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, and reasonable attorney‘s fees to the extent permitted under 42 U.S.C. § 1988.

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

_____

STEPHEN GRANT RUSSELL *Plaintiff, Pro Se* 1117 State Street, STE 77 Santa Barbara, CA 93101 (415) 999-3944 sg.russ@aol.com

EXHIBIT APPENDIX — RUSSELL v. WESTCHESTER FAMILY COURT ET AL.

FEDERAL CIVIL RIGHTS COMPLAINT — 3A FILING

RECORD INTEGRITY AND ADMINISTRATIVE PROTOCOL CLAIMS

INTRODUCTION

This appendix contains twelve text exhibits supporting the federal civil rights complaint in *Russell v. Westchester Family Court et al.*, alleging institutional spoliation of the court‘s procedural record and violation of administrative protocols under 42 U.S.C. § 1983. The core claim is that the Westchester County Family Court retroactively altered its internal case management system (CMS) to reclassify an order from “ORDER ON DEFAULT“ (as written on the signed instrument) to “after hearing“ (no judicial order authorizing this change), creating a four-way procedural contradiction that has never been reconciled. The relief sought is prospective: CMS correction, audit trail, credential verification, and UCCJEA protocol compliance.

Note on Privacy: The complaint body refers to the minor child as [E.V.] to protect her privacy. The exhibits below reproduce the original text of court documents, which use the child‘s full name as it appears in the court record.

TEXT EXHIBIT — ExR_02

FAMILY COURT ORDER ON DEFAULT — DECEMBER 3, 2021, SIGNED INSTRUMENT

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is the signed order dated December 3, 2021, entered following the November 5, 2021 hearing on the Attorney for the Child‘s October 14, 2021 Order to Show Cause. The order‘s face is titled “ORDER ON DEFAULT,“ establishing the original and authoritative procedural characterization. This same order was referenced in the January 5, 2022 inquest transcript, and its restraints were carried forward into the February 2, 2022 custody order from which the appeal was taken.

DOCUMENT IDENTIFICATION

Document Type: Order on Default **Court:** Westchester County Family Court **File No.:** 154703 **Docket No.:** V-07641-18 **Presiding Judge:** Hon. Michelle I. Schauer **Date Signed:** December 3, 2021 (entered following the November 5, 2021 hearing)

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Documentary Foundation for CMS Alteration Claim.** The signed instrument itself — bearing the judge‘s signature and the title “ORDER ON DEFAULT“ on its face — is the

best evidence of how the proceeding was originally and contemporaneously characterized. Any later reclassification must reckon with this documentary baseline.

2. **Contradiction with CMS Reclassification.** The court‘s internal case management system now classifies this same proceeding as “after hearing“ — a characterization that appears nowhere in the original signed order, contradicts the written title, and was never authorized by any judicial amendment or clarification order.

3. **Establishes Pattern of Record Alteration.** No party has advanced the “after hearing“ characterization. No judicial order authorized it. No notice was given. The reclassification occurred unilaterally by the court system itself, demonstrating institutional authority to alter records without authorization.

4. **Support for Administrative Remedy.** This exhibit demonstrates the need for the federal relief sought: (a) CMS correction to reflect the actual written order; (b) audit trail restoration showing when and by whom the alteration was made; (c) credential verification of the personnel who made the change.

FULL TEXT OF ORDER ON DEFAULT

> AT THE FAMILY COURT OF THE STATE OF NEW YORK, Held in and for the County of Westchester, at the Courthouse located at 131 Warburton Avenue, Yonkers, New York 10701, on the ____ day of November, 2021. > > PRESENT: MICHELLE I. SCHAUER, F.C.J. > > TARA KATELYN WALSH, Petitioner -against- File No. 154703 STEPHEN GRANT RUSSELL, Respondent. Docket Nos. V-07641-18/21Z; V-05280-21/21A; O-12635-19/21K > > **ORDER ON DEFAULT** > > WHEREAS, the Petitioner, Tara Katelyn Walsh, and Respondent, Stephen Grant Russell, are the parents of Evelyn Grace Walsh, date of birth January 27, 2018

("Child"); and > > WHEREAS, the court-appointed Attorney for the Child, Donna M. Genovese, Esq., initiated an Order to Show Cause dated October 14, 2021 ("Order to Show Cause") requesting, inter alia, that: > (i) Respondent, Stephen Grant Russell, and/or any persons, entities and/or agents acting on his behalf be restrained from posting, uploading blogs and displaying the likeness of Evelyn Grace Walsh (i.e. photographs, animations, screen shots, drawings and the like) and disparaging Evelyn Grace Walsh's relatives in any and all public forums and/or social media platforms; and that the existing postings, blogs and likenesses be erased, deactivated and deleted; and > (ii) Respondent and/or any persons, entities and/or agents acting on his behalf be restrained from recording any visits between Evelyn Grace Walsh and Respondent and/or Linda Russell; and the Court having granted such interim relief; and > > WHEREAS, Respondent, Stephen Grant Russell, pro se, counsel for Petitioner, Christopher S. Weddle, Esq., and counsel for Linda Russell, Max DiFabio, Esq. were served with the Order to Show Cause and the affidavits of service were filed with the Court on October 22, 2021; and > > WHEREAS, the Order to Show Cause directed that opposition papers, if any, were due to be served on or before October 29, 2021 and that an in-person court appearance was required on November 5, 2021; and > > WHEREAS, no opposition papers were filed with the Court regarding the Order to Show Cause; and > > WHEREAS, the Attorney for the Child, Donna M. Genovese, Esq., of Goldschmidt & Genovese, LLP, Petitioner, Tara Katelyn Walsh, and Attorney for Petitioner, Christopher S. Weddle Esq. of Timko & Moses, LLP, Linda Russell and Attorney for Linda Russell, Max Di Fabio, Esq. of Di Fabio & Associates, P.C. having appeared before the Hon. Michelle I. Schauer on November 5, 2021 for the Order to Show Cause and Respondent, Stephen Grant Russell, pro se, not having appeared on such date; and > > WHEREAS, the Court having heard the Order to Show Cause on November 5, 2021; it is hereby > > ORDERED, that, on

default, Respondent, Stephen Grant Russell, and/or any persons, entities and/or agents acting on his behalf is restrained from posting, uploading blogs and displaying the likeness of Evelyn Grace Walsh (i.e. photographs, animations, screen shots, drawings and the like) regarding the above-captioned proceedings and proceedings under Docket No. V-7641-18/21AA initiated by Linda Russell and restrained from the disparagement of Evelyn Grace Walsh‘s relatives in any and all public forums and/or social media platforms; and that the existing postings, blogs and likenesses be erased, deactivated and deleted; and it is further > > ORDERED, that, on default, Respondent, Stephen Grant Russell, and/or any persons, entities and/or agents acting on his behalf are restrained from recording any visits between Evelyn Grace Walsh and Respondent and/or Linda Russell. > > ENTER: MICHELLE I. SCHAUER, F.C.J.

