

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STEPHEN GRANT RUSSELL,
Plaintiff,

-against-

THE CHIEF CLERK OF THE WESTCHESTER
COUNTY FAMILY COURT, sued in official
capacity,
and
THE DEPUTY ADMINISTRATIVE JUDGE OF
THE NINTH JUDICIAL DISTRICT, sued in official
capacity,
Defendants.

:
:
: Civil Action No. _____
:
: **VERIFIED COMPLAINT**
:
: **JURY TRIAL DEMANDED**
:

NATURE OF THE ACTION

1. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 and the doctrine of *Ex Parte Young*, 209 U.S. 123 (1908), seeking prospective declaratory and injunctive relief against two state officers responsible for the administrative apparatus of the Westchester County Family Court.
2. The Westchester Family Court’s Court Management System (“CMS”) currently classifies a custody proceeding in a manner that is irreconcilable with the face of the underlying order, the oral rulings that produced it, and the holding of the Appellate Division, Second Department. The proceeding has been characterized in seven distinct and contradictory ways by the court and its officers over four years, culminating in a retroactive reclassification from “ORDER ON DEFAULT” to “after hearing” — without any located amending order, without notice to any party, and without adversarial process.
3. The two named Defendants are the Chief Clerk (custodian of the court’s records) and the Deputy Administrative Judge (responsible for administrative oversight of the Ninth

Judicial District). They are sued in their official capacities only. Plaintiff seeks no damages, no vacatur of any state court order, and no federal adjudication of custody. Plaintiff seeks a declaration that the reclassification occurred without judicial authorization, an order correcting the CMS record, and prospective protocols to prevent recurrence.

4. The altered record is not historical. On February 3, 2026, a Support Magistrate read the reclassified record from the CMS in open court, adopted it as the operative predicate for a support determination, and declined to examine the discrepancy when Plaintiff raised it on the record. The administrative defect is presently generating downstream consequences.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(a)(3) and (4) (civil rights).
6. The claims arise under the Fourteenth Amendment to the United States Constitution, enforceable through 42 U.S.C. § 1983. The doctrine of *Ex Parte Young*, 209 U.S. 123 (1908), permits suit against state officers in their official capacities for prospective injunctive and declaratory relief to end ongoing violations of federal law.
7. Venue is proper in this District under 28 U.S.C. § 1391(b)(2). The Westchester County Family Court is located in this District, and the events giving rise to this action occurred in Westchester County, New York.

PARTIES

8. **Plaintiff Stephen Grant Russell** is a citizen of the State of California, residing in Santa Barbara, California. He is the father of the minor child [E.V.], born in 2015, who is the subject of the custody proceedings at issue. He appears *pro se*.
9. **Defendant the Chief Clerk of the Westchester County Family Court** is a position within the New York State Unified Court System currently held by Byrnes. The Chief Clerk is the custodian of the court's records, including the Court Management System in which the reclassification at issue was entered. The Chief Clerk is sued in official capacity only.
10. **Defendant the Deputy Administrative Judge of the Ninth Judicial District** is a position within the New York State Unified Court System currently held by the Hon. Anne E. Minihan. The Deputy Administrative Judge has administrative oversight responsibility for the Westchester County Family Court, including its record-keeping protocols, evaluator appointment practices, and compliance with the Uniform Child Custody Jurisdiction and Enforcement Act. The Deputy Administrative Judge is sued in official capacity only.

FACTUAL ALLEGATIONS

I. The Custody Proceedings

11. In July 2018, Tara Katelyn Walsh commenced a proceeding in the Westchester County Family Court seeking sole legal and physical custody of [E.V.] (File No. V-7641-18). A family offense proceeding followed (File No. O-12635-19).
12. Between 2018 and 2021, five judges were assigned to and recused from these proceedings. The case was ultimately assigned to Judge Michelle I. Schauer.

II. The Seven Irreconcilable Characterizations

13. The custody proceeding that produced the operative orders has been characterized in seven distinct and mutually irreconcilable ways by the court and its officers. These seven characterizations form three clusters that cannot be reconciled with one another.

