2013

ZACHARY D. KELSON, ESQ.
Attorney for the Petitioner
10 St. John St., PO Box 1210
Monticello, New York 12701-8210
Phone: (845) 794-1000

STATE OF NEW YORK)
) ss.
COUNTY OF SULLIVAN)

JEFFREY H. MILLER, being duly sworn, deposes and says:

I am the President of Sam's Towing & Recovery, Inc., the Petitioner herein; I have read the annexed Notice of Petition and Petition, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

JEFFREY H. MILLER

Sworn to before me this
29 day of July, 2013

Kathleen Brawley
Notary Public - State of New York

KATHLEEN BRAWLEY
Notary Public, State of New York
Sullivan County Clerk's # 2445
Commission Expires Nov. 3, 2013

43

RP-524 (3/09)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

COMPLAINT ON REAL PROPERTY ASSESSMENT FOR 20

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR Town of Liberty / Sullivan County
(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s)
Sams Towing & Recovery INC

Day no. [redacted]

Evening no. ( )

2. Mailing Address of owner(s)
7 Sullivan Ave
Liberty, NY 12754

Email (optional)

3. Name, address and telephone no. of representative of owner, if representative is filing application. (if applicable, complete Part Four on page 4.)

4. Property location
Sullivan Ave
Street Address

Village (if any)

Liberty
City/Town

Sullivan
County

Liberty
School District

5. Property identification (see tax bill or assessment roll)
Tax map number or section/block/lot 29.-3-2

Type of property: Residence ____ Farm ____ Vacant land ✓
Commercial ____ Industrial ____ Other ____

Description: Vacant land

RECEIVED
MAY 28 2013
Town of Liberty
Assessor's Office

6. Assessed value appearing on the assessment roll:
Land $ 97,000 Total $ 120,300

7. Property owner's estimate of market value of property as of valuation date (see instructions) $ 120,000

Exhibit "A"

FILED IN SULLIVAN COUNTY CLERKS OFFICE 7/31/2013

PART TWO: INFORMATION NECESSARY TO DETERMINE VALUE OF PROPERTY
(If additional explanation or documentation is necessary, please attach)

Information to support the value of property claimed in Part One, item 7 (complete one or more):

1. N/A Purchase price of property: ..... $ _____

a. Date of purchase: _____

b. Terms _____ Cash _____ Contract _____ Other (explain)

c. Relationship between seller and purchaser (parent-child, in-laws, siblings, etc.): _____

d. Personal property, if any, included in purchase price (furniture, livestock, etc.; attach list and sales tax receipt): _____

2. N/A Property has been recently offered for sale (attach copy of listing agreement, if any):

When and for how long: _____

How offered: _____ Asking price: $ _____

3. ✓ Property has been recently appraised (attach copy): When: 2/9/13 By Whom: Capital Appraisal Group

Purpose of appraisal: Market Value / Tax Grievance Appraised value: $ 120,000

4. N/A Description of any buildings or improvements located on the property, including year of construction and present condition:

_____

5. N/A Buildings have been recently remodeled, constructed or additional improvements made:

Cost $ _____

Date Started: _____ Date Completed: _____

Complainant should submit construction cost details where available.

6. N/A Property is income producing (e.g., leased or rented), commercial or industrial property and the complainant is prepared to present detailed information about the property including rental income, operating expenses, sales volume and income statements.

7. ✓ Additional supporting documentation (check if attached).

see attached appraisal

PART THREE: GROUNDS FOR COMPLAINT

A. UNEQUAL ASSESSMENT (Complete items 1-4)

1. The assessment is unequal for the following reason: (check a or b)
   - ____ a. The assessed value is at a higher percentage of value than the assessed value of other real property on the assessment roll.
   - ____ b. The assessed value of real property improved by a one, two or three family residence is at a higher percentage of full (market) value than the assessed value of other residential property on the assessment roll or at a higher percentage of full (market) value than the assessed value of all real property on the assessment roll.
2. The complainant believes this property should be assessed at % of full value based on one or more of the following (check one or more):
   - ____ a. The latest State equalization rate for the city, town or village in which the property is located is %.
   - ____ b. The latest residential assessment ratio established for the city, town or village in which the residential property is located. Enter latest residential assessment ratio only if property is improved by a one, two or three family residence %.
   - ____ c. Statement of the assessor or other local official that property has been assessed at %.
   - ____ d. Other (explain on attached sheet).
3. Value of property from Part one #7 ..... $ _____
4. Complainant believes the assessment should be reduced to ..... $ _____

B. EXCESSIVE ASSESSMENT (Check one or more)

The assessment is excessive for the following reason(s):

1. ✓ The assessed value exceeds the full value of the property.
   - a. Assessed value of property ..... $ 120,300
   - b. Complainant believes that assessment should be reduced to full value of (Part one #7) $ 120,000
   - c. Attach list of parcels upon which complainant relies for objection, if applicable.
2. ____ The taxable assessed value is excessive because of the denial of all or portion of a partial exemption.
   - a. Specify exemption (e.g., senior citizens, veterans, school tax relief [STAR]) _____
   - b. Amount of exemption claimed ..... $ _____
   - c. Amount granted, if any ..... $ _____
   - d. If application for exemption was filed, attach copy of application to this complaint.
3. ____ Improper calculation of transition assessment. (Applicable only in approved assessing unit which has adopted transition assessments.)
   - a. Transition assessment ..... $ _____
   - b. Transition assessment claimed ..... $ _____

C. UNLAWFUL ASSESSMENT (Check one or more)

The assessment is unlawful for the following reason(s):

1. ____ Property is wholly exempt. (Specify exemption (e.g., nonprofit organization))
2. ____ Property is entirely outside the boundaries of the city, town, village, school district or special district in which it is designated as being located.
3. ____ Property has been assessed and entered on the assessment roll by a person or body without the authority to make the entry.
4. ____ Property cannot be identified from description or tax map number on the assessment roll.
5. ____ Property is special franchise property, the assessment of which exceeds the final assessment thereof as determined by the Office of Real Property Tax Services. (Attach copy of certificate.)

D. MISCLASSIFICATION (Check one)

The property is misclassified for the following reason (relevant only in approved assessing unit which establish homestead and non-homestead tax rates):

____ Class designation on the assessment roll: ..... _____

1. ____ Complainant believes class designation should be ..... _____
2. ____ The assessed value is improperly allocated between homestead and non-homestead real property.

Allocation of assessed value on assessment roll		Claimed allocation
Homestead	$ _____	$ _____
Non –Homestead	$ _____	$ _____

RP-524 (03/09) 4

PART FOUR: DESIGNATION OF REPRESENTATIVE TO MAKE COMPLAINT

(1) Jeffrey Mafo, as complainant (or officer thereof) hereby designate Robert G. Buckles to act as my representative in any and all proceedings before the board of assessment review of the city/town/village/county of Liberty/Sullivan for purposes of reviewing the assessment of my real property as it appears on the 2012 (year) tentative assessment roll of such assessing unit.

4/5/13
Date

Signature of owner (or officer thereof)

PART FIVE: CERTIFICATION

I certify that all statements made on this application are true and correct to be best of my knowledge and belief, and I understand that the making of any willful false statement of material fact herein will subject me to the provisions of the Penal Law relevant to the making and filing of false instruments.

5-28-13
Date

Signature of owner (or representative)

PART SIX: STIPULATION

The complainant (or complainant's representative) and assessor (or assessor designated by a majority of the board of assessors) whose signatures appear below stipulate that the following assessed value is to be applied to the above described property on the (year) assessment roll: Land $ Total $

(Check box if stipulation approves exemption indicated in Part Three, section B.2. or C.1.)

Complainant or representative | Assessor | Date

SPACE BELOW FOR USE OF BOARD OF ASSESSMENT REVIEW

Disposition

- ☐ Unequal assessment
- ☐ Unlawful assessment
- ☐ Ratification of stipulated assessment
- ☑ Excessive assessment
- ☐ Misclassification
- ☑ No change in assessment

Reason:

Vote on Complaint

- ☐ All concur
- ☑ All concur except: Murphy (Name) ☐ against ☑ abstain ☐ absent
- (Name) ☐ against ☐ abstain ☐ absent

	Tentative assessment	Claimed assessment	Decision by Board of Assessment Review
Total assessment	$ 120,300	$ 120,000	$
Transition assessment (if any)	$	$ FMV	$ N/C
Exempt amount	$	$	$
Taxable assessment	$	$	$

Class designation and allocation of assessed value (if any):

Homestead	$	$	$
Non-homestead	$	$	$

Date notification mailed to complainant

STATE OF NEW YORK
SUPREME COURT: COUNTY OF SULLIVAN
INDIVIDUAL ASSIGNMENT JUDGE: Michael F. McGuire, Acting J.S.C.

----------x

Janis Tingley Kenny

Petitioner(s)

-against-

Town of Liberty

Respondent(s)

TAX ASSESSMENT REVIEW PROCEEDING
PRELIMINARY CONFERENCE STIPULATION AND ORDER
(22NYCRR §202.59)

Index No.: 1907-2013
RJI No.: 52-34495-2013

----------x

NO DATE MAY BE MORE THAN 10 MONTHS FROM DATE OF FILING OF THE RJI (Request for Judicial Intervention).

Petitioners herein, by their attorney, Jack Kilmer, and Respondents, by their attorney, Walter Farrugia, having stipulated to the entry of an Order scheduling the time for the parties to file their respective appraisal reports in the above-referenced tax certiorari proceedings, it is

ORDERED, that this proceeding shall be dismissed without further order of this Court unless Petitioners file a Statement of Income and Expenses in the above-referenced certiorari proceeding on or before 11/30/2013 (22 NYCRR § 202.59(b); and it is further

ORDERED, that Petitioners shall file their respective appraisal reports in the above-referenced certiorari proceeding on or before 3/31/2014 (22 NYCRR § 202.59(e); and it is further

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-34b

ORDERED, that, in the event that Petitioners shall file their appraisal report and serve the income and expenses statement within the times prescribed by the Order, Respondents shall file an appraisal report in the above-referenced tax certiorari proceeding on or before 6/30/2014 (within 60 days after Petitioners file their appraisal report); and it is further

ORDERED, that upon filing of their respective appraisal reports, each party shall serve upon their adversaries a notice of the date of such filing, and it is further

ORDERED, ~~that all disclosure proceedings shall be completed by~~ _____, ~~and~~ petitioner shall file a note of issue/certificate of readiness by that same date; and it is further

ORDERED, that a final (post note of issue) conference will be held on 7/21/2014 (to be scheduled by the Court); and it is further

ORDERED, that a copy of this stipulation and order, an affirmation stating that the terms of the stipulation and order have been complied with, and an affidavit of service of the affirmation and note of issue on all appearing parties shall be served and filed with the note of issue on or before said date; and it is further

ORDERED, that this stipulation and order shall be filed with the Columbia County Clerk forthwith by petitioner with notice of entry thereof to respondent; and it is further

ORDERED, that extensions of this stipulation are granted only if necessary. Applications may be made by submitting an explanation outlining the discovery completed and outstanding, together with an amended schedule or a "consent letter" which shows all new dates to be affected and which includes at the end a "SO ORDERED" line for the Judge's signature if the application is approved. ANY APPLICATIONS MUST BE RECEIVED BY THE COURT BEFORE THE

EXPIRATION OF THE DATE(S) TO BE EXTENDED; and it is further

ORDERED, that failure to comply with the provisions of this stipulation and order may result in the imposition of costs or sanctions or other action authorized by law.

SO STIPULATED.

Dated: 9/9/2013

Attorney for Petitioner(s)

Dated: 9/9/2013

Attorney for Respondent(s)

SO ORDERED.

Dated: 9/9/2013
Monticello, New York

ENTER:

Michael F. McGuire, Acting J.S.C.

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 8, 2019

RE: DFS V. F[redacted]/P[redacted]FF#16531

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-35

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of

[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age
Alleged to be Abused by

J[redacted] P[redacted],

Respondent.

File #: 16531
Docket #: NA-02225-13

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Zachary D. Kelson, Esq.
PO Box 1210
Monticello, NY 12701

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
[redacted]	[redacted]

and it is further

Ordered that Zachary D. Kelson, Esq. Shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Zachary D. Kelson, Esq. And it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Zachary D. Kelson, Esq. Upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered that in all permanency cases, all reports required by law shall be provided to Zachary D. Kelson, Esq. And it is further

Ordered, that during the pendency of this matter, Zachary D. Kelson, Esq. Is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Zachary D. Kelson, Esq. Shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Zachary D. Kelson, Esq. Shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	December 12, 2013 at 2:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: December 12, 2013

ENTER

Hon. Michael F. McGuire

CC: Sullivan County DA, Interested Party, Sullivan County Department of Family Services, Petitioner
Zachary D. Kelson, Esq., Attorney for Child, K[redacted] F[redacted], Interested Party, J[redacted] P[redacted], Respondent

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-35a

PLEASE TAKE NOTICE that this is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on 12-13 2013

(Deputy) Chief/Clerk of the Court

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on December 12, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of

[redacted] (DOB: [redacted]),

Children under Eighteen Years of Age Alleged to be Abused by

J[redacted] P[redacted]
K[redacted] F[redacted] Respondent.

File #: 16531
Docket #: NA-02225-13
NA-02227-13

ORDER (DIRECTING TEMPORARY REMOVAL OF CHILD– AFTER PETITION FILED)

NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS DECEMBER 13, 2013 at 01:30 PM.

THEPERMANENCY HEARING SHALL BE HELD ON JULY 22, 2014[1]

A Petition under Article 10 of the Family Court Act having been filed with this Court alleging that the children, [redacted] (DOB: [redacted]) is abused;

And a preliminary hearing having been held by this Court pursuant to Section 1027 of the Family Court Act; and the following person(s) having appeared to determine whether the children's interests require protection pending a final order of disposition: Sullivan County Department of Family Services and Michael C. Ross; Zachary D. Kelson;

And the child having not been removed prior to this hearing;

[1]Specify a date certain not more than eight months from the date of removal. If the child has a sibling or half-sibling removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS petition or unless he or she has been freed fro adoption. If the child is finally discharged from care on the scheduled date, the permanency hearing shall be cancelled.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-356

The Court finds and determines that:

I. Criteria for Temporary Removal of Children:

The parent/person legally responsible for the children was asked and refused to consent to temporary removal of the children and was informed of an intent to apply for an order of removal; and

The children appear to so suffer from abuse or neglect by the parent(s)/person(s) legally responsible for the children's care; and

Immediate removal or, if already removed, continued removal, of the children is necessary to avoid imminent danger to the children's lives or healths because: the child would be at imminent risk if returned to the Father and determined that the Mother is not prepared to protect the child;

II. Required "Best Interests" and "Reasonable Efforts" Findings:

Continuation in, or return to, the children's home would be contrary to the best interests of the children because: The Father has a history of Mental Health issues, the parents have previously lost custody of two other children due to their inability to parent the children; the Father has a history of anger and violence and an inability to address a child's fussiness and crying

This determination is based upon the following information:

- Petition
- Report of Suspected Child Abuse or Neglect
- Testimony of Georgia Harris- DFS caseworker

Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the children from the home, and, if the children were removed prior to the date of this hearing, to return them home safely, were made as follows: a grandmother was checked as a resource but her home was inappropriate for an infant to reside there and therefore she would not be able to care for the child

This determination is based upon the following information:

- Petition
- Report of Suspected Child Abuse or Neglect
- Testimony of Georgia Harris- DFS caseworker

III. Findings Regarding Alternatives to Removal to Foster Care:

Based upon the investigation conducted by the Commissioner of Social Services, there is no suitable person related to the children with whom the children may appropriately reside.

Imminent risk to the children would be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of J[redacted] P[redacted] from the child's residence.

NOW, therefore, it is

ORDERED that the application for removal of the children is hereby granted; and it is further

ORDERED that, pending further proceedings, the child shall be placed in the custody of the Commissioner of Social Services of Sullivan County and they shall follow up with all recommended medical care for the child; and it is further

ORDERED that the Respondents shall have no contact or access to the child without a further Order of the Court.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.[2]

Dated: **December 12, 2013** ENTER

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☒ Order received in court on [specify date(s) and to whom given]: 12/12/13
12/13/13 to Resp'ts

CC: Sullivan County DA, Interested Party
Zachary D. Kelson, Esq., Attorney for Child
Michael C. Ross, Esq., DSS
K[redacted] F[redacted], Interested Party
J[redacted] P[redacted], Respondent

[2]NOTE: If the parent or other person legally responsible for a child was not present and given the opportunity to be represented by counsel at a hearing conducted pursuant to Family Court Act §1027, the parent or other person legally responsible may only challenge an order of removal of the child or children by requesting a hearing before the Family Court, not by appealing to the Appellate Division. The hearing before the Family Court must be held within three court days of the request, unless good cause is shown. *See* Family Court Act §1028.

F.C.A.§§1033-b,1044, 1046, 1051

Form 10-9
(Determination Upon Fact-finding
– Child Neglect/Abuse)

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at 100 North Street Monticello, New York on April 22, 2014

PRESENT:
Hon. Michael F. McGuire
Acting Family Court Judge

In the Matter of

[redacted] (DOB: [redacted])

A Child under Eighteen Years of Age Alleged to be
☐Abused ☒Neglected by

K[redacted] F[redacted]

Respondent(s)

Docket No. NN-02227-13

File No.: 16531

DETERMINATION
UPON
FACT-FINDING
☒Abuse ☒Neglect
☐Repeated Abuse

NOTICE: **IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD.**

IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.

IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS [specify date/time]: June 4, 2014 at 1:30 p.m.
THE PERMANENCY HEARING SHALL BE HELD ON :[1] July 24, 2014 at 1:30 p.m.

[1] Insert a date, in most cases the previously-scheduled date, not more than eight months from removal of child or date of combined dispositional/permanency hearing, unless the petition is dismissed or the child has not been removed from home in which case no date needs to be set. If the child has been placed and the child has a sibling or half-sibling

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-35C

The petition of Randy J. Parker under Article 10 of the Family Court Act, sworn to on December 12, 2013, having been filed in this Court alleging that the above-named Respondent: ☒ neglected ☒abused [redacted]; and

Notice having been duly given to the Respondent(s) pursuant to section 1036 or 1037 of the Family Court Act; and
[Include separate paragraphs for each Respondent, as necessary]:

Respondent J[redacted] P[redacted] having:

☒ appeared ☒ with counsel ☐ without counsel ☐ waived counsel

☐ not appeared after service ☐ not appeared but service could not be made after every reasonable effort had been made to effect service;

And Respondent J[redacted] P[redacted] having:

☐ voluntarily, intelligently and knowingly admitted in open court that (s)he committed the following act(s) [specify]:

☒denied the allegations of the petition and the matter having duly come on for a fact-finding hearing before this Court ;

☐ failed to appear and the matter having duly come on for a fact- finding hearing by inquest before this Court ;

☐voluntarily, intelligently and knowingly consented to the entry of an order of fact-finding without admission pursuant to Family Court Act §1051(a), and the Petitioner, attorney for the child and all other parties having consented to the entry of such order of fact-finding as well;

And the child, [redacted], having been represented by attorney Zachary Kelson, Esq.

And the Court, after [check box]

☒ hearing the proofs and testimony offered in relation to the case

☐ accepting the admission by Respondent [specify]: ;

and having found [check applicable box(es) and specify act(s) of abuse and/or neglect found, if any]:

☒by a preponderance of the evidence that Respondent committed the following acts: Respondent knew that [redacted] P[redacted] had inflicted head trauma to another child and had been convicted of Reckless Endangerment for inflicting head trauma to another child; the father contacted respondent indicating he was frustrated with the child's crying yet the mother left the child with the father while she worked resulting in the infliction of trauma on the child consistent with shaken baby syndrome; Respondent delayed recommended medical treatment; constituting ☒ child neglect and ☒child abuse

[Applicable only where severe or repeated abuse was alleged and Respondent was so advised]:

☐by clear and convincing evidence that Respondent [specify]:

☐severely ☐repeatedly abused the child(ren) by committing the following acts(s) that may form the

---

removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS petition or unless he or she has been freed for adoption.

basis to terminate parental rights [specify act(s), including the name(s) of the child(ren), the Penal Law section, if applicable; and grounds for determination]:

☐ by clear and convincing evidence that Respondent [specify]:
☐ severely ☐ repeatedly abused the child(ren) by committing the following acts(s) that may form the basis to terminate parental rights [specify act(s), including the name(s) of the child(ren), the Penal Law section, if applicable; and grounds for determination]:

[Required findings in cases where the child(ren), who had NOT been ordered removed earlier in the case, is/are ordered removed pending final disposition; otherwise, skip I and II]:
The Court finds and determines that:

I. Required "Best Interests" and "Reasonable Efforts" Findings for Newly-removed Children
[check applicable boxes and provide case-specific reasons in both A and B, below]: n/a

A. Continuation of the child(ren) in, or return of the child(ren) to, the child(ren)'s home ☐ would ☐ would not be contrary to the best interests of the child(ren) because the Respondent has consented to a finding of neglect:

This determination is based upon the following information [check applicable box(es)]:

☐ Petition dated
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home, and, if the child(ren) were removed without court order prior to the date of this hearing, to return them home safely [check applicable box and state reasons as indicated]:

☒ were made as follows: Respondent was advised not to further allow any men to reside in the household and she failed to adhere to that advice.

☐ were not made but the lack of efforts was appropriate because of a judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:

☐ were not made.

This determination is based upon the following information [check applicable box(es)]:

☐ Petition
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

II. Findings Regarding Alternatives to Removal to Foster Care:

A. Based upon the investigation conducted by the Commissioner of Social Service, [Check applicable box(es]:

☐ The following person:
is a ☐ non-respondent parent ☐ relative ☐ suitable person
with whom _____ may appropriately reside.
☐ The following person:
is a ☐ non-respondent parent ☐ relative ☐ suitable person

[Applicable to relatives and other suitable persons]:
☐ seeks approval as a foster parent in order to provide care for the child(ren);
☐ wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.
☐ may be a resource but not yet determined whether as a foster parent or custodian.

☒ There is no non-respondent parent, relative or suitable person with whom the children may appropriately reside.

B. [Required]: Imminent risk to the child(ren) ☐ would ☒ would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of T[redacted] B[redacted] from the child(ren)'s residence.

NOW, therefore, upon the findings made in the fact-finding hearing and upon all the proceedings had I

ADJUDGED that facts sufficient to sustain the petition herein ☒ have ☐ have not been established, and it is hereby
[Check applicable box(es); include separate paragraphs for each child as necessary]:
☒ ADJUDGED that [redacted] is ☒ abused and ☒ neglected ☐ severely abused ☐ repeatedly abused) child(ren) as defined in section 1012 of the Family Court Act by K[redacted] F[redacted]:

OR

☐ ORDERED, that the petition filed herein be DISMISSED; and it is further

☐ ORDERED that the child(ren) shall be temporarily removed from the place where the child(ren) (is) (are) residing by any peace officer or agent of a duly authorized agency, society or institution and that the child(ren) shall be brought to [specify]: pending disposition of this proceeding; (and it is further)

☐ ORDERED that the child(ren) is released to the custody of: , the child's ☐ Respondent parent(s) ☐ Non-respondent parent ☐ other person legally responsible for the child(ren)'s care, such release to be under the supervision of [specify, if applicable]: ; (and it is further)

☐ ORDERED that the child(ren) is released to the custody of:, the child's ☐ Respondent parent(s) ☐ Non-respondent parent ☐ other person legally responsible for the child(ren)'s care, such release to be under the supervision of [specify, if applicable]:

☒ ORDERED that, pending further proceedings, [redacted] shall be placed in the temporary custody of [check applicable box]:

☒ the Commissioner of Social Services of Sullivan County;

☐ the Commissioner of Social Services of County to reside with [specify]:

☐ the following non-respondent parent(s), relatives or other suitable person(s); (and it is further)

☐ ORDERED that, pending further proceedings, shall be placed in the temporary custody of [check applicable box]:

☐ the Commissioner of Social Services of Sullivan County;

☐ the Commissioner of Social Services of County to reside with [specify]:

☐ the following non-respondent parent(s), relatives or other suitable person(s); (and it is further)

(and it is further)

☒ ORDERED that the Commissioner of Social Services shall investigate whether there are any non-respondent parents, grandparents, other relatives or other suitable person(s) with whom the children may appropriately reside, including, but not limited to her non-respondent mother; shall inform them of the pendency of the proceeding; shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the results of such investigation in the child's Uniform Case Record; (and it is further)

☐ ORDERED that, within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact to the Court, all parties and counsels, including the attorney for the child(ren), forthwith [specify]:

[Applicable where child in custody of Commissioner of Social Services]:

☒ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this procedure, and the date on which the child ran away.

; (and it is further)

[Applicable Where Child is Native-American]:

☐ ORDERED that the following should be notified of this proceeding [specify]:

the ☐ custodian of the child; ☐ tribe/nation; ☐ United States Secretary of the Interior

☐ ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is DISMISSED WITHOUT PREJUDICE; (and it is further)

☒ ORDERED, the Respondent K[redacted]F[redacted] shall have no contact with the child [redacted]; and it is further

☒ ORDERED that if the child remains in foster care or is directly placed pursuant to Sections

1017 or 1055 of the Family Court Act, a permanency hearing shall be held on: July 24, 2014 at 1:30pm. ; (and it is further)

ENTER

Dated: 8-11-14

Judge of the Family Court

NOTICE: **PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.**

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed]:_____

☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on AUGUST 13, 2014

~~(Deputy)~~ Chief/Clerk of the Court

Letter Rec'd. to DFI Legal

F.C.A. §§1017, 1033-b, 1040, 1044,
1046, 1051, 1052, 1053,
1054, 1055, 1057, 1059, 1089

Form 10-10
(Child Protective Order of
Disposition and Permanency Hearing)
8/2010

At a term of the Family Court of the State of New York,
held in and for the County of Sullivan at Monticello,
New York, on June 10th, 2014

PRESENT:
Hon. Michael F. McGuire
Family Court Judge

In the Matter of

[redacted] (DOB: [redacted])

File No. 16531
Docket No. NN-02227-13

JUL 23 2014

A Child under Eighteen Years
of Age Alleged to be
☒Abused ☒Neglected by

K[redacted] F[redacted]

Respondent(s)

ORDER OF DISPOSITION

☒Abuse ☒Neglect
☐ Severe Abuse ☐ Repeated Abuse

NOTICE: WILLFUL FAILURE TO OBEY THE TERMS AND CONDITIONS OF THIS ORDER MAY RESULT IN COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS.

IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS [specify date/time]: **July 24th, 2014 at 1:30pm**
THE NEXT PERMANENCY HEARING SHALL BE HELD ON : July 24th, 2014 at 1:30pm

The petition of: Randy J. Parker, Commissioner of Social Services, under Article 10 of the Family Court Act, sworn to on December 12, 2013, having been filed in this Court alleging that the above-named Respondent(s) [check applicable box(es)]: ☒ neglected ☒ abused
☐ severely abused ☐ repeatedly abused the above-named child; and

An Order of Fact-Finding dated April 22, 2014 having been filed in this Court wherein the above-named child was adjudicated to be abused and neglected by the above-named Respondent;

And the matter having thereafter duly come on for a [check applicable boxes]:
☒ DISPOSITIONAL HEARING ; ☐ PERMANENCY HEARING before the Court, and K[redacted] F[redacted] having appeared with her attorney, John Ferrara, Esq., Zachary Kelson, Esq., attorney for the child having appeared, Georgia Harris, caseworker for the Sullivan County Department of Family Services having appeared, Colleen Cunningham, Esq., Sr. Family Services Attorney having appeared,

[Applicable only where hearing was heard jointly with hearing of Family Court Act Article 6 custody or guardianship petition, pursuant to Family Court Act §1055-b; CHECK BOX if applicable]: N/A
☐ And the hearing having been heard jointly with the ☐ custody ☐ guardianship petition,
Docket # [specify]:

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following:

[Required findings in cases where the child(ren), who had NOT been ordered removed earlier in the case, is/are ordered removed; otherwise, skip I and II and go to III]:
The Court finds and determines that:

I. Required "Best Interests" and "Reasonable Efforts" Findings for Newly-removed Children
[check applicable boxes and provide case-specific reasons in both A and B, below]: N/A
A. Continuation of the child(ren) in, or return of the child(ren) to, the child(ren)'s home
☐ would ☐ would not be contrary to the best interests of the child

This determination is based upon the following information [check applicable box(es)]:
☐ Petition
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home, and, if the child(ren) was/were removed without court order prior to the date of this hearing, to return them home safely [check applicable box and state reasons as indicated]:
☐ were made as follows [specify]:
☐ were not made but the lack of efforts was appropriate because of a judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:

☐ were not made.

This determination is based upon the following information [check applicable box(es)]:

☐ Petition
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

II. Findings Regarding Alternatives to Removal to Foster Care:

A. Based upon the investigation conducted by the Commissioner of Social Service, [Check applicable box(es]:

☐ The following person [specify]: is a ☐ non-respondent parent ☐ relative ☐ suitable person with whom the child(ren) may appropriately reside.

[Applicable to relatives and other suitable persons]: Such person:
☐ seeks approval as a foster parent in order to provide care for the child(ren);
☐ wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.
☐ may be a resource but it has not yet been determined whether as a foster parent or custodian.

☒There is no non-respondent parent, relative or suitable person with whom the child(ren) may appropriately reside.

B. [Required]: Imminent risk to the child(ren) ☐ would ☐ would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]: from the child(ren)'s residence.

III. Required Findings Regarding Efforts to Further Permanency Plan [Required if hearing was combined dispositional/permanency hearing; if not, skip to IV]: N/A

A. Reasonable Efforts to Return the Child Home [Required where permanency plan is reunification]:

Where the child(ren) were removed from the home, reasonable efforts, where appropriate, to return the child(ren) home safely [check applicable box and state reasons as indicated]:

☐ were made as follows [specify]:

☐ were not made but the lack of efforts was appropriate because of a judicial finding that the authorized agency was not required to make reasonable efforts to reunify the child with the parent(s) [specify date of finding]:

☐ were not made.

This determination is based upon the following information [check applicable box(es)]:

- ☐ Permanency Report, sworn to on [specify date]:
- ☐ Case Record, dated [specify]:
- ☐ Service Plan, dated [specify]:
- ☐ Probation Department report, dated [specify]:
- ☐ Mental health evaluation, dated [specify]:
- ☐ The report of [specify]: , dated [specify]:
- ☐ Testimony of [specify]:
- ☐ Other [specify]:

B. <u>Reasonable Efforts to Further Plan Other than Reunification</u> [Required in cases in which the child's permanency plan is adoption, guardianship or permanent living arrangement other than reunification with the parent(s) or other person(s) legally responsible for the child's care]: Reasonable efforts to make and finalize the permanency planning goal of [specify]: N/A

- ☐ were made as follows [specify reasonable efforts, including consideration of out-of-State resources; indicate specific documents or evidence supporting findings]:
- ☐ were not made.

This determination is based upon the following information [check applicable box(es)]:

- ☐ Permanency Report, sworn to on [specify date]:
- ☐ Case Record, dated [specify]:
- ☐ Service Plan, dated [specify]:
- ☐ Probation Department report, dated [specify]:
- ☐ Mental health evaluation, dated [specify]:
- ☐ The report of [specify]: , dated [specify]:
- ☐ Testimony of [specify]:
- ☐ Other [specify]:

IV. <u>Required Findings Regarding Transitional Services and Out-of-State Placements</u>:

☐ **[Required regarding child(ren) who will reach 14 years of age before the next permanency hearing]**: The services, if any, needed to assist the child(ren) to make the transition from foster care to independent living are [specify]: N/A

☐ **[Required regarding child(ren) placed outside New York State]**: Placement outside New York State ☐ is ☐ is not appropriate, necessary and in the child(ren)'s best interests: N/A

NOW therefore, upon findings made in the [check applicable box(es)]:
☒ fact-finding, ☒ dispositional, and ☐ permanency hearing(s);
and upon all proceedings had herein, it is hereby

A. <u>Order of Fact-finding or Dismissal</u>:

ADJUDGED that facts sufficient to sustain the petition herein ☒ have ☐ have not been established, in that [specify]: A Fact-Finding hearing was held on April 22, 2014 wherein the Court found that the respondent abused and neglected the above child.

[Check <u>all</u> applicable box(es); if different findings were made for each child, list each child and finding separately]:

[] ADJUDGED that the above-named child is

☐ neglected abused ☐ severely abused ☐ repeatedly abused,

as defined in section 1012 of the Family Court Act by [specify Respondent(s)]: K[redacted] J[redacted].

OR

☐ ORDERED, that the petition filed herein be DISMISSED.

B. <u>Order of Disposition</u> [Applicable where one or more children have been adjudicated neglected, abused, severely abused or repeatedly abused; check <u>all</u> applicable box(es)]:

And the Court, having considered the best interests and safety of the child, including whether the child would be at risk of abuse or neglect if returned to the parent(s) or other person(s) legally responsible, hereby orders the following:

☐ ORDERED that the child(ren) (is) (are) released to the custody of the Respondent(s) N/A

☐ with ☐ without supervision of a child protective agency, social services official, or duly authorized agency;

☐ upon the following terms and conditions to be met by Respondent(s) [specify]:

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]:

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☐ ORDERED that judgment against the Respondent(s) is hereby suspended for a period of [specify]: months upon the following terms and conditions: N/A

☐ ORDERED that the Respondent(s) herein (is) (are) placed under the supervision of [specify]: for a period of [specify period of up to one year]: N/A

☐ upon the following terms and conditions to be met by Respondent(s) [specify]:[1]

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]:

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☐ ORDERED that [specify Respondent(s) or other person(s) before the court]: (is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056, annexed to this order and made a part thereof.-N/A

☒ ORDERED that the child is placed in the custody of the Commissioner

---

[1] *See* 22 N.Y.C.R.R. §205.83, attached as Appendix A.

of Social Services of Sullivan County
[Check box(es), if applicable]:
☐ to reside with
☐ to reside in foster care with [specify relative or other suitable person]:
until the completion of the next permanency hearing, scheduled for the date certain indicated in this order, subject to the further orders of this Court, for the following reasons [specify]:

☒ and, during the period of such placement, Respondent, K[redacted] F[redacted],
is to remain under the supervision of a child protective agency, social services official, or duly authorized agency:
☐ upon the following terms and conditions to be met by Respondent(s) [specify]:

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]:

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☐ ORDERED that the Commissioner of Social Services is authorized to discharge the child(ren) from the Commissioner's care to the parent without further court hearing, provided that written notice is provided to the Court and child's attorney not less than 10 days in advance of the discharge. N/A

Trial Discharges: Restrictions and Extensions: N/A

[Check box if applicable]:[2] ORDERED that the Commissioner of Social Services
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court
☐ may not discharge the child(ren) on a trial basis to the physical custody of Respondent [specify]:
☐ may only discharge the child(ren) on a trial basis to the physical custody of Respondent [specify]: , upon the following event(s) or condition(s) [specify]:

☐ [Applicable to child(ren) aging out of foster care; check box if applicable]:[3] ORDERED that the Commissioner of Social Services N/A

---

[2] If neither box is checked, the Commissioner is authorized to discharge the child(ren) on a trial basis to the Respondent(s), with the legal care and custody remaining with the Commissioner. Permanency hearings must be scheduled and held in all trial discharge cases. If the child(ren) is/are 18 years of age or older, the child(ren) must consent to any trial discharge.

[3] If neither box is checked, the Commissioner is authorized to discharge the child(ren) on a trial basis to another planned permanent living arrangement, with the legal care and custody remaining with the Commissioner. Permanency hearings must be scheduled and held in all trial discharge cases. If the child(ren) is/are 18 years of age or older, the child(ren) must consent to any trial discharge.

❑ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;
❑ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to children 18 and over who will be discharged on a trial basis with their consent]:
❑ The Commissioner of Social Services: N/A
❑ shall discharge the child(ren) on a trial basis
❑ shall continue or extend the trial discharge of the child(ren)
❑ may continue or extend the trial discharge of the child(ren)
to ❑ another planned permanent living arrangement ❑ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the child(ren's 21st birthday(s).

Youth 18 and over discharged on a trial basis shall inform the local department of social services of any change in mailing address and contact information.

Placements with Relatives and Suitable Persons:
[Applicable where child(ren) is/are placed directly in the custody of relative or suitable person pursuant to Family Court Act §1055]: N/A
❑ ORDERED that, pursuant to Family Court Act §1055, the child(ren) (is) (are) placed directly in the custody of [specify relative or other suitable person]: ,
who has consented to the jurisdiction of this Court, until the completion of the next permanency hearing, scheduled for the date certain indicated in this order, subject to the further orders of this Court, for the following reasons [specify]:

❑ ORDERED that, during the pendency of the placement, the local Commissioner of Social Services shall supervise the placement and shall provide the following services to the relative or suitable person and the child(ren) [specify, if any]:

and the relative or other suitable person shall comply with the following terms and conditions [specify]:

[Applicable to all placements pursuant to Family Court Act §1055]: N/A
❑ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this procedure, and the date on which the child ran away.

❑ ORDERED that [specify]: , ❑ a social services official
❑ a duly authorized agency, undertake diligent efforts to encourage and strengthen the parental relationship, including encouraging and facilitating visiting with the child by the parent or other person legally responsible, and encourage and facilitate visiting with the child by any non-custodial parent or grandparent who has obtained an order pursuant to F.C.A. §1081 and by the child(ren)'s siblings. Such efforts shall include, but are not limited to, the following [specify]: N/A

☐ ORDERED that the ☐ Commissioner of Social Services ☐ authorized agency [specify]: is directed to file termination of parental rights petitions regarding the following child(ren)[specify]: N/A
against the following respondent(s) [specify]:
within 90 days of the entry of this order.

☐ ORDERED that the Commissioner of Social Services shall investigate whether there are any non-respondent parents, grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside, including, but not limited to [specify]: ; shall inform them of the pendency of the proceeding; shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the results of such investigation in the child's Uniform Case Record; N/A

☐ ORDERED within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact to the Court, all parties and counsels, including the child's attorney, forthwith [specify]: N/A

☐ ORDERED that the child(ren) (is)(are) directed to be placed together with the following siblings or half-siblings [specify]: N/A

☐ ORDERED that the Commissioner of Social Services is directed to investigate the appropriateness of placing the child(ren) with the following siblings or half-siblings [specify]: N/A

[Applicable where dispositional hearing is heard jointly with custody or guardianship hearing under Article 6 of the Family Court Act in accordance with Family Court Act §1055-b]: N/A

☐ The Court having adjudged that [findings are REQUIRED under (i), (ii) and (iii), below]:

(i) ☐custody ☐guardianship of the following child(ren)[specify]:
by [specify relative(s) or suitable person(s)]:
will provide a safe and permanent home for the child(ren);

(ii) [Check one of the following boxes]:
☐ all parties, including the attorney of the child and any foster parent who has had custody of the child in excess of one year, have consented to such custody or guardianship;

OR

☐ the following parent(s)[specify]: have not consented but this Court has found extraordinary circumstances supporting custody or guardianship; and

(iii) the safety of the child(ren) will not be jeopardized if the respondent(s) are no longer under the jurisdiction of this Court on this petition and are not

receiving services or supervision, it is, therefore,

☐ ORDERED that [specify relative(s) or suitable person(s)]: N/A
is/are ☐ appointed guardian ☐ granted custody of [specify child(ren)]:
pursuant to an Order granted on Docket # [specify]: , dated [specify]:
thereby terminating the jurisdiction of this Court over this proceeding; and it is further

[Check box if applicable]: ☐ORDERED that the following local department of social services [specify]: N/A
and the following attorney for the child(ren)[specify]: shall be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the Order;

[Applicable in abandonment cases involving children under one year of age]: N/A

☐ And the Court having adjudged that the following child(ren)(is)(are) under the age of one year [specify]: ; and (has) (have) been abandoned by the ☐ parent(s) ☐ person(s) legally responsible for the care of the child(ren) for a period of [specify]: ; and that such parent(s) or person(s) legally responsible for the care of the child(ren) did not appear after due notice, it is, therefore,

ORDERED that the Commissioner of Social Services of [specify]: County, shall [check applicable box(es)]: N/A

☐ promptly commence a diligent search to locate the child's parents or other known relatives legally responsible for the child;

☐ commence a proceeding to commit custody and guardianship of the child to an authorized agency pursuant to Section 384-b of the Social Services Law six months from the date care and custody was transferred to the Commissioner, unless there has been communication and visitation between such child(ren) and (his)(her)(their) parents or other known relatives or persons legally responsible for the child(ren);

☐ provide written notice, as required by Family Court Act §1055 (b)(vii)(B), to the child's parents or other known relatives in the manner required for service of process pursuant to section 617 of such Act; and it is further

[REQUIRED for all dispositions <u>other than</u> placement pursuant to Family Court Act §1055] N/A

☐ ORDERED that, not later than 60 days prior to the expiration of this order, the Commissioner of Social Services shall report to the Court, the child's attorney, the parties, their attorneys and the non-respondent parent(s) on the status and circumstances of the child(ren) and family and any actions contemplated, if any, by the agency with respect to the child(ren) and family; and it is further

<u>Additional Requirements in Placement Cases</u>:

[Applicable in <u>all</u> cases where child(ren) (is)(are) placed with Commissioner of Social Services]:

1. <u>Transitional Services</u> [Applicable to children who will attain the age of 14 years of age or older prior to the next permanency hearing]: N/A

☐ ORDERED that the Petitioner is directed to provide the following services and assistance to the

child(ren) to make the transition from foster care to independent living [specify]:
; (and it is further)

2. Out-of-State Placement [Required for children placed out-of-state]: N/A
❑ ORDERED that the placement of the child at [specify]:

❑ is appropriate, necessary and in the child's best interests and is continued until completion of the next permanency hearing scheduled for a date certain in this order;
❑ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ❑ placed with [specify]:
❑ discharged to [specify]: ; (and it is further)

3. Progress Reports and Notices: N/A
❑ ORDERED that Petitioner shall make a progress report to the Court, the parties and the child's attorney on the implementation of this order as follows [specify date and/or frequency]:
; (and it is further)

❑ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the child's attorney forthwith, (and it is further) N/A

4. Duty to Disclose Changes in Mailing Address [Required]
ORDERED that the Respondent parent(s) or other person(s) legally responsible for the children's care are required to notify the local social services district or agency of any change of mailing address ; (and it is further).

5. Planning Conferences [Required] N/A
ORDERED that the ❑ parent(s) ❑ other person(s) legally responsible for the children(s) care shall be notified of the planning conference(s) to be held and of (his)(her)right to attend such conference(s) with counsel or other person; (and it is further)

6. Visiting Plans [Required] N/A
❑ ORDERED that Petitioner shall provide the ❑ parent ❑ other person(s) legally responsible for the child(ren)'s care with visits with the child(ren) as follows: will set up visitation between respondent and the child. N/A

and the ❑ parent(s) ❑ guardian(s) shall visit in accordance with the plan; (and it is further)

❑ ORDERED that Petitioner shall provide the following sibling(s) [specify]: N/A
with visits with the child as follows [describe visiting plan]:
; (and it is further)

7. Respondent Parents Who Are or Were Incarcerated or in Residential Substance Abuse Treatment [check box(es) if applicable]: ❑ The Commissioner of Social Services or authorized agency is directed to take the following steps [specify]: N/A
to complete an assessment of whether the following respondent(s)[specify]:

maintain a meaningful role in the child(ren)'s life, based upon the criteria in Social Services Law §384-b(3)(1(v), to determine whether there is a compelling reason that the filing of a petition to terminate parental rights would not be in the child(ren)'s best interest.

8. **Native-American Child(ren)** [check box(es) if applicable]: N/A
❑ ORDERED that the following should be notified of this proceeding [specify]:
the ❑ custodian of the child; ❑ tribe/nation; ❑ United States Secretary of the Interior
❑ ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is DISMISSED WITHOUT PREJUDICE; (and it is further)

C. **Permanency Hearing Order**: **[Required where combined dispositional/permanency hearing has been held; not required if hearing was solely a dispositional hearing]:**
1. ❑ ORDERED that the permanency plan is:
❑ reunification with the parent upon positive discharge from the recovery center, upon the attendance of parenting classes and upon the finding of suitable housing once discharged.
❑ placement for adoption, including consideration of interstate options::
❑ upon filing a petition to terminate parental rights within 90 days;
❑ termination of parental rights petition already filed.
❑ referral for legal guardianship by [specify name and date]:
❑ permanent placement with the following fit and willing relative [specify]:
by [specify date]:
❑ permanent placement in the following alternative planned living arrangement [specify]:
❑ with a significant connection to the following adult [specify]:
who is [check applicable box]:
❑ willing to be a permanency resource for the child.
❑ under exploration as a permanency resource for the child.
OR
❑ with a significant connection to an adult not yet identified
; (and it is further)

2. ❑ORDERED that Petitioner's permanency plan for the above-named child(ren) (is)(are) [check applicable box and indicate anticipated date for achievement]:
❑ approved without modification; anticipated date for achievement is unknown at this time.
❑ modified, as follows [specify, including anticipated date for achievement]:
; (and it is further)

3. ❑ ORDERED that the ❑ educational ❑ vocational components of the child(ren's) permanency plan ❑ are appropriate ❑ should be modified as follows [specify]:

❑ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: N/A
; (and it is further)

4. ❑ ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the ❑ parent(s) ❑ other person(s) legally responsible for the child(ren)'s care, along with a

copy of this Order; (and it is further) N/A

D. Date Certain for Next Permanency Hearing [Required in all cases in which placement is ordered with the Commissioner of Social Services or with a relative or other suitable person]:

ORDERED that if the child(ren) remain(s) in foster care or in placement with a relative or other suitable person, the next permanency hearing shall be held on : July 24, 2014 at 1:30 p.m. Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to the Respondent and non-respondent parents, other parties, attorneys, the child's attorney and any pre-adoptive parents or relatives providing care to the child(ren), and shall also transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months , except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

;

and it is further

☒ ORDERED that Respondent shall remain in contact with the Department of Family Services; and it is further

☒ ORDERED that the child shall remain in the care and custody of the Commissioner of Sullivan County Social Services; and it is further

☒ ORDERED that the Respondent K[redacted] F[redacted] shall have no contact with the child; and it is further

☒ ORDERED that K[redacted] F[redacted] shall attend mental health/domestic violence counseling that addresses (1) domestic violence and (2) issues of parenting and shall follow any and all recommendations until positive discharge.

ENTER

MICHAEL F. MCGUIRE
Judge of the Family Court

Dated: 8-11-14

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:
☐ Order received in court on [specify date(s) and to whom given]:

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on AUGUST 13, 2014

Christina Benson
~~(Deputy)~~ Chief/Clerk of the Court

8-13-14 Rec'd Ch. to DFS Legal | 8/6/14

F.C.A. § 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed
for Adoption)
8/2010

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan, at Monticello,
New York on September 24, 2014

PRESENT:
Hon. Michael M. McGuire
Judge

SULLIVAN COUNTY FAMILY COURT
OCT - 8 2014
RECEIVED

In the Matter of the Permanency Hearing
Regarding

Docket No: AF-015554

[redacted] (DOB [redacted])

PERMANENCY HEARING ORDER
(Permanency Hearing Regarding
Child Freed for Adoption)

CIN #

A Child Under the Age of 21 who
Has Been Freed for Adoption

EXHIBIT
Comm
Ex XI-35e
PENGAD 800-631-6989

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing: February 27, 2015 @ 10:00 a.m.

The report of [specify]: Carly Sklar, Caseworker for the Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on : September 10, 2014 having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Child, if of suitable age and maturity ☐ given notice ☐ appeared ☐ did not appear
☒ Attorney for the child [specify]:Zachary Kelson, Esq., ☒ given notice☒ appeared ☐ did not appear
☒ Prospective adoptive parent(s)[specify]: T[redacted]n and L[redacted] M[redacted] ☒ given notice ☒ appeared ☐ did not appear
☐ Foster parent(s)caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Relative(s) caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Authorized agency caring for child: ☐ given notice ☐appeared ☐ did not appear:
☐ Former foster parent(s) who cared for the child in excess of one year [specify]: ☐ given notice ☐ appeared ☐ did not appear

☒ Other [specify]: Homer Blake and Carly Sklar of the Sullivan County Department of Family Services and Glen Rosenstein, Esq., Family Services Attorney ☒ given notice ☒ appeared ☐ did not appear [check box(es) if applicable]:

☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify;]:

☐ And the Court having dispensed with notice to the following former foster care parent(s) [specify] as contrary to the child's best interests:

[Required where adoption is the permanency plan; check box if applicable]:
☒ And the Court having determined that the child has been duly freed for adoption and that adoption is in the child's best interests.

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard;

And the Court having considered the position and information provided by the [check applicable box(es)]: ☐ authorized agency ☒ local department of social services;

And the child having been represented by an attorney for the child and the Court having consulted with the child in an age-appropriate manner regarding the proposed permanency plan;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made under I and, if applicable, II and III]:

I. **Required "Reasonable Efforts" Findings** [check applicable boxes; provide case-specific reasons]:

A. [Findings required where adoption is the permanency plan]:

Reasonable efforts to make and finalize the permanency plan of ADOPTION

☒ were made as follows [specify; check applicable box(es)]: On August 1, 2014 Mother, K[redacted] F[redacted] signed a Conditional Surrender and on August 29, 2014 Father, J[redacted]P[redacted] signed a Conditional Surrender.

☐ for child freed for adoption , but not yet placed in pre-adoptive home:
☐ recruitment efforts [specify, including consideration of out-of-State resources]:
☐ other [specify]:
☐ for child freed for adoption and placed in pre-adoptive home
- ☐ adoption placement agreement signed
- ☐ adoptive parent(s) retained attorney(s)
- ☐ adoption subsidy application:
  - ☐submitted to NYS OCFS and: ☐granted ☐denied ☐pending ☐re-submitted
  - ☐submitted and pending review by local dept. of social services or NYC ACS
- ☐ criminal history checks: ☐ submitted ☐ completed
- ☐ child abuse and maltreatment checks: ☐ submitted ☐completed
- ☐ Interstate Compact on Placement of Children ☐ submitted ☐ completed
- ☐ home study completed
- ☐ birth parents' documents submitted: certified copy of:
  - ☐ order terminating parental rights
  - ☐ surrender

☐ consent
☐ death certificate
☐ putative father: ☐ putative father registry request made ☐ other [specify]:
☐ child's documents submitted:
☐ two copies of certified birth certificate
☐ medical report
☐ consent, if child 14 or over
☐ adoptive parents' documents submitted:
☐ financial disclosure affidavit
☐ medical report
☐ marriage certificate, if applicable
☐ divorce certificate, if applicable
☐ death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorney's documents submitted: ☐ affidavit of readiness
☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is <u>other than</u> adoption]: N/A
Reasonable efforts to make and finalize the permanency plan of [specify]:
☐ were made as follows [specify including consideration of out-of-State resources]:

☐ were not made.

The conclusion in ¶ I A or I B is supported by the following information [check applicable box(es)]:

☒ Permanency Report, dated August 22, 2014
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ The testimony of [specify]:
☒ Other [specify]: K[redacted] F[redacted] Conditional Surrender dated 8-1-14
J[redacted] P[redacted] Conditional Surrender dated 8-29-14

II. <u>Findings: Transitional Services, Out-of-State Placements and Children Over 18</u>:
☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** The services needed, if any, to assist the child to make the transition from foster care to independent living are [specify]:

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐ is ☐ is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐has not consented to remain in care;

III. <u>Finding Regarding Consent to Adoption by Child Over the Age of 14:</u>
The above-named child, who was born on [specify date of birth]:

☐ has consented to adoption by [specify]:
☐ has indicated that he or she will not consent to adoption.
for the following reasons [specify, including information furnished by the attorney for the child and/or the child]: .

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. Permanency Plan [Required][1]

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate anticipated date for achievement of goal]:

☒ placement for adoption.
☐ if already in a pre-adoptive home, petition for adoption by [specify date]:
☐ referral for legal guardianship by [specify name and date]:
☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:
☐ permanent placement in the following alternative planned living arrangement [specify]:
☐ with a significant connection to the following adult [specify]:
who is [check applicable box]: ☐ willing to be a permanency resource for the child
☐ under exploration as a permanency resource for the child;
OR
☐ with a significant connection to an adult not yet identified

And it is further ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the parties, along with a copy of this Order; (and it is further)

B. Reasonable Efforts to Further Permanency Plan

1. [Applicable where the child's permanency plan is adoption; check any applicable box(es)]:

☒ ORDERED that [specify]: the Sullivan County Department of Family Services, an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☐ place the above-named child, if not already placed, by [specify date]:
for adoption with [check applicable box]:
☐ the foster family home where (s)he resides or has resided
☐ other prospective adoptive parent(s) [specify]:
☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate options [specify, including dates]:

☐ submit *Interstate Compact on Placement of Children* [SSL §374-a] documents by [specify date]:
☐ submit documents regarding adoption subsidy eligibility by [specify date]:
☒ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:February 27, 2014
☐ if child over 14 has not consented to adoption, work with child and attorney for the child

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by : the next permanency hearing;

☐ obtain child abuse and maltreatment clearance(s) by [specify date]:
☐ obtain criminal history clearance(s) by [specify date]:
☐ obtain information regarding back-up resources by [specify date]:
☐ obtain the following documents regarding child's birth parent(s) [specify]:
☐ order terminating parental rights ☐ surrender ☐ consent
☐ death certificate
by [specify date]:
☐ obtain the following documents regarding the child [specify]:
☐ two copies of birth certificate ☐ medical report ☐ consent of child 14 or older
by [specify date]:
☐ obtain completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
by [specify date]:
☐ report to the Court on the status of an appeal regarding the child by [specify date]:
☐ other [specify, including date]:

; (and it is further)

☐ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]: N/A
☐ retaining an attorney by [specify date]::
☐ signing an Adoption Placement Agreement by [specify date]:
☐ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
☐ submitting documents regarding adoption subsidy by [specify date]:
☐ submitting financial disclosure affidavit by [specify date]:
☐ submitting medical report(s) by [specify date]:
☐ submitting certified copy of certificate of: ☐ marriage ☐ divorce ☐ death of spouse
☐ obtaining a completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
☐ filing a petition for adoption by [specify date]:
☐ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan <u>other than</u> adoption; check box[es] if applicable]: N/A

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]: N/A
☐ The Commissioner of Social Services
☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]: N/A
☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☐ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]:

; (and it is further)

4. **Educational, Vocational and Transitional Services:**
☒ ORDERED that the ☒ educational ☐ vocational components of the child's permanency plan ☒ are appropriate ☐ should be modified as follows:

☐ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]:

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next permanency hearing]:
☐ ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the child to make the transition from foster care to independent living [specify]:

5. **Placement Outside New York State.** **[Required where the child is out-of-state]:** N/A
☐ ORDERED that the placement of the child at [specify]:

☐ is appropriate, necessary and in the child's best interests and is continued until [specify]:
☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:
☐ discharged to [specify]:
; (and it is further)

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

ENTER

Judge of the Family Court

Dated: 10-9-14

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed]:_____

☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on October 9, 2014

Christina Benoni

~~(Deputy)~~ Chief/Clerk of the Court

F.C.A. § 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed
for Adoption)
8/2010

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan, at Monticello,
New York on August 29, 2014

RECEIVED
OCT 14 2014
SULLIVAN COUNTY FAMILY COURT

PRESENT:
Hon. Michael M. McGuire
Judge

In the Matter of the Permanency Hearing Regarding

Docket No: AS-01218-14

[redacted] (DOB [redacted])

PERMANENCY HEARING ORDER
(Permanency Hearing Regarding
Child Freed for Adoption)

CIN #

A Child Under the Age of 21 who
Has Been Freed for Adoption

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing: February 27, 2015 @ 10:00 a.m.

The report of [specify]:Homer Blake, Caseworker for the Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on : August 22, 2014 having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Child, if of suitable age and maturity ☐ given notice ☐ appeared ☐ did not appear
☒ Attorney for the child [specify]:Zachary Kelson, Esq., ☒ given notice ☒ appeared ☐ did not appear
☒ Prospective adoptive parent(s)[specify]: T[redacted] and L[redacted] M[redacted] ☒ given notice ☒ appeared ☐ did not appear
☐ Foster parent(s)caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Relative(s) caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Authorized agency caring for child: ☐ given notice ☐appeared ☐ did not appear:
☐ Former foster parent(s) who cared for the child in excess of one year [specify]: ☐ given notice ☐ appeared ☐ did not appear

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-35f

☐ consent
☐ death certificate
☐ putative father: ☐ putative father registry request made ☐ other [specify]:
☐ child's documents submitted:
☐ two copies of certified birth certificate
☐ medical report
☐ consent, if child 14 or over
☐ adoptive parents' documents submitted:
☐ financial disclosure affidavit
☐ medical report
☐ marriage certificate, if applicable
☐ divorce certificate, if applicable
☐ death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorney's documents submitted: ☐ affidavit of readiness
☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is other than adoption]: N/A
Reasonable efforts to make and finalize the permanency plan of [specify]:
☐ were made as follows [specify including consideration of out-of-State resources]:

☐ were not made.

The conclusion in ¶ I A or I B is supported by the following information [check applicable box(es)]:

☒ Permanency Report, dated August 22, 2014
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ The testimony of [specify]:
☒ Other [specify]: K[redacted] F[redacted] Conditional Surrender dated 8-1-14
J[redacted] P[redacted] Conditional Surrender dated 8-29-14

II. Findings: Transitional Services, Out-of-State Placements and Children Over 18:

☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** The services needed, if any, to assist the child to make the transition from foster care to independent living are [specify]:

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐ is ☐ is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐has not consented to remain in care;

III. Finding Regarding Consent to Adoption by Child Over the Age of 14:
The above-named child, who was born on [specify date of birth]:

☐ has consented to adoption by [specify]:
☐ has indicated that he or she will not consent to adoption.
for the following reasons [specify, including information furnished by the attorney for the child and/or the child]: .

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. Permanency Plan [Required][1]

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate anticipated date for achievement of goal]:

☒ placement for adoption.
☐ if already in a pre-adoptive home, petition for adoption by [specify date]:
☐ referral for legal guardianship by [specify name and date]:
☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:
☐ permanent placement in the following alternative planned living arrangement [specify]:
☐ with a significant connection to the following adult [specify]:
who is [check applicable box]: ☐ willing to be a permanency resource for the child
☐ under exploration as a permanency resource for the child;
OR
☐ with a significant connection to an adult not yet identified

And it is further ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the parties, along with a copy of this Order; (and it is further)

B. Reasonable Efforts to Further Permanency Plan

1. [Applicable where the child's permanency plan is adoption; check any applicable box(es)]:

☒ ORDERED that [specify]: the Sullivan County Department of Family Services, an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☐ place the above-named child, if not already placed, by [specify date]:
for adoption with [check applicable box]:
☐ the foster family home where (s)he resides or has resided
☐ other prospective adoptive parent(s) [specify]:
☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate options [specify, including dates]:

☐ submit *Interstate Compact on Placement of Children* [SSL §374-a] documents by [specify date]:
☐ submit documents regarding adoption subsidy eligibility by [specify date]:
☒ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:February 27, 2014
☐ if child over 14 has not consented to adoption, work with child and attorney for the child

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by : the next permanency hearing;

☐ obtain child abuse and maltreatment clearance(s) by [specify date]:
☐ obtain criminal history clearance(s) by [specify date]:
☐ obtain information regarding back-up resources by [specify date]:
☐ obtain the following documents regarding child's birth parent(s) [specify]:
☐ order terminating parental rights ☐ surrender ☐ consent
☐ death certificate
by [specify date]:
☐ obtain the following documents regarding the child [specify]:
☐ two copies of birth certificate ☐ medical report ☐ consent of child 14 or older
by [specify date]:
☐ obtain completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
by [specify date]:
☐ report to the Court on the status of an appeal regarding the child by [specify date]:
☐ other [specify, including date]:

; (and it is further)

☐ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]: N/A
☐ retaining an attorney by [specify date]::
☐ signing an Adoption Placement Agreement by [specify date]:
☐ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
☐ submitting documents regarding adoption subsidy by [specify date]:
☐ submitting financial disclosure affidavit by [specify date]:
☐ submitting medical report(s) by [specify date]:
☐ submitting certified copy of certificate of: ☐ marriage ☐ divorce ☐ death of spouse
☐ obtaining a completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
☐ filing a petition for adoption by [specify date]:
☐ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan <u>other than</u> adoption; check box[es] if applicable]: N/A

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]: N/A
☐ The Commissioner of Social Services
☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]: **N/A**
☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☐ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]:

; (and it is further)

4. **Educational, Vocational and Transitional Services:**
☒ ORDERED that the ☒ educational ☐ vocational components of the child's permanency plan ☒ are appropriate ☐ should be modified as follows:

☐ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]:

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next permanency hearing]:
☐ ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the child to make the transition from foster care to independent living [specify]:

5. **Placement Outside New York State**. **[Required where the child is out-of-state]:** N/A
☐ ORDERED that the placement of the child at [specify]:

☐ is appropriate, necessary and in the child's best interests and is continued until [specify]:
☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:
☐ discharged to [specify]:
; (and it is further)

6. **Progress Reports and Notices**

☒ ORDERED that Petitioner shall make a progress report to the Court, the parties and the attorney for the child on the implementation of this order as follows [specify date and/or frequency]: A permanency hearing is scheduled for February 27, 2015 and a permanency hearing report shall be submitted two weeks before that date; and it is further

☒ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the attorney for the child forthwith; (and it is further)

7. **Recommendations Regarding State Agency Oversight** [Check box if applicable]: N/A

☐ RECOMMENDED that the New York State Office of Children and Family Services investigate the facts and circumstances concerning the discharge of responsibilities for the care and welfare of the child by the social services district of the County of [specify]: pursuant to Social Services Law § 395; (and it is further)

8. **Order of Protection**

☐ ORDERED that [specify person(s) before the court]:
(is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056 annexed to this order and made a part thereof.

