

# Complaint Form

A complaint to the Commission must be in writing and signed. (See New York Judiciary Law Section 44.1.) A complaint does not have to be sworn or notarized. You may submit a complaint by letter or by using this complaint form. If you submit a letter, please include the information requested by this form. Please note that all complaints received by the Commission are scanned and electronic copies are provided to each Commission member; therefore, it is unnecessary to provide more than one copy of any material.

Today's Date

6/25/16

Your Name :

Anthony Zappin

Home Phone:

(304) 654-6195

Business Phone

Your Address:

1827 Washington Blvd.  
Huntington, WV 25701

Are You represented by a lawyer?

Yes  No

Lawyer's Name

Lawyers Address

Telephone

## Complaint Information

Judge's Name

Matthew F. Cooper

Judge's Court

Supreme Court, Part 51

County

New York

Date(s) of Incident(s)

June 24, 2016

Name of Case (if applicable)

Zappin v. Comfort

Index Number of Case (if applicable)

301568/14

Details of Complaint:

In the space below, please describe the alleged misconduct. Include as much detailed information as possible, such as what happened, where and when; the names of witnesses; who said what to whom, and in what tone of voice; etc. Use additional sheets if necessary.

See the attached letter.

Print Form

Signature: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'A. J. [unclear]', written over a horizontal line.

# Anthony Zappin

244 Fifth Avenue, Suite F-200 • New York, NY 10001 • Phone: (304) 654-6195 • Fax: (646) 365-3424  
E-Mail: anthony.zappin@gmail.com

Date: June 25, 2016

## **BY E-MAIL (cjc@cjc.ny.gov)**

New York State Commission on Judicial Conduct  
61 Broadway, Suite 1200  
New York, NY 10006

Re: Complaint against Justice Matthew F. Cooper (Supreme Court New York County)

Dear Sir or Madam:

I write to file a formal complaint against Justice Matthew F. Cooper for his apparent violations of 22 NYCRR 100.1, 100.2(A), 100.3(B)(4) and 100.3(B)(6).

On June 24, 2016, Justice Cooper issued an order in the matter *Zappin v. Comfort*, Index No. 301568/14 containing multiple knowing inaccurate statements of fact. Justice Cooper's misapprehension of the facts has been a persistent problem throughout the proceeding. Enclosed herewith is the two (2) page order.

First, Justice Cooper states that I commenced "a prior divorce action... and later discontinued" it. I have not filed any other action for divorce in New York state or any other jurisdiction.

Second, Justice Cooper states that "the parties have exchanged the required pretrial documents (with the exception of plaintiff having failed to file a witness list) ...." Justice Cooper's statement is deliberately misleading as Defendant Claire Comfort has likewise failed to file and serve a witness list.

Third, Justice Cooper states that "the court, at the pretrial conference deemed all discovery complete ...." At the pretrial conference on May 11, 2016, the court made no such pronouncement and the parties have yet to file a Note of Issue.

Fourth, Justice Cooper states "the financial documents exchange constitute sufficient disclosure to enable each side to properly try the case on June 27, 2016." Justice Cooper's statement is inaccurate. The only financial disclosure that has been exchanged is the parties' tax returns, which will not allow either party to adequately try their case. The financial issues, as reflected in the parties' Statements of Proposed Distribution, involve imputation of income, reallocation of litigation expenses and attorneys' fees just to name a few. Justice Cooper is deliberately and actively denying the parties a full and fair opportunity to be heard.

Lastly, and most important, Justice Cooper states that "plaintiff did not object to trial going forward as planned until he e-mailed the court a letter on June 23, 2016 at 9:50 P.M. requesting an adjournment." Justice Cooper's statement is unequivocally false. I objected to trial

proceeding on the record at the pretrial conference on May 11, 2016. Additionally, my Statement of Proposed Disposition filed and served on May 31, 2016 (almost a month prior) specifically lists several objections to trial going forward. My Statement of Proposed Disposition is enclosed herewith.

Justice Cooper's conduct in knowingly depicting record inaccurately in a signed judicial order is precisely the type of conduct that undermines and erodes public confidence in the judiciary.

