

F.C.A. § 1039

Form 10-8a
(Application to Restore Case Adjourned in
Contemplation of Dismissal to Calendar)
(4/2025)

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....
In the Matter of

Docket No.

APPLICATION TO RESTORE CASE
ADJOURNED IN CONTEMPLATION OF
DISMISSAL TO CALENDAR

CIN #
(A) Child(ren) under Eighteen Years of Age
 Abused Neglected by

Respondent(s)
.....

NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD.

IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS.

IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

TO THE FAMILY COURT:

The undersigned Petitioner respectfully alleges upon information and belief:

1. Petitioner is [specify name, title and agency]:
, having its principal office at [specify address]: .
2. a. By order of this Court, dated [specify]: , this proceeding was adjourned in contemplation of dismissal upon the following terms and conditions [specify]:
 - b. The adjournment in contemplation of dismissal expires on [specify date]:
3. The Respondent has violated the following terms and conditions of the order in that [specify]:

4. [Required if child(ren) were temporarily removed from the Respondent's home or if temporary removal or placement is sought; check applicable box(es)]:

a. (Upon information and belief) On [specify date]: _____, the following child(ren)[specify]: _____ were temporarily removed from the care of the following Respondent(s) [specify]: _____ on the basis of the following facts and for the following reasons [specify]:

in accordance with [check applicable box]:

- consent of the following Respondent(s) [specify]: _____ obtained on [specify date]: _____ pursuant to Family Court Act §1021.1
- on an emergency basis without a court order pursuant to Family Court Act §1024. There was no time to obtain a court order because [specify]: _____
- a court order pursuant to Family Court Act §1027, issued on [specify]: _____

b. (Upon information and belief) The child(ren) should be removed from the care of the following Respondent(s) [specify]: _____ in accordance with Family Court Act §1027 in order to prevent imminent risk to the child(ren)'s life or health on the basis of the following facts and for the following reasons [specify]:

b. Best interests of the Child(ren):

Continuation in, or return to, the child(ren)'s home would would not be contrary to the best interests of the child(ren) because [specify facts and reasons]:

This assertion is based upon the following information [check applicable box(es)]:

- Case Record, dated [specify]: _____
- Service Plan, dated [specify]: _____
- The report of [specify]: _____, dated [specify]: _____
- Other [specify]: _____

c. Reasonable efforts:

Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home, and, if the child(ren) were removed prior to the date of this application, to make it possible for the child(ren) to return home safely [check applicable box and state reasons as indicated]:

- were made as follows [specify]: _____
- were not made but the lack of efforts was appropriate [check all applicable boxes]: _____

¹ A copy of the consent instrument must be attached to the petition. See F.C.A. §1021.

because of a prior judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:

because [specify other reason(s)]:

were not made.

This assertion is based upon the following information [check applicable box(es)]:

Case Record, dated [specify]:

Service Plan, dated [specify]:

The report of [specify]: , dated [specify]:

Other [specify]:

d. Alternatives to foster care:

(i) Based upon Petitioner's investigation [Check applicable box(es):

The following person [specify]:

is a non-respondent parent relative suitable person
with whom the child(ren) may appropriately reside [specify]:

[Applicable to relatives and other suitable persons]: Such person:

seeks approval as a foster parent in order to provide care for the child(ren);

wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.

may be a resource but not yet determined whether as a foster parent or custodian.

There is no non-respondent parent, relative or suitable person with whom the child(ren) may appropriately reside.

(ii) [Required]: (Upon information and belief) Imminent risk to the child(ren) would would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]: from the child(ren)'s residence, based upon the following facts and for the following reasons [specify]:

5. No previous application has been made to any court or judge for the relief requested herein (except [specify]:).

WHEREFORE the Petitioner requests that this matter be restored to the calendar of the Family Court of _____ County and that it grant such other and further relief under Article 10 of the Family Court Act as it may deem just and proper..

Dated: _____,

Petitioner

Print or Type Name

Attorney, if any

Attorney's Name (print or type)

Attorney's Address and Telephone Number

VERIFICATION

I am a duly authorized representative of the Petitioner Agency in the above-entitled proceeding and affirm this ___ day of _____, _____, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that I am acquainted with the facts and circumstances of the above-entitled proceeding and believe the above statements are true to my own knowledge, except as to those matters stated to be alleged on information and belief and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

Signature/ Print or type name

Agency and Title