9. **Notice Regarding Absconding**: [Required in cases in which child remains in foster care]:

☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away.

10. **Transfer to Another Agency** [Check box if applicable]: N/A

☐ ORDERED that, in view of the authorized agency's failure to comply with the Court's prior order to place the child in a prospective adoptive home and/or to provide services and assistance to the child, guardianship and custody of the child is hereby transferred to the following other authorized agency [specify]:

C. **Next Permanency Hearing** **[Required in all cases in which the child is in the guardianship and custody of the authorized agency or foster parent]:**

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date and time certain within six months of the completion of this hearing February 27, 2015 @ 10:00 a.m.

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

ENTER

Judge of the Family Court

Dated: 10-27-14

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

☐ Order mailed on [specify date(s) and to whom mailed]:_____

☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on October 27, 2014

Christina Benson

(Deputy) Chief/Clerk of the Court

F.C.A. § 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed
for Adoption)
8/2010

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan ,
at Monticello New York
on February 27, 2015.

PRESENT:
Hon. Michael F. McGuire
Judge

In the Matter of the Permanency Hearing
Regarding

[redacted] (DOB: [redacted])

CIN #

A Child Under the Age of 21 who
Has Been Freed for Adoption

Docket No.AS-01218-14
AS-01525-14
FF No. 16531

PERMANENCY HEARING ORDER
(Permanency Hearing Regarding
Child ~~Freed for Adoption~~)

RECEIVED
MAR 16 2015
SULLIVAN COUNTY FAMILY COURT

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing]: July 7, **2015 @9:00**

The report of [specify]:Homer Blake, caseworker for Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on [specify date]: February 11, 2015, having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Child, if of suitable age and maturity ☐ given notice ☐appeared ☐ did not appear
☒ Attorney for the child [specify]: Zachary Kelson ☒ given notice ☒ appeared ☐ did not appear
☒ Prospective adoptive parent(s)[specify]: L[redacted] and T[redacted] M[redacted] ☒ given notice ☒ appeared ☐ did not appear
☐ Foster parent(s)caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Relative(s) caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Authorized agency caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear:

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-359

☐ Former foster parent(s) who cared for
the child in excess of one year [specify]: ☐ given notice ☐ appeared ☐ did not appear
☒ Other [specify]:Homer Blake, caseworker and Glen Rosenstein, Attorney for Sullivan county Department of Family Services ☒ given notice ☒ appeared ☐ did not appear
[check box(es) if applicable]:

☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify;]:

☐ And the Court having dispensed with notice to the following former foster care parent(s) [specify]: as contrary to the child's best interests:

[Required where adoption is the permanency plan; check box if applicable]:
☒ And the Court having determined that the child has been duly freed for adoption and that adoption is in the child's best interests.

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard;

And the Court having considered the position and information provided by the [check applicable box(es)]: ☐ authorized agency ☒ local department of social services;

And the child having been represented by an attorney for the child and the Court having consulted with the child in an age-appropriate manner regarding the proposed permanency plan;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made under I and, if applicable, II and III]:

I. Required "Reasonable Efforts" Findings [check applicable boxes; provide case-specific reasons]:
A. [Findings required where adoption is the permanency plan]:
Reasonable efforts to make and finalize the permanency plan of ADOPTION
☒ were made as follows [specify; check applicable box(es)]: On August 1, 2014 The Respondent Mother signed a conditional surrender. On August 29, 2014 The Respondent father signed a conditional surrender.
:

☐ for child freed for adoption , but not yet placed in pre-adoptive home:
☐ recruitment efforts [specify, including consideration of out-of-State resources]:
☐ other [specify]:

☒ for child freed for adoption and placed in pre-adoptive home
☒ adoption placement agreement signed 10/16/14
☐ adoptive parent(s) retained attorney(s)
☐ adoption subsidy application:
☐ submitted to NYS OCFS and: ☐ granted ☐ denied ☐ pending ☐ re-submitted

☐ submitted and pending review by local dept. of social services or NYC ACS
☒ criminal history checks: ☐ submitted ☒ completed
☐ child abuse and maltreatment checks: ☐ submitted ☒ completed
☐ Interstate Compact on Placement of Children ☐ submitted ☐ completed
☐ home study completed
☐ birth parents' documents submitted: certified copy of:
  ☒ order terminating parental rights
  ☒ surrender
  ☐ consent
  ☐ death certificate
☐ putative father: ☐ putative father registry request made ☐ other [specify]:
☐ child's documents submitted:
  ☐ two copies of certified birth certificate
  ☐ medical report
  ☐ consent, if child 14 or over
☐ adoptive parents' documents submitted:
  ☐ financial disclosure affidavit
  ☐ medical report
  ☐ marriage certificate, if applicable
  ☐ divorce certificate, if applicable
  ☐ death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorney's documents submitted: ☐ affidavit of readiness
  ☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is <u>other than</u> adoption]:
Reasonable efforts to make and finalize the permanency plan of [specify]: Independent Living

☐ were made as follows [specify including consideration of out-of-State resources]:
☐ were not made.

The conclusion in ¶ I A or I B is supported by the following information [check applicable box(es)]:
☒ Permanency Report, sworn to on [specify date]:February 11, 2015
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ The testimony of [specify]:
☐ Other [specify]:

II. <u>Findings: Transitional Services, Out-of-State Placements and Children Over 18</u>:

☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** The services needed, if any, to assist the child to make the transition from foster care to independent living are [specify]:

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐is ☐is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐has not consented to remain in care;

III. <u>Finding Regarding Consent to Adoption by Child Over the Age of 14:</u>
The above-named child, who was born on [specify date of birth]:
☐ has consented to adoption by [specify]:
☐ has indicated that he or she will not consent to adoption by [specify]:
for the following reasons [specify, including information furnished by the attorney for the child and/or the child]:

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. <u>Permanency Plan</u> [Required][1]

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate <u>anticipated date</u> for achievement of goal]:

☒ placement for adoption by [specify date]: including consideration of interstate options
☐ if already in a pre-adoptive home, petition for adoption by [specify date]:
☐ referral for legal guardianship by [specify name and date]:
☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:
☐ permanent placement in the following alternative planned living arrangement [specify]:
Independent Living
☐ with a significant connection to the following adult [specify]:
who is [check applicable box]: ☐ willing to be a permanency resource for the child
☐ under exploration as a permanency resource for the child;
OR
☐ with a significant connection to an adult not yet identified

And it is further ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the parties, along with a copy of this Order; (and it is further)

B. <u>Reasonable Efforts to Further Permanency Plan</u>

1. [Applicable where the child's permanency plan is <u>adoption</u>; check any applicable box(es)]:

☒ ORDERED that [specify]: Sullivan County Department of Family Services , an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☒ place the above-named child, if not already placed, by [specify date]: Already Placed for adoption with [check applicable box]: L[redacted] and T[redacted] M[redacted]
☒ the foster family home where (s)he resides or has resided
☐ other prospective adoptive parent(s) [specify]:
☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate options [specify, including dates]:

---

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

☐ submit *Interstate Compact on Placement of Children* [SSL §374-a] documents by [specify date]:
☐ submit documents regarding adoption subsidy eligibility by [specify date]:
☐ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:
☐ if child over 14 has not consented to adoption, work with child and attorney for the child to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by [specify date]:
☐ obtain child abuse and maltreatment clearance(s) by [specify date]:
☐ obtain criminal history clearance(s) by [specify date]:
☐ obtain information regarding back-up resources by [specify date]:
☐ obtain the following documents regarding child's birth parent(s) [specify]:
☐ order terminating parental rights ☐ surrender ☐ consent
☐ death certificate
by [specify date]:
☐ obtain the following documents regarding the child [specify]:
☐ two copies of birth certificate ☐ medical report ☐ consent of child 14 or older
by [specify date]:
☐ obtain completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
by [specify date]:
☐ report to the Court on the status of an appeal regarding the child by [specify date]:
☐ other [specify, including date]:

; (and it is further)

☐ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]:
☐ retaining an attorney by [specify date]::
☐ signing an Adoption Placement Agreement by [specify date]:
☐ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
☐ submitting documents regarding adoption subsidy by [specify date]:
☐ submitting financial disclosure affidavit by [specify date]:
☐ submitting medical report(s) by [specify date]:
☐ submitting certified copy of certificate of: ☐ marriage ☐ divorce ☐ death of spouse
☐ obtaining a completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
☐ filing a petition for adoption by [specify date]:
☐ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan <u>other than</u> adoption; check box[es] if applicable]:

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services [2]
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]:
☐ The Commissioner of Social Services
☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]:
☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☐ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]:

; (and it is further)

4. **Educational, Vocational and Transitional Services:**
☐ ORDERED that the ☐ educational ☐ vocational components of the child's permanency plan ☐ are appropriate ☐ should be modified as follows [specify]:

☒ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: All current services are to be continued until positive discharge.

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next permanency hearing]:

---

[2] Note: during a period of trial discharge, legal care and custody remains with the Commissioner and permanency hearings must be held. Youth 18 years of age or older must consent to any trial discharge.

☐ ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the child to make the transition from foster care to independent living [specify]:

5. Placement Outside New York State. [Required where the child is out-of-state]:

☐ ORDERED that the placement of the child at [specify]: ,

☐ is appropriate, necessary and in the child's best interests and is continued until [specify]:

☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:

☐ discharged to [specify]:

; (and it is further)

6. Progress Reports and Notices

☐ ORDERED that Petitioner shall make a progress report to the Court, the parties and the attorney for the child on the implementation of this order as follows [specify date and/or frequency]:

(and it is further)

☒ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the attorney for the child forthwith; (and it is further)

7. Recommendations Regarding State Agency Oversight [Check box if applicable]:

☐ RECOMMENDED that the New York State Office of Children and Family Services investigate the facts and circumstances concerning the discharge of responsibilities for the care and welfare of the child by the social services district of the County of [specify]: pursuant to Social Services Law § 395; (and it is further)

8. Order of Protection

☐ ORDERED that [specify person(s) before the court]: (is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056 annexed to this order and made a part thereof.

9. Notice Regarding Absconding: [Required in cases in which child remains in foster care]:

☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away.

10. Transfer to Another Agency [Check box if applicable]:

☐ ORDERED that, in view of the authorized agency's failure to comply with the Court's prior order to place the child in a prospective adoptive home and/or to provide services and assistance to the child, guardianship and custody of the child is hereby transferred to the following other authorized agency [specify]:

C. Next Permanency Hearing [Required in all cases in which the child is in the guardianship and custody of the authorized agency or foster parent]:

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date and time certain within six months of the completion of this hearing]: July 7, 2015 @ 9:00

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

☐ AND IT IS FURTHER ORDERED that

ENTER

Dated: ~~March~~ April 2, 2015.

Judge of the Family Court
Hon. Michael F. McGuire

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

[illegible]
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on April 3, 2015

Christina Benoni
(~~Deputy~~) Chief Clerk of the Court

F.C.A. § 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed
for Adoption)
8/2010

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan ,
at Monticello New York
on July 7, 2015.

PRESENT:
Hon. Michael F. McGuire
Judge

In the Matter of the Permanency Hearing
Regarding

[redacted] (DOB: [redacted])

CIN #

A Child Under the Age of 21 who
Has Been Freed for Adoption

Docket No.AS-01218-14
AS-01525-14
FF No. 16531

PERMANENCY HEARING ORDER
(Permanency Hearing Regarding
Child Freed for Adoption)

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing]: December 1, **2015 @9:30.**
The next appearance shall be on October 5, 2015 @ 1:30.

The report of [specify]:Homer Blake, caseworker for Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on [specify date]: June 23, 2015, having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Child, if of suitable age and maturity ☐ given notice ☐appeared ☐did not appear
☒ Attorney for the child [specify]: Zachary Kelson
☒ given notice ☒ appeared ☐ did not appear
☒ Prospective adoptive parent(s)[specify]: L[redacted] and T[redacted] M[redacted] ☒ given notice ☒ appeared ☐ did not appear
☐ Foster parent(s)caring for child [specify]: ☐ given notice ☐appeared ☐did not appear
☐ Relative(s) caring for child [specify]: ☐ given notice ☐appeared ☐did not appear

EXHIBIT
Comm
Ex XI-35h
PENGAD 800-631-6989

☐ Authorized agency caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear:

☐ Former foster parent(s) who cared for
the child in excess of one year [specify]: ☐ given notice ☐ appeared ☐ did not appear
☒ Other [specify]:Homer Blake, caseworker and Glen Rosenstein, Attorney for Sullivan county Department of Family Services ☒ given notice ☒ appeared ☐ did not appear
[check box(es) if applicable]:

☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify;]:

☐ And the Court having dispensed with notice to the following former foster care parent(s) [specify]: as contrary to the child's best interests:

[Required where adoption is the permanency plan; check box if applicable]:
☒ And the Court having determined that the child has been duly freed for adoption and that adoption is in the child's best interests.

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard;

And the Court having considered the position and information provided by the [check applicable box(es)]: ☐ authorized agency ☒ local department of social services;

And the child having been represented by an attorney for the child and the Court having consulted with the child in an age-appropriate manner regarding the proposed permanency plan;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made under I and, if applicable, II and III]:

I. Required "Reasonable Efforts" Findings [check applicable boxes; provide case-specific reasons]:
A. [Findings required where adoption is the permanency plan]:
Reasonable efforts to make and finalize the permanency plan of ADOPTION
☒ were made as follows [specify; check applicable box(es)]: On August 1, 2014 The Respondent Mother signed a conditional surrender. On August 29, 2014 The Respondent father signed a conditional surrender. The Department has been assisting the foster family in preparing to adopt [redacted].
:

☐ for child freed for adoption , but not yet placed in pre-adoptive home:
☐ recruitment efforts [specify, including consideration of out-of-State resources]:
☐ other [specify]:

☒ for child freed for adoption and placed in pre-adoptive home
☒ adoption placement agreement signed 10/16/14
☒ adoptive parent(s) retained attorney(s)
☐ adoption subsidy application:

☐ submitted to NYS OCFS and: ☐ granted ☐ denied ☐ pending ☐ re-submitted
☐ submitted and pending review by local dept. of social services or NYC ACS
☒ criminal history checks: ☐ submitted ☒ completed
☐ child abuse and maltreatment checks: ☐ submitted ☒ completed
☐ Interstate Compact on Placement of Children ☐ submitted ☐ completed
☐ home study completed
☐ birth parents' documents submitted: certified copy of:
☒ order terminating parental rights
☒ surrender
☐ consent
☐ death certificate
☐ putative father: ☐ putative father registry request made ☐ other [specify]:
☐ child's documents submitted:
☐ two copies of certified birth certificate
☐ medical report
☐ consent, if child 14 or over
☐ adoptive parents' documents submitted:
☐ financial disclosure affidavit
☐ medical report
☐ marriage certificate, if applicable
☐ divorce certificate, if applicable
☐ death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorney's documents submitted: ☐ affidavit of readiness
☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is other than adoption]:
Reasonable efforts to make and finalize the permanency plan of [specify]: Independent Living

☐ were made as follows [specify including consideration of out-of-State resources]:
☐ were not made.

The conclusion in ¶ I A or I B is supported by the following information [check applicable box(es)]:
☒ Permanency Report, sworn to on [specify date]: June 23, 2015
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ The testimony of [specify]:
☐ Other [specify]:

II. Findings: Transitional Services, Out-of-State Placements and Children Over 18:
☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** The services needed, if any, to assist the child to make the transition from foster care to independent living are [specify]:

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐is ☐is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐has not consented to remain in care;

***III.* Finding Regarding Consent to Adoption by Child Over the Age of 14:**
The above-named child, who was born on [specify date of birth]:
☐ has consented to adoption by [specify]:
☐ has indicated that he or she will not consent to adoption by [specify]:
for the following reasons [specify, including information furnished by the attorney for the child and/or the child]:

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. Permanency Plan [Required][1]

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate anticipated date for achievement of goal]:

☒ placement for adoption by [specify date]: including consideration of interstate options
☐ if already in a pre-adoptive home, petition for adoption by [specify date]:
☐ referral for legal guardianship by [specify name and date]:
☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:
☐ permanent placement in the following alternative planned living arrangement [specify]:
Independent Living
☐ with a significant connection to the following adult [specify]:
who is [check applicable box]: ☐ willing to be a permanency resource for the child
☐ under exploration as a permanency resource for the child;
OR
☐ with a significant connection to an adult not yet identified

And it is further ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the parties, along with a copy of this Order; (and it is further)

B. Reasonable Efforts to Further Permanency Plan

1. [Applicable where the child's permanency plan is adoption; check any applicable box(es)]:

☒ ORDERED that [specify]: Sullivan County Department of Family Services , an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☒ place the above-named child, if not already placed, by [specify date]: Already Placed for adoption with [check applicable box]: L[redacted] and T[redacted] M[redacted]
☒ the foster family home where (s)he resides or has resided
☐ other prospective adoptive parent(s) [specify]:
☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

options [specify, including dates]:

❑ submit *Interstate Compact on Placement of Children* [SSL §374-a] documents by [specify date]:
❑ submit documents regarding adoption subsidy eligibility by [specify date]:
❑ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:
❑ if child over 14 has not consented to adoption, work with child and attorney for the child to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by [specify date]:
❑ obtain child abuse and maltreatment clearance(s) by [specify date]:
❑ obtain criminal history clearance(s) by [specify date]:
❑ obtain information regarding back-up resources by [specify date]:
❑ obtain the following documents regarding child's birth parent(s) [specify]:
❑ order terminating parental rights ❑ surrender ❑ consent
❑ death certificate
by [specify date]:
❑ obtain the following documents regarding the child [specify]:
❑ two copies of birth certificate ❑ medical report ❑ consent of child 14 or older
by [specify date]:
❑ obtain completed home study by [specify date]:
❑ obtain the following additional documents [specify]:
by [specify date]:
❑ report to the Court on the status of an appeal regarding the child by [specify date]:
❑ other [specify, including date]:

; (and it is further)

❑ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]:
❑ retaining an attorney by [specify date]::
❑ signing an Adoption Placement Agreement by [specify date]:
❑ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
❑ submitting documents regarding adoption subsidy by [specify date]:
❑ submitting financial disclosure affidavit by [specify date]:
❑ submitting medical report(s) by [specify date]:
❑ submitting certified copy of certificate of: ❑ marriage ❑ divorce ❑ death of spouse
❑ obtaining a completed home study by [specify date]:
❑ obtain the following additional documents [specify]:
❑ filing a petition for adoption by [specify date]:
❑ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan <u>other than</u> adoption; check box[es] if applicable]:

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's

permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services [2]
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]:
☐ The Commissioner of Social Services
☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]:
☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☐ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]:

; (and it is further)

4. **Educational, Vocational and Transitional Services:**
☐ ORDERED that the ☐ educational ☐ vocational components of the child's permanency plan ☐ are appropriate ☐ should be modified as follows [specify]:

☒ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: All current services are to be continued until positive discharge.

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next

---

[2] Note: during a period of trial discharge, legal care and custody remains with the Commissioner and permanency hearings must be held. Youth 18 years of age or older must consent to any trial discharge.

permanency hearing]:

☐ ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the child to make the transition from foster care to independent living [specify]:

5. Placement Outside New York State. [Required where the child is out-of-state]:

☐ ORDERED that the placement of the child at [specify]: ,

☐ is appropriate, necessary and in the child's best interests and is continued until [specify]:

☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:

☐ discharged to [specify]:

; (and it is further)

6. Progress Reports and Notices

☐ ORDERED that Petitioner shall make a progress report to the Court, the parties and the attorney for the child on the implementation of this order as follows [specify date and/or frequency]:

(and it is further)

☒ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the attorney for the child forthwith; (and it is further)

7. Recommendations Regarding State Agency Oversight [Check box if applicable]:

☐ RECOMMENDED that the New York State Office of Children and Family Services investigate the facts and circumstances concerning the discharge of responsibilities for the care and welfare of the child by the social services district of the County of [specify]: pursuant to Social Services Law § 395; (and it is further)

8. Order of Protection

☐ ORDERED that [specify person(s) before the court]: (is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056 annexed to this order and made a part thereof.

9. Notice Regarding Absconding: [Required in cases in which child remains in foster care]:

☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away.

10. Transfer to Another Agency [Check box if applicable]:

☐ ORDERED that, in view of the authorized agency's failure to comply with the Court's prior order to place the child in a prospective adoptive home and/or to provide services and assistance to the child, guardianship and custody of the child is hereby transferred to the following other authorized agency [specify]:

C. Next Permanency Hearing [Required in all cases in which the child is in the guardianship and custody of the authorized agency or foster parent]:

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date and time certain within six months of the completion of this hearing]: December 1, 2015 @ 9:30

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

☐ AND IT IS FURTHER ORDERED that

ENTER

Judge of the Family Court
Hon. Michael F. McGuire

Dated: July 28, 2015.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of a order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on July 28, 2015

Christina Benson
(Deputy) Chief/Clerk of the Court

F.C.A. § 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed
for Adoption)
8/2010

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan,
at Monticello New York
on December 1, 2015.

PRESENT:
Hon. Michael F. McGuire
Judge

In the Matter of the Permanency Hearing
Regarding

[redacted] (DOB: [redacted])

CIN #

A Child Under the Age of 21 who
Has Been Freed for Adoption

Docket No. AS-01218-14
AS-01525-14
FF No. 16531

PERMANENCY HEARING ORDER
(Permanency Hearing Regarding
Child Freed for Adoption)

RECEIVED
DEC 2 2015
SULLIVAN COUNTY FAMILY COURT

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing]: May 5, **2016 @ 9:00.**
The next appearance shall be on May 5, 2016 @ 9:00.

The report of [specify]: Carly Sklar, caseworker for Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on [specify date]: November 13, 2015, having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Child, if of suitable age and maturity ☐ given notice ☐appeared ☐did not appear
☒ Attorney for the child [specify]: Zachary Kelson
☒ given notice ☒ appeared ☐did not appear
☒ Prospective adoptive parent(s)[specify]: I[redacted] and T[redacted] M[redacted] ☒ given notice ☒ appeared ☐ did not appear
☐Foster parent(s)caring for child [specify]: ☐given notice ☐appeared ☐did not appear
☐Relative(s) caring for child [specify]: ☐given notice ☐appeared ☐did not appear

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-35i

☐ Authorized agency caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear:

☐ Former foster parent(s) who cared for
the child in excess of one year [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Other [specify]: ☐ given notice ☐ appeared ☐ did not appear
[check box(es) if applicable]:

☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify;]:

☐ And the Court having dispensed with notice to the following former foster care parent(s) [specify]: as contrary to the child's best interests:

[Required where adoption is the permanency plan; check box if applicable]:
☒ And the Court having determined that the child has been duly freed for adoption and that adoption is in the child's best interests.

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard;

And the Court having considered the position and information provided by the [check applicable box(es)]: ☐ authorized agency ☒ local department of social services;

And the child having been represented by an attorney for the child and the Court having consulted with the child in an age-appropriate manner regarding the proposed permanency plan;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made under I and, if applicable, II and III]:

I. Required "Reasonable Efforts" Findings [check applicable boxes; provide case-specific reasons]:
A. [Findings required where adoption is the permanency plan]:
Reasonable efforts to make and finalize the permanency plan of ADOPTION
☒ were made as follows [specify; check applicable box(es)]: On August 1, 2014 The Respondent Mother signed a conditional surrender. On August 29, 2014 The Respondent father signed a conditional surrender. The Department has been assisting the foster family in preparing to adopt [redacted].
:

☐ for child freed for adoption , but not yet placed in pre-adoptive home:
☐ recruitment efforts [specify, including consideration of out-of-State resources]:
☐ other [specify]:

☒ for child freed for adoption and placed in pre-adoptive home
☒ adoption placement agreement signed 10/16/14
☒ adoptive parent(s) retained attorney(s)
☐ adoption subsidy application:
☐ submitted to NYS OCFS and: ☐ granted ☐ denied ☐ pending ☐ re-submitted

☐ submitted and pending review by local dept. of social services or NYC ACS
☒ criminal history checks: ☐ submitted ☒ completed
☐ child abuse and maltreatment checks: ☐ submitted ☒ completed
☐ Interstate Compact on Placement of Children ☐ submitted ☐ completed
☐ home study completed
☐ birth parents' documents submitted: certified copy of:
  ☒ order terminating parental rights
  ☒ surrender
  ☐ consent
  ☐ death certificate
☐ putative father: ☐ putative father registry request made ☐ other [specify]:
☐ child's documents submitted:
  ☐ two copies of certified birth certificate
  ☐ medical report
  ☐ consent, if child 14 or over
☐ adoptive parents' documents submitted:
  ☐ financial disclosure affidavit
  ☐ medical report
  ☐ marriage certificate, if applicable
  ☐ divorce certificate, if applicable
  ☐ death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorney's documents submitted: ☐ affidavit of readiness
  ☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is <u>other than</u> adoption]:
Reasonable efforts to make and finalize the permanency plan of [specify]: Independent Living

☐ were made as follows [specify including consideration of out-of-State resources]:
☐ were not made.

The conclusion in ¶ I A or I B is supported by the following information [check applicable box(es)]:
☒ Permanency Report, sworn to on [specify date]: November 13, 2015
☐ Case Record, dated [specify]:
☒ Service Plan, dated [specify]: September 22, 2015
☐ The report of [specify]: , dated [specify]:
☐ The testimony of [specify]:
☐ Other [specify]:

II. <u>Findings: Transitional Services, Out-of-State Placements and Children Over 18</u>:
☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** The services needed, if any, to assist the child to make the transition from foster care to independent living are [specify]:

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐is ☐is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐has not consented to remain in care;

III. Finding Regarding Consent to Adoption by Child Over the Age of 14:

The above-named child, who was born on [specify date of birth]:

☐ has consented to adoption by [specify]:

☐ has indicated that he or she will not consent to adoption by [specify]:

for the following reasons [specify, including information furnished by the attorney for the child and/or the child]:

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. Permanency Plan [Required][1]

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate anticipated date for achievement of goal]:

☒ placement for adoption by [specify date]: including consideration of interstate options

☐ if already in a pre-adoptive home, petition for adoption by [specify date]:

☐ referral for legal guardianship by [specify name and date]:

☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:

☐ permanent placement in the following alternative planned living arrangement [specify]:
Independent Living

☐ with a significant connection to the following adult [specify]:
who is [check applicable box]: ☐ willing to be a permanency resource for the child
☐ under exploration as a permanency resource for the child;
OR

☐ with a significant connection to an adult not yet identified

And it is further ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the parties, along with a copy of this Order; (and it is further)

B. Reasonable Efforts to Further Permanency Plan

1. [Applicable where the child's permanency plan is adoption; check any applicable box(es)]:

☒ ORDERED that [specify]: Sullivan County Department of Family Services, an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☒ place the above-named child, if not already placed, by [specify date]: Already Placed for adoption with [check applicable box]: L[redacted] and T[redacted] M[redacted]

☒ the foster family home where (s)he resides or has resided

☐ other prospective adoptive parent(s) [specify]:

☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate options [specify, including dates]:

---

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

❑ submit *Interstate Compact on Placement of Children* [SSL §374-a] documents by [specify date]:
❑ submit documents regarding adoption subsidy eligibility by [specify date]:
❑ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:
❑ if child over 14 has not consented to adoption, work with child and attorney for the child to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by [specify date]:
❑ obtain child abuse and maltreatment clearance(s) by [specify date]:
❑ obtain criminal history clearance(s) by [specify date]:
❑ obtain information regarding back-up resources by [specify date]:
❑ obtain the following documents regarding child's birth parent(s) [specify]:
❑ order terminating parental rights ❑ surrender ❑ consent
❑ death certificate
by [specify date]:
❑ obtain the following documents regarding the child [specify]:
❑ two copies of birth certificate ❑ medical report ❑ consent of child 14 or older
by [specify date]:
❑ obtain completed home study by [specify date]:
❑ obtain the following additional documents [specify]:
by [specify date]:
❑ report to the Court on the status of an appeal regarding the child by [specify date]:
❑ other [specify, including date]:

; (and it is further)

❑ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]:
❑ retaining an attorney by [specify date]::
❑ signing an Adoption Placement Agreement by [specify date]:
❑ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
❑ submitting documents regarding adoption subsidy by [specify date]:
❑ submitting financial disclosure affidavit by [specify date]:
❑ submitting medical report(s) by [specify date]:
❑ submitting certified copy of certificate of: ❑ marriage ❑ divorce ❑ death of spouse
❑ obtaining a completed home study by [specify date]:
❑ obtain the following additional documents [specify]:
❑ filing a petition for adoption by [specify date]:
❑ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan <u>other than</u> adoption; check box[es] if applicable]:

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services [2]
☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]:
☐ The Commissioner of Social Services
☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]:
☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☐ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]:

; (and it is further)

4. **Educational, Vocational and Transitional Services:**
☐ ORDERED that the ☐ educational ☐ vocational components of the child's permanency plan
☐ are appropriate ☐ should be modified as follows [specify]:

☒ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: All current services are to be continued until positive discharge.

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next permanency hearing]:

---

[2] Note: during a period of trial discharge, legal care and custody remains with the Commissioner and permanency hearings must be held. Youth 18 years of age or older must consent to any trial discharge.

☐ ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the child to make the transition from foster care to independent living [specify]:

5. Placement Outside New York State. [Required where the child is out-of-state]:

☐ ORDERED that the placement of the child at [specify]: ,

☐ is appropriate, necessary and in the child's best interests and is continued until [specify]:

☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:

☐ discharged to [specify]:

; (and it is further)

6. Progress Reports and Notices

☐ ORDERED that Petitioner shall make a progress report to the Court, the parties and the attorney for the child on the implementation of this order as follows [specify date and/or frequency]:

(and it is further)

☒ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the attorney for the child forthwith; (and it is further)

7. Recommendations Regarding State Agency Oversight [Check box if applicable]:

☐ RECOMMENDED that the New York State Office of Children and Family Services investigate the facts and circumstances concerning the discharge of responsibilities for the care and welfare of the child by the social services district of the County of [specify]: pursuant to Social Services Law § 395; (and it is further)

8. Order of Protection

☐ ORDERED that [specify person(s) before the court]: (is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056 annexed to this order and made a part thereof.

9. Notice Regarding Absconding: [Required in cases in which child remains in foster care]:

☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away.

10. Transfer to Another Agency [Check box if applicable]:

☐ ORDERED that, in view of the authorized agency's failure to comply with the Court's prior order to place the child in a prospective adoptive home and/or to provide services and assistance to the child, guardianship and custody of the child is hereby transferred to the following other authorized agency [specify]:

C. Next Permanency Hearing [Required in all cases in which the child is in the guardianship and custody of the authorized agency or foster parent]:

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date and time certain within six months of the completion of this hearing]: May 5, 2016 @ 9:00

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

❑ AND IT IS FURTHER ORDERED that

ENTER

Judge of the Family Court
Hon. Michael F. McGuire

Dated: December 22, 2015.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:
□ Order mailed on [specify date(s) and to whom mailed]:_____
□ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on December 23, 2015

Christina Benson

~~(Deputy)~~ Chief/Clerk of the Court

Gmail

Zachary Kelson <zacharykelson[redacted]>

Dfsv p[redacted] and f[redacted]

Hon. Michael F. McGuire <mfmcguir@[redacted] Thu, May 5, 2016 at 4:30 AM
To: Zachary Kelson <zacharykelson[redacted]>

That is incredible as the matter was still on my calendar on Tuesday and I spent over an hour preparing for the Permanency Hearing. Simply incredible. I will address this as well on my end

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Wednesday, May 04, 2016 6:33 PM
To: Hon. Michael F. McGuire <mfmcguir@[redacted]>
Subject: Fwd: Dfsv p[redacted] and f[redacted]

Fyi
I guess we arent doing a permanency hearing tomorrow
Zach

---------- Forwarded message ----------
From: "Zachary Kelson" <zacharykelson@[redacted]>
Date: May 4, 2016 6:23 PM
Subject: Dfsv p[redacted] and f[redacted]
To: "Cunningham, Colleen M." <colleen.cunningham@[redacted]>
Cc:

Colleen
This is the case where the dad crushed my client m[redacted] p[redacted] head. Child was freed for adoption. A permanency hearing was scheduled before j.mcguire for 9 am tomorrow morning. When i called the foster mother L[redacted] M[redacted] to see the child i learned that meddaugh did the adoption today and no one bothered to tell me about it. L[redacted] m[redacted] said that when she asked whether i knew about the adoption hearing carly sklar said everything was taken care of. Obviously it was not
I am extremely upset that no one from the Department bothered to tell me about this. I fought for this kid and their failure to notify me was a personal insult.
Please see if you can find out what happened. Id like to hear this from sklar too.
Thanks
Zach

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 -476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

TO: NYS COMMISSION ON JUDICAL CONDUCT

FROM: SULLIVAN COUNTY FAMILY COURT

DATED: January 11, 2019

RE: DFS vs. C[redacted] FF#12467

I HEREBY CERTIFIY THAT THE WITHIN IS A TRUE COPY OF THE ORIGINAL ON FILE IN THE SULLIVAN COUNTY FAMILY COURT.

CHRISTINA BENSON
CHIEF CLERK
SULLIVAN CO. FAMILY COURT

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

In the Matter of

[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age
Alleged to be Neglected by

M[redacted] L[redacted] C[redacted],

Respondent.

File #: 12467
Docket #: NN-00660-13

ORDER APPOINTING ATTORNEY FOR THE CHILD

It is hereby ordered that:

Zachary D. Kelson, Esq.
PO Box 1210
Monticello, NY 12701

be appointed Attorney for the Child to represent the following child(ren) in the above proceeding:

Name of Child	Date of Birth
[redacted]	[redacted]

and it is further

Ordered that Zachary D. Kelson, Esq. shall contact and provide initial services to the child(ren) at the earliest practical opportunity; and it is further

Ordered that the child(ren) shall be made available to meet with Zachary D. Kelson, Esq. and it is further

Ordered that all individuals, institutions, educational facilities, medical care providers and others having information about these child(ren) shall release same to Zachary D. Kelson, Esq. upon presentation of a photocopy of this order without specific authorization by the child's parent or guardian; and it is further

Ordered that in all permanency cases, all reports required by law shall be provided to Zachary D. Kelson, Esq. and it is further

Ordered, that during the pendency of this matter, Zachary D. Kelson, Esq. is hereby appointed as Attorney for the Child as to new petitions that are filed within this Court that relate to the child(ren) listed herein; and it is further

Ordered that Zachary D. Kelson, Esq. shall be served with all pleadings, notices, requests for adjournment and other documents filed with the Court by another party to the proceeding; and it is further

Ordered that the appointment of Zachary D. Kelson, Esq. shall continue through any appeal of an order or judgment of the Court, unless relieved by the Appellate Division.

You are hereby notified to appear on:

Date/Time:	April 23, 2013 at 1:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

Dated: April 15, 2013

ENTER

Hon. Michael F. McGuire

CC: Sullivan County Department of Family Services, Petitioner, L[redacted] L[redacted] C[redacted] Jr, Interested Party
M[redacted] L[redacted] C[redacted], Respondent

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on April 23, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of

[redacted] (DOB: [redacted]),

A Child under Eighteen Years of Age Alleged to be Neglected by

M[redacted] L[redacted] C[redacted],

Respondent.

File #: 12467
Docket #: NN-00660-13

ORDER (DIRECTING TEMPORARY REMOVAL OF CHILD– AFTER PETITION FILED)

NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS APRIL 26, 2013 at 09:00 AM.

THEPERMANENCY HEARING SHALL BE HELD ON DECEMBER 5, 2013[1]

A Petition under Article 10 of the Family Court Act having been filed with this Court alleging that the child, [redacted] (DOB: [redacted]), is neglected;

And a preliminary hearing having been held by this Court pursuant to Section 1027 of the Family Court Act; and the following person(s) having appeared to determine whether the child's interests require protection pending a final order of disposition: M[redacted] L[redacted] C[redacted]; Sullivan County Department of Family Services; L[redacted] L[redacted] C[redacted] Jr; Zachary D. Kelson;

And the child having not been removed prior to this hearing;

[1]Specify a date certain not more than eight months from the date of removal. If the child has a sibling or half-sibling removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS petition or unless he or she has been freed fro adoption. If the child is finally discharged from care on the scheduled date, the permanency hearing shall be cancelled.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37b

The Court finds and determines that:

I. Criteria for Temporary Removal of Child:

The parent/person legally responsible for the child consented to the temporary removal of the child; and

The child appears to so suffer from abuse or neglect by the parent(s)/person(s) legally responsible for the child's care; and

Immediate removal or, if already removed, continued removal, of the child is necessary to avoid imminent danger to the child's life or health because: the Respondent has a history of drug abuse and has recently been in detox; previously the Respondent has been evaluated/inpatient at New Hope, Bon Secours and SCADAS and they had recommendations for follow up care which the Respondent never complied with.

II. Required "Best Interests" and "Reasonable Efforts" Findings:

Continuation in, or return to, the child's home would be contrary to the best interests of the child because: The Respondent has allegedly used substances and has had others use substances with the child present and the child has reported to CPS these events including the way the drugs are used.; the child also reported sexual conduct between the parents while the child was present.

This determination is based upon the following information:

- Petition
- Report of Suspected Child Abuse or Neglect

Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child from the home, and, if the child was removed prior to the date of this hearing, to return them home safely, were made as follows: the Respondent has been required to attend a Mental Health evaluation, the child had briefly stayed with a Ms F[redacted] and a Ms H[redacted], both of which had previously filed petitions for custody of the child and then later withdrew them.

This determination is based upon the following information:

- Petition
- Report of Suspected Child Abuse or Neglect

III. Findings Regarding Alternatives to Removal to Foster Care:

Based upon the investigation conducted by the Commissioner of Social Services, there is no suitable person related to the child with whom the child may appropriately reside.

Imminent risk to the child would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of M[redacted] C[redacted] from the child's residence.

NOW, therefore, it is

ORDERED that the application for removal of the child is hereby granted; and it is further

ORDERED that, pending further proceedings, the child shall be placed in the custody of the Commissioner of Social Services of Sullivan County; and it is further

ORDERED that any Law Enforcement Agency shall assist the Sullivan County Department of Family Services caseworker to obtain physical custody of E[redacted] C[redacted], dob [redacted], and the Respondent shall help facilitate turning the child over to the Sullivan County Department of Family Services.

NOTICE: PLACEMENT OF YOUR CHILD IN FOSTER CARE MAY RESULT IN YOUR LOSS OF YOUR RIGHTS TO YOUR CHILD. IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.[2]

Dated: April 23, 2013 **ENTER**

Hon. Michael F. McGuire

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

CC: Sullivan County Department of Family Services, Petitioner
Michael C. Ross, Esq., DSS
Zachary D. Kelson, Esq., Attorney for Child
L[redacted] L[redacted] C[redacted] Jr, Interested Party
M[redacted] L[redacted] C[redacted], Respondent

[2]NOTE: If the parent or other person legally responsible for a child was not present and given the opportunity to be represented by counsel at a hearing conducted pursuant to Family Court Act §1027, the parent or other person legally responsible may only challenge an order of removal of the child or children by requesting a hearing before the Family Court, not by appealing to the Appellate Division. The hearing before the Family Court must be held within three court days of the request, unless good cause is shown. *See* Family Court Act §1028.

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of an order entered in the Office of the Clerk of the Family Court of the State of New York in the County of Sullivan on June 17, 2013

(Deputy) Chief Clerk of the Court

GF16 10/2004

At a term of the Family Court of the State of New York, held in and for the County of Sullivan, at Government Center, 100 North St., Monticello, NY 12701, on June 10, 2013

PRESENT: Hon. Michael F. McGuire

In the Matter of a **Guardianship** Proceeding

File #: 12467
Docket #: G-00741-13

E[redacted] M[redacted] B[redacted],

Petitioner,

ORDER OF DISMISSAL

- against -

L[redacted] L[redacted] C[redacted] Jr,
M[redacted] L[redacted] C[redacted],

Respondent.

A petition under Article 6 of the Family Court Act, having been filed in this Court on April 26, 2013 for the following: Guardianship;

And the matter having duly come on to be heard before this Court and the following having appeared: L[redacted] L[redacted] C[redacted] Jr and John Ferrara; Sullivan County Legal Aid Panel, Inc.; Zachary D. Kelson;

NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby

ADJUDGED that the petition is dismissed due to failure of Petitioner to appear; it is therefore

ORDERED that the petition herein is dismissed without prejudice.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Dated: June 11, 2013

ENTER

Hon. Michael F. McGuire

Check applicable box:
☒ Order mailed on [specify date(s) and to whom mailed]: 6/17/13 CCS
☐ Order received in court on [specify date(s) and to whom given]:

CC: John Ferrara, Esq., Conflict Defender's Office, Zachary D. Kelson, Esq., Attorney for Child
L[redacted] L[redacted] C[redacted] Jr, Respondent, M[redacted] L[redacted] C[redacted] Respondent
E[redacted] M[redacted] B[redacted] Petitioner, Sullivan County Legal Aid Panel, Inc., Legal Aid

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37c

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

GF1 9/2009

In the Matter of a **Guardianship** Proceeding

File #: 12467
Docket #: G-01444-13

E[redacted] M[redacted] B[redacted],

Petitioner,

- against -

ORDER TO SHOW CAUSE

M[redacted] L[redacted] C[redacted],
L[redacted] L[redacted] C[redacted] Jr,
Commissioner, Sullivan County Department of Family Services,

Respondents.

NOTICE: YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER, YOU HAVE THE RIGHT TO ASK THE JUDGE TO ASSIGN A LAWYER. IF, AFTER HEARING THE JUDGE FINDS THAT YOU WILLFULLY FAILED TO OBEY THE ORDER, YOU MAY BE IMPRISONED FOR A TERM NOT TO EXCEED SIX MONTHS, FOR CONTEMPT OF COURT.

To: M[redacted] L[redacted] C[redacted]
[redacted]

L[redacted] L[redacted] C[redacted] Jr
[redacted]

E[redacted] M[redacted] B[redacted]
[redacted]

Upon the petition of E[redacted] M[redacted] B[redacted] filed on August 14, 2013, annexed hereto, it is

ORDERED that M[redacted] L[redacted] C[redacted] and L[redacted] L[redacted] C[redacted] Jr show cause before this Court on

Date/Time:	September 17, 2013 at 1:30 PM
Purpose:	Arraign
Part:	2
Floor/Room:	Floor 1/Room 2
Presiding:	Hon. Michael F. McGuire
Location:	Government Center 100 North St. Monticello, NY 12701

or as soon thereafter as the parties can be heard, why an order for the relief(s) of Guardianship should not be made and why such other and further relief should not be granted as the Court may determine;

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records,

8/15/13 - to [illegible] Michael to [illegible]

AND IT IS FURTHER ORDERED that service, by Personal Service of a copy of this order together with the papers upon which it is granted, upon M[redacted] L[redacted] C[redacted] and L[redacted] L[redacted] C[redacted] Jr on or before September 7, 2013, be deemed sufficient service

Dated: August 15, 2013 **ENTER**

Hon. Michael F. McGuire

CC: Michael C. Ross, Esq., DSS
John Ferrara, Esq., Conflict Defender's Office
Zachary D. Kelson, Esq., Attorney for Child
Sullivan County Legal Aid Panel, Inc., Legal Aid

F.C.A. §§1017, 1033-b, 1040, 1044,
1046, 1051, 1052, 1053,
1054, 1055, 1057, 1059, 1089

Form 10-10
(Child Protective– Order of
Disposition and Permanency Hearing)
8/2010

At a term of the Family Court of the State of New York,
held in and for the County of Sullivan at Monticello,
New York, on October 8, 2013

PRESENT:
Hon. Michael F. McGuire
Judge

In the Matter of

[redacted]
(DOB: [redacted])

File No. I2467
Docket No. NN-00660-13

CIN #
A Child under Eighteen Years
of Age Alleged to be
☐Abused ☒Neglected by

M[redacted] L[redacted] C[redacted],

Respondent(s)

ORDER OF DISPOSITION

RECEIVED
OCT 17 2013
SULLIVAN COUNTY FAMILY COURT

☐Abuse ☒Neglect
☐ Severe Abuse ☐ Repeated Abuse

NOTICE: WILLFUL FAILURE TO OBEY THE TERMS AND CONDITIONS OF THIS ORDER MAY RESULT IN COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS.

IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

THE NEXT COURT DATE IS [specify date/time]: December 5, 2013 @ 9:00 a.m.
THE NEXT PERMANENCY HEARING SHALL BE HELD ON : December 5, 2013 @ 9:00 a.m.

The petition of : David Sager, Deputy Commissioner of Social Services under Article 10 of the Family Court Act, sworn to on [specify date]: April 12, 2013, having been filed in this Court alleging that the above-named Respondent(s) [check applicable box(es)]: ☒ neglected ☐ abused ☐ severely abused ☐ repeatedly abused the above-named child(ren); and

PENGAD 800-631-6989
EXHIBIT
Comm
Ex-XI-37e

An Order of Fact-Finding dated August 14, 2013 having been filed in this Court wherein the above-named child was adjudicated to be neglected by the above-named Respondent;

And the matter having thereafter duly come on for a [check applicable boxes]:
☒ DISPOSITIONAL HEARING ; ☐ PERMANENCY HEARING before the Court, and Respondent having failed to appear but was represented by K.C. Garn, Esq., Zachary Kelson, Esq., attorney for the child having appeared, Claire Sullivan, Esq., having appeared for Non-Respondent father L[redacted] C[redacted], Victoria Sawall, Sr. Caseworker for the Sullivan County Department of Family Services and Michael C. Ross, Esq., Social Services Attorney having appeared;

[Applicable only where hearing was heard jointly with hearing of Family Court Act Article 6 custody or guardianship petition, pursuant to Family Court Act §1055-b; CHECK BOX if applicable]: N/A
☐ And the hearing having been heard jointly with the ☐ custody ☐ guardianship petition,
Docket # [specify]:

[Applicable only to <u>combined</u> dispositional/permanency hearing; delete if inapplicable]: N/A
And the following person(s) were given notice of the permanency hearing and appeared as indicated below [specify; check applicable boxes]:

☐ Child(ren)'s Attorney [specify]:	☐ given notice	☐ appeared	☐ did not appear
☐ Prospective adoptive parent(s)[specify]:	☐ given notice	☐ appeared	☐ did not appear
☐ Foster parent(s)[specify]:	☐ given notice	☐ appeared	☐ did not appear
☐ Relative(s)[specify]:	☐ given notice	☐ appeared	☐ did not appear
☐ Other [specify]:	☐ given notice	☐ appeared	☐ did not appear

[check box(es) if applicable]:
☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify]:

☐ And the Court hearing dispensed with notice to the following former foster parent(s) [specify]: as contrary to the to the child(ren)'s best interests;

And the matter having duly come on to be heard, and the above-named persons appearing having been given notice and an opportunity to be heard, as indicated above, and the Court having considered the position and information provided by the [check applicable box(es)]:
☐ NYS Office of Children and Family Services ☒ local department of social services;

And the child(ren) having been represented by (an) attorney(s) and the Court having considered the position of the child(ren) regarding the permanency plan;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following:

[Required findings in cases where the child(ren), who had NOT been ordered removed earlier in the case, is/are ordered removed; otherwise, skip I and II and go to III]:

The Court finds and determines that:

I. Required "Best Interests" and "Reasonable Efforts" Findings for Newly-removed Children
[check applicable boxes and provide case-specific reasons in both A and B, below]: N/A

A. Continuation of the child(ren) in, or return of the child(ren) to, the child(ren)'s home
☐ would ☐ would not be contrary to the best interests of the child(ren) because [specify facts and reasons]:

This determination is based upon the following information [check applicable box(es)]:

☐ Petition
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home, and, if the child(ren) was/were removed without court order prior to the date of this hearing, to return them home safely [check applicable box and state reasons as indicated]: N/A

☐ were made as follows [specify]:

☐ were not made but the lack of efforts was appropriate because of a judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:

☐ were not made.

This determination is based upon the following information [check applicable box(es)]:

☐ Petition
☐ Report of Suspected Child Abuse or Neglect
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

II. Findings Regarding Alternatives to Removal to Foster Care: N/A

A. Based upon the investigation conducted by the Commissioner of Social Service,
[Check applicable box(es]:

❑ The following person [specify]: is a ❑ non-respondent parent ❑ relative ❑ suitable person with whom the child(ren) may appropriately reside.

[Applicable to relatives and other suitable persons]: Such person:
❑ seeks approval as a foster parent in order to provide care for the child(ren);
❑ wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.
❑ may be a resource but it has not yet been determined whether as a foster parent or custodian.

❑ There is no non-respondent parent, relative or suitable person with whom the child(ren) may appropriately reside.

B. [Required]: Imminent risk to the child(ren) ❑ would ❑ would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]: from the child(ren)'s residence.

III. <u>Required Findings Regarding Efforts to Further Permanency Plan</u> [Required if hearing was <u>combined</u> dispositional/permanency hearing; if not, <u>skip</u> to IV]: N/A

A. <u>Reasonable Efforts to Return the Child Home</u> [Required where permanency plan is reunification]:

Where the child(ren) were removed from the home, reasonable efforts, where appropriate, to return the child(ren) home safely [check applicable box and state reasons as indicated]:

❑ were made as follows [specify]:

❑ were not made but the lack of efforts was appropriate because of a judicial finding that the authorized agency was not required to make reasonable efforts to reunify the child with the parent(s) [specify date of finding]:

❑ were not made.

This determination is based upon the following information [check applicable box(es)]:
❑ Permanency Report, sworn to on [specify date]:
❑ Case Record, dated [specify]:
❑ Service Plan, dated [specify]:
❑ Probation Department report, dated [specify]:
❑ Mental health evaluation, dated [specify]:
❑ The report of [specify]: , dated [specify]:
❑ Testimony of [specify]:
❑ Other [specify]:

B. <u>Reasonable Efforts to Further Plan Other than Reunification</u> [Required in cases in which the child's permanency plan is adoption, guardianship or permanent living arrangement other than reunification with the parent(s) or other person(s) legally responsible for the child's care]: Reasonable efforts to make and finalize the permanency planning goal of [specify]: N/A

❑ were made as follows [specify reasonable efforts, including consideration of out-of-State

resources; indicate specific documents or evidence supporting findings]:

☐ were not made.

This determination is based upon the following information [check applicable box(es)]:
☐ Permanency Report, sworn to on [specify date]:
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ Probation Department report, dated [specify]:
☐ Mental health evaluation, dated [specify]:
☐ The report of [specify]: , dated [specify]:
☐ Testimony of [specify]:
☐ Other [specify]:

IV. **Required Findings Regarding Transitional Services and Out-of-State Placements:**
☐ **[Required regarding child(ren) who will reach 14 years of age before the next permanency hearing]**: The services, if any, needed to assist the child(ren) to make the transition from foster care to independent living are [specify]: N/A

☐ **[Required regarding child(ren) placed outside New York State]**: Placement outside New York State ☐ is ☐is not appropriate, necessary and in the child(ren)'s best interests; N/A

NOW therefore, upon findings made in the [check applicable box(es)]:
☒ fact-finding, ☒ dispositional, and ☐ permanency hearing(s);
and upon all proceedings had herein, it is hereby

A. **Order of Fact-finding or Dismissal:**
ADJUDGED that facts sufficient to sustain the petition herein ☒ have ☐ have not been established, in that [specify]: Respondent admitted at the Fact-Finding Hearing that from January, 2013 through April, 2013 she had a heroin addiction and that she failed to follow through with recommended substance abuse treatment and recommended mental health treatment. Respondent also admitted that she has had care and custody of her child [redacted] (DOB [redacted]) while she was under the influence of heroin. Respondent consented to the Court entering a finding of neglect;

[Check all applicable box(es); if different findings were made for each child, list each child and finding separately]:
☒ ADJUDGED that the above-named child(ren) (is) (are)
☒ neglected ☐ abused ☐ severely abused ☐ repeatedly abused,
as defined in section 1012 of the Family Court Act by [specify Respondent(s)]: M[redacted] O[redacted];

OR

☐ ORDERED, that the petition filed herein be DISMISSED.

B. **Order of Disposition [Applicable where one or more children have been adjudicated neglected, abused, severely abused or repeatedly abused; check all applicable box(es)]:**
And the Court, having considered the best interests and safety of the child, including whether

the child would be at risk of abuse or neglect if returned to the parent(s) or other person(s) legally responsible, hereby orders the following:

☐ ORDERED that the child(ren) (is) (are) released to the custody of the Respondent(s) N/A
☐ with ☐ without supervision of a child protective agency, social services official, or duly authorized agency;
☐ upon the following terms and conditions to be met by Respondent(s) [specify]:

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]:

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☐ ORDERED that judgment against the Respondent(s) is hereby suspended for a period `of [specify]: months upon the following terms and conditions: N/A

☐ ORDERED that the Respondent(s) herein (is) (are) placed under the supervision of [specify]: for a period of [specify period of up to one year]: N/A
☐ upon the following terms and conditions to be met by Respondent(s) [specify]:

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]:

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☒ ORDERED that [specify Respondent(s) or other person(s) before the court]: M[redacted] C[redacted] and G[redacted] Q[redacted] are required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act §1056, annexed to this order and made a part thereof.

☒ ORDERED that the child(ren) (is) (are) placed in the custody of the Commissioner of Social Services of [specify]: Sullivan County
[Check box(es), if applicable]:
☐ to reside with [specify authorized agency or facility, if any]:
☒ to reside in foster care;
until the completion of the next permanency hearing, scheduled for the date certain indicated in this order, subject to the further orders of this Court, for the following reasons: Respondent mother has a substance abuse problem and has not received treatment. A homestudy was done of the father and it was determined that it is not appropriate for the child to reside with him as he has not yet completed his substance abuse treatment. There are no other relatives who are appropriate or willing to take custody of the child;

☒ and, during the period of such placement, Respondent(s): M[redacted] C[redacted] is to remain under the supervision of a child protective agency, social services official, or duly authorized agency:

☒ upon the following terms and conditions to be met by Respondent(s) :

A.) Respondent shall have regular supervised visitation with the child;
B.) Respondent shall not discuss the Court proceedings or will he will be living with the child or have any discussion with the child regarding reunification;
C.) Respondent shall have no contact with G[redacted] Q[redacted];
D.) Respondent shall enforce the Order of Protection which was entered against G[redacted] Q[redacted];
E.) Respondent shall have therapeutic telephone contact in conjunction with the child's counselor.
F.) Respondent shall attend substance abuse counseling and shall follow all recommendations until receiving a positive discharge;
G.) Respondent shall remain in contact with the Department of Family Services to plan for the future of the child;
H.) Respondent shall notify the Department of Family Services of any change of address, phone number or change in employment;

☐ upon the terms and conditions specified in the annexed Family Treatment Court agreement, dated [specify]: N/A

☐ upon the performance of the following supervisory actions by the child protective agency, social services official or duly authorized agency [specify]:

☐ ORDERED that the Commissioner of Social Services is authorized to discharge the child(ren) from the Commissioner's care to the parent without further court hearing, provided that written notice is provided to the Court and child's attorney not less than 10 days in advance of the discharge. N/A

Trial Discharges: Restrictions and Extensions:

[Check box if applicable]:[1] ORDERED that the Commissioner of Social Services

☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☒ may not discharge the child(ren) on a trial basis to the physical custody of Respondent [specify]: M[redacted] C[redacted]

☐ may only discharge the child(ren) on a trial basis to the physical custody of Respondent [specify]: , upon the following event(s) or condition(s) [specify]:

☐ [Applicable to child(ren) aging out of foster care; check box if applicable]:
ORDERED that the Commissioner of Social Services N/A

☐ may not discharge the child(ren) on a trial basis to another planned permanent living

[1] If neither box is checked, the Commissioner is authorized to discharge the child(ren) on a trial basis to the Respondent(s), with the legal care and custody remaining with the Commissioner. Permanency hearings must be scheduled and held in all trial discharge cases. If the child(ren) is/are 18 years of age or older, the child(ren) must consent to any trial discharge.

arrangement;
☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to children 18 and over who will be discharged on a trial basis with their consent]:
☐ The Commissioner of Social Services: N/A
☐ shall discharge the child(ren) on a trial basis
☐ shall continue or extend the trial discharge of the child(ren)
☐ may continue or extend the trial discharge of the child(ren)
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court OR the child(ren's 21st birthday(s).

Youth 18 and over discharged on a trial basis shall inform the local department of social services of any change in mailing address and contact information.

Placements with Relatives and Suitable Persons:
[Applicable where child(ren) is/are placed directly in the custody of relative or suitable person pursuant to Family Court Act §1055]: N/A
☐ ORDERED that, pursuant to Family Court Act §1055, the child(ren) (is) (are) placed directly in the custody of [specify relative or other suitable person]: ,
who has consented to the jurisdiction of this Court, until the completion of the next permanency hearing, scheduled for the date certain indicated in this order, subject to the further orders of this Court, for the following reasons [specify]:

☐ ORDERED that, during the pendency of the placement, the local Commissioner of Social Services shall supervise the placement and shall provide the following services to the relative or suitable person and the child(ren) [specify, if any]:

and the relative or other suitable person shall comply with the following terms and conditions [specify]:

[Applicable to all placements pursuant to Family Court Act §1055]: N/A
☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this procedure, and the date on which the child ran away.

☒ ORDERED that: the Sullivan County Department of Family Services, ☐ a social services official ☒ a duly authorized agency, undertake diligent efforts to encourage and strengthen the parental relationship, including encouraging and facilitating visiting with the child by the parent or other person legally responsible, and encourage and facilitate visiting with the child by any non-custodial parent or grandparent who has obtained an order pursuant to F.C.A. §1081 and by the child(ren)'s siblings. Such efforts shall include, but are not limited to, the following [specify]: Respondent mother shall have supervised visitation with the child;

❑ ORDERED that the ❑ Commissioner of Social Services ❑ authorized agency [specify]: is directed to file termination of parental rights petitions regarding the following child(ren)[specify]: N/A
against the following respondent(s) [specify]:
within 90 days of the entry of this order.