Additionally, I would direct the Commission to the following videos of Justice Cooper making highly inappropriate and intemperate remarks at a Continuing Legal Education presentation:

<https://www.youtube.com/watch?v=X661udvkcC8>

<https://www.youtube.com/watch?v=zuIT1MEvJug>

<https://www.youtube.com/watch?v=9yVOCGVqCGA>

<https://www.youtube.com/watch?v=cTOnYzcGeg0>

[https://www.youtube.com/watch?v=TyQnCfRZ\\_ko](https://www.youtube.com/watch?v=TyQnCfRZ_ko)

<https://www.youtube.com/watch?v=kiIzRmy73vU>

<https://www.youtube.com/watch?v=Jeb2dNLB2Wo>

<https://www.youtube.com/watch?v=CLshHWxa-eM>

<https://www.youtube.com/watch?v=p2wm5UANgkk>

<https://www.youtube.com/watch?v=YTrwwZU2o4A>

<https://www.youtube.com/watch?v=P9IC0zHCWtl>

<https://www.youtube.com/watch?v=JEMvtN5VpLg>


<https://www.youtube.com/watch?v=G9xociqC300>

<https://www.youtube.com/watch?v=0DpZtTX9YXk>

Justice Cooper's statements in the above videos are apparent violations of 22 NYCRR 100.1, 100.2(A), 100.3(B)(3), 100.3(B)(4), 100.3(B)(6) and 100.3(B)(8) and 100.3(E)(1)(f). Indeed, Justice Cooper's statements in the videos are so egregious and prejudicial that it is really unprecedented. No reasonable person could conclude that Justice Cooper has the temperament to fulfill his duties as a matrimonial judge.

Should the Commission need any additional information, I remain available to answer any questions and provide requested information. I sincerely appreciate the Commission's courtesy and attention to this matter.

Respectfully,



Anthony Zappin

cc: Hon. Matthew F. Cooper  
Robert Wallack

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MATTHEW F. COOPER  
*Justice*

PART 51

ANTHONY ZAPPIN,  
Plaintiff,  
- v -  
CLAIRE COMFORT  
Defendant.

INDEX NO. 301568-2014  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. \_\_\_\_\_  
MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to\_\_ were read on this motion brought by the defendant and cross-motion by the plaintiff:

Plaintiff's Order to Show Cause; Affidavit; Exhibits -

PAPERS NUMBERED  
\_\_\_\_\_

Cross-Motion:  Yes  No

WHEREAS the parties were married on May 2, 2013, and separated approximately 6 months later on November 10, 2013; and

WHEREAS, ever since their separation, the parties have been litigating in the courts of the District of Columbia and New York State, including a prior divorce action commenced by plaintiff in this court and later discontinued by him, followed by the instant action commenced by plaintiff on February 11, 2014; and

WHEREAS, this court conducted a 14 day custody trial and rendered a 101 page decision on February 29, 2016, resolving all issues concerning custody, access, and decision-making with regard to the child of the marriage; and

WHEREAS, this court directed, both from the bench at a pretrial conference on May 11, 2016 and by a written order of said date, that the trial on the financial issues would take place on June 27, 2016 and be concluded that same day; and

WHEREAS, the parties have exchanged the required pretrial documents (with the exception of plaintiff having failed to file a witness list), with said documents including statements of proposed disposition, updated statements of net worth, defendant's income tax returns for years 2013-2015, and plaintiff's income tax returns for years 2013-2014; and

WHEREAS, the court, at the pretrial conference deemed all discovery complete; and

WHEREAS, the financial documents exchanged constitute sufficient disclosure to enable each side to properly try the case on June 27, 2016; and

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

WHEREAS, plaintiff did not object to the trial going forward as planned until he e-mailed the court a letter on June 23, 2016 at 9:50 P.M. requesting an adjournment; and

WHEREAS, the court has reserved the full day of June 27, 2016 for the financial trial and the ultimate disposition of the case, including an inquest on grounds; and

NOW, given the foregoing, it is hereby

ORDERED, the plaintiff's letter request to adjourn or otherwise postpone the trial is denied; and it is further

ORDERED that the financial trial in this matter, as well as the inquest on the grounds for the divorce, shall take place on June 27, 2016, commencing at 9:15 A.M.; and it is further

ORDERED, as set forth in the court's order of May 11, 2016, that in light of the very short duration of the marriage between the parties and the limited financial issues presented, each side shall have a total of 3 ½ hours to present his or her case so that the trial can be completed that day.

Dated: **JUN 24 2016**



**MATTHEW F. COOPER, J.S.C.**

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

SUBMIT ORDER/ JUDG.  SETTLE ORDER/ JUDG.





Plaintiff objects to the Court's docketing of a financial trial in this matter on the grounds that he is unable to effectively represent himself before Justice Matthew Cooper. Accordingly, Plaintiff requests that the Court appoint him counsel.