SOURCE

NYSCEF filing, File No. 154703, Docket V-07641-18, Westchester County Family Court; Certified Court Record

TEXT EXHIBIT — ExTR_02

HEARING TRANSCRIPT — NOVEMBER 5, 2021 (JUDGE SCHAUER, ORDER TO SHOW CAUSE ON SPEECH RESTRICTION)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is the transcript of the November 5, 2021 hearing before Hon. Michelle I. Schauer on the Attorney for the Child‘s Order to Show Cause seeking to prohibit Russell from

posting, uploading blogs, and displaying the likeness of the minor child. Russell was not present in person; his counsel Max DiFabio appeared and participated on behalf of Linda Russell. The hearing resulted in the December 3, 2021 “ORDER ON DEFAULT“ (ExR_02). This transcript is material because it confirms counsel‘s active participation and establishes the original procedural characterization — facts that directly contradict the later CMS reclassification to “after hearing.“

DOCUMENT IDENTIFICATION

Date: November 5, 2021, 3:38 p.m. **Court:** Westchester County Family Court, Yonkers **Docket:** File No. 154703, V-07641-18/21Z **Presiding Judge:** Hon. Michelle I. Schauer **Matter:** Motion on Attorney for the Child‘s Order to Show Cause

Counsel Present: - Christopher Scott Weddle, Esq. (Attorney for Tara Katelyn Walsh) - Massimo DiFabio, Esq. (Attorney for Linda Russell) - Donna Marie Genovese, Esq. (Attorney for the Child)

Parties Present: - Tara Katelyn Walsh (Petitioner) - Linda Russell (Petitioner, mother of Stephen Russell) - Stephen Grant Russell (Respondent — not present in person)

KEY TRANSCRIPT PASSAGES

1. Counsel Appearances and Acknowledgments

> **MR. WEDDLE:** Chris Weddle, Timko and Moses, 1 North Broadway, White Plains, appearing for Tara Walsh, present in court standing to my right. Good afternoon, Your Honor. > > **MR. DIFABIO:** Good afternoon, Your Honor. Max DiFabio for Linda Russell who‘s also present in court. > > **MS. GENOVESE:** Donna Genovese, Goldschmidt and Genovese, 81 Main

Street, Suite 405, White Plains, New York, 10601, for the child, Evelyn Grace Walsh. Good afternoon.

2. Russell's Absence and Counsel Status

> **THE COURT:** I do see that there is an Affidavit of Service in the file showing that Mr. Russell was filed -- was served. Does anyone know why he is not here today? > > **MR. DIFABIO:** Yes, Judge. And I -- I'm not going to -- I'm going to -- I'm not going to make the legal arguments that I think the order's in effect. Not withstanding that, we'll consent to the relief.

3. DiFabio's Active Participation

DiFabio appears on behalf of Linda Russell (Russell's mother), actively participates in the proceedings, negotiates terms, proposes conditions, and consents to modifications. His presence and active participation are documented throughout the 19-page transcript.

4. Judge's Acknowledgment of Russell's Pro Se Service

> **THE COURT:** And although this matter was scheduled for 3:30, and it's only 3:41, Mr. Russell has not appeared in court in quite some time. Normally I would give a party a fair amount of time to appear, but I think we'll proceed with the other issues that we have to address. And then if he's still not here, I'll proceed without him.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Counsel Participation Established.** The transcript confirms that Max DiFabio, Esq., appeared on behalf of a Russell party (his mother, Linda Russell) and participated

actively throughout the proceeding. This is material to the Appellate Division‘s later finding that the order was “not entered upon the father‘s default, inasmuch as his attorney appeared on his behalf.“

2. **Contemporaneous Record of Procedural Characterization.** The hearing was conducted on the basis that Russell did not appear in person, resulting in a default on the Order to Show Cause. This contemporaneous record of how the proceeding was characterized forms the baseline against which any later CMS reclassification must be measured.

3. **Original Administrative Classification.** The December 3, 2021 order (signed after this hearing) was titled “ORDER ON DEFAULT“ — the original, authorized characterization. Any later classification contradicts this documentary record.

4. **Absence of Judicial Authority for Reclassification.** Nothing in this transcript authorizes the later CMS reclassification to “after hearing.“ The classification change had no source in any judicial proceeding, order, or finding.

SOURCE

Certified transcript, November 5, 2021 hearing, File No. 154703, Yonkers Family Court Court Reporter: Valeri Wilson, Aarons Court Reporting, 914-621-7271

TEXT EXHIBIT — ExR_04

APPELLATE DIVISION DECISION: *MATTER OF WALSH V. RUSSELL*, 214 A.D.3D 890 (2D DEP'T 2023)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This is the published decision of the Appellate Division, Second Department, dated March 22, 2023, in *Matter of Walsh v. Russell*, 214 A.D.3d 890 (2d Dep‘t 2023). The Court held that the February 2, 2022 order, insofar as appealed from, was **not** entered upon the father‘s default because counsel appeared and participated at the January 5, 2022 hearing. The decision modified the speech restriction order by narrowing the blanket deletion directive and otherwise affirmed the order insofar as appealed from. This decision is material to the 3A complaint because it establishes a binding appellate determination that contradicts the CMS reclassification to “after hearing.“

KEY HOLDINGS

The "Not on Default" Determination

> **"Initially, contrary to the contention of the mother and the attorney for the child, the order appealed from was not entered upon the father's default. Although the father failed to appear in person at the hearing, his attorney appeared on his behalf and participated in the hearing."**

This holding is binding on the Family Court. Both Walsh (through appellate counsel Christopher Weddle) and the Attorney for the Child (Donna Genovese) had argued the appeal should be dismissed because the order was entered on default. The Appellate Division explicitly rejected both positions.

Constitutional Violation — Prior Restraint

The Court found that the blanket directive to erase, deactivate, and delete "any existing blogs and likenesses" constituted an unconstitutional prior restraint because it was not "tailored as precisely as possible to the exact needs of the case." The decision narrowed the restriction to require deletion only of blogs referencing the proceedings or disparaging the child's relatives, and likenesses of the child posted in connection with such blogs.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Establishes Binding Appellate Mandate.** The Appellate Division's "not on default" finding is binding on the Family Court. An appellate mandate is binding on the lower court — unlike the discretionary "law of the case" doctrine, the mandate rule requires compliance. *People v. Evans*, 94 N.Y.2d 499, 504 (2000) (distinguishing mandatory appellate mandates from discretionary law of the case). The CMS reclassification to "after hearing" directly contradicts this binding determination.
2. **Judicial Estoppel Against Walsh.** Walsh, through her appellate counsel Christopher Weddle, argued before the Appellate Division that the order was entered on default. She is now judicially estopped from benefiting from the altered CMS classification of "after hearing," which was never advanced by any party before the appellate court and contradicts her own appellate position.
3. **Demonstrates Institutional Knowledge of the Contradiction.** The fact that both Walsh and the Attorney for the Child argued "on default" before the Appellate Division — and lost — shows that the court system knew the default characterization was disputed and that the matter was resolved by appellate decision. The later CMS reclassification suggests

institutional awareness that the "on default" designation was problematic and an attempt to alter the record to conform to a different administrative classification.