❑ ORDERED that the Commissioner of Social Services shall investigate whether there are any non-respondent parents, grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside, including, but not limited to [specify]:
; shall inform them of the pendency of the proceeding; shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the results of such investigation in the child's Uniform Case Record; N/A

❑ ORDERED within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact to the Court, all parties and counsels, including the child's attorney, forthwith [specify]: N/A

❑ ORDERED that the child(ren) (is)(are) directed to be placed together with the following siblings or half-siblings [specify]: N/A

❑ ORDERED that the Commissioner of Social Services is directed to investigate the appropriateness of placing the child(ren) with the following siblings or half-siblings [specify]: N/A

[Applicable where dispositional hearing is heard jointly with custody or guardianship hearing under Article 6 of the Family Court Act in accordance with Family Court Act §1055-b]: N/A

❑ The Court having adjudged that [findings are REQUIRED under (i), (ii) and (iii), below]:

(i) ❑custody ❑guardianship of the following child(ren)[specify]:
by [specify relative(s) or suitable person(s)]:
will provide a safe and permanent home for the child(ren);

(ii) [Check one of the following boxes]:
❑ all parties, including the attorney of the child and any foster parent who has had custody of the child in excess of one year, have consented to such custody or guardianship;

OR

❑ the following parent(s)[specify]: have not consented but this Court has found extraordinary circumstances supporting custody or guardianship; and

(iii) the safety of the child(ren) will not be jeopardized if the respondent(s) are no longer under the jurisdiction of this Court on this petition and are not receiving services or supervision, it is, therefore,

☐ ORDERED that [specify relative(s) or suitable person(s)]: N/A
is/are ☐ appointed guardian ☐ granted custody of [specify child(ren)]:
pursuant to an Order granted on Docket # [specify]: , dated [specify]:
thereby terminating the jurisdiction of this Court over this proceeding; and it is further

[Check box if applicable]: ☐ORDERED that the following local department of social services [specify]: N/A
and the following attorney for the child(ren)[specify]: shall be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the Order;

[Applicable in abandonment cases involving children under one year of age]: N/A

☐ And the Court having adjudged that the following child(ren)(is)(are) under the age of one year [specify]: ; and (has) (have) been abandoned by the ☐ parent(s) ☐ person(s) legally responsible for the care of the child(ren) for a period of [specify]: ; and that such parent(s) or person(s) legally responsible for the care of the child(ren) did not appear after due notice, it is, therefore,

ORDERED that the Commissioner of Social Services of [specify]: County, shall [check applicable box(es)]: N/A

☐ promptly commence a diligent search to locate the child's parents or other known relatives legally responsible for the child;

☐ commence a proceeding to commit custody and guardianship of the child to an authorized agency pursuant to Section 384-b of the Social Services Law six months from the date care and custody was transferred to the Commissioner, unless there has been communication and visitation between such child(ren) and (his)(her)(their) parents or other known relatives or persons legally responsible for the child(ren);

☐ provide written notice, as required by Family Court Act §1055 (b)(vii)(B), to the child's parents or other known relatives in the manner required for service of process pursuant to section 617 of such Act; and it is further

[REQUIRED for all dispositions <u>other than</u> placement pursuant to Family Court Act §1055] N/A

☐ ORDERED that, not later than 60 days prior to the expiration of this order, the Commissioner of Social Services shall report to the Court, the child's attorney, the parties, their attorneys and the non-respondent parent(s) on the status and circumstances of the child(ren) and family and any actions contemplated, if any, by the agency with respect to the child(ren) and family; and it is further

<u>Additional Requirements in Placement Cases</u>:

[Applicable in <u>all</u> cases where child(ren) (is)(are) placed with Commissioner of Social Services]:

1. <u>Transitional Services</u> [Applicable to children who will attain the age of 14 years of age or

older prior to the next permanency hearing]: N/A

☐ ORDERED that the Petitioner is directed to provide the following services and assistance to the child(ren) to make the transition from foster care to independent living [specify]:

; (and it is further)

2. <u>Out-of-State Placement</u> [Required for children placed out-of-state]: N/A

☐ ORDERED that the placement of the child at [specify]:

,

☐ is appropriate, necessary and in the child's best interests and is continued until completion of the next permanency hearing scheduled for a date certain in this order;

☐ is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]:

☐ discharged to [specify]: ; (and it is further)

3. <u>Progress Reports and Notices</u>: N/A

☐ ORDERED that Petitioner shall make a progress report to the Court, the parties and the child's attorney on the implementation of this order as follows [specify date and/or frequency]:

; (and it is further)

☐ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the child's attorney forthwith, (and it is further) N/A

4. <u>Duty to Disclose Changes in Mailing Address</u> [Required]

ORDERED that the Respondent parent(s) or other person(s) legally responsible for the children's care are required to notify the local social services district or agency of any change of mailing address ; (and it is further).

5. <u>Planning Conferences</u> [Required] N/A

ORDERED that the ☐ parent(s) ☐ other person(s) legally responsible for the children(s) care shall be notified of the planning conference(s) to be held and of (his)(her)right to attend such conference(s) with counsel or other person; (and it is further)

6. <u>Visiting Plans</u> [Required]

☒ ORDERED that Petitioner shall provide the ☒ parent ☐ other person(s) legally responsible for the child(ren)'s care with visits with the child(ren) as follows [describe visiting plan]: M[redacted] shall have regular supervised visitation with the child;

and the ☒ parent(s) ☐ guardian(s) shall visit in accordance with the plan; (and it is further)

☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]: N/A with visits with the child as follows [describe visiting plan]:

; (and it is further)

7. <u>Respondent Parents Who Are or Were Incarcerated or in Residential Substance Abuse Treatment</u> [check box(es) if applicable]: ☐ The Commissioner of Social Services or authorized

agency is directed to take the following steps [specify]: N/A

to complete an assessment of whether the following respondent(s)[specify]:

maintain a meaningful role in the child(ren)'s life, based upon the criteria in Social Services Law §384-b(3)(1(v), to determine whether there is a compelling reason that the filing of a petition to terminate parental rights would not be in the child(ren)'s best interest.

8. **Native-American Child(ren)** [check box(es) if applicable]: N/A
❑ ORDERED that the following should be notified of this proceeding [specify]:
the ❑ custodian of the child; ❑ tribe/nation; ❑ United States Secretary of the Interior
❑ ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is DISMISSED WITHOUT PREJUDICE; (and it is further)

C. **Permanency Hearing Order**: **[Required where combined dispositional/permanency hearing has been held; not required if hearing was solely a dispositional hearing]:**
1. ❑ ORDERED that the permanency plan is: N/A
❑ reunification with the ❑ parent(s) ❑ other person(s) legally responsible for the child(ren)'s care by [specify date]:
❑ placement for adoption, including consideration of interstate options::
❑ upon filing a petition to terminate parental rights within 90 days;
❑ termination of parental rights petition already filed.
❑ referral for legal guardianship by [specify name and date]:
❑ permanent placement with the following fit and willing relative [specify]:
by [specify date]:
❑ permanent placement in the following alternative planned living arrangement [specify]:
❑ with a significant connection to the following adult [specify]:
who is [check applicable box]:
❑ willing to be a permanency resource for the child.
❑ under exploration as a permanency resource for the child.
OR
❑ with a significant connection to an adult not yet identified
; (and it is further)

2. ❑ ORDERED that Petitioner's permanency plan for the above-named child(ren) (is)(are) [check applicable box and indicate anticipated date for achievement]: N/A
❑ approved without modification; anticipated date for achievement:[specify]:
❑ modified, as follows [specify, including anticipated date for achievement]:
; (and it is further)

3. ❑ ORDERED that the ❑ educational ❑ vocational components of the child(ren's) permanency plan ❑ are appropriate ❑ should be modified as follows [specify]:
N/A

❑ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: N/A
; (and it is further)

4. ☐ ORDERED that any modifications of the Permanency Hearing report shall be given by Petitioner to the ☐ parent(s) ☐ other person(s) legally responsible for the child(ren)'s care, along with a copy of this Order; (and it is further) N/A

D. <u>Date Certain for Next Permanency Hearing</u> [Required in all cases in which placement is ordered with the Commissioner of Social Services or with a relative or other suitable person]:

ORDERED that if the child(ren) remain(s) in foster care or in placement with a relative or other suitable person, the next permanency hearing shall be held on [specify date certain]: Petitioner shall transmit notice of the hearing and a permanency report no later than <u>14 days</u> in advance of the above date certain to the Respondent and non-respondent parents, other parties, attorneys, the child's attorney and any pre-adoptive parents or relatives providing care to the child(ren), and shall also transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months , except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

;

(and it is further)

☒ORDERED that the child shall continue counseling as recommended and shall follow all recommendations until receiving a positive discharge; and it is further

☒ ORDERED that L[redacted] C[redacted] shall have supervised visitation with the child. Neither L[redacted] C[redacted] nor any third party on his behalf shall discuss the Court proceedings or have any conversations with the child regarding their reunification;

ENTER

Judge of the Family Court

Dated: 11-19-13

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST

Check applicable box:
☐ Order mailed on [specify date(s) and to whom mailed]:_____
☐ Order received in court on [specify date(s) and to whom given]:_____

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on November 20 2013

(~~Deputy~~) Chief/Clerk of the Court

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

SULLIVAN COUNTY DIVISION OF HEALTH AND FAMILY SERVICES,

Petitioner,

-against-

M[redacted] C[redacted] and G[redacted] Q[redacted], JR.

Respondents.

----------X

Docket No. NN-660/661-13
Family File No. 12467

JUDICIAL SUBPOENA

To: David Sager, Deputy Commissioner
Sullivan County Division of Health and Family Services
16 Community Lane, Liberty, NY 12754

APR 25 2013

WE COMMAND YOU, that all business and excuses being laid aside, you must appear at the Sullivan County Family Court, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, 12701 on the 26th day of April, 2013 at 9:00 o'clock in the forenoon and at any recessed or adjourned date to give testimony in this action on the part of the child, [redacted] (d/o/b [redacted]). **Your appearance is required on the above-mentioned date and time.**

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS Honorable Michael F. McGuire, one of the Judges of said Court at Monticello, New York the 24th day of April, 2013.

Zachary D. Kelson, Esq.
Attorney for the Child, E[redacted] H[redacted] C[redacted]
10 St. John Street, PO Box 1210
Monticello, NY 12701-8210
Phone: (845) 794-1000

"SO ORDERED"

Dated: Monticello, New York
April 24, 2013

Michael F. McGuire,
Acting Sullivan County Family Court Judge

Charles Sax to Rael.

EXHIBIT
Comm
Ex XI-37f
PENGAD 800-631-6989

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

SULLIVAN COUNTY DIVISION OF HEALTH AND FAMILY SERVICES,

Petitioner,

-against-

M[redacted] C[redacted] and G[redacted] Q[redacted], JR.

Respondents.

----------X

Docket No. NN-660/661-13
Family File No. 12467

JUDICIAL SUBPOENA DUCES TECUM

To: David Sager, Deputy Commissioner
Sullivan County Division of Health and Family Services
16 Community Lane, Liberty, NY 12754

WE COMMAND YOU, that all business and excuses being laid aside, you must appear at the Sullivan County Family Court, Sullivan County Government Center Annex, 100 North Street, Monticello, New York, 12701 on the 26th day of April, 2013 at 9:00 o'clock in the forenoon and at any recessed or adjourned date to give testimony in this action on the part of the child, [redacted] (d/o/b [redacted]) ~~and that you bring with you and produce at the time and place aforesaid, certain:~~

~~The Division's complete investigative file relating to the above-mentioned proceeding,~~

~~now in your custody and all other deeds, evidences and writings which you have in your custody or power concerning the premises.~~ **~~Your appearance is required on the above-mentioned date and time.~~**

Failure to comply with this subpoena is punishable as a contempt of Court and shall make you liable to the person on whose behalf this subpoena was issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply.

WITNESS Honorable Michael F. McGuire, one of the Judges of said Court at Monticello, New York the 24th day of April, 2013.

Zachary D. Kelson, Esq.
Attorney for the Child, E[redacted] H[redacted] C[redacted]
10 St. John Street, PO Box 1210
Monticello, NY 12701-8210
Phone: (845) 794-1000

"SO ORDERED"

Dated: Monticello, New York
April 24, 2013

Michael F. McGuire,
Acting Sullivan County Family Court Judge

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37g

5

Christina Benson

From: Zachary Kelson <zacharykelson@[redacted]>
Sent: Tuesday, March 29, 2016 6:06 PM
To: Christina Benson
Subject: Fwd: Psych Report
Attachments: SADM-Konica16032916130.pdf

Dear Tina, Would you please submit the attached report and attachment to Judge McGuire at your earliest convenience on the Dfs V C[redacted] matter which is on for tomorrow at 1:30/ Family File#12467
Thank you,
Zach
---------- Forwarded message ----------
From: **Hedges, Eric** <ehedges@[redacted]>
Date: Tue, Mar 29, 2016 at 4:53 PM
Subject: Psych Report
To: "zacharykelson@[redacted]" <zacharykelson[redacted]>

SULLIVAN COUNTY FAMILY COURT
MAR 30 2016

Mr. Kelson,

Please be advised:

As we discussed, the Psychologist, Dr. [redacted], and I do not believe that [redacted] has Oppositional Defiant Disorder. We believe, given our mutual hours of observation and evaluation, that [redacted] has Post-Traumatic Stress Disorder – which is what Dr. [redacted] is suggesting to rule out. [redacted] has endorsed very high levels of anxiety, most of which surround his early lack of permanency with housing, belongings (material objects) and safety. [redacted] has almost daily episodic outbursts in which he attempts to injure himself and/or staff at the Children's Home. These outbursts are nearly exclusively about losing a toy, a threat to his safety (such as a conflict with his peers), or transitioning from one home to another (i.e. going to his foster home or returning from it). Other than these issues, [redacted] is a naturally kind, compliant, bright and loving child who does his best to get along with everyone. It is unfortunate that his early childhood experiences continue to cause such great difficulty for him. His foster parents, G[redacted] and H[redacted] R[redacted], have been excellent resources for [redacted], even while he has been at the Children's Home. They call or email weekly and advocate excellently for him when they believe there is something more that can be done for him. They have made every effort to provide for him (including haircuts and clothes) during his time here and have set up multiple home visits over the past 60 days. Their relationship with him seems exceptionally healthy and they provide a great support and stability for him in what has been an otherwise chaotic childhood.

The entire report of [redacted] will be available within the next 30 days.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37h

Please call with any other concerns.

Regards.

Eric Hedges – LMSW, MDiv.

Director of Diagnostics – Children's Home of Wyoming Conference

(202)-684-0467

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

THE CHILDREN'S HOME OF WYOMING CONFERENCE
DIAGNOSTIC CENTER
PSYCHIATRIC EVALUATION

SULLIVAN COUNTY DSS
MAR 31 2016

NAME: [redacted]
DATES OF ASSESSMENT: 02/04/16 & 02/18/16
DOB: [redacted]
DOA: 01/13/16

I. IDENTIFYING DATA

This is a 7-year-old Caucasian male who stated he is in the 2nd grade.

II. REASON FOR REFERRAL

The patient was referred to the Diagnostic Center at The Children's Home of Wyoming Conference (CHOWC) by Sullivan County DSS for his psychiatric evaluation, treatment, and recommendations for placement. He was referred from foster care due to his increased aggression toward his foster parents.

III. HISTORY OF PRESENTING DIFFICULTIES

The patient was referred for a diagnostic evaluation due to his recent aggression toward his female foster parents in two foster homes. He was placed in foster care due to neglect by his biological parents who were abusing a substance in his presence. They would not follow the terms of the substance abuse and rehabilitation program. They were also not seeking gainful employment as per conditions set forth.

[redacted] has difficulty accepting the word no. He has been in multiple restraints here at the Diagnostic Center of CHOWC. He has had multiple tantrums. If he does not get the desired response from staff he starts screaming, and he starts swearing and insulting staff. He has also hit walls and has kicked furniture. Current medications are Vyvanse 40 mg. PO Q AM, Abilify 5 mg. PO Q AM, Trileptal 300 mg. PO Q AM, and Clonidine 0.1 mg. PO Q HS.

During his with this writer, the patient was observed to be chewing the cord on his jacket. He did not endorse any symptoms of depression. He endorsed some paranoia from strangers. He described himself as a happy and angry kid, stating that half of the time he happy and half of the time he is angry. He endorsed only a few symptoms from the ADHD spectrum. It should be noted that he is also on Vyvanse. He did not endorse any significant problems from the Anxiety Spectrum. He stated that the only problems at school he had were that he escaped from school and refused to work at school. He stated he was never suspended from school. At the foster homes he had tantrums, engaged in head banging, and he assaulted his foster mothers. [redacted] would like to be a monster

truck driver, a policeman or a snake when he grows up. He enjoys bike riding, and playing with all reptiles.

IV. PAST HISTORY

There is no known history of psychiatric hospitalizations with this patient. The only thing we know is that he came in on medications as described above. He was seen by a mental health practitioner at least once. We do not know his past history of medications. We do not know if he actually endured any trauma personally, or if he was exposed to any domestic violence, but it can be surmised that given the nature of the environment that he came from (neglect and drug use around him) that it was not an environment conducive to good parenting, and possibly there could have been some degree of physical and/or emotional trauma. It is hard to identify the nature of the trauma at this time. The defiance and protracted tantrums by [redacted] point toward exposure to some type of trauma, and also the fact that he was separated from his biological parents and two foster homes could also be considered traumatic for him. The patient has threatened to choke himself in the past.

V. FAMILY HISTORY

All that is known is that the patient's mother had a history of substance abuse and she has not followed court recommendations for a long-term substance abuse program, suitable housing, or gainful employment. Mr. C[redacted] the patient's father, has Bipolar Disorder and Traumatic Brain Injury due to a car accident.

VI. MEDICAL AND DEVELOPMENTAL HISTORY

Not much is known about the patient's medical and developmental history except that the patient is allergic to Penicillin and cigarette smoke. He has a history of asthma, and has seasonal and environmental allergies. There are no other known medical issues. The patient has constipation.

VII. MENTAL STATUS EXAM AS OF 02/04/16 & 02/18/16

The patient sat comfortably in the chair opposite the writer. He maintained a good eye contact. His affect was generally euthymic. However, he was observed to be chewing on the cord of his jacket from time to time. His mood was generally euthymic. His speech was clear and coherent. His thought processes were generally goal-oriented. He denied having any hallucinations. No delusions or ideas of reference were elicited. He denied any suicidal or homicidal ideations. He did have a slight fear of strangers, but without naming any particular persons.

He was awake, alert and oriented in all spheres. His memory was within normal limits. His thinking was concrete. His insight and judgment during this interview were age-

appropriate. However, his judgment has been poor when he has been angry or impulsive based on his past history. His intelligence is in the average range.

VIII. DSM-V DIAGNOSES

Mental Health Problems:

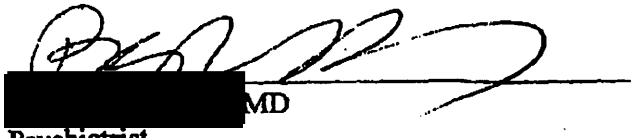
Oppositional Defiant Disorder
Attention-Deficit/Hyperactivity Disorder, Predominately Hyperactive-Impulsive Presentation.
R/O Posttraumatic Stress Disorder

Physical Health Problems:

Asthma
Constipation

IX. PLAN/RECOMMENDATIONS

1) **Admit the patient to the Diagnostic Unit of CHOWC.**
2) **Continue current medications.**
3) **Order complete baseline labs as per protocol.**
4) **Adjust medications as indicated and treat the patient with psychotherapy, therapeutic milieu and structure.**
5) **Meet the patient's educational, nutritional, recreational, and physical exercise needs while at the Diagnostic Center.**
6) **When stable and ready, make recommendations for discharge to an appropriate setting.**



[redacted] MD
Psychiatrist
Consulting Psychiatrist for The Children's Home

BSB/cms

F.C.A. ' 1089

Form PH-6
(Permanency Hearing Order
Regarding Child Freed for Adoption)
6/2016

At a term of Family Court of the
State of New York, held in and for
the County of Sullivan, at Monticello, New York
on January 9, 2018.

RECEIVED
JAN 10 2018
SULLIVAN COUNTY FAMILY COURT

PRESENT: Hon. Michael F. McGuire (AFCJ)

In the Matter of the Permanency Hearing
Regarding

[redacted]

PERMANENCY HEARING ORDER
(Permanency Hearing Child Freed for Adoption)

CIN #

File No.: 12467
Docket No.: AS-1652-17; AS-1654-17

A Child Under the Age of 21 who
Has Been Freed for Adoption

THE NEXT PERMANENCY HEARING SHALL BE HELD ON [specify date and time certain within six months of completion of this hearing]: June 21, 2018 at 1:30pm.

The report of [specify]: Carlton D. Smith, Caseworker for Sullivan County Department of Family Services, for a Permanency Hearing regarding the above-named child, sworn to on [specify date]: December 29, 2017, having been filed in this Court;

And, as indicated below, notice of the permanency hearing and the permanency report having been duly sent to the following person(s) not less than 14 days in advance of the date scheduled for this hearing and the following persons having appeared [specify; check applicable boxes]:

☐ Prospective adoptive parent(s)[specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Foster parent(s)caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☐ Relative(s) caring for child [specify]: ☐ given notice ☐ appeared ☐ did not appear
☒ Authorized agency caring for child [specify]: Kids Peace; Gretchen Farrell ☒ given notice ☒ appeared ☐ did not appear
☒ Attorney for the child [specify]: Zachary Kelson, Esq. ☒ given notice ☒ appeared ☐ did not appear
☐ Former foster parent(s) who cared for the child in excess of one year [specify]:
☐ given notice ☐ appeared ☐ did not appear

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-37i

☒ Other [specify]: M[redacted] C[redacted] ☐ given notice ☒ appeared ☐ did not appear

[check box(es) if applicable]:

And the following child(ren) having [check applicable box(es)]:
Child: [redacted] ☒ appeared ☐ participated as follows [specify]: ☐ did not participate

And the child(ren) having been represented by an attorney for the child and the Court having consulted with the child(ren) in an age-appropriate manner regarding the proposed permanency plan;

☐ And notice of the permanency hearing having been sent not less than 14 days in advance of the hearing to the following former foster parents, who provided care for the child in excess of one year [specify;]:

☐ And the Court having dispensed with notice to the following former foster care parent(s) [specify]: as contrary to the childs best interests:

[Required where adoption is the permanency plan; check box if applicable]:
☒ And the Court having determined that the child has been duly freed for adoption and that adoption is in the child's best interests.

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard;

And the Court having considered the position and information provided by the [check applicable box(es)]: ☒ authorized agency ☒ local department of social services;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made under I and, if applicable, II and III]:

I. Required Reasonable Efforts Findings [check applicable boxes; provide case-specific reasons]:

A. [Findings required where adoption is the permanency plan]:

Reasonable efforts to make and finalize the permanency plan of ADOPTION

☒ were made as follows [specify; check applicable box(es)]:

☒for child freed for adoption , but not yet placed in pre-adoptive home:

☒ recruitment efforts [specify, including consideration of out-of-State resources]: The Department of Family Services will continue to search for adoptive resources for [redacted] who will be able to meet his emotional and developmental needs. [redacted] will be placed on the photo listing in the NYS Adoptive Album.

☐ other [specify]:

☐for child freed for adoption and placed in pre-adoptive home

☐ adoption placement agreement signed

☐ adoptive parent(s) retained attorney(s)

☐ adoption subsidy application:

☐submitted to NYS OCFS and: ☐granted ☐denied ☐pending ☐re-submitted

☐submitted and pending review by local dept. of social services or NYC ACS

☐criminal history checks: ☐submitted ☐ completed

☐child abuse and maltreatment checks: ☐ submitted ☐completed

☐Interstate Compact on Placement of Children ☐ submitted ☐ completed
☐home study completed
☐birth parents documents submitted: certified copy of:
☐ order terminating parental rights
☐ surrender
☐ consent
☐ death certificate
☐putative father: ☐putative father registry request made ☐ other [specify]:
☐childs documents submitted:
☐two copies of certified birth certificate
☐medical report
☐consent, if child 14 or over
☐adoptive parents documents submitted:
☐financial disclosure affidavit
☐medical report
☐marriage certificate, if applicable
☐divorce certificate, if applicable
☐death certificate of adoptive spouse, if applicable
☐ back-up resource documents submitted, if applicable [specify]:
☐ attorneys documents submitted: ☐ affidavit of readiness
☐ financial disclosure affidavit ☐ certification of service upon OCA
☐ adoption petition: ☐ docketed ☐ scheduled for hearing on [specify]:

☐ were not made.

OR

B. [Findings required where permanency plan is <u>other than</u> adoption]:
Reasonable efforts to make and finalize the permanency plan of [specify]:
☐ were made as follows [specify including consideration of out-of-State resources]:
☐ were not made.

The conclusion in & I A or I B is supported by the following information [check applicable box(es)]:
☒ Permanency Report, sworn to on [specify date]: December 29, 2017
☐ Case Record, dated [specify]:
☐ Service Plan, dated [specify]:
☐ The report of [specify]: ,dated [specify]:
☐ The testimony of [specify]:
☐ Other [specify]:

II. <u>Findings: Transitional Services, Out-of-State Placements and Children Over 18</u>:

☐ **[Required if child in out-of-home care is or by the next permanency hearing will be 14 years of age or older]:** ☐ The following services and assistance are needed to assist the child(ren) in learning independent living skills to make the transition from foster care to successful adulthood [specify]:

OR

☐ The Court finds that NO services or assistance are needed to assist the child(ren) to assist the child(ren) in learning independent living skills to make the transition from foster care to successful adulthood.

☐ **[Required if placement of the child outside New York State is continued]:** Placement outside New York State ☐ is ☐ is not appropriate, necessary and in the child's best interests;

☐ **[Required if Child is Over 18]**: The child ☐has ☐ has not consented to remain in care;

III. <u>Finding Regarding Consent to Adoption by Child Over the Age of 14:</u>
The above-named child, who was born on [specify date of birth]:
☐ has consented to adoption by [specify]:
☐ has indicated that he or she will not consent to adoption by [specify]:
for the following reasons [specify, including information furnished by the attorney for the child and/or the child]:

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. <u>Permanency Plan</u> [Required][1] Adoption

ORDERED that Petitioner's permanency goal for the child is ☒ approved ☐ modified, as follows [check applicable box(es) and indicate <u>anticipated date</u> for achievement of goal]:

☐ placement for adoption by [specify date]: including consideration of interstate options
☐ if already in a pre-adoptive home, petition for adoption by [specify date]:
☐ referral for legal guardianship by [specify name and date]:
☐ permanent placement with the following fit and willing relative [specify name]:
by [specify date]:
☐ **[Applicable ONLY to child 16 years of age or older]:** permanent placement in the following alternative planned living arrangement: _____

[Required for all child(ren) 16 years of age or older with Alternative Planned Permanent Living Arrangement (APPLA) Goals; check applicable box(es) in [a - d]:

a. ☐ Evidence has been provided to the Court, indicating compelling reason(s) that it would not be in the child(ren)s best interests to return home, be referred for termination of parental rights and adoption, placed with a fit and willing relative, or placed with a legal guardian. These reasons are as follows [specify compelling reason(s)]:

b. ☐ Evidence has been provided to the Court, indicating that intensive, ongoing, and, as of the date of this Order, unsuccessful efforts were made to return the child(ren) home or secure a placement for the child(ren) with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, including through efforts that utilize search technology including social media to find biological family members of the child(ren).

c. ☒ Evidence ☒ has ☐ has not been provided to the Court that a reasonable and prudent parent standard of care has been applied to the child(ren) in the facility or home in which he or she resides;

---

[1] NOTE: Permanency plans for freed children include only adoption or alternative planned living arrangement, NOT referral for legal guardianship or placement with a fit and willing relative.

d. ☒ Evidence ☒ has ☐ has not been provided to the Court that the child(ren) has/have been provided with regular, ongoing opportunities to engage in age or developmentally appropriate activities and has been consulted in an age-appropriate manner about the opportunities to participate in such activities; [redacted] has the opportunity to socialize with his friends, attend outings and trips as he follows the rules. He enjoys playing outside, making new friends and likes to play sports.

e. The Court inquired directly of the child(ren) regarding the permanency plan.

f. The following individual, with whom the child(ren) has/have a significant connection, is willing and is designated to be the child(ren)s permanency resource [specify]:

g. The Court has determined that APPLA with a significant connection to an adult willing to be a permanency resource for the child(ren) is the best permanency plan for the child(ren) because [specify]:

[Applicable in all cases]: Any modifications of the Permanency Goal shall be given by Petitioner to the parent(s) or other person(s) legally responsible for the child(ren)s care, with a copy of this Order.

B. Reasonable Efforts to Further Permanency Plan

1. [Applicable where the child's permanency plan is adoption; check any applicable box(es)]:

☐ ORDERED that [specify]: , an authorized agency, is directed to [check applicable box(es) and specify deadlines for compliance]:

☐ place the above-named child, if not already placed, by [specify date]:
for adoption with [check applicable box]:
☐ the foster family home where (s)he resides or has resided
☐ other prospective adoptive parent(s) [specify]:

☐ take the following steps to recruit prospective adoptive parent(s) for the child, if the child is not already placed in a prospective adoptive home, including consideration of interstate options [specify, including dates]:

☐ submit *Interstate Compact on Placement of Children* [SSL '374-a] documents by [specify date]:
☐ submit documents regarding adoption subsidy eligibility by [specify date]:
☐ if prospective adoptive parents have not yet signed Adoption Placement Agreement, work to address concerns they may have in order that the agreement may be signed by [specify date]:
☐ if child over 14 has not consented to adoption, work with child and attorney for the child to address concerns, identify significant adults who may be adoptive resources or who may be of assistance regarding an alternate permanency plan, by [specify date]:
☐ obtain child abuse and maltreatment clearance(s) by [specify date]:
☐ obtain criminal history clearance(s) by [specify date]:
☐ obtain information regarding back-up resources by [specify date]:
☐ obtain the following documents regarding child's birth parent(s) [specify]:
☐ order terminating parental rights ☐ surrender ☐ consent
☐ death certificate
by [specify date]:
☐ obtain the following documents regarding the child [specify]:
☐ two copies of birth certificate ☐ medical report ☐ consent of child 14 or older
by [specify date]:

☐ obtain completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
by [specify date]:
☐ report to the Court on the status of an appeal regarding the child by [specify date]:
☐ other [specify, including date]:

; (and it is further)

☐ ORDERED that the authorized agency assist the prospective adoptive parent(s) in [check applicable box(es) and specify deadlines for compliance]:

☐ retaining an attorney by [specify date]::
☐ signing an Adoption Placement Agreement by [specify date]:
☐ submitting *Interstate Compact on Placement of Children* documents by [specify date]:
☐ submitting documents regarding adoption subsidy by [specify date]:
☐ submitting financial disclosure affidavit by [specify date]:
☐ submitting medical report(s) by [specify date]:
☐ submitting certified copy of certificate of: ☐ marriage ☐ divorce ☐ death of spouse
☐ obtaining a completed home study by [specify date]:
☐ obtain the following additional documents [specify]:
☐ filing a petition for adoption by [specify date]:
☐ other [specify, including date]:

; (and it is further)

2. [Applicable where the child has a permanency plan other than adoption; check box[es] if applicable]:

☐ ORDERED that following reasonable efforts shall be made to make and finalize the child's permanency plan of [specify permanency plan, describe efforts and specify deadlines for compliance]:

☐ ORDERED that the Commissioner of Social Services [2]

☐ may discharge the child(ren) on a trial basis or continue such a discharge until the earlier of the completion of the next Permanency Hearing or further Order of the Court

☐ may not discharge the child(ren) on a trial basis to another planned permanent living arrangement;

☐ may only discharge the child(ren) on a trial basis to the following planned permanent living arrangement [specify, including significant connections to an adult willing to be a permanent resource]:
upon the following event(s) or condition(s) [specify]:

[Applicable to youth 18 and over who will be discharged on a trial basis with their consent]:
☐ The Commissioner of Social Services

---

[2] Note: during a period of trial discharge, legal care and custody remains with the Commissioner and permanency hearings must be held. Youth 18 years of age or older must consent to any trial discharge.

☐ shall discharge the youth on a trial basis
☐ shall continue the discharge of the youth
☐ may continue or extend the trial discharge of the youth
to ☐ another planned permanent living arrangement ☐ other [specify]:
until the earlier of the next permanency hearing, further Order of the Court
OR the 21st birthday(s) of the youth.

Youth 18 and over discharged on a trial basis shall inform the local department of social services or agency of any change in mailing address and contact information.

3. **Sibling Visiting Plans and Post-Adoption Contact** [check box(es), if applicable]:

☐ ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:

☒ ORDERED that the following provisions of the Post-adoption Contact agreement determined by the Court that approved the surrender of the child to be in the child's best interests be implemented at this time as follows [specify]: Pursuant to the Judicial Surrender dated December 4, 2017 Mrs. M[redacted] C[redacted] has 4 visits per year. Pursuant to the Judicial Surrender dated December 11, 2017 Mr. L[redacted] C[redacted] has 4 visits per year.

; (and it is further)

4. **Educational, Vocational and Transitional Services:**

☒ ORDERED that the ☒ educational ☐ vocational components of the child's permanency plan ☒ are appropriate ☐ should be modified as follows [specify]:

☒ ORDERED that Petitioner shall take the following steps and/or provide the following services for the education, health and well-being of the child [specify]: The Department of Family Services and Kids Peace will continue to provide all current services to ensure all of [redacted]'s needs are met.

[Applicable in cases where the child is 14 years of age or older or will attain the age of 14 by the next permanency hearing]:

☐ ORDERED that the Petitioner is to provide the following services and assistance to assist the child(ren) in learning independent living skills to make the transition from foster care to successful adulthood [specify]:

☐ ORDERED that the permanency plan developed for the child(ren) and any revision or addition to the plan, shall be developed in consultation with the child(ren). The child(ren) may select up to two members of the child(ren)'s permanency planning team to participate, one of whom may be designated to be the child(ren)'s advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child(ren); provided, however, that such members may not be foster parents of, or case workers, case planners or case managers for, the child(ren) and that the local commissioner of social services with custody of the child(ren) may reject an individual so selected by the child(ren) if such local commissioner has good cause to believe that the individual would not act in the best interests of the child(ren);

5. **Placement Outside New York State**. **[Required where the child is out-of-state]:**

☐ ORDERED that the placement of the child at [specify]:
☐ is appropriate, necessary and in the child=s best interests and is continued until [specify]:
☐ is not appropriate, necessary and in the child=s best interests and the child shall, therefore, be returned to New York State to be ☐ placed with [specify]: until [specify]:

☐ discharged to [specify]: and it is further)

6. **Progress Reports and Notices**

☒ ORDERED that Petitioner shall make a progress report to the Court, the parties and the attorney for the child on the implementation of this order as follows [specify date and/or frequency]:]: No later than 14 days in advance of the next scheduled permanency hearing. (and it is further)

☒ ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the attorney for the child forthwith; (and it is further)

7. **Recommendations Regarding State Agency Oversight** [Check box if applicable]:

☐ RECOMMENDED that the New York State Office of Children and Family Services investigate the facts and circumstances concerning the discharge of responsibilities for the care and welfare of the child by the social services district of the County of [specify]: pursuant to Social Services Law § 395; (and it is further)

8. **Order of Protection**

☐ ORDERED that [specify person(s) before the court]: (is)(are) required to comply with the terms and conditions specified in the order of protection, issued pursuant to Family Court Act ' 1056 annexed to this order and made a part thereof.

9. **Notice Regarding Absconding**: [Required in cases in which child remains in foster care]:

☐ ORDERED that if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this proceeding, and the date on which the child ran away.

10. **Transfer to Another Agency** [Check box if applicable]:

☐ ORDERED that, in view of the authorized agencys failure to comply with the Courts prior order to place the child in a prospective adoptive home and/or to provide services and assistance to the child, guardianship and custody of the child is hereby transferred to the following other authorized agency [specify]:

C. **Next Permanency Hearing** **[Required in all cases in which the child is in the guardianship and custody of the authorized agency or foster parent]:**

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date and time certain within six months of the completion of this hearing]: June 21, 2018 at 1:30pm

ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to all parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren), and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

☐ AND IT IS FURTHER ORDERED that

NOTICE OF ENTRY
PLEASE TAKE NOTICE that the within is a true copy of an order entered in the office of the Clerk of the Family Court of the State of New York in the County of Sullivan on January 30, 20 18
Christina Benoni
(Deputy) Chief/Clerk of the Court

ENTER

Hon. Michael F. McGuire
Judge of the Family Court

Dated: January 30, 2018

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:
Ⓖ Order mailed on [specify date(s) and to whom mailed]: 1/30/18 mailed to DFS.
G Order received in court on [specify date(s) and to whom given]:_____

Family Court of the State of New York

County of Sullivan
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 791-3505 FAX: 845 476-3620

Hon. Mark M. Meddaugh
Family Court Judge

Hon. Michael F. McGuire
Acting Family Court Judge

Karen L. Linen
Support Magistrate

Christina Benson
Chief Clerk

Stacey Benton
Deputy Chief Clerk

January 11, 2019

Mr. Mark Levine
Deputy Administrator
NYS Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, NY 10006

Dear Mr. Levine:

Enclosed are copies of audio recordings in the following matter;

DFS v. C[redacted]
Family File # 12467
Date of recording -October 28, 2014
1:51 - 2:09

I certify that the audio recordings are true copies of recordings produced by the FTR recorder which were copied/extracted from the network server of State of New York, Sullivan County Family Court.

Stacey Benton 1/11/19

Stacey Benton, Deputy Chief Clerk
Sullivan County Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-38

Hon. Michael McGuire

DFS v. C[redacted]

10/28/14

1:51 - 2:09

FFW 12467

CD-R

80 minutes

700 MB

52x speed

1x - 52x compatibl

www.product-support-staples.com

EXHIBIT

COMM

Ex. XI-38

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

- X

In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 3,
of the Judiciary Law in Relation to :

MICHAEL F. MCGUIRE :

a Judge of the County, Family, Surrogate Court, :
Sullivan County.
- X

TRANSCRIPT OF PROCEEDING

DEPARTMENT OF FAMILY SERVICES v. C[redacted] AND C[redacted]

October 28, 2014
1:51 P.M.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-38a

1 JUDGE MCGUIRE: C[redacted] is here?
2 MS. C[redacted]: Yes, I am.
3 JUDGE MCGUIRE: Mr. C[redacted] is here?
4 MR. C[redacted]: Yes, sir.
5 JUDGE MCGUIRE: Mr. Smith is here. I guess you
6 don't need me then. All right, you can all be seated. All
7 right, this case is one and two on the docket, the matters of
8 *The Department of Family Services v. C[redacted] and C[redacted]*.
9 Can I have everyone's name and appearance, please? We
10 can -- all gone through that.
11 MR. SMITH: Carlton Smith, Department of Family
12 Services.
13 MS. CAHILL: Chris Cahill, Department of Family
14 Services.
15 MS. C[redacted]: M[redacted] C[redacted]. [phonetic]
16 MR. GARN: K.C. Garn on behalf of M[redacted]
17 C[redacted].
18 MR. C[redacted]: L[redacted] C[redacted]. [phonetic]
19 MS. SULLIVAN: Claire Sullivan, Ferrara and
20 Sullivan, for L[redacted] C[redacted].
21 MR. KELSON: Zachary Kelson, attorney for the
22 child.
23 COURT OFFICER: Ma'am?
24 MS. J[redacted]: Oh. R[redacted] J[redacted], aunt.
25 JUDGE MCGUIRE: All right.

1 COURT OFFICER: Ma'am?
2 MS. E. C[redacted]: E[redacted] C[redacted] [phonetic],
3 L[redacted]'s sister.
4 JUDGE MCGUIRE: All right, very good. Thank
5 you, folks. Thank you for being here on time. The matter is
6 on today for a permanency hearing. We also have a
7 termination of parental rights that has been filed against Ms.
8 C[redacted]. How does the Department wish to proceed on the
9 permanency hearing?
10 MS. CAHILL: Your Honor, if we could first just
11 address the termination of parental rights? At this time, the
12 Department is making a request to be able to withdraw that
13 without prejudice. There has -- the reason for that is, there
14 has been an indication from her mental health counselor
15 that the child returning to the parent may be something that
16 is appropriate for the child. We want to take the next six
17 months to see what happens and then have the right to be
18 able to refile our TPR if -- if we do not see it moving
19 forward to that.
20 JUDGE MCGUIRE: I understand. So, what long-
21 term program is Ms. C[redacted] in?
22 MS. CAHILL: She's currently -- my understanding
23 is, she went to an out-patient, 30-day treatment at Synergy.
24 They did make a recommendation for long-term treatment.
25 Um --

1 JUDGE MCGUIRE: -- Long-term Suboxone
2 treatment is what they -- probably what they recommended?
3 MS. CAHILL: I don't know the answer to what type
4 of treatment it is. I do know --
5 JUDGE MCGUIRE: -- Suboxone?
6 MS. C[redacted]: Yeah, but I'm not taking it
7 anymore.
8 JUDGE MCGUIRE: Are you taking it any less?
9 That's what I'd like to know.
10 MS. C[redacted]: No, no, at all.
11 JUDGE MCGUIRE: Okay. I'm sorry, Ms. Cahill.
12 Go ahead.
13 MS. C[redacted]: Sorry.
14 MS. CAHILL: I've talked to my client, and Mr.
15 Smith has indicated that he will speak to Ms. C[redacted] about
16 a long-term program, such as Samaritan Village, or maybe
17 New Hope. My understanding is, there also is an issue
18 regarding appropriate housing. My understanding is, she
19 did go for a job interview, I do not know if she has gained
20 employment at this time, but those are things that the
21 Department would like to work with mom in regards to, to
22 see if -- if return to parent by the next PH hearing is
23 appropriate as a change of goal.
24 JUDGE MCGUIRE: Okay. Mr. Kelson --
25 MR. KELSON: -- Well --

1 JUDGE MCGUIRE: -- Your position on the
2 application to withdraw?
3 MR. KELSON: I do, Your Honor. Was that petition
4 for termination of parental rights served on all parties and
5 counsel of record, Ms. Cahill?
6 MS. CAHILL: To my knowledge, yes.
7 MR. KELSON: Well, for the record, I did not
8 receive one, and I'm somewhat concerned that papers are
9 getting served and I'm not being placed on notice of it. I'm
10 also concerned about one other thing, Your Honor, and I'll
11 mention it now --
12 JUDGE MCGUIRE: -- Mm-hmm.
13 MR. KELSON: -- It might be a bit out of order, but
14 prior to coming in here, I knew that this issue had arisen
15 about two apparently inconsistent petitions being filed with
16 the Court, and I attempted to find out what was going on
17 from Mr. Smith, and Ms. Cahill immediately indicated that
18 I'm not to speak to him. And I would like some direction
19 from the Court, because when I look at the order appointing
20 attorney for the child, I believe that authorizes me to speak
21 to people that have something to do with this child. And
22 I've worked with Mr. Smith for a number of years, he
23 knows what he's doing, and is -- is really trying to do
24 what's best for the child, but I -- I don't appreciate that
25 there's an interference, that there's a claim of a right to

1 counsel that permits me -- prohibits me from
2 communicating with someone who has information relating
3 to the child.
4 MS. CAHILL: Your Honor --
5 JUDGE MCGUIRE: -- Right. Ms. Cahill?
6 MS. CAHILL: -- What I did indicate was that they
7 could speak directly with counsel. As you are aware, the
8 Department does have counsel. There is currently litigation
9 that is ongoing. While I do understand that the attorney for
10 the children do need to communicate with the Department,
11 if he was just to reach out to counsel, we'd be happy to
12 facilitate that. We are not trying to cut the attorney for the
13 child off, we are trying to make communications to
14 represent a client attorney through attorney. It would be a
15 different situation, maybe, if we had not brought litigation
16 before the court, but he is represented by an attorney, and
17 there is an attorney-client privilege as well as a right to
18 counsel for the Department.
19 JUDGE MCGUIRE: Well, if that's the position of
20 the Department, I mean, they have the right to -- to take that
21 -- that position. It's not -- not the most efficient, but let's --
22 if that's what they want to do, I have to respect that. He's a
23 represented party.
24 MR. KELSON: Well, I'm not sure that Ms. Cahill
25 has the right to invoke that privilege. I think only the client

1 does and she's not the client. But putting that aside --
2 MS. CAHILL -- Your Honor, the Commissioner --
3 MR. KELSON: -- But -- but putting that --
4 MS. CAHILL -- The Commissioner --
5 MR. KELSON: -- Excuse me. I didn't interrupt
6 you, Ms. Cahill.
7 JUDGE MCGUIRE: Ms. Cahill, it's not necessary.
8 I got it.
9 MS. CAHILL: The Commissioner is my client and
10 that's a directive.
11 MR. KELSON: Right, that's correct --
12 JUDGE MCGUIRE: -- I got it, I got it.
13 MR. KELSON: -- But you're not the client, and so --
14 JUDGE MCGUIRE: -- I got it.
15 MR. KELSON: -- Unless you had a line to the
16 Commissioner, invoking attorney-client privilege before
17 speaking to your client may have been premature. But
18 putting that aside, I just mention, after working here for
19 some 30 years, that --
20 JUDGE MCGUIRE: -- Mm-hmm.
21 MR. KELSON: -- We're all trying to do what's
22 right, whether you're representing a respondent or a
23 petitioner, and obviously, the Court's trying to do what's
24 right.
25 JUDGE MCGUIRE: Mm-hmm.

1 MR. KELSON: When it becomes an adversary
2 situation, I, myself, am fully aware that it -- there are times
3 when it is inappropriate to communicate with people when
4 it's adversarial. This was not adversarial. So, I just wanted
5 to note that for the record. And I don't have enough
6 information since I haven't gotten a copy of the petition to
7 take a position on the TPR at this point.
8 JUDGE MCGUIRE: Okay. Fair enough. Mr. Garn,
9 does your client oppose the TPR being withdrawn?
10 MR. GARN: No, Judge.
11 JUDGE MCGUIRE: Okay. And I -- I don't believe
12 that the TPR was filed against the father. Was it filed
13 against both?
14 MS. SULLIVAN: No.
15 MS. CAHILL: No, just against --
16 JUDGE MCGUIRE: -- It was filed just against the
17 mother.
18 MS. CAHILL: -- Just against the mother.
19 JUDGE MCGUIRE: Okay, so then, Ms. Sullivan,
20 just for the record, does your client have a position on that?
21 Not that he really has standing.
22 MS. SULLIVAN: Well, we certainly have a position
23 as to whether or not, you know, the child goes back to the
24 mother, but --
25 JUDGE MCGUIRE: -- Well, that's not -- that's not

1 part of the application right now.
2 MS. SULLIVAN: -- But on the TPR, we don't.
3 JUDGE MCGUIRE: Okay, all right. So, what I'm
4 going to do is, I will reserve on that decision, subject to the
5 attorney for the child getting a copy of the petition and
6 being able to make reasonable inquiry. If that inquiry needs
7 to be in a formal setting where we take testimony, and the
8 Department can set forth through the appropriate witness
9 the -- the basis for believing that a TPR may not be
10 necessary now, then we'll do that. Mr. Kelson will have an
11 opportunity to question through that. If the Department can
12 work out something where Mr. Kelson, with or without
13 counsel present, speaks to Mr. Smith, then we'll work that
14 out and then Mr. Kelson will just get back to me and say, "I
15 oppose it." And then I'll -- I'll issue my ruling. Hopefully,
16 we can do that fairly quickly.
17 MS. CAHILL: Your Honor, I believe prior to an
18 arraignment -- and I apologize, it's my first appearance on
19 this --
20 JUDGE MCGUIRE: --Mm-hmm.
21 MS. CAHILL: -- So, if there was an arraignment,
22 and I'm unaware of it --
23 JUDGE MCGUIRE: -- I don't believe there has
24 been an arraignment on the TPR yet --
25 MS. CAHILL: -- Yeah, that -- that we have a right

1 to withdraw any petition that has not been yet arraigned.
2 JUDGE MCGUIRE: You do. You do, but --
3 MR. KELSON: -- Could I just -- let me just address
4 that issue, Your Honor, maybe I could -- you have a right to
5 withdraw something, but once you file it with the court, I
6 don't think that there's been complete jurisdiction where the
7 court to confirm the withdrawal until all parties have been
8 served with the petition. You then might be able to do it
9 without anybody's consent, but I think that the rules require
10 that I be served with it before you do anything.
11 JUDGE MCGUIRE: Well, of course, yeah, I mean,
12 they could -- they -- they could withdraw it before they
13 serve it, they could just not serve it, also, and -- and it
14 would die on the vine. There's a -- there's -- there's a dual
15 purpose, though, in -- in my wanting to proceed the way I
16 had set forth, because we also have a permanency hearing,
17 and the permanency hearing has a permanency goal. And
18 it's interesting that we had a TPR filed and also had a
19 permanency goal of return to parent. So -- and that does
20 happen from time to time. But what's going to happen now
21 is the same issues that go into Mr. Kelson taking a position
22 on the TPR are going to go into him taking a position on the
23 permanency goal. And so, it's really -- the set of questions
24 are going to be the same, so whether we withdraw the TPR,
25 we're still going to have a permanency goal discussion.

1 That's really the -- the main thrust behind my wanting to
2 afford counsel the opportunity to understand the rationale.
3 MS. CAHILL: But --
4 JUDGE MCGUIRE: -- Certainly, we all take the
5 position that all children should be raised and reared by
6 their mom and dad. Sometimes that's not possible, but we
7 all want to do what is possible to have that happen. So, I'll
8 just hold that on the side we -- where we will not arraign the
9 matter today. It's an application to withdraw, which I note,
10 if I -- if for some reason Mr. Kelson opposes it, the
11 Department can say, "Well, it hasn't been arraigned, we're
12 withdrawing it anyway," then they'll withdraw it, but then
13 he's going to have the issue on the T-- on the permanency.
14 So that's why I want to go that route. All right. On the
15 permanency hearing, we have a goal of return to parent, and
16 we have a permanency report that was filed with the court
17 on October 15th. I assume everyone has seen the
18 permanency report?
19 MR. KELSON: Yes, Your Honor.
20 MS. SULLIVAN: Yes.
21 JUDGE MCGUIRE: Okay. How does the
22 Department wish to re -- wish to proceed on the
23 permanency report?
24 MS. CAHILL: Your Honor, we'd like to submit the
25 permanency report and the attached service plan into

1 evidence. It's requesting that the goal be approved, which
2 is, return to parent. Reasonable efforts have been made at
3 this time to return the child to the parent. There has been
4 visitation that is occurring once a week with --
5 JUDGE MCGUIRE: -- And still supervised by the
6 Department --
7 MS. CAHILL: -- I --
8 JUDGE MCGUIRE: -- As to Mrs. C[redacted] and Mr.
9 C[redacted]? Supervised by his sister, I believe, right?
10 MS. CAHILL: Correct.
11 JUDGE MCGUIRE: Okay.
12 MS. CAHILL: The -- the -- my understanding is, as
13 to the visitation, the issue that is holding up at this point on
14 the supervised visits is -- is mom having appropriate
15 housing to do the visits. I know that I had a brief
16 conversation with my client. If they wanted to try to visit in
17 a public place without supervision, the Department at this
18 time would be open to that as a way of increasing the bond
19 between the child and the parents.
20 JUDGE MCGUIRE: Yeah, the Court's got a
21 problem. She's still not in a long-term program, though.
22 MS. CAHILL: Okay.
23 JUDGE MCGUIRE: Till she's in a long-term
24 program -- you see, she doesn't get to wait out the Court
25 and get what she wanted before by circumventing the

1 original order.
2 MS. CAHILL: Okay.
3 JUDGE MCGUIRE: She's just going to have to find
4 herself in a long-term program if she wants anything other
5 than supervised visits.
6 MR. GARN: Judge, that point has been made crystal
7 clear to my client and she understands.
8 JUDGE MCGUIRE: Like a mountain stream?
9 MR. GARN: Exactly.
10 JUDGE MCGUIRE: Okay.
11 MR. GARN: Yes.
12 JUDGE MCGUIRE: All right. So, any objection to
13 the permanency report going into evidence?
14 MR. KELSON: I -- I object, Your Honor.
15 JUDGE MCGUIRE: Okay. And the objection is?
16 MR. KELSON: I would like testimony. I don't
17 believe that the report -- I think there's some issues in the
18 report that need to be explored because what we seem to be
19 doing is going from several months to several months
20 without any appropriate -- in my opinion, and again, I don't
21 want to -- I'm not a witness a here --
22 JUDGE MCGUIRE: -- Okay.
23 MR. KELSON: -- Any appropriate direction, I think,
24 based on the Court's comments, also.
25 JUDGE MCGUIRE: Yeah, okay. So, what I'm

1 going to do is, I'm going to -- I'm going to adjourn the
2 permanency hearing. I am going to give you a date to
3 continue the permanency hearing within 30 days.
4 Hopefully, it'll be shorter rather than longer, so that the
5 department can have the witnesses, whether it's Mr. Smith
6 or others, and Mr. Garn may want to have witnesses,
7 whether it be someone from Synergy or whatever, and
8 everyone will have their witnesses ready to go. Mr. C[redacted]
9 is still in the program in Newburgh?
10 MR. C[redacted]: Yes.
11 MS. SULLIVAN: Yes, sir.
12 JUDGE MCGUIRE: And you're working at --
13 MR. C[redacted]: -- Working --
14 MS. SULLIVAN: -- He's working, actually quite
15 well. He's off of the Suboxone. He's down on to --
16 MR. C[redacted]: -- No --
17 JUDGE MCGUIRE: -- No, he was on Methadone.
18 MR. C[redacted]: -- It was the Methadone.
19 MR. KELSON: Right. He's on --
20 JUDGE MCGUIRE: -- He was never on Suboxone.
21 MR. KELSON: -- He's on Methadone.
22 MR. C[redacted]: -- I'm going down to --
23 MS. SULLIVAN: -- Yeah. So, he's on the -- his
24 Methadone has gone down --
25 JUDGE MCGUIRE: -- Stepping down? Great.

1 MS. SULLIVAN: -- Significantly in the last couple
2 of months.
3 JUDGE MCGUIRE: And he's working at Family
4 Dollar?
5 MR. C[redacted]: No, no, no --
6 MS. SULLIVAN: -- Yeah --
7 MR. C[redacted]: -- I -- my car -- I got in a car
8 accident. I don't know if you were aware.
9 MS. SULLIVAN: -- He -- he's permanently
10 disabled.
11 MR. C[redacted]: Yeah.
12 MS. SULLIVAN: He doesn't work. I -- I think you
13 were thinking of something else.
14 MS. CAHILL: The Family Dollar.
15 JUDGE MCGUIRE: The permanency report says
16 he's working at Family Dollar.
17 MS. CAHILL: I think there's a typo in the report.
18 The interview was Ms. C[redacted] had at Family Dollar.
19 JUDGE MCGUIRE: Was working at Family
20 Dollar? Okay.
21 MS. CAHILL: Yeah. I notice a couple of times it
22 says, "Mr." where it should be "Ms."
23 JUDGE MCGUIRE: All right, all right. So, it
24 should be "Ms."? Okay.
25 MS. SULLIVAN: Yeah. He is permanently

1 disabled.

2 JUDGE MCGUIRE: I -- I thought he was.

3 MS. SULLIVAN: He's on --

4 JUDGE MCGUIRE: -- But okay. They do hire the

5 disabled. They do hire disabled individuals at some stores.

6 So, that's fine.

7 MR. KELSON: Walmart does, too.

8 JUDGE MCGUIRE: Walmart does, and

9 McDonald's does. Family Dollar, I thought did, but now

10 maybe they don't.

11 MR. C[redacted]: We're -- I'm going through SSI.

12 MS. SULLIVAN: Yeah --

13 JUDGE MCGUIRE: -- Okay. Ms. Sullivan?

14 MS. SULLIVAN: -- He's is -- he has -- he's been

15 doing very well in his program. He is coming down. He's

16 coming down significantly since the -- the beginning of his

17 program, since the beginning of -- of this -- of these issues.

18 And he also has been doing well with the psychiatrist and

19 with his counselor.

20 MS. CAHILL: Your Honor, may I ask for clarity as

21 to what the objection is as to the permanency report?

22 MR. KELSON: I don't --

23 MS. CAHILL -- Because I don't -- I don't believe

24 that there's been a request to change the goal, so I want -- I

25 want it made clear if -- if the attorney for the child is

1 requesting a different goal or is just objecting to it as to
2 reasonable efforts?
3 JUDGE MCGUIRE: I'm going to guess that it's
4 probably objecting on hearsay grounds. He's not
5 consenting to the report going in. He wants the -- the
6 testimony from the witnesses.
7 MR. KELSON: And --
8 JUDGE MCGUIRE: -- But I'll let Mr. Kelson speak
9 for himself.
10 MR. KELSON: -- And I -- and I believe the Court
11 succinctly stated that, but I would just -- Ms. Cahill just to
12 address, and I will address the Court, but obviously --
13 JUDGE MCGUIRE: -- Mm-hmm.
14 MR. KELSON: -- It's something that I'm
15 responding to. Ms. Cahill, you've indicated that I can't -- if
16 your client's invoking attorney-client privilege. If you -- if
17 I was able to communicate with the caseworker and their
18 caseworker was able to answer some questions and give me
19 some information, all this might be unnecessary. But since
20 you've taken the position that there is a wall there, there's
21 not sufficient information in this report for me to be
22 comfortable with allowing it to go in without objection,
23 number one, so I suppose that between now and the
24 adjourned date, you might want to reconsider your position
25 of -- that I can't talk to your caseworker without you being

1 present, or without him being given direction from you
2 about how to answer a question, or what to answer a
3 question. That's completely up to you.
4 JUDGE MCGUIRE: Okay.
5 MS. CAHILL: Your Honor, maybe a brief
6 adjournment? We could have a meeting right here, myself,
7 my client --
8 JUDGE MCGUIRE: -- The problem is, I've got a
9 hundred people up in the other courthouse --
10 MS. CAHILL: -- All right.
11 JUDGE MCGUIRE: -- Taking a -- picking a jury.
12 MS. CAHILL: A jury? All right, no.
13 JUDGE MCGUIRE: Okay? So, I don't want to
14 have them wait.
15 MS. CAHILL: Okay.
16 JUDGE MCGUIRE: I don't want to make you wait.
17 I'm going to give you a brief adjournment --
18 MS. CAHILL: -- Okay.
19 JUDGE MCGUIRE: -- As soon I get that from --
20 from Stacey, and then if you can talk out in the hallway --
21 MR. KELSON: Right.
22 JUDGE MCGUIRE: -- You can --
23 MS. CAHILL: -- Yeah.
24 JUDGE MCGUIRE: -- And then the adjourned date,
25 if we don't have to take testimony, we'll just finish the

1 permanency hearing.
2 MS. CAHILL: Right.
3 MR. KELSON: Right, or if somewhere between now
4 and the date of the adjourned permanency hearing. Because
5 I -- one of the things that I -- I object to generally at this
6 point, the way things have changed with the Department is,
7 is we only get information when we're running into court.
8 So, I want to be able to have a time where I can talk to the
9 caseworker --
10 JUDGE MCGUIRE: -- Okay.
11 MR. KELSON: -- If that's what they choose to do,
12 otherwise, we'll just have a --
13 JUDGE MCGUIRE: -- Otherwise, we'll just take
14 testimony.
15 MR. KELSON: -- Report, right.
16 JUDGE MCGUIRE: That's fine. Not a problem.
17 MS. CAHILL: Yeah. We can -- we can have -- just
18 so it's clear, we can have a meeting where counsel and the
19 caseworker are available to -- for any of your questions or
20 concerns. And we can set that up afterwards.
21 JUDGE MCGUIRE: Whatever works.
22 MS. CAHILL: Yeah.
23 JUDGE MCGUIRE: Counsel can work it out.
24 MR. KELSON: Sure.
25 JUDGE MCGUIRE: They can work it out. We have

1 a date?

2 COURT CLERK: Ms. Sullivan, are you not here

3 November 6th?

4 MR. SULLIVAN: No, I'm not.

5 COURT CLERK: You're not?

6 MS. SULLIVAN: The 6th through the -- the 5th

7 through the 13th, I'm gone.

