

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----x
In the Matter of

ORDER TO SHOW CAUSE

Margaret Malek
Joe Palomino

Children under the Age of Eighteen
Alleged to be Neglected by

Docket No. NN-19410/11-18
Part: 6 (Williams, FCJ)

Robert Malek

Respondent,

Commissioner of the Administration
for Children's Services, City of New York,

Petitioner,
-----x

**NOTICE: THE PURPOSE OF THIS HEARING IS TO PUNISH THE
ACCUSED FOR CONTEMPT OF COURT. SUCH PUNISHMENT MAY
CONSIST OF A FINE OR IMPRISONMENT, OR BOTH, ACCORDING TO
LAW.**

**WARNING: A FINDING OF WILLFUL VIOLATION OF A COURT
ORDER MAY SUBJECT YOU TO CONTEMPT OF COURT AND FINE
OR IMPRISONMENT OF UP TO SIX MONTHS.**

Upon the annexed affirmation of Rosmil Almonte, Esq., the annexed affidavit of Child Protective Specialist, Ardaisha Hudson, the Exhibits annexed thereto, and all of the papers and proceedings heretofore had herein, and good and sufficient cause appearing,

Let the respondent Robert Malek., and the attorney for the children, Travis Johnson, Esq., show cause before this Court at Part _____ thereof, located at the courthouse at 330 Jay Street, Brooklyn, New York on the _____ day of January 2020, at _____ o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, why an order should not be entered::

- (a) Holding Robert Malek., respondent herein, in civil and/or criminal contempt of court, pursuant to FCA § 156, FCA § 1029, FCA § 1056 and Judiciary Law article 19 sections 750 and 753 for violation of the Temporary Order of Protection entered in this proceeding, and entering the appropriate punishment against her in connection therewith;
- (b) Suspending visits for the respondent and the subject child Margaret Malek until the respondent undergoes a mental health evaluation;
- (c) Granting leave to amend the petition; and
- (d) For such other and further relief as this court deems just and proper.

ORDERED that pending a determination of this motion the respondent Robert Malek's visits with the subject child Margaret Malek are hereby suspended and petitioner is granted leave to amend.

GOOD AND SUFFICIENT CAUSE APPEARING, let service of a copy of this order, together with the papers upon which it was granted, upon counsel for the respondent father, and the Attorney for the Child, pursuant to CPLR sections 2103, on or before the _____ day of _____, 2020, be deemed good and sufficient service.

Dated: January 2, 2020
Brooklyn, New York

ENTER:

TO: **Clerk of Court**

Robert Malek
Attorney for Respondent

Travis Johnson, Esq.
Attorney for the Subject Children
Legal Aid Society

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X

In the Matter of

Attorney Affirmation

Margaret Malek
Joe Palomino

Children under the Age of Eighteen
Alleged to be Neglected by

Docket No. NN-19410/11-18
Part: 6 (Williams, FCJ)

Robert Malek

Respondent,

Commissioner of the Administration
for Children's Services, City of New York,

Petitioner,

-----X

Rosmil Almonte, Esq. affirms the following under penalty of perjury, that:

1. I am an attorney duly admitted to the practice of law before the courts of the State of New York. I am of counsel to Alan Sputz, Esq., Special Assistant Corporation Counsel to James Johnson, Esq., Corporation Counsel of the City of New York, and as such counsel for the petitioner, the Commissioner of the Administration for Children's Services ("ACS") herein.
2. This Affirmation is offered in support of petitioner's current motion requesting the respondent father be held in contempt of court upon further facts which are alleged herein, suspending his visits with the subject child Margaret until he undergoes a mental health evaluation and grant petitioner leave to amend the petition.