Cluster A — "On Default" (2021–2022)

14. On November 5, 2021, Judge Schauer held a scheduled hearing. Plaintiff did not appear in person. The court found Plaintiff in default: “At this point, Mr. Russell has not appeared. He’s in default.” (Exhibit 2, Transcript of November 5, 2021 hearing, p. 7, ll. 8–9.)

15. The resulting order, dated December 3, 2021, bears the title “ORDER ON DEFAULT” on its face. (Exhibit 1.)

16. On January 5, 2022, the Family Court held an inquest on the mother’s petitions. The proceeding generated a 99-page transcript. Plaintiff was not personally present, but his attorney, Jason Andrew Advocate, Esq., was present and actively participated throughout — conducting cross-examination, making legal arguments, and raising objections. (Exhibit 4, Inquest Transcript.)

17. Despite 99 pages of documented attorney participation, the court declared the proceeding a default. Judge Schauer stated: “On Mr. Russell’s default on inquest, I do find it appropriate and in the child’s best interest for Ms. Walsh to be awarded sole legal and physical custody.” (Exhibit 4, p. 94, ll. 1–4.)

18. The attorney for the child, Donna M. Genovese, stated: “There’s no cross petition, there’s no participation by Mr. Russell.” (Exhibit 4, p. 91, ll. 3–10.) This statement was made while Plaintiff’s attorney sat at counsel table, having just conducted cross-examination.

19. Judge Schauer further stated: “He has failed and refused to participate in these court proceedings, to allow me to hear his voice.” (Exhibit 4, p. 96, ll. 16–20.)

Cluster B — "Not on Default" (2023)

20. On appeal, the Appellate Division, Second Department, held: "Initially, contrary to the contention of the mother and the AFC, the order appealed from was not entered upon the father's default. Although the father failed to appear in person at the hearing, his counsel appeared on his behalf and participated in the hearing." *Matter of Walsh v. Russell*, 214 A.D.3d 890, 891 (2d Dep't 2023). (Exhibit 3.)
21. The Appellate Division modified the order, on the law, by deleting the provision directing the father to erase, deactivate, and delete "any existing blogs and likenesses," and substituting therefor a provision directing the father to erase, deactivate, and delete any existing blogs which reference these proceedings or disparage the child's relatives, and any likenesses of the child posted in connection with such blogs. As so modified, the order was affirmed insofar as appealed from, without costs or disbursements. (Exhibit 3.)
22. The Appellate Division did not vacate the underlying order. It did not remit the matter to Family Court. It did not order the court record amended or reclassified. It did not direct any further proceedings.

Cluster C — "After Hearing" (2026)

23. On February 3, 2026, Support Magistrate Michele Reed Bowman held a hearing on Plaintiff's petition for downward modification of child support. At that hearing, Magistrate Bowman stated: "I reviewed the court file and it seems to indicate that custody was granted after hearing." (Exhibit 5, Bowman Support Hearing Transcript.)
24. Plaintiff immediately challenged this characterization on the record: "The order was granted on default, and the New York Supreme Court upon reviewing the order stated that there

could be no default because I was represented by an attorney that was in attendance.”

(Exhibit 5.)

25. Magistrate Bowman responded: “But another order hasn’t been issued... the prevailing order, the law of this case, grants Ms. Walsh custody... and that entitles her to child support.”

(Exhibit 5.)

26. The CMS record for File Nos. V-7641-18 and O-12635-19 now classifies the custody proceeding as occurring “after hearing.” (Exhibit 6.) This classification matches neither the face of the December 3, 2021 order (“ORDER ON DEFAULT”) nor a simple negation of default. It is a third, affirmative characterization implying a contested proceeding with both parties participating.

27. No amending order, motion, stipulation, or judicial act authorizing the reclassification from “ORDER ON DEFAULT” to “after hearing” has been located in the record. No party was notified. No adversarial process preceded the change.

III. The Process Substitution of November 5, 2021

28. The default of November 5, 2021 was not the originally planned proceeding. On November 4, 2021, Marilyn Hernandez, a court clerk at the Westchester Family Court, sent a Microsoft Teams virtual hearing invitation for a scheduled appearance in “IMO WALSH; F/U 154703” to all parties, including Judge Schauer, court staff, both counsel, Walsh, and Plaintiff at four separate email addresses. (Exhibit 7.)

