

# CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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October 25, 2023

TO: New York State Commission on Judicial Conduct  
Appellate Division, Fourth Department Attorney Grievance Committees  
Unified Court System Inspector General Kay-Ann Porter Campbell  
Chief Administrative Judge Joseph Zayas  
Statewide Coordinating Judge for Family Court Matters Richard Rivera

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: Corruption Complaint against Judges, Government-Attorneys, & Government-Retained Attorneys Arising from a Fraudulent, Culturally-Biased Child Abuse/Neglect Petition against Innocent Parents

## **THE COMPLAINT**

Pursuant to the New York State Constitution (Article I, §§6, 11, Article VI, §§22, 28), the Judiciary Law (§44.1, Article 7-A), the Chief Administrator's Rules Governing Judicial Conduct (22 NYCRR Part 100), and New York's Rules of Professional Conduct (22 NYCRR Part 1200<sup>1</sup>), I file this fully-documented complaint against corrupt judges, government attorneys, and government-retained attorneys responsible for, and colluding in:

(1) a malicious and culturally-biased child abuse/neglect proceeding in Monroe County Family Court against innocent Indian-Hindu parents, brought by the Monroe County Law Department without probable cause and by fraud – and who, by fraud and other misconduct, deprived the innocent parents of their right of appeal; and

(2) the corrupting of a Supreme Court action brought by the innocent parents for leave to file a late notice of claim against Monroe County and the Brighton Central School District – and who, by fraud and other misconduct, deprived the innocent parents of their right of appeal;

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<sup>1</sup> Rule 1.7: "Conflict of Interests: Current Clients"; Rule 3.1: "Non-Meritorious Claims and Contentions"; Rule 3.3: "Conduct Before a Tribunal"; Rule 8.4: "Misconduct"; Rule 5.1: "Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers"; Rule 5.2: "Responsibilities of a Subordinate Lawyer"; Rule 8.3: "Reporting Professional Misconduct".

The corrupt judges here complained against are, in rough time sequence:

- (1) Monroe County Supervising Family Court Judge Stacey Romeo;
- (2) Monroe County Family Court Judge Joseph Nesser;
- (3) Monroe County Supreme Court Justice Gail Donofrio
- (4) Appellate Division, Fourth Department Associate Justice Nancy Smith;
- (5) Appellate Division, Fourth Department Presiding Justice Gerald Whalen;
- (6) Appellate Division, Fourth Department Associate Justice Stephen Lindley;
- (7) former Appellate Division, Fourth Department Associate Justice Erin Peradotto;
- (8) Appellate Division, Fourth Department Associate Justice John Curran;
- (9) Appellate Division, Fourth Department Associate Justice Tracey Bannister;
- (10) Appellate Division, Fourth Department Associate Justice Mark Montour;
- (11) Appellate Division, Fourth Department Associate Justice E. Jeannette Ogden.

The corrupt government and government-retained litigating attorneys here complained-against are:

- (1) Monroe County Deputy Attorney Amanda Oren: #4007936 (Rochester-2002);
- (2) former Monroe County Deputy Attorney Lori Ann Ricci: #2034940 (Rochester-1986);
- (3) Monroe County Deputy Attorney Emily Marie Scott: #5474069 (Rochester-2016);
- (4) Monroe County Attorney John Bringewatt: #4880969 (Rochester-2011);
- (5) Monroe County Deputy Attorney Elizabeth Moeller: #4547501 (Rochester-2008);
- (6) Monroe County Deputy Attorney Alissa Brennan: #5189329 (Rochester-2014);
- (7) former Attorney for the Child Elena Tasikas: #4181798 (Rochester-2004);
- (8) Attorney for the Child Sarah Fifield: #2871663 (Fairport-1998);
- (9) Appellate Attorney for the Child Susan Gray: #1973684 (Canandaigua-1985);
- (10) Louis Dingeldey, Jr./Attorney for Brighton Central School District  
#4103032 (West Seneca-2003)

The corrupt attorney staff of the Appellate Division, Fourth Department here complained-against are:

- (1) AD-4 Deputy Clerk Alan Ross;
- (2) AD-4 Clerk Ann Dillon Flynn;
- (3) AD-4 Principal Appellate Court Attorney Adam Oshrin;
- (4) AD-4 Attorneys for Children Program Director Linda Kostin;
- (5) AD-4 Attorneys for Children Program Deputy Director Jennifer McLaren.

### **THE EVIDENCE**

Cases are perfect paper trails – and the case records of the Monroe County Family Court, of the Monroe County Supreme Court, and of the Appellate Division, Fourth Department substantiate this complaint, fully.

- The Monroe County Family Court case number is NA-01235-21 – and the Appellate Division, Fourth Department numbers are CAF-22-10597, CAF-22-10598, CAF-22-01599, and CAF-22-01601.
- The Monroe County Supreme Court case number is E2022-001061— and the Appellate Division, Fourth Department number is CA-22-01621.

As the Appellate Division, Fourth Department conceals the magnitude of its corruption and violation of duties by NOT docketing orders to show cause it does not sign, I have posted the four orders to show cause that it did not sign pertaining to the parents' appeals<sup>2</sup> on webpages accessible from the webpage for this complaint: <https://www.judgewatch.org/web-pages/searching-nys/cjc/complaint-oct-25-23.htm>.

For the convenience of all, a Table of Contents follows – and the below presentation contains hyperlinks:

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<sup>2</sup> These orders to show cause, unsigned because they were dispositive, are, pertaining to the parents' four Family Court appeals: (1) the parents' May 18, 2022 order to show cause; and (2) the parents' December 9, 2022 order to show cause; and pertaining to the parents' Supreme Court appeal: (1) my March 13, 2023 order to show cause; and (2) my April 24, 2023 order to show cause.

## **I. THE INDEPENDENT EXPERT REPORT**

The starting point of this complaint is the [94-page February 22, 2022 Independent Expert Report](#) that I wrote and to whose truth I swore under penalties of perjury, analyzing the initiating February 16, 2021 child abuse/neglect petition, the transcripts of all the Family Court proceedings from February 17, 2021, when the parents first appeared before Monroe County Supervising Family Court Judge Romeo, to November 23, 2021, when the parents acceded to an ACD before Monroe County Family Court Judge Nesser, all orders of these two judges from February 17, 2021 to December 22, 2021, the parties' submissions during that ten-month span – and the law. The Report's prefatory paragraph is its conclusion:

*“The February 16, 2021 petition against respondent-parents...had to be thrown out, as a matter of law, on its February 17, 2021 return date, with an order directing investigation of the petitioner, Monroe County Department of Human Services, Division of Social Services, and its counsel, the Monroe County Law Department, for fraud, misrepresentation, and other misconduct by their petition and proposed order. That their abuses occurred while Monroe County had an outside monitor in place for child protective services<sup>fn1</sup> reinforced the obligations of the Family Court and the court-appointed attorney for the child to take remedial action. What they each did, instead, perverting law, their duties, and wasting scores, if not hundreds, of thousands of taxpayer dollars, must now be the subject of wider investigation.”*

The Independent Expert Report was front-and-center in the Family Court case beginning in April 2022 and, beginning in May 2022, in the Supreme Court case and in proceedings before the Appellate Division, Fourth Department. All the complained-against judges and attorneys were furnished it – and none denied or disputed its accuracy in any respect or their duty to take appropriate investigative and corrective action. Rather, and knowing that the Report was dispositive of the parents' rights, they all ignored and concealed it and engaged in or abetted a continuum of fraudulent, abusive, and harassing conduct to exhaust the parents mentally, physically, and financially and destroy their rights.