FACTS

3. This child protective proceeding was initiated on July 21, 2018, by the Commissioner of the Administration for Children's Services ("ACS"), pursuant to Article 10 of the Family Court Act ("FCA"). The petition alleges, inter alia, that the respondent father failed to provide the subject child with proper supervision or guardianship. See Petition at **EXHIBIT A**.
4. On or about July 31, 2018, the matter was heard before the Honorable Jacqueline Williams and the subject children were released to the non-respondent mother with ACS supervision and a Full Stay Away Order of Protection was issued against the respondent on behalf of the subject children and the non-respondent mother. The court also issued an order that all visits between the respondent and the subject child Margaret shall be agency supervised only.
5. On or about October 2018, petitioner filed an Order to Show Cause seeking to suspend the respondent's visit with the subject child Margaret because of the respondent exhibited inappropriate behavior including interrogating the subject child Margaret during visits and calling the State Central Registry after every visit with the subject child against the non-respondent mother. The court granted Petitioner's application in part. The Court issued an order that all the visits will be suspended until a therapeutic visit provider is located.
6. On or about February 2019, the respondent commenced therapeutic visits at the CFS. On or about August 2019, the CFS terminated services with the respondent because of his inappropriate behavior with staff at the CFS. After the therapeutic visits were terminated,

CPS Hudson was not able to locate another service provider that the respondent would agree to.

7. On or about September 18, 2019, the issued an order directing the respondent to participate in an Imminent Risk Assessment in court and directed agency supervised visits for the respondent and the subject child Margaret until a therapeutic visit provider is located. To date the respondent has not submitted to the imminent risk assessment nor engaged in any of the services recommended by ACS.
8. According to ACS case records, since the filing of the petition, the respondent has called in approximately thirty (30) cases to the State Central Registry against the non-respondent mother alleging that she is neglecting and abusing the subject child Margaret. According to ACS records all the cases called by the respondent against the non-respondent mother have been unfounded.
9. Attached as Exhibit C is a copy of the Temporary Order of Protection, which ACS now alleges was violated by the respondent. Said order states that the respondent, is to stay away from the non-respondent mother and the subject children. This includes to refrain from harassment and menacing. The respondent was present in court when this order was issued. Petitioner submits that the respondent continually calling in false reports of neglect and abuse of the subject child Margaret by the non-respondent mother constitutes harassment and menacing and is a violation of the Order of Protection. As a result of the respondent calling in false reports to the State Central Registry, the subject child Margaret has had to endure forensic medical examination and is thoroughly body checked at the beginning and end of every agency visit. Additionally, the non-respondent mother and the subject children are routinely woken up in the middle of the night by ECS conducting

emergency home visits. According to CPS Hudson, she has routinely told the respondent to discuss his alleged concerns with her and not to call in reports to the State Central Registry.

The Court should find the Respondent in Contempt of the Order of Protection.

10. FCA § 156 states in relevant part that; “[t]he provisions of the judiciary law relating to civil and criminal contempt shall apply to the family court in any proceeding in which it has jurisdiction...a violation of an order of the family court in any such proceeding which directs a party...to do an act or refrain from doing an act shall be punishable under such provisions of the judiciary law, unless a specific punishment or other remedy for such violation is provided in this act or any other law.”
11. The Judiciary Law, under Article 19 § 750 and 753, permits this court to punish the respondent father for criminal and/or civil contempt of court for violation of FCA § 1029. Unlike Final Orders of Protection issued under FCA § 1056 which have a specific remedy for a violation punishable under FCA § 1072, a violation of FCA § 1029 shall be punishable under the provisions of the judiciary law as no specific punishment is delineated in the Family Court Act.
12. In *McCormick*, The Court of Appeals defined the elements that must be met in order for a Court to find that contempt has occurred. McCormick v. Axelrod, 59 N.Y.2d 574, 583. (NY 1983). To find that contempt has occurred, the Court must determine that a lawful order of the court, clearly expressing an unequivocal mandate, was in effect. *Id.* The Court must also find that the order has been disobeyed *Id.* Finally, the party to be held in

contempt must have had knowledge of the Court's order, although it is not necessary that the order actually have been served upon the party. *Id.*

13. The Court of Appeals has held that in order to find contempt, it must be determined that "a lawful order of the court, clearly expressing an unequivocal mandate, was in effect," McCormick, *supra*. On March 19, 2018, under the authority granted by Family Court Act §1029, this Court entered a Temporary Order of Protection against the respondent father, directing him to in relevant part to;

Refrain from communication or any other contact by mail, telephone, e-mail, voice-mail or other electronic or any other means with ... Shatasha Renee Brown (DOB: 01/15/1992). *See* EXHIBIT A.