Plaintiff objects to Justice Matthew Cooper's presiding over a financial trial in this matter as he has an apparent conflict of interest. Defendant has requested that income be imputed on Plaintiff in the amount of \$230,000. Plaintiff currently earns no income as a result of Justice Cooper's publication and dissemination to the press of the statutorily sealed September 18, 2015 sanctions order in this matter. Plaintiff's loss of income was a direct result of Justice Cooper's improper and unlawful actions. As a consequence, Justice Cooper has a conflict of interest in presiding over a financial trial where he will be the arbiter in determining damages of his own wrongful actions. *See* Judicial Canons, 22 NYCRR 100.3(E)(1)(a) and (c).

Plaintiff objects to Justice Matthew Cooper's presiding over a financial trial in this matter as he has already made improper public statements on the issue of child support against Plaintiff, which were contained in the Court's September 18, 2015 sanctions decision that was published and disseminated to the media by the Court. Justice Cooper made such statements even though the issue of child support was not before the Court at that time. However, it was an issue that Justice Cooper could reasonably expect to come before the Court. Accordingly, it would be inappropriate for Justice Cooper to decide this issue at trial as he has already made statements indicating that he has predetermined a ruling without hearing any evidence or argument by the parties. *See* Judicial Canons, 22 NYCRR 100.3(E)(1)(f).

Plaintiff objects to Justice Matthew Cooper's presiding over a financial trial in this matter as he is a material witness with respect to the diminution of Plaintiff's income. *See* Judicial Canons, 22 NYCRR 100.3(B)(8) and (E)(1)(e).

Plaintiff objects to Justice Matthew Cooper's presiding over a financial trial in this matter where he has demonstrated a deep-seeded antagonism against Plaintiff to the point of actively advocating against Plaintiff, misrepresenting facts in the record against Plaintiff in issued decision and relying on purported facts in determining issues that are not a part of the record, but rather gathered from his own purported independent research. Justice Cooper has and will deny Plaintiff a full and fair trial on financial issues in this matter. *See* Judicial Canons, 22 NYCRR 100.3(E)(1)(a).

### **STATEMENT OF PROPOSED DISPOSITION**

The following constitutes Plaintiff's Statement of Proposed Disposition:

A. Assets Claimed to be Marital Property

- i. 2014 Ford Escape
- ii. Proceeds from the sale of the marital residence at 1612 5<sup>th</sup> St. NW, Apt. 2, Washington, DC, 20001.
- iii. Defendant's Transamerica 401k (\$61,591.00).

B. Assets Claimed to be Plaintiff's Separate Property

All assets currently in his possession, with the exception of the 2014 Ford Escape.

C. Assets Claimed to be Defendant's Separate Property

Unknown.

D. Debts Claimed to be Marital

\$7,798.41 to Ford Credit for the 2014 Ford Escape.

E. Proposal for Equitable Distribution

Plaintiff retains ownership the 2014 Ford Escape.

Defendant improperly forced the sale of the marital home constituting marital waste after unlawfully moving the parties' child to New York, NY. Proceeds of the sale of the marital residence should be reallocated such that Defendant compensates Plaintiff for the loss from the sale of the marital home in the amount of \$42,500.00.

Fifth percent (50%) of the remaining marital assets to each party.

Fifty percent (50%) assumption of marital debts to each party.

F. Distributive Award

Defendant to pay a distributive award of \$77,194.71 to Plaintiff.

G. Amounts Requested in Maintenance

Pursuant to Domestic Relations Law Section 236, Plaintiff requests that the Court order Defendant to pay him monthly maintenance in the amount of \$4,200.00, or an amount to be calculated at trial after further inquiry into Defendant's income, for a period of three (3) years. This calculation is based on the current and potential incomes of the parties with a statutory cap of \$175,000. An award of maintenance to Plaintiff is just and appropriate based on the foregoing statutory factors.

(i) *The income and property of the respective parties including marital property distributed pursuant to subdivision five of this part*

Defendant earned an income of at least approximately \$319,000.00 in 2015, although Defendant's income should be imputed higher as she received tens of thousands of dollars in gifts not reported on her May 11, 2016 Statement of New Worth. Since Defendant's income from *Weil Gotshal & Manges LLP* is based on a lockstep seniority model, she will earn approximately \$20,000 - \$50,000 more in 2016. Defendant has over \$60,000 in assets.

Plaintiff, on the other hand, is currently unemployed as a result of this litigation and actions taken by Defendant and her counsel. As a result of the marriage, Plaintiff's income

potential has been irreparably harmed and he will have no assets, and in fact, is in substantial debt as a result of the marriage.