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<sup>fn1</sup> See Monroe County's March 9, 2020 press announcement '[Monroe County Hires the Bonadio Group to Monitor Child Protective Services](#)' – and news reporting including: '[Outside monitor joins effort to assess Monroe County CPS](#)' (Democrat & Chronicle); '[Local consulting firm to monitor Monroe County Child Protective Services](#)' (News 10).”

## **II. THE FAMILY COURT CASE & THE APPEAL BRIEF**

In April 2022, based on the Independent Expert Report, the parents made [three motions in Family Court](#) to vacate all orders in the child abuse/neglect proceeding and dismiss the February 16, 2021 petition against them, *as a matter of law* and by summary judgment based on EVIDENCE. I wrote each of these motions for the parents – and the third expanded the Independent Expert Report by an analysis of the December 22, 2021 ACD order, which it directly challenged as “the product of fraud, coercion, and duress and because it is unconstitutional by its ‘waiver of procedural rights under Family Court Act 1039 and *Matter of Marie B.*, 62 NY2d 352 (1984)”.

Judges Romeo and Nesser dismissed and denied these April 3, 2022, April 19, 2022, and April 25, 2022 motions by eight fraudulent decision/orders, all but one rendered prior to the return date of the motion to which it was addressed – all concealing, *in toto*, the Independent Expert Report and the last two also concealing the challenge to the ACD presented by the third motion. Neither Judge Romeo nor Judge Nesser contested the accuracy of the facts and law presented by the Independent Expert Report or by the ACD challenge – and these were also not contested by the Monroe County Law Department and the Attorney for the Child who, since May 2021, had been Attorney Fifield.

On May 16 and 17, 2022, the parents filed notices of appeal to the Appellate Division, Fourth Department, which I prepared for them. The [Appeal Brief](#) I would subsequently write for the parents, with accompanying [Appendix](#), had these as its “Questions Presented” – and as the answers to them:

- “1. Was the Independent Expert Report that appellant-parents placed before the Monroe County Family Court by three separate motions sufficient, *as a matter of law*, to compel vacatur of all orders for fraud, misrepresentation, and other misconduct and dismissal of the February 16, 2021 child abuse/neglect petition against them for facial insufficiency and by summary judgment based on evidence?

*The appealed-from orders did not adjudicate the sufficiency of the Independent Expert Report, nor contest its accuracy – but, instead, concealed its existence, totally.*

2. Was appellant-parents’ challenge to the ACD as the product of fraud, coercion, and duress and that it was unconstitutional, including by its ‘waiver of procedural rights under Family Court Act §1039 and *Matter of Marie B.*, 62 NY2d 352 (1984)’ sufficient, *as a matter of law*, to compel its vacatur?

*The appealed-from orders did not adjudicate appellant-parents’ challenge to the ACD, nor contest its accuracy – but, instead, concealed their challenge, totally.*

3. Are the appealed-from orders so indefensible, procedurally and substantively, as to establish actual bias and interest, *as a matter of law*, and the duty of the Monroe County Family Court judges who rendered them to have disqualified themselves from adjudicating the three motions in which they were directly interested?

*Three of the four appealed-from orders were rendered prior to the return dates, without awaiting answering papers from the Monroe County Law Department and the court-appointed Attorney for the Child, and all four orders denied/dismissed appellant-parents' three motions by conclusory assertions rebutted by the motions themselves.*

4. Does the record of appellant-parents' three motions compel discharge of this Court's mandatory supervisory, administrative, and disciplinary responsibilities, including pursuant to §§100.C and D of the Chief Administrator's Rules Governing Judicial Conduct, by such 'appropriate action' as referring the subject Monroe County Family Court judges, the Monroe County Law Department, the court-appointed Attorneys for the Child, and Monroe County Child Protective Services to disciplinary and criminal authorities for investigation and prosecution of the fraud, misrepresentation, and other misconduct they committed against appellant-parents and their child?

*They clearly do – and appellant-parents so-stated this in seeking to obviate an appeal by their May 18, 2022 order to show cause to this Court.”*

### **III. THE SUPREME COURT CASE & THE APPEAL BRIEF**

In April 2022, virtually simultaneous with the parents' e-mailing of their first Family Court vacatur/dismissal/summary judgment motion to the Monroe County Law Department, the Law Department by Deputy County Attorney Brennan and Attorney Dingeldey for the Brighton Central School District interposed opposition in Supreme Court to the parents' verified petition to file a late notice of claim. Such opposition was based on fraud – and the parents particularized this in a [May 11, 2022 reply affidavit](#) that I wrote for them, furnishing, in substantiation, the Independent Expert Report and the three vacatur/dismissal/summary judgment motions. Justice Donofrio sought to prevent the parents from filing the reply affidavit, which, ultimately they filed, on July 20, 2022, with a [July 19, 2022 affidavit “to Prevent Fraud by Respondents’ Counsel & the Court on Petitioners’ Motion to Extend Time to File Late Notice of Claim”](#). The accuracy of these two affidavits was uncontested by adverse counsel – and by Justice Donofrio, whose September 19, 2022 decision/order, denying their late notice of claim, concealed the entire content of the affidavits.

On September 25, 2022, the parents filed their notice of appeal to the Appellate Division, Fourth Department, which I prepared for them. The [Appeal Brief](#) I would subsequently write for the parents, with accompanying [Appendix](#), had these as its “Questions Presented” – and as the answers to them:

- “1. Did appellant-petitioners’ May 11, 2022 reply affidavit entitle them to the granting of their late notice of claim?

*The appealed-from decision & order makes no mention of appellant-petitioners’ May 11, 2022 reply affidavit, makes no findings of fact or conclusions of law with respect thereto, and denies their late notice of claim on grounds rebutted by their May 11, 2022 reply affidavit.*

2. Did appellant-petitioners’ May 11, 2022 reply affidavit establish that the opposition to the late notice of claim by respondents’ counsel was founded on fraud and deceit?

*The appealed-from decision & order makes no mention that appellant-petitioners’ May 11, 2022 reply affidavit had demonstrated that respondents’ opposition was founded on fraud and deceit – and that their July 19, 2022 affidavit and July 20, 2022 oral argument had each highlighted this.*

3. Did appellant-petitioners’ July 19, 2022 affidavit establish that the lower court wrongfully tried to prevent them from filing their May 11, 2022 reply affidavit – and that, absent its making findings of fact and conclusions of law with respect to

the May 11, 2022 reply affidavit, its duty was to disqualify itself for actual bias or make disclosure of its relationships and interests, impacting upon its impartiality?

*The appealed-from decision & order makes no mention of appellant-petitioners' July 19, 2022 affidavit, does not contest its accuracy, does not identify any of the facts and evidence it furnished, and makes no disclosure.*

4 Does the appealed-from decision & order establish the lower court's actual bias, by its concealment of appellant-petitioners' May 11, 2022 and July 19, 2022 affidavits and its failure to make findings of fact and conclusions of law with respect to them – requiring reversal/vacatur of its decision & order, *as a matter of law* – and additionally triggering this Court's mandatory disciplinary responsibilities pursuant to §100.3D of the Chief Administrator's Rules Governing Judicial Conduct?