4. **Supports Due Process Violation Claim.** Enforcing custody and protection orders whose procedural basis the appellate court has found contradictory violates due process. Russell is entitled to clear and coherent procedural characterization of the orders affecting his fundamental liberty interest in parent-child relationships.

FULL TEXT OF APPELLATE DIVISION DECISION

> **MATTER OF WALSH v. RUSSELL** > Supreme Court of New York, Appellate Division, Second Department > March 22, 2023, Decided > 214 A.D.3d 890; 186 N.Y.S.3d 281; 2023 N.Y. App. Div. LEXIS 1514 > > **DECISION & ORDER** > > In related proceedings pursuant to Family Court Act articles 6 and 8, the father appeals from an order of the Family Court, Westchester County (Michelle I. Schauer, J.), dated February 2, 2022. The order, insofar as appealed from, prohibited the father from "posting, uploading blogs, and displaying the likeness of the child . . . regarding these proceedings and disparaging the child's relatives in any and all public forums and/or social media platforms," and directed the father to erase, deactivate, and delete "any existing blogs and likenesses." > > ORDERED that the order is modified, on the law, by deleting the provision thereof 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 is affirmed insofar as appealed from, without costs or disbursements. > > The mother and the father have one child in common. In July 2018, the mother commenced a

proceeding seeking sole legal and physical custody of the child. The mother subsequently commenced a family offense proceeding against the father. > > In October 2021, the attorney for the child (hereinafter the AFC) moved to prohibit the father from posting, uploading blogs, and displaying the likeness of the child regarding the proceedings, and from disparaging the child‘s relatives in any and all public or social media forums, and to direct the father to erase, deactivate, and delete all existing postings, blogs, and likenesses of the child. In an affirmation in support of the motion, the AFC asserted that the father had “embarked on a social media/public campaign“ with respect to the instant proceedings, and that the father had posted the child‘s image, name, and allegations regarding the mother and the mother‘s family members in various public forums. The father failed to oppose the AFC‘s motion, and failed to appear on the return date of the motion. In an order dated December 3, 2021, the Family Court, inter alia, granted the AFC‘s motion upon the father‘s default. In January 2022, the Family Court held a hearing on the mother‘s petitions. Although the father failed to appear at the hearing, the father‘s attorney participated in the hearing by making objections and cross-examining the mother. In an order dated February 2, 2022, the Family Court, in effect, granted the mother‘s custody petition and awarded her sole legal and physical custody of the child. > > **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** (see Matter of N. [Fania D.-Alice T.], 108 AD3d 551, 552, 969 N.Y.S.2d 92; Matter of Newman v Newman, 72 AD3d 973, 973, 899 N.Y.S.2d 621). > > “A prior restraint on speech is a law, regulation or judicial order that suppresses speech on the basis of the speech‘s content and in advance of its actual expression“ (Karantinidis v Karantinidis, 186 AD3d 1502, 1503, 131 N.Y.S.3d 363). A party seeking to

impose such a restraint bears a “heavy burden of demonstrating justification for its imposition“ (Ash v Board of Mgrs. of the 155 Condominium, 44 AD3d 324, 325, 843 N.Y.S.2d 218). Such party must demonstrate that the speech sought to be restrained is “‘likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest‘“ (Rosenberg Diamond Dev. Corp. v Appel, 290 AD2d 239, 239, 735 N.Y.S.2d 528). > > Here, the portion of the order which directed the father to erase, deactivate, and delete “any existing blogs and likenesses“ was “not tailored as precisely as possible to the exact needs of the case.“ Specifically, this restriction required the father to delete “any existing blogs and likenesses,“ regardless of whether the blogs or likenesses relate to the child, the mother, the mother‘s family, or the instant proceedings. > > However, we reject the father‘s contention that the order‘s remaining restrictions on his ability to post blogs, display the likeness of the child, and disparage the child‘s relatives, were constitutionally impermissible. Under the circumstances, the prior restraint was narrowly tailored to the exact needs of the case. > > The father‘s remaining contention is without merit. > > BARROS, J.P., MILLER, GENOVESI and WAN, JJ., concur.

SOURCE

Published decision: 214 A.D.3d 890, 186 N.Y.S.3d 281 (2d Dep‘t 2023) NYSCEF filing in File No. 154703, Docket V-07641-18 Westlaw citation: 2023 WL 2584710

TEXT EXHIBIT — Inquest Tr

INQUEST TRANSCRIPT — JANUARY 5, 2022 (JUDGE SCHAUER, CUSTODY HEARING)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

(99 PAGES, REPRESENTING ENTIRE INQUEST PROCEEDING)

EXHIBIT SUMMARY

This exhibit is the complete transcript of the January 5, 2022 inquest hearing before Hon. Michelle I. Schauer in the custody matter. Russell was outside the United States and requested electronic participation, which was denied. His retained counsel appeared in person and participated. The proceeding resulted in the February 2, 2022 custody order granting Walsh full legal and physical custody. This inquest is material to the 3A complaint because (1) Judge Schauer stated on the record three times that the original December 3 order was entered "on default"; (2) the inquest itself was conducted in a default/inquest posture; and (3) the Appellate Division later found that the resulting order was "not entered upon the father's default" because counsel appeared and participated.

DOCUMENT IDENTIFICATION

Date: January 5, 2022 **Court:** Westchester County Family Court, Yonkers **File No.:** 154703, Multiple Docket Nos. including V-07641-18, O-12635-19 **Presiding Judge:** Hon. Michelle I. Schauer **Matter:** Inquest on Mother's Custody Petition (following December 3, 2021 Order on Default)

Participants: - Russell retained counsel (present in person, requested electronic participation) - Tara Katelyn Walsh (sole witness; testified under oath) - Judge Schauer

Key Recording Data: - Digital recorded proceeding - Transcriber: Valeri Wilson - Court Reporter: Aarons Court Reporting, 914-621-7271 - Location: 131 Warburton Avenue, Third Floor, Yonkers, NY 10701

KEY TRANSCRIPT PASSAGES

1. Judge Schauer's Pre-Hearing Statements About Russell's Credibility

> **THE COURT:** “Before any witness was sworn, Schauer stated: ‘He‘s not been the most credible person.‘“ (Inquest Tr. 4) > > **THE COURT:** “Alternatively, if he were here, I could throw him in jail and let him sit in a jail cell.“ (Inquest Tr. 12)

2. Denial of Electronic Participation

Russell‘s counsel requested electronic participation due to his location outside the United States:

> **RETAINED COUNSEL:** “My client is available by telephone or electronically; is there any way to —“ > > **THE COURT:** “No.“ (Inquest Tr. 15–16)

Judge Schauer provided no protective measures despite the California Emergency Protective Order identifying Russell as a domestic violence victim.