8 JUDGE MCGUIRE: Turkey.

9 COURT CLERK: So, I think the closest we have

10 (inaudible)

11 JUDGE MCGUIRE: November 24th.

12 COURT CLERK: November 24th at 2:30.

13 JUDGE MCGUIRE: Good thing I moved my

14 vacation.

15 MR. KELSON: At what time, Your Honor?

16 JUDGE MCGUIRE: November 24th at 2:30. So by

17 then Ms. C[redacted], hopefully, will be in a long-term

18 program, maybe New Hope Manor, or Samaritan Village, or

19 one of those, and we'll see you all back here on the 24th.

20 COURT CLERK: So, am I putting the TPR for

21 arraignment on that day?

22 JUDGE MCGUIRE: Just leave it on. You can leave

23 it on for control. I probably will have addressed it prior to

24 that date.

25 MR. KELSON: If I get the petition, I think -- and if

1 I'm able to talk to the caseworker --
2 JUDGE MCGUIRE: -- Okay.
3 MR. KELSON: -- Yeah, I think that might be all the
4 concerns.
5 JUDGE MCGUIRE: Put it on for control that day.
6 COURT CLERK: Okay.
7 MR. GARN: Can I just put on the record, Judge, for
8 your information? My client has been in a parenting group
9 for 30 weeks. I think this is the last week?
10 MS. C[redacted]: Yeah, tomorrow is the last one.
11 MR. GARN: And she'll -- she'll be completing that
12 course. And she has been off of Suboxone and out of that
13 program for a month.
14 JUDGE MCGUIRE: Very good --
15 MR. GARN: -- And that's --
16 JUDGE MCGUIRE: -- That's what I like to hear.
17 MR. GARN: -- A start.
18 JUDGE MCGUIRE: All right. It's a start. It's a
19 good, good time to get yourself down to Barryville and get
20 into New Hope Manor, or get yourself to -- where is it? --
21 Ellenville, Samaritan Village, or Rhinebeck, to Daytop,
22 before they go bankrupt, or one of those because that's
23 where you need to be. All right, very good. Thank you,
24 folks.
25 MR. KELSON: Thank you, Your honor.

1 COURT OFFICER: Okay, ladies and gentlemen.
2 MR. SMITH: Thank you.
3 MS. SULLIVAN: Thank you.
4 MR. C[redacted]: Thank you, Your Honor.
5 JUDGE MCGUIRE: Yep.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATION

2 I, WANITA GONZALEZ, a Secretary of the State
3 Commission on Judicial Conduct, do hereby certify that the foregoing is a
4 true and accurate transcript of the audio recording of the proceedings
5 transcribed by me, to the best of my knowledge and belief, in the matter
6 held on October 28, 2014.
7
8
9 Dated: April 1, 2019

10 WANITA GONZALEZ
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: DEED
DATE: 05/17/2007
BOOK/PAGE: 3336 / 242

Clerk in Office Nora I. Manzolillo

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 03/11/2019

Daniel L. Briggs

By: DC

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-39

Sullivan County
Nora Manzolillo
County Clerk
Monticello, NY 12701

SD 2007 00022472

Instrument Number: 2007- 00022472
As
Recorded On: May 17, 2007 **Deed - Commercial & Vacant Lands**

Parties: BOYES MARY LOU
To
BOYES SEAN

Billable Pages: 3

Recorded By: MICHAEL F MCGUIRE ATTY

Num Of Pages: 4

Comment:

**** Examined and Charged as Follows: ****

Deed - Commercial & Vacant Land:	37.00	RP5217 Commercial	165.00	TP584		5.00	
Recording Charge:	**207.00**						

	Amount	Consideration Amount	RS#/CS#				
Tax-Transfer	0.00	0.00	3425	Basic	0.00		
						Special Additional	0.00
				Additional	0.00	Transfer	0.00
Tax Charge:	**0.00**						

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Sullivan County, NY

File Information:

Document Number: 2007- 00022472
Receipt Number: 117408
Recorded Date/Time: May 17, 2007 10:00:58A
Book-Vol/Pg: Bk-REL Vl-3336 Pg-242
Cashier / Station: C Vankeuren / Cash Station 03

Record and Return To:

MICHAEL F MCGUIRE ATTY
LIBERTY PLAZA
FERNDALE NY 12734

SULLIVAN COUNTY N.Y.

Nora L. Manzolillo

NORA MANZOLILLO
SULLIVAN COUNTY CLERK

— Bargain and Sale Deed, with Covenant against Grantor's Acts — Individual or Corporation (Single Sheet)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 11th day of May, in the year 2007

BETWEEN MARY LOU BOYES of [redacted] Wawanda Ave, Liberty, N.Y. 12754

party of the first part, and SEAN BOYES of [redacted], Neversink, N.Y. 12765
party of the second part,
WITNESSETH, that the party of the first part, in consideration of

$10.00 dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Neversink, County of Sullivan, State of New York and more particularly bounded and described on Schedule A annexed hereto and made part hereof.

Being the same premises described in a certain deed from from Mary Lou Boyes to Sean Boyes, dated May 1, 2002 and recoreded in the Office of the County Clerk of Sullivan Count at Liber 2408 of deeds, Page 391 .

Being the same premises described in a deed to Mary Low Boyes and Michael Dean and Joann Dean, as tenants in common, dated July 19, 1983 and recoreded in te Office of the Sullivan County Clerk on September 15, 1986 in Liber 1239 of Deeds at Page 228.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Mary Lou Boyes

MARY LOU BOYES

SCHEDULE A

DESCRIPTION OF PREMISES

ALL those pieces or parcels of land located in the Town of Neversink, Sullivan County, New York, more particularly bounded and described in :

(1) A deed dated June 1, 1938 from Herbert Huson and Hazel Huson to Justus Asthalter and Nellie, his wife recorded November 7, 1938 in Liber 328 of Deeds at Page 299 in the Sullivan County Clerk's office and

(2) A deed dated November 2, 1956 from Bessie Morgan (f/k/a Bessie Huson) and Hazel Hornbeck (f/k/a Hazel Huson) to Jusits Asthalter and Nellie, his wife recorded in Liber 539 of Deeds at page 387 n the Sullivan County Clerk's Office.

Excepting from said premises the premises described in a deed from Justus Ashtalter and Nellie, his wife to James R. Boyes and Mary Lou Boyes dated March 7, 1969 and recorded March 20, 1969 in Liber 730 of Deeds at page 686 in the Sullivan County Clerk's office and by a correction deeed dated August 9, 1974 recorded October 3, 1974 in Liber 799 of Deeds at Page 320 in the Sullivan County Clerk's Office.

The consideration for this deed is less than $100.00

Also included is an easement relateive to the use of a spring as described in a deed from George Hotchkin and Marguerite Hotchkin to Justus Ashtalter and Nellie, his wife, dated January 5, 1946 and recoreded in the Sullivan County Clerk's office on January 10, 1946 in Liber 286 of Deeds at Page 290.

The interest hereby conveyed is the life estate of May Lou Boyes, previously reserved in a deed, dated May 1, 2002 and recorded in the Office of the Sullivan County Clerk in Liber 2408 of Deeds, 392.

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of Sullivan, ss:

On the 11TH day of May in the year 2007, before me, the undersigned, personally appeared MARY LOU BOYES

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

MICHAEL F. MCGUIRE
Notary Public, State of New York
Sullivan County Clerk's # 2667
Commission Expires Jan. 10, 2009

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of , ss:
On the day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the
subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(if the place of residence is in a city, include the street and street number if any, thereof);
that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of , County of , ss:
*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Bargain and Sale Deed
With Covenants

SECTION: 34

BLOCK: 1

LOT: 4 AND 10.1

COUNTY OR TOWN: Town of Neversink

Title No.

MARY LOU BOYES
TO
SEAN BOYES

DISTRIBUTED BY

YOUR TITLE EXPERTS
The Judicial Title Insurance Agency LLC
800-281-TITLE (8485) FAX: 800-FAX-9396

RETURN BY MAIL TO:

Michael F. McGuire, Esq
111 Sullivan Ave, Suite 2-5
Ferndale, N.Y. 12734

STATE OF NEW YORK
Sullivan County Clerk's Office } ss.:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a Case Summary Index #- 2009-2304 Dean US. Boyles with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

ENDORSED, FILED.

June 19, 2009

Daniel L. Briggs
Clerk

In testimony whereof, I have hereunto set my hand and affixed the seal of said County this 15th day of January A.D., 2019.

Daniel L. Briggs, Clerk

Sullivan County
Daniel L. Briggs, Sullivan County Clerk
Printed: 01/17/2019 12:17:39 PM

Case #: 2009-2304

Rec Date: 06/19/2009 14:23:29
Doc Grp/Desc: CIV / INDEX APPL

Plaintiff: DEAN MICHAEL
DEAN JOANN

Defendant: BOYES SEAN
BOYES DAWN

Notes: INDEX APP 210

Plaintiff Attorney:

Defendant Attorney:

---- DOCKET ITEMS -----

Rec Date	Description
06/19/2009	LTTR
06/19/2009	SUMMONS
06/19/2009	VERIFIED COMPLAINT
07/08/2009	LTTR
07/08/2009	2 AFFID OF SERV
09/21/2009	LTTR
09/21/2009	VERIFIED ANSWER
09/21/2009	AFFIRM OF SERV
09/21/2009	ATTY CERT
01/26/2010	RJI 95
06/09/2010	1ST PAGE COPY DOC 45
08/03/2010	AFFIRM IN OPPOSITION - missing doc but scanned
08/03/2010	AFFID - missing doc but scanned
08/03/2010	EXHIBITS A THROUGH D - missing Exhibits A-D not scanned
08/03/2010	AFFID OF SERV - missing doc scanned
08/03/2010	ATTY CERT - missing doc scanned
08/24/2010	SO ORDERED LTTR AUGUST 19 10 LEDINA - missing doc scanned
08/24/2010	SO ORDERED LTTR AUGUST 20 10 LEDINA - missing doc scanned
08/30/2010	FAX COVER SHEET AND LETTER
09/22/2010	FILE TAKEN BY HELLENE FOR JUDGE LEDINA
11/10/2010	FILE RETURNED BY HELLENE
11/19/2010	SO ORDERED STIP NOV 10 10 LEDINA
11/19/2010	ATTY CERT
12/10/2010	PRELIM CONF STIP AND ORDER FEB 22 10 LEDINA
01/11/2011	SO ORDERED LETTER LEDINA 12-29-10
01/31/2011	AFFIDAVIT OF SERVICE BY MAIL
03/15/2011	1 ST. PG. COPY ORDER TO SHOW CAUSE 45
03/18/2011	AFFIRM
03/18/2011	COPY DOCS
03/18/2011	AFFIRM IN SUPPORT
03/18/2011	AFFID IN SUPPORT
03/18/2011	AFFID IN SUPPORT
03/18/2011	COPY DOCS
03/22/2011	LTTR
03/22/2011	AFFID OF PERSONAL SERV
04/05/2011	1 ST.PG.COPY OF ORDER TO SHOW CAUSE 45
06/17/2011	LTTR
06/17/2011	ORDER MAY 16 11 MELKONIAN
06/24/2011	LTTR
06/24/2011	ORDER IN LIEU JUNE 17 11 MELKONIAN
06/24/2011	COPY DOCS
07/13/2011	LTTR

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-40

07/13/2011	PRELIMINARY INJUNCTION BOND
07/13/2011	CPY DOCS
09/13/2011	LTTR
09/13/2011	3 COMMISSIONERS OATH
02/07/2012	1ST PAGE COPY DOC 45
02/24/2012	1 ST. PG. COPY OF ORDER TO SHOW CAUSE 45
02/04/2013	COPY 1ST PG OSC 45
	Comment: PUT IN COURT BIN
02/19/2013	CPY LTTR
02/25/2013	DECISION & ORDER 2/22/13 JDG MCGUIRE
02/25/2013	COPY LETTER W/ATTACHMENT
02/26/2013	ORDER 2/15/13 JDG MCGUIRE
02/26/2013	COPY LETTER W/REPORT
04/22/2013	ORDER TO SHOW CAUSE FEB 8 09 MCGUIRE
04/22/2013	AFFIRM IN SUPPORT
04/22/2013	AFFID S BOYES
04/22/2013	EXHIBITS A AND B
04/22/2013	3 FAXED COPY LTTRS WITH COVER
04/22/2013	RECEIPT
05/06/2013	INTERIM REPORT OF COMMISSIONERS
05/06/2013	EXHIBITS A THRU D
07/22/2013	COPY LTTR
07/22/2013	FAX VERIFICATION
07/22/2013	SO ORDERED LTTR JULY 1 13 MCGUIRE
05/22/2014	LETTER
05/22/2014	BROADCAST REPORT
05/22/2014	DECISION & ORDER 4/24/14 JDG MCGUIRE
05/22/2014	EXHIBIT A
05/23/2014	SUPPLEMENT TO FINAL REPORT
05/23/2014	LTTR
05/23/2014	NOTES WITH 2 MAPS MAPS NOT SCANNED
05/23/2014	EXHIBIT 2 PROPERTY ANALYSIS
05/23/2014	SCHEDULE A THROUGH I
05/23/2014	COPY DOCS
05/23/2014	2 LTTRS
05/23/2014	COPY DOCS
05/23/2014	LTTR
05/23/2014	TRANSCRIPT VOL 1
05/23/2014	TRANSCRIPT VOL 2
05/23/2014	TRANSCRIPT VOL 3
05/23/2014	EXHIBIT DISK CANNOT SCAN
05/23/2014	MAP NOT SCANNED
05/23/2014	COPY LTTR
05/23/2014	COPY DOCS
05/23/2014	COPY LTTR
05/23/2014	COPY DOCS
05/23/2014	FINAL REPORT OF COMMISSIONERS
05/23/2014	SCHEDULES A THROUGH C
05/23/2014	MAP NOT SCANNED C
05/23/2014	SCHEDULES D THROUGH F
05/23/2014	MAP NOT SCANNED F
05/23/2014	SCHEDULES G THROUGH I
05/23/2014	UNSIGNED DECISION USED AS EXAMPLE
05/23/2014	COPY DOCS
05/23/2014	COPY MAPS
05/23/2014	EXHIBIT 1
05/23/2014	EXHIBIT 2
05/23/2014	EXHIBIT 3
05/23/2014	EXHIBIT 4
08/22/2014	NOTICE OF APPEAL 65
08/22/2014	PRE CALENDAR STATEMENT
08/22/2014	COPY DOCS
09/09/2014	GREEN RTN RECEIPT FLD IN 1201-01
09/23/2014	AFFID OF SERV BY MAIL
11/13/2014	ATTY CERT
11/13/2014	DECISION & ORDER 10/23/14 MCGUIRE
11/13/2014	COPY LTTR WITH FAX VERIFICATION

11/13/2014	AFFIRM IN OPPOSITON
11/13/2014	AFFIRM OF SERV
11/13/2014	COPY LTTR
11/13/2014	NOTICE OF MOTION
11/13/2014	AFFIRM IN SUPPORT
11/13/2014	AFFID IN SUPPORT
11/13/2014	EXHIBITS 1 AND 2
11/13/2014	AFFID OF SERV BY MAIL
02/05/2015	LETTER/ORDER 1/12/15 MCGUIRE
02/05/2015	BROADCAST REPORT
10/02/2015	COPY DOCS
07/05/2016	***FILE TO COURT-REQU BY ANNE SCHELHORN*** RED FILE
07/12/2016	***FILE RETURNED FROM COURT
05/16/2017	DISCOVERY STIP & ORDER, SCHICK, 4-19-17
06/13/2017	DISCOVERY STIP & ORDER, SCHICK, 5/30/17
08/03/2017	DISCOVERY STIP & ORDER, SCHICK, 7/11/17
10/12/2017	STIPULATION & AMENDED ORDER, SCHICK, 9/26/17
10/12/2017	COPY DOCS
10/12/2017	EXHIBIT 1- MAP NOT SCANNED
10/12/2017	EXHIBIT 2-3
10/12/2017	FINAL MAP- NOT SCANNED
10/12/2017	COPY DOCS
10/12/2017	UNSIGNED STIP AND AMENDED ORDER
10/12/2017	EXHIBITS A THROUGH F
10/12/2017	LTTR
10/12/2017	COPY TRANSCRIPTS
10/12/2017	COPY LTTR
10/12/2017	COPY TRANSCRIPT
10/12/2017	COPY DOCS
11/09/2017	NOTICE OF ENTRY
11/09/2017	COPY DOCS
11/09/2017	AFFIRM OF SERV
11/09/2017	ATTY CERT
11/22/2017	NOTICE OF APPEAL 65 MAILED NOV 22 17
11/22/2017	PRE CALENDAR STATEMENT
11/22/2017	COPY DOCS
11/30/2017	GREEN RTN RECEIPT
05/08/2018	CERTIFIED COURT TRANSCRIPT
08/01/2018	COPY 1ST PG NOTICE OF MOTION 45
08/21/2018	LETTER
10/16/2018	COPY EMAIL
10/16/2018	COPY DOC
10/16/2018	LETTER
10/16/2018	LETTER
10/16/2018	UNSIGNED ORDER
10/16/2018	COPY LETTER
10/16/2018	UNSIGNED ORDER
10/16/2018	COPY LETTER
10/16/2018	NOTICE OF MOTION
10/16/2018	ATTORNEY AFFIRMATION
10/16/2018	EXHIBIT A--B
10/16/2018	EXHIBIT A
10/16/2018	AFFIDAVIT OF SERVICE
10/16/2018	AFFIRMATION IN REPLY
10/16/2018	AFFIDAVIT OF SERVICE BY MAIL
10/16/2018	AFFIRMATION IN OPPOSITION
10/16/2018	COPY DOCS
10/16/2018	PROPOSED ORDER, SCHICK, 10/2/18
11/13/2018	ORDER, SCHICK, 10/25/18

SHAWN LAW OFFICES

HENRI SHAWN
Admitted in NY, FL, DC and CO

THOMAS H. CRAGAN
Admitted in NY

TINA PERDIKOLOGOS
Admitted in NY

PAMELA E. MEYER
Legal Assistant

NEW YORK
30 North Street -- Suite 1
Monticello, NY 12701-1320

FLORIDA
8813 Creston Lane
Boynton Beach, FL 33472

(845)791-7676
FAX (845)791-4660
(fax not to be used for service of papers)
Respond to NY office

MELISSA BLANE
Admitted in FL

OF COUNSEL
DENNIS SHELDON GOLD
Admitted in Florida & New York

OF COUNSEL
JEFFREY M. VOLUCK
Admitted to Florida & Pennsylvania

February 5, 2013

Sullivan County Supreme Court Clerk's Office
Lawrence H. Cooke Courthouse
414 Broadway
Monticello, NY 12701
Attn: Sarah Katzman, Chief Court Clerk

RECEIVED
CHAMBERS OF
JUDGE McGUIRE

Via Fax Transmission: 791-6170

Re: Michael and JoAnn Dean v. Boyes
Index No. 2304-09

Dear Ms. Katzman:

John Janusas dropped off an Order to Show Cause in my office yesterday.

Judge Melkoniam was initially assigned to this case but it was recently reassigned to Judge McGuire.

Unfortunately, Judge McGuire may be conflicted out of this case by my prior correspondence to you.

The purpose of this letter is to request that my office be notified as soon as it is determined to whom this application will be assigned and so we may oppose.

Thank you.

Sincerely,

HENRI SHAWN
HS/dmb
Cc: Hon. Michael Melkonian (via fax transmission)
Hon. Michael McGuire (via fax transmission)
John Janusas, Esq. (via fax transmission)
Michael & Joann Dean

EXHIBIT
Comm
Ex XI-40a
PENGAD 800-631-6989

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

MICHAEL DEAN and JOANN DEAN,

Plaintiffs,

-against-

DECISION & ORDER

SEAN BOYES and DAWN BOYES,

Defendants.

RJI No.: 52-30113-10
Index No. 2304-2009

APPEARANCES: **Shawn Law Offices**
Attorneys for Plaintiffs
30 North Street – Suite 1
Monticello, New York 12701-1320
By: Henri Shawn, Esq.

Rourke, Fine & Janusas
Attorneys for Defendants
3 Maple Street – P.O. Box 70
Liberty, New York 12754
By: John V. Janusas, Esq.

MCGUIRE, J.:

This lengthy and contentious litigation, which was commenced by plaintiffs in June 2009, involves two parcels of real property located on Aden Road in the Town of Neversink, Sullivan County. It is undisputed that plaintiffs Michael Dean and JoAnn Dean (hereinafter collectively referred to as plaintiffs) and defendant Sean Boyes (hereinafter defendant) share an undivided one-half interest in the subject property as tenants in common.[1] The first parcel

[1] By virtue of a deed, dated July 19 1983, plaintiffs acquired a remainder undivided one-half in the subject property, while Mary Lou Boyes acquired the other remainder undivided one-half interest, with the grantors retaining a life estate. The grantors, Justus and Nellie Asthalter, were the parents of plaintiff Joann Dean and Mary Lou Boyes. In May 2002, Mary

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-40b

consists of approximately 76 acres of wooded property, fields, a sap house, and cabin. A maple syrup production business has been in operation on the first parcel for over 60 years. Defendant has exclusively managed the sap operation with his wife and children since 1995. The second parcel at issue herein is located on the opposite side of Aden Road and consists of a single-family residence situated on approximately 4.5 acres. In their complaint, plaintiffs seek, among other things, a partition of the subject property pursuant to RPAPL art 9 according to their respective rights.

In lieu of an interlocutory judgment, the parties consented to the appointment of three commissioners to determine whether a physical partition of the property could be made without great prejudice. The commissioners had this matter under consideration for over two years, during which a lengthy hearing was held. In their final report, dated July 19, 2013, the commissioners determined that the property could be partitioned without great prejudice to the owners. In this regard, the commissioners found that plaintiffs should be awarded the second parcel in its entirety, together with 34.05 acres of the first parcel. The commissioners also recommended that defendant receive a 46.11 acre segment of the first parcel, which contains the sap house and is contiguous to his residence.

It is well established that "[p]artitioning the property is the preferred method and is presumed appropriate unless one party demonstrates that actual physical division would cause great prejudice to the owners, in which case the property must be sold at public auction" (*Loughran v Cruickshank*, 8 AD3d 799, 800 [2004]). Notably, the Court may confirm or reject the commissioner's report, in whole or in part, and make new findings (*see* CPLR 4403; *Federal*

Lou Boyes transferred an undivided one-half interest of her remainder interest to her daughter, and the other undivided one-half remainder interest to her son, defendant Sean Boyes. Following Justus Ashalter's death, Mary Lou Boyes conveyed her life estate to defendant Sean Boyes; the defendant's sister also conveyed her remainder interest to him.

Deposit Ins. Corp. v 65 Lenox Rd. Owners Corp., 270 AD2d 303, 304 [2000]). Here, the Court agrees with the commissioners' conclusion that partition by actual physical division can be accomplished without great prejudice to the parties. Stated otherwise, there are few physical impediments to dividing the property.

There is little dispute that plaintiffs should be awarded the entire second parcel, which includes the residence where JoAnn Dean was raised. Although the home has been vacant since 2006, Michael Dean is of the opinion that it is "well built" (Hearing Tr., p. 175). Inasmuch as he is employed in the construction industry, plaintiffs are particularly suited to undertake the task of improving and/or updating the home to render it more marketable. To arrive at a value for the second parcel, the Court has considered the respective appraisal reports submitted by the commissioners ($110,000) and defendants ($135,000), together with plaintiffs' property analysis. Given the differing expert opinions concerning the condition of the home, the Court concludes it is most equitable to compute the mean, thereby arriving at a fair market value of $122,500 for the second parcel.

Turning to the more difficult question, the Court finds that it would be inequitable to partition the first parcel into equal segments. Indeed, the commissioners also recommended an unequal division of the first parcel in an attempt to counterbalance the value of the home situated on the second parcel. However, the commissioners did not fully consider that the highest concentration of hard maple trees, *i.e.* those capable of being tapped for sap, are located in the upper-middle region of the first parcel behind the field. A slight adjustment of the proposed boundary line demarcated by the commissioners' surveyor would allow defendant to maximize his sapping business, while also affording plaintiffs the most buildable tract of land. In conjunction with the issuance of this Decision and Order, the Court shall request that the

surveyor prepare a new subdivision map to more accurately reflect the above modification. For the sake of clarity, the Court's determination with regard to the first parcel is outlined on a revised subdivision map (annexed hereto as *Court Exhibit A*).

As to the value of the first parcel, the appraisals offered vary widely. The commissioners' appraiser determined that it has a fair market value of $480,000, whereas defendant's appraiser reported it was worth $210,000. In the Court's view, $4,000 per acre or $320,120 is a more fair and realistic value for the largely unimproved parcel. Following receipt of the new subdivision map, the Court shall order a monetary award to equalize the divergence, if any, in the value of the divided parcels (*see* RPAPL 943; *Vlcek v Vlcek*, 42 AD2d 308, 310 [1973]).

It is therefore

ORDERED, that actual partition be made between the parties according to their respective interests in the property as outlined above.

This shall constitute the decision and order of this Court. All papers, including the original copy of this Decision and Order, are being forwarded to the Chief Clerk of the Sullivan County Supreme Court for filing. Counsel are not relieved from the provisions of CPLR 2220 regarding service with notice of entry.

Dated: Monticello, New York
April 24, 2014

ENTER

Hon. Michael F. McGuire, A.J.S.C.

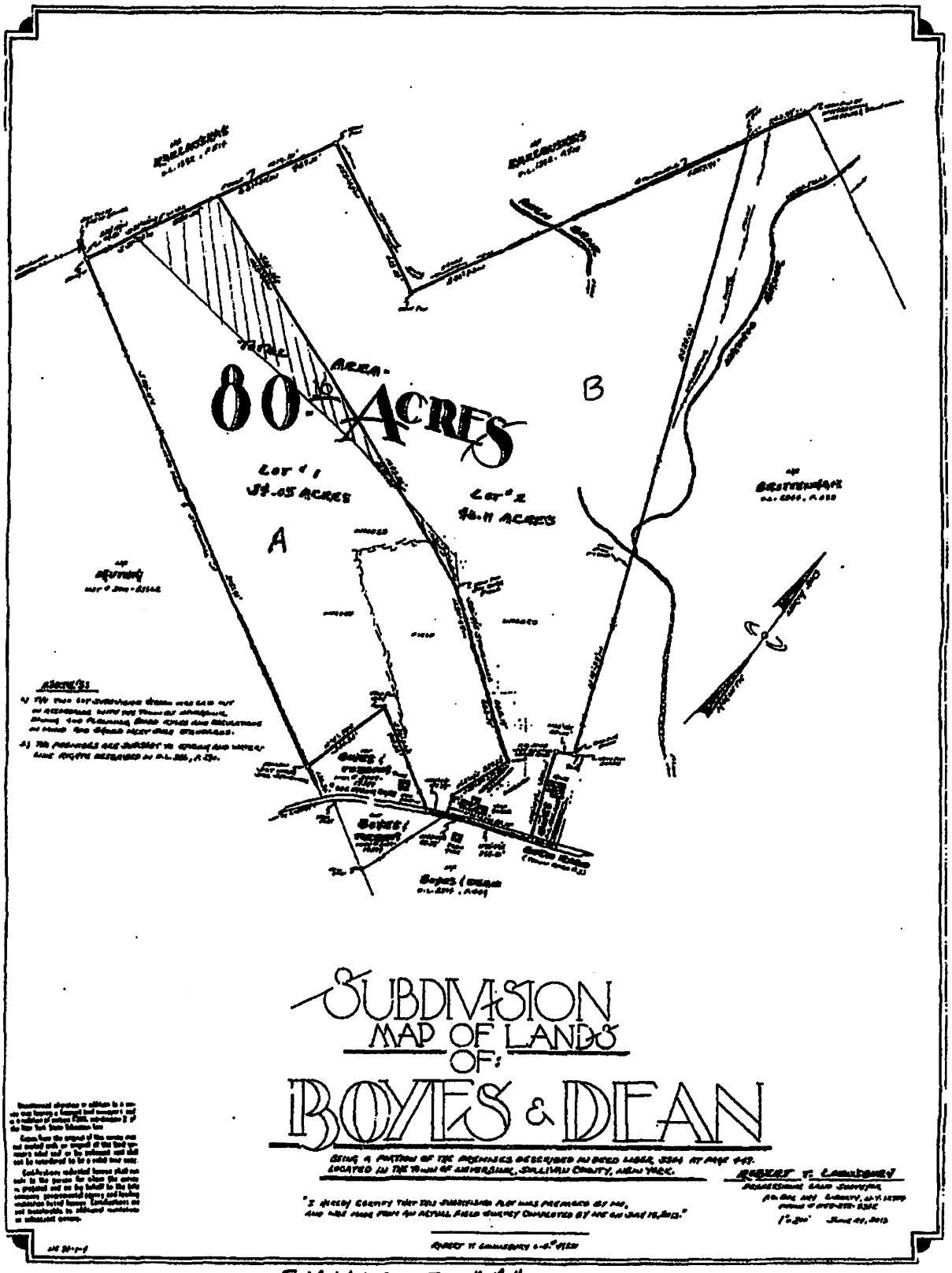


EXHIBIT "A"

FILED IN SULLIVAN COUNTY CLERKS OFFICE 5/22/2014

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-40C

Copy Been entered in computer

MICHAEL F. MCGUIRE
Acting Supreme Court Justice
Sullivan County Government Center
100 North Street
Monticello, NY 12701
(845) 807-0655 / (845) 791-6252 fax

Principal Law Clerk
Mary Grace Conneely, Esq.

Confidential Secretary
Wendy Weiner

February 14, 2013

SERVED ONLY BY FAX

Henri Shawn, Esq.
Shawn Law Offices
Via Fax: (845) 791-4660

John V. Janusas, Esq.
Rourke Fine & Janusas
Via Fax: (845) 292-0385

Re: Dean v. Boyes
Index No.: 2304-2009
RJI No.: 52-30113-2010

Dear Counsel:

This letter is to confirm that the conference time in the above matter has been changed to **1:30 p.m.** The conference will still be held on **Thursday, February 21, 2013** in front of Mary Grace Conneely, Principal Law Clerk at 100 North Street, Monticello, New York.

2013 FEB 14 AM 11:29

Kindly mark your records accordingly.

Very truly yours,

Wendy A. Weiner

Wendy Weiner
Confidential Secretary
wweiner@[redacted]

cc: **Sarah Katzman, Chief Clerk**
Via Fax: (845) 794-6170

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: NOTICE OF MOTION
DATE: 11/13/2014
CASE# 2009-2304

Clerk in Office Daniel L. Briggs

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 03/21/2019

Daniel L. Briggs By: DC

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-41

$45

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

MICHAEL DEAN AND JOANN DEAN,

Plaintiffs,

-against-

SEAN BOYES and DAWN BOYES,

Defendants.

----------X

NOTICE OF MOTION

Index No. 2304-09

RECEIVED
2014 AUG 22 PM 4:43

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Plaintiff Michael Dean sworn to August 21, 2014 and the Affirmation of Henri Shawn, Esq., and the attached exhibits, and upon all of the Pleadings and Proceedings heretofore had herein, the undersigned on behalf of the Plaintiffs will move this Court at Special Term of the Supreme Court on Thursday the 18th day of September, 2014 at 9:30am or as soon thereafter as Counsel can be hear for an order(s) pursuant to CPLR Rule 2221:

1. Granting leave to reargue the Decision and Order of the Court dated April 24, 2014;
2. Granting leave to renew the arguments on the Decision and Order of the Court dated April 24, 2014;
3. Vacating the prior Decision and Order of the Court dated April 24, 2014: and

For an order;

4. Either disqualifying the Hon. Michael F. McGuire, A.S.C.J. pursuant to Judiciary Law Section 14 or recusing the Hon. Michael F. McGuire, A.S.C. J. from this case based upon the appearance of impropriety;
5. Scheduling a hearing on the issues raised in this motion; and
5. For such other and further relief as to the court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b), all papers and affidavits, if any, to be submitted in opposition to this Motion, are required to be served upon the undersigned at least seven (7) days prior to the return date hereof.

DATED: Monticello, New York
August 22, 2014

Yours, etc.

HENRI SHAWN, ESQ.
Shawn Law Offices
Attorneys for Plaintiffs
30 North Street- Suite 1
Monticello, New York 12701
(845) 791-7676

TO: John V. Janusas
ROURKE, FINE & JANUSAS
Attorneys for Defendants
Three Maple Street- P.O. Box 71
Liberty, New York 12754

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: AFFIRM IN SUPPORT
DATE: 11/13/2014
CASE# 2009-2304

Clerk in Office Daniel L. Briggs

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 03/21/2019

Daniel L. Briggs By:

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-42

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

MICHAEL DEAN AND JOANN DEAN,

Plaintiff,

-against-

SEAN BOYES and DAWN BOYES,

Defendant.

----------X

AFFIRMATION IN SUPPORT OF MOTION

Index No. 2304-09

HENRI SHAWN, an attorney duly admitted to practice law in the state of New York, affirms the following under the penalty of perjury:

1. I am a member of the firm Shawn Law Offices, attorneys for plaintiffs herein, and as such I am fully familiar with the facts and circumstances regarding this action based on a review of the file and the materials contained therein.

2. This affirmation is submitted in support of a motion for an Order (1) granting leave to reargue the Decision and Order of the Court dated April 24, 2014; (2) granting leave to renew the arguments on the Decision and Order of the Court dated April 24, 2014; (3) vacating the prior Order of the Court dated April 24, 2014; and for an order (4) either disqualifying the Hon. Michael F. McGuire, A.S.C.J. pursuant to Judiciary Law Section 14 or recusing the Hon. Michael F. McGuire, A.S.C.J. from this case based upon the appearance of impropriety; and (5) for such other and further relief as to the court may deem just and proper .

3. This action was commenced by the plaintiffs against defendants, SEAN BOYES and DAWN BOYES, by service of a Summons and Complaint dated June 10, 2009 seeking, inter alia, a judgment for partition.

4. The April 24, 2014 decision and order sought to be vacated by this application partitioned

the property inequitably.

5. Attached to this motion is an affidavit from Plaintiff Michael Dean setting forth the facts which form the basis for this motion.

6. A motion to reargue and a motion to renew may be combined in one motion. CPLR Rule 2221(f).

7. A motion to reargue shall be identified specifically as such; shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the proper motion, but shall not include any matters of fact not offered on the prior motion; and shall be made within thirty days after service of a copy of the order determining the prior motion and written notice of its entry. CPLR Rule 2221(d).

8. The instant motion is timely. The April 24, 2014 order sought to be vacated under the motion to reargue and motion to renew prongs of this application was filed in the Sullivan County Clerk's Office on May 22, 2014 with written notice of entry provided on July 24, 2014.

8. A motion to renew shall be identified specifically as such; shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination; and shall contain reasonable justification for the failure to present such facts on the prior motion. CPLR Rule 2221(e).

9. The disqualification prong of the motion is based upon Judiciary Law Section 14, which states in relevant part, "A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel...". Judiciary Law Section 14.

10. The recusal prong of the motion is based upon the appearance of impropriety of the judge

and his law clerk in regard to certain legal representation and associations with one of the Defendants.

12. The court prematurely and unilaterally made a ruling on the commissioner's report without a motion or other input from the parties. The court should not have rendered the Decision and Order dated April 24, 2014, as there was no motion from either party to modify or reject the commissioners' report.

Dated: August 22, 2014
Monticello, New York

HENRI SHAWN, ESQ.

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: AFFID IN SUPPORT
DATE: 11/13/2014
CASE# 2009-2304

Clerk in Office Daniel L. Briggs

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 03/21/2019

Daniel L. Briggs By: DC

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-43

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

----------X

MICHAEL DEAN AND JOANN DEAN,

Plaintiff,

-against-

SEAN BOYES and DAWN BOYES,

Defendant.

----------X

AFFIDAVIT IN SUPPORT OF MOTION

Index No. 2304-09

STATE OF NEW YORK)
)ss.:
COUNTY OF SULLIVAN)

Michael Dean, being duly sworn, deposes and says:

1. I am a Plaintiff in the above-captioned matter and I make this affidavit in support of this motion for an Order (1) granting leave to reargue the Order of the Court dated April 24, 2014; (2) granting leave to renew the arguments on the Order of the Court dated April 24, 2014; (3) vacating the prior Order of the Court dated April 24, 2014: and for an order (4) either disqualifying the Hon. Michael F. McGuire, A.S.C.J. pursuant to Judiciary Law Section 14 or recusing the Hon. Michael F. McGuire, A.S.C.J. from this case based upon the appearance of impropriety; in the alternative, (5) a hearing on the issues raised in this motion; and (6) for such other and further relief as to the court may deem just and proper.

2. I have reviewed the court's decision and order dated April 24, 2014 and specifically ask to be heard with respect to the legal procedures and facts of the case which were overlooked and/or misapprehended that led to a an inequitable division of the subject real property.

PRELIMINARY FACTS

3. As the court is aware, the Plaintiffs made an application early in this case for a

temporary restraining order that was substantially granted by the Hon. Burton Ledina over the objection of the Defendants limiting the subject property to certain uses by the Defendants.

4. At or about this time, the Hon. Burton Ledina granted Defendants' application for the appointment of three commissioners to determine whether the subject property could be partitioned. If the property could be partitioned, then the commissioners were to achieve a just division of the property.

5. The matter was transferred to the Hon. Michael Melkonian upon Judge Ledina's retirement.

6. The parties appeared before Judge Melkonian on the issue of the Plaintiffs' application for the temporary restraining order to be converted to a preliminary injunction. After hours of deliberations before the judge, the preliminary injunction was consented to by the parties and placed on the record "So Ordered" by Judge Melkonian.

7. The following year, the Defendants attempted to subvert Judge Melkonian's preliminary injunction order by having the Hon. Frank J. Labuda (a judge not assigned to this matter) sign an Order to Show Cause ex parte reversing the preliminary injunction without a hearing or any proper notice to Plaintiffs.

8. The Plaintiffs were compelled to notify Judge Melkonian of the situation and the Order to Show Cause was reversed and the preliminary injunction reinstated.

9. The three commissioners held a hearing on the issue of whether the property could be partitioned.

10. Subsequently, this matter was transferred to the Hon. Michael F. McGuire.

Immediately upon learning of this assignment, Plaintiffs had their attorneys contact the court clerk's office to notify them that the matter should be assigned to another judge as Judge McGuire represented the Defendant Sean Boyes on a deed transfer with respect to this property that eventually led to Defendant Boyes' acquisition of a one-half undivided interest in the subject property.

11. Thereafter, Plaintiffs realized that Judge McGuire's law clerk is Ms. Mary Grace Conneely, an individual known to the Plaintiffs as someone who employs Defendant Sean Boyes to perform various contracting work on her home. In fact, Plaintiffs saw Defendant Sean Boyes' vehicle in Ms. Conneely's driveway after learning of Judge McGuire's assignment of the case, but shortly before the Defendants filed another application to reverse or modify the preliminary injunction previously consented to by the Defendants-the same preliminary injunction that was placed on the record before Judge Melkonian, which was to survive through the end of this case.

12. Judge McGuire held oral argument on the Defendants' application to reverse or modify the preliminary injunction. The oral argument began with Judge McGuire acknowledging that he assisted Defendant Sean Boyes but only met him the one time for a very brief moment and performed nothing more than a ministerial act. He also stated that Ms. Conneely had used Defendant Sean Boyes for work at her home but that such a relationship would not interfere with his own ability to be impartial and, therefore, was not grounds for recusal.

13. At the conclusion of oral argument the judge encouraged the filing of further papers in support of the parties respective positions. After deliberation on the papers, the court lifted the preliminary injunction citing, in effect, that the record was unclear that the parties

understood that the case would continue for so long and that the preliminary injunction would, consequently, last so long.

14. The court set forth a discovery schedule which the parties completed, including depositions and paper discovery.

15. The court further directed the parties to meet to resolve the matter of the partition. The parties met at the county courthouse. After several hours of negotiations, the judge placed on the record the issues that confronted the parties at the time.

FACTS RELATED TO THE MOTION TO REARGUE

16. The preliminary facts above are hereby incorporated as if fully set forth herein.

17. The transcript of the conference held on May 29, 2013 is attached hereto as Exhibit "1". The transcript contains several factual points which were eventually overlooked or misapprehended by the court when it eventually drew its conclusions to reject the commissioner's report and use Defendant Sean Boyes' appraiser's report to arrive at a division of the subject property.

18. At the conference, it was understood that the commissioners "still need(ed) to get an appraisal done." (page 4, line 17 of exhibit "1").

19. At the conference, it was decided that certain appraisers would not be used because of their relationships with the parties. One of these appraisers was Brian Amiel. In fact, the court specifically stated on the record "He's got a good reputation as an appraiser, but you used him already, so it doesn't make any sense to use him again. ... It wouldn't make any sense to use him." (page 8, line 6 of exhibit "1"). Mr. Amiel was the appraiser used by the Defendants.

20. At the conference, the court further gave the parties three options with respect to the

appraisers for this matter. "Your option is to spend more money and average the two, or do three, or agree on one." (page 8, line 16 of exhibit "1").

21. The court explained the dilemma of using two because "(I)f you do two, you really need to do three, because you need to see if one of them is totally out of whack." (page 10, line 3 of exhibit "1")

22. The court further explained the dilemma of using three because "We are going to listen to three experts potentially, and the greatest weight is going to be given to the independent person who wasn't spoken to by anybody." (page 12, line 11 of exhibit "1"). The court was also cognizant of the costs building up in this case.

23. The court's other option that was to have one appraiser selected by the commissioners. This option had the fewest inherent risks, but risks the parties were willing to take. This was the option consented to by the parties. The court specifically stated on the record "Nobody is going to get one. The commissioners are going to get one. (page 14, line 7 of exhibit "1").

24. After the conference, the commissioners selected Mr.Sean Rieber, of Rieber Appraisal & Consulting Group, to appraise the subject property.

25. Appraiser Rieber determined that the value of the approximate acreage was $6,000.00, which relied on the fact that this represents the amount the City of New York is willing to purchase for property near the reservoir, particularly one that has a waterfall and stream running through the property. (This also represents the value I was willing to purchase it for more than four years ago.) Also, to correct the court's previous statements, both properties are improved. A large saphouse is on the larger parcel and a home is situated on the smaller parcel.

26. The three commissioners, comprised of two attorneys well versed in real estate law, and the third one of the most knowledgeable and respected realtors in the county, arrived at a determination based upon the appraisal selected pursuant to the rules set forth by the court.

27. The court unilaterally and without comment rejected the commissioners' report and decided to average Mr. Amiel's report with Mr. Rieber's and the Plantiffs' property analysis.

ARGUMENT ON MOTION TO REARGUE

28. In order to reject a report, the court would have needed one of the parties to file a motion or object to the report. The court never had such a motion or objection before it. Additionally, the hearing before the commissioners was not to determine the value of the property. It was to provide the commissioners with information by which to consider whether the property could be divided. Mr. Amiel's report and the Plaintiffs' property ansalysis was not to be used to determine a precise value of the property. The court on its own, and after its own admonishment to the parties on the May 29, 2013 court conference, went ahead and decided to use more than one appraiser, and did so unilaterally and without the knowledge of the parties.

29. This poses a few problems necessitating the vacatur of the order dated April 24, 2014.

30. The first problem is that the court's unilateral decision to use two appraisers, plus a property analysis was done without explanation as to why the court felt that the appraisal by Mr. Rieber was wrong. The first appraisal was also done approximately two years apart from the second appraisal.

31. The second problem is that the court decided to use the appraiser of Defendants

without giving the Plaintiffs an opportunity to select an appraiser of their own choosing for the court to consider.

32. The third problem is that there was never a hearing conducted to examine any of the facts to determine if the commissioners' report should be accepted or rejected, in whole or in part.

33. The fourth problem is that there was never a hearing conducted to determine the validity of Mr. Rieber's independent appraisal, particularly since neither party ever filed a motion or made an objection to its findings as to the value of the subject parcels.

34. The fifth problem is that there was never a hearing to permit Plaintiffs the opportunity to cross-examine Defendants' appraiser or to counter with an expert of their own.

35. All of the above issues were raised by the court during the May 29, 2013 conference and the reason one appraiser was selected by the parties was specifically to safeguard against this very occurrence.

36. There are numerous issues with Mr. Amiel's report that requires the court to reject it. Mr. Amiel's report did not take into consideration numerous issues related to the value of the property, such as the road frontage, timber value, the waterfalls and the value of the saphouse.

37. Another separate issue is that one cannot partition the property based upon purely taking the overall value of the larger parcel, then subtracting the value of the smaller parcel, then dividing the parcel accordingly. The property is unique. If Defendants obtain that portion of the parcel under the current order, then they are taking much more road frontage, increased timber, and the waterfalls, all of which add value to their projected parcels and decrease the value of Plaintiffs' projected parcels.

38. Another huge issue is the fact that not only do the waterfalls have an inherent value not considered by appraiser Amiel, but he did not include the fact that New York City is placing a $6,000.00 minimum price tag on properties near or in the reservoir/watershed area as the city seeks to protect its holdings. This has been common knowledge among those of us who sit on the planning board and who are involved with the values of properties in the Neversink community. Furthermore, I have been advised and I truly believe that this knowledge is the type of knowledge of which Courts may take judicial notice in addition to the fact that Appraiser Rieber pointed that fact out in his appraisal.

39. As part of the motion to reargue, I incorporate all of the previous facts herein mentioned, particularly the judge's previous involvement in representing the Defendant Sean Boyes on the deed transfer that led to his acquisition of an interest in the property, and reassert my request that the court must disqualify itself from this matter.

FACTS RELATED TO THE MOTION TO RENEW

40. The preliminary facts and the facts related to the above motion to reargue are hereby incorporated as if fully set forth herein.

41. While the commissioners' report was furnished to the court but before the court issued its order dated April 24, 2014 , Plaintiff Mike Dean witnessed Defendant Sean Boyes' vehicle parked in the driveway of Judge McGuire's law clerk Ms. Mary Grace Conneely. Photographs were taken and copies are attached hereto as Exhibit "2".

ARGUMENT RELATED TO THE MOTION TO RENEW

42. It is evident that the court's decision to reject the commissioners' decision without scheduling a hearing, and without any objections having been filed by parties as to the appraiser's report being incorrect in any way, and by the court's specific selection of using

the Defendants' appraiser's report as a way to benefit the ultimate outcome of the partition in favor of the Defendants, together with the fact that the judge had represented Defendant Sean Boyes on a deed transfer that resulted in his acquisition of an interest in this very property, all leads one to draw the conclusion that in the least there is an appearance of impropriety sufficient to require the court to recuse itself from this case.

Wherefore, Plaintiffs respectfully request an Order of the court (1) granting leave to reargue the Order of the Court dated April 24, 2014; (2) granting leave to renew the arguments on the Order of the Court dated April 24, 2014; (3) vacating the prior Order of the Court dated April 24, 2014: and for an order (4) either disqualifying the Hon. Michael F. McGuire, A.S.C.J. pursuant to Judiciary Law Section 14 or recusing the Hon. Michael F. McGuire, A.S.C. J. from this case based upon the appearance of impropriety; in the alternative, (5) a hearing on the issues raised in this motion; and (6) for such other and further relief as to the court may deem just and proper.

THE BALANCE OF THIS PAGE IS LEFT BLANK INTENTIONALLY

August 21. 2014

Michael Dean

MICHAEL DEAN

Sworn to before me this 21st
day of August, 2014

NOTARY PUBLIC

AHREN G. WOLSON
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WO6264924
Qualified in Clinton County
My Commission Expires 7/22/2016

STATE OF NEW YORK)
SULLIVAN COUNTY CLERK'S OFFICE) ss:

I, Daniel L. Briggs, County Clerk in and for said County, do hereby certify that I have compared the foregoing copy of a

DESCRIPTION: DECISION & ORDER 10/23/14 MCGUIRE
DATE: 11/13/2014
CASE# 2009-2304

Clerk in Office Daniel L. Briggs

with the original now remaining on file in this office and that the same is a correct transcript therefrom and of the whole of said original.

In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated: 03/21/2019

Daniel L. Briggs By: DC

Daniel L. Briggs
Sullivan County Clerk

PENGAD 800-631-6989
EXHIBIT
comm
Ex XI-44

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SULLIVAN

MICHAEL DEAN and JOANN DEAN,

Plaintiffs,

- against -

SEAN BOYES and DAWN BOYES,
Defendants.

Decision & Order

Motion Return Date: September 24, 2014
Index No.: 2304-2009
RJI No.: 52-30113

Appearances: **Shawn Law Offices**
Attorneys for Plaintiffs
North Street Professional Building
30 North Street, Suite 1
Monticello, New York 12701
By: Henri Shawn, Esq.

Rourke Fine & Janusas, Esqs.
Attorneys for Defendants
3 Maple Street
Liberty, New York 12754
By: John V. Janusas, Esq.

MCGUIRE, J., Acting J.S.C.:

Plaintiffs, in this partition action, seek leave to reargue and renew this Court's decision and order of April 24, 2014, pursuant to CPLR 2221. Plaintiffs also seek an order of this Court vacating the decision and order of this Court dated April 24, 2014, and for an order disqualifying the Hon. Michael F. McGuire, Acting J.S.C. pursuant to Judiciary Law § 14 or recusing the Hon. Michael F. McGuire from this case based upon the appearance of impropriety; and scheduling a hearing on the issues raised in this motion.

Defendants oppose the motion.

A motion for leave to reargue, pursuant to CPLR 2221 (d), "shall be based upon matters of fact or law allegedly overlooked or misapprehended by the court in determining the prior motion." A motion to reargue is based on no new proof but rather seeks to convince the court that it was wrong and ought to change its mind. A motion to reargue's "purpose is not to serve as a vehicle to permit the unsuccessful party to argue once again the very question previously

decided" (*Foley v Roche*, 68 AD2d 558, 567 [1979]). It is also not an opportunity for an unsuccessful party to present arguments not originally presented (*see Amato v Lord & Taylor, Inc.*, 10 AD3d 374 [2004]). A motion for leave to renew, pursuant to CPLR 2221 (e), "shall be based upon new facts not offered on the prior motion that would change the prior determination or shall demonstrate that there has been a change in the law that would change the prior determination" and it "shall contain reasonable justification for the failure for the failure to present to present such facts on the prior motion." The granting of a motion for leave to renew is "granted sparingly, and only in cases where there exists a valid excuse for failing to submit additional facts on the original application" (*Matter of Beiny*, 132 Ad2d 190, 210 [1987]). A motion for leave to renew is not a second chance freely given to parties who have not exercised due diligence in making their first factual presentation (*see e.g. Renna v Gullo*, 19 AD3d 472 [2005]). CPLR 2221 requires that a "combined motion for leave to reargue and leave to renew shall identify separately and support separately each item of relief sought". The court, in determining a combined motion, shall decide each part of the motion as if it were separately made.

Prefatorily, the Court observes that it is the responsibility of the movants to assemble complete papers which document the procedural history of the application and provide a proper foundation for the relief requested (*see* Connors, Practice Commentaries, McKinney's Cons Laws of NY, Book 7B, C2221:7 at 284 [2010 ed]). Notwithstanding the moving parties failure to annex the requisite papers to the instant motion, the Court nevertheless will entertain the motion and adheres to the prior decision and order dated April 24, 2014 for the following reasons.

Discussion

The instant litigation involves two parcels of real property located in the Town of Neversink, Sullivan County, New York. Plaintiffs and defendant Sean Boyes share an undivided one-half interest in the subject property as tenants in common. The first parcel consists of approximately 76 acres of wooded property, fields, a sap house and cabin. The second parcel at issue herein is located on the opposite side of the road and consists of a single family residence situated on approximately 4.5 acres.

By way of background, in lieu of an interlocutory judgment, the parties consented to the appointment of three commissioners to determine whether a physical partition of the property could be made without great prejudice. The commissioners had this matter under consideration for over two years, during which a lengthy hearing was held. In their final report,

dated July 19, 2013, the commissioners determined that the property could be partitioned without great prejudice to the owners. In this regard, the commissioners found that plaintiffs should be awarded the second parcel in its entirety, together with 34.05 acres of the first parcel, and that defendant receive a 46.11 acre segment of the first parcel, which contains the sap house and is contiguous to his residence.

Succinctly stated, the thrust of plaintiffs' argument on the instant motion is that the subject real property was inequitably partitioned, with defendants receiving an unjust larger division of the land. Plaintiffs argue further that upon learning of the reassignment of the instant action to the Hon. Michael F. McGuire[1] they asked their counsel to have the matter reassigned to another judge as Judge McGuire allegedly represented Sean Boyes, one of the defendants herein, on a deed transfer with respect to property that eventually led to his acquisition of a one-half undivided interest in the subject real property. Plaintiffs also claim that thereafter they realized that Judge McGuire's law clerk had employed Sean Boyes (Boyes & Torrens) to perform various contracting work on her home[2].

At some point shortly after the reassignment of this matter to this Court, defendants moved to reverse or modify an existing preliminary injunction. At oral argument held on this issue, Judge McGuire informed the parties that he had prepared a deed and the attendant documents – a purely ministerial function – for defendant Boyes' mother, not the defendant. Judge McGuire also informed the parties that his law clerk (and her husband) had employed the contracting company of Boyes & Torrens, of which defendant Boyes is a partner, to work at the Conneely home. At no point did either of the parties move to have this Court recuse itself from presiding over the instant litigation.

At the conclusion of the oral argument and after deliberation on the papers, the Court lifted the preliminary injunction stating that it was unclear from the record that the parties

---

[1]The matter had initially been assigned to the Hon. Burton Ledina, AJSC and upon his retirement had been reassigned to the Hon. Michael Melkonian, and subsequently to the Hon. Michael F. McGuire..

[2]Plaintiffs have annexed to their motion papers several photographs of what allegedly depicts defendant Boyes's truck parked in the Conneelys' driveway. However, the Court finds such photograph without any probative value inasmuch as the plaintiffs were made aware approximately one year prior to the issuance of the April 24, 2014 decision that defendant Boyes had been employed by the Conneelys to do contracting work in the latters' home . In any event, there is nothing to indicate whose truck is parked in the driveway or when the photographs were taken.

understood that the litigation would continue for such a period of time with the preliminary injunction in place.

Motion to Reargue

In their motion for leave to reargue, the plaintiffs have failed to demonstrate that this Court overlooked or misapprehended any matters of fact or law in reaching its decision.

Plaintiffs attach to their papers as Exhibit "1", a transcript of a conference held on May 29, 2013 which they claim contains several factual points which were eventually overlooked or misapprehended by the Court when it concluded to reject the commissioner's report and use defendant Boyes' appraiser's report to arrive at a division of the subject property. Contrary to plaintiff's misguided representations, the Court, in arriving at a value for the second parcel of land, did, in fact, consider the respective appraisal reports submitted by the commissioners ($110,000) and defendants ($135,000), together with plaintiffs' property analysis. Clearly, the Court stated in its decision and order that "[g]iven the differing expert opinions concerning the condition of the home, the Court concludes it is most equitable to compute the mean, thereby arriving at a fair market value of $122,500 for the second parcel" (McGuire, J., AJSC, Decision and Order, at 3). "As to the value of the first parcel, the appraisals offered varied widely. The commissioners' appraiser determined that it has a fair market value of $480,000, whereas defendant's appraiser reported it was worth $210,000. In the Court's view, $4,000 per acre or $320,120 is a more fair and realistic value for the largely unimproved parcel" (*id.* at 4).

Plaintiffs argue that the Court was remiss in valuing the real property without considering the unique features of the larger parcel, such as increased timber and waterfalls which add value to the defendants' projected partitioned parcel. But even the commissioners in their report recommended an unequal division of the first parcel in an attempt to counterbalance the value of the home situated on the second parcel.

In addition, without citing any decisional or statutory law to support their argument, plaintiffs claim that the Court could not, sua sponte, reject the commissioners' report without a hearing, particularly as neither of the parties filed a motion or objected to their findings as to the value of the subject parcels. However, it is well settled that the Court may confirm or reject the commissioners' report, in whole or in part, and may make new findings (*see* CPLR 4403; *Federal Deposit Ins. Corp. v 65 Lenox Rd. Owners Corp.*, 270 AD2d 303, 304 [2000]).

Motion to Renew

As a basis for plaintiffs' application for leave to renew, they argue that prior to the Court issuing its April 24, 2014 decision and order, one of the plaintiffs witnessed defendant Boyes'

vehicle parked in the Conneelys' driveway Plaintiffs' Exh. "2"). They also reiterate, albeit incorrectly, that Judge McGuire had represented Sean Boyes on a deed transfer that resulted in his acquisition of an interest in the subject property, all of which leads one to conclude that at the very least there is an appearance of impropriety sufficient to require the Court to recuse itself from this case.

Here, the allegedly "new" evidence submitted by plaintiffs is the photograph of a vehicle parked in a driveway. It is undisputed that at oral argument held by this Court on May 29, 2013, on defendants' application to reverse or modify an existing preliminary injunction, Judge McGuire informed the parties that he had prepared a deed and documents for defendant Boyes' mother, not the defendant himself. The parties were also informed that Sean Boyes, as part of Boyes & Torrens, had been employed by the Judge's law clerk and her husband, to perform work at the Conneely home. Judge McGuire made it quite clear to the parties that neither of these facts would impact his ability to render an impartial decision and there was no basis for recusal. Thus, the Court made full disclosure of these issues almost a year prior to rendering the April 24, 2014 decision and order. None of these facts are, therefore, "new", nor have the plaintiffs provided a justifiable excuse as to why they did not object to the Court presiding over this matter at that time.

Significantly, while there is no date stamp on the photograph annexed to plaintiffs' moving papers which purports to show defendant Boyes' truck in the Conneelys driveway **before** the April 24, 2014 decision and order was rendered, it was, in fact, taken well after the April 24, 2014 date. According to Ms. Conneely, she and her husband had landscaping done at their home sometime in early June 2014 which is evident in the photographs.

Furthermore,

Judiciary Law § 14 states, in pertinent part, that:

> "A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree..."

As is indicated above, at no point had Judge McGuire represented Sean Boyes.

In conclusions, motions of this nature are not to be used as mechanisms by which parties can relitigate contentions and waste the Court's resources by hearing arguments already considered and decided. Here, the Court has neither overlooked or misapprehended the relevant facts or misapplied any law. The Court also finds that plaintiffs failed to raise any new

evidence or provide an excuse as to why certain arguments raised herein were not raised prior to the rendering of the April 24, 2014 decision and order. Nor does the Court find any basis upon which to vacate such decision and order and recusing itself from presiding over this litigation.

Accordingly, plaintiffs' motion is denied in its entirety.

This shall constitute the Decision and Order of this Court. All papers, including the original copy of this decision and order, are being forwarded to the Office of the Sullivan County Clerk for filing. Counsel are not relieved from the provisions of CPLR 2220 regarding service with notice of entry.

Dated: Monticello, New York
October 23, 2014

ENTER

HON, MICHAEL F. MCGUIRE, AJSC

Papers considered:

Notice of motion and affirmation of Henri Shawn, Esq., dated August 22, 2014, affidavit of Michael Dean, dated August 21, 2014, with exhibits annexed; opposing affirmation of John V. Janusas, Esq., dated September 15, 2014.

State of New York
Supreme and County Courts
Lawrence H. Cooke Sullivan County
Courthouse
414 Broadway
Monticello, New York 12701
Telephone #:845-791-3540
Fax #:845-476-3653
sullivansupremeandcounty@nycourts.gov

SARAH KATZMAN
Chief Clerk

ANNE SCHELHORN
Deputy Chief Clerk

CERTIFICATION

TO: NYS COMMISSION ON JUDICIAL CONDUCT

FROM: SUPREME & COUNTY COURT CLERK'S OFFICE

DATE: March 25, 2019

SUBJECT: DEAN VS. BOYES
INDEX #: 2304-2009

This is to certify that this is an original transcript received from Barbara VanBlarcum as requested by the Office of Court Administration, Elizabeth A. Hooks.
Electronic copy is filed with Sullivan County Clerk's Office.