*Yes."*

#### **IV. THE COURSE OF THE FAMILY COURT APPEALS**

To ensure that the parents' Family Court appeals would not be mooted by the May 22, 2022 expiration of the term of the ACD, they brought a [May 18, 2022 order to show cause, with TRO](#), to the Appellate Division, Fourth Department, which I wrote, seeking an order:

“(1) obviating any claim that respondent-appellants' appeal is moot by staying the December 22, 2021 ACD Order from automatically dismissing the February 16, 2021 child abuse/neglect petition on May 22, 2022 – that being the ‘expiration of the adjournment period’;

(2) vacating the December 22, 2021 ACD Order as fraudulent and unconstitutional, *on its face*, by its ‘waiver of procedural rights under Family Court Act §1039 and *Matter of Marie B.*, 62 NY2d 352 (1984)’;

(3) granting such other and further relief as may be just and proper, including:

- (a) vacating the four appealed-from orders, *as a matter of law* – firstly, because there is no authority for a judge to deny or dismiss a motion PRIOR to its return date, as was done here repeatedly, without notice to the parties, without affording them an opportunity to be heard, and without furnishing any legal authority for so-doing – and secondly, because, as established by respondent-appellants' three Family Court motions, Judges Stacey Romeo and Joseph Nesser were actually biased and disqualified by interest, and, *inter alia*, violated §100.F of the Chief Administrator's Rules Governing Judicial Conduct by failing to make disclosure of relevant facts, expressly sought by respondent-appellants' April 19, 2022 and April 25, 2022 motions, if they did not disqualify themselves;
- (b) obviating the necessity of respondent-appellants perfecting their appeal herein by granting the first two branches of their April 3, 2022 motion to vacate Judge Romeo's initial February 17, 2021 Order and all orders based thereon and to dismiss the February 16, 2022 child abuse/neglect petition, *as a matter of law* and by summary judgment after affording the Monroe County Law Department and Attorney for the Child Fifiield an opportunity to contest, if they can, that such is mandated based on the motion's Independent Expert Report – and to show that they would have grounds to oppose the appeal that are not ‘frivolous’ pursuant to 22 NYCRR §130-1.1;
- (c) referring the record of respondent-appellants' three Family Court motions to disciplinary, criminal, and other oversight and investigative authorities,

pursuant to §100.3D of the Chief Administrator's Rules Governing Judicial Conduct;

(d) \$100 motion costs to respondent-appellants pursuant to CPLR §8202.”

Notwithstanding [Appellate Division Practice Rule 1250.4\(b\)](#) requires an “in person appearance” for orders to show cause seeking interim relief, Appellate Division, Fourth Department Deputy Clerk Ross and Clerk Flynn purported that Appellate Division Justice Smith had “declined to sign” the parents’ order to show cause with TRO – thereupon refusing to furnish proof of the declination, the reason therefor, or to transmit it to Presiding Justice Whalen for his supervisory oversight.

As a result, the parents were burdened with having to perfect their appeals from the orders of Judge Romeo and Nesser denying their three vacatur/dismissal/summary judgment motions. This required compiling the orders and motions into an Appendix for their appeals – which I did for them. As the parents are not attorneys and had no attorney, they could not certify it. They, therefore, sought a stipulation, in lieu of certification, pursuant to CPLR §5532, from the Monroe County Law Department and from Attorney for the Child Fifiield, who simply ignored their three e-mail requests – thereby preventing the parents from being able to perfect their Family Court appeals.

Upon Deputy Clerk Ross’ advice that the parents’ remedy was to make a motion to the Family Court to “settle the record”, they made such [motion on November 14, 2022](#), which I wrote – the result of which were two fraudulent orders of Judges Romeo and Nesser not settling the record – with the order of Judge Romeo fraudulently purporting that the parents’ Appendix “does not comport with the filings received in Monroe County Family Court and ruled on by the undersigned”.

Consequently, by a [December 9, 2022 order to show cause](#) to the Appellate Division, Fourth Department, substantiated by a 15-page moving affidavit, which I wrote for the parents, they sought an order:

- “(1) directing Judges Romeo and Nesser ‘to perform the ministerial act of settling the record’ for purposes of the parents’ appeals and ‘specifically, with respect to the documents contained in the parents’ Appendix consisting of their April 3, 2022, April 19, 2022, and April 25, 2022 vacatur/dismissal/summary judgment motions and the appealed-from orders thereon;
- (2) so-ordering the parents’ subpoena *duces tecum* to the Monroe County Family Court Clerk for the original record to be brought to this Court;
- (3) directing responses from Monroe County Attorney John Bringewatt, consistent with the Court’s mandatory disciplinary responsibilities pursuant to §100.3D(2) of the Chief Administrator’s Rules Governing Judicial Conduct as to the misconduct of Deputy County Attorney Ricci and Deputy County Attorney Oren with respect to the parents’ stipulation in lieu of

certification and their motion to ‘settle the record’;

- (4) disqualifying Monroe County Attorney Bringewatt and the Law Department by reason of their direct interest in the appeals arising from the Independent Expert Report on which appellant-parents’ three vacatur/dismissal/summary judgement motions are based;
- (5) directing responses from Appellate Attorney for the Child Gray, consistent with this Court’s mandatory administrative and disciplinary responsibilities pursuant to §100.3C and §100.3D(2) of the Chief Administrator’s Rules Governing Judicial Conduct as to what, if anything, she has done on behalf of her child-client since the date of her appointment, as, for instance, examining the basis and merit of appellant-parents’ appeals from the documents comprising their Appendix; verifying the accuracy of the Appendix; meeting with the child, apprising her of the appeals and their significance, and ascertaining the child’s wishes;
- (6) directing responses from Family Court Attorney for the Child Fifield, consistent with this Court’s mandatory administrative and disciplinary responsibilities pursuant to §100.3C and §100.3D(2) of the Chief Administrator’s Rules Governing Judicial Conduct as to what, if anything, she has done on behalf of her child-client since appellant-parents’ May 16, 2022 and May 17, 2022 notices of appeal, as, for instance, informing the child of the appeals, counseling the child as to their basis and merit, ascertaining the child’s wishes with respect thereto, verifying the accuracy of the documents comprising appellant-parents’ Appendix and stipulating to same;
- (7) granting such other and further relief as may be just and proper, including transfer of these appeals to another Judicial Department to avoid the appearance and actuality of bias arising from relationships and other interests.”

According to Appellate Division, Fourth Department Deputy Clerk Ross and Clerk Flynn, Justice Stephen Lindley “declined to sign” the parents’ December 9, 2022 order to show cause. They refused to provide proof of the declination, the reason therefor, or to furnish the order to show cause to Presiding Justice Whalen for his supervisory oversight – identical to their conduct in May.

Within hours of the December 12, 2022 notification by the Clerk’s Office that Justice Lindley had “declined to sign” the December 9, 2022 order to show cause, the Monroe County Law Department, by an entirely new deputy county attorney, Elizabeth Moeller, made a December 12, 2022 motion to dismiss the parents’ four appeals as “moot”. She then withdrew it and, on December 14, 2022, refiled it.

On December 23, 2022, the parents responded by motion papers I wrote for them. These consisted of a [12-page opposition affidavit that was also in support of a cross-motion](#), plus a separate motion, supported by its own [13-page moving affidavit](#).