As the Temporary Order of Protection in this court was entered pursuant to the underlying Article 10 neglect case, FCA § 1029 is the applicable statute for issuing Orders of Protection. Section 1029 of the Family Court Act states that "the family court, upon the application of any person who may originate a proceeding under this article, for good cause shown, may issue a temporary order of protection, before or after the filing of such petition, which may contain any of the provisions authorized on the making of an order of protection under section one thousand fifty-six." The very face of the Order of Protection is a reflection that the requirements for its issuance under FCA §1029 were met, in that the Court, after hearing an application from the petitioner of the Article 10 neglect proceeding, found that there was good cause shown in the underlying Article 10 petition to enter the order.

14. Finally, the Temporary Order of Protection was clear and unequivocal, detailing the name and dates of birth of the respondent and the name and date of birth of the party he was to

refrain communicating with. Petitioner submits that the respondent continually calling in false reports of neglect and abuse of the subject child Margaret by the non-respondent mother constitutes harassment and menacing and is a violation of the Order of Protection.

15. The Court of Appeals has consistently held that a party to be held in contempt must have had knowledge of the Court's order, although it is not necessary that the order actually have been served upon the party. McCormick, *Supra*; *see also* People ex rel. Stearns v. Marr, 181 N.Y. 463 (N.Y. 1905); Shakun v. Shakun, 11 A.D.2d 724 (2d Dept 1960); Power Authority of New York v. Moeller, 57 A.D.2d 380 (3d Dept 1977). In *Stearns*, the Court of Appeals similarly noted, "this court has upheld proceedings in the Supreme Court, punishing parties for contempt in violating an injunction who had knowledge of it, though not served, and also the agency and attorneys of parties having like knowledge of the granting of the order, though it was imperfectly or irregularly served." *Supra* at 470. The *Stearns* Court cited a decision supporting this premise from a prior case where a defendant and his attorney were found to have committed contempt for violating an Order, when they were present for the application for the order but left before the order was entered:

If these parties by their attendance in court were apprised that there was an order, that is sufficient; and I can not attend to a distinction so thin, as that persons standing here until the moment the Lord Chancellor is about to pronounce the order, which from all that passed they must know will be pronounced, can by getting out of the Hall at this instant avoid all the consequences. *Id.*

16. There are two fundamental categories of contempt, civil and criminal, both of which this Court has the authority to consider. The two varieties can be distinguished in that the purpose of criminal contempt is to compel respect for the Court's mandates, whereas the

purpose of civil contempt is to vindicate the rights of a party to the proceeding. (*See, e.g., McCormick v. Axelrod, supra; Matter of Anonymous*, 222 A.D.2d 501; 635 N.Y.S.2d 73 (App. Div. 2nd Dept. 1995); *Matter of Murray*, 98 A.D.2d 93; 469 N.Y.S.2d 747 (App. Div. First Dept. 1983); *Matter of Department of Environmental Protection (DEP) v. Department of Environmental Conservation and Central Hudson Gas & Electric, et al.*, 70 N.Y.2d 233; 513 N.E.2d 706; 519 N.Y.S.2d 539 (Ct. of Appeals 1987).) In *Matter of DEP*, the Court commented that:

“This court's power to punish for civil and criminal contempt is found respectively in Judiciary Law § 753 (A) (3) and § 750 (A) (3). Although the same act may be punishable as both a civil and a criminal contempt, the two types of contempt serve separate and distinct purposes. A civil contempt is one where the rights of an individual have been harmed by the contemnor's failure to obey a court order (*People ex rel. Munsell v Court of Oyer & Terminer*, 101 NY 245). Any penalty imposed is designed not to punish but, rather, to compensate the injured private party or to coerce compliance with the court's mandate or both (*State of New York v Unique Ideas*, 44 NY2d 345). A criminal contempt, on the other hand, involves an offense against judicial authority and is utilized to protect the integrity of the judicial process and to compel respect for its mandates (*King v Barnes*, 113 NY 476). Unlike civil contempt, the aim in a criminal contempt proceeding is solely to punish the contemnor for disobeying a court order, the penalty imposed being punitive rather than compensatory (*State of New York v Unique Ideas*, 44 NY2d 345, *supra*).” *Id.*, 70 NY2d at 239.

17. Here, there would appear to be a basis for both civil contempt and criminal contempt.

Since the purpose of an order issued pursuant to § 1029 is the protection of a party, any such order which was violated would logically create a basis to vindicate that parties' rights by imposing contempt. Additionally, however, such a willful disobedience of the order creates a basis for the court to impose a punishment due to the disrespect

demonstrated by the respondent for the court's mandate to abide by the Order of Protection.

