

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ALANA ORR,

*Plaintiff,*

-against-

17-CV-1280

ANTHONY MCGINTY,

GLS/TWD

*Defendant.*

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**STATEMENT PURSUANT TO RULE 56.1(a)**

Pursuant to Rule 56.1(a) of the Local Rules of this Court, Defendant Anthony McGinty contends that as to the following material facts, no genuine issue exists:

1. Plaintiff has been engaged in custody litigation in Ulster County Family Court concerning her daughter O.O-K., since December 12th, 2013. (Exhibit “1”, Plaintiff Alana Orr’s Examination Before Trial transcript dated August 5, 2021 (hereinafter “Plaintiff EBT”), pp. 10, 18-22; Dkt. No. 50, Verified Amended Complaint, ¶ 22).

2. Since Plaintiff’s custody litigation in Ulster County Family Court commenced, she has been represented at various times by attorneys, including Lawrence Shelton, Cappy Weiner, Sara Rachoff, Betty Potenza, Marvin Birnbaum, Susan LaPort, Elizabeth Faulkner, and Joshua Douglass. (Plaintiff EBT, pp. 12-13).

3. In April 2016, Plaintiff’s custody litigation matter was transferred to Defendant, Judge Anthony McGinty, after Judge Marianne Mizel recused herself from the matter. (Plaintiff EBT, pp. 10-11; Dkt. 50, ¶ 25).

4. By letter dated February 17, 2017, Plaintiff Alana Orr wrote to the Ulster County Clerk's Office requesting audio recordings of her family court proceedings. (Plaintiff EBT, pp. 49-50; Ex. "A"; Dkt. 50, ¶ 37).

5. Plaintiff's February 17, 2017 letter to the Ulster County Clerk's Office requesting audio recordings of her family court proceedings was her first written request for audio recordings of her family court proceedings. (Plaintiff EBT, pp. 49-50).

6. At the time Plaintiff requested audio recordings of family court proceedings in Ulster County Family Court from the Ulster County Clerk's Office, Plaintiff was aware that written transcripts of family court proceedings were available to her upon request. (Plaintiff EBT, pp. 67).

7. At the time Plaintiff requested audio recordings of family court proceedings in Ulster County Family Court from the Ulster County Clerk's Office, Plaintiff already possessed written transcripts from the family court trial under Judge Mizel. (Plaintiff EBT, pp. 69).

8. Plaintiff requested audio recordings of family court proceedings in Ulster County Family Court because she didn't have the ability to pay for written transcripts. (Plaintiff EBT, pp. 67-68).

9. Plaintiff requested the audio recordings of family court proceedings in Ulster County Family Court because she wanted to compare and contrast them to the written transcripts she already had in her possession. (Plaintiff EBT, pp. 69).

10. Plaintiff requested the audio recordings of family court proceedings in Ulster County Family Court because she did not have faith in the veracity of written transcripts she already had in her possession. (Plaintiff EBT, pp. 74, ll. 20-25; pp 71, ll. 2-3).

11. In response to her February 17, 2017 letter request, Plaintiff was informed by the Ulster County Clerk's Office that audio recordings of family court proceedings in Ulster County Family Court were not disseminated, and Plaintiff was denied access to the audio recordings of her family court proceedings. (Plaintiff EBT, pp. 49-50, 67).

12. Plaintiff did not address any written requests for the audio recordings of her family court proceedings to Defendant McGinty. (Plaintiff EBT, pp. 74).

13. Plaintiff did not send any subsequent letters requesting audio recordings of her family court proceedings to the Ulster County Clerk's Office. (Plaintiff EBT, pp. 74).

14. Plaintiff did not bring up her February 17, 2017 letter requesting audio recordings, or the request for audio recordings, in any subsequent Ulster County Family Court proceeding. (Plaintiff EBT, pp. 70, ll. 218-22).

15. Plaintiff was first diagnosed with Post-Traumatic Stress Disorder ("PTSD") in 2014 by Jillian Gordon, LCSW-R, a former Plaintiff to this lawsuit. (Plaintiff EBT, pp. 125).

16. The last time Plaintiff was treated by a medical professional for PTSD was in 2017. (Plaintiff EBT, pp. 125, ll. 11-13).

17. At the time of her examination before trial on August 5, 2021, Plaintiff did not have any scheduled appointments with a medical professional to treat for PTSD. (Plaintiff EBT, pp. 125, ll. 18-21).

18. At the time of her examination before trial on August 5, 2021, Plaintiff was not taking any medications for PTSD. (Plaintiff EBT, pp. 60, ll. 5-7).

19. Joshua Douglass, Esq. has represented Plaintiff since 2021 in her custody litigation in Ulster County Family Court concerning her daughter O.O-K. (Plaintiff EBT, pp. 42).

20. On December 2, 2021, in the matter captioned *Matthew Kehoe v. Alana Orr*, Ulster County Family Court File No. 26387, a Decision on Docket No's: V-3637-13/19BA, V-3637-13/19BC, V-3637-13/20BE, V-3637-13/20BF, V-3637-13/20BG, V-3637-13/20BH, V-3637-13/20B1, V-3637-13/21BJ (petitions alleging violations of a prior order of the court and other petitions seeking modification of the prior order), was rendered, modifying a prior custodial order issued in December of 2018. (Declaration of Anthony McGinty, ¶ 2, Exhibit B thereto).

21. Defendant's December 2, 2021 Decision maintains the custodial arrangements and schedule, except that it provides for a two-week period of uninterrupted time with each parent during the summer school break. (Declaration of Anthony McGinty, ¶ 2, Exhibit B thereto, pp. 23).

22. In the matter captioned *Matthew Kehoe v. Alana Orr*, Ulster County Family Court File No. 26387, an Order from the last proceeding was entered on January 18, 2022, based upon the December 2, 2021 Decision. (Declaration of Anthony McGinty, ¶ 2, Exhibit A).

23. As of this date, there remain no outstanding petitions involving Plaintiff in Ulster County Family Court, over which Defendant is presiding. (Declaration of Anthony McGinty, ¶¶ 3 – 4).

Dated: Albany, New York  
January 31, 2022

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