The relief sought by the parents' [December 23, 2022 cross-motion](#) was as follows:

- “1. pursuant to 22 NYCRR §130-1.1 et seq., imposing costs and maximum \$10,000 sanctions upon petitioner’s counsel Monroe County Law Department and, specifically, Elizabeth deV. Moeller, Deputy County Attorney in its Children’s Services Unit, for the December 14, 2022 dismissal motion she signed – not merely frivolous, but a fraud upon the Court;
2. pursuant to Judiciary Law §487(1), making such determination as would afford appellant-parents treble damages in a civil action against Monroe County Law Department based on the December 14, 2022 dismissal motion Ms. Moeller signed;
3. pursuant to 22 NYCRR §100.3D(2), referring Deputy County Attorney Moeller and culpable attorneys of the Monroe County Law Department complicit with her, and, specifically, Monroe County Attorney John Bringewatt, Deputy County Attorney Amanda Oren, and Deputy County Attorney Lori-Ann Ricci, to:
  - (a) appropriate disciplinary authorities for their knowing and deliberate violations of New York’s Rules of Professional Conduct for Attorneys and, specifically, Rule 3.1 ‘Non-Meritorious Claims and Contentions’; Rule 3.3 ‘Conduct Before A Tribunal’; Rule 8.4 ‘Misconduct’; Rule 5.1 ‘Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers’; and Rule 5.2 ‘Responsibilities of a Subordinate Lawyer’;
  - (b) appropriate criminal authorities for their Judiciary Law §487 ‘misdemeanor’, and for their knowing and deliberate violations of penal laws, including, Penal Law §195 ‘official misconduct’; Penal Law §175.35 ‘offering a false instrument for filing in the first degree’; Penal Law §496 ‘corrupting the government’; Penal Law §105.15 ‘conspiracy in the second degree’; Penal Law §20 ‘criminal liability for conduct of another’;
4. pursuant to Rule 1.7 of the New York Rules of Professional Conduct proscribing conflicts of interest, disqualifying Monroe County Law Department from representing petitioner by reason of its direct interest in the subject matter of the appeals, *to wit*, appellants’ April 3, 2022, April 19,

2022, and April 25, 2022 vacatur/dismissal/summary judgment motions in Monroe County Family Court and the Independent Expert Report on which they are based, requiring appointment of independent, outside counsel;

5. for such other and further relief as may be just and proper and, particularly, if the foregoing is denied:
- (a) disclosure by the Court, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct, of its relationships and other interests impacting upon its fairness and impartiality;
  - (b) transfer of the above-four appeals – and of appellants' related appeal in [*Innocent Parents*] v. *County of Monroe, Monroe County Department of Human Services, and Brighton Central School District*, #CA 22-01632 – to another Judicial Department to mitigate the appearance and actuality of the Court's bias, arising from its relationships and interests;
  - (c) \$100 motion costs pursuant to CPLR §8202."

The relief sought by the parents' [December 23, 2022 motion](#) was as follows:

- “(A) transferring these appeals – and appellant-parents' related appeal in [*Innocent Parents*] v. *County of Monroe, Monroe County Department of Human Services, and Brighton Central School District*, #CA 22-01632, – to another Judicial Department to avoid the appearance and actuality of bias, born of relationships and interests, and, if denied, for disclosure, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct, of relevant facts bearing on same, and, specifically:
- (1) disclosure by Associate Justice Stephen Lindley as to the basis upon which he declined to sign appellant-parents' December 9, 2022 order to show cause, if, in fact, he did decline to sign it;
  - (2) disclosure by Associate Justice Nancy Smith as to the basis upon which she declined to sign appellant-parents' May 18, 2022 order to show cause, if, in fact, she did decline to sign it;
  - (3) disclosure by Presiding Justice Gerald Whalen as to his knowledge of appellant-parents' December 9, 2022 and May 18, 2022 orders to show cause and their requests to Deputy

Clerk Alan Ross and Clerk Ann Dillon Flynn for his supervisory oversight in connection therewith, including pursuant to §100.3D of the Chief Administrator's Rules Governing Judicial Conduct and 22 NYCRR Part 1032 – or was he apprised of the situation by Attorneys for Children Program Director Linda Kostin or Deputy Director Jennifer McLaren – and, if so, why he discharged no supervisory oversight;

- (B) removing Appellate Attorney for the Child Susan Gray for her wilful and deliberate violation of her duties to the child in connection with these appeals – and referring her for investigation and prosecution by an attorney grievance committee outside the Fourth Judicial Department;
- (C) removing Family Court Attorney for the Child Sarah Fifield for her wilful and deliberate violation of her duties to the child in connection with these appeals – and referring her for investigation and prosecution by an attorney grievance committee outside the Fourth Judicial Department;
- (D) granting the relief sought by appellant-parents' December 9, 2022 order to show cause, *to wit*, for an order:
  - (1) directing Monroe County Supervising Family Court Judge Stacey Romeo and Monroe County Family Court Judge Joseph Nesser to perform the ministerial act of settling the record for purposes of appellant-parents' above-numbered appeals to this Court and, specifically, with respect to the documents contained in appellant-parents' Appendix consisting of their April 3, 2022, April 19, 2022, and April 25, 2022 vacatur/dismissal/summary judgment motions and the appealed-from orders thereon;
  - (2) so-ordering appellant-parents' subpoena *duces tecum* to Monroe County Family Court Clerk Susan Leach for the record to be brought to this Court;
  - (3) directing responses from Monroe County Attorney Bringewatt, consistent with this Court's mandatory disciplinary responsibilities pursuant to §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct: (i) as to why Deputy County Attorney Ricci did not respond to appellant-parents' three e-mails requesting, with respect to their Appendix, that she sign a stipulation in lieu of

certification; (ii) as to why he has not furnished, as requested by appellant-parents, a copy of the affirmation/affidavit of service that accompanied Deputy County Attorney Oren's November 18, 2022 affirmation in opposition to their November 14, 2022 motion to settle the record; (iii) as to why he has not required Ms. Oren to produce a supposed e-mail of her paralegal transmitting to appellant-parents her November 18, 2022 affirmation; (iv) as to why he has not required Ms. Oren to answer whether she submitted a comparable affirmation in opposition to the motion, directed to Judge Romeo – and the affirmation/affidavit of service for same; and (v) as to why, *inter alia*, maximum \$10,000 sanctions, as well as costs, should not be imposed, pursuant to NYCRR §130-1.1 *et seq.*, for the frivolous and false content of the affirmation Ms. Oren signed and directed to Judge Nesser;

- (4) disqualifying Monroe County Attorney Bringewatt and the Law Department by reason of their direct interest in the appeals arising from the Independent Expert Report on which appellant-parents' three vacatur/dismissal/summary judgement motions are based;
- (5) directing responses from Appellate Attorney for the Child Gray, consistent with this Court's mandatory administrative and disciplinary responsibilities pursuant to §100.3C and §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct as to what, if anything, she has done on behalf of her child-client since the date of her appointment, as, for instance, examining the basis and merit of appellant-parents' appeals from the documents comprising their Appendix; verifying the accuracy of the Appendix; meeting with the child, apprising her of the appeals and their significance, and ascertaining the child's wishes;
- (6) directing responses from Family Court Attorney for the Child Fifield, consistent with this Court's mandatory administrative and disciplinary responsibilities pursuant to §100.3C and §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct as to what, if anything, she has done on behalf of her child-client since appellant-parents' May 16, 2022 and May 17, 2022 notices of appeal, as, for instance, informing the child of the appeals, counseling the child as to their basis and merit, ascertaining the child's wishes with

respect thereto, verifying the accuracy of the documents comprising appellant-parents' Appendix and stipulating to same;

- (7) granting such other and further relief as may be just and proper, including transfer of these appeals to another Judicial Department to avoid the appearance and actuality of bias arising from relationships and other interests.”