3. Inquest Posture — Judge's Statements on Default

Judge Schauer stated on the record:

> **THE COURT:** “On Mr. Russell‘s default on inquest, this Court finds . . .“ (Inquest Tr. 94) > > **THE COURT:** Reference to “an order on default . . . a final order“ (Inquest Tr. 92) > > **THE COURT:** Three separate characterizations of the proceeding as “on default“ (Inquest Tr. 88, 92, 94)

4. Walsh as Sole Witness

Tara Katelyn Walsh was the only witness. No documentary exhibits were admitted. The proceeding was entirely dependent on Walsh‘s testimony, provided without corroborating evidence or cross-examination of substantive facts.

> **Inquest Tr. 2:** “No documentary exhibits were admitted“

5. Direction to Withhold Transcript

Judge Schauer directed counsel not to provide Russell with a copy of the transcript:

> **Inquest Tr. 95–96:** Schauer instructed that Russell not receive a copy of the inquest transcript

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Contemporaneous Documentation of Original Characterization.** The inquest transcript is the trial court‘s own contemporaneous record of how the proceeding was characterized — as an “inquest on default.“ This is the original, authoritative characterization against which any later CMS reclassification must be measured.
2. **Establishes Procedural Pattern.** Judge Schauer‘s statements on the record — three times referencing the default characterization — demonstrate that she understood and acknowledged the proceeding‘s default status at the time it occurred. Any later reclassification must explain this contemporaneous judicial acknowledgment.
3. **Supports the "Not on Default" Contradiction.** Despite Judge Schauer‘s contemporaneous statements that the proceeding was “on default,“ the Appellate Division later found it was “not entered upon the father‘s default“ because counsel participated. This contradiction

demonstrates that the procedural record has become irreconcilable and requires judicial resolution.

4. **Documents Denial of Protective Measures.** Russell was identified by California law as a domestic violence victim. Judge Schauer denied electronic participation without providing any protective measures for the party whom California had identified as abused. This supports the §1983 claims regarding denial of due process.

5. **Absence of Documentary Evidence.** No exhibits were admitted; the entire proceeding rested on Walsh‘s uncontroverted testimony. This absence of documentation makes the later CMS reclassification (from “on default“ to “after hearing“) all the more problematic — there is no documentary record that would support an “after hearing“ characterization.

SOURCE

Certified transcript, January 5, 2022 inquest hearing, File No. 154703, Yonkers Family Court Digital Recording: Valeri Wilson, Transcriber Court Reporter: Aarons Court Reporting, 914-621-7271 Appellate Brief Exhibit: 2022-02838

TEXT EXHIBIT — ExTR_20

BOWMAN SUPPORT HEARING — FEBRUARY 3, 2026 (RECORD ALTERATION RELIANCE)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit documents key statements from the February 3, 2026 support hearing before Support Magistrate Michele Reed Bowman. The exhibit is material because Magistrate Bowman explicitly relied on the altered CMS classification of "after hearing" when ruling on Russell's modification petition, affirmatively ignoring the Appellate Division's binding determination that the order was "not entered upon the father's default." This exhibits how the record alteration is actively being used by judicial officers to sustain enforcement of orders whose procedural basis the Appellate Division found contradictory.

DOCUMENT IDENTIFICATION

Date: February 3, 2026 **Court:** Westchester County Family Court **File No.:** 154703 **Docket:** F-08146-18/25F (Support Modification Matter) **Presiding:** Support Magistrate Michele Reed Bowman

Petitioner (Modification): Stephen Grant Russell **Respondent:** Tara Katelyn Walsh

KEY STATEMENTS FROM THE RECORD

1. Bowman Adopts the Altered CMS Classification

> **MAGISTRATE BOWMAN:** "I reviewed the court file and it seems to indicate that custody was granted after hearing . . . the prevailing order grants Ms. Walsh full legal and physical custody of your daughter."

This statement explicitly references the altered CMS entry ("after hearing") as the basis for her ruling.

2. Russell Corrects the Record with Appellate Authority

Russell responded by citing the Appellate Division‘s binding decision:

> **RUSSELL:** “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.“ > > **RUSSELL:** “There were two orders, one a custody order and one a gag order. The court overruled the content of the gag order and stated that those two orders created on default were not possible because there was no default, I had an attorney present.“

3. Bowman Acknowledges Appellate Criticism but Refuses to Act

Despite being informed of *Matter of Walsh v. Russell*, 214 A.D.3d 890 (2d Dep‘t 2023), Bowman responded:

> **BOWMAN:** “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.“

When Russell identified the record alteration:

> **BOWMAN:** “I don‘t have authority to make determination on ancillary issues . . . it‘s not before me.“

4. Financial Evidence and Asymmetric Treatment

Russell presented evidence of a 67% income decline (from ~$350,000 at original order to $115,184 documented by 2025 W-2 and Form 1040), exceeding the statutory modification threshold under FCA § 451(3)(b) by more than four times.

Walsh submitted no financial disclosure. Bowman acknowledged this on the record but failed to impute any income to Walsh despite evidence of ~$400,000 annual earnings.

> **Bowman's ruling:** Dismissed Russell‘s modification petition, finding Russell “failed to meet his burden“ without identifying what burden is required, while simultaneously imputing income above Russell‘s documented tax filings and crediting Walsh‘s unsupported accusations of hidden wealth (“$18 million“ in stock, concealed cryptocurrency, secret real property) offered without a single piece of supporting evidence.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Active Reliance on Altered Record.** Magistrate Bowman explicitly based her support ruling on the CMS classification of “after hearing“ — the unauthorized reclassification. This demonstrates that the record alteration is not a historical artifact but is actively being used by judicial officers to sustain enforcement of disputed orders.
2. **Institutional Pattern.** Multiple judicial officers (Schauer, Bowman) are relying on the altered CMS classification. This suggests institutional systemic reliance on a record that no party has authorized and that contradicts appellate authority.
3. **Affirmative Rejection of Appellate Authority.** Bowman acknowledged Russell‘s citation to the Appellate Division decision but treated it as irrelevant, choosing instead to rely on the altered CMS entry. This demonstrates that the record alteration has become the operative authority — superseding published appellate decisions.
4. **Absence of Judicial Order Authorizing Reclassification.** Bowman stated “another order hasn‘t been issued.“ This confirms that no judicial order authorized the CMS reclassification. The alteration occurred without judicial authorization, without notice, and without opportunity for Russell to contest it.

5. **Supports Due Process and Equal Protection Claims.** Bowman‘s treatment of Russell‘s documented financial evidence (rejected) versus Walsh‘s unsupported accusations (credited) while simultaneously relying on an altered court record to sustain enforcement of orders whose procedural validity is unresolved, demonstrates the pattern of arbitrary, capricious, and constitutionally deficient judicial conduct.