Sarah Katzman
Sarah Katzman-Chief Clerk
Supreme & County Court Clerk Office

No fee - Official Use

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-45

STATE OF NEW YORK

SUPREME COURT : COUNTY OF SULLIVAN

MICHAEL DEAN and JOANN DEAN,

Plaintiffs,

-against- Index No. 2304-2009

SEAN BOYES and DAWN BOYES,

Defendants.

ORDER TO SHOW CAUSE CONFERENCE

HELD AT: Lawrence H. Cooke
Sullivan County Courthouse
414 Broadway
Monticello, New York 12701
February 13, 2013

HELD BEFORE: HON. MICHAEL F. MC GUIRE

APPEARANCES: SHAWN LAW OFFICES
Attorneys for Plaintiffs
30 North Street
Monticello, New York 12701
BY: THOMAS CRAGAN, ESQ.,
of Counsel

JOHN V. JANUSAS, ESQS
Attorney for Defendants
184 North Main Street
Liberty, New York 12754

RECEIVED
OFFICE OF COURT CLERK
2019 MAR 25 AM 11:58

BARBARA VAN BLARCUM
Official Reporter
Sullivan County Courthouse
Monticello, NY 12701
845-791-3576

1 THE COURT: Mr. Cragan, how are you. Mr.
2 Janusas, how are you.
3 MR. JANUSAS: Very good, Judge.
4 THE COURT: We are here on an order to
5 show cause in the matter of Deans v. Boyes, and I
6 note for the record the appearance of Mr. Cragan,
7 who represents Mr. and Mrs. Dean; and Mr. Janusas,
8 who represents Mr. and Mrs. Boyes.
9 Let me clear a couple of things up just at
10 the start here. There was an application, a letter
11 that was sent by Mr. Shawn asking the Court to
12 consider recusing themselves on this matter because
13 there had been a prior relationship with Mr. Boyes.
14 I searched the records of my firm and learned that
15 I had been involved in a real estate transaction
16 representing Mr. Boyes' mother, not Mr. Boyes. It
17 was a unique real estate transaction in that they
18 came to the office, and it was a conveyance of her
19 to her and him. They came to the office, they said
20 what they wanted to do, and came back a couple
21 hours later, a deed was prepared, a TP and an RP
22 were prepared, and that was the extent of the
23 relationship that went on. There were no
24 discussions beyond that, and I don't see where that
25 causes the Court to be disqualified at all. As I

1 understand, it was more of an estate planning issue
2 for Mr. Boyes' mom, that she wanted to have someone
3 else's name on the deed to her home. It certainly
4 wasn't adversarial. She provided me with the old
5 deed and tax bill, and I prepared a deed, and they
6 went and filed it. I don't see an issue there.
7 There is also an issue potentially, but I
8 want to get the record out so we can be completely
9 up front, that Mr. Boyes, I guess he has a
10 construction company and he has done some work for
11 my law clerk in her home. We, again, don't see
12 that as -- we live in a small community where those
13 things happen. She paid him what he was asking
14 for. There was no issue with us having the case.
15 This is work that was done more than a year ago.
16 Ms. Conneely doesn't recall the exact dates, but I
17 imagine a bid or estimate was given, the work was
18 done. It took longer than she expected, which
19 anyone who has done construction in their homes
20 knows that does happen, and presumptively the
21 construction company was paid what they were asked.
22 There was certainly nothing untoward in that
23 relationship, because we obviously at that time
24 weren't even handling Supreme Court matters. And
25 this matter was filed in 2009, so at that time it

1 was in front of either Judge Ledina or Judge
2 Melkonian, and the work was done in 2011, maybe
3 2012, and Judge Melkonian had it at that time.
4 Those are the two issues I'll put on the
5 record. If somebody feels very strongly the Court
6 should reconsider our position on that, we can deal
7 with that, but I want to get on to the matters at
8 hand. If anyone needs to make a record, make a
9 record now.
10 MR. JANUSAS: No, thank you, your Honor.
11 MR. CRAGAN: No, with respect to those two
12 issues.
13 THE COURT: Okay. I received an order to
14 show cause from Mr. Janusas on last Friday,
15 February the 7th, and in that he asks for relief.
16 He says he wants relief from a TRO. It's actually
17 a preliminary injunction, because a TRO was
18 replaced by a preliminary injunction entered into
19 by stipulation between the parties on May the 4th,
20 2012. I had the opportunity to go back to
21 subsequently sign the order to show cause, which
22 provided for no temporary relief, other than the
23 appearance here today. My understanding is that an
24 unsigned copy was provided to the Mr. Shawn's law
25 office, which is appropriate, but not required,

1 where there is no temporary relief, but certainly
2 where litigation is ongoing for a couple years, it
3 certainly is appropriate. I received a letter from
4 Mr. Shawn, I believe on Monday, and I appreciated
5 getting that on Monday the 11th of February 2013,
6 because Mr. Mr. Shawn enlightened me there had been
7 more of a history in this case than we had.
8 Knowing it was a 2009 index number, there is
9 obviously a history, but there was specifically a
10 stipulation that was entered into between the
11 parties, and that's the one referenced. I said it
12 was May the 4th. It was not. It was April 4th,
13 2011, where the parties had to May 4th to wrap up
14 some of their syrup operations on the subject
15 property. The record should be corrected that it
16 was placed on the record April 4th, 2011, not May
17 4th, 2011. I had the opportunity to get the
18 transcript of that and read the entire thing cover
19 to cover. Clearly there was a couple things that
20 were anticipated and contemplated when that
21 stipulation was entered into.
22 First, the parties seemed to be very close
23 to a resolution. There were three commissioners
24 that were on the matter, Mr. Cook, Mr. Zeiger, and
25 Ruby Katz, Mr. Katz. And they had taken some

1 testimony, and they had visited the property and
2 they were working on some potential partition
3 suggestions. There had been an offer of
4 partitioning the property on one side of the
5 street, which contained an improved lot with the
6 house that belonged to Mr. Boyes' grandfather, who
7 is deceased, and the larger parcel across the
8 street, which was unimproved. I don't know whether
9 the source of that was other than the defendants,
10 but that offer had been rejected. The plaintiffs
11 preferred an offer that was more of a 50-50 split
12 of the total parcel. That's fine. The point being
13 there was no meeting of the minds there and no
14 settlement. What came out of that April 4th
15 conference with Judge Melkonian and subsequent
16 stipulation was that it was contemplated that this
17 agreement where Mr. Boyes would have until May 4th
18 to wrap up his sap and syrup operations and get
19 everything cleaned and the equipment all put back,
20 the product can be sold off grounds, deliveries
21 accepted on the premises, but not sold on the
22 premises, and they couldn't do anything to hold the
23 premises out as a business. That was agreed to
24 between both parties and it contemplated,
25 Mr. Cragan actually, along with Mr. Shawn there,

1 makes the point that was going to govern until
2 trial. Mr. Janusas then makes the point pretty
3 clearly that the dismissal of the then pending
4 motion, which I imagine was in the same nature of
5 the one we have now from everything I read, was
6 without prejudice, and that he could bring it back
7 for good cause. And Mr. Janusas says at one point
8 that good cause could be the potential of future
9 years. And I'm quoting from the transcript now
10 from memory. It looks like page 25, line 13, where
11 Mr. Janusas makes the point that good cause could
12 be a subsequent year, but that they anticipated
13 that it would be resolved long before January 2012.
14 Here we are January 2013. Mr. Cragan, the quote
15 I'm pulling from Mr. Cragan is page 3 line 19,
16 where he makes clear this was going to govern for
17 the entire period until trial. So now we have a
18 new order to show cause that's brought by Mr.
19 Janusas on behalf of his clients essentially
20 seeking the same kind of relief. He wants to be
21 able to operate his syrup and sap operations at the
22 subject property, that the property has been used
23 for that kind of operation for some 60 years. It
24 doesn't affect the quality. And these are
25 replenishable goods. It's not like pulling

1 diamonds out of a diamond mine or taking other
2 minerals out of the ground. That's Mr. Janusas'
3 argument, and there is irreparable harm that comes
4 to his client if he is not able to operate his
5 business. He says this would be the third
6 consecutive year he couldn't operate it. There was
7 no operation in 2012. It would be the second year
8 that it didn't operate.
9 MR. CRAGAN: Just to let you know, they
10 brought an order to show cause last year without
11 presentment, and Judge LaBuda had signed that. We
12 then tried to rectify that by bringing an order to
13 show cause properly in front of Judge Melkonian,
14 who rescinded the order that Judge LaBuda had
15 signed in February. So they actually effectively
16 did operate the sap business last year during the
17 primary tapping season.
18 THE COURT: Okay. What I understand, it's
19 this time of the year, February, March, April?
20 MR. JANUSAS: Yes, your Honor. I don't
21 disagree with what Mr. Cragan said, but Mr. Boyes
22 was able to operate under a very limited capacity,
23 not to utilize the actual trees on the property.
24 THE COURT: He was able to take sap from
25 other people and then process it on the grounds of

1 what they call the sap house, right?
2 MR. JANUSAS: Yes.
3 THE COURT: The point is, and again I'm
4 not making any findings or decisions, I'm trying to
5 create a record which gets three years of
6 litigation to where we are here today. One of the
7 justifications are this would be the third
8 consecutive year. In essence, it would be really
9 at the light most favorable to Mr. Boyes, the
10 second year, because he did operate complete in
11 2011. 2012 he had a partial operation. He
12 couldn't produce any of his own sap, and this would
13 be the first year he could not operate. Just so
14 the record is clear, and so we can start from facts
15 we are pretty much in agreement with. Mr. Shawn on
16 behalf of Mr. Dean and Mr. Cragan argued that we
17 are expending a lot of judicial and attorney
18 resources and client resources rearguing the same
19 matter, that there was a stipulation entered into
20 for a reason, and that was to govern until trial.
21 Everyone anticipated that the matter would be
22 resolved by 2012. It was not, but an agreement is
23 an agreement, and we should all be bound by it. So
24 can we agree in sum and substance that's the facts
25 that get us here today?

1 MR. JANUSAS: Just one distinction, your
2 Honor, that since the first temporary restraining
3 order was stipulated into a preliminary injunction,
4 there has never been any tapping on the premises or
5 the trees on the premises. This is actually the
6 third year there was no tapping occurred.
7 THE COURT: Well, there was tapping in
8 2011.
9 MR. JANUSAS: Not of the trees in the
10 subject premises.
11 THE COURT: Sure there had to be, because
12 they talked in the stipulation about clearing the
13 lines out.
14 MR. BOYES: No, we didn't tap those trees
15 in 2011.
16 THE COURT: Okay.
17 MR. CRAGAN: We say there was tapping, of
18 course, by the defendant.
19 THE COURT: That's fine. Let's put that
20 as a disputed fact. It's in the record. Again,
21 I'm not concerned that anyone has misrepresented
22 facts intentionally. That's a dispute whether it
23 occurred in 2011 or not, and it's certainly
24 possible in reading the documents I misunderstood,
25 because I know it talked about cleaning lines, and

1 you wouldn't have lines if you weren't tapping your
2 own trees.
3 MR. JANUSAS: Your Honor, Mr. Boyes is
4 referring to properties he leases, clearing the
5 lines on property he rents from the City of New
6 York.
7 THE COURT: All right. That takes us to
8 today. Mr. Cragan, do you have to make a record
9 based on that dispute?
10 MR. CRAGAN: I had a point before John
11 spoke. I just want to make it clear, the Court had
12 said, it is in the record, we envision this being
13 wrapped up by 2012. What we were hoping to do is
14 have a partition or some sort type of agreement
15 with respect to the property, but as Mr. Janusas
16 puts in his instant application, there are other
17 matters that needed to be resolved. He uses the
18 word stayed. Technically they weren't stayed. He
19 knew that even after a partition or a sale there
20 would be more litigation, and that's what we were
21 anticipating as well. It would be beyond that.
22 THE COURT: What would be the issues
23 involved in that litigation?
24 MR. CRAGAN: There is an accounting, your
25 Honor.

1 admitted they had no involvement in the business.
2 THE COURT: Just because they have no
3 involvement in the business, didn't mean they don't
4 have an interest in the product that comes off of
5 their land.
6 MR. JANUSAS: Your Honor, I would have to
7 respectfully disagree with that contention, and
8 direct your Honor to case law saying regenerating,
9 use of the land for farming, one co-tenant clearly
10 cannot, and it's a very old law, cannot interfere
11 with the use --
12 THE COURT: I'm not suggesting the
13 interfering. I'm suggesting, let's for example say
14 that your client, and this is a very different
15 example and it's the reason I'm using a very
16 different example. Let's say, for example, your
17 client was taking natural gas out of the land.
18 Your client could be solely involved in that
19 operation, but the co-tenant would have an interest
20 in the minerals that were removed from the land.
21 MR. JANUSAS: I will not disagree with
22 that, your Honor. However, I'm going to draw the
23 distinction, because if the case law shows if the
24 co-tenant does not assist in producing a renewable
25 resource, which is farming, either tilling the land

1 for corn, wheat or for maple syrup, then that
2 co-tenant does not have an interest if they are not
3 involved in doing so, and they are free to do it on
4 their own as well, but if they're not, they have no
5 interest in it.
6 THE COURT: But don't those cases deal
7 with growing of crops that are not indigenous to
8 the land? The maple trees were already there.
9 He's not tilling the way he would be growing
10 tomatoes or say corn.
11 MR. JANUSAS: The case law is rife with
12 the words the fruits of labor. The co-tenant will
13 not be interfered by the other co-tenant.
14 THE COURT: Okay. Interfered is different
15 than whether the other co-tenant has some claim to
16 some of the proceeds. That's not really before us
17 directly, but may be indirectly.
18 MR. JANUSAS: Your Honor, again, we will
19 if necessary follow-up with further case law. It's
20 clear if they are not involved in the actual labor,
21 then they cannot reap any of the reward of that
22 labor.
23 THE COURT: Okay, I understand what your
24 cases say. And I haven't had a memorandum of law
25 from Mr. Cragan or his office. I will go out on a

1 limb and say they will probably find some case law
2 that is distinguishable from your cases.
3 MR. CRAGAN: Also one other item, your
4 Honor, the case they cite, LaBaron, which, by the
5 way, this whole application was brought in front of
6 Judge Melkonian last year after Judge LaBuda signed
7 their order once again without our notice. He
8 rejected their entire argument. It's already put
9 into the previous order to show cause from last
10 year, where he once again reaffirmed our
11 preliminary injunction by signing our order to show
12 cause which vacated Judge LaBuda's order. In that
13 we cite that one of the other issues is the
14 co-tenant acquiesced and were not ousted. In our
15 case here we're not acquiescing to that, and we
16 ousted from this property. That's why we brought
17 it to court rather than bring in weapons or get
18 into some criminal activity. We wanted to do this
19 peaceably. We wanted to get into that property.
20 We were not entitled to. He started to take
21 dominion over it and control over it and didn't
22 permit us to get on that property.
23 THE COURT: What did your clients want,
24 and be a little more specific than they just wanted
25 to stroll and feel the turf beneath their feet. I

1 understand it's their property.
2 MR. CRAGAN: First of all, they had
3 personal property in the sap house to begin with
4 THE COURT: That was dealt with, was it
5 not, in 2011.
6 MR. CRAGAN: It's still not dealt with,
7 your Honor. Although it was dealt with in an
8 order, we still haven't been given access.
9 THE COURT: I thought there were locks to
10 be put on, and each party given keys to those locks
11 and have access to those buildings. Mr. Boyes was
12 even given permission to store some of his stuff
13 from his other business if he needed to.
14 MR. CRAGAN: Correct. We still do not
15 have access to the sap house.
16 THE COURT: Why is that?
17 MR. JANUSAS: We disagree, your Honor.
18 THE COURT: How can you disagree? He
19 either does or he doesn't.
20 MR. CRAGAN: After that issue we then had
21 a telephone conference with Judge Melkonian or his
22 law clerk, where, as ridiculous as it may sound, we
23 were arguing for 1800 square feet, because it was
24 3600 square feet. They were giving us almost 1800
25 square feet upstairs. So then my client said,

1 let's just have half of the upstairs and half of
2 the downstairs. That's what we agreed to. To this
3 day we still don't have access to that.
4 THE COURT: That argument was played out
5 on the record with Judge Melkonian where there were
6 some qualifications where Mr. Cragan was concerned,
7 to use the example of a bulldozer get parked right
8 by the front door so that his client wouldn't be
9 able to get in and access, and Mr. Janusas, to his
10 credit, said that everyone is entering into this in
11 good faith, and they will not block the access and
12 get keys so everybody has keys to the place.
13 MR. JANUSAS: Your Honor, everybody has
14 keys to the place, and they do have access. We
15 have actually submitted for that part of the case,
16 we have submitted photographs of that cleared
17 space. We also tried to take into account this is
18 a food grade operation. What Mr. Boyes was trying
19 to avoid was to have any further molestation of his
20 food grade equipment. There is another case in the
21 criminal court dealing with the dumping of the sap
22 collected in 2011, dumping on the floor as an act
23 of spite. So Mr. Boyes does have a legitimate
24 interest in keeping the food grade operation, to
25 the point he has cameras installed showing Mr. Dean

1 dumping his maple sap onto the floor.
2 THE COURT: You have raised some issues on
3 the record in 2011 about somebody contaminating the
4 sap.
5 MR. JANUSAS: Yes, your Honor. Being Mr.
6 Boyes, being able to prevent, or being able to
7 address any molestation of the fruits of his
8 business he installed cameras. He installs
9 cameras, and sure enough now there is a case in the
10 Town of Fallsburg Court, a misdemeanor case dealing
11 with the destruction of the sap.
12 THE COURT: This is in Fallsburg?
13 MR. CRAGAN: The case was transferred.
14 MR. JANUSAS: In that respect, your Honor,
15 the law doesn't seem very clear in terms of access
16 and percentages of space.
17 THE COURT: Is there just the one
18 outbuilding on that property, the sap house? There
19 was one small building that was moved off the
20 property that belonged to Mr. Boyes.
21 MR. JANUSAS: There are still about five
22 outbuildings. In addition, as part of their
23 application where they wanted 50 percent of the
24 space of the sap house proper, we call it that,
25 there was a room with a dirt floor that Mr. Boyes

1 had offered to fill with cement and make suitable
2 for use for whatever Mr. Dean may want to use it
3 for, being he is in the construction business and
4 so forth. So we were trying to make
5 accommodations.
6 THE COURT: What is in the other four
7 buildings? Could this be resolved if Mr. Dean had
8 access to those other four buildings?
9 MR. JANUSAS: No. It's our contention in
10 the case in chief that the reason why this order
11 was brought and the reason why everything was being
12 done is to destroy the sap business.
13 THE COURT: That's not my question. My
14 question is, and I'll ask Mr. Cragan: Is there
15 enough square footage in the other buildings that
16 we can divide off buildings, or are those buildings
17 not secure? I don't know anything about it.
18 MR. CRAGAN: I understand they are
19 dilapidated for one, your Honor. They're not going
20 to suffice.
21 MR. JANUSAS: Your Honor, in order to
22 accommodate the situation, to bring down the level
23 of acrimony, Mr. Boyes has offered to improve
24 either the other buildings or improve the room in
25 the sap house.

1 THE COURT: How big is that room in
2 relation to the sap house?
3 MR. JANUSAS: 30 by 20 by 500 square feet,
4 which would equalize the space.
5 THE COURT: I think that's 600 square
6 feet.
7 MR. JANUSAS: I'm not an accountant, your
8 Honor. I'm not sure.
9 THE COURT: 30 by 20 would be 600 square
10 feet. The reason I'm doing it is because we need
11 to get to 1800 square feet.
12 MR. JANUSAS: I understand that, Judge.
13 And there's the upstairs.
14 THE COURT: He's in the construction
15 business. Having an upstairs probably doesn't help
16 him a great deal.
17 MR. JANUSAS: Your Honor, the upstairs has
18 access.
19 THE COURT: How about across the street?
20 Does the house have a garage?
21 MR. JANUSAS: Yes. there's a barn that's
22 actually bigger than the sap house.
23 THE COURT: Anything in that?
24 Mr. BOYES: Just years of stuff, my
25 grandfather's stuff.

1 THE COURT: Floor?
2 MR. BOYES: Concrete floor.
3 THE COURT: Is that acceptable if he gave
4 you exclusive occupancy of that?
5 MR. DEAN: The barn is ready to fall down.
6 MR. JANUSAS: We disagree, respectfully.
7 MR. DEAN: Put your stuff in there.
8 THE COURT: Okay. So Mr. Cragan, your
9 position with respect, other than assuming for the
10 moment that I reject the argument that the 2011
11 stipulation was to be inviolate until trial,
12 assuming for the moment I reject that so we can get
13 arguments out, what is your opposition to the sap
14 business being undertaken?
15 MR. CRAGAN: Firstly, your Honor, as it
16 was made clear to Judge Melkonian at the hearing
17 back in 2011, and we had attached paper work to
18 that obviously, there are issues of drinking, there
19 are issues of invitees, guests, alcohol use, that
20 no matter what insurance coverage is used on that
21 property, it's not going to protect us.
22 THE COURT: I think there is a three
23 million dollar liability policy on that property
24 MR. JANUSAS: Yes, there is your Honor.
25 It was duplicate coverage.

1 MR. CRAGAN: As Judge Melkonian stated, it
2 wasn't perhaps on the record, I don't recall it
3 being, are we going to be indemnified for that by
4 the insurance company? Is the insurance company
5 going to pay the proceeds when he invites someone
6 who has been drinking and driving on the property,
7 no. That was his big issue with that, and that was
8 ours.
9 THE COURT: Certainly that liability would
10 need to be minimized, okay.
11 MR. CRAGAN: Let me go back to what Mr.
12 Janusas said. With regard to irreparable injury,
13 so far in our discovery we have been given 2007 and
14 2009 US income tax returns. The 2007 return shows
15 a loss of over $4400, and the 2009 return shows a
16 loss of over $11,000 of the Justus Asthalter Maple
17 Syrup, Inc. Of course the only thing we see,
18 because at that time they wanted to show a loss for
19 certain arguments back approximately two years ago,
20 they show just the loss and redact everything else.
21 To this day we still haven't received any other tax
22 returns, and we haven't received the tax returns
23 unredacted as we requested in our discovery. So
24 they can't play it both ways. They can't say now
25 there was a profit, when before they were arguing

1 there was a loss.
2 Furthermore, your Honor, this case dates
3 back all the way to Judge Ledina, if you recall
4 Judge Ledina. He signed an order to show cause.
5 THE COURT: All the way back to Judge
6 Ledina.
7 MR. CRAGAN: All the way back to Judge
8 Ledina.
9 THE COURT: I vaguely remember him. 2009
10 this case started. When did Mr. Asthalter die?
11 MR. CRAGAN: 2006.
12 THE COURT: He died in July 2006, okay.
13 MR. CRAGAN: In 2007 our clients, Mr. and
14 Mrs. Dean approached Mr. Havas, who sent a letter
15 to the Boyes asking to resolve this issue, not only
16 the business, but primarily the real estate issue.
17 Our clients have advanced many different proposals,
18 including having Brian Roar (phonetic) come to the
19 office prior to the summons and complaint being
20 filed, and I think we had three proposals, all
21 rejected by Mr. Boyes. We have proposed many
22 different proposals, and continue to do that. I
23 don't want it to appear they are the only ones
24 filing proposals. We have actually submitted at
25 least five that I know of dating back all the way

1 there was a loss.
2 Furthermore, your Honor, this case dates
3 back all the way to Judge Ledina, if you recall
4 Judge Ledina. He signed an order to show cause.
5 THE COURT: All the way back to Judge
6 Ledina.
7 MR. CRAGAN: All the way back to Judge
8 Ledina.
9 THE COURT: I vaguely remember him. 2009
10 this case started. When did Mr. Asthalter die?
11 MR. CRAGAN: 2006.
12 THE COURT: He died in July 2006, okay.
13 MR. CRAGAN: In 2007 our clients, Mr. and
14 Mrs. Dean approached Mr. Havas, who sent a letter
15 to the Boyes asking to resolve this issue, not only
16 the business, but primarily the real estate issue.
17 Our clients have advanced many different proposals,
18 including having Brian Roar (phonetic) come to the
19 office prior to the summons and complaint being
20 filed, and I think we had three proposals, all
21 rejected by Mr. Boyes. We have proposed many
22 different proposals, and continue to do that. I
23 don't want it to appear they are the only ones
24 filing proposals. We have actually submitted at
25 least five that I know of dating back all the way

1 to 2007, 2008.
2 THE COURT: Prior to filing?
3 MR. CRAGAN: Right, prior to filing.
4 In the presentation here, your Honor, I
5 have five orders to show cause that have been
6 submitted wherein either Judge Ledina or Judge
7 Melkonian have restricted the defendants from
8 either tapping the trees or operating a business.
9 There have been two other orders to show cause,
10 this one and the one last year in front of Judge
11 LaBuda, which we weren't given advance notice on
12 either one, where those either TRO's or preliminary
13 injunctions were lifted. But once we brought that
14 to the attention of Judge Melkonian last year, we
15 submitted our own order to show cause, we had the
16 identical issues last year. They filed an order to
17 show case, we filed an affirmation opposition, and
18 they filed their own order to show cause. He
19 summarily rejected everything they advanced,
20 including the LaBaron case and Mott case, because
21 as we argued, that involves acquiescence, involves
22 someone not being ousted, and also involved the
23 issues that he raised here today.
24 THE COURT: Judge LaBuda's order to show
25 cause contained a TRO in it?

1 MR. CRAGAN: No, it lifted the preliminary
2 injunction that we had against them.
3 THE COURT: But it contained preliminary
4 relief?
5 MR. CRAGAN: It contained preliminary
6 relief, yes. Once again we didn't have notice of
7 that. We brought that to the attention when we
8 were in chambers with Judge Melkonian, we brought
9 that to the attention of Mr. Janusas prior to 2012,
10 and prior to him presenting the order to show cause
11 to the court. I say that, because I believe he
12 submitted it to the court, not to a specific judge,
13 and they put it in front of one of the judges.
14 Just like in this case, we are still entitled, even
15 if we get a copy of the order to show cause, we
16 still need to argue it in front of the judge, and
17 we don't know who the judge was who was going to
18 reveal it. He should have identified that and sent
19 a letter to Ms. Katzman, and we didn't get that
20 opportunity, and that's why we are here today.
21 Anyway, we have Judge Ledina signing an order to
22 show cause. I'll give the Court copies of all the
23 orders to show cause, obviously without the
24 exhibits. We have Judge Ledina's letter from June
25 9, 2010, wherein he precludes the defendants from

1 tapping the trees. Now, if you notice, he crossed
2 out some of the other relief that we requested, but
3 that was brought out later, and for the reasons,
4 for other reasons he didn't want to prohibit him
5 from operating the business until we had another
6 chance. Eventually we got the case in front of
7 Judge Melkonian March 9th. We have June 9th, 2010,
8 March 9th, 2011, March 18th, 2011, three orders to
9 show cause, all of them prohibiting them from
10 operating the business.
11 THE COURT: All seeking essentially the
12 same relief.
13 MR. CRAGAN: Right. And then we have
14 Judge Melkonian going on the record, the order,
15 which then we put in writing another order, and
16 then we have Judge Melkonian on April 6th of 2012,
17 and we have submitted that to the Court rejecting
18 all of the same arguments they are making today,
19 all of them, the same. Nobody knew this case
20 better than Judge Melkonian. He summarily rejected
21 them for all of the same reasons. I'm arguing he
22 rejected them because he understood the stipulation
23 and what was meant by that. What was meant by that
24 is in his mind was this preliminary injunction was
25 enforced until trial, not until the next season.

1 It was made clear. The reason why good faith keeps
2 coming up in his argument, then of course the judge
3 says every motion has to be in good faith. But
4 there are no changes of circumstances. They knew
5 when they entered into the stipulation and order
6 they weren't going to operate the business until
7 the trial, or at least for another year. We
8 certainly didn't do this so we could come back the
9 next year and relitigate it, and the next year
10 relitigate it once again.
11 Okay, involving all the equipment, it's
12 been Joann and Mike Dean's argument that whatever
13 equipment they presently have on the premises --
14 THE COURT: Syrup and sap equipment?
15 MR. CRAGAN: Syrup and sap equipment.
16 -- derived from the Justus Asthalter business,
17 Joann Dean's father, Sean Boyes grandfather, any
18 monies derived from that upon his death we have an
19 interest in. Any of the monies derived from that
20 business that went into purchasing other equipment
21 we have an interest in.
22 THE COURT: This is a corporation?
23 MR. CRAGAN: Yes.
24 THE COURT: Who are the shareholders of
25 the corporation?

1 MR. CRAGAN: I am assuming Dawn is.
2 MR. BOYES: It was incorporated after his
3 dead.
4 THE COURT: So the corporation or shares
5 of stock in the corporation are not an asset of the
6 business?
7 MR. CRAGAN: No. This was incorporated
8 in?
9 MR. BOYES: 2006, 2007.
10 MR. CRAGAN: We are saying they took all
11 the assets and put them into the corporation.
12 THE COURT: The equipment that is used in
13 the operation, is that equipment that was owned by
14 Mr. Asthalter prior to his death?
15 MR. JANUSAS: No, your Honor.
16 MR. CRAGAN: Probably most likely now it's
17 all new equipment, but remember our argument goes
18 all the way back to his death in 2007. That's why
19 they there is litigation.
20 THE COURT: When you say it's derived
21 from, are you suggesting some of that equipment was
22 sold and the proceeds of that sale were used in
23 part to purchase new equipment?
24 MR. CRAGAN: Yes, some of it was.
25 THE COURT: Is the estate completely

1 settled?

2 MR. CRAGAN: There is no estate

3 proceeding.

4 MR. JANUSAS: Your Honor, With all due

5 respect to Mr. Cragan, a large part of what he is

6 saying about the maple syrup equipment is

7 completely irrelevant.

8 THE COURT: Maybe, but I don't

9 contextually, since this is our first conference

10 and there has been a lot of syrup under this bridge

11 so to speak, I want to gain as much of the

12 contexts, that's all. That's why I ask the

13 question. There has been no estate proceedings, so

14 who owned this property and the equipment prior to

15 his death?

16 MR. JANUSAS: You are speaking of the

17 chattel, the actual equipment in the syrup

18 business?

19 THE COURT: Equipment, yes.

20 MR. JANUSAS: It's our contention and part

21 of our case, based on the sworn testimony so far

22 and based on our response, in 1996 or thereabouts,

23 Mr. Asthalter fell down and broke his hip. At that

24 point, or shortly after that, Mr. Boyes, Sean

25 Boyes, purchased all the equipment that Justus

1 Asthalter owned from him for the sum of $3,500.
2 Then in 2003 before Mr. Asthalter passed away, Mr.
3 Boyes bought equipment, a large amount of equipment
4 in an effort to build a business on his own. In
5 addition to all that, in 2006 or when
6 Mr. Asthalter --
7 THE COURT: Did he leave a will?
8 MR. CRAGAN: Yes. It's not been probated.
9 THE COURT: What are we waiting for? It's
10 seven years after his death.
11 MR. JANUSAS: Your Honor --
12 Hold on, I understand there is a world of
13 stuff out here you want me to know, but my mind
14 operates simply. That's why I'm a fan of the same
15 football team that keeps losing for so many years.
16 What I want to know is, there is a will, your
17 contention with respect to this equipment is that
18 it was not owned prior to his death.
19 MR. JANUSAS: Correct, your Honor.
20 THE COURT: Their contention is, that they
21 have to contend that some of it was owned prior to
22 his death, or at the time of his death some of it
23 had to be owned, or else it can't derive from
24 equipment that belongs in the estate. Why has
25 there been no estate proceeding to settle it, and

1 who owned the property? Did he own it or convey it
2 to his two daughters?
3 MR. CRAGAN: Back in 1986, Mr. Asthalter
4 obtained a life estate giving one half interest to
5 the two daughters.
6 THE COURT: Retaining a life estate for
7 himself and conveying to the two daughters.
8 MR. CRAGAN: Right.
9 MR. JANUSAS: Your Honor, as to the
10 estate, also very relevant to the maple syrup
11 business, in 2006 Mr. Asthalter was of declining
12 health. This is uncontested. He was taken down to
13 the family services or Medicaid unit to show he had
14 divested himself entirely of any significant
15 property. Ms. Dean signed papers that he had
16 nothing. That's why we are saying in '96 the
17 transfer took place and in 2006 everybody agreed
18 there was nothing in the business. That's our
19 position.
20 THE COURT: I do remember seeing that.
21 That's in the record. It's in the file. I don't
22 know if it's part of the official record.
23 MR. CRAGAN: Just to clarify, there were
24 no substantial assets, whatever that means.
25 THE COURT: For whatever reason, either

1 Mrs. Dean or Ms. Boyes could have brought an estate
2 proceeding to settle this matter, neither of them
3 have. So for our purposes today, it seems both of
4 the distributees would be deeming that there was
5 de minimis value of any assets.
6 MR. CRAGAN: There was an issue I recall,
7 and Mrs. Dean is not here today, meeting with Marty
8 Hirsch with the estate, and I think they agreed
9 upon a disposition.
10 MR. DEAN: Marylou and Joann, both
11 daughters met with Marty Hirsch.
12 THE COURT: Is he the one who drew the
13 will up?
14 MR. DEAN: No.
15 THE COURT: Mr. Hirsch is well known to
16 this Court. He is well respected in the areas of
17 elder law and estate planning. That would be a
18 good reason why they would have met with
19 Mr. Hirsch.
20 MR. CRAGAN: Then lastly, your Honor, with
21 respect to the trees, one over the other issues was
22 Mr. Boyes was going ahead and encroaching, not to
23 use the term encroaching, but going down and
24 tapping new trees that were never tapped under Mr.
25 Asthalter, and they were never to be tapped, to my

1 understanding. That's another issue. He was
2 starting to tap in. The reason for that, is no
3 matter what their argument is from the forester,
4 once you tap into a tree that's never been tapped,
5 there is a devaluing of that tree.
6 THE COURT: All right. What I would like
7 to know is other than storage of equipment in the
8 sap house, other than that, what other uses of the
9 property is Mr. Dean and his wife being denied, or
10 what use of the property is being frustrated by Mr.
11 Boyes operating or taking sap from the trees?
12 MR. CRAGAN: No. 1 of the argument has
13 always been that the sap lines are spread out all
14 over. You can't enjoy the recreational aspects.
15 THE COURT: You couldn't hike on the
16 property?
17 MR. CRAGAN: Use four wheelers.
18 THE COURT: Snowmobiles?
19 MR. CRAGAN: Right. And storage.
20 THE COURT: Do they use that property for
21 hiking, four wheeling and snowmobiling?
22 MR. DEAN: Hiking we do. We can't even
23 enter anymore with a stroller or four wheeler
24 because of these strategically placed lines.
25 THE COURT: There are no lines there now,

1 right?

2 MR. DEAN: They are all over the place.

3 They are low. He put them so you can't even get

4 through them. There was also a road involved that

5 was dug out. They say a storm washed it out. It

6 was dug. They dug it out so we can't even access

7 the 76 acres.

8 THE COURT: Were those lines there in

9 2006, or were they strung there after 2006?

10 MR. DEAN: No, we have pictures. In fact,

11 they were in the appraisal papers. In fact, he got

12 an appraisal prior to his grandfather's death.

13 They showed pictures in the back of the sap house.

14 They were entered into evidence, and it shows the

15 fields totally clear. There were no lines

16 whatsoever. He put all these lines in afterwards,

17 and he left them. He doesn't take them up in the

18 summer, leaves them year round purposely to prevent

19 us from entering the property.

20 THE COURT: Mr. Janusas, are there lines

21 out there now?

22 MR. JANUSAS: Yes, there are some lines,

23 Judge. And if I might address the allegation about

24 the road being washed out.

25 THE COURT: I don't care about the road

1 being washed out. I'm really caring about the use
2 and enjoyment of the property.
3 MR. JANUSAS: There are lines there, yes,
4 there are lines there. Mr. Boyes has indicated the
5 reason why when the pictures was taken of the
6 fields there were no lines there was before he was
7 barred by the injunction from operating the
8 business, he would take the lines down and so that
9 the fields would be nice and open, and it would be
10 in conjunction with the use of the property. You
11 would have maple sap lines, but also big fields,
12 and roads going into the woods. The commissioners
13 and I, all of us took rides throughout the
14 property, pretty much all throughout the property,
15 and the allegation these lines are preventing any
16 recreational access, I respectfully have to
17 disagree.
18 THE COURT: Does your client go
19 snowmobiling up on the property?
20 MR. CRAGAN: Snowmobiling, hunting as
21 well.
22 MR. DEAN: We have maintained it for 20
23 years.
24 THE COURT: Are these lines durable or are
25 they under pressure where if you ran over them --

1 MR. BOYES: You can't run over them. Most
2 of them you can go under them or walk along them.
3 THE COURT: You can go under them?
4 MR. BOYES: Yes. Anytime after sap
5 season ends you could prop them up and walk along
6 them like a barbed wire fence.
7 THE COURT: Walking is not a trouble, but
8 certainly a four wheeler you don't want to drive
9 over them, but you can drive under them?
10 MR. BOYES: Yes.
11 MR. CRAGAN: Not all of them.
12 MR. JANUSAS: If I can keep addressing
13 some of Mr. Cragan's points earlier, about the fear
14 of drinking at the property. There is certainly
15 sufficient liability insurance. The Deans are
16 listed as additional insureds under the policy, and
17 the allegation there is drinking happening at the
18 sap house was of some comedy to us when there was
19 an order to show cause submitted to Judge Melkonian
20 with a picture of a keg. Here we go, a keg party.
21 The keg is used for maple syrup. It's not a beer
22 drinking keg. It's storage for maple syrup. And
23 the fact there may have been a couple of light
24 beers in the refrigerator doesn't mean somehow
25 there is a bar there. This is a place where they

1 are using flames and wood to burn maple syrup.
2 It's not compatible.
3 THE COURT: If I were inclined to set
4 aside the 2011 stipulation, if, it's simple enough
5 to just say there is to be no alcohol on the
6 property whatsoever. There is certainly liability
7 associated with taking friends up there on
8 snowmobiles and four wheelers.
9 MR. JANUSAS: Yes. And, your Honor, in
10 terms of the allegation, their position about the
11 business never making any money, it's really not
12 accurate. As any other business, they are
13 expanding and had made investments, and now are
14 being prevented from using those investments.
15 THE COURT: I understand that.
16 MR. JANUSAS: One last thing I want to
17 mention about the irreparable harm here, is that
18 the New York State Maple Tour is happening in July.
19 The Asthalter Maple Syrup Facility has been part of
20 any farm related or agricultural exposition. The
21 printing of the invitations is going to take place
22 within a week or so, and should they be barred from
23 utilizing the premises, they are now going to be
24 caused irreparable harm of not having themselves in
25 position with the competitors as part of this

1 exposition.
2 THE COURT: Which could potentially cause
3 them to lose future revenue.
4 MR. JANUSAS: Exactly, your Honor.
5 MR. CRAGAN: The run, your Honor, other
6 establishments serve alcohol and you drive from
7 establishment to establishment. Of course we don't
8 want that to happen.
9 MR. DEAN: It's called a Poker Run.
10 THE COURT: Is that what it is? I thought
11 this was something that happens at the fairgrounds
12 where people sell their maple syrup.
13 MR. CRAGAN: This is where people go to
14 each facility.
15 THE COURT: And they drink alcohol? What
16 about oatmeal cookies and maple syrup?
17 MR. JANUSAS: I was at the Poker Run
18 location when the order to show cause was filed to
19 prevent them from having it, and they were forced
20 to move it to their house next door in 2011, and I
21 didn't see any alcohol at all.
22 THE COURT: All right, that's an easy
23 issue to deal with. Here is what we are going to
24 do. We are going to move very, very quickly to a
25 decision on this matter, because time is of the

1 essence for both parties. Both parties need to
2 have full and unfettered use of this property.
3 What I'm going to do is direct a transcript of
4 these proceedings be made available to the Court
5 and both parties, the cost split equally between
6 the both parties. I'm going to ask that get
7 expedited, because it's going to be very difficult
8 for me to issue a sound decision until I can get
9 that transcript.
10 Barbara, to the extent possible, you can
11 send it to me electronically so we can start
12 working on it as soon as we get that. I have
13 pretty detailed notes, but I like to be very exact.
14 In the mean time, the preliminary
15 injunction that was entered into on stipulation
16 remains in full force and affect. But I will say
17 this, I want a note of issue filed in this case by
18 April 1st. So frankly I don't care if Mr. Janusas
19 and Mr. Cragan have to work on this full time, 60
20 hours a week. This case is going to get trial
21 ready in the next six weeks. So if you have to
22 move in together and share discovery, and if there
23 is a problem, I do not want to know about it March
24 31st. The Court will make itself available. I
25 want discovery done and a note of issue filed by

1 April 1st, and then we'll get you a trial date.
2 And what I'm going to do to make sure that happens,
3 I'm going to schedule a conference with my clerk,
4 who is somewhat disabled right now, on February
5 22nd.
6 MR. JANUSAS: I believe, your Honor, it is
7 already scheduled on the 21st. I think there is a
8 conference.
9 THE COURT: That's fine, February 21st at
10 1:30. By that date I want to know what outstanding
11 discovery, request for documents there are. I want
12 both parties prior to that date to exchange written
13 communications, whether that be faxes or emails, it
14 doesn't matter to me, making whatever demands are
15 outstanding. In other words, I don't want to see
16 the classic 16 page discovery asking for their
17 laundry bill, their dry cleaning receipts, every
18 credit card you have ever used in your life for the
19 last 50 years. I don't want to see that nonsense.
20 That's a delay tactic. It's irrelevant. We made
21 requests for tax returns, we haven't gotten them
22 yet. These are the things we still need. By the
23 21st somebody better be prepared to answer a
24 question, that A, a document doesn't exist; or B,
25 it's not likely to lead to admissible evidence, and

1 that is a wide open broad discovery rules. I want
2 this down. And also by the 21st I want you to be
3 able to tell us whether you anticipate that there
4 are going to need to be additional EBTs, and when
5 they are scheduled, because if they need to be
6 scheduled I'm going to give you a date certain they
7 are going to happen. Like I said, if I need to
8 have two attorneys committed to this full time,
9 that's what I'm going to do, because this is a four
10 year old case, and both of these litigants need to
11 close this chapter and get on with their lives.
12 This cannot go on forever.
13 MR. CRAGAN: Judge, just one point. The
14 commissioners still haven't made a decision.
15 THE COURT: Tell them I need them to make
16 a decision now, because they have had this for two
17 years. I don't know what they are waiting for.
18 They've had this for two years, at least two years.
19 MR. JANUSAS: Your Honor, Mr. Cragan was
20 not at the last -- we just had a meeting with the
21 commissioners just ten days ago. They have gone
22 through everything, they have told us they have
23 gone through everything, and they had wanted to
24 make a determination, Mr. Shawn was there, Mr.
25 Cragan wasn't, to whether a possible partition that

1 they were proposing is legal by the zoning rules.
2 THE COURT: There are some of the finest
3 legal minds in this county are amongst those
4 commissioners. It is unreasonable patently, after
5 two years they have to say they are waiting for a
6 decision on something. They need to get a decision
7 made. They are not mediators, they are
8 commissioners. They need to tell us how that
9 property can be partitioned without frustrating the
10 rights and enjoyment of either of the parties. If
11 it cannot be, then it's going to be sold at auction
12 presumably after trial. If it can be, then they
13 need to propose how it can be done, and these
14 parties are going to agree to that, or we are going
15 to go to trial. Why it is taking them two years,
16 it is not a complex issue, given the expertise that
17 these three people have. This is not a complex
18 issue. I want a decision from them, or we're going
19 to go to trial and whatever they thought they were
20 going to get paid, they probably won't, because
21 they haven't gotten their job done.
22 MR. JANUSAS: That's understood, your
23 Honor. The one part of that is our understanding,
24 and Mr. Cragan's as well, and Mr. Shawn's, these
25 commissioners are to make that decision. Should

1 they make a decision that it can be partitioned as
2 X and Y, that decision is binding and presented to
3 your Honor for determination, and that would avoid
4 a trial.
5 THE COURT: Correct. But when are they
6 going to do it, because they have had two years?
7 The property hasn't changed. This isn't a stream
8 bed that you know what, it's eroded away and
9 changed. It's the same property.
10 MR. CRAGAN: One other issue. Mr. Shawn
11 advised they are meeting with a surveyor on
12 February 22nd, and they want to see if they can
13 maybe partition it where he can retain some of the
14 trees, and they can retain some of the area they
15 want. The surveyor is going to check with the town
16 board if that's even permissible.
17 MR. JANUSAS: That's what's going on, your
18 Honor.
19 THE COURT: Let me tell you how close they
20 are getting. I want their decision no later than
21 March 8th. That's how close they are getting. If
22 not, I want them in court for them to tell me why
23 they can't give me a decision after two years.
24 They are only now figuring out they need to get
25 something done after two years. It's not going to

1 go on. We are going to try this case or they are
2 going to come up with a decision that is binding on
3 everybody, because we have three. We have each
4 picked one, and the third one is the tie-breaker.
5 That's why you do that. It's like binding
6 arbitration. They need to make a decision. They
7 can't just have this go on forever.
8 MR. JANUSAS: Should I submit an order, or
9 should I write a letter, or a stipulation?
10 THE COURT: Mr. Cragan can submit letter,
11 he's the plaintiff, and submit an order for my
12 signature that I want their decision by March 8th.
13 MR. CRAGAN: I don't think we should
14 stipulate to that, because I don't want to offend
15 either of the three commissioners.
16 THE COURT: No, we're not stipulating to
17 it. You are going to submit an order that it be so
18 ordered that I want that done by March 8th, and let
19 them come in and tell me why two and a half years
20 isn't enough time to figure out how to divide 80
21 acres of land. It's crazy. I know well why it's
22 not enough time, and it's not acceptable. These
23 people need to have their lives go on before God
24 forbid we're dealing with another estate and a
25 whole new set of litigants, God forbid.

So February 21st, March 8th, we get a decision, no later than that. And the commissioners can be here on the 21st if they feel I'm being unreasonable by me having my decision by March 8th. I understand the town board, they meet regularly, and they all, Mr. Cook, Mr. Zeiger, Mr. Katz, they deal with these folks all the time. I know they can get a hold of the planning boards and they can figure out if what they want to do is permissible. Who is the surveyor?

MR. CRAGAN: Lounsbury.

THE COURT: Tell him he doesn't have much time either if he's meeting on the 22nd.

MR. CRAGAN: I don't think he is surveying. I think he is just going to meet with the commissioners.

MR. JANUSAS: Your Honor, in terms of what you had said about the stipulation and the instant application, are you having this transcribed and then you're going to make a decision on what is being requested?

THE COURT: Yes.

MR. JANUSAS: Because currently as it is right now, it's right at the heat of the season, it's happened now.

1 THE COURT: Yes. This was brought to me
2 last Friday.
3 MR. JANUSAS: I understand that, your
4 Honor. I'm just asking your Honor's direction.
5 THE COURT: The direction is I have
6 ordered the transcript to be expedited.
7 Mr. Cragan, if he wishes to be fair, has an
8 opportunity, I don't need oral argument, but he has
9 an opportunity to submit any contrary case law that
10 he wishes. And we will work around the clock in my
11 chambers to get a decision out as quickly as
12 possible, understanding that if a decision comes
13 out in June it effectively denies Mr. Boyes that of
14 which he is seeking.
15 MR. JANUSAS: I wasn't pressuring your
16 Honor. I wanted clarification.
17 THE COURT: That's the clarification.
18 We're not going to sit on it, but I have to give
19 Mr. Cragan the opportunity to give contrary case
20 law. You don't necessarily have to put it in the
21 form of a memorandum, because we have your
22 argument. If you want to send case law, just send
23 an email to chambers with the cites, and we'll pull
24 up the cases. If you want to write up something
25 you can. I don't want to put more on your plate,

1 which means more billable hours than we need. We
2 have the argument here. That why we are going to
3 expedite the transcript.
4 MR. JANUSAS: Not to belabor, but I want
5 to make sure the Court is clear, because it does
6 have a long history. Your Honor did sign this
7 order to show cause, so I'm assuming it is as it is
8 right now until your decision.
9 THE COURT: The order to show cause was
10 only to get you here today. That's all. I haven't
11 changed anything.
12 MR. JANUSAS: Just to bring to the Court's
13 attention, I did put in a request for interim
14 relief that is outstanding.
15 THE COURT: Let me see. The request for
16 interim relief was either struck.
17 MR. JANUSAS: I'm not sure.
18 THE COURT: It says, sufficient reason
19 appearing, therefore let's service by personal
20 delivery of this order to show cause, together with
21 the papers on the Plaintiff by the 11th of
22 February.
23 MR. JANUSAS: Then there is a paragraph.
24 THE COURT: That's it. Then it's signed.
25 There's nothing after that.

1 MR. CRAGAN: The preceding paragraph, your
2 Honor. It says pending the hearing the defendants
3 are granted permission to tap the maple syrup trees
4 at the premises. I thought you said that was
5 struck out.
6 MR. JANUSAS: That's why I wanted to bring
7 it to the Court's attention so there is nothing
8 that is unclear.
9 THE COURT: That's really bad form, really
10 bad form. It doesn't get to the point where Mr.
11 Shawn had, but when you do an order to show cause
12 that has temporary relief in it, it's supposed to
13 be labeled as an ordered paragraph.
14 MR. JANUSAS: I understand, your Honor.
15 That's why I wanted to bring it to the Court's
16 attention.
17 THE COURT: Right now be very clear. The
18 preliminary injunction that was entered on
19 stipulation back in 2011, April, is still in full
20 force and affect, and must be complied with by all
21 parties. There should be no tapping of trees and
22 no setting up of any business. I apologize that
23 that was misread. That's bad form.
24 Thank you, folks.
25 (WHEREUPON THE PROCEEDINGS WERE CONCLUDED.)

1
2 C E R T I F I C A T I O N
3
4 I, BARBARA VAN BLARCUM, hereby certify and
5 say that I am a Court Reporter within and for the
6 State of New York; that I acted as the reporter at
7 the proceedings herein, and that the transcript to
8 which this certification is annexed is a true,
9 accurate and complete record of the minutes of the
10 proceedings to the best of my knowledge and belief.
11
12
13 Barbara Van Blarcum
14 BARBARA VAN BLARCUM
15
16
17
18
19
20
21
22
23
24
25

PROPOSAL

Page No. of Pages

BOYES & TORRENS CONSTRUCTION, INC.
Aden Rd. P.O. Box 651
Neversink, New York 12765
Phone (845) 295-5462
Fully Insured

4475
39000
43475

PROPOSAL SUBMITTED TO	PHONE	DATE
Frank + Mary Grace Cauneeley		7/13/13
STREET	JOB NAME	
CITY, STATE and ZIP CODE	JOB LOCATION	
ARCHITECT / DATE OF PLANS		JOB PHONE

We hereby submit specifications and estimates for:

materials not Included in original quote = Wood flooring	3000.00
Stove ducting	200.00
upcharge on entry door + hardware	200.00
" " pocket door	150.00
" " Windows	250.00
Cedar decking + framing for over frame on existing	525.00
upcharge on LVL Headers from 2x12	150.00
+ 4475.00	

~~Additional work paint Livingroom, Frame deck over, fix Bump out duct work + upstairs touchups $ 300.00~~

original est labor 25,000.00
porch 9000.00
materials exc flooring 5000.00
estimate total 39,000.00 pd 11,500 = 24000
28475.00

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of: pd 15000.00

dollars ($).

Payment to be made as follows: 23478.00
5000.00
8475.00
475
50000.00

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. Any legal costs are owners responsibility. Payments will be made as outlined above. Any delays in payment may stop work and increase costs.

Authorized Signature

Note: this proposal may be withdrawn by us if not accepted within days.

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature

Date of Acceptance: Signature

EXHIBIT
Comm
Ex XI-46

PENGAD 800-631-6989

PROPOSAL

Page No. of Pages

BOYES & TORRENS CONSTRUCTION, INC.
Aden Rd. P.O. Box 651
Neversink, New York 12765
Phone (845) 295-5462
Fully Insured

PROPOSAL SUBMITTED TO: Frank + Mary Grace Cunney		PHONE	DATE: 8/20/13
STREET		JOB NAME	
CITY, STATE and ZIP CODE		JOB LOCATION	
ARCHITECT	DATE OF PLANS		JOB PHONE

We hereby submit specifications and estimates for:

Materials not included in original quote total 44750.00
(See page dated) 7/13/13

Original labor	25,000.00
Restoration	9000.00
Materials from original estimate	5000.00
	43475.00
Hl todate	35000.00
BAL	8475.00
	[illegible]
Approved	800.00

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of:

_____ dollars ($ _____).

Payment to be made as follows:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. Any legal costs are owners responsibility. Payments will be made as outlined above. Any delays in payment may stop work and increase costs.

Authorized Signature: [illegible]

Note: this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal —The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

Signature _____

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4644
1-32/210 NY
18572

April 29, 2013
Date

Pay to the Order of Boyeson Tarrow $ 5,100.00

Five thousand and 00/100 Dollars

Bank of America

Bank of America Advantage®

ACH R/T 021000322

For deposit

Mary Grace Conneely

[redacted]

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4613
1-32/210 NY
18872

6-26-2013
Date

Pay to the Order of Boyce + Jarrard | $ 10,100

Ten thousand and ——— 00/100 Dollars

Bank of America

Bank of America Advantage®

ACH R/T 021000322

For ——— Mary Grace Conneely

[redacted]

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4617
1-32/210 NY
18872

July 13, 2013
Date

Pay to the Order of Bayer & Torrera $ 15,000.00

Fifteen Thousand and 00/100 Dollars

Bank of America

Bank of America Advantage®

ACH R/T 021000322

For reno project-

Mary Grace Conneely.

[redacted]

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4705
1-32/210 NY
18872

8-9-2013
Date

Pay to the Order of Bayna + Farrera $ 5,000

Five thousand 00/100 Dollars

Bank of America

Bank of America Advantage®

ACH R/T 021000322

For [redacted] Mary Grace Conneely

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4623
1-32/210 NY
15872

August 23, 20
Date

Pay to the Order of Gaspar Lavrem $ 8,100.00

Eight thousand and 00/100 Dollars

Bank of America

Bank of America Advantage®

ACH R/T 021000322

For Final payment. Mary Grace Conneely

[redacted]

ANTHONY F CONNEELY
MARY GRACE CONNEELY
[redacted]

4748
1-32/210 NY
18872

June 25, 2014
Date

Pay to the Order of Boys + Girls | $ 7,000.00

Seven Thousand and 00/100 Dollars

Security Features Details on Back.

Bank of America

ACH R/T 021000322

Bank of America Advantage®

For Kitchen

Mary Grace Conneely MP

[redacted] [redacted]

1 Q. Do you ever have lunch with Mr. Kelson?
2 A. I have had lunch with him, probably four or five times.
3 Q. Since becoming a judge, we're talking about?
4 A. Probably combined, but...
5 Q. Since becoming a judge, have you had lunch with him?
6 A. I have.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-47a

Q. Did-- you said that you attended Mr. Kelson's son's Bar Mitzvah?
A. We did.
Q. And this was at the time you were a judge?
A. Correct.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-47b

MICHAEL F. McGUIRE
CORINNE G. McGUIRE
[redacted]

1290
50-693/219
325

10-10-15
Date

Pay to the Order of [redacted] $ 100.00

One Hundred 00/100 Dollars

KeyBank National Association
Kerhonkson, New York 12446
1-800-KEY2YOU Key.com

Key Privilege Select

For CONGRATULATIONS!

[redacted]

EXHIBIT
Comm
Ex 114
PENGAD 800-631-6989

EXHIBIT
Comm
Ex XI-47C
PENGAD 800-631-6989

MICHAEL F. McGUIRE
CORINNE G. McGUIRE
[redacted]

1290
50-693/219
325

10-10-15
Date

Pay to the Order of [redacted] $ 100.00

One Hundred 00/100 Dollars

KeyBank National Association
Kerhonkson, New York 12446
1-800-KEY2YOU Key.com

Key Privilege Select

For CONGRATULATIONS!

[redacted]

EXHIBIT
Comm
Ex 114
PENGAD 800-631-6989

EXHIBIT
Comm
Ex XI-47C
PENGAD 800-631-6989

1
2
3
4
5
6 Q. -- R[redacted]'s his son?
7 A. His son. We wanted to be there for R[redacted].
8 Q. Now, did you give a present to R[redacted]?
9 A. I did.
10 Q. And what'd you give him?
11 A. $100
12 Q. I'm going to show you what's going to be marked Commission
13 Exhibit 114.
14 A. That's my check.
15 Q. And is this the check that you gave to R[redacted] K[redacted] on his Bar
16 Mitzvah?
17 A. Yes.
18 Q. And is that your signature?
19 A. It is.
20 Q. Since become-- and you were a judge at this time, right?
21 A. I was.
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-47d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19 Q. Did you ever-- after becoming a judge, did you ever refer cases to Mr.
20 Kelson?
21 A. I did.
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-47C

1
2
3
4
5
6 Q. At the time that all these cases that we've gone over--
7 A. -- Mm-hmm.
8 Q. -- Involving Zach Kelson and your emails back and forth, did he-- was
9 Mr. Kelson appearing before you in Family Court?
10 A. He was as an attorney, as a law guardian.
11 JUDGE SHEA: I'm sorry, did you say "as an
12 attorney/law guardian"?
13 THE WITNESS: Well, it was-- we've changed the
14 name now. They're now called "Attorneys for the
15 Children." They haven't changed their role, but at that
16 time, he was the law guardian.
17 BY MS. TISHMAN:
18 Q. And did he appear in front of you?
19 A. He did.
20 Q. And did you ever make a record of your relationship with Mr. Kelson?
21 A. I did not.
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-47f

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25 Q. And did it come to your attention that Ms. Amoroso had received a

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI 48a

1 speeding ticket one day after visiting your son in the hospital?
2 A. It came to my attention that she got a speeding ticket heading to the
3 hospital to visit him. It was two days after the fire.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

3F200PJXSP

New York State - Department of Motor Vehicles
SIMPLIFIED INFORMATION/CERTIFICATE CONCERNING VIOLATION OF LAW RELATING TO VEHICLES

COPY

The people of the State of New York
vs.

NEW YORK STATE POLICE

Local Police Code	15502
Date of Arraignment	
Court Adjournment Record	
Docket Number	11070268.01

Last Name(Defendant)	First Name	M.I.
AMOROSO	LINDSAY	M

Number and Street	Apt. No.	Photo Lic Shown
[redacted]		☒

City	State	Zip Code	Owner is Oper.	Lic. Class
[redacted]	[redacted]	[redacted]	○	D

Client ID Number	Sex	Date Expires
[redacted]	F	03/13/2019

Lic State	Date of Birth	Veh. Type	Year	Make	Color
NY	[redacted]		2005	ACUR	GY

Plate Number	Reg State	Registration Expires
[redacted]	NY	/ /

Date From	Code	Date To	Requested By

	Amount	Date	Receipt No.
Bail			
Refund			
Fine			
Surcharge			

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time	Date of Offense	IN VIOLATION OF
03:48PM	07/26/2011	VTL

Violation Section: 1180 0B

Traffic Infraction ☒ Misd ○ Felony ○

Description of Violation: SPEED OVER 55 ZONE

MPH: 69 MPH ZONE: 55

US DOT#:

Comm Veh ○ Bus ○ HazMat ○

C/T/V/Name	County	Hwy.No	Loc.Code
TOWN OF PLATTEKILL	ULSTER	32	5661

Street Name	Hwy Type	NCIC/ORI
STATE 32 N/B	2	15502

AFFIRMED UNDER PENALTY OF PERJURY

(Officer's Signature)

Officer operating radar

Date of Affirmation	Arrest Type	Badge/Shield	Officer's Com./Div./Stat.
07/26/2011	2 - Radar	2771	F311

Officer's Last Name: Hastings

First Name: D M.I.:

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW IN:

PLATTEKILL TOWN COURT

Address: PO BOX 45

City	State	Zip
MODENA	NY	12548

	Date	Time
☒ Return by mail before or in person on:	08/15/11	06:00PM
○ Must appear in person on:		

FOR COURT USE ONLY

Court Code	Justice Code	Date Adjudicated	Date Sentence Imposed
NY055131J	51379		

Charge Convicted of ○ AS ABOVE ○ VTL ○ Other

Disposition/Sentence

Fine $

Surcharge $

Bail Forfeiture Date

Amount $

○ LIC ○ REG ○ Rev ○ Susp ○ Mand. ○ Perm DAYS/MONTHS/YEAR

DWI Test Type

DWI Test Results

SECTION 1807 OF THE VEHICLE AND TRAFFIC LAW PROVIDES THAT DEFENDANT, IN CERTAIN CASES, MUST BE INFORMED IN SUBSTANCE AS FOLLOWS:

"A plea of guilty to this charge is equivalant to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law."