*(ii) The length of the marriage*

The parties were married on May 2, 2013 and separated on November 10, 2013. However, since the parties' separation, they have been engaged in litigation for nearly three (3) years. During such time, Defendant has never made an attempt to resolve any issue in dispute in the case and has rejected dozens of attempts to settle this matter. As a consequence, Plaintiff has been left financially destitute.

*(iii) The age and health of the parties*

Plaintiff is 31 years of age and suffers from severe emotional distress and disability as a result of this litigation. Defendant is 33 and is admittedly in good health.

*(iv) The present and future earning capacity of both parties*

Defendant earned an income of at least approximately \$319,000.00 in 2015, although Defendant's income should be imputed higher as she received tens of thousands of dollars in gifts not reported on her May 11, 2016 Statement of New Worth. Since Defendant's income from *Weil Gotshal & Manges LLP* is based on a lockstep seniority model, she will earn approximately \$20,000 - \$50,000 more in 2016. Defendant's future earning capacity will likely continue to increase.

Plaintiff, on the other hand, is currently unemployed as a result of the Court's September 18, 2015 sanctions decision. However, Plaintiff's future earning capacity has been irreparably damaged by actions taken by Defendant and her counsel. Specifically, Defendant and her counsel made statements to the tabloid media, posted on social media, disseminated the Court's February 29, 2016 custody and access decision to tabloid journalists and gave the media

transcripts from the custody and access trial where Defendant's allegations of domestic violence were prominently published. As a result, Plaintiff's future earning capacity is minimal, if anything.

(v) *The need of one party to incur education or training expenses*

Plaintiff's professional reputation has been irreparably harmed as a result of this litigation. As a result, Plaintiff will need to incur additional education expenses to attempt to find work in another field.

(vi) *The existence and duration of a pre-marital joint household or a pre-divorce separate household*

Not applicable.

(vii) *Acts by one party against another that have inhibited or continue to inhibit a party's earning capacity or ability to obtain meaningful employment*

Defendant and her counsel made statements to the tabloid media about Plaintiff, posted on social media concerning Plaintiff and this matter, disseminated the Court's February 29, 2016 custody and access decision to tabloid journalist, gave the media transcripts from the custody and access trial where Defendant's allegations of domestic violence were prominently published and have Defendant publicly accused Plaintiff of professional misconduct. As a result of Defendant's improper acts, Plaintiff's future earning capacity and ability to obtain meaningful employment have been irreparably harmed.

(viii) *The ability of the party seeking maintenance to become self-supporting and, if applicable, the period of time and training necessary therefore*

As a result of Defendant's conduct mentioned above, Plaintiff is currently unable to be self-supporting. Plaintiff believes that it will take at least two (2) to three (3) years to re-train and enter the workforce in any meaningful capacity.

- (ix) *Reduced or lost lifetime earning capacity of the party seeking maintenance as a result of having foregone or delayed education, training, employment, or career opportunities during the marriage*

Not applicable.

- (x) *The presence of children of the marriage in the respective homes of the parties.*

The parties' child, Reid Comfort Zappin (DOB 10/06/13) resides with Defendant.

- (xi) *The care of the children or stepchildren, disabled adult children or stepchildren, elderly parents or in-laws that has inhibited or continues to inhibit a party's earning capacity*

Not applicable.

- (xii) *The inability of one party to obtain meaningful employment due to age or absence from the workforce*

Plaintiff has been out of the workforce since September 22, 2015.

- (xiii) *The need to pay exceptional additional expenses for the child/children, including but not limited to, schooling, day care and medical treatment*

Not applicable.

- (xiv) *Tax consequences to each party*

Not applicable.

- (xv) *The equitable distribution of marital property*

Plaintiff has proposed that marital property and debt be divided 50/50, with the exception of proceeds from the sale of the marital home forced by Defendant which resulted in significant marital waste.

- (xvi) *Contributions and services of the party seeking maintenance as a spouse, parent, wage earner and homemaker, and to the career or career potential of the other party*

Not applicable.

- (xvii) *The wasteful dissipation of marital property by either spouse*

Defendant forced the sale of the parties' most significant marital asset, the marital home in Washington, DC, which resulted in an over \$80,000 loss to the parties.

*(xviii) The transfer or encumbrance made in contemplation of a matrimonial action without fair consideration*

Not applicable.

*(xix) The loss of health insurance benefits upon dissolution of the marriage, and the availability and cost of medical insurance for the parties*

As a result of this litigation, Plaintiff has lost his private health insurance benefits due to the loss of his employment.