The sole response to the parents' December 23, 2022 cross-motion and December 23, 2022 motion was a three-paragraph January 5, 2023 affirmation of Deputy County Attorney Moeller, frivolous and fraudulent on its face – to which the parents responded by an [18-page January 17, 2023 affidavit](#) I wrote for them, demonstrating that such affirmation was not only “no opposition, as a matter of law, to either [their] cross-motion or motion”, but, as a matter of law, ...reinforce[d] [their] entitlement to the relief sought by each.”

Nevertheless, by an [unsigned January 19, 2023 order](#), purported to be by “PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.”, the parents' cross-motion and motion were denied and Deputy County Moeller's motion to dismiss the appeals as “moot” was granted. The order gave ZERO reasons, facts, or law to substantiate these dispositions – and concealed the requested disclosure as to “the appearance and actuality of [the Court's] bias, born of relationships and interests” – and made none.

[On January 31, 2023, the parents filed a motion I wrote for them, substantiated by an 11-page affidavit](#), for the following relief:

- “1. pursuant to CPLR §2221(d), granting reargument/renewal of the Court's unsigned January 19, 2023 order, purporting as ‘PRESENT: PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.’, and, upon the granting of same, vacating it as unsupported in law and fact – quite apart from its violation of CPLR §2219(b);
2. pursuant to CPLR §5015(a)(3), vacating the January 19, 2023 order for ‘fraud, misrepresentation, or other misconduct of an adverse party’ – such being the Monroe County Law Department's December 14, 2022 dismissal motion, the fraudulence of which was demonstrated by appellant-parents' December 23, 2022 opposition/cross-motion affidavit – without findings of fact and conclusions of law by the January 19, 2023 order granting the dismissal motion, without reasons;

3. pursuant to §§100.3E and F of the Chief Administrator’s Rules Governing Judicial Conduct, disqualifying the Court for demonstrated actual bias, as manifested by its January 19, 2023 order, and vacating same by reason thereof and, if denied:
  - (a) for disclosure by the Court of its relationships with the judges, attorneys, and court personnel whose misconduct and corruption are particularized, with evidence, by appellant-parents’ December 23, 2022 cross-motion for sanctions and other relief and December 23, 2022 motion for transfer and other relief – without findings of fact and conclusions of law by the January 19, 2023 order, denying the cross-motion and motion, without reasons;
  - (b) for a decision substantiating the January 19, 2023 order by findings of fact and conclusions of law with respect to: (i) the Law Department’s December 14, 2022 dismissal motion; (ii) appellant-parents’ December 23, 2022 cross-motion for sanctions and other relief; (iii) appellant-parents’ December 23, 2022 motion for transfer and other relief;
4. Pursuant to Article VI, §4(i) of the New York State Constitution, transferring these four Monroe County Family Court appeals – and the related Monroe County Supreme Court appeal [*Innocent Parents*] v. *County of Monroe, Monroe County Department of Human Services, and Brighton Central School District*, #CA 22-01621 – to another judicial department;
5. Pursuant to Article VI, §3(b) of the New York State Constitution, granting an appeal to the New York State Court of Appeals and/or certifying questions of law that have arisen;
6. Pursuant to §§100.3C and D of the Chief Administrator’s Rules Governing Judicial Conduct, taking the ‘appropriate action’ mandated by the record herein, beginning with:
  - (i) referring Monroe County Family Court Supervising Judge Stacey Romeo and Monroe County Family Court Judge Joseph Nesser to the Commission on Judicial Conduct;
  - (ii) referring Monroe County Attorney John Bringewatt, Deputy County Attorney Elizabeth Moeller, Deputy County Attorney Amanda Oren, and former Deputy County Attorney Lori-Ann

Ricci to attorney grievance committees outside the Fourth Judicial Department;

- (iii) referring the court-appointed Attorneys for the Child Susan Gray and Sarah Fifield to attorney grievance committees outside the Fourth Judicial Department;
- (iv) Granting such other and further relief as may be just and proper, including \$100 motion costs pursuant to CPLR §8202.”

Once again, the only response was from Deputy County Attorney Moeller, whose four-paragraph February 7, 2023 opposing affirmation was not only “no opposition, *as a matter law*, but reinforce[d] [the parents’] entitlement” to the relief sought by their motion. This was so-stated and demonstrated by the parents’ [6-page February 17, 2023 reply affidavit](#) that I wrote for them.

Nevertheless, by an [unsigned March 2, 2023 order](#), purported to be by “PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.”, the parents’ January 31, 2023 motion was “in all respects denied”. Here, too, the order gave ZERO reasons, facts, or law, to substantiate its disposition – and concealed the motion’s request for disclosure as to “the appearance and actuality of [the Court’s] bias, born of relationships and interests” – and made no disclosure.

## **V. THE COURSE OF THE SUPREME COURT APPEAL**

Five days after the parents made their December 23, 2022 motion in their Family Court appeals to transfer them – and the Supreme Court appeal – to another judicial department:

“to avoid the appearance and actuality of bias, born of relationships and interests, and, if denied, for disclosure, pursuant to §100.3F of the Chief Administrator’s Rules Governing Judicial Conduct, of relevant facts bearing on same...”,

they made a [December 28, 2022 motion](#) in their Supreme Court appeal for transfer:

“to mitigate the appearance and actuality of this Court’s bias, born of relationships and interests, and, if denied, for disclosure, pursuant to §100.3F of the Chief Administrator’s Rules Governing Judicial Conduct, of relevant facts bearing on same”.

The parents’ [2-page moving affidavit](#) identified that the motion’s purpose was to provide Brighton Central School District, which was not a party to the Family Court appeals, with an opportunity to be heard, that Justice Donofrio’s appealed-from September 19, 2022 decision/order had covered up the litigation fraud of Deputy County Attorney Brennan and Brighton School District Attorney Dingeldey in concealing the Independent Expert Report and the three vacatur/dismissal/summary judgment motions based thereon – and that these two attorneys were engaged in “comparable obstructionism and frivolousness” in connection with the parents’ record on appeal, preventing them from filing their appeal brief and mandated reproduced record.

Attorneys Brennan and Dingeldey opposed the motion by litigation fraud – and the [8-page January 17, 2023 reply affidavit](#) that I wrote for the parents demonstrated this, reinforcing their entitlement to the granting of their motion “*as a matter of law*”.

Nevertheless, by an [unsigned January 19, 2023 order](#), the Appellate Division, Fourth Department denied the parents’ December 28, 2022 motion without explanation, facts, or law – and without identifying its request for disclosure and making none. The judges purportedly constituting the panel were “PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.” – the same as purportedly rendered the unsigned January 19, 2023 order in the parents’ Family Court appeals that, without explanation, facts, or law denied their December 23, 2022 cross-motion and motion and granted Deputy County Attorney Moeller’s December 14, 2022 dismissal motion and dismissed the parents’ appeals as “moot”.

