

Exhibit

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1 SUPREME COURT OF THE STATE OF NEW YORK
 2 COUNTY OF SUFFOLK : CIVIL PART : PART 35
 3 -----X

COPY

4 The People of the State of New York
 5 Ex Rel Gary Jacobs acting on behalf of
 6 Carlie Jacobs, infant, GARY JACOBS,
 7
 8 Petitioner,

9 - against - Index. No.
 10 TERRY LEAHY (JACOBS), 12-20969
 11 Respondent.
 12 -----X

13 July 17, 2012
 14 Central Islip, New York

15 B E F O R E :

16 HONORABLE MARION McNULTY
 17 SUPREME COURT JUSTICE

18 A P P E A R A N C E S :

19 GARY JACOBS, Petitioner, Pro Se
 20 14 Ray Lane
 21 Smithtown, New York 11787

22 TERRY LEAHY, Respondent

23 CARLIE JACOBS

24 KATHY SMALL, ESQ.
 25 Attorney for the Child
 800 Veterans Memorial Highway
 Hauppauge, New York 11788

MINUTES OF PROCEEDING

HANNELORE WEISS, RPR
 Sr. Court Reporter

Jacobs vs. Leahy (Jacobs)

1 THE COURT: Parties now on Jacobs; Mr.
2 Jacobs on my left; Ms. Jacobs on my right.

3 THE COURT OFFICER: Like I said, anybody has
4 a cell phone has to be off in the courtroom; it can't
5 be going off while we're on the record including
6 attorneys too.

7 THE COURT: So the record is very clear, the
8 proceeding that was before this Court before this case
9 was called was off the record conference between
10 myself and attorneys on a case that has nothing to do
11 with this case; and at the Court's discretion the
12 Court cleared the courtroom. The Court decided not to
13 have the conference in chambers and that is my
14 discretion irregardless of what anybody in the
15 courtroom may think.

16 Mr. Jacobs, Ms. Leahy, rise and raise your
17 right hands and face the clerk.

18 G-A-R-Y J-A-C-O-B-S and T-E-R-R-Y-N
19 L-E-A-H-Y having been duly sworn by the
20 clerk testify as follows:

21 THE CLERK: Please state your names and
22 addresses for the record.

23 MR. JACOBS: Gary Jacobs, 14 Ray Lane,
24 Smithtown, New York 11787.

25 MS. LEAHY: Terryn Leahy, 21 Center Court,

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1 Syosset, New York 11791.

2 THE COURT: Please have a seat both of you.
3 It is the Court's obligation to advise the both of you
4 that you are absolutely entitled -- I'm sorry; Ms.
5 Small.

6 MS. SMALL: I just want to note my
7 appearance on the record, Kathy Small, Mazzara &
8 Small, P. C. 800 Veterans Memorial Highway,
9 Hauppauge, New York 11788, attorney for the child.
10 Your Honor, I've been advised that there is press and
11 I assume that they are in the courtroom. I also would
12 like to advise the Court that the child is in the
13 courtroom in response to the writ. I would ask that
14 they be excluded.

15 THE COURT: Well, the child can step
16 outside; the press can stay. Anybody else can stay.
17 Young lady, please step outside.

18 Ms. Small, do you know your client's name
19 for the record, please note it for the record with no
20 other personal information.

21 MS. SMALL: Carlie Jacobs.

22 THE COURT: It is the Court's obligation to
23 advise both of you that you are absolutely entitled to
24 be represented by an attorney at all stages of any
25 proceedings that go on in this Court. And if either

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1 one of you want an adjournment for the purpose of
2 getting an attorney to represent you in these
3 proceedings, you are absolutely entitled to do so.
4 Mr. Jacobs, do you have an attorney representing you
5 in these proceedings?

6 MR. JACOBS: No.

7 THE COURT: Do you want an adjournment for
8 the purpose of getting an attorney to represent you?

9 MR. JACOBS: No, thank you.

10 THE COURT: Has anybody attempted to force
11 you or coerce you into proceeding here today without a
12 lawyer?

13 MR. JACOBS: No.

14 THE COURT: Ms. Leahy, do you have an
15 attorney?

16 MS. LEAHY: No, but I spoke with my
17 attorney. I was just served last night with this and
18 he said for the answering papers which were supposedly
19 drawn on the 27th I believe --

20 THE COURT: -- that's a different
21 proceeding.

22 MS. LEAHY: No, it's the same one; it's the
23 same docket number. It was like, it is.

24 THE COURT: There's an order to show cause
25 with the same index number?

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1 MS. LEAHY: Yes, and it has a return date of
2 the 27th. He has to be part of that. They gave him
3 the same index number.

4 THE COURT: As the writ?

5 MS. LEAHY: Judge Collins signed it.

6 MR. JACOBS: As part and incorporated into
7 the writ, I filed a DR 70 which is to be incorporated
8 with the writ.

9 THE COURT: We're not up to that yet; hold
10 on. Do you have an attorney representing you in these
11 proceedings here today?

12 MS. LEAHY: For today, no. As I said,
13 Mr. Simonetti (phonetic) does want to be a part and he
14 asked me to ask you for an extension because he has
15 not seen it.