29. On November 5, 2021, at 1:18 PM UTC (8:18 AM ET), Hernandez sent a cancellation of the same hearing, marked Importance: HIGH. (Exhibit 7.) The default was entered later the same day.

30. Both emails are authenticated through DKIM, DMARC, and SPF, all passing through nycourts.gov. They are the court system's own electronic records, not a party's claim. (Exhibit 7, authentication data.)
31. The cancellation of a scheduled all-party hearing and the entry of a default on the same day establishes that the default was a substitution of process, not a failure to appear at an uncontested proceeding.
32. Plaintiff was actively corresponding with the court through the court's own email system in the weeks preceding the default. On October 2, 2021 — thirty-four days before November 5 — Plaintiff sent an email to Judge Schauer via 154709@westchesterct.com confirming that "Mr. DiFabio is still my attorney in the support case" and requesting that any Final Order be mailed to DiFabio. (Exhibit 12.) In the same email, Plaintiff referenced orders that "change retroactively" — contemporaneous documentation of the alteration pattern alleged herein, written thirty-four days before the default.

IV. The Griffin Credential Fraud as Self-Sealing Institutional Structure

33. The custody proceeding was governed in material part by a forensic chemical evaluation conducted by P. Raymond Griffin, CASAC #1636. The evaluation was commissioned by the Family Court and used as a gating condition for Plaintiff's custody access.
34. On May 14, 2019, the Family Court imposed a protective order on Griffin's report containing three extraordinary restrictions: (a) no copies of the report could be made; (b) the client could not view any portion of the report; and (c) counsel could not quote from the report in any submission to the Court. (Exhibit 8.)
35. These restrictions made the evaluation unreviewable. A party who cannot see, copy, or quote from a report cannot identify errors, fabrications, or procedural violations within it.

36. The attorney for the child, Jennifer Jackman, made Griffin's evaluation the gating condition for removing supervised visitation. Plaintiff challenged this, asking Jackman "on what basis you were making Griffin's report a condition of stopping supervision, when you know Tara has recounted her accusations." (Exhibit 9.)
37. On August 19, 2019 — four months after the protective order was imposed — Griffin's OASAS CASAC credential #1636 was revoked. The revocation was based on nine violations, including grossly negligent handling of toxicology testing and unauthorized practice of medicine. Griffin surrendered the credential and waived hearing. (Exhibit 10.)
38. The protective order prevented Plaintiff from discovering the specific testing irregularities in Griffin's report, because Plaintiff was prohibited from viewing the report. The revocation rendered the evaluation unreliable, but the gating condition imposed by the AFC remained in effect. No mechanism existed within the Westchester Family Court's administrative structure to detect the credential revocation, notify the parties, or strike or replace the evaluation.
39. This is not a claim about one bad evaluator. It is a claim about an administrative system that made an evaluation unreviewable, made it controlling, and had no mechanism to correct it after credential collapse. The evaluation produced by a practitioner whose credential was revoked for the very type of work the evaluation involved continued to control custody outcomes for seven years. The Deputy Administrative Judge, as the administrative officer responsible for the Ninth Judicial District, had no credential-verification protocol in place to prevent this outcome.

V. First Amendment Retaliation — Background

40. On August 7, 2021, Plaintiff sent an email with the subject line “Whistleblower” to Eric P. Eckel, court administrator at the Westchester Family Court, via PGP-encrypted communication. (Exhibit 11.)
41. Sixty-eight days later, on October 14, 2021, AFC Genovese filed an Order to Show Cause seeking to prohibit Plaintiff from posting, uploading blogs, and displaying the likeness of the child, and directing Plaintiff to erase, deactivate, and delete all existing postings, blogs, and likenesses.
42. Twenty-two days after the OSC was filed, on November 5, 2021, the default was entered.
43. The Appellate Division subsequently found that the blanket deletion provision of the resulting order was “not tailored as precisely as possible to the exact needs of the case” and struck it, substituting a narrower provision. *Matter of Walsh v. Russell*, 214 A.D.3d at 892. (Exhibit 3.)
44. Plaintiff does not ask this Court to revisit the Appellate Division’s narrowing of the speech restriction. The federal claim targets the retaliatory procurement of the original blanket order and the threatened overenforcement of its terms, including the extension to “any persons, entities and/or agents acting on [Plaintiff’s] behalf.” The temporal chain — whistleblower report, speech-restriction motion, default — runs through the same administrative acts that produced the altered record.