To Judge or Clerk of Court. Checkmark the appropriate box or boxes below.

I HEREBY CERTIFY THAT:

☐ Upon arraignment, that the above instruction was given orally to the defendant.

☐ The defendant appeared in response to a ticket upon which the above instructions were printed in bold type, in accordance with Section 1807 of the Vehicle and Traffic Law.

☐ Defendant entered a plea of guilty in writing pursuant to Section 1805 of the Vehicle and Traffic Law.

I hereby certify that the information given on this certificate is a true abstract from the records of this court.

Signature of Judge or Clerk of Court

Name of Judge

Supporting Deposition Issued: None ○ Speeding(Gen101) ☒ Non - Speeding(Gen101a) ○

UTO-1.7(4/02)

EXHIBIT
Comm
Ex XI 48b
PENGAD 800-631-6989

EXHIBIT
Comm
Ex 115
PENGAD 800-631-6989

1
2
3 Q. I'll show you what's marked Commission Exhibit 115. This is a
4 ticket, Lindsay Amoroso, July 26, 2011. Is this the ticket that you saw
5 on the-- in the hospital?
6 A. Well, this is a copy of it, but yes.
7 Q. Yes. And did you take this ticket?
8 A. Either I took it or my wife took it, but we-- we took it. I believe we
9 took it.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-48c

1 Q. Did you ever tell your son that the ticket would be taken care of?
2 A. I told my son I would get someone to take care of it.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-48d

Q. And did you give Mr. Kelson the ticket?

A. I did-- I mean, it-- it got to him. I don't remember if I handed it to him, if Corinne dropped it by his office, if he came by chambers and picked it up. I don't remember that.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-48e

1
2
3 Q. Were you in contact with Mr. Kelson about the ticket after you
4 referred it to him?
5 A. I'm sure we exchanged emails. He knew the emotion in me that was
6 somewhat tied to this ticket. So, I'm sure that we exchanged emails
7 about, you know, when it was over, or when it was going, or that he
8 had it. I don't, again, have specific recollection, but I'm-- I'm sure
9 that we did exchange emails.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI 485

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Amoroso

4 messages

Zachary Kelson <zacharykelson@[redacted]> Mon, Aug 8, 2011 at 4:12 PM
To: judgemcguire@[redacted]

Mike, attached is Ms. Amoroso's waiver. Do you want me to mail it to her? Do you have an e-mail address?

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Waiver.pdf
27K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Tue, Aug 9, 2011 at 5:06 AM
To: Zachary Kelson <zacharykelson@[redacted]>

Great Corinne is getting an e-mail address for you. Also when Zach gets back have him call me I had a religious gentleman that has an AUO 3rd in the Town of Thompson.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Monday, August 08, 2011 4:13 PM
To: judgemcguire[redacted]
Subject: Amoroso

[Quoted text hidden]

zacharykelson@[redacted] <zacharykelson[redacted]> Tue, Aug 9, 2011 at 12:31 PM
Reply-To: zacharykelson@[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>, Zachary Kelson <zacharykelson@[redacted]>

Spoke to my brother todd. Prosecutor in plattekill is john sisti , a friendly. There should be no problem with a 1201

Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>
Date: Tue, 09 Aug 2011 05:06:07 -0400
To: 'Zachary Kelson'<zacharykelson[redacted]>
Subject: RE: Amoroso

EXHIBIT
Comm
Ex. 118
PENGAD 800-631-6989

EXHIBIT
Comm
Ex XI-489
PENGAD 800-631-6989

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Wed, Aug 10, 2011 at 5:07 AM
To: zacharykelson[redacted]

Great that will be terrific, it would be great if we could get that with a recommendation for a low fine.

Enjoy your vacation

Mike

From: zacharykelson@[redacted] [mailto:zacharykelson@[redacted]]
Sent: Tuesday, August 09, 2011 12:32 PM
To: Mr MICHAEL MCGUIRE; Zachary Kelson
Subject: Re: Amoroso

[Quoted text hidden]

TOWN COURT : TOWN OF PLATTEKILL
COUNTY OF ORANGE : STATE OF NEW YORK
----------X
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiffs,

-against-

AFFIRMATION, WAIVER AND CONSENT TO DISPOSITION

LINDSAY M. AMOROSO,

UTT No. 3F200PJXSP

Defendant.
----------X

The undersigned hereby affirms as follows:

1. I am the Defendant herein, in which I am charged with violation of Section 1180(b) of the New York State Vehicle and Traffic Law. I have retained Zachary D. Kelson, Esq., of 10 St. John Street, PO Box 1210, Monticello, New York, 12701, to represent my interests therein.

2. I hereby grant full authority to my said attorney and to his designee to represent me. I request and consent that all proceedings, including the trial herein, be conducted in my absence. I hereby authorize my said attorney or his designee to enter a plea of guilty on my behalf to any violation of the Vehicle and Traffic Law that he considers appropriate in satisfaction and disposition of all charges pending against me.

3. I understand that false statements made herein are punishable as a class A misdemeanor, pursuant to §210.45 of the Penal Law.

Dated: August _____, 2011

_____
LINDSAY M. AMOROSO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17 Q. Now, the-- going down the email's August 9, 2011 at 12:31 P.M.,
18 from Zach Kelson to Michael McGuire:
19 Spoke to my brother Todd. Prosecutor in
20 Platekill--
21 A. "Plattekill."
22 Q. -- Plattekill is John Sisti, a friendly.
23 There should be no problem with a 1201.
24 Q. Did you receive that email?
25 A. I'm sure that I did, because I-- I responded.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI · 48h

1 Q. Now, the next email after that is from you to Zach Kelson at--
2 A. -- The next day at 5:07 A.M.
3 Q. Yes. And you say:
4 Great. That'll be terrific. It'd be great if we could
5 get that with a recommendation for a low fine.
6 Q. So, you stayed involved in the case?
7 A. I did.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Gmail

Zachary Kelson <zacharykelson[redacted]

Amoroso

4 messages

Zachary Kelson <zacharykelson[redacted]> Tue, Apr 3, 2012 at 11:21 AM
To: judgemcguire[redacted]

Please see the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Amoroso.pdf
56K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Tue, Apr 3, 2012 at 8:15 PM
To: Zachary Kelson <zacharykelson@[redacted]>

Zach that looks great, thank you. I have the trial notice for John Clemens I will leave it with Wendy if you could pick it up, it is not on until May.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, April 03, 2012 11:22 AM
To: judgemcguire@[redacted]
Subject: Amoroso

[Quoted text hidden]

PENGAD 800-631-6989 EXHIBIT Comm Ex. 121

---

zacharykelson@[redacted] <zacharykelson[redacted]> Tue, Apr 3, 2012 at 8:20 PM
Reply-To: zacharykelson@[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Great. I tried to find the clements # to no avail. Could you jot it on the notice? This way I can send them a waiver to sign.
Enjoy your vacation
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>
Date: Tue, 03 Apr 2012 20:15:09 -0400
To: 'Zachary Kelson'<zacharykelson@[redacted]>
Subject: RE: Amoroso

PENGAD 800-631-6989 EXHIBIT Comm Ex XI-48i

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Tue, Apr 3, 2012 at 9:49 PM
To: zacharykelsor[redacted]

OK not sure I have it but I can get it.

Mike

From: zacharykelson@[redacted] [mailto:zacharykelsor[redacted]]
Sent: Tuesday, April 03, 2012 8:20 PM
To: Mr MICHAEL MCGUIRE
Subject: Re: Amoroso

[Quoted text hidden]

ZACHARY D. KELSON

ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

April 3, 2012

Ms. Lindsay M. Amoroso
[redacted]

Re: People vs. Lindsay M. Amoroso
Town of Plattekill Justice Court

Dear Ms. Amoroso:

Enclosed herewith please find notice received from the Town of Plattekill Justice Court rescheduling the pre-trial conference in connection with the above-entitled uniform traffic ticket for June 18, 2012 at 7:30 p.m. Your appearance will not be necessary on that date and time, since you have previously executed a Waiver and Consent and I will appear on your behalf for the trial.

I will of course, keep you advised of the outcome.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15 Q. Did you review this email and make comments to Mr. Kelson about
16 the-- about the letter that he sent you?
17 A. Well, it looks like on April 3rd, at 8:15, I said, "Looks great. Thank
18 you."
19 Q. Did you-- why were you reviewing letters in a legal case?
20 A. Well, I wouldn't have been, other than that he sent them to me
21 gratuitously. Otherwise, I would have no interest in reviewing them.
22 Q. Did you tell him not to send them to you?
23 A. I didn't.
24 Q. Did you tell him that-- not to tell you anything about legal cases that
25 were referred to him?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-48j

1 A. I didn't.
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Do you know Jerry Fernandez?

A. I do.

Q. Is he a friend of yours?

A. He's probably my closest friend.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25 Q. Did he have a problem with the County of Sullivan regarding an

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49b

1 estate?

2 A. When his mom passed away, there was some kind-- there was an

3 action that I think dealt with a Medicare issue. I don't know for sure,

4 but I think it was a Medicare issue.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9 Q. Did you ever tell Zachary Kelson that you cannot be involved in the
10 legal matter involving Mr. Fernandez?
11 A. I did not.
12 Q. You ever tell him not to send you any emails--
13 A. -- I--
14 Q. -- Or legal documents involving Mr. Fernandez?
15 A. I did not.
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49c

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Jerry Fernandez

12 messages

Zachary Kelson <zacharykelson@[redacted]> Tue, Jan 21, 2014 at 1:37 PM
To: Michael McGuire <judgemcguire@[redacted]>

Mike:

Kindly review the attached. Can you get in touch with Jerry and see what's going on? I mailed him the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
53K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Wed, Jan 22, 2014 at 3:45 AM
To: Zachary Kelson <zacharykelson@[redacted]>

Yes I will get in contact with Jerry, I see him most every day, restaurant slow this time of the year and that is likely why he fell behind, let Zager know that he will get caught up over the next couple months, have them pull back, it is not like it is a huge amount of money.

Thanks for staying on top of that for me.

Mike

EXHIBIT
Comm
Ex. XI-49d
PENGAD 800-631-6989

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, January 21, 2014 1:37 PM
To: Michael McGuire
Subject: Jerry Fernandez

[Quoted text hidden]

EXHIBIT
Comm
Ex. 124
PENGAD 800-631-6989

Zachary Kelson <zacharykelson@[redacted]> Wed, Jan 22, 2014 at 11:38 AM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

I just spoke with account rep marie wallace at zagers office re jerry fernandez. He has not made a payment since august of 2013. He was supposed to pay $50 per month so including this coming february he owes $350. Zagers office will hold off for a week from today and call me before they do anything else. If you can reach out to Jerry and have him contact me it would be appreciated.

Thanks in advance
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Thu, Jan 23, 2014 at 3:40 AM
To: Zachary Kelson <zacharykelson[redacted]>

Not a problem you will have a check for the $350.00 within a week, Jerry is off on Wednesday, I stopped by his place yesterday but he was not in, I will see or speak with him today.

Thank you for everything.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Wednesday, January 22, 2014 11:39 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

[Quoted text hidden]

Zachary Kelson <zacharykelson[redacted]> Thu, Jan 23, 2014 at 12:01 PM
To: Michael McGuire <judgemcguire[redacted]>

Just got $400 from him . Thanks for the push
Zdk

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Thu, Jan 23, 2014 at 1:58 PM
To: Michael McGuire <judgemcguire@[redacted]>

Kindly review the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez 003.pdf
38K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Fri, Jan 24, 2014 at 5:52 PM
To: Zachary Kelson <zacharykelson@[redacted]>

My pleasure what was the response after today

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Thursday, January 23, 2014 12:01 PM
To: Michael McGuire
Subject: RE: Jerry Fernandez

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Fri, Jan 24, 2014 at 5:55 PM
To: Michael McGuire <judgemcguire@[redacted]>

The reference to dr king was amazing. Burt was right about you.

[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Fri, Jan 24, 2014 at 5:57 PM
To: Zachary Kelson <zacharykelson@[redacted]>

Thank you....I thought the silence was very telling. I have so much respect for Burt, I would never do anything to disappoint him, I want to continue to earn his respect every day.

Have a great weekend.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Friday, January 24, 2014 5:56 PM

[Quoted text hidden]

[Quoted text hidden]

Zachary Kelson <zacharykelson@[redacted]> Wed, Jul 2, 2014 at 2:26 PM
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Re Jerry Fernandez adv County of Sullivan
Mike
In reviewing my file thought it wise to check with Zagers office on the status of this matter. It appears that Jerry owes a total balance of $188 to close out the file. If you could remind Jerry it would be appreciated. Seems to me it would make to sense to pay off the balance this summer when things might be going better.
Let me know if you hear from Jerry
Zach
[Quoted text hidden]

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Thu, Jul 3, 2014 at 5:56 AM
To: Zachary Kelson <zacharykelson[redacted]>

Thank you I will see him today and get that taken care of today.

Have a great holiday weekend. Speak soon

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Wednesday, July 02, 2014 2:26 PM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

Re Jerry Fernandez adv County of Sullivan

B Mike

In reviewing my file B thought it wise to check with Zagers office on the status of this matter. It appears that Jerry owes a total balance of $188 to close out the file. If you could remind Jerry it would be appreciated. Seems to me it would make to sense to pay off the balance this summer when things might be going better.

Let me know if you hear from Jerry

Zach

On Thu, Jan 23, 2014 at 3:40 AM, Mr MICHAEL MCGUIRE <judgemcguire[redacted]> wrote:

Not a problem you will have a check for the $350.00 within a week, Jerry is off on Wednesday, I stopped by his place yesterday but he was not in, I will see or speak with him today.

B

Thank you for everything.

B

Mike

B

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Wednesday, January 22, 2014 11:39 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: Jerry Fernandez

B

I just spoke with account rep marie wallace at zagers office re jerry fernandez. He has not made a payment since august of 2013. He was supposed to pay $50 per month so including this coming february he owes $350. Zagers office will hold off for a week from today and call me before they do anything else. If you can reach out to Jerry and have him contact me it would be appreciated.

Thanks in advance

B

On Wed, Jan 22, 2014 at 3:45 AM, Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> wrote:

Yes I will get in contact with Jerry, I see him most every day, restaurant slow this time of the year and that is likely why he fell behind, let Zager know that he will get caught up over the next couple months, have them pull back, it is not like it is a huge amount of money.

Thanks for staying on top of that for me.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, January 21, 2014 1:37 PM
To: Michael McGuire
Subject: Jerry Fernandez

Mike:

Kindly review the attached. Can you get in touch with Jerry and see what's going on? I mailed him the attached.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

B

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street

PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson[redacted]> Thu, Jul 3, 2014 at 6:53 AM
To: Michael McGuire <judgemcguire[redacted]>

Same to you and the family

[Quoted text hidden]

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

January 21, 2014

Mr. Jerry Fernandez
PO Box 29
Ferndale, NY 12734

Re: County of Sullivan vs. Estate of Lydia Fernandez/Jerry Fernandez

Dear Jerry:

I received the attached Notice from M.L. Zager, P.C. indicating that you have not kept current in your payments to their office in connection with the above-entitled action. Please contact me following your receipt of this letter and enclosures to discuss what is going on. If you do not bring this matter current, a judgment will be entered against you, less any payments you have made on account.

I look forward to hearing from you.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
Encls.

THE LAW OFFICES OF

M.L. ZAGER, P.C.

461 Broadway - P.O. Box 948
Monticello, New York 12701
(845) 794-3660; (845) 794-3919 (fax)

JACOB R. BILLIG
ROBERT B. HUNTER
JOSEPH LOUGHLIN
MICHAEL L. ZAGER,
Of Counsel

01-17-14

#BWNBFDF
ZACHARY KELSON, ESQ.
P.O. BOX 1210
MONTICELLO NY 12701

M.L. ZAGER, P.C. FILE#:	1883772
CLIENT:	COUNTY OF SULLIVAN DBA SULLIVAN COUNTY ADULT CARE CENTER
CLIENT ACCOUNT #:	
RESPONSIBLE PARTY:	JERRY FERNANDEZ
SERVICES RENDERED TO:	JERRY FERNANDEZ
DATE OF SERVICE:	07-01-10
ACCT. REPRESENTATIVE:	MARIE WALLACE

TO MAKE A PAYMENT ONLINE GO TO: WWW. ZAGERPAY.COM

Your client is in default with respect to our prior agreement. Unless your client promptly cures their default in accordance with our prior agreement, we will proceed.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

Very truly yours,
M.L. Zager, P.C.
S/
by: Joseph Loughlin

DETACH HERE (FILL OUT BELOW)

M.L. ZAGER, P.C. FILE #1883772 AMOUNT TO CHARGE: $688.00
TO MAKE A PAYMENT ONLINE GO TO: WWW. ZAGERPAY.COM

_____MASTERCARD _____DISCOVER _____VISA _____CHECK/MONEY ORDER _____AMEX

ACCOUNT # _____ EXP. DATE _____

CARDHOLDER SIGNATURE (PRINT BELOW LINE)

SIGNATURE: _____
T1STIP

1
2
3 Q. And did you get in contact with Jerry?
4 A. I-- like I said in that, I see him almost every day. So, I'm sure that I--
5 that I did.
6 Q. Did you tell Mr. Kelson not to send you these type of documents after
7 you receive the January 21, 2014--
8 A. -- I did not--
9 Q. -- Letter?
10 A. I did not.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49e

1
2
3
4 Q. So, you took the initiative to talk to Mr. Fernandez about the matters
5 about this-- this legal settlement?
6 A. I did.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49f

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Jerry Fernandez

3 messages

Zachary Kelson <zacharykelson@[redacted]> Tue, Jul 29, 2014 at 1:45 PM
To: Michael McGuire <judgemcguire[redacted]

Sorry to bother you but I just got a call from Michael Zagers office indicating that Jerry didnt make his July payment. Could you please remind him gently that he needs to take care of this asap.
Thanks,
Zach

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Wed, Jul 30, 2014 at 3:43 AM
To: Zachary Kelson <zacharykelson[redacted]>

I will take care of it first thing this morning. Could you shoot me a text today with the name of the guy that you are using currently for home inspections. I have a friend who is being a home in Napanoch, he is an attorney from out of the area and called me yesterday to ask who we use up here, since I have obviously not done a real estate transaction in the past few years I just want to see who people are using now. Thanks.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, July 29, 2014 1:45 PM
To: Michael McGuire
Subject: Jerry Fernandez

EXHIBIT
Comm
Ex. XI-49g
PENGAD 800-631-6989

Sorry to bother you but I just got a call from Michael Zagers office indicating that Jerry didnt make his July payment. Could you please remind him gently that he needs to take care of this asap.

B Thanks,

B Zach

EXHIBIT
Comm
Ex. 126
PENGAD 800-631-6989

--
ZACHARY D. KELSON
Attorney & Counsellor at Law

10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson@[redacted] Wed, Jul 30, 2014 at 7:06 AM
To: Michael McGuire <judgemcguire@[redacted]>

I recommend jim carnell (former thompson building inspector) his #s are [redacted] (mobile)or 794 8122(office) he does a great job and I use him when I can.

Zach

[Quoted text hidden]

1
2
3
4
5
6
7 Q. I'm going to show you what is-- hold on one second. I'm sorry. I'm
8 going to show you what's marked Commission Exhibit 126. And this
9 is an email chain, the first one July 29, 2014, 1:45 P.M., from Mr.
10 Kelson to you:
11 Sorry to bother you, but I just got a call from
12 Michael Zager's office indicating that Jerry didn't
13 make his July payment. Could you please remind
14 him gently that he needs to take care of this
15 ASAP? Thanks. Zach.
16 Q. So, this appears that Mr. Kelson said, "I just got a call from Mr.
17 Zager's office"--
18 A. -- Mm-hmm.
19 Q. -- And he asks you to help him. So, this isn't a case where he's tried
20 to reach out to Jerry and has gotten frustrated. Did you tell him to
21 reach out to his own client?
22 A. I didn't.
23 Q. And you on Wednesday, July 30, 2014 at 3:43 A.M., say:
24 I will take care of this first thing this morning.
25 Q. And did you get involved in this matter and take care of it?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49h

1 A. I don't know if I did it that day, but I'm sure that I probably did speak
2 to Jerry about it.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. I was asking you whether Mr. Fernandez was involved in the case *Eye Physicians of Orange County v. Fernandez*. Were you familiar that that case existed?

A. Yeah, I am. Jerry got an eye infection, then he contracted MRSA and wound up for several weeks in Westchester Medical Center.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Fwd: FW:

5 messages

judgemcguire@[redacted] <judgemcguire@[redacted]> Mon, Oct 27, 2014 at 1:09 PM
To: zacharykelson@[redacted]

Zach;

This is the summons I told you about with respect to Jerry. What he wants to do is get a payment plan and pay this debt to the doctor, if the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

I will be off the bench by 3:30 if you need to talk to me.

Thank you for anything you can do with Warren.

Mike

---------Original Message---------

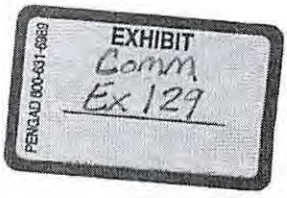
From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:
To: Sweetie <judgemcguire@[redacted]>

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

Summons-Eye Phtsicians of OC.pdf
33K

Zachary Kelson <zacharykelson[redacted]> Tue, Oct 28, 2014 at 10:58 AM
To: Michael McGuire <judgemcguire[redacted]>

FYI
[Quoted text hidden]
--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422



CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
86K

Zachary Kelson <zacharykelson@[redacted]> Thu, Oct 30, 2014 at 2:45 PM
To: Michael McGuire <judgemcguire[redacted]>

Andy greher refused to return my calls . Finally I got on the phone and spoke to his father. The goshen summons was withdrawn. Warren agreed to accept $ 100 per month until paid in full. He will send me a stip. In the meantime could you please let Jerry know its settled. He should get a check ready for $100 payable to warren greher as atty. He can forward it to me,
Any questions ,please call

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire@[redacted]> wrote:
[Quoted text hidden]

–
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson@[redacted]> Mon, Dec 8, 2014 at 1:45 PM
To: Michael McGuire <judgemcguire[redacted]>

Mike:

Attached is a copy of my correspondence to Mr. Greher which is self-explanatory. Can you get me Jerry's e-mail address so I can forward a copy to him directly rather than bother you?

Thanks.

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire@[redacted]> wrote:
[Quoted text hidden]

–
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Fernandez.pdf
84K

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Thu, May 28, 2015 at 11:37 AM
To: Zachary Kelson <zacharykelson@[redacted]>

Sure I will get that for you.

Mike

From: Zachary Kelson [mailto:zacharykelson[redacted]]
Sent: Monday, December 08, 2014 1:46 PM
To: Michael McGuire
Subject: Re: FW:

Mike:

Attached is a copy of my correspondence to Mr. Greher which is self-explanatory. Can you get me Jerry's e-mail address so I can forward a copy to him directly rather than bother you?

Thanks.B

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire@[redacted]> wrote:

Zach;

B

This is the summons I told you about with respect to Jerry.B What he wants to do is get a payment plan and pay this debt to the doctor, if the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

B

I will be off the bench by 3:30 if you need to talk to me.

B

Thank you for anything you can do with Warren.

B

B

Mike

B

-------Original Message-------

From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:

To: Sweetie <judgemcguire[redacted]>
B

B

B

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

B

B

--

ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Justice Court of the Town of Goshen
County of Orange : State of New York

EYE PHYSICIANS OF ORANGE COUNTY, P. C.

Plaintiff(s)

-against-

GERARDO FERNANDEZ

[redacted]

Defendant(s)

Plaintiff's Residence or Business Address:
One Hatfield Lane, Goshen, NY

Summons

Basis of Jurisdiction

Defendant did business in the municipality

To the Above Named Defendant(s):

You Are Hereby Summoned and required to appear and answer this endorsed summons in the Justice Court of the Town of Goshen, 41 Webster Avenue, Goshen, County of Orange and State of New York, on the 28th day of October, 2014, at 12:00 in the afternoon.

Upon your failure to appear and answer, judgment will be taken against you for the sum of $1,089.63 with interest thereon from the 25th day of July, 2013, together with the costs of this action.

Dated: October 8, 2014

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553

Endorsed Complaint

Defendant owes plaintiff $1,089.63 for professional services provided.

WARREN GREHER, ESQ.
GREHER LAW OFFICES, P. C.
Attorney for Plaintiff
1161 Little Britain Rd., Ste. B
New Windsor, New York 12553
Tel. 567-1002 Fax 567-0025

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

October 28, 2014

VIA FAX & REGULAR MAIL

Hon. Thomas Cione, Town Judge
Town of Goshen
41 Webster Ave.
Goshen, NY 10924

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Judge Cione:

The undersigned was retained last night to represent the Defendant in connection with the above-entitled action and I enclose herewith my Special Notice of Appearance for filing with the Court. I will be actually engaged before the Hon. Michael F. McGuire, Sullivan County Family Court Judge, in the Sullivan County Family Court this afternoon in a proceeding entitled "In the Matter of Sullivan County DFS vs. 'C.'" and will be unable to appear on this matter before Your Honor and respectfully request that the matter be adjourned.

I am making a special appearance in this case because I believe the Court has not acquired jurisdiction over the Defendant. Section 403 of the Uniform Justice Court Act requires that the Defendant be served with the Summons in the same County in which the Court is located. After checking with the Clerk of the Court, it appears that service of the Summons was allegedly made upon the Defendant in Youngsville, New York, which is located within the County of Sullivan. None of the exceptions contained in §403 of the Uniform Justice Court Act apply, as at all times relevant, the Defendant has always resided in Sullivan County and therefore, in order to obtain jurisdiction over this Defendant in the Goshen Town Court, he must be served within the County of Orange. I therefore ask that the action be dismissed.

In the event the Court denies my application, I respectfully request that the matter be adjourned to a different date. I have attempted to communicate with Greher Law Offices in order to discuss this matter and obtain an adjournment; however, both attorneys in the firm are unavailable to return my call due to their engagement in Court.

Thank you.

Respectfully yours,

ZACHARY D. KELSON

ZDK/kb
Encls.
cc: Greher Law Offices, P.C.
Mr. Gerardo Fernandez

TOWN COURT : TOWN OF GOSHEN
COUNTY OF ORANGE : STATE OF NEW YORK

----------X

EYE PHYSICIANS OF ORANGE COUNTY, P.C.,

Plaintiffs,

-against-

GERARDO FERNANDEZ,

Defendant.

----------X

SPECIAL NOTICE OF APPEARANCE

S I R :

PLEASE TAKE NOTICE that the Defendant, GERARDO FERNANDEZ, hereby makes special appearance in the above entitled action, and that the undersigned has been retained as attorney for said Defendant and demand that a copy of the Complaint and all papers in this action be served upon the undersigned at the office and post office address stated below.

Dated: October 28, 2014

ZACHARY D. KELSON, ESQ.
Attorney for Defendant Gerardo Fernandez
10 St. John Street - P.O. Box 1210
Monticello, New York 12701-8210
Telephone: (845) 794-1000

To: Clerk of the Town Court
Town of Goshen
41 Webster Avenue
Goshen, NY 10924

Greher Law Offices, P.C.
Attorneys for Plaintiff
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

ZACHARY D. KELSON
ATTORNEY AND COUNSELLOR AT LAW

10 ST. JOHN ST. - P.O. BOX 1210
MONTICELLO, NEW YORK 12701
TELEPHONE 845-794-1000
FACSIMILE 845-794-1422

170 SULLIVAN STREET
WURTSBORO, NEW YORK 12790
TELEPHONE 845-888-2800

REPLY TO:
Monticello Office

December 8, 2014

Warren Greher, Esq.
Greher Law Offices, P.C.
1161 Little Britain Rd., Suite B
New Windsor, NY 12553

Re: Eye Physicians of Orange County, P.C. vs. Gerardo Fernandez

Dear Warren:

I apologize for the delay in getting back to you with respect to the Stipulation of Settlement which you forwarded to me in connection with the above-entitled action. The Stipulation you forwarded will not work because jurisdiction was not obtained over the Defendant in the Goshen Town Court action. I suggest that you and I agree on behalf of our respective clients that the matter will be disposed of as follows:

1. Commencing on the December 15, 2014, Gerardo Fernandez shall pay the sum of $100.00 every month and he shall pay a like sum of $100.00 on or before the 15th day of each month thereafter until the full amount without interest is paid in full. The first check payable to your firm's order in the sum of $100.00 is enclosed.

2. Payment will be paid to Greher Law Offices P.C. and mailed to 1161 Little Britain Rd., Suite B, New Windsor, NY 12553.

3. If Mr. Fernandez does not make each and every payment as required by this agreement, you will provide me with written notice to cure the default, with a ten day cure period. If that payment is not made, you may commence an action in the Town of Liberty Justice Court.

In order to avoid your client incurring expense, I will agree to accept service of the Summons on the Defendant's behalf in the Town of Liberty Justice Court action. If the default is not cured and suit is instituted, you will be able to receive the principal balance due, less any payments made, together with interest at the rate of nine percent per annum from July 5, 2013.

Please sign at the foot of this letter to confirm your acceptance of this agreement as well as to confirm that you are authorized to enter into this agreement on your client's behalf and that you are authorized to bind them to the same. I represent that I am likewise authorized to enter into this agreement on Mr. Fernandez' behalf and that I am authorized to bind him to the same.

Thank you.

Very truly yours,

ZACHARY D. KELSON

ZDK/kb
cc: Mr. Gerardo Fernandez

. . . . . .

AGREED AND ACCEPTED
Greher Law Offices, P.C.

By: _____
Warren Greher, Esq. *Date*

1165

MISTER G'S GRILLE, LLC
79 SULLIVAN AVE.
LIBERTY, NEW YORK 12754

DATE 10/30/14

50-934-219

PAY TO THE ORDER OF Warren Greber as Attorney $ 100.00

One hundred DOLLARS

JEFF BANK
www.jeffbank.com

FOR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22 Q. It says:
23 Zach, this is the summons I told you about with
24 respect to Jerry.
25 So, you had spoken to Mr. Kelson about this matter?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49K

1 A. I did.
2 Q. And you sent him the summons?
3 A. I did. And as I-- as I recall, I probably had seen Jerry when I was
4 home for lunch because his restaurant is between Chambers and
5 Nassau-- so, I might have even stopped in there to see him. And that's
6 probably when he gave it to me, or he may have given it to me the day
7 before. I don't know. But I do have a vague recollection that I had
8 given Zach a copy of the summons on that.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 Q. Whether that's true or not, the email itself, you say, "I need to see if
24 you can contact Warren for him"--
25 A. -- Right.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-491

1 Q. -- So, you're asking Mr. Kelson to contact Warren Gerr [sic] --
2 A. -- "Greher." [Pronounces "Greer."]
3 Q. -- Greher, right? And set up a payment plan?
4 A. Well--
5 Q. -- So, you're actually telling Mr. Kelson what to do?
6 A. Well, no. Well, Jerry had already retained Zach to represent him on
7 this. The email speaks for itself.
8 Q. Were you getting involved in the legal issue?
9 A. I was-- I was trying to-- to make sure that-- that Jerry got what he
10 needed to get so that he could make good on the-- on the debt that he
11 had. That's all.
12 Q. So, was-- I'm asking whether you were involved in the legal issue?
13 A. I-- I was no more involved in the legal issue than any other layperson
14 who communicates with an attorney. In other words, I wasn't-- I
15 wasn't giving Zach legal advice, I was saying, "Get a hold of-- of
16 Warren Greher and see if we can get a-- you can get a payment plan
17 for Jerry."
18 Q. But you're not a layperson, you're a judge?
19 A. I am.
20 Q. And you were a judge at this time?
21 A. I was.
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Q. And do you think there was a conflict with Mr. Kelson representing
25 your best friend and also appearing in front of you in a Family Court

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49m

1 matter?
2 A. He was appearing. He was the-- the law guardian, so I didn't see
3 where it was a conflict for me. It-- and it's up to him whether he
4 thought it was a conflict for him.
5 Q. Did you-- do you think that-- did you make a record in court about
6 your relationship with Mr. Kelson so that the other parties would be
7 aware of the relationship and they could also figure out if they thought
8 it was a conflict?
9 A. I'm-- I'm sure that I did not.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Q. But he assigned to advocate for the child?
25 A. Correct, yes.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49n

1 Q. And he's doing that in front of you as he's representing your best
2 friend?
3 A. Correct.
4 Q. You did not see this as a-- do you think that it-- withdrawn. Do you
5 think this violated the Rules?
6 A. At that time, I didn't see it as violating the Rules because I had no
7 involvement with that. The-- the emails from Zach, as I said, were
8 gratuitous. I-- I didn't-- I didn't see that as any kind of *quid pro quo*.
9 Clearly--
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18 Q. -- Did you ever tell Mr. Kelson to stop reporting back to you about the
19 legal issue?
20 A. I-- not in 2014, but probably in 2016, I made it pretty clear to all of the
21 attorney friends I had that I couldn't communicate with them anymore
22 if they were still--
23 Q. -- In this case, did you--
24 A. -- No.
25 Q. Well, Mr. Kelson was sending you emails and documents, did you

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-490

1 ever tell Mr. Kelson not to send you those--
2 A. -- I did not.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Re: Re: Re: FW:

2 messages

judgemcguire@[redacted] <judgemcguire@[redacted]> Fri, Oct 31, 2014 at 3:59 PM
To: zacharykelson@[redacted]

Will do lets set a day, I have the first check from Jerry so lets try to hook up early next week and I can give it to you, or if you are coming over this way let me know and I will have it here for you.

Mike

On 10/30/14, Zachary Kelson<zacharykelson@[redacted]> wrote:

Only if you inky and the kids join us

On Oct 30, 2014 4:44 PM, <judgemcguire@[redacted]> wrote:
Perfect that is great he will be happy. Let me know when you want to go to dinner at his restaurant I will set it up

On 10/30/14, Zachary Kelson<zacharykelson[redacted]> wrote:

Andy greher refused to return my calls . Finally I got on the phone and spoke to his father. The goshen summons was withdrawn. Warren agreed to accept $ 100 per month until paid in full. He will send me a stip. In the meantime could you please let Jerry know its settled. He should get a check ready for $100 payable to warren greher as atty. He can forward it to me,
Any questions ,please call

On Mon, Oct 27, 2014 at 1:09 PM, <judgemcguire@[redacted]> wrote:
Zach;

This is the summons I told you about with respect to Jerry. What he wants to do is get a payment plan and pay this debt to the doctor, if the deal is not that great he will consider bankruptcy as that is what he has had to do because of the massive debt he has to Westchester Medical Center even after they forgave part of the obligation.

I will be off the bench by 3:30 if you need to talk to me.

Thank you for anything you can do with Warren.

Mike

---------Original Message---------

From: "Hon. Michael F. McGuire"
Date: Oct 27, 2014 1:00:46 PM
Subject: FW:
To: Sweetie <judgemcguire[redacted]>

EXHIBIT
Comm
Ex XI-49p
PENGAD 800-631-6989

EXHIBIT
Comm
Ex 131
PENGAD 800-631-6989

From: Wendy A. Weiner
Sent: Monday, October 27, 2014 9:02 AM
To: Hon. Michael F. McGuire
Subject:

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

Zachary Kelson <zacharykelson@[redacted] Fri, Oct 31, 2014 at 4:21 PM
To: Michael McGuire <judgemcguire[redacted]>

ok
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Fernandez

Zachary Kelson <zacharykelson@[redacted]> Tue, May 26, 2015 at 11:07 AM
To: Michael McGuire <judgemcguire@[redacted]>

M2
Please see the attached

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

greherleterfernandez.pdf
401K

GREHER LAW OFFICES, P.C.

1161 LITTLE BRITAIN ROAD, SUITE B
NEW WINDSOR, NEW YORK 12553
Tel (845) 567-1002 Fax (845) 567-0025
THIS OFFICE DOES NOT ACCEPT SERVICE BY FACSIMILE OR E-MAIL

WARREN GREHER
ANDREW N. GREHER

KATHRYN M. LANG

Legal Assistants
Nancy Castelli
Kathleen Damone
JoAnn Olson

Website:
www.greherlaw.com
E-mail address:
warrengreher@hvc.rr.com

May 20, 2015

Zachary D. Kelson
10 St. John St.
PO Box 1210
Monticello, New York 12701

Re: Eye Physicians vs Gerard o Fernandez

Dear Zach:

I wish to advise you that your client is in default of the Settlement Agreement. I refer you to your letter of December 8, 2014. I am giving you ten days notice to cure said default.

Very truly yours,

GREHER LAW OFFICES, P.C.

WG

WARREN GREHER

WG/jo

1
2
3
4
5
6
7
8
9
10 Q. So, this says:
11 Perfect. That is great. He will be happy. Let me
12 know when you want to go dinner at his
13 restaurant. I will set it up.
14 The next one, for October 30, 2014, Zachary Kelson wrote:
15 Only if you, Inky and the kids join us.
16 Q. "Inky's" your wife, right?
17 A. Correct.
18 Q. And you're talking about having dinner at Mr. Fernandez's restaurant?
19 A. Mm-hmm.
20 Q. And then the next one says, "Judge McGuire to Zach Kelson":
21 Will do. Let's set a day. I have the first check
22 from Jerry, so let's try to hook up early next week.
23 I can give it to you or if you are coming over this
24 way, let me know and I will have it here for you.
25 Q. So, you're setting up a dinner for Mr. Kelson at Mr. Fernandez's

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-499

1 restaurant?
2 A. Yeah, but that never happened.
3 Q. But this email, you're setting it up?
4 A. I offered.
5 Q. And that was to thank Mr. Kelson for his work?
6 A. Well, that was for Jerry to thank him for his work.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Now, in the first email, the 3:59 P.M. email, it says that you had the "first check from Jerry," so was Mr. Fernandez giving you those checks?

A. No. Oh, Mr.-- well, in-- I don't have specific recollection, but I guess in this case, in this instance, Jerry gave me a check and I would get it to Zach. I think-- I don't think-- that didn't happen very often, though.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-49r

Q. Did Ms. McTighe -- am I pronouncing her name right?

A. "McTighe." Yeah.

Q. Okay. Did she receive a ticket in 2012?

A. Yes.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex. XI-50a

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

zacharykelson@[redacted] <zacharykelson[redacted]> Fri, Oct 12, 2012 at 7:32 AM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Ok. Iwill run her license
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>
Date: Fri, 12 Oct 2012 03:44:37 -0400
To: 'Zachary Kelson'<zacharykelson@[redacted]>
Subject: RE: T/ Richmondville

Thank you I will get that done for you within the next couple days.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Thursday, October 11, 2012 9:07 AM
To: Corinne McGuire
Cc: judgemcguire@[redacted]
Subject: Fwd: T/ Richmondville

PLEASE have Tina sign this and get it to my office ASAP.

Thanks.

Zach

EXHIBIT
Comm
Ex 134
PENGAD 800-631-6989

EXHIBIT
Comm
Ex XI-50b
PENGAD 800-631-6989

Richmondville Town Court
County of Schoharie
State of New York

The People of the State of New York		Waiver of Right to be Present During Pre-Trial and Trial Proceedings and Attorney Authorization
V.		
Tina McTighe Defendant		

Tina McTighe, being duly sworn, deposes and says:

1. I am the defendant in the above matter currently pending before the above Court.
2. I understand that this case will appear on the calendar of the Court for trial or any other purpose or date set by the Court.
3. I further understand that I have a right to be present at all proceedings pertaining to case.
4. I specifically waive my right to be present at on date it may be called by the Court.
5. Further, I specifically authorize my attorney, John J. Lindsey, and his associates and of-counsel, to make statements and/or agreements on my behalf, and to settle the matter if the attorney deems that to be an appropriate action.
6. Further, I authorize my attorney to represent me at trial when I am present or absent from Court and execute documents on my behalf.
7. I understand that I will be bound by any actions taken by John J. Lindsey, and his associates and of-counsel, on my behalf, and that I will be required to pay any fines and adhere to any other sentencing requirements that may be set by the Court.
8. I further authorize John J. Lindsey and his associates and of-counsel, to access and view my NY driving record for the limited purpose of defending the above action.

By: _____ Dated: _____
Tina McTighe

1
2
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22 Q. I'll show you what is marked Commission Exhibit 134. This is an
23 email, Friday, October 12, 2012, from Zachary Kelson to Michael
24 McGuire. It says:
25 Okay. I will run her license.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-SDC

1 It's at 7:32 A.M. The email prior to that is Friday, October 12, 2012,
2 3:45 A.M., from you to Mr. Kelson:
3 Thank you. I'll get that done for you within a
4 couple of days. Mike.
5 Q. And I guess that refers to the third email on that page?
6 A. Right.
7 Q. Which is from Zachary Kelson to your wife?
8 A. Right.
9 Q. cc'd to you?
10 A. Right.
11 Q. And it says:
12 Please have Tina sign this and get it to my office
13 as soon as possible.
14 Q. And that's referring to the next page, which is a Waiver of Right to be
15 Present?
16 A. Correct. And that's what makes me believe that probably the contact
17 with Zach was not from me, but from my wife, because he responds to
18 Corinne. He cc's it to me, I have no idea why, but he did. And I
19 responded that "I'll get that done." Corinne may well have responded
20 the same thing.
21 Q. Now-- so, you will-- when you said, "I will get that done for you,"
22 you're saying that you will have Ms. McTighe sign the waiver?
23 A. Well, what I-- what I-- what I was going to do is tell my wife, "Tina
24 needs to prepare this waiver." And I probably said to Corinne, "Zach
25 sent you a waiver for Tina's case. You need to, when you see her, you

1 need to have her sign it and get it back to him." Because I didn't see
2 her to get it signed, I'm sure Corrine did, or maybe Corrine forwarded
3 it to her.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Sat, Oct 13, 2012 at 4:42 AM
To: zacharykelson[redacted]

Not a problem

From: zacharykelson@[redacted] [mailto:zacharykelson[redacted]]
Sent: Friday, October 12, 2012 7:32 AM
To: Mr MICHAEL MCGUIRE
Subject: Re: T/ Richmondville

Ok. Iwill run her license

Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>

Date: Fri, 12 Oct 2012 03:44:37 -0400

To: 'Zachary Kelson'<zacharykelson@[redacted]>

Subject: RE: T/ Richmondville

Thank you I will get that done for you within the next couple days.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Thursday, October 11, 2012 9:07 AM
To: Corinne McGuire
Cc: judgemcguire@[redacted]
Subject: Fwd: T/ Richmondville

PENGAD 800-631-6989 EXHIBIT Comm Ex 135

PLEASE have Tina sign this and get it to my office ASAP.

PENGAD 800-631-6989 EXHIBIT Comm Ex XT-50d

Thanks.

Zach

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

zacharykelson@[redacted] <zacharykelson@[redacted] Sat, Oct 13, 2012 at 5:27 AM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Good morning. She has 2 points on her license already. Your wife dropped off the waiver yesterday
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]>
Date: Sat, 13 Oct 2012 04:42:50 -0400
To: <zacharykelson@[redacted]>
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson@[redacted]

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Sat, Oct 13, 2012 at 5:31 AM
To: zacharykelson[redacted]

Great are we going to be able to get a 1201-a out of this one.

Glad to see you are up bright and early.

Mike

From: zacharykelson@[redacted] [mailto:zacharykelson@[redacted]]
Sent: Saturday, October 13, 2012 5:27 AM

[Quoted text hidden]

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

zacharykelson[redacted] <zacharykelson@[redacted]> Sat, Oct 13, 2012 at 5:35 AM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire[redacted]>

He will try to get one. Any word on the turnout for the schick-labuda fundraiser last nite@ bernies?
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire[redacted]>
Date: Sat, 13 Oct 2012 05:31:09 -0400
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Sat, Oct 13, 2012 at 5:36 AM
To: zacharykelson@[redacted]

No I have not heard anything, but I am a bit annoyed that Michael used the Bar Association email list to send out an announcement about that, we have dealt with that as a board in the past and said that the list is not to be used for political purposes or for other personal interests.

From: zacharykelson[redacted] [mailto:zacharykelson@[redacted]]
Sent: Saturday, October 13, 2012 5:36 AM

[Quoted text hidden]

[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

zacharykelson@[redacted] <zacharykelson@[redacted]> Sat, Oct 13, 2012 at 6:00 AM
Reply-To: zacharykelson@[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

I called him as soon as I got the email and told him he was wrong. He had no clue. I told him to talk to danielle as past pres. To make it right. He has not. I will be sending an email to all members on Monday reminding that politics in the bar assoc is prohibited. Marty will help in the draft but I'm sending it. Mednick is tOo stupod to see what he did is wrong
Sent on the Sprint® Now Network from my BlackBerry®

From: "Mr MICHAEL MCGUIRE" <judgemcguire@[redacted]>
Date: Sat, 13 Oct 2012 05:36:55 -0400
[Quoted text hidden]

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire[redacted]> Sat, Oct 13, 2012 at 6:01 AM
To: zacharykelson@[redacted]

That sounds good because I was trying to figure out how to get that dealt with because it is absolutely wrong.

From: zacharykelson@[redacted] [mailto:zacharykelson@[redacted]]
Sent: Saturday, October 13, 2012 6:00 AM

[Quoted text hidden]

[Quoted text hidden]

1
2
3
4
5
6
7
8 Q. I'm going to show you what is marked Commission Exhibit 135. It is
9 a multi-page email, the first one being from-- dated October 12--
10 October 13, 2012 at 4:42 A.M. Now, it seems that the first page is the
11 same as the previous exhibit--
12 A. -- Mm-hmm.
13 Q. -- So, if we can go to the second page, and it says October 13, 2012,
14 5:27 A.M., from Zachary Kelson to you. It says:
15 Good morning. She's two points on her license
16 already. Your wife dropped off the waiver
17 yesterday.
18 Q. So, Mr. Kelson's giving you information about the case here--
19 A. -- Correct.
20 Q. -- Right?
21 A. Yes, he is.
22 Q. And did you tell him not to?
23 A. I did not.
24 Q. Did you tell him not to get involved?
25 A. Did I tell him not to get involved?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-50c

1 Q. Get you involved.
2 A. I did not.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Gmail

Zachary Kelson <zacharykelson@[redacted]>

T/ Richmondville

zacharykelson[redacted] <zacharykelson@[redacted]> Wed, Nov 7, 2012 at 6:09 PM
Reply-To: zacharykelson[redacted]
To: Mr MICHAEL MCGUIRE <judgemcguire@[redacted]>

Not bad. Can you have inky print out the fine notice and have tina take care of paying the fine?
[Quoted text hidden]

Fine Notice - Parking.pdf
484K

EXHIBIT
Comm
Ex 137
PENGAD 800-631-6989

EXHIBIT
COmm
Ex XI-50f
PENGAD 800-631-6989

Richmondville Town Court

PO Box 7,
Richmondville, NY 12149

Herbert Needleman
Town Justice

Phone: (518)294-8851
Fax: (518)294-3221

November 7, 2012

Tina P. Mctighe
% John J Lindsey Esq.
[redacted]

Case Number: 12070045
Viol. Date: 07/07/2012

Ticket Number	Statute/Section	Charge Text	Disposition	Fine	SurChg
3G4602XPSP	VTL 1201 0A	STOP/PARK VIOL	Fine	150.00	0.00

Total Due: $ 150.00

Payment Due Date: 12/07/2012

**** (NO PERSONAL CHECKS OR PARTIAL PAYMENTS ACCEPTED) ****

EXACT AMOUNT ONLY OR PAYMENT WILL BE RETURNED

This Court has accepted your guilty plea for the charges listed above. The listing also shows the fine(s) and mandatory surcharge imposed by New York State. Your payment of fines and surcharge must arrive in this Court before the due date shown above.

NO PERSONAL CHECKS. * MONEY ORDERS, CERTIFIED CHECKS, CHARGE CARDS ONLY! CANADIANS MUST PAY IN US FUNDS! PLEASE RETURN THIS NOTICE WITH YOUR PAYMENT (EXACT AMOUNT ONLY) ALONG WITH A SELF ADDRESSED STAMPED ENVELOPE.

If your money is not received by the due date of this letter, the Department of Motor Vehicles in Albany will be ordered to suspend your driver's license. SUSPENDED LICENSES WILL BE SUBJECT TO A $70.00 SUSPENSION TERMINATION FEE.

****PLEASE MAKE CERTIFIED CHECKS AND MONEY ORDERS PAYABLE TO RICHMONDVILLE TOWN COURT.

* IF YOU WISH TO USE YOUR CREDIT CARD, PLEASE FILL IN ALL THE INFORMATION ASKED FOR BELOW. (including expiration date and the 3 digit character code). *

CREDIT CARD: VISA____ MASTERCARD____ EXPIRATION DATE:_____ 3 CHARACTER CODE: _____

CARD HOLDER:_____ CARD NUMBER:_____
(Print Name As It Appears On Card)

I hereby accept the fine amount (s) imposed by the Court and authorized payment thereof on the above-noted credit card. NOTE: Should a bank reject your transaction a suspension will be issued without further notice.

_____
(Signature As It Appears On Card)

Gmail

Zachary Kelson <zacharykelson[redacted]>

T/ Richmondville

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Thu, Nov 8, 2012 at 3:43 AM
To: zacharykelson@[redacted]

Absolutely , I will take care of that thank you.

Mike

From: zacharykelson[redacted] [mailto:zacharykelson[redacted]]
Sent: Wednesday, November 07, 2012 6:10 PM
To: Mr MICHAEL MCGUIRE
Subject: Fw: T/ Richmondville

[Quoted text hidden]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Q. I'm going to show you what is marked Commission Exhibit 137. This
25 is an email chain. If we can look at the November 7th, the first page

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-50g

1 email, 6:09 P.M., Zach Kelson to Mike McGuire:
2 Not bad. Can you have Inky print out the fine
3 notice and have Tina take care of paying the fine?
4 Q. And then there's a PDF, "Fine Notice and Parking." And if we can
5 look at the next two-- next page, it is the fine notice. And it says--
6 "Inky," again, is your wife?
7 A. Yes.
8 Q. And did you print out the fine notice?
9 A. No.
10 Q. Now, on the third page, the next day, November 8, 2012, 3:43 A.M.,
11 you say:
12 Absolutely, I will take care of that. Thank you,
13 Mike.
14 Q. Did you take care of it?
15 A. Well, what I did was, when my wife got up, I said to her, "You need
16 to print out the fine notice and get it to Tina."
17 Q. So, you didn't do it, but you asked your wife to do it?
18 A. Well, I made my wife aware that it was-- that it was there on the
19 computer. I don't know if she did it or not.
20 Q. But you made Mr. Kelson's request known to your wife?
21 A. I did.
22
23
24
25

Q. Do you know Willy Williams, III?

A. I do.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-51a

1
2
3
4
5
6
7
8
9
10 Q. Did you-- Mr. Williams got some traffic tickets?
11 A. He did.
12 Q. And did he come to you about those?
13 A. He didn't, one of the coaches did, and said that he had gotten the
14 tickets.
15 Q. The coach had gotten the tickets?
16 A. No, no, no, that Willy had gotten a ticket, and they wanted to have him
17 be able to get them cleared up because he was leaving to go to
18 Connecticut after that year. And he asked, you know, did I-- the
19 coached asked, did I know anybody-- you know, "Who in the area? I
20 know you can't. Who in the area can?" And I suggested to the coach,
21 "Well, you can check with Zach Kelson."
22 Q. So, you referred the case to Mr. Kelson?
23 A. Well, I-- I told the coach that he could, you know, call Zach Kelson.
24 Q. And did you call Mr. Kelson and tell him that-- that the coach might
25 be calling?

PENGAD 800-631-6989
EXHIBIT
Comm
EX XI-51b

1 A. I very well may have, I don't recall, and I mean, it would've been by
2 email if I did. So, I don't know if there's an email on that. I know
3 that--
4 Q. -- Did Zachary Kelson end up representing him?
5 A. I only know that because after the fact, I remember Zach forwarding
6 me a note that the young man forwarded him-- wrote to him, telling
7 him, you know, how much he appreciated his representation. So--
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Gmail

Zachary Kelson <zacharykelson@[redacted]>

Traffic Ticket

Mr MICHAEL MCGUIRE <judgemcguire@[redacted]> Thu, May 23, 2013 at 3:45 AM
To: Zachary Kelson <zacharykelson@[redacted]>

That is nice to see he really is a nice young man, thank you again.

Mike

From: Zachary Kelson [mailto:zacharykelson@[redacted]]
Sent: Tuesday, May 21, 2013 8:31 PM
To: Mr MICHAEL MCGUIRE
Subject: Fwd: Re: Traffic Ticket

Nice

---------- Forwarded message ----------
From: "Willie Williams III" <wwilliams3rdct@[redacted]>
Date: May 21, 2013 7:40 PM
Subject: Re: Traffic Ticket
To: "Zachary Kelson" <zacharykelson@[redacted]>
Cc:

EXHIBIT
Comm
Ex 149
PENGAD 800-631-6989

Thank you so much for your services. I am honored to have you work on my behalf. I will begin to pay on those ticket ASAP. Thank you again.

Sent from my iPhone

On May 17, 2013, at 4:29 PM, Zachary Kelson <zacharykelson@[redacted]> wrote:

> I appeared on your behalf at the Town of Fallsburg Justice Court for the pre-trial conference in connection with the Uniform Traffic Tickets pending against you on May 15, 2013. Following negotiations with the Town Prosecutor, I was able to obtain a disposition of the first speeding violation pending against you by the entry of a plea of guilty on your behalf to the charge of §1201(a) of the New York State Vehicle & Traffic Law (Parked on Pavement). I was also able to obtain a disposition of the second speeding violation pending against you by the entry of a plea of guilty on your behalf to an additional charge of §1201(a) of the New York State Vehicle & Traffic Law (Parked on Pavement). These are non-moving violations and therefore, no points were assessed against your license. The inspection ticket was dismissed
>
> Had you been convicted of both of the original speeding charges, eight points would have been imposed upon your license.

EXHIBIT
Comm
Ex XI-51c
PENGAD 800-631-6989

The Court imposed a total fine in the sum of $350.00 which is to be paid by you no later than June 19, 2013.

The Court will apply the bail which you previously posted in the sum of $100.00 towards the fine if you return the original bail receipt to the Court with your signature on the back.

The fine must be made payable to the Town of Fallsburg Court and must be paid by bank check, certified check or money order. Please forward the balance of the fine in the sum of $250.00 together with the signed bail receipt directly to the Court at PO Box 2019, South Fallsburg, NY 12779. You should reference case #: 12010154 when remitting your fine. If you want the Court to forward a receipt to you, you must also enclose a self-addressed stamped envelope with your payment.

Your failure to pay the fine imposed on or before June 19, 2013 will result in the suspension of your license.

I am glad I was able to obtain such favorable results on your behalf.

Thank you for giving me the opportunity of being of service to you in connection with this matter.

Should you have any questions, please do not hesitate to contact me.

--
ZACHARY D. KELSON
Attorney & Counsellor at Law
10 St. John Street
PO Box 1210
Monticello, NY 12701
Phone: (845) 794-1000
Fax: (845) 794-1422

CONFIDENTIALITY STATEMENT: This electronic message may contain privileged and/or confidential information. If you are not the intended recipient of this e-mail, please advise the sender and delete this e-mail from your system.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18 Q. And why-- do you know why Mr.-- were you involved in this case at
19 all, the *Willy Williams* case?
20 A. The only involvement that I had was when the coach came and asked
21 me if I know someone that handles these matters. And I-- I gave them
22 Zach's name because, again, he does a lot of traffic tickets, so I gave
23 him has name. I didn't hear another thing about it, that I have any
24 recollection of, until I got this note from-- from Zach. That's how--
25 getting this note is how I knew that he had in fact represented him.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-51d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18 Q. Did you preside over *DFS v. F[redacted] and F[redacted]*?
19 A. I did.
20 Q. And was that a permanency hearing, or…?
21 A. Well, it was the whole abuse and neglect. It was an abuse case,
22 actually where we terminated parental rights, and-- and then
23 ultimately, the child was adopted out.
24 Q. And was Mr. Kelson involved in his case?
25 A. He was the attorney for the infant child.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-52

1 Q. And did you make a record regarding your relationship with Mr.
2 Kelson so that all the parties in the courtroom would know that?
3 A. Well, the only parties would've been DFS and the baby at the
4 permanency hearing.
5 JUDGE SHEA: How about the parents?
6 THE WITNESS: The parents had already had their
7 parental rights terminated.
8 BY MS. TISHMAN:
9 Q. Okay. Did you tell DFS about your relationship with Mr. Kelson?
10 A. I did not specifically.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Q. And-- okay. Did you represent-- were you-- did you preside over *DFS*
2 *v. C*[redacted]?
3 A. I did.
4 Q. And that was in about 2014, 2015?
5 A. I think it's even still going on.
6 Q. And was Mr. Kelson involved in this case?
7 A. He's the attorney for the child.
8 Q. And was there parents involved in this case? I mean, when it's--
9 A. -- Up to a point. I don't remember when they were terminated, but up
10 to a point.
11 Q. Did you ever make a record regarding your relationship to-- with Mr.
12 Kelson so that DFS and the parents would know about that?
13 A. I did not, although, DFS, I'm sure, was already aware because, again,
14 it's a small community. People are all friends.
15 Q. Well, that they might be aware from gossip--
16 A. -- I never-- I never-- I--
17 Q. -- Or from whatever, but I'm asking, did you--
18 A. -- I never made a record.
19 Q. -- As the judge, ever make a record?
20 A. I never made a record.
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-53

Q. Did you preside over the case *Dean v. Boyes*?

A. I did.

Q. And that was a Supreme Court matter?

A. It was.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-54a

SHAWN LAW OFFICES

HENRI SHAWN
Admitted in NY, FL, DC and CO

THOMAS H. CRAGAN
Admitted in NY

TINA PERDIKOLOGOS
Admitted in NY

PAMELA E. MEYER
Legal Assistant

NEW YORK
30 North Street – Suite 1
Monticello, NY 12701-1320

FLORIDA
8813 Creston Lane
Boynton Beach, FL 33472

(845)791-7676
FAX (845)791-4660
(fax not to be used for service of papers)
Respond to NY office

MELISSA BLANE
Admitted in FL

OF COUNSEL
DENNIS SHELDON GOLD
Admitted in Florida & New York

OF COUNSEL
JEFFREY M. VOLUCK
Admitted to Florida & Pennsylvania

January 24, 2013

Sullivan County Supreme Court Clerk's Office
Lawrence H. Cooke Courthouse
414 Broadway
Monticello, NY 12701
Attn: Sarah Katzman, Chief Court Clerk

Via Fax Transmission: 791-6170

Re: Michael and JoAnn Dean v. Boyes
Index No. 2304-09

Dear Ms. Katzman:

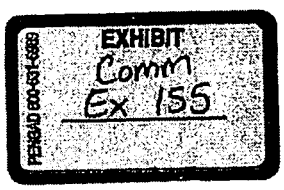
I received notification pursuant to which Judge Michael McGuire was assigned to the above matter.

Judge McGuire, prior to sending to the bench, actually represented one of the parties in this litigation. I think Judge McGuire would probably recuse himself. I bring that to your attention now so that we can address this issue as quickly as possible so we can proceed with the case without any unnecessary delay.

In fact, here is a copy of a deed which was prepared by Judge McGuire on behalf of Sean Boyes, one of the parties to this action.