18. ACS submits that it is in possession of evidence which will allow it to meet its burden of establishing that the lawful Temporary Order of Protection, clearly expressing an unequivocal mandate, was in effect, that respondent was aware of said order, and that there is a reasonable certainty that he disobeyed said order. (*See, Pereira v. Pereira*, 5 N.Y.2d 301; 319 N.E.2d 413; 361 N.Y.S.2d 148 (Ct. of Appeals 1974); *Matter of McCormick v Axelrod*, 59 NY2d 574, 583, *supra*; *People ex rel. Stearns v Marr*, 181 NY 463, 470), *supra*.) Once that threshold has been passed, the Court should then proceed to determine which category of contempt should be imposed upon the respondent.

The Court Should Suspend the Respondent's Visits Until He Undergoes a Mental Health Evaluation.

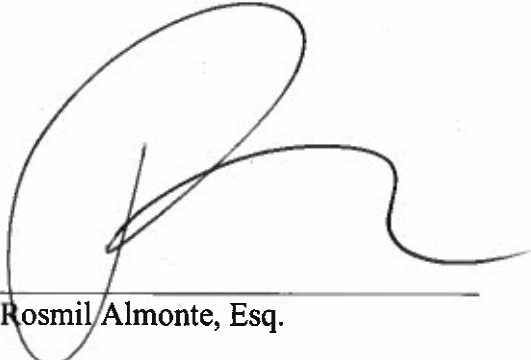
19. Family Court Act section 1030(c), states in relevant part that "a respondent shall be granted reasonable and regularly scheduled visitation unless the court finds that the child's life or health would be endangered thereby, but the court may order visitation under the supervision of an employee of a local social services department upon a finding that such supervised visitation is in the best interest of the child." In the incident proceeding the respondent father's current mental state possess a risk to the subject child Margaret's emotional and physical wellbeing to the point that during the last visit the subject child Margaret asked the respondent father to not call in reports against her mother.

**LEAVE TO AMEND PETITION TO ADD ALLEGATIONS AGAINST THE
RESPONDENT FATHER**

20. Petitioner now seeks to amend the petition filed on July 31, 2018 to add allegations against the respondent father that relate to his bizarre behavior or any other acts of similar serious nature requiring the aid of the court.
21. Leave to amend shall be freely granted regardless of the merits or sufficiency of the pleadings. Grant v. Rochester, 68 Misc.2d 358, N.Y.S.2d 691 (1971).
22. Absent a showing that the amendment would be futile, palpably insufficient or immaterial, the court should freely grant leave to amend. Van Dussen-Storto Motor Inn v. Rochester Telephone Co., 63 App. Div. 2d 244, 407 N.Y.S.2d 287 (1987).
23. Based on the respondent father calling in false reports against the non-respondent mother which have led to unnecessary child protective investigation of the non-respondent mother and the subject children. See Proposed Amended Petition annexed hereto as **Exhibit “D.”**

WHEREFORE, petitioner ACS respectfully asks that the Court grant the relief requested herein, in its entirety, and grant such other and further relief which this Court deems just and proper.

Dated: January 2, 2020
Brooklyn, NY



Rosmil Almonte, Esq.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
In the Matter of :
 :
Margaret Malek :
 :
A Child under the Age of Eighteen :
Alleged to be Neglected by :
 :
Robert Malek :
Respondent :
-----X

Child Protective Specialist AFFIDAVIT
Docket No: NN-19410-18

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

I, Ardaisha Hudson, do hereby swear and affirm, under penalty of perjury, the following to be true:

1. I am the Child Protective Specialist Assigned to this family. Since my assignment on this case the respondent father has called in approximately 30 case to the State Central Registry, alleging the abuse and neglect of the subject children by the non-respondent. All of the cases called in by the respondent father against the non-respondent mother have been unfounded.
2. Throughout my assignment on the case, I have spoken to the respondent father about calling in false reports to the State Central Registry. I have explained to him that when he calls in a report to the State Central Registry, ECS must make emergency contact with the subject children to ensure their safety which often happens overnight. I have also explained to him, that he leads to the subject children being interviewed and forensically examined. However, the respondent father continues to call in reports to the State Central Registry. I have explained the respondent that he should discuss

his alleged concerns with his assigned CPS instead of calling in reports to the State Central Registry. Despite, my several discussions, the respondent called in a report on Christmas Eve against the non-respondent mother which led to ECS interrupting the children's Christmas. The subject children frequently been woken up in the middle of the night have resulted in the subject children missing days of school because they are not able to wake up in the morning.