16 THE COURT: Well, the writ and the order to
17 show cause are two absolutely separate proceedings.
18 The writ is a special proceeding brought to compel the
19 attendance of the child. And the child is here today,
20 correct?

21 MS. LEAHY: She is here.

22 THE COURT: The writ is satisfied. Have you
23 been threatened or coerced to proceed here today
24 without a lawyer?

25 MS. LEAHY: No, I have not.

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1 THE COURT: Okay. That being the case, then
2 the only matter that's on this Court -- that's not the
3 only matter, there are other cases on the Court's
4 calendar, but this is returnable on whatever date it's
5 returnable; what date did you say?

6 MS. LEAHY: It says July 27 the order to
7 show cause for this docket.

8 THE COURT: No appearance that day; it's a
9 submission date.

10 MS. LEAHY: Mr. Simonetti asked if we can
11 have a continuance. He will not be ready before that
12 date to appear on that date.

13 THE COURT: There is no appearances. He
14 just has to answer the papers.

15 MS. LEAHY: I'm just asking --

16 THE COURT: I'm telling you there is no
17 appearance necessary. Has the law guardian been
18 served with papers?

19 MS. SMALL: Yes, Your Honor. My
20 understanding is there is an order to show cause
21 returnable on July 27 and then also an order to show
22 cause returnable on July 31st.

23 THE COURT: What's the index number?

24 MS. LEAHY: 10815. Can we consolidate
25 these?

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1 THE COURT: They will be consolidated,
2 absolutely; that's how the Court does it, not just me.
3 What's the year, Ms. Small?

4 MS. LEAHY: 12/06.

5 MS. SMALL: I'm sorry, Your Honor.

6 THE COURT: What's the other index number,
7 what year?

8 THE CLERK: She said '06.

9 THE COURT: '06. Return on the 31st?

10 THE CLERK: Yes.

11 THE COURT: All matters with regard to the
12 index number that was just placed on the record as
13 well as this index number will be placed on the
14 calendar on July 31st, 2012-20969 which is the motion
15 that's on before the Court currently scheduled for --
16 what's the date? July 27 --

17 MS. LEAHY: Yes.

18 THE COURT: -- is hereby adjourned to
19 July 31st for all purposes; no appearances are
20 necessary. The Court has to make its decision with
21 regard to the motions. Anything further, Mr. Jacobs?

22 MR. JACOBS: Yes, I would like to make an
23 oral application for the DR 70 for custody based on
24 the best interest of my child. I feel she's in
25 immediate danger according to Ms. Leahy's submission

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1 papers, since my daughter stopped seeing me, she's now
2 cutting, pinking, depressed, failing in school and
3 sleeps all the time. I feel that it's in imminent
4 danger that she's not thriving. And this is all
5 according to Ms. Leahy not according to me because I
6 haven't been with her. So I feel that I would like to
7 accelerate because obviously she's not doing well
8 since she's not been seeing me.

9 THE COURT: Ms. Jacobs, I'll hear you, Ms.
10 Leahy.

11 MS. LEAHY: Carlie has been doing much
12 better and on top of the problems that have been going
13 on, our other son Brian who he was fighting with two
14 weeks ago, trying to speak to him --

15 MR. JACOBS: -- objection -- Brian is not --

16 THE COURT: Overruled.

17 MS. LEAHY: -- I'm trying to speak to him
18 personally and Gary told him to come to Court and
19 become emancipated. He's refusing to pay Brian's
20 college. Brian became upset. This further upsets
21 Carlie. It is a huge problem. I have \$9000 worth of
22 bill from college which Gary is holding the funds that
23 we held together for the purpose, and I'm asking if he
24 could pay Brian's bills which were meant for that.

25 THE COURT: But you brought a proceeding

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1 with regard to that as well?

2 MS. LEAHY: Well, it is because it's a
3 problem.

4 THE COURT: It's going to be submitted just
5 as his motion is going to be submitted. Ms. Small,
6 I'll hear you.

7 MS. SMALL: Your Honor, the child, I had an
8 opportunity to speak with the child. There is no
9 indication to me that she's in danger. She is here.
10 She is available. If the Court would like to have an
11 interview, but I did not find that she is in imminent
12 danger. And I had spoken to both Mr. Jacobs and Ms.
13 Leahy prior to speaking with the child.

14 MR. JACOBS: I object to that on the record.
15 I don't think Ms. Small is qualified to make the
16 statement as to --

17 THE COURT: Overruled. In the Court's
18 discretion and in accordance with the case law in the
19 Appellate Division versus Second Department, at this
20 point in time, the Court is familiar with many of the
21 circumstances and facts of this case. At this point
22 in time I'm exercising my discretion. I am not going
23 to have an immediate hearing. This matter is marked
24 for submission on July 31st. The application under
25 DRL 70 is denied at the present time, subject to

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1 further proceedings before this Court. Okay, that's
2 it.

3 (Concluded)

4 * * *

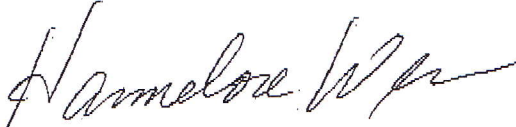
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6 Certified to be a true and accurate record of the
7 proceedings herein

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HANNELORE WEISS, RPR
Official Court Reporter

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