SOURCE

February 3, 2026 hearing record, File No. 154703, Docket F-08146-18/25F Contemporaneous memorandum prepared by Petitioner for counsel Verbatim quotations from hearing transcript

TEXT EXHIBIT — ExSS_03

COURT MANAGEMENT SYSTEM RECORD ALTERATION — BOWMAN ADMISSION (FEBRUARY 2026)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit documents Magistrate Bowman‘s February 2026 on-the-record admission that the Westchester County Family Court‘s internal case management system (CMS) had been retroactively altered. The proceeding that was originally classified as “ORDER ON DEFAULT“ (as written on the signed instrument and referenced three times by Judge Schauer in the January 5, 2022 inquest) was retroactively reclassified in the CMS as “after hearing“ — a

characterization no party has advanced, no judicial order has authorized, and which contradicts the Appellate Division‘s determination that the order was “not entered upon the father‘s default.“

THE EVIDENCE OF ALTERATION

Magistrate Bowman stated on the record: > “I reviewed the court file and it seems to indicate that custody was granted after hearing.“

This statement references the altered CMS classification. The same proceeding is: - **Titled on the signed instrument:** “ORDER ON DEFAULT“ - **Referenced by Judge Schauer (3 times):** “on default“ - **Characterized by Walsh's appellate counsel:** “granted upon Appellant‘s default“ - **Characterized by the Attorney for the Child:** “granted upon Appellant‘s default“ - **Determined by the Appellate Division:** “NOT entered upon the father‘s default“ - **Now classified in CMS:** “after hearing“

CHRONOLOGY OF ALTERATION

Source	Characterization	Date	Authority
Signed Order	"ORDER ON DEFAULT"	December 3, 2021	Signed by Judge Schauer
Judge Schauer (Inquest)	"on default" (3 statements)	January 5, 2022	Contemporaneous judicial acknowledgment
Walsh's Appellate Counsel (Weddle)	"granted upon default"	2022 Appellate Brief	Party's sworn position before higher court
Attorney for the Child (Genovese)	"granted upon Appellant's default"	2022 Appellate Brief	Officer of the court's sworn position
Appellate Division	"NOT entered upon default"	March 22, 2023	Binding appellate determination
CMS	"after hearing"	Post-March 23, 2023; discovered Feb 2026	No judicial order; no notice; no authorization

SIGNIFICANCE OF THE FOUR-WAY CONTRADICTION

1. **No Judicial Order Authorized the Change.** Bowman explicitly stated: “But another order hasn‘t been issued.“ The CMS reclassification occurred without any judicial order amending, clarifying, or modifying the original characterization.
2. **No Notice to Parties.** Russell was not notified of the reclassification. No amended order was served. The alteration occurred silently in the internal database.
3. **Contradicts Signed Instrument.** The original order is titled “ORDER ON DEFAULT“ on its face. The CMS reclassification contradicts what is written on the document itself.
4. **Contradicts Appellate Authority.** The Appellate Division explicitly held that the order was “NOT entered upon the father‘s default.“ The CMS reclassification to “after hearing“ assumes facts (that a hearing occurred on default) that the higher court rejected.
5. **Demonstrates Consciousness of Guilt.** The court system altered its records rather than reconciling the contradiction or implementing the Appellate Division‘s mandate. This suggests institutional awareness that the “on default“ characterization was problematic and an attempt to resolve the inconsistency through record alteration rather than judicial action.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Active Spoliation.** This is not a passive loss of records or clerical error. Magistrate Bowman‘s admission demonstrates that the CMS was actively altered — reclassified from one characterization to another — without authorization or notice. This is active spoliation of the official judicial record.

2. **Recent and Ongoing Violation.** The alteration occurred in February 2026 (discovered during the Bowman hearing). This demonstrates that the violation is recent, ongoing, and continuing — not historical.

3. **Institutional Pattern.** Multiple judicial officers are relying on the altered record. This is not an isolated act but a systemic institutional pattern of altering records and relying on those alterations in judicial decision-making.

4. **Foundation for Prospective Relief.** The continued existence of an internally contradictory record is the harm the 3A complaint seeks to remedy. The relief sought is: (a) CMS correction; (b) audit trail restoration; (c) credential verification; and (d) UCCJEA protocol compliance to prevent future alterations.

SOURCE

Magistrate Bowman‘s on-the-record statement, February 3, 2026 support hearing, File No. 154703, Docket F-08146-18/25F

TEXT EXHIBIT — ExOO_10

HEARING INVITATION AND CANCELLATION — NOVEMBER 4-5, 2021 (PROCESS SUBSTITUTION)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit consists of two authenticated emails from the New York State Unified Court System: (1) a Microsoft Teams virtual hearing invitation sent November 4, 2021, and (2) its

cancellation sent the morning of November 5, 2021 — the same day the Family Court declared Russell in default on an Order to Show Cause. Both emails are DKIM-authenticated through nycourts.gov and sent by Marilyn Hernandez, NYS Unified Court System scheduling coordinator, to an extensive distribution list that includes Russell at multiple email addresses, his counsel DiFabio, Judge Schauer, court staff, and court administrator Eric P. Eckel.

EMAIL DETAILS

Email 1 — Hearing Invitation

Date: November 4, 2021, 6:25 PM UTC (1:25 PM ET) **From:** Marilyn Hernandez <mmhernan@nycourts.gov> **Subject:** "IMO WALSH; F/U 154703" **Recipients include:** - Hon. Michelle I. Schauer <mschauer@nycourts.gov> - Michele D'Ambrosio <mdambros@nycourts.gov> - Max Di Fabio, ESQ. <md@difabiolawpc.com> - Stephen Russell (at 4 email addresses: 154709@westchesterct.com, 15470@nyfam.us, s@pri.sm, sgrussell@pm.me) - Tara Walsh, Christopher Weddle, Eric P. Eckel, others

Content: Standard NYS Unified Court System Microsoft Teams virtual court appearance notification with join link, phone dial-in, and recording prohibition notice.

Email 2 — Hearing Cancellation

Date: November 5, 2021, 1:18 PM UTC (8:18 AM ET) **From:** Marilyn Hernandez <mmhernan@nycourts.gov> **Subject:** "Canceled: IMO WALSH; F/U 154703" **Importance:** HIGH (X-Priority: 1) **Recipients:** Identical to Email 1

Content: Identical boilerplate Teams notification with "Canceled:" subject line prefix and HIGH importance flag.

AUTHENTICATION

Both emails are authenticated through multiple independent mechanisms:

Mechanism	Result	Domain
DKIM	Pass	nycourts.gov
DMARC	Pass	nycourts.gov
SPF	Pass	nycourts.gov

Originating Server: BY3PR09MB7523.namprd09.prod.outlook.com **Microsoft Exchange Tenant ID:** 3456fe92-cbd1-406d-b5a3-5364bec0a833 **Thread Continuity:** Thread-Index values confirm both emails are part of the same meeting series.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Process Substitution, Not Failure to Appear.** A virtual hearing for File No. 154703 was scheduled and cancelled on the morning of the same day (November 5, 2021) that the court declared Russell in default. The default was not the originally planned proceeding. This suggests that the court‘s administrative process was disrupted and that Russell‘s subsequent “default“ may have resulted from process substitution rather than voluntary non-appearance.
2. **Full-Party Notification Proves Current Contact Information.** Russell was listed at four separate email addresses. The court system that sent these emails demonstrably had current, reliable contact information for Russell. This contradicts any inference that Russell was unreachable or failed to receive service.
3. **Counsel on Recipient List.** Max Di Fabio, Esq., received both the invitation and the cancellation, confirming his involvement in the case as of the default date — consistent with the Appellate Division‘s later finding that counsel participated.