VI. The Ongoing Violation — Present Operationalization

45. The altered CMS record is not a historical artifact. On February 3, 2026, Magistrate Bowman read the “after hearing” classification from the CMS in open court, adopted it as the operative predicate for a support determination, and declined to examine the discrepancy when Plaintiff raised it on the record. (Exhibit 5.)

46. On March 12, 2026, Magistrate Bowman dismissed Plaintiff's Notice of Related Motion and Request to Stay Enforcement as "improper and dismissed as procedurally defective." The effect was to close the only procedural avenue through which Plaintiff could raise the predicate defect within the support proceeding.
47. On March 29, 2026, Plaintiff timely filed Written Objections pursuant to FCA § 439(e) to the February 3 and March 12 determinations.
48. The altered record is currently generating downstream consequences — support enforcement, denial of access, and reputational injury — on a predicate that contradicts the face of the underlying order and the holding of the Appellate Division.

CLAIMS FOR RELIEF

COUNT I — Fourteenth Amendment Due Process (Record Integrity)

42 U.S.C. § 1983 — Against Both Defendants

49. Plaintiff incorporates by reference all preceding allegations.
50. The Due Process Clause of the Fourteenth Amendment prohibits state actors from maintaining and operating on an official record that has been retroactively altered without judicial authorization, without notice, and without adversarial process, where that record generates continuing legal consequences for a party.
51. Defendants, through their administration of the CMS, maintain a record that classifies the custody proceeding as occurring "after hearing" — a classification that is irreconcilable with the face of the order, the oral rulings that produced it, and the holding of the Appellate Division. No amending order authorized this reclassification. No party was notified. No opportunity to be heard was provided.

52. The altered record was operationalized on February 3, 2026, when Magistrate Bowman read the reclassified record from the CMS and adopted it as the predicate for a support enforcement determination. Bowman dismissed Plaintiff's petition to modify a child support obligation of \$4,788.00 per month — an obligation that was never calculated using the mandatory Child Support Standards Act methodology and that requires wage garnishment in excess of the federal ceiling established by the Consumer Credit Protection Act, 15 U.S.C. § 1673(b). The support obligation generates continuing financial harm: Plaintiff's employer has reverted to the federal statutory maximum garnishment, causing arrears to accrue automatically, and the opposing party has requested Plaintiff's incarceration for those arrears. The violation is ongoing.
53. The Chief Clerk is responsible for the CMS in which the unauthorized reclassification was entered and is maintained. The Deputy Administrative Judge is responsible for the administrative protocols — or absence thereof — that permitted the reclassification to occur without audit trail, judicial authorization, or party notification.

COUNT II — Fourteenth Amendment Due Process (Self-Sealing Evaluation Structure)

42 U.S.C. § 1983 — Against the Deputy Administrative Judge

54. Plaintiff incorporates by reference all preceding allegations.
55. The administrative system of the Ninth Judicial District permitted a forensic evaluation to be placed behind a protective barrier that prevented the evaluated party from reviewing its contents, while simultaneously using that evaluation as a gating condition for custody access — and maintained that structure for seven years after the evaluator's professional credential was revoked for the very type of work the evaluation involved.

56. The Deputy Administrative Judge, as the administrative officer responsible for the Ninth Judicial District, had no credential-verification protocol in place to detect credential revocation, notify parties, or trigger review of evaluations produced by decredentialed practitioners.
57. The absence of such a protocol is not a one-time oversight. It is a systemic administrative deficiency that creates an ongoing risk that court-ordered evaluations produced by decredentialed practitioners will continue to govern custody outcomes without correction.