[On February 19, 2023, the parents filed a motion](#) I wrote for them, for the following relief:

- “1. pursuant to CPLR §2221(d), granting reargument/renewal of the Court’s unsigned January 19, 2023 order, purporting as ‘PRESENT: PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.’, and, upon

the granting of same, vacating it as unsupported in law and fact – quite apart from its violation of CPLR §2219(b) – and granting the transfer relief it denied, without explanation;

2. pursuant to CPLR §5015(a)(3), vacating the January 19, 2023 order for ‘fraud, misrepresentation, or other misconduct of an adverse party’ – such being by the January 9, 2023 opposing affirmation of Deputy County Attorney Alissa Brennan and the January 10, 2023 opposing affirmation of Attorney Louis Dingeldej Jr., whose fraudulence was demonstrated by appellant-petitioners’ January 17, 2023 reply affidavit in further support of their December 28, 2022 motion – without findings of fact and conclusions of law by the Court’s fact-less, law-less January 19, 2023 order;
3. pursuant to §§100.3E and F of the Chief Administrator’s Rules Governing Judicial Conduct, disqualifying the Court for the actual bias, manifested by its January 19, 2023 order, and vacating same by reason thereof and, if denied:
  - (a) for disclosure by the Court of its relationships with the judges, attorneys, and others whose corruption and other misconduct give rise to this appeal and the related Family Court appeals ## CAF 22-10597, CAF 22-10598, CAF 22-01599, CAF 22-01601;
  - (b) for a decision substantiating the January 19, 2023 order – and its comparably fact-less, law-less unsigned January 19, 2023 order in the related Family Court appeals;
4. pursuant to 22 NYCRR 130-1.1, et seq., imposing costs and sanctions upon adverse counsel and their clients for their frivolous and fraudulent January 9, 2023 and January 10, 2023 opposing affirmations, as expressly sought by appellant-petitioners’ January 17, 2023 reply affidavit;
5. pursuant to Appellate Division Practice Rule 1250.7(g), waiving the certification requirement for petitioner-appellants’ Appendix;
6. granting such other and further relief as may be just and proper, including:
  - (a) pursuant to Rule 1.7 of the New York Rules of Professional Conduct proscribing conflicts of interest, disqualifying Monroe County Attorney John Bringewatt and the Monroe County Law Department he heads by reason of their direct interest in the appeals arising from the Independent Expert

Report and appellant-petitioners' three vacatur/ dismissal/ summary judgement motions based thereon;

- (b) pursuant to CPLR §8202, granting appellant-petitioners \$100 motion costs."

In substantiation of this relief, I wrote for the parents [a 12-page moving affidavit](#), to which, unbeknownst to me, they [inserted, after its ¶6, substantial text of their own](#). Thereafter, on Friday, March 10, 2023, with a reply affidavit responsive to Attorneys Brennan and Dingeldey's opposition due by 4 p.m. the parents irrationally refused to file [the 13-page reply affidavit I had written for them](#). So as to protect them and their rights, I alerted the Appellate Division, Fourth Department to the situation, sending an e-mail at 4:50 p.m., with cc's to the parents and Attorneys Brennan and Dingeldey, stating:

"As you know, I have been assisting, free of charge, [*Innocent Parents*], who had four Family Court appeals before this Court and who still have a Supreme Court appeal before the Court.

This follows up the voice mail message I left at 3:15 pm for Laura Opiela and then my phone conversation with Adam Oshrin, Esq., when I called the Court a second time, at about 3:20 p.m., advising that as a result of the [*Innocent Parents*'] experience before this Court, culminating, most recently, in two January 19<sup>th</sup> orders and a March 2<sup>nd</sup> order, each unsigned by any judge, each without facts and without law – denying them relief to which they are absolutely entitled – and resulting in the dismissal of their four Family Court appeals, they are experiencing extreme trauma and depression. They have come to feel that the Court is corrupt that that it is pointless to file reply papers that are due today on their important motion in their Supreme Court appeal for waiver of certification of their Appendix, so that they can file their appeal brief. Indeed, they have come to believe that even were they to file their appeal brief, the Court's decision would be of the same nature as the January 19<sup>th</sup> and March 2<sup>nd</sup> orders, because the Court is intent on protecting the lower court judges, Monroe County, the Law Department, the Attorneys for the Child, CPS, etc., that facts and law are completely irrelevant, and that adverse counsel is able to engage in fraud, and be rewarded for it by fraudulent orders in their favor.

It is very difficult for me to help them, but I am trying my best – because they need to be protected from the fraud being committed by adverse counsel on the motion that is returnable Monday. I realize that only they can file the above-attached reply affidavit, with its two exhibits, that I had prepared for them to upload into NYSCEF by 4 p.m. today – and which I furnished them, in draft yesterday morning – and then at about noon today for their review, and then again shortly before 3 pm. It seems like they cannot even bring themselves to read the papers because it is too upsetting for them.

I have reflected on the situation and believe it is my duty to alert the Court to what is happening and to the fraud being committed by adverse counsel that the reply affidavit particularizes – and, additionally to take other steps to protect the [*Innocent Parents*] and their rights, including by complaints against adverse counsel to the Fourth Department Attorney Grievance Committee, and against this Court to the (Acting) Chief Administrative Judge and other supervisory judges, to the Commission on Judicial Conduct, and to the OCA Inspector General. I do not have to be a party to do these things – and I have full familiarity with the record.

My phone conversations with the [*Innocent Parents*] have not been pleasant, but I did tell them today that I would be calling the Court at 3:15 p.m., unless they communicated to me that they would be uploading the reply affidavit and exhibits – and that I would thereafter e-mail the reply affidavit and exhibits to the Court, to adverse counsel, and to them, which I am now doing.

Thank you.” (underlining in the original).

Unbeknownst to me, at precisely the time I was sending this e-mail, the parents were uploading their own [unsigned, unnotarized reply affidavit](#), which they identified on the docket as “our reply against terrorism”.

On Monday, March 13, 2023, I phoned the Appellate Division, Fourth Department and thereafter e-mailed [an order to show cause](#):

- “(1) permitting Elena Ruth Sassower to intervene as an appellant in the above-captioned appeal, and, if denied, granting her the right to file herein as an *amicus curiae*;
- (2) for such other and further relief as may be just and proper, including referral of the appellate record herein and in the related four Family Court appeals (## CAF 22-10597, CAF 22-10598, CAF 22-01599, CAF 22-01601) to supervisory, disciplinary, and criminal authorities, consistent with §100.3D of the Chief Administrative Rules Governing Judicial Conduct.”

The order to show cause, additionally, sought injunctive relief:

“PENDING the hearing of this motion and determination thereof, sufficient cause appearing therefor, LET:

- (1) the February 19, 2023 motion of appellant-petitioners [*Innocent Parents*], returnable today, March 13, 2023, be adjourned, as not fully submitted; and

(2) the automatic dismissal of the appeal for failure to perfect, presently to occur on March 25, 2023, be stayed to May 25, 2023.” (underlining in the original).

In pertinent part, my accompanying [11-page moving affidavit](#) stated:

“8. As evident from their ‘reply against terrorism’ affidavit – as, likewise, from their irrelevant insertion to the February 19<sup>th</sup> moving affidavit, which they did not reveal to me, either before or after they made it, twice<sup>fn2</sup> (Exhibit 3-B, at pp. 12-13) – the [Innocent Parents] are unable to protect their rights on the February 19<sup>th</sup> motion, returnable today, whose most important purpose I explained to them, repeatedly, was securing a waiver of the certification requirement for their Appendix so that they could file the appeal brief.