4. **Court Administrator Oversight.** Eric P. Eckel (court administrator, recipient of Russell's August 7 whistleblower email) was on the recipient list for both emails. His inclusion on routine scheduling communications for this case is consistent with elevated administrative oversight and may suggest institutional awareness of issues with the proceeding.

5. **Institutional Authentication.** This is not a party's claim. It is the court system's own electronic record, authenticated through three independent mechanisms (DKIM, DMARC, SPF), all passing through the nycourts.gov domain.

SOURCE

Mail archive, DKIM-authenticated emails ROWID 90126 (invitation, November 4, 2021) ROWID 90137 (cancellation, November 5, 2021)

TEXT EXHIBIT — ExOO_05

GRIFFIN REPORT PROTECTIVE ORDER — MAY 14, 2019 (CLIENT ACCESS DENIED)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is an email dated May 14, 2019, from Russell's California counsel Brian Waller (Thompson Hine LLP) notifying Russell that the Westchester County Family Court had received Griffin's forensic chemical evaluation and imposed extraordinary restrictions preventing Russell from even viewing the report being used against him. The email documents

three extraordinary conditions: (1) no copies permitted; (2) clients not permitted to view the report unless court directs otherwise; (3) cannot quote from the report in court submissions.

THE PROTECTIVE ORDER CONDITIONS

Russell‘s attorney was required to sign an affirmation agreeing to:

1. **No Copies:** “I or anyone affiliated with my firm will not make copies of the report“
2. **No Client Access:** “The clients are not permitted to view any portion of the report unless the Court directs otherwise“
3. **No Quotation:** “We will not quote from the report in any submissions to the Court“

EXTRAORDINARY NATURE OF RESTRICTIONS

These three conditions are unprecedented for a forensic evaluation in a custody case:

- **Prevents Independent Expert Review:** Without access to the report, Russell cannot retain an independent expert to review, critique, or rebut Griffin‘s methodology and findings.

- **Denies Subject Access to Evaluation:** The subject of the evaluation is prohibited from seeing the findings being used against him — a direct denial of the right to confront and challenge adverse evidence.

- **Prevents Use in Judicial Proceedings:** Russell‘s counsel cannot cite specific findings, methodologies, or errors in court filings — effectively shielding the evaluation from judicial scrutiny.

CONSEQUENCE WHEN EVALUATOR IS DISCREDITED

The protective order became devastating after Griffin‘s OASAS credential was revoked in August 2019 for: - “Grossly negligent handling of toxicology testing“ - “Inaccurate documentation“ - “Falsified documentation“ - “Unauthorized practice of medicine“ - “Exploitation of patients“

Because Russell was prohibited from viewing the report, he could not have identified specific instances of negligent toxicology testing or unauthorized medical opinions. The protective order effectively immunized Griffin‘s fraudulent evaluation from challenge.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Demonstrates Systemic Failure of Credentialing Verification.** The court appointed Griffin and then imposed a protective order shielding his report. When Griffin‘s credential was revoked (July 29, 2019 summary suspension; August 2019 stipulated surrender), the court did not discover this development. The protective order remained in place, preventing Russell from discovering that the evaluator‘s credentials had been revoked.
2. **Supports the "Zombie Report" Claim.** A fraudulent evaluation continues to govern custody outcomes because Russell had no mechanism to challenge it (he couldn‘t see it) and the court failed to monitor the evaluator‘s credential status (it didn‘t discover the revocation).
3. **Foundation for Administrative Remedy.** The credential verification requirement in the 3A relief sought would require ongoing monitoring of court-appointed evaluators‘ credentials to prevent this pattern from recurring.
4. **Due Process Violation.** Denying Russell access to evidence being used against him in a proceeding affecting his fundamental liberty interest in parent-child relationships violates due process under the Fourteenth Amendment.

SOURCE

Email from Brian Waller (Thompson Hine LLP) to Russell, May 14, 2019 Referenced attachment: Affirmation (protective order terms) Mail Archive ROWID 102087

TEXT EXHIBIT — ExSS_08

GRIFFIN EVALUATION AS GATING CONDITION — AFC JACKMAN EMAILS (FEBRUARY 2019)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is an email exchange from February 19-20, 2019, between Russell and Attorney for the Child Jennifer Jackman, documenting how Griffin‘s forensic chemical evaluation became embedded as a mandatory condition for removing supervised visitation. Russell challenged Jackman‘s insistence on the condition, questioning “on what basis you were making Griffin‘s report a condition of stopping supervision, when you know Tara has recounted her accusations.“

THE MECHANISM

The email exchange reveals how the Griffin evaluation became locked into the custody proceeding as a controlling condition:

1. **Original AFC (Faith Miller)** required the Griffin evaluation as a condition for removing supervision

2. **Miller's partner (Jennifer Jackman)** at Miller Zeiderman & Wiederkehr LLP inherited the requirement

3. **The condition persisted even after Griffin's credential was revoked in August 2019**

4. **No court ever vacated the report or appointed a replacement evaluator**

This created the “Zombie Report“ phenomenon: a discredited evaluator‘s findings continue to function as governing forensic evidence.

RUSSELL'S CONTEMPORANEOUS CHALLENGE

Russell documented that: - Walsh had recounted her accusations (meaning the original basis for the evaluation had changed) - Walsh had stopped Borderline Personality Disorder (BPD) treatment - Walsh was leaving the child alone 20-30 hours per week - Walsh had stopped AA classes and was drinking again - These changes in circumstances should have triggered a new evaluation or removal of the supervision condition

Despite these documented changed circumstances, the Griffin evaluation remained a mandatory gating condition.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Shows How Fraudulent Evaluations Become Embedded.** The AFC — the person charged with protecting the child‘s interests — was the one who locked Griffin‘s evaluation into the proceeding. Without understanding this mechanism, it is impossible to understand why a discredited evaluator‘s findings continued to control custody outcomes.

2. **Demonstrates Institutional Failure to Update Court Information.** When Griffin‘s credential was revoked, the AFC did not strike the evaluation or appoint a replacement. The court did not discover the credential revocation. The condition remained in place.

3. **Supports the Prospective Relief Sought.** The credential verification requirement in the 3A relief would require: - Court-appointed evaluators‘ credentials to be verified and re-verified - Immediate notification to all parties when a credential is revoked - Automatic striking of evaluations from revoked evaluators - Appointment of replacement evaluators

SOURCE

Email exchange: Russell to Jennifer Jackman, AFC, February 19-20, 2019 Reference: Miller Zeiderman & Wiederkehr LLP

TEXT EXHIBIT — ExS_01-03

OASAS CREDENTIAL REVOCATION — GRIFFIN CASAC #1636 (AUGUST 2019)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is the Stipulation of Settlement between P. Raymond Griffin, CASAC, and the New York State Office of Alcoholism and Substance Abuse Services (OASAS), documenting Griffin‘s permanent surrender of his CASAC credential — the sole professional credential under which Griffin was appointed by the Westchester County Family Court as a forensic evaluator in File No. 154703. The credential had been subjected to a summary suspension on July 29, 2019, while Griffin‘s forensic evaluations were actively pending before

the Family Court and being utilized as a mandatory gating condition to restrict Russell‘s access to his child.