#### H. Proposal for Child Support

Plaintiff proposes that any child support obligation be held in abeyance for six (6) months until Plaintiff finishes his classes and has an opportunity to seek employment. Alternatively, Plaintiff requests that the Court impose the statutory minimum for child support of \$25 per month. This proposal is based on the statutory factors enumerated below.

Defendant has not made any application for *pendente lite* child support. Accordingly, she should be denied any child support arrears. To the extent the Court imposes child support arrears, it should be at the statutory minimum of \$25 per month going back to April 29, 2015, the date of Defendant's answer to Plaintiff's February 11, 2014 complaint in this action.

*(i) The financial resources of the custodial and non-custodial parent and those of the children*

Plaintiff is currently unemployed and with limited, if any, future prospects of employment as a result of the conduct of the trial judge as well as actions to publicize this matter undertaken by Defendant and her counsel. Plaintiff currently receives unemployment benefits at a rate of \$425 per week, which will expire in mid-July 2016. Additionally, he is currently

enrolled in classes in hopes of obtaining employment. Defendant earned an income of \$319,000.00 in 2015, which is expected to increase \$20,000 - \$50,000 in 2016.

(ii) *The physical and emotional health of the child and his special needs and aptitudes*

Not applicable.

(iii) *The standard of living the child would have enjoyed had the marriage or household not been dissolved*

Not applicable.

(iv) *The tax consequences to the parties*

Not applicable.

(v) *The non-monetary contributions that the parents make toward the care and well-being of the child*

Plaintiff's parental rights were *de facto* terminated by a decision of this Court on February 29, 2016. The Court ordered Plaintiff to have continued supervised visitation at a cost of at least \$150 per hour for a period of at least eighteen (18) months. The Court ordered that Plaintiff have no contact with the child's medical or extracurricular providers. The Court ordered that Plaintiff's visitation during weekdays take place from 4:00 p.m. to 6:00 p.m. during business hours making it intolerable to see the child while going to school or working. Accordingly, the Court has placed such draconian restrictions on Plaintiff's access with the child that it is impossible to contribute to the care or well-being of the child.

(vi) *The educational needs of either parent*

Plaintiff is currently enrolled in classes in hopes of obtaining employment. The classes will continue through the Fall of 2016.

(vii) *A determination that the gross income of one parent is substantially less than the other parent's gross income*



See (i) above.

(viii) *The needs of the child subject to the order*

Not applicable.

(ix) *Extraordinary expenses incurred in visitation*

The Court has ordered Plaintiff's visitation with the child be supervised by Comprehensive Family Services at a rate of at least \$150 per hour. Based on the schedule ordered by the Court, Plaintiff will incur a yearly expense of approximately \$110,000.00 for visitation with the child.

I. Other Issues

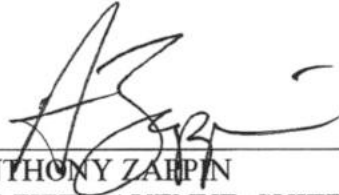
Defendant should be directed to pay the cost of Plaintiff's supervised visitation with the child. The Court improperly decided the issue in its February 29, 2016 custody and access decision as the issue was not presented at trial. Based on the disparity of incomes and Plaintiff's limited financial resources, it is wholly appropriate that Defendant bear the cost of supervised visitation. See *Licira v. Licitra*, 232 A.D.3d 417, 418 (2<sup>nd</sup> Dept. 1996) (“[G]iven the mother’s limited resources, the Family Court erred in directing her to pay the costs of supervised visitation.”); *Hover v. Shear*, 232 A.D.2d 749, 750 (3<sup>rd</sup> Dept. 1996) (“[W]e are not persuaded that [sic] Family Court erred in requiring the parties share the cost of supervised visitation”); *Karen K. v. Kenneth Z.*, 657 N.Y.S.2d 40, 41 (1<sup>st</sup> Dept. 1997) (affirming trial court’s order that custodial parent pay for non-custodial parent’s supervised visitation); *C.F.B. v. T.B.*, 806 N.Y.S.2d 443 at \*9 (Sup. Ct. Erie Cnty. 2005) (ordering custodial grandparents to pay cost of supervised visitation with mother).

Defendant should be directed to pay Plaintiff's litigations expenses and costs in an amount to be determined post-trial.

Defendant should be directed to pay the entirety of the fees for the Attorney for the Child.

Dated: New York, New York  
May 31, 2016

By:

  
\_\_\_\_\_  
ANTHONY ZAPPIN  
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NEW YORK, NY 10001  
(917) 250-6437 (TEL.)  
(646) 365-3424 (FAX)  
*PLAINTIFF, PRO SE*