3. Moreover, as a result of the respondent calling cases to the State Central Registry, I must conduct full body checks of the subject child Margaret at the beginning and end of every visit.
4. At this time ACS is requesting that the respondent's visits be suspended until he has had a mental health evaluation since he does not seem to comprehend how his actions are severally impacting the subject children.



Ardaisha Hudson
CPS

Sworn to before me, this 2
day of January 2020



NOTARY PUBLIC

Rosmil Almonte
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02AL6345278
Qualified in Kings County
My commission expires 07/25/20

Exhibit A

Secs. 1012, 1031 F.C.A.

(Child Protective)

FAMILY COURT OF THE STATE OF NEW YORK
CITY OF NEW YORK, COUNTY OF KINGS

Attorney: ALMONTE, R

Judge:

-----x

In the Matter of	:	Docket No: <u>NN-19411-18</u>
	:	
JOE PALOMINO	:	
	:	PETITION NEGLECT CASE
	:	
A Child Under Eighteen Years	:	
of Age Alleged to be Neglected by	:	
	:	
ROBERT MALEK	:	
	:	
	:	Child Protective Specialist:
	:	ARDAISHA HUDSON
	:	ACS #: 5236894
	:	Unit #: 292-1
	:	Telephone: 718-245-5975
	:	
	:	
_____	:	
Respondent (s)	:	
	:	
	:	

-----x

NOTICE: IF YOUR CHILD REMAINS IN FOSTER CARE FOR FIFTEEN (15) OF THE MOST RECENT TWENTY-TWO (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.

TO THE FAMILY COURT:

The undersigned petitioner respectfully shows that:

1. Petitioner David A. Hansell, Commissioner of Administration for Children's Services, a Child Protective Agency with offices at 150 William Street, New York, New York, is authorized to file a petition under Article 10 of the Family Court Act.
2. JOE PALOMINO is a male child under the age of eighteen years, having been born on 03/15/2004.

3. Said child resides at 1110 EAST 101ST STREET GROUND FLOOR, BROOKLYN, NY, 11236.
4. The father of said child is
or is alleged to be JUAN PALOMINO who resides at L.K.A. -779
HENDRIX STREET APT. #1, BROOKLYN, NY, 11212.
The father's date of birth is 04/09/1952.
The mother of said child is MARGARET INGOGLIA who resides at 1110
EAST 101ST STREET GROUND FLOOR, BROOKLYN, NY, 11236.
The mother's date of birth is 10/22/1979. The other person legally
responsible for the care of said child is ROBERT MALEK , Non-
Relative, who resides at 1110 EAST 101ST STREET GROUND FLOOR,
BROOKLYN, NY, 11236
5. (Upon information and belief), said child is a neglected child in
that: (Specify grounds of neglect under Section 1012 of the Family
Court Act.)
See Addendum I.
6. (Upon information and belief),
ROBERT MALEK , the Non-Relative of said child
is the person who is responsible for neglect of said child.
7. There currently is not reason to believe, or information that
suggests or indicates that the child is a Native American child.

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 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.

WHEREFORE, Petitioner prays that an order be made determining the said JOE PALOMINO to be a neglected child, otherwise dealing with said child in accordance with the provisions of Article 10 of the Family Court Act.

Dated: 07/31/2018

David A. Hansell

Petitioner

Zachary W. Carter
Corporation Counsel

Alan W. Sputz
Special Assistant Corp Counsel



Signature of Attorney

DIANE SHEA of Counsel

Name

Administration for Children Services
330 JAY STREET
12TH FLOOR
BROOKLYN NY 11201
718-802-2790

VERIFICATION

STATE OF NEW YORK)
COUNTY OF KINGS SS.:

ARDAISHA HUDSON, being duly sworn, deposes and says that (s)he is employed by Administration for Children's Services, a Child Protective Agency; and is acquainted with the facts and circumstances of the above-entitled proceeding; that (s)he has read the foregoing petition and knows the contents thereof; that the same is true to (his) (her) own knowledge except as to those matters therein stated to be alleged upon information and belief, and that as to those matters (s)he believes it to be true.