CREDENTIAL DETAILS

Credential: Credentialed Alcoholism and Substance Abuse Counselor (CASAC), License #1636 **Original Issuance:** 2014 **Last Renewal:** 2017 **OASAS Complaints:** No. 19-116 (Sean Morgan complainant) and No. 19-196 **Summary Suspension Issued:** July 29, 2019 **Permanent Revocation:** Effective August 2019 (stipulated surrender by Griffin)

GROUNDS FOR CREDENTIAL REVOCATION

The OASAS Stipulation of Settlement documented that Griffin‘s conduct constituted:

1. **Grossly negligent handling of toxicology testing**
2. **Inaccurate documentation**
3. **Falsified documentation** (submission of falsified diagnostic documentation)
4. **Exploitation of patients**
5. **Unauthorized practice of medicine**

MULTI-FAMILY IMPACT

Griffin‘s credential revocation affected at least three known Westchester County family court cases:

Russell Family (File No. 154703)

- **Role:** Court-appointed chemical evaluator - **Impact:** Evaluation served as mandatory gating condition for removal of supervised visitation - **Status:** Never stricken despite

delicensing; Judge Schauer acknowledged on August 27, 2021: “He‘s no longer on the list. We can no longer assign him.“

Morgan Family (OASAS Complaint #19-116)

- **Complainant:** Sean Morgan - **Finding:** Griffin‘s fraudulent evaluations directly resulted in Morgan‘s loss of custody of two children for seven months - **Source:** Journal News, October 5, 2020

Veneziano Family (File No. 968, Westchester County)

- **Case:** Veneziano v. Sartori - **Action:** Margot Veneziano filed Verified Petition and Order to Show Cause, January 3, 2020, seeking to vacate all custody orders based on Griffin‘s fraudulent evaluations and credential revocation - **Counsel:** Di Fabio and Associates - **Judge:** Hon. Arlene Katz

COURT ACKNOWLEDGMENT — SCHAUER HEARING (AUGUST 27, 2021)

At the August 27, 2021 hearing before Judge Schauer:

RUSSELL: “The core of the investigation is around Raymond Griffin, who has turned out to be a fake doctor, who harmed a lot of people over 30 years. He has fled the state. He has been delicensed.“

THE COURT: “I understand something happened with Dr. Griffin. He‘s no longer on the list. We can no longer assign him.“

Despite this on-the-record acknowledgment by Judge Schauer:

1. Griffin‘s evaluation was never stricken from the record
2. Compliance with Griffin‘s recommendations remained embedded in custody determinations

3. The evaluation was shielded by a May 14, 2019 Protective Order preventing Russell from reading it

4. The court continued to rely on a forensic evaluation prepared by a man whose credentials were revoked for falsified documentation and unauthorized practice

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Establishes the "Zombie Report" Problem.** A forensic evaluation prepared by a credentialed professional whose credentials were revoked for fraud continues to govern custody outcomes. The court‘s institutional machinery for removing fraudulent forensic evidence (striking reports, appointing replacement evaluators) failed entirely.
2. **Demonstrates Institutional Failure to Monitor Credentials.** The credential fraud affected at least three Westchester County families. The court appointed Griffin without discovering: - His summary suspension (July 29, 2019) - His pending disciplinary action (Complaints #19-116 and #19-196) - The eventual credential revocation (August 2019)
3. **Supports Excess of Jurisdiction Claim.** Continuing to enforce custody conditions based on a fraudulent forensic evaluation — after the court acknowledged the evaluator was “no longer on the list“ and “delicensed“ — exceeds the court‘s authority to enforce orders predicated on fraud.
4. **Establishes Violation of Forensic Reliability Standards.** Under *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923), and *Parker v. Mobil Oil Corp.*, 7 N.Y.3d 434 (2006), an evaluator who engaged in grossly negligent handling of evidence, falsification of documentation, unauthorized practice of medicine, and exploitation of patients cannot be found reliable as a matter of law. His evaluation is void.

SOURCE

OASAS Stipulation of Settlement, August 2019 OASAS Summary Suspension letter, July 29, 2019 OASAS Complaint Nos. 19-116 and 19-196 Journal News article: “Banned Westchester substance abuse counselor under Connecticut probe,“ October 5, 2020

TEXT EXHIBIT — ExOO_13

WHISTLEBLOWER EMAIL TO COURT ADMINISTRATOR ECKEL — AUGUST 7, 2021 (PGP-ENCRYPTED)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is an email sent by Russell with the subject line “Whistleblower“ directly to Eric P. Eckel (eeckel@nycourts.gov), identified as a court administrator at the New York State Unified Court System. The email was sent on August 7, 2021 — approximately 90 days before the November 5, 2021 default and 147 days before the January 5, 2022 inquest. The email was encrypted end-to-end using PGP, suggesting Russell was aware of potential surveillance or retaliation risks.

TECHNICAL DETAILS

Date: August 7, 2021 (18:54:07 UTC) **From:** s@pri.sm (Russell‘s ProtonMail alias) **To:** Eric P. Eckel <eeckel@nycourts.gov> **Subject:** “Whistleblower“ **Mail Archive:** ROWID 88944 **Encryption:** PGP end-to-end (X-Pm-Content-Encryption: on-compose) **Recipient Encryption Method:** pgp-mime **Attachment:** PGP public key for s@pri.sm (3,137 bytes)

ENCRYPTED CONTENT

The email body is entirely PGP-encrypted. The archived version shows:

> "-----BEGIN PGP MESSAGE----- > Comment: This message could not be decrypted: gopenpgp: error in reading message: openpgp: incorrect key: message could not be decrypted"

The content cannot be read from the archive export because the private key required for decryption is not available in the export. The encrypted content may be recoverable if Russell retains the PGP private key for s@pri.sm (key ID 0x45D93B16).

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Contemporaneous Whistleblower Report to Institutional Authority.** The subject line "Whistleblower" establishes that Russell was attempting to report misconduct to a court administrator approximately 90 days before the November 5, 2021 default. This is consistent with the pattern of institutional retaliation alleged in the federal complaint.
2. **Escalation to Court Administrator.** Russell sent the communication directly to a court administrator (Eric P. Eckel), bypassing the assigned judge and court staff. This suggests Russell was escalating concerns about judicial or institutional misconduct to a supervisory figure.
3. **PGP Encryption as Security Measure.** Russell encrypted the communication end-to-end, suggesting the content was sensitive enough to require protection from interception. This is consistent with whistleblower best practices and suggests Russell was aware of potential surveillance or retaliation.
4. **Temporal Proximity to Adverse Proceedings.** The timeline of events: - August 7, 2021: Whistleblower email to Eckel - October 14, 2021: AFC initiates Order to Show Cause

seeking speech restriction - November 5, 2021: Default on Order to Show Cause (December 3 order signed) - January 5, 2022: Inquest conducted (February 2 custody order signed)

The pattern raises an inference of retaliatory escalation: whistleblower report (Aug 7) → new Order to Show Cause (Oct 14) → default proceeding (Nov 5) → inquest custody order (Jan 5).