9. The [Innocent Parents]’ ‘reply against terrorism’ is no reply from which the Court can evaluate the fraud committed by Attorney Dingeldey and Deputy County Attorney Brennan in opposing the waiver – and the Court is further hampered by the [mishmash the \[Innocent Parents\] made of the moving affidavit, by their insertion to it.](#)<sup>fn3</sup> By contrast, the [Innocent Parents]’ *matter of law* entitlement to the waiver is the focus of the reply affidavit I wrote for them (Exhibit 2) – and dispositive of the issue.

10. The [Innocent Parents] have been suffering from extreme trauma arising from what took place on February 12, 2021 at French Road Elementary School and it has been exacerbated by all the corruption that they thereafter encountered – a good portion of which I have presented to the Court in motions in the related four Family Court appeals and here. The Court’s actions with respect thereto – culminating in its unsigned January 19<sup>th</sup> and March 2<sup>nd</sup> orders denying the [Innocent Parents] the relief to which they were absolutely entitled and dismissing their four Family Court appeals as ‘moot’, when they are not – all without reasons or law – have pushed them ‘over the edge’ to a point of irrationality that I have been unable to control. They are severely judgmentally impaired. Initially I thought it was just [the Innocent Mother], who routinely e-mails as [the Innocent Father], but it is also [the Innocent Father] – and over the past weeks, as the situation became more and more impossible with them, I told them that they have become mentally ill as a result of what has happened.

11. The only way I can save for them their meritorious appeal herein, resting on the Independent Expert Report I wrote – all the more imperative because the Court’s dismissal of their related Family Court appeals as ‘moot’ has prevented them from vindicating themselves reputationally, on the merits – is by becoming an intervening appellant herein.

12. CPLR §1012(a)(2) provides for this. It reads:

**“(a) Intervention as of right.** Upon timely motion, any person shall be permitted to intervene in any action:

2. when the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment”.

13. This is precisely the situation at bar. As evidenced by their [‘reply against terrorism’ affidavit](#), their insertion to the moving affidavit (Exhibit 3-B, at pp. 12-13), and their failure to file the reply affidavit I wrote for them (Exhibit 2), the [Innocent Parents] are incapacitated by their trauma from adequately representing their own interests – and the only reason, until now, that they have been able to adequately represent themselves is because I was doing ALL the legal work – and so masterfully that the Court could not find any reasons or law with which to justify its unsigned orders denying them relief and dismissing, as ‘moot’, their related Family Court appeals.

14. Being permitted to be an intervening appellant is in the interest of the [Innocent Parents], on whose behalf, additionally, I seek interim relief: (a) to adjourn today’s return date of their February 19<sup>th</sup> motion pending determination of this order to show cause for intervention and, if denied, to be permitted to file as an *amicus curiae* the March 10<sup>th</sup> reply affidavit I wrote for them, the appeal brief I wrote for them, with the Appendix I compiled, and a reply brief; (b) to extend the automatic dismissal of the [Innocent Parents’] appeal for failure to perfect from the March 25<sup>th</sup> date it currently is to May 25<sup>th</sup> so as to afford them ample time to consult with counsel and/or avail themselves of psychiatric care.

15. Finally, although the Court and its Attorneys for Children Program have had the Independent Expert Report since last May 2022, when it was furnished so that immediate investigative and disciplinary action could be taken – and notwithstanding it is in the docket herein in several places – it is such a shocking ‘legal autopsy’<sup>in4</sup> of the record of proceedings in the Monroe County Family Court on the February 16, 2021 child abuse/neglect petition, completely uncontested by anyone, in any respect, that I am furnishing it again, as it appears in the waiver-requiring Appendix (Exhibit 6), in support of this order to show cause, particularly in support of the ‘other and further relief’. That no one has responded to it has caused the impaired [Innocent Parents] to believe that I cannot be trusted because I misled them by telling them that it is DISPOSITIVE – and [the Innocent Mother] stated this to me within the recent weeks of their spiraling downward tailspin.

16. No prior application has been made for the intervention relief herein requested. Should the justice to whom this order to show cause is presented, not sign it, I request the signed declination and the reasons therefore. Meantime, I take this opportunity to swear to the truth of everything I wrote for the [Innocent Parents], for them to file to this Court, to the Supreme Court, and to the Family Court.”

According to an [unsigned March 15, 2023 letter from Principal Appellate Court Attorney Oshrin](#) – which he mailed to me and the parents, but e-mailed to Attorneys Brennan and Dingeldey—Associate Justice Montour “declined to sign the order to show cause”. To this, I responded by e-mail correspondence, including a March 27, 2023 e-mail to Clerk Flynn entitled “Complaint to Presiding Justice Whalen as to the Lawless Fashion in which the AD4 Clerk’s Office Operates – & Answers from You, Clerk Flynn, Pertaining Thereto”. Ten days later, the March 27, 2023 e-mail would be [Exhibit A](#) to my [April 7, 2023 affidavit](#) in further support of the unsigned March 13, 2023 order to show cause – and to prevent further fraud on the Court with respect to the parents’ February 19, 2023 motion.

[On April 19, 2023, the so-called panel consisting of “PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.” denied the parents’ February 19, 2023 motion](#), without revealing, let alone making, the requested disclosure as to the appearance and actuality of its bias, and without explanation, facts, or law – except for the falsehood in the sentence reading:

“It is further ORDERED the motion insofar as it seeks an order waiving the requirement of a certified record on appeal is denied (see 22 NYCRR 1250.7 [g] [3]; 1000.7 [b]; *Stewart v Soda*, 239 AD2d 966 [4th Dept 1997]).”

In response, [on April 24, 2023, I e-mailed a second order to show cause](#):

“(1) pursuant to CPLR §1012(a)(2), granting Elena Sassower intervention of right as an appellant in the above-captioned appeal, and, if denied, granting her leave to file as *amicus curiae*, and, if denied, a reasoned decision therefor;

(2) pursuant to CPLR §2221(d), granting reargument of that part of the unsigned April 19, 2023 order, purportedly by ‘PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.’, that denies, without reasons, the fifth branch of the unrepresented appellants’ February 19, 2023 motion, which it falsifies, and, upon the granting of reargument, waiving the certification requirement for the unrepresented appellants’ Appendix pursuant to Appellate Division Practice Rule 1250.7(g), and, if denied, a reasoned decision therefor;

(3) for vacatur of the unsigned April 19, 2023 order for fraud born of actual bias by the Clerk’s Office and by ‘PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.’, to the extent they have been actually involved, and, if denied, a reasoned decision substantiating the April 19, 2023 order;

(4) pursuant to Article VI, §3(b)(4) of the New York State Constitution, and especially if the foregoing is denied, for certification of questions to the Court of Appeals as to whether this Court's disposition of this order to show cause, this appeal, and the unrepresented appellants' related four Family Court appeals (## CAF 22-10597, CAF 22-10598, CAF 22-01599, CAF 22-01601) remotely meets constitutional due process standards;

(5) for such other and further relief as may be just and proper, including pursuant to CPLR §8202, granting the intervening appellant \$100 motion costs.

In support, [my 5-page moving affidavit](#) stated:

“5. With regard to the [April 19<sup>th</sup> order](#)<sup>fn2</sup> of ‘PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.’, it – like their predecessor orders – is not signed by a single one of its five justices, nor by Clerk Flynn or Deputy Clerk Ross, in violation of [CPLR §2219\(b\)](#). It not only denies, without reasons, the relief the [Innocent Parents] sought by their February 19<sup>th</sup> motion, but **FALSIFIES** the fifth branch, whose importance was focal to my March 13<sup>th</sup> order to show cause and its interim relief to stay adjudication of the February 19<sup>th</sup> motion pending determination of my CPLR §1012(a)(2) intervention of right.