Petitioner
David A. Hansell, Commissioner
Administration for Children's
Services
By: ARDAISHA HUDSON
Child Protective Specialist

Sworn to before me, this
31st day of July 2018



Notary Public

IVAN NG
Notary Public, State of New York
No. 02NG6381059
Qualified in BROOKLYN County
Commission Expires Jul 03, 2021

ADDENDUM I

CASE NAME: MARGARET INGOGLIA
CHILD NAME: JOE PALOMINO
CASE NUMBER: 5236894
DATE PET FILED: 07/31/2018

THE CHILDREN:

MARGARET MALEK (DOB 10/29/2014)
JOE PALOMINO (DOB 03/15/2004)

THE RESPONDENT:

ROBERT MALEK

JOE PALOMINO (DOB: 10/29/2004) and MARGARET MALEK (DOB: 10/29/2014) are children under eighteen years of age whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the alleged father/person legally responsible ("PLR") for their care, ROBERT MALEK (DOB: 04/06/1969), to exercise a minimum degree of care, in that:

1. Respondent PLR ROBERT MALEK holds himself out as the father of the subject child MARGARET MALEK, age 3, and that he has been romantically involved with the non-respondent mother, Margaret Ingoglia for the last four years. The respondent PLR admitted that the non-respondent mother Margaret Malek and the subject child MARGARET MALEK have resided with the respondent PLR in his family home since the child MARGARET MALEK was born. The respondent PLR admitted that the subject child JOE PALOMINO, age 13, has resided in respondent PLR's family home since February 2018. The respondent PLR admitted that he is providing financially for the subject children JOE PALOMINO and MARGARET MALEK in that the respondent PLR pays the bills in the family home and provides clothes and food for the subject children.

2. The respondent PLR ROBERT MALEK fails to supply the children JOE PALOMINO and MARGARET MALEK, with adequate supervision and guardianship, in that:

a. On or about June 29, 2018, the non-respondent mother Margaret Ingoglia stated to the undersigned that respondent PLR "verbally and mentally abuses" the non-respondent mother, controls everything within the family including the money, and the non-respondent mother cannot make any decisions without the respondent PLR's permission. The non-respondent mother stated that the respondent PLR monitors the non-respondent mother's text messages and telephone calls, that the respondent PLR curses at the non-respondent mother in front of the children including calling the non-respondent mother a "bitch," and that the non-respondent mother is afraid of the respondent PLR. The non-respondent mother stated that she is afraid of what the respondent PLR "is capable of" and stated that the respondent PLR threatened the non-respondent mother that if she ever leaves with the subject child MARGARET MALEK, he will go to the nursing home of the maternal grandmother and hurt the maternal grandmother.

b. Upon information and belief, the source being a conversation between the subject child JOE PALOMINO and Child Protective Specialist ("CPS") Kim James on or about June 29, 2018, the subject child stated that the respondent PLR is in a "bad mood everyday" and "threatens to hurt" the non-respondent mother. The subject child stated that both he and the non-respondent mother are being "picked on" by the PLR, and that the subject child "can't take it anymore." The subject child stated that the respondent PLR makes him "sad."

c. On or about June 29, 2018, the subject child JOE PALOMINO stated to the undersigned that he is "scared" of the respondent PLR and that the subject child JOE PALOMINO has seen the respondent PLR "get in [the non-respondent mothers] face."

d. On or about June 29, 2018, the undersigned spoke with a caseplanner from Catholic Charities, and the caseplanner stated that she has observed the respondent PLR be "very controlling" over the family, and that the non-respondent mother and subject children are not allowed to remain in the family home until the respondent PLR returns from work, until approximately 10:30 P.M.

Based on the foregoing, the subject children are neglected or at risk of becoming neglected pursuant to Article Ten of the Family Court Act.

Exhibit B

At a term of the Family Court of the State of New York, held in and for the County of Kings, at 330 Jay Street, Brooklyn, NY 11201, on September 18, 2019

PRESENT: Hon. Jacqueline D. Williams

In the Matter of

Joe Palomino Ingoglia (DOB: 3/15/2004),
Margaret Michelle Malek (DOB: 10/29/2014),

Children under Eighteen Years of Age
Alleged to be Neglected by

File #: 235429
Docket #: NN-19411-18
NN-19410-18

CPS #: 5236894

ORDER

Robert Malek,

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.