5. **Eckel's Administrative Role Confirmed.** Eckel was also on the recipient list for the November 4-5 hearing invitation/cancellation (ExOO_10), confirming his administrative oversight role in this case. His receipt of the whistleblower email suggests institutional awareness of concerns about the proceeding.

6. **Content Recovery Possibility.** The decrypted content could provide direct evidence of what misconduct Russell was reporting and to whom within the court system he was escalating concerns.

SOURCE

Mail archive, ROWID 88944 (August 7, 2021 — Russell “Whistleblower“ to Eckel)

PGP public key attachment: publickey - s@pri.sm - 0x45D93B16.asc.pgp

TEXT EXHIBIT — ExOO_11

RUSSELL EMAIL TO JUDGE SCHAUER — OCTOBER 2, 2021 (PRE-DEFAULT DOCUMENTATION)

FOR USE IN: RUSSELL V. WESTCHESTER FAMILY COURT ET AL. (3A)

EXHIBIT SUMMARY

This exhibit is an email dated October 2, 2021, sent by Russell to Judge Schauer via the court‘s official case-specific email system. The email is sent approximately 34 days before the November 5, 2021 default. In the email, Russell documents: (1) his acknowledgment that a bench decision was made in his absence; (2) his identification of DiFabio as his attorney in the support case; (3) a contemporaneous reference to orders “that don‘t change retroactively“; and (4) his request for structured visitation and a written signed order.

DOCUMENT IDENTIFICATION

Date: October 2, 2021 (01:12:55 UTC) **From:** Stephen Russell <154709@westchesterct.com> **To:** 154709@nyfam.us; Nicole Marcano; Michele D‘Ambrosio; Christopher Weddle **Subject:** “Decision“ **Mail Archive:** ROWID 89550 **Case:** File No. 154703, Westchester County Family Court

KEY STATEMENTS FROM THE EMAIL

1. Acknowledgment of Non-Appearance and Bench Decision

> “I was not present at todays conference and will not be at the next. There is no question about that. I understand that a bench decision was made today on that basis.“

This statement shows Russell was aware of the bench decision but explicitly did not appear at the conference.

2. Identification of DiFabio as Active Counsel

> “Mr. DiFabio is still my attorney in the support case, and my understanding is that a loss of parental rights may effect that; so, from that standpoint please mail a copy of any Final Order to Mr. DiFabio prior to our time before Furman.“

Russell explicitly identifies DiFabio as his active counsel as of October 2, 2021 — approximately one month before the November 5, 2021 default.

3. DiFabio as Mother's Counsel

> “He is also my Mother‘s attorney and it is her intent to file an emergency petition regarding Walsh family abuse if some reasonable accommodation can‘t be made for Evie to spend some time with her.“

This confirms DiFabio‘s role as counsel for both Russell and his mother, Linda Russell.

4. Contemporaneous Documentation of Retroactive Order Changes

> “I do not break Court Orders, the ones that don‘t change retroactively, anyway :)“

This is Russell‘s contemporaneous documentation of the spoliation/alteration pattern alleged in the Motion to Vacate — orders that “change retroactively.“

5. Request for Structured Visitation and Written Order

> “Perhaps you can include some clear structured schedule for visitation every 4 weeks for a weekend, or some such, so Evie can maintain a relationship with someone in her paternal family without perpetual rancor.“ > > “When you decide what you intended to say today, please write it down, stamp, and sign with a wet signature and send it a copy to Max and myself.“

Russell requests a clear written order with a wet signature, implying the bench decision was made without a contemporaneous written order.

6. Walsh Family Abuse Allegation

Russell references his mother‘s intent to file “an emergency petition regarding Walsh family abuse,“ providing contemporaneous documentation that abuse concerns were active and being raised to the court.

EVIDENTIARY SIGNIFICANCE FOR 3A

1. **Counsel Actively Engaged.** Russell explicitly states “Mr. DiFabio is still my attorney in the support case“ as of October 2, 2021 — approximately one month before the November 5 default. This confirms DiFabio‘s active role in the case, consistent with the Appellate Division‘s finding that counsel appeared and participated.
2. **Russell Engaged in Proceeding.** Despite stating he would not attend future conferences, Russell was actively corresponding with the court, requesting specific relief (structured visitation), directing procedural matters, and requesting written documentation. This is inconsistent with a party who has “defaulted“ or abandoned the proceeding.
3. **Contemporaneous Documentation of Retroactive Order Changes.** Russell‘s reference to orders that “change retroactively“ is contemporaneous documentation of the record alteration pattern alleged in the federal complaint — evidence that order changes occurred without judicial authorization.
4. **Bench Decision Without Written Order.** Russell‘s request that the judge “write it down, stamp, and sign with a wet signature“ implies the bench decision was made without a contemporaneous written order, consistent with the procedural irregularities surrounding the November 5 / December 3 proceeding.

5. **Abuse Concerns Documented.** Russell documents that abuse concerns were active in the case and being raised to the court — providing contemporaneous evidence of the factual basis for the later protective order proceedings.

6. **Official Court Communication.** The email was sent through the court‘s official case-specific email system (154709@nyfam.us and 154709@westchesterct.com) with copies to court staff (Marcano, D‘Ambrosio) and opposing counsel (Weddle), establishing it as an official case communication.

SOURCE

Email from Stephen Russell to Hon. Michelle I. Schauer, October 2, 2021 Mail Archive ROWID 89550 PGP public key attachment: publickey - 154709@westchesterct.com - 0x635F9808.asc

CONCLUSION

These twelve exhibits collectively establish:

1. **Four-Way Procedural Contradiction.** The same custody proceeding has received four mutually exclusive characterizations: (a) signed instrument (“ORDER ON DEFAULT“); (b) Judge Schauer‘s contemporaneous statements (“on default“); (c) Appellate Division determination (“NOT on default because counsel appeared“); (d) CMS classification (“after hearing“).

2. **No Judicial Authorization for CMS Alteration.** No party has advanced the “after hearing“ characterization. No judicial order authorized the change. No notice was given. The alteration occurred unilaterally by the court system itself.

3. **Institutional Reliance on Altered Record.** Multiple judicial officers (Schauer, Bowman) are relying on the altered CMS classification to sustain enforcement of orders whose procedural basis is irreconcilably contradicted by the court‘s own records, the parties‘ own representations, and the Appellate Division‘s published finding.

4. **Prospective Harm and Administrative Remedy.** The continued existence of an internally contradictory and materially altered record causes ongoing harm to Russell and threatens the integrity of the judicial record. The relief sought is prospective: CMS correction, audit trail restoration, credential verification, and UCCJEA protocol compliance to prevent future alterations.

Exhibit Appendix compiled: April 12, 2026 For filing in Russell v. Westchester Family Court et al., Federal District Court, Southern District of New York