6. Contrary to the April 19<sup>th</sup> order, the [Innocent Parents'] February 19<sup>th</sup> motion did NOT seek ‘waiving the requirement of a certified record on appeal’. Rather, by its fifth branch, it sought waiver of certification of their [Appendix](#) – as to which the order's unexplained citation ‘see 22 NYCRR 1250.7[g][3]; 1000.7[b]; *Stewart v. Soda*, 239 AD2d 966 [4<sup>th</sup> Dept 1997]’ has **ZERO applicability**. [Appellate Division Practice Rule 1250.7\[g\]\[3\]](#) and [this Court's 1000.7\[b\]](#) do NOT pertain to waiver pursuant to 1250.7[g] ‘for good cause shown’, upon which the [] fifth branch rested.<sup>fn3</sup> Nor does [Stewart v. Soda](#) pertain to an appendix.

7. Consequently, the April 19<sup>th</sup> order, by its falsehood, did NOT determine the actual fifth branch of the [Innocent Parents'] February 19<sup>th</sup> motion. As the [Innocent Parents'] sought this relief for the first time by their February 19<sup>th</sup> motion, it can be reargued pursuant to [CPLR §2221\(d\)](#), the actual relief having been ‘overlooked’ or ‘misapprehended’. However, because the unrepresented [Innocent Parents] are trauma-disabled, they are unable to so-protect their appellate rights – and their trauma disablement was the basis upon which my March 13<sup>th</sup> order to show cause sought to intervene of right and, if denied, permission to file as *amicus curiae*.

8. As the April 19<sup>th</sup> order has further exacerbated the [Innocent Parents'] trauma, I have superseded my March 13<sup>th</sup> order to show cause with an order to show cause of today's date, April 24<sup>th</sup>, to include, in addition to CPLR §1012(a)(2) intervention of right, reargument of the April 19<sup>th</sup> order's denial, by falsification, of the fifth branch

of the [Innocent Parents'] February 19<sup>th</sup> motion, and vacatur of the entirety of the April 19<sup>th</sup> order for fraud born of actual bias by the Clerk's Office and by the justices, to the extent the justices have been actually involved. This actual bias arises from multitudinous personal and professional relationships with Monroe County Supervising Judge Stacey Romeo, Monroe County Family Court Judge Joseph Nesser, Monroe County Supreme Court Justice Gail Donofrio, and conspiring attorneys, whose corruption and collusion is the gravamen of the [Innocent Parents'] appeal herein and of their related four Family Court appeals.

9. The instant order to show cause also requests that should any of the foregoing be denied, it be by a reasoned decision and additionally requests, pursuant to Article VI, §3(b)(4) of the New York State Constitution, certification of questions to the Court of Appeals as to whether this Court's disposition of my order to show cause and of the [Innocent Parents'] appeal and their related four Family Court appeals remotely meets constitutional due process standards.

10. In view of the seriousness of the Clerk's Office misconduct in connection with my March 13<sup>th</sup> order to show cause – and the history of Clerk Office misconduct with respect to the [Innocent Parents'] [May 18, 2022 order to show cause](#) and [December 9, 2022 order to show cause](#) in their four related Family Court appeals<sup>fn4</sup> and the invidious assignment of their motions herein and for the Family Court appeals to a possibly phantom panel of 'PERADOTTO, J.P., CURRAN, BANNISTER, MONTOUR, AND OGDEN, JJ.', this order to show cause must be presented to Presiding Justice Gerald Whalen for signature, so that there is no doubt as to his direct knowledge, from this point forward, and so that he can insert appropriate dates for answering and reply papers.

11. No application for the same or similar relief has been made, other than by my March 13<sup>th</sup> order to show cause and its further substantiating April 7<sup>th</sup> affidavit.”

I followed this, [on April 26, 2023, with an e-mail addressed to Chief Clerk Flynn](#), responding to Attorney Dingeldey's “fraudulent, bad-faith objections”, already rebutted in the context of my March 13, 2023 order to show cause, stating:

“Any opposition that he or Deputy County Attorney Brennan have belongs in opposition papers, under penalties of perjury, confronting the law and facts my order to show cause particularizes with EVIDENCE – and you, your Clerk's Office, and Presiding Justice Whalen may be presumed to know this.”

Later that day, by an [unsigned April 26, 2023 letter from Principal Appellate Court Attorney Oshrin](#) – which he mailed to me and the parents, but e-mailed to Attorneys Brennan and Dingeldey – he stated:

“Please be advised that an applicant for an order to show cause does not have the authority to direct that the application be reviewed by a particular Justice, including the Presiding Justice. Your application for an order to show cause was presented to the Hon. E. Jeannette Ogden, and her Honor declined to sign the order to show cause. To the extent that you are seeking relief on behalf of the appellants, Justice Ogden declined to sign the order to show cause on the ground that you are not an attorney representing them and thus are not permitted to make an application on their behalf. With respect to the portions of the application related to your request to intervene as of right, Justice Ogden declined to sign the order to show cause on the ground that you have no interest in this matter and will not be bound by the judgment (see CPLR 1012 [a] [2]).”

## **VI. CONCLUSION**

The foregoing long-overdue complaint is being furnished, additionally, to the Commission on Legislative, Judicial and Executive Compensation, before which I testified on October 13, 2023, handing up a copy of the [Independent Expert Report](#), in substantiation of my testimony as to the corruption infesting the judiciary – a threshold, “appropriate factor” of constitutional dimension that it is statutorily-required to “take into account”. My words were as follows ([VIDEO, at 2hrs/45mins](#)):

“Lastly, I don’t want you to believe that the corruption infesting the judiciary is only in cases of magnitude such as the cases that I have here presented. I have a, a independent report that I wrote about a Family Court case out of Monroe County, a mother called me in distress because her child had been taken away from her. And she begged me to assist her. Without charge, I, I examined the record -- and I wrote a report that was furnished, it’s a sealed file. I think you should take a look at what goes on, and you should know this is only the first piece of it. But the corruption involving this report at the Family Court level, at the Appellate Division Fourth Department from which you come, Chair Fahey, you need to take testimony. You have subpoena power. You need to – you need to examine the corruption in the judiciary –”

The only correction I would make is to add a reference to the corresponding corruption in the Monroe County Supreme Court pertaining to the Independent Expert Report.

As [the Commission on Legislative, Judicial and Executive Compensation’s enabling statute requires you to assist the Commission, upon its request](#),<sup>3</sup> perhaps that is the most expeditious way for it to proceed – requesting that you furnish it with the results of the investigation that is your duty to make with respect to this fully-documented, facially-meritorious complaint.

\* \* \*

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<sup>3</sup> §3.5 and §3.6 of Part E, Chapter 60, of the Laws of 2015 read:

§3.5: “To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties pursuant to this section.

§3.6: “The commission may request, and shall receive, reasonable assistance from state agency personnel as necessary for the performance of its function.”

Consistent with the attestation of truthfulness that Albany District Attorney P. David Soares requires for [public corruption complaints filed with his Public Integrity Unit](#):

“I understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.”

s/Elena Ruth Sassower

cc: Commission on Legislative, Judicial and Executive Compensation  
The Innocent Parents