Sincerely,

HENRI SHAWN
HS/dmb
Cc: John Janusas, Esq.
Michael & Joann Dean



Sullivan County
Nora Manzolillo
County Clerk
Monticello, NY 12701

50 2007 00022472

Instrument Number: 2007- 00022472
As
Deed - Commercial & Vacant Lands

Recorded On: May 17, 2007

Parties: BOYES MARY LOU
To
BOYES SEAN

Billable Pages: 3

Recorded By: MICHAEL F MCGUIRE ATTY

Num Of Pages: 4

Comment:

** Examined and Charged as Follows: **

Deed - Commercial & Vacant Land	37.00	RP5217 Commercial		.165.00	TP584		5.00
Recording Charge:	207.00						

	Amount	Consideration Amount	RS#/CS#				
Tax-Transfer	0.00	0.00	3425	Basic	0.00	Special Additional	0.00
				Additional	0.00	Transfer	0.00
Tax Charge:	0.00						

** THIS PAGE IS PART OF THE INSTRUMENT **

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Sullivan County, NY

File Information:

Document Number: 2007- 00022472
Receipt Number: 117408
Recorded Date/Time: May 17, 2007 10:00:58A
Book-Vol/Pg: Bk-REL Vl-3336 Pg-242
Cashier / Station: C Vankeuren / Cash Station 03

Record and Return To:

MICHAEL F MCGUIRE ATTY
LIBERTY PLAZA
FERNDALE NY 12734

Nora L. Manzolillo

NORA MANZOLILLO
SULLIVAN COUNTY CLERK

— Bargain and Sale Deed, with Covenant against Grantor's Acts — Individual or Corporation (Single Short)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 11th day of May, in the year 2007

BETWEEN MARY LOU BOYES of 88 Wawanda Ave, Liberty, N.Y. 12754

party of the first part, and **SEAN BOYES** of P.O. Box 651, Neversink, N.Y. 12765
party of the second part,
WITNESSETH, that the party of the first part, in consideration of

$10.00 dollars

paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Neversink, County of Sullivan, State of New York and more particularly bounded and described on Schedule A annexed hereto and made part hereof.

Being the same premises described in a certain deed from from Mary Lou Boyes to Sean Boyes, dated May 1, 2002 and recorded in the Office of the County Clerk of Sullivan Count at Liber 2408 of deeds, Page 391 .

Being the same premises described in a deed to Mary Low Boyes and Michael Dean and Joann Dean, as tenants in common, dated July 19, 1983 and recorded in to Office of the Sullivan County Clerk on September 15, 1986 in Liber 1239 of Deeds at Page 228.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever. rights

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires. trust Fund

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Mary Lou Boyes
MARY LOU BOYES

SCHEDULE A

DESCRIPTION OF PREMISES

ALL those pieces or parcels of land located in the Town of Neversink, Sullivan County, New York, more particularly bounded and described in :

(1) A deed dated June 1, 1938 from Herbert Huson and Hazel Huson to Justus Asthalter and Nellie, his wife recorded November 7, 1938 in Liber 328 of Deeds at Page 299 in the Sullivan County Clerk's office and

(2) A deed dated November 2, 1956 from Bessie Morgan (f/k/a Bessie Huson) and Hazel Hornbeek (f/k/a Hazel Huson) to Jusits Asthalter and Nellie, his wife recorded in Liber 539 of Deeds at page 387 n the Sullivan County Clerk's Office.

Excepting from said premises the premises described in a deed from Justus Ashtalter and Nellie, his wife to James R. Boyes and Mary Lou Boyes dated March 7, 1969 and recorded March 20, 1969 in Liber 730 of Deeds at page 686 in the Sullivan County Clerk's office and by a correction deeed dated August 9, 1974 recorded October 3, 1974 in Liber 799 of Deeds at Page 320 in the Sullivan County Clerk's Office.

The consideration for this deed is less than $100.00

Also included is an easement relateive to the use of a spring as described in a deed from George Hotchkin and Marguerite Hotchkin to Justus Ashtalter and Nellie, his wife, dated January 5, 1946 and recoreded in the Sullivan County Clerk's office on January 10, 1946 in Liber 286 of Deeds at Page 290.

The interest hereby conveyed is the life estate of May Lou Boyes, previously reserved in a deed, dated May 1, 2002 and recorded in the Office of the Sullivan County Clerk in Liber 2408 of Deeds, 392. Life Estate conveyed

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of Sullivan, ss:

On the 11TH day of May in the year 2007, before me, the undersigned, personally appeared MARY LOU BOYES

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

MICHAEL F. MCGUIRE
Notary Public, State of New York
Sullivan County Clerk's # 2967
Commission Expires Jan. 10, 2009

ACKNOWLEDGEMENT BY SUBSCRIBING WITNESS TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, a Notary Public in and for said State, personally appeared , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he/she/they reside(s) in

(If the place of residence is in a city, include the street and street number if any, thereof); that he/she/they know(s)

to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said

execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto

ACKNOWLEDGEMENT TAKEN IN NEW YORK STATE

State of New York, County of , ss:

On the day of in the year , before me, the undersigned, personally appeared

, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ACKNOWLEDGEMENT TAKEN OUTSIDE NEW YORK STATE

*State of , County of , ss:
*(Or insert District of Columbia, Territory, Possession or Foreign County)

On the day of in the year , before me the undersigned personally appeared

Personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual make such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgement was taken).

Bargain and Sale Deed
With Covenants

SECTION: 34

BLOCK: 1

LOT: 4 AND 10.1

COUNTY OR TOWN: Town of Neversink

Title No.

MARY LOU BOYES
TO
SEAN BOYES

DISTRIBUTED BY
YOUR TITLE EXPERTS
The Judicial Title Insurance Agency LLC
800-291-TITLE (8485) FAX: 800-FAX-9396

RETURN BY MAIL TO:

Michael F. McGuire, Esq
111 Sullivan Ave, Suite 2-5
Ferndale, N.Y. 12734

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 Q. Now, if we can go to the next page, the attachment to the letter--
24 A. -- Mm-hmm.
25 Q. -- This is a deed. It says, "Parties: Mary Lou Boyes to Shawn Boyes,

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-54b

1 Recorded by: Michael F. McGuire, Attorney, May 17, 2007." And on
2 the bottom of that page is, "Record and Return to: Michael F.
3 McGuire, Attorney, Liberty Plaza, Ferndale, New York." This was a
4 deed between-- of Mary Lou Boyes deeding property to Shawn
5 Boyes?
6 A. Correct.
7 Q. And were you the attorney that handled this?
8 A. I was the attorney that handled it.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21 Q. The last page of this document, Commission Exhibit 155, it says-- it
22 has your stamp as a notary. Is that your signature?
23 A. It is.
24 Q. And then it says, "Return by Mail to Michael F. McGuire"?
25 A. Correct.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-54c

1 Q. Did you get paid for the work on the-- doing the deed?
2 A. $100.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9 Q. But you were an attorney in an action that related to the property that
10 was at issue before you--
11 A. -- I did not know--
12 Q. -- Is that true? I'm not asking that. Is that true or not?
13 A. As I now know, it is, but even that would not make this a conflict.
14 Q. So, in your opinion, it wasn't a conflict?
15 A. Correct.
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XI-54d

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***January 18, 2013***
TIME: ***10:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Vincent Barbato - Dealer***	***10:00***
✓	***Kevin Snedeker - RR***	***10:00***
✓	***Vincent DeMarino***	***10:00***
✓	***James Ratner - RR***	***10:00***
✓	***Donna Rizzuto - RR***	***10:00***
✓	***Jaclynn Young - RR***	***10:00***
✓	***Paul Smith - RR***	***10:00***
✓	***Suzanne Cody***	***10:00***
✓	***Tiffany Graham****	***10:00***
✓	***Rocco Canonico***	***10:00***
✓	***Sallie Gubser***	***10:00***
✓	***Patricia Mentnech***	***10:00***

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XII-1

✓	***Travis Hay***	***10:00***
✓	***Paul Smith***	***10:00***
✓	***Devinne Depuy - RR***	***10:00***
✓	***Gretchen Gerow***	***10:00***
✓	***Melissa Stefanuk***	***10:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***February 11, 2013***
TIME: ***3:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Gregory Irelan - RR***	***3:00***
✓	***Deborah Goudreau***	***3:00***
✓	***Eddie Santiago***	***3:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***February 13, 2013***
TIME: ***10:30 a.m., 11:00 a.m. & 2:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Jonathan Barnes - RR***	***10:30***
✓	***John Whiteman - RR***	***11:00***
✓	***Jillian Kychar***	***11:30***
✓	***Fabian Clough***	***11:30***
✓	***Kathleen Weise***	***2:30***
✓	***William Siegel***	***2:30***
✓	***Kerry Jo Nebzydoski***	***2:30***
✓	***Adam Nebzydoski***	***2:30***
✓	***Christian Ranaudo***	***2:30***
✓	***Ian Blumenthal***	***2:30***
✓	***Aaron Houghtaling***	***2:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***February 21, 2013***
TIME: ***2:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Gary Bright***	***2:30***
✓	***Claude Dalessandro***	***2:30***
✓	***Marcus Floyd***	***2:30***
✓	***Frank Smith***	***2:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***March 9, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Philip Jasuta - RR***	***9:00***
✓	***Loretta Steppich - RR***	***9:00***
✓	***John Camplbell - RR***	***9:00***
✓	***Mark Hufcut - RR***	***9:00***
✓	***Eddie Santiago - RR***	***9:00***
✓	***Arthur Stanley***	***9:00***
✓	***Russell Turner***	***9:00***
✓	***Patrick Galligan***	***9:00***
✓	***Wayne Cherry***	***9:00***
✓	***William Fulton***	***9:00***
✓	***Patrick Murphy***	***9:00***
✓	***Anthony Garigliano***	***9:00***

✓	***Kevin Carbone***	***9:00***
✓	***Phili[Marmaros***	***9:00***
✓	***Amy & Michael Rhodes***	***9:00***
✓	***Jordon Snowden***	***9:00***
✓	***Lori Smith***	***9:00***
✓	***Pedro Castillo***	***9:00***
✓	***Joseph Cartisano***	***9:00***
✓	***Amanda Scuderi***	***9:00***
✓	***Forrest Crist***	***9:00***
✓	***Daniel Hendrickson***	***9:00***
✓	***Margaret Edwards a/k/a Peggy***	***9:00***
✓	***Ramon Ciprian***	***9:00***
✓	***Thomas Leichliter***	***9:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***March 19, 2013***
TIME: ***2:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Peter Carey***	***2:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***March 25, 2013***
TIME: ***3:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Christopher England***	***3:00***
✓	***Howard Kiefer - RR***	***3:00***
✓	***Matthew Kestler***	***3:00***
✓	***Lori Ansboro***	***3:00***
✓	***Robert Kinasewitz***	***3:00***
✓	***Christine Record***	***3:00***
✓	***Aleta Lymon***	***3:00***
✓	***Neil Lisberg***	***3:00***
✓	***Kim Leroy - RR***	***3:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***April 17, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Patrick Mershon***	***9:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***April 20, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Thomas Crociata - Dealer***	***9:00***
✓	***April Velasco - RR***	***9:00***
✓	***Jonathan Rocchetti - Transfer***	***9:00***
✓	***Amanda Gianciacomo - RR***	***9:00***
✓	***Barbara Byrne***	***9:00***
✓	***Margaret Lindsley***	***9:00***
✓	***Bernd Bantin***	***9:00***
✓	***Sandra Deckelmam-Davis***	***9:00***
✓	***David Hook***	***9:00***
✓	***Debra Carlin***	***9:00***
✓	***Tara Giordano***	***9:00***
✓	***John Giordano***	***9:00***
✓	***Daniel Krantz***	***9:00***

✓	*Nicole Lajoie*	*9:00*
✓	*Ryan Lamantia*	*9:00*
✓	*Gary Mann, Jr.*	*9:00*
✓	*Karen Reilly*	*9:00*
✓	*Frederic Perlmutter*	*9:00*
✓	*William Cavanaugh*	*9:00*
✓	*Karen Perrello*	*9:00*
✓	*Vernon Gridley*	*9:00*
✓	*Craig Dean*	*9:00*
✓	*Philip Sicuro*	*9:00*
✓	*Michelle Siegel*	*9:00*
✓	*Anna Story*	*9:00*
✓	*Nicholas Wyman*	*9:00*
✓	*Thomas Hopkins*	*9:00*
✓	*Amy Hellerer ** (Bone Marrow)*	*9:00*
✓	*April McArthur*	*9:00*
✓	*Lawrence Vendura*	*9:00*
✓	*Lisa Baumander*	*9:00*
✓	*Sean & Dawn Boyes*	*9:00*
✓	*Juliete Gaebel - RR*	*9:00*
✓	*Deborah Goudreau - RR*	*9:00*
✓	*Nicole Congelosi*	*9:00*
✓	*Kathleen Wilson*	*9:00*
✓	*Kevin Carbone - RR*	*9:00*
✓	*Christine O'Sullivan*	*9:00*
✓	*Daniel Negulici*	*9:00*
✓	*Harry Conklin - RR*	*9:00*
✓	*Christine Weber*	*9:00*
✓	*Jennifer Stimpson*	*9:00*
✓	*Bryan Jones*	*9:00*
✓	*Trish Cole*	*9:00*
✓	*Michael Sheeley*	*9:00*
✓	*William & Lindsey DiNapoli*	*9:00*

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***May 18, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Pedro Castillo - RR***	***9:00***
✓	***Vincent DeMarino - RR***	***9:00***
✓	***Dave Burr***	***9:00***
✓	***Jose Torrisi***	***9:00***
✓	***Megan Higgins***	***9:00***
✓	***David Jersey, Jr.***	***9:00***
✓	***Tanya Thompson***	***9:00***
✓	***Edward Giancontieri***	***9:00***
✓	***Corey McGrail***	***9:00***
✓	***Sherri Collins***	***9:00***
✓	***Timothy Eronimous***	***9:00***
✓	***Hali Friehling***	***9:00***
✓	***Logan Feldman***	***9:00***

✓	***Joseph Langan***	***9:00***
✓	***Jillian Kuchar - RR***	***9:00***
✓	***Ellen Bingham***	***9:00***
✓	***Anne Theophania Maus - RR***	***9:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***May 30, 2013***
TIME: ***2:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Juan Hernandez, Jr. - RR***	***2:00***
✓	***Patricia Mentnech - RR***	***2:00***
✓	***Robert Vasko - RR***	***2:00***
✓	***Richard Ekberg***	***2:00***
✓	***Jason Werbalowsky***	***2:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***June 12, 2013***
TIME: ***11:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Mary Bellock***	***11:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***June 15, 2013***
TIME: ***10:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Edward Walsh - RR***	***10:00***
✓	***Lona Brennan - RR***	***10:00***
✓	***Nancy Eschenberg***	***10:00***
✓	***Sandra Armato - Address***	***10:00***
✓	***Kenneth Drake***	***10:00***
✓	***Casey Emmett***	***10:00***
✓	***Katie & Christopher Baloy-Dr Appt #1***	***10:00***
✓	***Daniel Bubar***	***10:00***
✓	***Joseph Davis***	***10:00***
✓	***Sally Heins-Jasuta***	***10:00***
✓	***William Kranz III - Wife***	***10:00***
✓	***Darren Steele***	***10:00***
✓	***Jared Kusner***	***10:00***

✓	***John Cali***	***10:00***
✓	***Nicholas Malone***	***10:00***
✓	***Arthur Owens***	***10:00***
✓	***Suzanne M. Cody - RR***	***10:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***August 3, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Sharon Toth - First/work***	***9:00***
✓	***Michael Bellock - Cancelled***	***9:00***
✓	***Thomas Dempsey Jr.***	***9:00***
✓	***Brian Popolillo***	***9:00***
✓	***Michael Popolillo***	***9:00***
✓	***Holli Schoonmaker***	***9:00***
✓	***Stephen Cleveland***	***9:00***
✓	***Paul Conboy***	***9:00***
✓	***Alexander Degay***	***9:00***
✓	***Darlene Dumas***	***9:00***
✓	***Michael Epifania***	***9:00***
✓	***Kelly Riebe***	***9:00***
✓	***Patricia Doty***	***9:00***

✓	***Patricia Hopkins***	***9:00***
✓	***Mary Pinckney***	***9:00***
✓	***Ariel Escobar***	***9:00***
✓	***John Farrell, Jr.***	***9:00***
✓	***Nicholas Malone - RR***	***9:00***
✓	***David Burr - RR***	***9:00***
✓	***Kelly Creighton - RR (Work 2nd)***	***9:00***
✓	***Ruth Betron - RR***	***9:00***
✓	***Joseph & Kerry Jo Nebzydoski - RR***	***9:00***
✓	***Victoria Costa***	***9:00***
✓	***Dawn & Michael Litwak***	***9:00***
✓	***Robert Allegretta***	***9:00***
✓	***Debra Brown***	***9:00***
✓	***Jennifer Siegel***	***9:00***
✓	***Diane Staves***	***9:00***
✓	***Jennifer Somers***	***9:00***
✓	***Paul Schierwagen & Stephanie Zub***	***9:00***
✓	***Todd Mahnken***	***9:00***
✓	***Luis Ibanez Pombo***	***9:00***
✓	***Vincent Barbato***	***9:00***
✓	***Melissa Utter***	***9:00***
✓	***Nikki Rogers***	***9:00***
✓	***Lindsey & William DiNapoli - RR***	***9:00***
✓	***Christine Weber - RR***	***9:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Villa Roma, Callicoon***
Judge: ***Hon. Michael F. McGuire***

DATE: ***September 7, 2013***
TIME: ***4:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Gary Goudreau***	***4:30***
✓	***Jeffery Leventoff***	***4:30***
✓	***Elizabeth Sherwood***	***4:30***
✓	***Luis Ibanez Pombo***	***4:30***
✓	***Michael Bellock***	***4:30***
✓	***Geraldine Gorton***	***4:30***
✓	***Gretchen Gerow - RR***	***4:30***
✓	***Christine O'Sullivan -RR***	***4:30***
✓	***Colleen Belgiovene - RR***	***4:30***
✓	***Kevin Lupardo***	***4:30***
✓	***Daniel Bubar - RR***	***4:30***
✓	***Kevin Tully - RR***	***4:30***
✓	***Kristy Closs***	***4:30***

✓	***Jason Closs***	***4:30***
✓	***Leon Trask***	***4:30***
✓	***Ramon Gracia***	***4:30***
✓	***Gregory Hawkins***	***4:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***October 12, 2013***
TIME: ***8:30 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Mae Copeland***	***8:30***
✓	***Kevin Tully - RR***	***8:30***
✓	***Daniel Bubar - RR***	***8:30***
✓	***Scott Corrigan***	***8:30***
✓	***Gary Gosley***	***8:30***
✓	***Keith Davis***	***8:30***
✓	***Taso Zinas***	***8:30***
✓	***Daniel Spagnoli***	***8:30***
✓	***Gail Nistico***	***8:30***
✓	***Charles LaBarbera***	***8:30***
✓	***Martin Meyer***	***8:30***
✓	***Thomas Bu***	***8:30***
✓	***Patricia Herbert***	***8:30***

✓	***Rebecca Butler***	***8:30***
✓	***Kevin Wall***	***8:30***
✓	***Susan & John Hoechster***	***8:30***
✓	***Marlena Benjamin***	***8:30***
✓	***James Bricker***	***8:30***
✓	***Jennifer Bull***	***8:30***
✓	***Melanie Contrys***	***8:30***
✓	***Robert Depaolo - YES C.O.***	***8:30***
✓	***Sheila Anderman***	***8:30***
✓	***Allison Costa***	***8:30***
✓	***Patrick Font***	***8:30***
✓	***Marion Roche***	***8:30***
✓	***Keith Gorton***	***8:30***
✓	***Nicole Owens***	***8:30***
✓	***Cecilia & Todd DeCotes***	***8:30***
✓	***Joseph Bowers***	***8:30***
✓	***Krista Devore***	***8:30***
✓	***Judith & Richard Muller***	***8:30***
✓	***Kevin Nicolletti - FIRST WEDDING***	***8:30***
✓	***Karen Garcia***	***8:30***
✓	***James (Jim) Jones - TRANSFER***	***8:30***
✓	***Michael Browstein - TRANSFER***	***8:30***
✓	***Antonia DePaula***	***8:30***
✓	***JoEllen Hundeland***	***8:30***
✓	***Michael Frey***	***8:30***
✓	***Leverne Black***	***8:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***November 10, 2013***
TIME: ***8:30 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Steven Kefalas***	***8:30***
✓	***Richard Muller***	***8:30***
✓	***Richard Price, Jr.***	***8:30***
✓	***Brian Kolessar***	***8:30***
✓	***Blake Pagan***	***8:30***
✓	***Christopher Rodriguez***	***8:30***
✓	***Nicholas Gubelli***	***8:30***
✓	***Thomas Lovelace***	***8:30***
✓	***Douglas Duchesneau***	***8:30***
✓	***Stacey Stephenson***	***8:30***
✓	***Shawn Sinistorie***	***8:30***
✓	***Angelica Abreu***	***8:30***
✓	***Jacob Brooks***	***8:30***

✓	***Kenneth Calderon***	***8:30***
✓	***Jean Campbell***	***8:30***
✓	***Giuseppe Catanese***	***8:30***
✓	***Jerry Cohen***	***8:30***
✓	***Rose & Seth Dasch***	***8:30***
✓	***Dean Capawana***	***8:30***
✓	***Richard Donovan***	***8:30***
✓	***Margaret Hadden***	***8:30***
✓	***Joseph Gomez***	***8:30***
✓	***Jared Kusner - RR***	***8:30***
✓	***Yaron & Seth Fidler***	***8:30***
✓	***Rocco Canonico - RR***	***8:30***
✓	***Matthew Kester***	***8:30***
✓	***William Dubois***	***8:30***
✓	***Loretta Speckhardt***	***8:30***
✓	***Dave Herman - First, Working***	***8:30***
✓	***Adam Turik & Neil Turik - First Work***	***8:30***
✓	***Mike Pawluk***	***8:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***December 15, 2013***
TIME: ***8:30 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Rose & Seth Dasch-RR***	***8:30***
✓	***Mae Copeland - Work -RR***	***8:30***
✓	***Christine Adams - Lyons Func-RR***	***8:30***
✓	***Kenneth Seligson - Sent Ltr***	***8:30***
✓	***Shirley Dorman***	***8:30***
✓	***Carolann Kania***	***8:30***
✓	***Karl Kolze***	***8:30***
✓	***Siobhan Heimowitz***	***8:30***
✓	***Stephen Barbieri***	***8:30***
✓	***Eugene Madsen***	***8:30***
✓	***Thomas Taylor***	***8:30***
✓	***Roy Lackey***	***8:30***
✓	***Daniel Bonpietro***	***8:30***

✓	***Donna Bowers***	***8:30***
✓	***Heather Sherman***	***8:30***
✓	***Christopher Edwards***	***8:30***
✓	***Judith & Michael Klussman***	***8:30***
✓	***Denise Reeves***	***8:30***
✓	***Colleen Jonas***	***8:30***
✓	***Jeffery Jacobson***	***8:30***
✓	***Alvin Madden***	***8:30***
✓	***Bonnie Baker***	***8:30***
✓	***Andrew Johnson***	***8:30***
✓	***Cheryl & Christopher Tcimpidis***	***8:30***
✓	***Richard Morey, Jr.***	***8:30***
✓	***Deirdre Schloicka***	***8:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***December 26, 2013***
TIME: ***9:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Kenneth Seligson***	***9:00***
✓	***Bonnie Baker - 1st Work***	***9:00***
✓	***Thomas Taylor - 2nd Work***	***9:00***
✓	***Martin Berg***	***9:00***
✓	***Colleen Edwards***	***9:00***
✓	***Christopher Edwards***	***9:00***
✓	***Melanie Hogland***	***9:00***
✓	***Jeremy Hogland***	***9:00***
✓	***Lori McDowall***	***9:00***
✓	***Lance Vandermark***	***9:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***January 16, 2014***
TIME: ***3:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Thomas Siegler***	***3:00***
✓	***Heather Ceballos***	***3:00***
✓	***Michael Roycroft***	***3:00***
✓	***Mark Mastrantone - Transfer***	***3:00***
✓	***Donald Hamilton***	***3:00***
✓	***Susan Vanhouten***	***3:00***

PENGAD 800-631-6989
EXHIBIT
Ex XII-2

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***February 24 2014***
TIME: ***1:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Ryan Edwards - Dealer***	***1:30***
✓	***Patrick Rotundo - Dealer***	***1:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***March 6, 2014***
TIME: ***9:30 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Charles Marchese***	***9:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***March 8, 2014***
TIME: ***8:00 a.m.***

APPLICANT:

	Name	***Appt.***
✓	***Gary Forthoffer***	***8:00***
✓	***John Hudson***	***8:00***
✓	***Patricia Meade***	***8:00***
✓	***Joseph Anderson***	***8:00***
✓	***Michael Roycroft - RR***	***8:00***
✓	***Nancy Price*** ***	***8:00***
✓	***Danielle Heisler***	***8:00***
✓	***Philip Deyermond***	***8:00***
✓	***Drew Harmon***	***8:00***
✓	***Charles Atwell***	***8:00***
✓	***Joann Bowers***	***8:00***
✓	***Stephan Burnich - WORK - FIRST***	***8:00***
✓	***Louis Cacciuttolo***	***8:00***

✓	*Milan Ferencei*	*8:00*
✓	*Michelle France*	*8:00*
✓	*Gregory Hetcher*	*8:00*
✓	*Lori Galen*	*8:00*
✓	*Jessey Torrens*	*8:00*
✓	*Caitlin Flanagan*	*8:00*
✓	*Andres Reyes*	*8:00*
✓	*Diana Hennion*	*8:00*
✓	*Danielle Bivins*	*8:00*
✓	*Taylor Thomas - RR*	*8:00*
✓	*Adrian Bone*	*8:00*
✓	*Robert Brewster*	*8:00*
✓	*Robert Mason*	*8:00*
✓	*Nicholas Carlini*	*8:00*
✓	*Gina Shultis*	*8:00*
✓	*Taylor Thomas*	*8:00*
✓	*Kathleen Harkins*	*8:00*
✓	*Istvan Slakovits*	*8:00*
✓	*Cheryl Marsh*	*8:00*
✓	*Holly Gassler*	*8:00*
✓	*Consuela Westphal*	*8:00*
✓	*Eileen McCort*	*8:00*
✓	*Cindy Ruff*	*8:00*
✓	*Lawrence Genovese*	*8:00*
✓	*Michael Giesecke-Barbara's friend of F*	*8:00*
✓	*Brian Harrell - WORK FIRST*	*8:00*

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***May 7, 2014***
TIME: ***5:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Lawrence Genovese***	***5:30***
✓	***Angelica Abreu-RR***	***5:30***
✓	***Andres Diaz***	***5:30***
✓	***Troy Monus***	***5:30***
✓	***Christine Adams - RR***	***5:30***
✓	***Jeffrey Leventoff - RR***	***5:30***
✓	***Kimberly Torrens - RR***	***5:30***
✓	***Andrzej Matylla***	***5:30***
✓	***Philip Speer***	***5:30***
✓	***Raina Barnes***	***5:30***
✓	***Lisa Edwards***	***5:30***
✓	***Mark York***	***5:30***
✓	***Ian Reddin - Dealer***	***5:30***

✓	***Patricia Hendrickson - RR***	***5:30***
✓	***Vincent Marcotrigiano***	***5:30***
✓	***Catherine Damestoy***	***5:30***
✓	***Keith Herbert***	***5:30***
✓	***Katie Lachenauer***	***5:30***
✓	***Karen Pautard***	***5:30***
✓	***Dan Bivins***	***5:30***
✓	***Cory Kalthoff***	***5:30***
✓	***Kayla Olsen***	***5:30***
✓	***Joseph Chairamonte***	***5:30***
✓	***Erin Moulton***	***5:30***
✓	***Devan Jackson***	***5:30***
✓	***Dylan Saunderson***	***5:30***
✓	***Kelly Taggert***	***5:30***
✓	***Danielle Bivans***	***5:30***
✓	***Derek Blume***	***5:30***
✓	***Sandra Quinlan***	***5:30***
✓	***Susan Williamson***	***5:30***
✓	***Chaim Slomiuc***	***5:30***
✓	***Toni LoPresti***	***5:30***
✓	***Jeffrey Schoonmaker***	***5:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***June 25, 2014***
TIME: ***1:30 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Ian Reddin - Dealer License***	***1:30***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***July 23, 2014***
TIME: ***5:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Gary Forthoffer - RR***	***5:00***
✓	***Luis Navarro Concepcion - RR***	***5:00***
✓	***Keith Herbert - RR***	***5:00***
✓	***Catherine Damestoy - RR***	***5:00***
✓	***Robinson Fernandez - RR***	***5:00***
✓	***John Hudson - RR***	***5:00***
✓	***Heather A. Sherman - RR***	***5:00***
✓	***Joseph Sayers - RR***	***5:00***
✓	***Derek Blume***	***5:00***
✓	***Joshua Natale***	***5:00***
✓	***Dan Bivins***	***5:00***
✓	***Danielle Bivins***	***5:00***
✓	***Allen Lackey***	***5:00***

✓	***Dawn Eignor***	***5:00***
✓	***Leon Dixon***	***5:00***
✓	***Scott Sparling***	***5:00***
✓	***Bonnie McFarland***	***5:00***
✓	***John Edwards***	***5:00***
✓	***Tomy Lopresti***	***5:00***
✓	***Michael Appenauer***	***5:00***
✓	***Joseph Persampieri***	***5:00***
✓	***Gregory Merola***	***5:00***
✓	***Patrick Welsh***	***5:00***
✓	***Emmanuelle Wizwer***	***5:00***
✓	***Barbara Cully***	***5:00***
✓	***Nancy Hadden***	***5:00***
✓	***Christine Schrader***	***5:00***
✓	***Janice Torretta***	***5:00***
✓	***Margaret (Peggy) Olmstead***	***5:00***
✓	***Patti Milisauskas***	***5:00***
✓	***Amy Schoen***	***5:00***
✓	***Dorothy Esselman***	***5:00***
✓	***Jeffrey Kohnke***	***5:00***
✓	***Deborah Call***	***5:00***
✓	***Claudia Davilla***	***5:00***
✓	***Mary Morris***	***5:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***September 15, 2014***
TIME: ***5:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Devan Jackson-RR***	***5:00***
✓	***Luis Ibanez Pombo - RR***	***5:00***
✓	***Daniel Krantz - RR***	***5:00***
✓	***Jill Welsh - Priority***	***5:00***
✓	***Todd Grodin -RR***	***5:00***
✓	***Kayla Olsen-RR***	***5:00***
✓	***Caitlin Flanagan***	***5:00***
✓	***Joshua Natale***	***5:00***
✓	***Deborah Call***	***5:00***
✓	***Andres Diaz***	***5:00***
✓	***Susan Niemann***	***5:00***
✓	***Christine Newfield***	***5:00***
✓	***Martha Lanza***	***5:00***

✓	***Matthew Potter***	***5:00***
✓	***John Bowden***	***5:00***
✓	***Jonel Gosta***	***5:00***
✓	***Matthew Patton***	***5:00***
✓	***Michael Pisaniello***	***5:00***
✓	***Patricia Walton***	***5:00***
✓	***Lois Ward***	***5:00***
✓	***Cory Dooney***	***5:00***
✓	***Elijah Maldonado***	***5:00***
✓	***Edward Nixon***	***5:00***
✓	***Mark Carman, Jr.***	***5:00***
✓	***Mark Madden***	***5:00***
✓	***Steven Schroeder***	***5:00***
✓	***Catherine Owens-Herrmann***	***5:00***
✓	***Helen Cano***	***5:00***
✓	***Robin Chanov***	***5:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Family Court Library***
Judge: ***Hon. Michael F. McGuire***

DATE: ***October 8, 2014***
TIME: ***2:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Mario & Helen Rotondo***	***2:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***October 20, 2014***
TIME: ***5:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***Dean Bradley-RR***	***5:00***
✓	***Anna Story-RR***	***5:00***
✓	***Gregory Merola-RR***	***5:00***
✓	***David Budinich***	***5:00***
✓	***Erin Allen***	***5:00***
✓	***Matthew Herfield***	***5:00***
✓	***Nicholas Chalk***	***5:00***
✓	***Joseph Gaynor***	***5:00***
✓	***Robert Bennett***	***5:00***
✓	***Ann Fasce***	***5:00****
✓	***Andres Diaz***	***5:00***
✓	***Richard Winter***	***5:00***
✓	***Jill Welsch***	***5:00***

✓	***Kyle DeCotes***	***5:00***
✓	***Derek Blume***	***5:00***
✓	***Forest Crist***	***5:00***
✓	***Corey Vankeuren***	***5:00***
✓	***William Young***	***5:00***
✓	***Aaron Rabiner***	***5:00***
✓	***Rachel Kleinman-McClure***	***5:00***

STATE OF NEW YORK
COUNTY COURT CHAMBERS
Sullivan County Government Center
100 North Street
Monticello, NY 12701
TEL: 845 807-0655 FAX: 845 791-6252

Wendy Weiner
Confidential Secretary

Hon. Michael F. McGuire
County Judge and Surrogate

Mary Grace Conneely, Esq.
Associate Court Attorney

Pistol Permit Interview Schedule

Location: ***Monticello Elk's Lodge***
Judge: ***Hon. Michael F. McGuire***

DATE: ***December 15, 2014***
TIME: ***5:00 p.m.***

APPLICANT:

	Name	***Appt.***
✓	***David Budinich - RR***	***5:00***
✓	***William Predmore - Transfer***	***5:00***
✓	***Patrick B. Font- RR***	***5:00***
✓	***Anthony Gagliardo***	***5:00***
✓	***Joseph Gaynor***	***5:00***
✓	***John Hubert***	***5:00***
✓	***Mark Keller***	***5:00***
✓	***Bruce Moore***	***5:00***
✓	***Angelo Pacheco***	***5:00***
✓	***Michele Palumbo***	***5:00***
✓	***David Patton***	***5:00***
✓	***Edward Pierce***	***5:00***

✓	***Cheryl Salerno***	***5:00***
✓	***Therese C. Schanil***	***5:00***
✓	***Steven Schanil***	***5:00***
✓	***Robert Sheeley***	***5:00***
✓	***Robert Speaker***	***5:00***
✓	***Ehren Steingart***	***5:00***
✓	***Katherine Grodin***	***5:00***
✓	***Marijan (Mario) Karcich***	***5:00***
✓	***Susan Moore***	***5:00***
✓	***Danielle & Travis Johnson***	***5:00***
✓	***Jonathan Williams-Stern***	***5:00***
✓	***Lance Weeden, II***	***5:00***
✓	***Martha Wahl***	***5:00***
✓	***Kristen Vanvarick***	***5:00***
✓	***David Tompkins***	***5:00***
✓	***Vincent Roberto, Jr.***	***5:00***
✓	***Ann Fasce***	***5:00***
✓	***Michael DeCaro (Re-App)***	***5:00***
✓	***Kevin Monahan***	***5:00***

Wendy A. Weiner - Re: Weekly Calendar

From: <obieinky@[redacted]n>
To: "Wendy A. Weiner" <wweiner@[redacted]>
Date: 2/22/2011 12:17 PM
Subject: Re: Weekly Calendar

Thanks wendy..also, if anyone calls for mikes personal email or old clients looking for him or old acquaintances,or attorneys, please let them know his new email is: judgemcguire@[redacted]t (the mike-law@[redacted] is no longer working)

Sent from my Verizon Wireless BlackBerry

From: "Wendy A. Weiner" <wweiner@[redacted]>
Date: Tue, 22 Feb 2011 09:03:06 -0500
To: <obieinky@[redacted]>
Subject: Weekly Calendar

Please note the Judge Biesel will be here at 3:00 on Friday, no scheduling for our Judge in Family Court after his 1:30 - 2:20 appearances. FYI

Wendy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24 Q. What was that email?
25 A. judgemcguire@[redacted].

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XIII-2a

1 Q. So, that was your private email address?
2 A. That was my private email.
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16 Q. So, you were aware that it said "judgemcguire@[redacted]" even
17 though you hadn't set it up?
18 A. Correct.
19 Q. And you continued to use it?
20 A. Did for a period of time, and ultimately, we got rid of it and I didn't
21 have a personal email for a while.
22 Q. When did you get rid of it?
23 A. I'm going to say, I don't know the exact date, I'm going to say
24 probably sometime in 2014, maybe. Maybe 2015. I don't completely
25 recall. I've been without it now for a couple of years, but I don't

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XIII-2b

1 remember the exact date.

1
2 Q. Putting "Judge" in your personal email, did you-- is it your opinion,
3 from today's perspective, that this violates the Rules of Judicial
4 Conduct?
5 A. I know today that it does.
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XIII-2C

Q. So, it was never used-- you never contacted clients via judgemcguire@[redacted]?

A. If a client had reached out for me, then I may have responded to them by email and it would've been on that email.

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XIII-2d

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15 Q. Yeah. I just want to draw your attention back to one thing that we
16 talked about earlier--
17 A. Mm-hmm.
18 Q. -- Which was your email address, judgemcguire--
19 A. Yes.
20 Q. --[redacted]--
21 A. -- judgemcguire@[redacted]-
22 Q. -- @[redacted]. Now, when you're-- you said your wife set it up?
23 A. Correct.
24 Q. And then after your wife set it up, you personally used that email,
25 right?

PENGAD 800-631-6989
EXHIBIT
Comm
Ex XIII-2e

1 A. Correct.

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-1

EXHIBIT
Comm
Ex PH-2

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-3

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-4

PENGAD 800-631-6989

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-5

EXHIBIT
Comm
Ex PH-6

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-7

PENGAD 800-631-6989

EXHIBIT
Conor
Ex PH-B

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-9

PENGAD 800-631-6989

Family Court

NO FOOD OR BEVERAGES

THANK YOU

We all appreciate your service to our country...

Now let our country be of service to you...

YOU ARE A VETERAN
YOU ARE ENTITLED TO BENEFITS
LET US KNOW YOU ARE HERE

It takes the courage and strength of a soldier to ask for help...

Sullivan County Catskills

Sullivan County Veterans Service Agency
100 North Street
Monticello, NY 12701
845-807-0233

EXHIBIT
Comm
Ex PA-10

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-11

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-12

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH13

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-14

PENGAD 800-631-6989

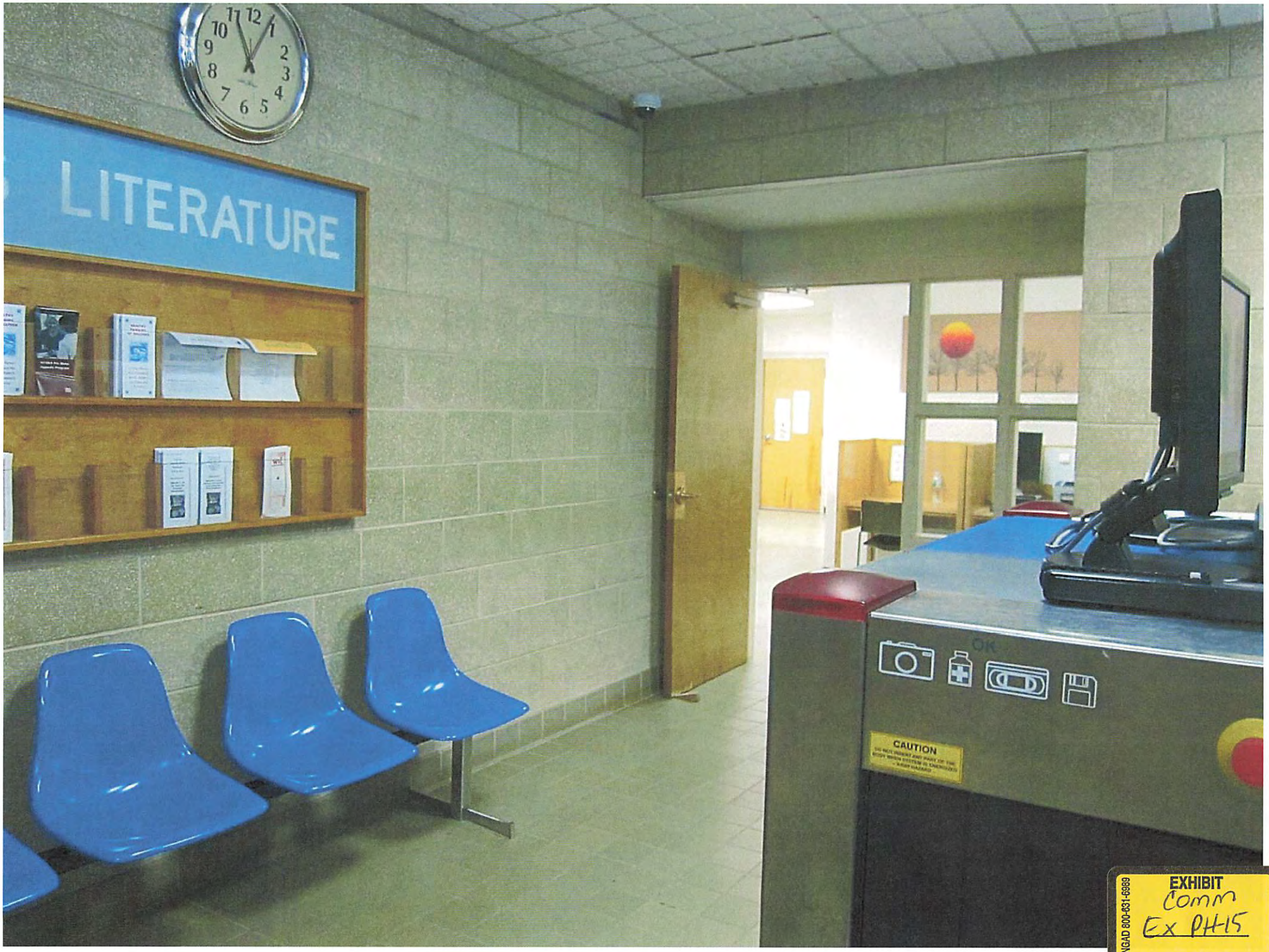


EXHIBIT
Comm
Ex PH-15

PENGAD 800-631-6989

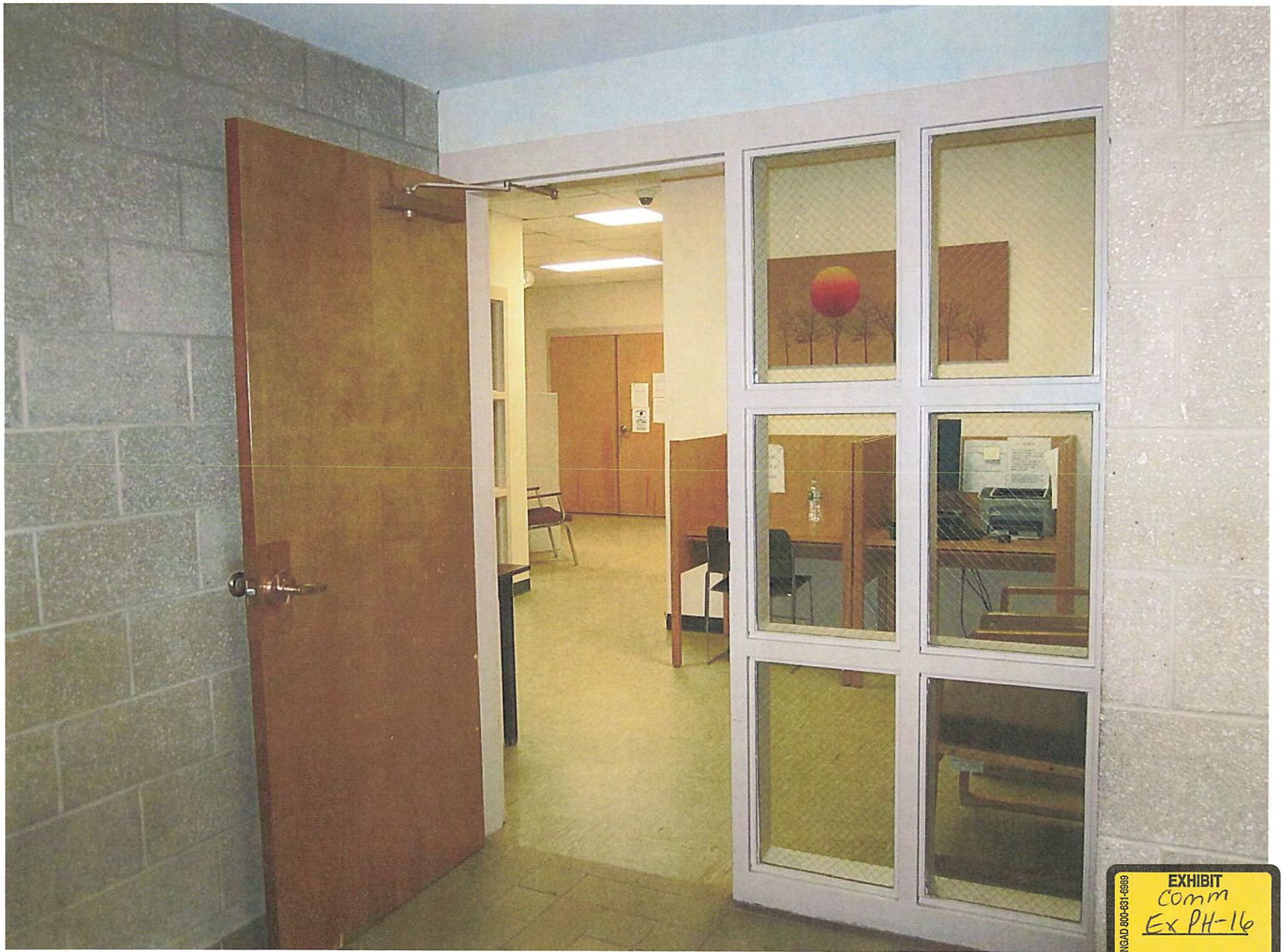


EXHIBIT
Comm
Ex PH-16

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-17

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-18

PENGAD 800-631-6989

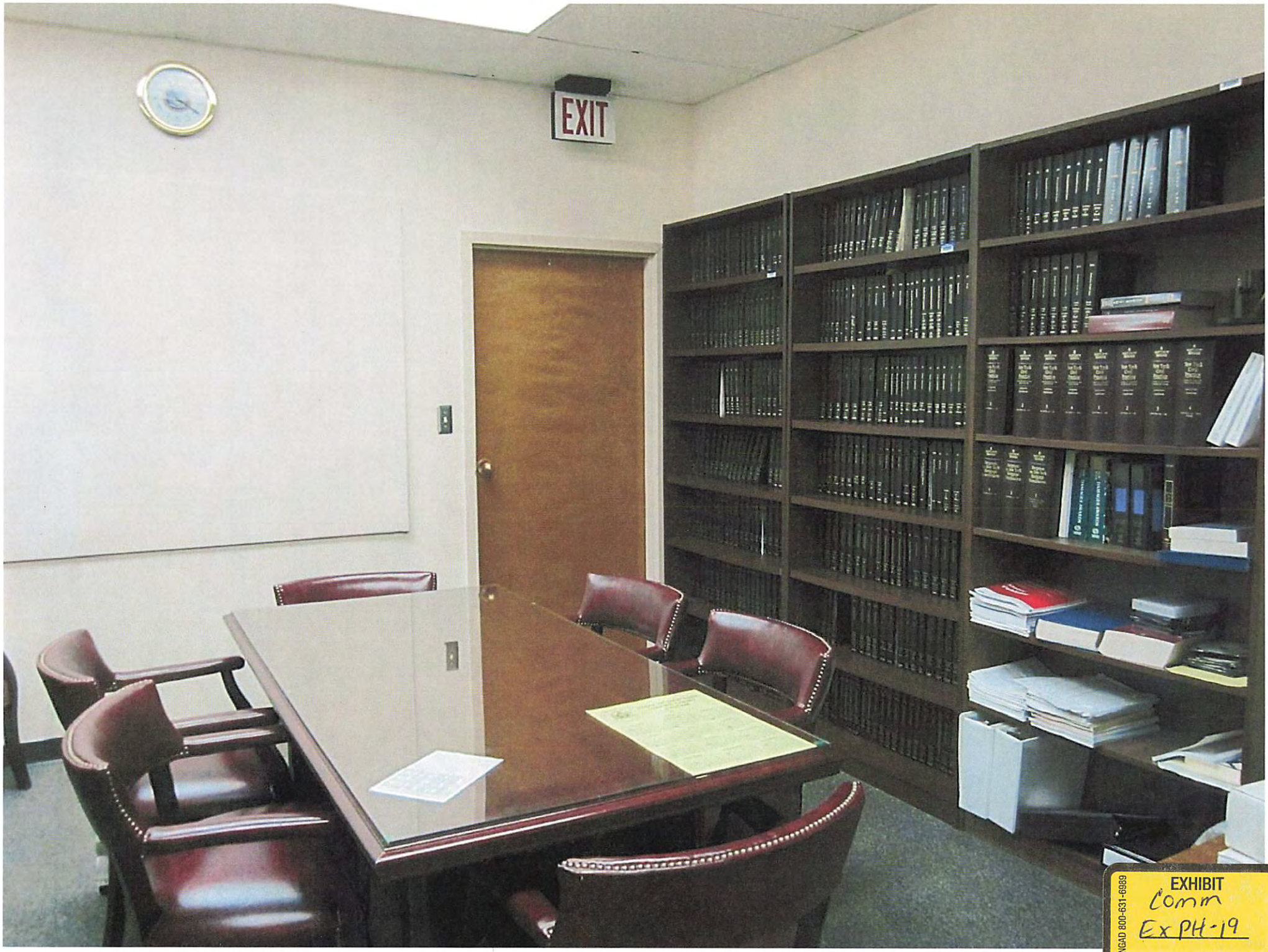


EXHIBIT
Comm
Ex PH-19

PENGAD 800-631-6989

PENGAD 800-631-6989

EXHIBIT
Comm
Ex PH-20

Wendy A. Weiner

From: Hon. Michael F. McGuire
Sent: Wednesday, January 14, 2015 9:06 AM
To: Wendy A. Weiner
Subject: RE: S[redacted] v. B[redacted]

Thank you have you gotten in contact with the county to take a look at that program, I believe that the data is all still there but for some reason one of the indexes have become corrupted and therefore will not open. This is the only priority TODAY...NOTHING ELSE IS EVEN TO BE LOOKED AT, NO PHONES NOTHING BUT THAT DATABASE IT IS BEYOND CRITICAL.

From: Wendy A. Weiner
Sent: Wednesday, January 14, 2015 8:12 AM
To: Hon. Michael F. McGuire
Subject: RE: S[redacted] v. B[redacted]

Supreme Court folder – new assignment file. Try checking now. My apologizes as I thought I flipped prior.

So, I only put the closed files in archive. Do you want the VOP's pulled back and put in new matter for criminal?

Wendy

From: Hon. Michael F. McGuire
Sent: Wednesday, January 14, 2015 5:18 AM
To: Wendy A. Weiner
Subject: S[redacted] v. B[redacted]

Wendy;

I cannot find this file on out system which is indeed far to complex we need to just have all open supreme court cases in one file, same with county court vicil and criminal. I have no way of knowing how you characterize these case and the result is that I spend too much time looking for files. Archive files should all be closed and when they are returned to the calendar they should be moved to an open file. This now prevents me from being prepared on this case for today, and that is a BAD THING

RETURN THIS ORDER FORM BEFORE RESPONSE DEADLINE
RESPONSE REQUIRED TO BE INCLUDED

EXHIBIT
Respondents Ex. h
PENGAD 800-631-6989

DIRECTORY LISTING ORDER FORM

NAME AND ADDRESS	DEADLINE
Reference No.: 840-1104902	05/25/2012

MICHAEL F MC GUIRE LAW OFFICES
[redacted]

1. YOU MUST RETURN THIS FORM TO BE INCLUDED IN THE DIRECTORY
2. PLEASE MAKE ALL CORRECTIONS ON RETURN CARD BELOW
3. SIGN AND MAIL CARD BELOW OR FAX THE ENTIRE FORM TO:

1-866-443-7679

A 3001-1591192

DIRECTORY LISTING ORDER FORM
Reference No.: 840-1104902

RESPONSE DEADLINE
FAX TO: 1-866-443-7679
OR MAIL BY:
05/25/2012

VIP
Please do NOT List this Address or listing-office is CLOSED & not operable!

YELLOW PAGES UNITED
ONLINE BUSINESS DIRECTORY
PO BOX 53282
ATLANTA GA 30355-1282

THIS IS NOT A BILL
Publisher: United Directories, Inc. (888) 311-1410
PO BOX 53282 ATLANTA GA 30355-1282

NO ADDITIONAL CHARGES TO INCLUDE YOUR FAX, TOLL-FREE NUMBER AND WEB ADDRESS

FAX WHOLE FORM OR DETACH AND RETURN LOWER PORTION

PLEASE CHECK ONE
- ☐ LIST AS SHOWN
- ☐ LIST WITH CHANGES

FAX LISTING (NO ADDITIONAL COST)
WEB SITE ADDRESS (NO ADDITIONAL COST)

X
SIGN HERE
PRINT NAME DATE

PLEASE MAKE ANY NECESSARY CHANGES AND ADDITIONS TO YOUR ORDER FORM BELOW

NAME AND ADDRESS	HEADING	TELEPHONE
Reference No.: 840-1104902	811103 ATTORNEYS	[redacted]

CANCEL All LISTINGS!

MICHAEL F MC GUIRE LAW OFFICES
[redacted]

840-1104902

IIS IS A SOLICITATION FOR THE ORDER OF GOODS OR SERVICES, OR BOTH, AND NOT A BILL, INVOICE OR STATEMENT OF ACCOUNT JE. YOU ARE UNDER NO OBLIGATION TO MAKE ANY PAYMENTS ON ACCOUNT OF THIS OFFER UNLESS YOU ACCEPT THIS OFFER. : ARE NOT AFFILIATED WITH YOUR LOCAL PHONE COMPANY AND THE DIRECTORY IS NOT DISTRIBUTED TO ALL LOCAL TELEPHONE SUBSCRIBERS. IF YOU ADVERTISE YOUR LOCAL PHONE COMPANY'S YELLOW PAGES AND ACCEPT THIS OFFER, THIS WILL BE IN ADDITION TO YOUR EXISTING YELLOW PAGES ADVERTISING. THIS IS ONLINE BUSINESS YELLOW PAGES LISTING SOLICITATION. A CUSTOMIZABLE WEBPAGE IS INCLUDED WITH EACH LISTING OF $396.00. SEE TERMS ON REVERSE.

2 UNITED DIRECTORIES INC.
UDSF 836 0412

5/1/12

To Whom it May Concern,

Please be advised that Mr. McGuire is a Judge and has closed his Law Practice down. More important, his address cannot be listed anywhere in phone books or published for security and/or safety reasons. ~~Plea~~ Effective immediately, please cancel this business listing.

Thank you

[redacted]

with any questions.

TRANSMISSION VERIFICATION REPORT

TIME : 05/01/2012 14:19
NAME : MCGUIRE LAW
FAX : 8452926860
TEL : 8452926800
SER.# : BROF5J288136

DATE,TIME	05/01 14:19
FAX NO./NAME	18664437679
DURATION	00:00:39
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

MICHAEL F. McGUIRE

P.O. Box 128
Ferndale, N.Y. 12734

June 12, 2011

SUPERMEDIA OB DEPT
P.O. Box 619810-MC20
DFW Airport, Tx 75261-9810

Via Fax: 845-294-7981

RE: Account Number 110001735379

Dear Sir or Madam;

I acknowledge receipt of your letter, dated, May 31, 2011 and thank you for your rapid response. Enclosed please find my Affirmation submitted in conjunction with my request of out of business relief. Effective December 31, 2010, upon taking the oath of office as County Court Judge, I am no longer permitted to engage in the practice of law, in any location and am not permitted to be compensated for any referral or sale of practice. My practice has been completely wound down and all active files have been forwarded to attorneys selected by the clients. My former phone number (only 1 line) remains active and tied to an electronic answering device for the sole purpose of making archives available to former clients or their estates and is not used at all for the practice or promotion of any law business. Accordingly, I respectfully request out of business relief effective January 1, 2011.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.
P.O. Box 128
Ferndale, N.Y. 12734
[redacted]

****
*
*
*
In Re: Account Number 110001735379 *
MICHAEL F. McGUIRE *
*
*
****

AFFIRMATION

MICHAEL F. McGUIRE, an attorney duly licensed to practice before all of the Courts of this State, makes the following Affirmation, under the penalties of perjury and pursuant to CPLR Section 2106, in Support of an application for out of business relief from Supermedia.

1. I, opened a general practice law firm in December of 2004 and since that date purchased advertising space in the Supermedia Yellow pages, all payments since that time were tendered timely and in full.

2. In November of 2010 I was elected County Court Judge for Sullivan County, New York and therefore pursuant to the Constitution of the State of New York, I am no longer permitted to practice law in this or any other state.

3. Effective December 31, 2010, I ceased operating the business to which the advertising relates and pursuant to the laws of the State of New York I am not permitted to operate either the same or any other type of business at any location. (See New York State Constitution, Art VI, §20(4))

4. Pursuant to the ethical rules governing the conduct of judicial office, I am not permitted to sell my practice for value, indeed, I am not permitted to even refer clients to other attorneys, I must divest my entire practice following a conference with each client and inquire of them who they would like to have me forward their records to.

5. All phone numbers, emails addresses, and websites have been shut down but for the former main number, (845-292-6800), which pursuant to the rules of professional conduct must remain active, such that former clients may contact me to obtain records for past cases. It

must be noted that I am not permitted to charge any fees for these services, not can I charge or receive any compensation for storage of old records (for 7 years) nor may I discuss any legal issue or make a reference to any other attorney, with anyone who contacts that line. Indeed, the line is not even answered, there is a voice mail device attached to that line, which is checked periodically for the sole purpose of responding to inquires for files or information from files of former clients. When such a request is received, the information is retrieved from storage and forwarded to the former client or their estate representative.

6. My former firm was a sole proprietorship and had only one employee who is currently unemployed.

7. As of 12:01 AM on January 1, 2011, I was completely out of business, but can be reached now at [redacted], P.O. Box 128, Ferndale, New York 12734 .

WHEREFORE, it is respectfully requested that the Supermedia grant the relief requested, foregoing those payments for months commencing January, 2011, as I am no longer in business, am not permitted to realize any income nor am I permitted to attract or deal with any new clients, I must incur the expense of maintaining a phone number only for the benefit of former clients who need to obtain legal records; and for such other and further relief as to Supermedia may seem just and proper.

Affirmed under penalties of perjury.

Dated: Liberty, New York
June 12, 2011

MICHAEL F. McGUIRE
Attorney at Law

Date: May 31, 2011

Michael McGuire
111 Sullivan Ave., Suite 2 - 5
Ferndale, NY 12734

Reference: Account Number: 110001735379
Dear Client:

Your request for Out of Business relief with SuperMedia has been received and your request has been **denied** at this time for the following reason(s):

- ☒ You must have ceased operating the business to which the advertising relates and must not be operating the same type of business at another location.
- ☒ The business cannot be sold or acquired by another individual or entity.
- ☐ If the owner is deceased, provide a copy of the original death certificate.
- ☒ All telephone numbers, website URLs and email addresses listed in all advertising appearing in all SuperMedia products must be fully disconnected and not referred to another location, business or telephone number.
- ☒ Provide a copy of your final telephone bill from your local provider.
- ☒ Identify your company's legal status, i.e., Sole Proprietorship, General Partnership, Assumed Name (where filed?), Limited Liability Partnership (where filed?), Corporation (where incorporated?), Limited Liability Company (where organized?) or Limited Partnership (where filed?).
- ☒ Your Out of Business letter must be notarized or submitted by an Attorney.
- ☒ You must supply the effective date when you went out of business as well as a current mailing address and a current contact number.
- ☒ Your letter must contain the following statement: I certify, under the penalties of perjury, that all of the information contained in this letter is complete and accurate as of the date of this letter.
- ☐ Your account is delinquent and advertising charges incurred before the date you went out of business are still due. Amount required to pay is $_____ through (_____). Please submit payment within 30 days.
- ☐ Other: _____

You may submit any requested or additional information to the following address for further consideration for Out of Business relief:

SuperMedia LLC- OB Department
P.O. Box 619810-MC20
DFW Airport, TX 75261-9810

The Out of Business Department cannot discuss, negotiate product quality claims or adjustments to the billing on your account, for any reason. Therefore, all product quality, billing claims or adjustments must have been settled prior to issuing the letter requesting Out of Business relief.