IT IS ORDERED that :

- Mr. Michael D. Carlin, Esq. has accepted assignment to serve as a Legal Advisor to Mr. Malek. Any future communications sought by Mr. Malek with Attorney For Child, Ms. Amy Serlin, Esq. shall specifically be directed through Mr. Carlin.
- Mr. Malek is directed to participate in an Imminent Risk Assessment here in the Court. Mental Health Services to have access to the petitions filed as they conduct an imminent risk assessment.
- Mr. Malek to provide copies of reports and/or updates regarding the services that he says he is engaged in to the Court and parties by the conference date of 11/14/2019.
- Mr. Malek to continue with agency supervised and therapeutic visits with the Subject Child, Margaret. The Court is accepting that as a result of cancellations of prior visits and late appearances, Mr. Malek has not had approximately 8 hours of visitation time with Margaret. In light of that fact, the Court directs ACS to work out a schedule of "makeup time" for Mr. Malek with Margaret. So for example, one visit a week might be stretched from one hour to 90 minutes until such time as the 8 hours have been "made up."
- Mr. Malek is to comply with the therapeutic visits at the location arranged by ACS.

- Mrs. Ingoglia is ordered by the Court to make her best efforts to ensure that she is on time and present with Subject Child, Margaret whenever the visits are scheduled. The constant cancellations and lateness are not acceptable.

After the pretrial conference scheduled for 11/14/2019 at 11:00 am in Part 6A, the Court and parties shall schedule a trial date for early 2020.

Dated: September 18, 2019

ENTER

20190918164914JOWILLIAM121768DC2F3426F82612B29D125460D

Hon. Jacqueline D. Williams

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]: _____

Exhibit C

FAMILY COURT OF THE STATE OF NEW YORK
CITY OF NEW YORK, COUNTY OF KINGS

Attorney: ALMONTE, R

Judge: WILLIAMS, J

-----x

In the Matter of

Docket No: NN-19410-18

:

:

MARGARET MALEK

:

AMENDED PETITION NEGLECT CASE

:

A Child Under Eighteen Years
of Age Alleged to be Neglected by

:

:

ROBERT MALEK

:

:

Child Protective Specialist:

:

ARDAISHA HUDSON

:

ACS #: 5236894

:

Unit #: 273-1

:

Telephone: 718-245-5975

:

:

Respondent (s)

:

-----x

NOTICE: IF YOUR CHILD REMAINS IN FOSTER CARE FOR FIFTEEN (15) OF THE MOST RECENT TWENTY-TWO (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.

TO THE FAMILY COURT:

The undersigned petitioner respectfully shows that:

1. Petitioner David A. Hansell, Commissioner of Administration for Children's Services, a Child Protective Agency with offices at 150 William Street, New York, New York, is authorized to file a petition under Article 10 of the Family Court Act.
2. MARGARET MALEK is a female child under the age of eighteen years, having been born on 10/29/2014.

3. Said child resides at whose address is CONFIDENTIAL.
4. The father of said child is
or is alleged to be ROBERT MALEK whose address is CONFIDENTIAL.
The father's date of birth is 04/06/1969.
The mother of said child is MARGARET INGOGLIA whose address is
CONFIDENTIAL.
The mother's date of birth is 10/22/1979.
5. (Upon information and belief), said child is a neglected child in
that: (Specify grounds of neglect under Section 1012 of the Family
Court Act.)
See Addendum I.
6. (Upon information and belief),
ROBERT MALEK , the Legal Father of said child
is the person who is responsible for neglect of said child.
7. There currently is not reason to believe, or information that
suggests or indicates that the child is a Native American child.

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 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.

