

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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In the Matter of :

Margaret Malek :

A Child under the Age of Eighteen :  
Alleged to be Neglected by :

Robert Malek :

Respondent :

Docket No: NN-19410-18

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Rosmil Almonte, Esq., an attorney duly admitted to the practice of law in the State of New York, swears pursuant to CPLR § 2106 upon information and belief and under penalty of perjury that the following is true:

1. I am of Counsel to ALAN SPUTZ, Esq., Special Assistant Corporation Counsel to ZACHARY CARTER, Esq., Acting Corporation Counsel of the City of New York, and as such, counsel for the petitioner herein. I am submitting this affirmation in support of Petitioner's requests, as detailed above.
2. I make this affirmation in support of petitioner's application for an order suspending the respondent father, Robert Malek's visits with the subject child.
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.

The Court also issued an order that all visits between the subject child Margaret Malek and the respondent father shall be agency supervised only. See Order at **EXHIBIT B**.

5. Currently the respondent father has supervised visits at the agency twice per week with the subject child Margaret.
6. The Commissioner submits that as a result of the respondent father's actions, the subject child's life and/or health would be endangered by continued visitation with the respondent father and that continued visitation is contrary to the best interests of the subject child Margaret.
7. 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."
8. Family Court Act section 1030(d) states in relevant part that, "an order made under this section may be modified by the court for good cause shown."
9. As set forth in more detail in the accompanying affidavit of the CPS Ardaisha Hudson, the respondent father has exhibited inappropriate behavior including interrogating the subject child during visits, calling the State Central Registry after every visit with the subject child, and being verbally aggressive towards ACS staff in the presence of the subject child. See Affidavit.
10. It is clear that the respondent father has no ability to control his behavior and such behavior and actions show the respondent father's poor judgment and is indicative of a flawed understanding that his behavior can negatively impact his child.

11. The Commissioner submits, that based upon the attached affidavit of CPS Ardisha Hudson it is not in the subject child's best interest to continue visitation with the respondent father and any continued visitation would put the child's physical and emotional health at risk. "[A] court cannot and should not 'await broken bone or shattered psyche before extending its protective cloak around [a] child.'" *Matter of Cruz*, 121 AD2d 901, 903, 503 NYS2d 798 [1998], quoting *Matter of Anthony*, 81 Misc. 2d 342, 345, 366 NYS2d 333 [1975].

**WHEREFORE**, it is respectfully requested that the Court grant petitioner's request in its entirety, and grant such other and further relief as this Court deems just and proper.

Dated: October 12, 2018  
Brooklyn, NY



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Rosmil Almonte, Esq.

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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In the Matter of :

Margaret Malek :

Child Protective Specialist AFFIDAVIT

Docket No: NN-19410-18

A Child under the Age of Eighteen :  
Alleged to be Neglected by :

Robert Malek :  
Respondent :

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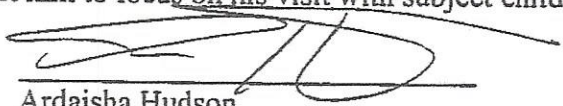
STATE OF NEW YORK )  
 ) ss:  
COUNTY OF KINGS )

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

1. I am the Child Protective Specialist, Ardaisha Hudson assigned to the matter of the Ingoglia-Malek family since in or around July 2018. As such, I am fully familiar with the facts and circumstances of this case.
2. The current visitation schedule between the respondent father and the subject child Margaret is twice per week at the agency supervised by the undersigned and/or another staff member.
3. Visits between the subject child Margaret and the respondent father commenced at the agency on August 2018. Since the visits commenced, the respondent father has called in 9 reports to the State Central Registry, alleging that the subject child Margaret is being abused or neglected by the non-respondent mother and each of the reports have been unfounded. Each of the reports have been called in after the respondent father had a

supervised visit with the subject child at the agency. The subject child's body is searched after each report is called in for signs of abuse or neglect.

4. I have spoken to the respondent father on numerous occasions about calling in false reports, but he continued to call in reports to the State Central Registry.
5. The subject child is also searched for marks and bruises before and after every visit by the undersigned or ACS staff because of the respondent father reporting suspicious marks on the subject child's body during visits.
6. During a visit on October 11, 2018, the respondent father observed a small bruise on the subject child's forehead. The subject child stated to the respondent father that the bruise occurred while she was playing with the subject child Joe. The respondent father started yelling in the middle of the visit and called 911. Police and EMS reported to the ACS agency and the subject child was taken to NYU hospital to be examined.
7. Further the respondent father records each of the visits and wants to discuss details about the allegations with me. I often must redirect him to focus on his visit with subject child.

  
Ardaisha Hudson  
CPS

Sworn to before me, this 12  
day of October, 2018

  
NOTARY PUBLIC

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