Sincerely,
Elisa Matos
Out of Business Department
SuperMedia LLC

	Complete Confidence℠ Program **Out of Business Criteria*** Rev. May 2011
1	Business Operation Must Have Ceased. • Businesses seeking relief must have ceased operating the business to which the advertising relates and must not be operating the same type of business, under at another name and/or at another location. • The business must not have been sold, assigned, or acquired by another individual or entity. • The business must not be re-established during the issue period or periods of any of the SuperMedia directories containing advertising for the business.
2	Telephone Numbers; Listed URLs. • All telephone numbers (including any cell phone and home numbers) contained in all print directory, Superpages.com, and direct mail advertising ("Advertising") must be fully disconnected and not referred to another location, business or phone number. • All URLs listed in any print Advertising must be inactivated. • If SuperMedia discovers the number was only temporarily disconnected or ported to another carrier, or that any URL listed in the Advertising was revived, then it will revoke its grant of relief.
3	Sworn Affidavit Must be Submitted (see SuperMedia provided form). The affidavit must: • Identify the business' legal status, i.e., Sole Proprietorship, General Partnership, Assumed Name (where filed), Limited Liability Partnership (where filed), Corporation (where incorporated), Limited Liability Company (where organized) or Limited Partnership (where filed). • Describe any dissolution efforts. • Include the out of business date, a current mailing address, and a current contact number. • Verify all the criteria above and refer to the supporting documentation attached. • Verify that the business or businesses will not be re-established during the issue period or periods of any of the SuperMedia directories containing advertising for the business. • Contain the following statement: "I certify, under the penalty of perjury, that all of the information contained in this affidavit is complete and accurate as of the date of this affidavit." • Be signed before a notary
4	Provide the Following Documentation • If the Business is a sole proprietorship, a certified copy of the original death certificate if owner is deceased • Copies of any certifications of dissolution • Copies of the final telephone bills from the provider for all telephone numbers contained in the advertising.

5	SuperMedia Account Must be Current. • Before the business seeks the Out of Business relief, the account with SuperMedia must be current. If the business advanced paid for advertising, no monies will be refunded or returned. • SuperMedia reserves the right to establish the Out of Business date, in its own discretion, after a review of all the documents received from the business.
6	Terms and Conditions • You must agree to the Complete Confidence Program Terms and Conditions by signing, dating, and submitting a copy.
7	Claims • All outstanding claims must be resolved prior to filing for relief or they will be considered closed. The Out-of Business Department will not consider any claims or other requests for adjustments.
8	When Out of Business Relief Will Not Apply. • Out of business relief will not be granted if the business, a guarantor, or a trustee in bankruptcy sues SuperMedia to recover previously made payments.

***The Complete Confidence Program Terms and Conditions govern the Complete Confidence Program, and additional restrictions apply. If there is any conflict between the criteria listed above and the Terms and Conditions, the Terms and Conditions will govern.**

If the business meets these criteria, send a signed affidavit on the form provided, signed and dated Terms and Conditions, and other required documentation to:

SuperMedia OB Department
P.O. Box 619810-MC20
DFW Airport, TX 75261-9810

Contact Telephone Number: 866-880-2810.

The Out of Business Department will consider your request for relief based on the information provided and its determination, in its sole discretion, that the business (or any successors or affiliated parties) will receive no further benefit from the Advertising.

Please allow approximately 30 business days to process your Out of Business request. Once completed, the business will be notified in writing as to the status of your request.

Complete Confidence℠ Program
AFFIDAVIT

Name of business: _____

Account number: _____

Business telephone number: _____

Business address (former address if closed): _____

_____

Name of person completing / signing Affidavit: _____

Title: _____

Current mailing address: _____

_____

Current telephone contact number: _____

Out of business date: _____

Business's legal status *[check one]*:

☐ Sole Proprietorship ☐ General Partnership ☐ Limited Partnership

☐ Corporation ☐ Limited Liability Company ☐ Limited Liability Company

☐ Assumed Name

Describe any dissolution efforts: _____

_____

The following statements are true as of the date of this Affidavit:

- The business named above ("Business") has ceased operations and is not operating the same type of business under another name and/or at another location.
- The Business has not been sold, assigned, or acquired by another individual or entity.
- All telephone numbers (including any cell phone and home numbers) and all URLs contained in all advertising in SuperMedia's print directories, on Superpages.com, and in Idearc's direct mail products (the "Advertising") have been fully disconnected or inactivated, as applicable, and are not being referred to another location, business, telephone number, or URL.
- The Business will not be re-established during the issue period or periods of any SuperMedia directories containing the Advertising.

I certify, under the penalty of perjury, that all of the information set forth above and all information provided to SuperMedia with this Affidavit is complete and accurate as of the date below.

_____ _____

Signature Date

STATE OF _____)

COUNTY_____)

Signed and sworn to before me on this _____ day of _____, _____,

_____

Notary Public
(Print Name): _____

My Commission Expires:_____

** If Business is a sole proprietorship and the owner is deceased, provide a certified copy of the original death certificate.*

** If the Business has dissolved, provide copies of any certificates of dissolution.*

** Provide copies of the final telephone bills from the provider for all telephone numbers contained in the Advertising.*

**** You must submit a signed, dated copy of the Complete Confidence℠ Program Terms and Conditions.***

Send completed and signed Affidavit, signed Terms and Conditions, and all required documentation to:

SuperMedia OB Department
P.O. Box 619810-MC20
DFW Airport, TX 75261-9810
866-880-2810

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

May 21, 2011

YELLOWBOOK MID-ATLANTIC
P.O. Box 11815
Newark, N.J. 07101-8115

RE: Mid AtlanticAccount Number AOK5RP

Dear Sir or Madam;

I have written previously regarding the above captioned account and have not been provided with the courtesy of a response. In mid-November I spoke with a representative of your company to advise that, effective January 1, 2011, I would by closing my law office and inquired if I could obtain some relief from the remaining payments on the account. At the time I was told that upon writing a letter to your company advising of my circumstances the remaining few months on my account would be discharged. I wrote said letter, have had no response yet continue to receive billing statements. I am no longer permitted to practice law in New York State, however the cannons of professional ethics require that I leave my phone number active for an additional period of seven years. Effective January 1, 2011 I can neither accept nor refer potential clients and therefore the advertisement in your book effectively offers no value to me, therefore I renew my request for some measure of relief from the months after December 31, 2010.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

yellowbook™

May 14, 2011

Corinne McGuire
Michael F McGuire
111 Sullivan Ave Ste 2-5
Ferndale, NY 12734

Dear Corinne McGuire:

RESPOND IMMEDIATELY

Mid-Atlantic Account#A0K5RP

The delinquent status of your account has seriously jeopardized your credit standing with Yellowbook. We have sent monthly invoices and letters regarding the past due balance on your account. To date, we have not received payment to satisfy your seriously delinquent status.

The balance due on your account $550.30 is now in excess of 90 days past due. In order to avoid the process of being placed with a collection agency and/or a Collection Attorney, you must make full payment of this balance within 10 days from the date of this letter.

Failure to remit this amount or make contact to set up mutually acceptable payment arrangements, will leave us no alternative but to begin the process of placing your account with a collection agency. Please include your account number on your check made payable to Yellowbook along with the coupon attached and send it to:

Yellowbook Mid-Atlantic
P.O. Box 11815
Newark, NJ. 07101-8115

To expedite bringing your account up to date, please contact us to pay by credit card or check by phone. Our toll free number is 1-800-242-5774. If you've already sent a recent payment, please disregard this notice.

Sincerely, Collections Department Account #MA A0K5RP

Please Return This Portion With Your Payment

Credit Card Payment

Charge to my ☐ Visa ☐ MasterCard ☐ AMEX ☐ Discover

☐ To eliminate billing charges charge this & future payments ☐ Charge this payment

Account Number

Exp Date (Month/Year) CVV2 Code

Card Holder Name

Signature

Auto Debit Payment

☐ Checking ☐ Savings

☐ To eliminate billing charges debit this & future payments ☐ Debit this payment

Bank Name:

Account Number

ABA/Routing Number

Check Number

Yellow Book Mid-Atlantic
PO Box 11815
Newark, NJ 07101-8115

Account #: A0K5RP

Date: 05/14/2011

Total Amount Due
$550.30

Amount Enclosed

611A0K5RP20110514000000000000550301

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

May 21, 2011

SUPERMEDIA, LLC
P.O. Box 619810
DFS Airport, Texas 75261-9810

RE: Account Number 110001735379

Dear Sir or Madam;

I have written previously regarding the above captioned account and have not been provided with the courtesy of a response. In mid-November I spoke with a representative of your company to advise that, effective January 1, 2011, I would by closing my law office and inquired if I could obtain some relief from the remaining payments on the account. At the time I was told that upon writing a letter to your company advising of my circumstances the remaining few months on my account would be discharged. I wrote said letter, have had no response yet continue to receive billing statements. I am no longer permitted to practice law in New York State, however the cannons of professional ethics require that I leave my phone number active for an additional period of seven years. Effective January 1, 2011 I can neither accept nor refer potential clients and therefore the advertisement in your book effectively offers no value to me, therefore I renew my request for some measure of relief from the months after December 31, 2010.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

The Official Publisher
of Verizon Print Directories
SuperMedia LLC
P.O. Box 619810
DFW Airport, TX 75261-9810

Billing Date	05/13/2011
Account Number	110001735379
Page	1 of 2

TO PAY BY CREDIT/DEBIT CARD:

CALL 1-800-269-3488 OR VISIT

www.supermedia.com/mybill
WITH PAPERLESS BILLING YOU SAVE TIME AND MONEY. IT'S FAST AND EASY. SIGN UP TODAY.

FOR QUESTIONS ABOUT YOUR BILL CALL: 1-866-91-SUPER (78737)

0122502 01 AT 0.362 **AUTO H8 1 2093 12734-4 2
#1100 0173 5379 E116#

MICHAEL MCGUIRE
111 SULLIVAN AVE
FERNDALE, NY 12734-4315

Billing for your advertising in Superpages print directories, Superpages.com, EveryCarListed.com, and Superpages direct mail.

ACCOUNT SUMMARY

Previous Balance	**$558.76**
Balance	**$558.76**
Current Activity Summary	
Current Charges - Advertising	$185.40
Late Charges	$5.12
Total Current Activity	**$190.52**
New Balance - Amount Due	**$749.28**

If payment is not received on or before the due date, a late charge will be assessed.

********** IMPORTANT MESSAGES - PLEASE READ **********

* Late charges have been applied to your account. To avoid further late charges, send payment in full immediately. SuperMedia does not waive any previously unbilled late charges and expressly reserves the right to recover all late charges that were, or could have been, assessed under the contract terms and conditions.

PLEASE DETACH AND RETURN THIS PORTION WITH YOUR PAYMENT.
CORRESPONDENCE SENT TO THE ADDRESS ON THIS PAYMENT STUB WILL NOT BE READ OR RESPONDED TO.

☐ Check here and complete the back of this form if your billing address has changed.

Billing Date	05/13/2011
Account Number	110001735379

Amount due by 06/12/2011 : $749.28
Balance owed to be paid in US Dollars only.
A $15 fee will be charged for any NSF and/or dishonored check.

Amount Enclosed $

Please write your account # on check

MICHAEL MCGUIRE
111 SULLIVAN AVE
FERNDALE, NY 12734-4315

MAKE CHECK PAYABLE TO:
SUPERMEDIA LLC
ATTN: ACCT RECEIVABLE DEPT.
P O BOX 619009
DFW AIRPORT, TX 75261-9009

1100017353795110022865212600000007492805132011000000007492 84

FAX COVER SHEET

To: Yellowbook

From: Corinne McGuire (previous Office Manager)

Date: 5/6/11

Number of Pages Including Cover: 3

Regarding: Acct # (Ref #) LN0402-10006831

Notes: Please cancel this account and see attached letter. Mr. McGuire can No longer practice law as stated. Please send to billing for proper adjustments If you have any questions— Please call [redacted]

This telecopy transmission is intended only for the personal and confidential use of the recipient(s) listed above. If you are not the intended recipient of this communication (or agent responsible for delivering it to an intended recipient) you are hereby notified that any review, disclosure, dissemination, distribution or copy of this message, or any use of the information contained herein is strictly prohibited. If you receive this communication in error, please notify us immediately at the number shown above to arrange for the return of this communication to us.

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

February 19, 2011

YELLOWBOOK
P.O. Box 3162
Cedar Rapids, IA 52406

RE: Acct #: AOK5RP

Dear Sir or Madam

Pursuant to our recent conversation, in which I was advised to write regarding a waiver of the remaining amount due on the above referenced account. You may recall that I was advised to write and explain why it is that I am no longer permitted to practice law in the State of New York and why it is that the ad in your publication holds no value for me whatsoever.

Pursuant to Article VI §20(4) no person who holds the office of County Court Judge within the State of New York; may engage in the practice of law in any action or proceeding or matter or engage in any conduct of any other profession or business which interferes with the performance of his judicial duties. On November 2, 2010 I was elected County Court Judge in Sullivan County and assumed my judicial duties on January 1, 2011. Accordingly, pursuant to the Constitution of the State of New York, I am prohibited from engaging in the practice of law. As such, I would respectfully request any remaining balance due on my account be abated.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

Yellow Pages Directory Service
PO Box 504557 • St. Louis, MO 63150
advertising@ypdirectoryservice.com
FAX (314) 667-3535

LISTING OFFER

DATE: 4/20/2011
REFERENCE NUMBER: LN0402-10006831
ANNUAL AMOUNT: $297.00

LN0402-10006831
Law Offices of Michael F McGuire
[redacted]

NO! I have called them several times regarding this — we already have address on 8223 listing.

Thank you for your business!

CODE	REFERENCE	OFFER	DESCRIPTION	AMOUNT
LNDX	LN0402-10006831	Annual	LocalNdex Online Marketing Package	$297.00
GMS			Google/Yahoo Submission and Optimization	Included
REV			Consumer Review Notification and Response	Included
SOC			Facebook/Twitter Integration	Included

LISTING INFORMATION

COMPANY: Law Offices of Michael F McGuire
[redacted]

PHONE: 8452926800

All trademarks used or referred to in this document are the property of their respective owners and used solely for illustrative purposes only.

To ensure accurate information, please check the information above

TOTAL AMOUNT: $297.00

The Premium Listing Package brings your company to the top section of local search results in categories and keywords relevant to your business on LocalNdex.com, the premier online Yellow Pages. It includes your Company Name in bold, address and phone number, along with your company's website and email address, if provided. THIS IS NOT A BILL. THIS IS AN OFFER FOR AN ONLINE DIRECTORY LISTING PACKAGE. YOU ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS OFFER. Once remittance is received, your business listing will be added or upgraded within 10 business days. For more information, please contact LocalNdex.com by fax at (314) 667-3535 or by email at advertising@ypdirectoryservice.com.

To accept this offer, please return your payment, along with this stub. Thank you.

Law Offices of Michael F McGuire
[redacted]

Please include email address for confirmation:

_____

PLEASE CHECK ONE:

☐ LIST AS SHOWN (NO CHANGE REQUIRED)
☐ LIST WITH CHANGES AS INDICATED ON BACK

Date: 4/20/2011 **Reference:** LN0402-10006831 **Terms:** Upon Receipt

Payment:
☐ Check
☐ MasterCard
☐ VISA
☐ DISCOVER
☐ American Express

Amount: $297.00

Amount Enclosed: ☐☐☐.☐☐

Card# _____

Expiration Date _____

Signature _____

Yellow Pages Directory Service
PO Box 504557 • St. Louis, MO 63150
Tax ID 27-0560748

TRANSMISSION VERIFICATION REPORT

TIME : 05/06/2011 11:03
NAME : MCGUIRE LAW
FAX : 8452926860
TEL : 8452926800
SER.# : BROF5J288136

DATE,TIME	05/06 11:02
FAX NO./NAME	13146673535
DURATION	00:00:57
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

yellowbook

PO Box 3162
Cedar Rapids, IA 52406

Yellowbook
Attn: Customer Service
2201 Renaissance Boulevard
King of Prussia, PA 19406-2673

For questions about your bill, Call:
1-800-YB-YELLOW (1-800-929-3556)

Michael F McGuire
Corinne McGuire
111 SULLIVAN AVE STE 2-5
FERNDALE NY 12734-4317

15685

Billing Date	02/07/2011
Account Number:	A0K5RP
Page:	1 of 2

Have more to say about your business? Add details to your free business profile at business.yellowbook360.com

NOTICE to all customers set up on recurring payments. Your Payment will be processed approximately 15 days after receipt of this statement.

YOUR ACCOUNT IS CURRENT. Late Fees assess after 30 days.

The timeliness of your payment may be reported to the Credit Bureaus.

Account Summary

Previous Month's Balance	$193.50
Payments Received Through 2/7/11 - Thank You	-$193.50
Adjustments Applied Through 2/7/11	$0.00
Billing Charge	$3.50
Late Charge	$0.00
Current Monthly Charge	$190.00
Total Due by 03/02/2011	**$193.50**

Past due balances will be subject to a late charge of 1.5%

Detach and return the stub below with payment.Make check payable to YELLOW BOOK

7863 0012 106 001 07 110208 PAGE 1 of 2 COLR053E 15685

yellowbook

PO Box 3162
Cedar Rapids, IA 52406

Yellowbook
Attn: Customer Service
2201 Renaissance Boulevard
King of Prussia, PA 19406-2673

For questions about your bill, Call:
1-800-YB-YELLOW (1-800-929-3556)

Michael F McGuire
Corinne McGuire
111 SULLIVAN AVE STE 2-5
FERNDALE NY 12734-4317

Billing Date	02/07/2011
Account Number:	A0K5RP
Page:	2 of 2

Have more to say about your business?
Add details to your free business profile at business.yellowbook360.com

NOTICE to all customers set up on recurring payments. Your Payment will be processed approximately 15 days after receipt of this statement.

Product	Pub'd Date	Paymt. No.	Deposit Received	Current Monthly Charge	Previous Monthly Balance	Paymt. Received	Paymt. Type	Adjustment	Remaining Balance	Current Due
Yellowbook.com-M			$0.00	$25.00	$25.00	$25.00CR		$0.00	$25.00	$25.00
Sullivan County, NY	Apr-2010	10/12	$0.00	$165.00	$165.00	$165.00CR		$0.00	$495.00	$165.00
Billing Charge				$3.50	$3.50	$3.50CR				$3.50
Late Charge				$0.00	$0.00	$0.00				$0.00
Total									$523.50	$193.50

*If **ACH** is indicated, your checking account will be auto debited per your authorization.
*If **RCC** is indicated, your credit card will be charged per your authorization.
Selecting either of these options eliminates monthly billing charges.

Michael F. McGuire
Attorney and Counselor at Law

LIBERTY PROFESSIONAL PLAZA
111 SULLIVAN AVE., SUITE 2 - 5
FERNDALE, NEW YORK 12734

PHONE 845-292-6800
FAX 845-292-6860

February 19, 2011

SUPERMEDIA, LLC
Attn Accounts Receivable Dept
P.O. Box 619009
DFW Airport, TX 75261-9009

RE: Acct #: 110001735379

Dear Sir or Madam

Pursuant to our recent conversation, in which I was advised to write regarding a waiver of the remaining amount due on the above referenced account. You may recall that I was advised to write and explain why it is that I am no longer permitted to practice law in the State of New York and why it is that the ad in your publication holds no value for me whatsoever.

Pursuant to Article VI §20(4) no person who holds the office of County Court Judge within the State of New York; may engage in the practice of law in any action or proceeding or matter or engage in any conduct of any other profession or business which interferes with the performance of his judicial duties. On November 2, 2010 I was elected County Court Judge in Sullivan County and assumed my judicial duties on January 1, 2011. Accordingly, pursuant to the Constitution of the State of New York, I am prohibited from engaging in the practice of law. As such, I would respectfully request any remaining balance due on my account be abated.

Thank you in advance for your attention to this matter, if you have any questions, concerns or comments please feel free to contact me.

Very truly yours,

Michael F. McGuire, Esq.

The Official Publisher
of Verizon Print Directories
SuperMedia LLC
P.O. Box 619810
DFW Airport, TX 75261-9810

Billing Date	02/13/2011
Account Number	110001735379
Page	1 of 2

TO PAY BY CREDIT/DEBIT CARD:

CALL 1-800-269-3488 OR VISIT
www.supermedia.com/mybill

WITH PAPERLESS BILLING YOU SAVE TIME AND MONEY. IT'S FAST AND EASY. SIGN UP TODAY.

FOR QUESTIONS ABOUT YOUR BILL CALL: 1-866-91-SUPER (78737)

0111536 01 AT 0.354 **AUTO T2 3 2035 12734-4 2 4
#1100 0173 5379 B113#

MICHAEL MCGUIRE
111 SULLIVAN AVE
FERNDALE, NY 12734-4315

Billing for your advertising in Verizon print directories, Superpages.com, EveryCarListed.com, and SuperpagesDirect.

ACCOUNT SUMMARY

Previous Balance	**$185.40**
Payment Received 02/08/2011 - Thank You	-$185.40
Balance	**$0.00**
Current Activity Summary	
Current Charges - Advertising	$185.40
Total Current Activity	**$185.40**
New Balance - Amount Due	**$185.40**

If payment is not received on or before the due date, a late charge will be assessed.

********** IMPORTANT MESSAGES - PLEASE READ **********

0111536-01-0011887

supermedia

ADVERTISING AGREEMENT

Product Information – Summary

Rev. Aug / 2010

Date: 4/14/2011

Customer ID: 1614428416	Canvass Code/Canvass Name: KIZ1 / KINGSTON NY11L
Business Name: Law; Offices Of Michael F Maguire	Contact Name:
Street: [redacted]	Contact Number: ( ) -
City, State, Zip: Liberty NY 12754-	Contact E-mail:
Main Listed Business Phone #: (845) 292-6800	Media Consultant Name / Media Consultant ID / Contact Number: Terry L Barton 704759 / (845) 298-6940

Product	Estimated Pub. Date	Telephone Number	No. of Billing Months	Current Monthly Total	New Monthly Total	Cust Initial Changes
52327 SULLIVAN COUNTY PLUS	6/1/2011	(845) 292-6800	Issue Period	$185.40	$187.80	_____
456 SP.COM JUN EAST	6/23/2011	(845) 292-6800	12	$0.00	$0.00	_____
Monthly Total for Issue and 12 month billing				$185.40	$187.80	X_____

OFFICE CLOSED

CANCEL

INITIAL

Terms and Conditions

"You" means the individual or business entity listed above. "We," "us" and "our" means SuperMedia LLC. "Print Ads" means advertising in our print directories or other printed non-directory products (together, "Publications"). "Electronic Ads" means advertising on various electronic media, including the Superpages.com® service, consisting of websites we own and third party websites, wireless platforms, and other applications for which we have agreements from time to time (collectively our "Electronic Platform"). "Ad" or "Ads" means Print Ads and/or Electronic Ads. You agree that this Advertising Agreement and any additional terms and conditions ("Additional Terms") that we publish on the websites described in the next sentence and that are in effect on the Agreement Date or that are included in any pre-printed addenda we provide (together, the "Agreement") apply to the Ads and services ("Services") listed in the order section above. **These terms and conditions also are available at www.superpages.com/terms and at www.supermedia.com/help/terms-conditions.jsp. You are responsible for reviewing these terms and conditions and the Additional Terms.**

1. Order. By signing below or by Recorded Oral Agreement (herein so called), you authorize us to publish the Ads listed in this Agreement in the applicable Publications and/or Electronic Platform, and to provide the Services listed in this Agreement. You also authorize us to act as your agent to request from your local telephone carrier any listing changes that you provide to us. The "Agreement Date" is the date you sign this Agreement or orally consent to this Agreement.

2. Notices/How to Contact Us. All notices to us must be in writing and mailed to SuperMedia LLC, P.O. Box 610609, D/FW Airport, TX 75261, faxed to 972-453-6764, or sent by going to www.supermedia.com/support/contactus, clicking on "Client service contacts," and completing the information requested to send an email. Cancellation notices must include your business name, telephone number, and address. For questions about this Agreement or your advertising, please call Client Care at 800-555-4833.

3. Term. **Subject to automatic renewal as described in Section 4 and unless otherwise provided in the Additional Terms,** (i) the initial term for a print Ad or Service is the period we provide such Ad or Service and (ii) the initial term for Electronic Ads and electronic Services is 12 months or such other period as is set forth in the order section of this Agreement.

4. Revision/Cancellation/Automatic Renewal. **You may revise or cancel your request for Ads and Services only by written notice that is received by us (i) for Ads and Services in Publications (except for limited inventory items), by the later of the close date or three business days after the Agreement Date, (ii) for limited inventory items in Publications, within three business days after the Agreement Date; and (iii) for Electronic Ads and electronic Services, within 21 days after the Agreement Date. We will attempt to contact you regarding the renewal of your print directory Ads. If we send a renewal notice to you at the address reflected in our records regarding your print directory Ads for the next issue of a print directory and we do not receive a written cancellation notice from you by the close date, we may automatically renew your print directory Ads, except for limited inventory items (Section 17), in the next subsequent issue. You are responsible for obtaining a Publication close date by calling Client Care at 800-555-4833.** We may automatically renew your Electronic Ads and electronic Services after the end of the initial term for successive one-month terms unless we receive written cancellation notice at least 30 days before the end of the final month of your Electronic Ads and electronic Services. **You agree that the then current undiscounted rates and terms and conditions will apply to automatically renewed print directory Ads, Electronic Ads and electronic Services.** We may cancel your Electronic Ads and electronic Services without notice at any time for any reason.

SEE ATTACHED Letter

Date: April 14, 2011
Time: 9:52:54 AM
# of Pages: Including Cover

Official Publisher of Verizon Yellow Pages & Superpages.com

URGENT SULLIVAN DIRECTORY CLOSING TODAY!

Mr. Michael McGuire Attorney

To renew your current ad program for the Verizon Sullivan County directory please initial authorize and return by fax or email. Please call to make any changes.

Thank You
Terry Barton
845 238 6940

Terry Barton | Media Consultant | Super Media
Cell (845) 238-6940 Fax (866) 873-3470
superguarantee
superpages.com superyellowpages superpagesdirect
EMAIL: TERENCE.J.BARTON@SUPERMEDIA.COM

5. Charges/Billing. You agree to pay the monthly rates listed on this Agreement for the period we provide the Ads and Services, rounded up to the nearest month (and for subsequent terms, the then current undiscounted rates). You also agree to pay any one-time charges listed on this Agreement and any taxes due on your Ads or Services. We typically provide a print directory Ad for 12 months (the "Issue Period") for each directory issue, however, you agree that we may, at any time and without notice to you, increase or decrease the Issue Period of a print directory by up to six months. If an Issue Period is increased or decreased, charges for a print directory Ad will continue or stop accordingly. We may start billing before we publish or distribute Ads or begin providing Services, and monthly billing for Print Ads may continue after we distribute the next issue.

6. Payment Terms. You agree to pay all charges in full by the due date. You agree that you may not withhold any payment for any reason, including any dispute between you and us. We may require full or partial advance payment prior to providing any Ads or Services. You authorize us to review your credit history and to obtain your credit report, and you agree that we may report to credit reporting agencies your failure to make payments as required by this Agreement. We may apply payments from you, or monies owed to you, toward amounts owed under this Agreement or any other amounts you owe us. If you pay by credit card, we will bill the card automatically at the start of each billing period.

7. Late Charges. We will assess, and you agree to pay, late charges on account balances not paid by the due date (including balances accelerated under Section 8). Late charges will begin to accrue after the due date at a rate equal to the lesser of 18% per annum or the highest lawful rate. In addition, if you submit a check or draft that is dishonored for any reason, you agree to pay, in addition to the face amount of the check or draft, a service fee in an amount equal to the highest lawful amount.

8. Our Remedies. If you do not pay all charges by 30 days after the due date, fail to meet any other obligation under this Agreement or under any other agreement between us, or make any representation or warranty that is or becomes untrue, we may, without notice: (i) require you to pay immediately all unpaid amounts you owe and will owe for all Ads and Services for the entire term of this Agreement; (ii) remove your Ads from any Publication that has not published; (iii) remove, suspend, or modify your Electronic Ads; (iv) suspend or terminate any Services; (v) recover all collection costs and attorneys' fees: and (vi) pursue any other available legal or equitable remedies.

9. Limitation of Liability/Disclaimers. You agree to review the Ads and Services immediately after their publication or provision and to notify us in writing of any errors or omissions no later than 30 days after the error is first published or displayed or the Ad or Service omitted. You agree that we may provide free advertising pursuant to our then-current policies instead of a refund or credit to your account, and that we will have no liability with respect to any listings, Ads or Services provided to you at no cost. **The total aggregate liability for us and our affiliates for errors in or omission of the Ads or Services, negligence, any breach of this Agreement, and any other cause of action or wrongful act is limited to, and shall in no event exceed, the lesser of (a) the amount by which the value of the Ad or Service was diminished or (b) the amount you have paid for the Ad or Service giving rise to the liability (the "Liability Cap"). We are not liable for consequential damages, punitive damages, incidental damages, or damages for harm to business, lost revenues, profits, or goodwill, or any other special damages, whether the claim is based on negligence, breach of contract or express or implied warranty, strict liability, misrepresentation, statute, tort, or any other theory of recovery, even if you or we knew such damages could or may result. We disclaim any obligations, representations, or warranties, whether express or implied, that are not expressly set forth in this Agreement including any warranty of merchantability or fitness for a particular purpose.** Without limiting the generality of the foregoing, we do not warrant the number of responses to your Ads, the number of persons who will view your Ads, or any other business benefit. The limitations in this Section shall apply notwithstanding any failure of essential purpose under this Agreement. We are not liable to you for any deviation from or change in our policies, practices, and procedures, including without limitation those regarding the placement, position, or location of Ads, headings, or categories. **You may increase the Liability Cap with regard to paid Ads and Services by agreeing to pay additional charges that will be determined by mutual agreement between you and us. You may obtain information about this option by contacting us at (800) 555-4833.**

10. Waiver of Class Action and Jury Trial and Consent to Binding Arbitration. **In any legal proceeding relating to this Agreement, the parties agree to waive any right they may have to participate in any class, group, or representative proceeding and to waive any right they may have to a trial by jury.** Any claim, controversy, or dispute that arises under or relates to this Agreement (other than claims to collect amounts you owe us or claims by you alleging breach of this Agreement to recover amounts you have paid us), including any dispute regarding any listing, Ad or Service, any omissions, incorrect phone numbers or other errors, and any Ad placement concerns, shall be referred by the aggrieved party **to binding arbitration under the Commercial Rules of the American Arbitration Association.**

11. Products/Publication/Distribution. We reserve the sole right to determine (and may change at any time without notice to you) the design, content, size, geographic coverage, distribution, and appearance of, and the types of advertising offered in, our Publications, our Electronic Platform, and Services and how, where, how many, when, and whether they are published, distributed, reissued, or displayed. We may reject all or any portion of Ads or Services at any time and for any reason (even if previously approved). If rejected, we will, as our sole obligation, refund any advance payments for that Ad or Service. If we receive allegations of copyright or trademark infringement, we may remove the disputed content immediately. We may change each name, street address, Internet address, and telephone number or any other content to conform to our standards, practices and policies or the policies of any third party on whose site, platform or network any Ad is published. We may publish the Ads of any other advertiser at any time and at any location in our Publications and in our Electronic Platform.

12. Proofs. We do not guarantee that we will provide you with proofs of your Ads. If we do provide proofs in time for modifications, you must notify us in writing of any changes/errors before the deadline we set. Otherwise, we will publish the Ad or perform the Service as shown and no adjustment will be made. Colors, contrast, photos, font, graphics, and other features may appear differently in the published product and no adjustments will be made for those differences.

13. Ad Placement. **Except for Ads we designate as limited inventory advertising, we do not guarantee the placement or position of any Ad (or the Ad of any other advertiser) on or within any Publication, the Electronic Platform or any page, cover, or heading** and will not provide any adjustments on claims relating to placement for any Ad.

14. Client Content; SuperGuarantee. "Client Content" means content you, or any person(s) using your password, supplies to us, posts, or asks us to use in your Ads. You grant us a perpetual, royalty-free, sub-licensable, non-exclusive right and license to use, copy, record, modify, display, publish, publicly perform, distribute (in any form or media), transmit by any means, and create derivative works from the Client Content in, and for the marketing and sale of, our products and services. You specifically grant us the right and license to insert the SuperGuarantee® shield design into your eligible Ads and to remove it from ineligible Ads. You are solely responsible for the Client Content and will produce and deliver all Client Content in accordance with our then current guidelines, procedures, technical requirements, and deadlines. If you fail to comply, we may cancel or suspend your Ads or Services.

15. Our Rights in Advertising Content/Copyright/Trademarks. If we create or supply any content for your Ads or design your Ads, the content and the Ads we create are our sole and exclusive property, except for Client Content and content we license from a third party. We may supply such content to other Clients. You agree that you have no right to use that content or the advertising developed with that content in other advertising or materials or in any other way, or to permit others to use the advertising or content. You agree that we own the copyright in, and all copyrighted portions of, each Publication and the Electronic Platform. You agree not to use or alter any trademark, trade name, trade dress or any name, picture or logo that is

commonly identified with us or our affiliates, including, without limitation, the trademarks SuperGuarantee® and SuperGuarantee shield design, unless permission is granted by us in writing.

16. Client's Representations. You represent and warrant that: (i) you have the unrestricted right to use, and to grant the licenses you grant in this Agreement with respect to, all Client Content and that your licensing of Client Content to us will not infringe any third party copyright or trademark rights; (ii) your Ads comply with all applicable laws, orders, codes, regulations and requirements, and you and any individuals listed in your Ads have all required licenses to provide the goods and services advertised in all jurisdictions where the Ads appear; (iii) you have not made any false or misleading claims in any Ad; (iv) you have not requested, and will not use, the Ads or Services, or our Electronic Platform for any unlawful purpose or business; (v) you have not violated any contractual or legal obligation by signing this Agreement and requesting us to publish any Ad; and (vi) you are or represent the business related to the Ads and Services listed above. **You will notify us immediately if any of the above becomes inaccurate.**

17. Limited Inventory Items. If your Ad published in our print directory is designated as a limited inventory item that is offered in the next issue of the same directory, you will have right of first refusal for that same item of advertising in the next issue of the same directory if you: (i) sign a new Agreement to renew the Ad at the then current rate prior to the renewal due date we specify; and (ii) have paid all amounts due under this Agreement as of that renewal date. If you do not meet these requirements or if you cancel the limited inventory item, we may immediately offer the advertising item to other interested parties. You may not assign, sell or transfer the right of first refusal granted in this Section.

18. Indemnification. You agree to defend, indemnify and hold us and our affiliates harmless from any liability or costs, including attorneys' fees and expenses, resulting from: (a) any breach of your representations, warranties or covenants; (b) any act, omission or fault of you or your employees, agents or contractors in connection with the Ads or Services; (c) any claim that the Client Content or other information provided by you violates any applicable law or infringes on any third party patent, copyright, trademark, trade secret or other intellectual property or proprietary right; (d) any communication through your Electronic Ads or your collection or use of any information obtained through your Ads, the Services or our Electronic Platform; (e) any breach of any applicable export control laws; and (f) any transactions initiated through your Electronic Ads and any payment processing services. You will continue to be obligated by this Section even after the termination of this Agreement.

19. Governing Law. You agree that this Agreement will be governed by and construed in accordance with, and all matters relating to or arising under this Agreement will be governed by, Texas law without reference to the laws relating to conflicts of laws.

20. Entire Agreement. This Agreement constitutes the entire agreement between you and us and supersedes all prior agreements and representations, whether express or implied, written or oral, with respect to the Ads and Services. You agree not to include any limiting endorsement on a check or other form of payment, and we may cash a check containing a limiting endorsement or accompanied by any limiting instruction without affecting your obligations or our rights. **Neither you nor any SuperMedia employee or agent is authorized to change or add to this Agreement or any other documents that are part of this Agreement in any way, and any purported change or addition, whether oral or written, is void.**

21. Miscellaneous. This Agreement is binding on and for the benefit of you and your successors. We may assign this Agreement, but you may not assign any of your rights or delegate any of your duties under this Agreement without our prior written consent. Except as otherwise set forth in this Agreement, neither you nor we will lose any of our rights under this Agreement, even if you or we do not enforce a right or delay in enforcing a right. Neither party will be liable for any damages arising from acts of God or events outside of that party's reasonable control. If any provision of this Agreement is found to be unenforceable, the rest of this Agreement will remain in full force and effect. Our imaged copy of this Agreement will be deemed a duplicate original for evidentiary purposes.

22. Contact by Us. **You agree that we may contact you regarding your Ads or Services, or offers to provide Ads or Services, whether by live telephone, recorded message, U.S. mail or other mail, facsimile or e-mail. You agree that telephone conversations between you and us or our agents may be monitored and/or recorded (including Recorded Oral Agreements).**

The person signing on behalf of Advertiser or orally authorizing the Ads and Services certifies that he or she is either the Advertiser or is authorized by the Advertiser to sign or orally authorize this Agreement.

X
Authorized By - Signature

X
Print Name

Terry J Barton / 704769
Received by Media Consultant

X
Date

X
Title

supermedia The Official Publisher of Verizon Print Directories

ADVERTISING COPY LAYOUT

Sold Ad: ☐	Spec Ad: ☐	Ad Type:	Ad ID: V1100000545721/01	Artist:	Location Code:	SPM Initials: / CR61: ☐ / Graphics DB: North
Customer ID: 1614428416	ADvantage:		Copy ID: 1423869 (001)	Campaign ID:	Primary Tel #: 845-292-6800	

Listed Name/Address:
Michael F Mcguire Law Offices Of
111 Sullivan Av Ferndale NY 127344315

☐ Customer Proof Mailing (sold only) ☐ Remote Sales Location, Phone # (spec only) ☐ E-Proof (spec only)

☐ Use different listing on SP.com (provide listing in Special Instructions / Memo / Advice below)

Special Instructions/Memo/Advice:

Ad Language: ☐ English ☐ Spanish Print UDAC: TQC Col: 4

Copy Status: ☐ New ☐ Change ☐ Supercedure ☐ STET

Attachments: ☐ Photo ☐ Disc ☐ Artwork ☐ Spec Proof ☐ Other

Did Client Supply Art/Photo? ☐ Yes ☐ No

Existing SuperMedia UDAC: Product # / Name: Page #: ☐ Co-Op

Ad Changed From: Display Advertising Use: ☐ Name Differs ☐ Address Differs ☐ Address Omitted

Telco Owner / Product #(s) / Name(s) / State(s): VZ-052327-Sullivan County Plus, NY Estimated Pub. Date: 06/2011

Heading #(s) / Name(s) / Sub Heading(s): 0034940/Lawyers

☐ Ad will appear on Superpages.com

SP.com UDAC: Indicate SP.com Reach (Cities or Counties) below: SP.com Categories (up to 5):

PDF PROOF SIZE, FONT, COLOR AND CLARITY MAY VARY FROM PRINTED PRODUCT

Please Cancel & See Attached letter

☐ Creative Freedom ☐ Follow Layout Exactly ☐ Follow Closely and Improve

© 2011 SuperMedia LLC

By signing below, you agree that our and your rights and obligations with respect to the Ads are governed by the Advertising Agreement you signed ("AA"). If you have requested us to use certain photos or other images, video footage, logos, text, and/or artwork ("Content") in your Ads, you represent and warrant that: (1) the Content was created by you or your employee and you have the unrestricted right and authority to use the Content in any media and in any Ad in the way it is used in such Ad and to give us the rights granted in the AA, or was created by a third party who has given you written permission to use the Content in your Ad and to give us the rights granted in the AA; (2) if the Content includes the name or a photo or other image or likeness of a person or persons, you have obtained from each such person (or from the parent or lawful guardian of any person who is under 18 years of age) the unrestricted and perpetual right to use the name, photo, or other image or likeness in your Ad and to give us the rights granted in the AA. You grant us the right and license to insert the SuperGuarantee℠ shield design into your eligible Ads and to remove it from ineligible Ads.

Media Consultant Number/Name:	Media Consultant Tel Number:	Office Number/Name:	Office Mail Code:	Date:
102268/MAYO JEFFREY	716-691-7228	3710/NYTD	197	

Print Name: Copy Approved: X

Rev. May / 2010

Printed Date: 01/25/11 10:08:13 Printer ID: ecopy

Sign

TRANSMISSION VERIFICATION REPORT

TIME : 04/28/2011 16:28
NAME : MCGUIRE LAW
FAX : 8452926860
TEL : 8452926800
SER.# : BROF5J288136

DATE,TIME	04/28 16:26
FAX NO./NAME	18668733470
DURATION	00:02:31
PAGE(S)	05
RESULT	OK
MODE	STANDARD ECM

Agenda At A Glance

2011 New Judges Seminar
New York State Judicial Institute

Sunday, January 2, 2011

Time	Civil	Criminal	Family	Matrimonial	Surrogate
5:30 p.m.	Dinner and Program: What is A Good Judge?				

Monday, January 3, 2011

Time	Civil	Criminal	Family	Matrimonial	Surrogate
8:00 a.m. - 9:00 a.m.	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
9:00 a.m. - 11:00 a.m.	The Black Robe: Your Life In The Courtroom	The Black Robe: Your Life In The Courtroom	The Black Robe: Your Life In The Courtroom	The Black Robe: Your Life In The Courtroom	The Black Robe: Your Life In The Courtroom
11:00 a.m. - 11:15 a.m.	Break	Break	Break	Break	Break
11:15 a.m. - 1:15 p.m.	Foundational Evidence	Foundational Evidence	Foundational Evidence	Foundational Evidence	Foundational Evidence
1:15 p.m. - 2:00 p.m.	Lunch	Lunch	Lunch	Lunch	Lunch
2:00 p.m. - 4:00 p.m.	Writing Effective Decisions	Writing Effective Decisions	Writing Effective Decisions	Writing Effective Decisions	Writing Effective Decisions
4:00 p.m. -4:10 p.m.	Break	Break	Break	Break	Break
4:10 p.m. - 5:30 p.m.	Presentation: The Commission on Judicial Conduct	Presentation: The Commission on Judicial Conduct	Presentation: The Commission on Judicial Conduct	Presentation: The Commission on Judicial Conduct	Presentation: The Commission on Judicial Conduct
5:30 p.m.	Dinner and Program: A Brief History of the Office of Court Administration and Its Role in Your Life	Dinner and Program: A Brief History of the Office of Court Administration and Its Role in Your Life	Dinner and Program: A Brief History of the Office of Court Administration and Its Role in Your Life	Dinner and Program: A Brief History of the Office of Court Administration and Its Role in Your Life	Dinner and Program: A Brief History of the Office of Court Administration and Its Role in Your Life

Agenda At A Glance

2011 New Judges Seminar

New York State Judicial Institute

Tuesday, January 4, 2011

Time	Civil	Criminal	Family	Matrimonial	Surrogate
8:00 a.m. - 9:00 a.m.	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
9:00 a.m. - 11:00 a.m.	Judicial Ethics: The Rules Governing Judicial Conduct, The Code of Judicial Conduct and the Advisory Committee on Judicial Ethics	Judicial Ethics: The Rules Governing Judicial Conduct, The Code of Judicial Conduct and the Advisory Committee on Judicial Ethics	Judicial Ethics: The Rules Governing Judicial Conduct, The Code of Judicial Conduct and the Advisory Committee on Judicial Ethics	Judicial Ethics: The Rules Governing Judicial Conduct, The Code of Judicial Conduct and the Advisory Committee on Judicial Ethics	Judicial Ethics: The Rules Governing Judicial Conduct, The Code of Judicial Conduct and the Advisory Committee on Judicial Ethics
11:00 a.m. - 11:15 a.m.	Break	Break	Break	Break	Break
11:15 a.m. - 1:15 p.m.	Managing Conflict In And Outside the Courtroom	Managing Conflict In And Outside the Courtroom	Managing Conflict In And Outside the Courtroom	Managing Conflict In And Outside the Courtroom	Managing Conflict In And Outside the Courtroom
1:15 p.m. - 2:00 p.m.	Lunch	Lunch	Lunch	Lunch	Lunch
2:00 p.m. - 5:00 p.m.	Recognizing Obstacles to Objectivity in the Courtroom Part 1 - Introduction to Courtroom Interpreting and Related Issues Part 2 - Implicit Bias: How Who You Are Affects How You Judge	Recognizing Obstacles to Objectivity in the Courtroom Part 1 - Introduction to Courtroom Interpreting and Related Issues Part 2 - Implicit Bias: How Who You Are Affects How You Judge	Recognizing Obstacles to Objectivity in the Courtroom Part 1 - Introduction to Courtroom Interpreting and Related Issues Part 2 - Implicit Bias: How Who You Are Affects How You Judge	Recognizing Obstacles to Objectivity in the Courtroom Part 1 - Introduction to Courtroom Interpreting and Related Issues Part 2 - Implicit Bias: How Who You Are Affects How You Judge	Recognizing Obstacles to Objectivity in the Courtroom Part 1 - Introduction to Courtroom Interpreting and Related Issues Part 2 - Implicit Bias: How Who You Are Affects How You Judge
6:00 p.m. - 8:00 p.m.	Dinner and Presentation on Judicial Security	Dinner and Presentation on Judicial Security	Dinner and Presentation on Judicial Security	Dinner and Presentation on Judicial Security	Dinner and Presentation on Judicial Security

Agenda At A Glance

2011 New Judges Seminar

New York State Judicial Institute

Wednesday, January 5, 2011

Time	Civil	Criminal	Family	Matrimonial	Surrogate
8:00 a.m. - 9: 00 a.m.	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
9:00 a.m. - 12:30 p.m.	CPLR for Judges	The Criminal Case Part 1 - Overview of the Beginning Stages of a Criminal Case Part 2 - Pleas and Sentencing Part 3 - Speedy Trial Motions and Calendar Management	Anatomy of a Family Court Case/ Case Management	Matrimonial Overview: How Do Lawyers and Litigants Expect You to Address Maintenance, Equitable Distribution and Counsel Fees?	Surrogate's Program
12:30 p.m. - 1:30 p.m.	Lunch	Lunch	Lunch	Lunch	Lunch
1:30 p.m. - 2:30 p.m.	Dealing With The Media and The Public – Ethical and Other Considerations	Dealing With The Media and The Public – Ethical and Other Considerations	Dealing With The Media and The Public – Ethical and Other Considerations	Dealing With The Media and The Public – Ethical and Other Considerations	Dealing With The Media and The Public – Ethical and Other Considerations
2:30 p.m. - 4:00 p.m.	Basic Contract Law	Overview of Criminal Pretrial Motions and Hearings	The Role of the Attorney for the Child	The Role of the Attorney for the Child	
4:00 p.m. - 4:15 p.m.	Break	Break	Break	Break	Break
4:15 p.m. - 5:30 p.m.	The Substantive Law and Ethical Rulings Regarding the Unrepresented Litigant	Facial Sufficiency Sufficiency of the Indictment, Grand Jury and Other Early Stage Motions	The Substantive Law and Ethical Rulings Regarding the Unrepresented Litigant	The Substantive Law and Ethical Rulings Regarding the Unrepresented Litigant	The Substantive Law and Ethical Rulings Regarding the Unrepresented Litigant
5:30 p.m.	Dinner on Your Own	Dinner on Your Own	Dinner on Your Own	Dinner on Your Own	Dinner on Your Own

Agenda At A Glance

2011 New Judges Seminar
New York State Judicial Institute

Thursday, January 6, 2011

Time	Civil	Criminal	Family	Matrimonial
8:00 a.m. - 9:00 a.m.	Breakfast	Breakfast	Breakfast	Breakfast
9:00 a.m. - 12:30 p.m.	Settlement Techniques Part 1 - Theory and Practice Part 2 - Breakout Sessions	The Trial of a Criminal Case	Child Welfare and Adoption Proceedings	Settlement Techniques Part 1 - Theory and Practice Part 2 - Breakout Sessions
12:45 p.m. - 1:30 p.m.	Lunch	Lunch	Lunch	Lunch
1:30 p.m. - 3:00 p.m.	Jury Charges and Verdict Sheets Commercial Landlord Tenant	Search and Seizure	Child Support	Child Support
3:00 p.m. - 3:15 p.m.	Break		Break	Break
3:15 p.m. - 5:00 p.m.	Consumer Debt How to Try A Civil Case In Supreme Court		Custody and Visitation	Custody and Visitation
6:00 p.m. - 7:30 p.m.	Dinner at Graziella's Restaurant	Dinner at Graziella's Restaurant	Dinner at Graziella's Restaurant	Dinner at Graziella's Restaurant
7:30 p.m. - 8:30 p.m.	Dessert and Informal Roundtables by Court	Dessert and Informal Roundtables by Court	Dessert and Informal Roundtables by Court	Dessert and Informal Roundtables by Court

Agenda At A Glance

2011 New Judges Seminar

New York State Judicial Institute

Friday, January 7, 2011

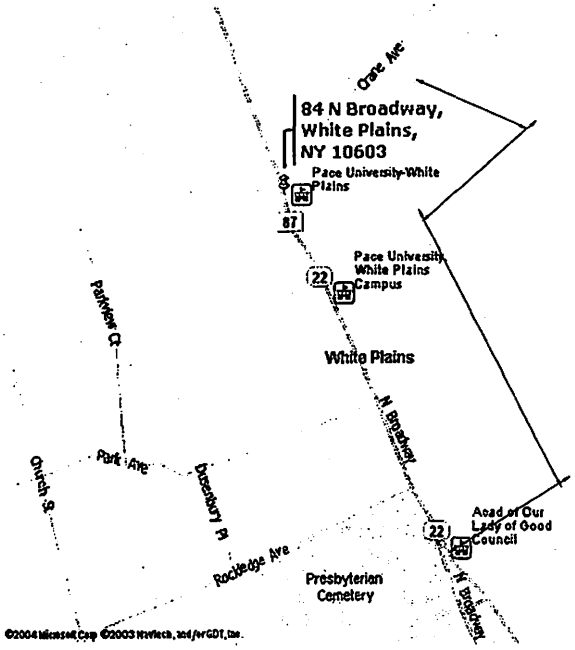
Time	Civil	Criminal	Family	Matrimonial	Multi-Bench
8:00 a.m. - 9:00 a.m.	Breakfast	Breakfast	Breakfast	Breakfast	Breakfast
9:00 a.m. - 10:00 a.m.	Plenary: Judicial Committee on Women in the Courts	Plenary: Judicial Committee on Women in the Courts	Plenary: Judicial Committee on Women in the Courts	Plenary: Judicial Committee on Women in the Courts	
10:00 a.m. - 10:15 a.m.	Break	Break	Break	Break	
10:15 a.m. - 11:30 a.m.	Actions to Recover First Party No Fault Benefits (10:15 a.m. - 2:00 p.m.) Mock Trial of a Negligence Case	Domestic Violence/Family Offenses (10:15 a.m. - 2:00 p.m.) NYC Criminal Court Judges Program (11:45 a.m. - 2:00 p.m.) Law Responsibility and the Brain	Domestic Violence/Family Offenses	Domestic Violence/Family Offenses	
11:45 a.m. - 2:00 p.m.	Trial of a Small Claims Case		(11:45 a.m. - 1:00 p.m.) Juvenile Delinquency/P.I.N.S. (1:00 p.m. - 2:30 p.m.) Taking the Bench for Family Court Judges	(11:45 a.m. - 2:00 p.m.) Mock Preliminary Conference	(11:45 - 1:00) Roundtable with Multi-Bench Judges

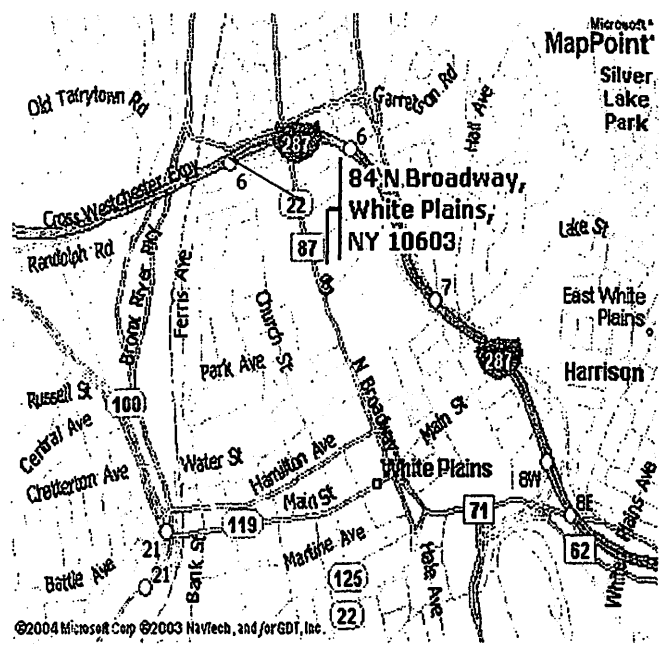
Boxed lunches will be available for pick-up starting at 12:30 p.m.

Directions to NYS Judicial Institute

84 North Broadway, White Plains, NY 10603
914-824-5800

The Judicial Institute is located on the campus of Pace Law School just behind the main classroom building





By Auto

Eastbound on I-287 (Cross Westchester Expressway.)
From I-287 (Cross Westchester Expressway.) If traveling east on I-287, take Exit 6 and turn right at the light onto North Broadway (Rt. 22 South). Proceed to the fifth light and turn left onto campus (Good Counsel entrance). Proceed to Judicial Institute Garage. *The Judicial Institute is located on the campus of Pace Law School just behind the main classroom building*

Westbound on I-287 (Cross Westchester Expressway.)
If traveling west on I-287, take Exit 6 and turn left at exit ramp light. Turn left at next light onto North Broadway (Rt 22 South) and proceed to sixth light. Turn left onto campus (Good Counsel entrance). Proceed to Judicial Institute Garage. *Judicial Institute is located on the campus of Pace Law School just behind the main classroom building*.

From Long Island. Throgs Neck or Whitestone Bridge onto I-95 North (New England Thruway); take Exit 21 onto I-287, Westbound. **(See Westbound on I-287 above)**

From New York City. Major Deegan Expressway onto I-87 (New York Thruway); take Exit 8 onto I-287,eastbound. **(See Eastbound on I-287 above)**

From New Jersey. Garden State Parkway onto I-87 (New York Thruway) across Tappan Zee Bridge; take Exit 8 onto I-287, eastbound -- or George Washington Bridge onto Henry Hudson Parkway onto Saw River Mill Parkway; take Exit 20 onto I-87 (New York Thruway); exit immediately at Exit 8 onto

I-287, eastbound. **(See Eastbound on I-287 above)**

From Upstate New York. New York Thruway across Tappan Zee Bridge; take Exit 8 onto I-287, Eastbound. **(See Eastbound on I-287 above)**

From Connecticut. I-95 (New England Thruway) or Merritt Parkway or I-684 onto I-287, westbound. **(See Westbound on I-287 above)**

By Bus
The County of Westchester operates an extensive bus system. Information on routes and schedules can be obtained by calling the Westchester County Transportation Center at **(914) 682-2020**. The **Bee Line #6 Bus** will leave you at **Main St. And North Broadway**, a couple of blocks from the Judicial Institute. Schedules for the Westchester County Bee Line Bus system may be accessed on the internet at **beelinebus.westchestergov.com** by clicking on timetables.

By Train
Harlem Division of Metro North stops in White Plains. The train departs from Grand Central and arrives at White Plains. The distance is about 20 miles and it is a 35-minute train ride. Metro North schedules may be accessed at the **MTA Home Page** at www.mta.nyc.ny.us. The Judicial Institute is approximately 1 mile from the train station. Taxi cabs are always available outside of the station.

Airport Information

Westchester County Airport **(914) 285-4860**
(Five miles from campus; taxis are available)

LaGuardia Airport: **(718) 533-3400**
JFK Airport: **(718) 244-4444**
Newark Airport: **(973) 961-6000** or **(800) EWR-INFO**

RED OAK TRANSPORTATION: 914-694-2222

CROWNE PLAZA®

WHITE PLAINS

NEW ENGLAND THRUWAY (I95) CONNECTICUT TURNPIKE

Heading South, from Connecticut/North from New York, Exit 21 to I - 287 West, follow I - 287, West to Exit 8. Follow signs for Route 119 - Westchester Ave. At 3rd light, make a left turn onto Bloomingdale Road. At the 2nd light, turn right onto Maple Ave. At the 2nd light, turn right at Hale Avenue.

FROM MANHATTAN

North on Major Deegan Expressway, Deegan then becomes New York Thruway, (Route 87N), in Westchester. Exit 8 to Cross Westchester Expressway (287 East) to Exit 8W (Bloomingdale Rd.) Go to end of ramp & turn left onto Bloomingdale Rd. At the 2nd light turn right onto Maple Ave. At the 2nd light turn right at Hale Ave.

FROM WESTCHESTER COUNTY AIRPORT AND PUTNAM COUNTY

Take 684 South towards 287. Bear right on exit, follow signs to Westchester Ave. At the 4th light, make a left turn to Bloomingdale Rd. At the 2nd light, turn right to Maple Ave. At the 2nd light, turn right at Hale Ave.

FROM LONG ISLAND

Via Whitestone Bridge or Throggs Neck Bridge: After bridges, take I - 95 North to Exit 21 to I - 287 West to Exit 8. Follow signs for Route 119 - Westchester Ave. At 3rd light, make a left turn to Bloomingdale Rd. At the 2nd light turn right to Maple Ave. At the 2nd light, turn right at Hale Ave.

FROM LA GUARDIA AIRPORT

Take Grand Central Parkway East to the Whitestone Expressway to the Whitestone Bridge. Cross the Whitestone Bridge and take I - 95 North to Exit 21 to I - 287 West to Exit 8. Follow signs for Route 119 - Westchester Ave. At the 3rd light, make a left turn to Bloomingdale Rd. At the 2nd light, turn right to Maple Ave. At the 2nd light, turn right to Hale Ave.

FROM KENNEDY AIRPORT

Take Van Wyck Expressway North to Whitestone Expressway. Go over the Whitestone Bridge. Take I - 95 North to Exit 21 to I - 287 West to Exit 8. Follow signs for Route 119 - Westchester Ave. At the 3rd light, make a left turn to Bloomingdale Rd. At the 2nd light, turn right on to Maple Ave. At the 2nd light, turn right at Hale Ave.

ALTERNATE ROUTE

After crossing the Bridge, take Hutchinson river Parkway North to I - 287 West. Follow I - 287 West to Exit 8. Follow signs for Route 119 - Westchester Ave. At the 3rd light, make a left turn to Bloomingdale Rd. At the 2nd light, turn right at Maple Ave. At the 2nd light, turn right at Hale Ave.

FROM ALBANY I - 87, AND POINTS WEST, INCLUDING ROUTE 17 EAST

Take 87 South (I - 287 East) cross Tappan Zee Bridge, follow signs for Cross Westchester Expressway, East to Exit 8 West (Bloomingdale Rd.). Go to end of ramp, and turn left onto Bloomingdale Rd. At the next light, turn right onto Maple Avenue. At the 2nd light, turn right onto Hale Ave.

LANDMARKS TO LOOK FOR

The Crowne Plaza is directly across from Cornell Medical Center and the Westchester Mall featuring Nordstrom and Neiman Marcus.

CROWNE PLAZA WHITE PLAINS
66 HALE AVENUE, WHITE PLAINS - NEW YORK 10601-4504
T (914) 682.0050 * F (914) 682-0405
www.crowneplaza.com/whiteplainsny

[illegible]