COUNT III — First Amendment Retaliation (Background — Supporting Prospective Relief)

42 U.S.C. § 1983 — Against Both Defendants

58. Plaintiff incorporates by reference all preceding allegations.
59. The temporal sequence — whistleblower communication (August 7, 2021), speech-restriction motion (October 14, 2021), default (November 5, 2021) — supports an inference that the administrative acts producing the altered record were retaliatory. The speech-restriction order procured through this sequence was subsequently found by the Appellate Division to contain a provision that was not narrowly tailored.
60. This count does not ask the Court to relitigate the Appellate Division’s narrowing of the speech restriction. It supports the prospective relief sought herein by establishing that the administrative deficiencies in the CMS — the absence of audit trails, the absence of authorization requirements for record modifications — facilitated retaliatory conduct and continue to do so.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment as follows:

A. A declaratory judgment that the reclassification of the custody proceeding from “ORDER ON DEFAULT” to “after hearing” in the Westchester Family Court’s Court Management System occurred without judicial authorization, without notice to the parties, and without adversarial process.

B. An order directing the Chief Clerk of the Westchester County Family Court, as custodian of records, to correct the Court Management System entry for File Nos. V-7641-18 and O-12635-19 to accurately reflect the procedural history of the proceedings as established by the Appellate Division in *Matter of Walsh v. Russell*, 214 A.D.3d 890 (2d Dep’t 2023).

C. An order directing the Chief Clerk to preserve all existing audit-trail data, change logs, system metadata, user-access records, and administrative notes relating to any modification of the CMS entries for File Nos. V-7641-18 and O-12635-19, and to produce such records to Plaintiff within thirty (30) days of this Court’s order.

D. An order directing the Deputy Administrative Judge of the Ninth Judicial District to implement and maintain an audit-trail protocol for the Court Management System requiring that any modification to the procedural classification of a case be logged with the identity of the modifying user, the date and time of modification, the prior classification, the new classification, and the judicial authorization for the change.

E. An order directing the Deputy Administrative Judge to implement and maintain a credential-verification protocol for court-appointed evaluators in the Ninth Judicial District, requiring verification of current professional licensure and certification at the time of appointment and at regular intervals thereafter, with a mechanism for notification to all parties and the court upon revocation, suspension, or lapse of any evaluator’s credential.

F. An order directing the Deputy Administrative Judge to implement protocols ensuring compliance with the Uniform Child Custody Jurisdiction and Enforcement Act, N.Y. Dom. Rel. Law §§ 75–78, including documented communication with courts of other jurisdictions when custody matters involve interstate elements, and record-keeping of such communications.

G. Costs of suit pursuant to 28 U.S.C. § 1920.

H. Such other and further prospective declaratory and injunctive relief as this Court deems just, proper, and equitable.

EXHIBIT LIST

Exhibit	Description
1	ExR_02 — Family Court order dated December 3, 2021, face page reading "ORDER ON DEFAULT"
2	ExTR_02 — Transcript of November 5, 2021 hearing before Judge Schauer
3	ExR_04 — *Matter of Walsh v. Russell*, 214 A.D.3d 890 (2d Dep't 2023) (certified LexisNexis copy)
4	Inquest Transcript — January 5, 2022, 99 pages (assign stable exhibit designation)
5	ExTR_20 — February 3, 2026 Bowman Support Hearing Transcript/Memo
6	ExSS_03 — CMS record showing "after hearing" classification
7	ExOO_10 — Hernandez hearing invitation (Nov 4, 2021) and cancellation (Nov 5, 2021), with DKIM/DMARC/SPF authentication
8	ExOO_05 — Protective order on Griffin report (May 14, 2019)
9	ExSS_08 — AFC Jackman emails making Griffin evaluation gating condition (Feb 2019)
10	ExS_01–03 — OASAS revocation of Griffin CASAC #1636 (Aug 19, 2019)
11	ExOO_13 — Whistleblower email to Eckel (Aug 7, 2021) — subject line and metadata (content PGP-encrypted)
12	ExOO_11 — Russell email to Judge Schauer via court system (Oct 2, 2021)

Dated: _____, 2026

Santa Barbara, California

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