ADDENDUM I AMENDED PETITION

CASE NAME: MARGARET INGOGLIA
CHILD NAME: MARGARET MALEK
CASE NUMBER: 5236894
DATE PET FILED: 07/31/2018
DATE PET AMENDED 01/02/2020

THE CHILDREN:

MARGARET MALEK (DOB 10/29/2014)
JOE PALOMINO (DOB 03/15/2004)

THE RESPONDENT:

ROBERT MALEK

JOE PALOMINO (DOB: 10/29/2004) and MARGARET MALEK (DOB: 10/29/2014) are children under eighteen years of age whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the alleged father/person legally responsible ("PLR") for their care, ROBERT MALEK (DOB: 04/06/1969), to exercise a minimum degree of care, in that:

1. Respondent PLR ROBERT MALEK holds himself out as the father of the subject child MARGARET MALEK, age 3, and that he has been romantically involved with the non-respondent mother, Margaret Ingoglia for the last four years. The respondent PLR admitted that the non-respondent mother Margaret Malek and the subject child MARGARET MALEK have resided with the respondent PLR in his family home since the child MARGARET MALEK was born. The respondent PLR admitted that the subject child JOE PALOMINO, age 13, has resided in respondent PLR's family home since February 2018. The respondent PLR admitted that he is providing financially for the subject children JOE PALOMINO and MARGARET MALEK in that the respondent PLR pays the bills in the family home and provides clothes and food for the subject children.

2. The respondent PLR ROBERT MALEK fails to supply the children JOE PALOMINO and MARGARET MALEK, with adequate supervision and guardianship, in that:

a. On or about June 29, 2018, the non-respondent mother Margaret Ingoglia stated to the undersigned that respondent PLR "verbally and mentally abuses" the non-respondent mother, controls everything within the family including the money, and the non-respondent mother cannot make any decisions without the respondent PLR's permission. The non-respondent mother stated that the respondent PLR monitors the non-respondent mother's text messages and telephone calls, that the respondent PLR curses at the non-respondent mother in front of the children including calling the non-respondent mother a "bitch," and that the non-respondent mother is afraid of the respondent PLR. The non-respondent mother stated that she is afraid of what the respondent PLR "is capable of" and stated that the respondent PLR threatened the non-respondent mother that if she ever leaves with the subject child MARGARET MALEK, he will go to the nursing home of the maternal grandmother and hurt the maternal grandmother.

b. Upon information and belief, the source being a conversation between the subject child JOE PALOMINO and Child Protective Specialist ("CPS") Kim James on or about June 29, 2018, the subject child stated that the respondent PLR is in a "bad mood everyday" and "threatens to hurt" the non-respondent mother. The subject child stated that both he and the non-respondent mother are being "picked on" by the PLR, and that the subject child "can't take it

anymore." The subject child stated that the respondent PLR makes him "sad."

c. On or about June 29, 2018, the subject child JOE PALOMINO stated to the undersigned that he is "scared" of the respondent PLR and that the subject child JOE PALOMINO has seen the respondent PLR "get in [the non-respondent mothers] face."

d. On or about June 29, 2018, the undersigned spoke with a caseplanner from Catholic Charities, and the caseplanner stated that she has observed the respondent PLR be "very controlling" over the family, and that the non-respondent mother and subject children are not allowed to remain in the family home until the respondent PLR returns from work, until approximately 10:30 P.M.

3. The respondent PLR ROBERT MALEK fails to supply the children JOE PALOMINO and MARGARET MALEK, with adequate supervision and guardianship by engaging in bizarre behavior or acts of a similarly serious nature which unreasonably inflicts harm upon the subject children JOE PALOMINO and MARGARET:

a. Petitioner re-alleges sections 1-2a-d

b. According to ACS case records the respondent PLR ROBERT MALEK has called thirty (30) reports to the State Central Registry against the non-respondent mother alleging that she is abusing and neglecting the subject children. All the reports called in by the respondent father have been investigated by ACS and unfounded. As a result of the respondents actions, the subject child Margaret has been forensically interviewed three (3) times and medically examined. The subject children are frequently woken up in the middle of the night by Emergency Child Protective Services (ECS) investigating the reports called in by the respondent. According to the CPS Hudson, she has informed the respondent of the consequences of calling in cases to the State Central Registry on numerous occasions; but, the respondent continues to make reports without any regards to the impact it has on the subject children.

c. According to the subject child Joe, it is difficult for him to wake up in the morning to go to school because of ECS continuously visiting the home in the middle of the night.

d. According to CPS Yolanda Jones, she has heard the subject child Margaret begging the respondent ROBERT MALEK to not call any more reports against her mother.

Based on the foregoing, the subject children are neglected or at risk of becoming neglected pursuant to Article Ten of the Family Court Act.