

At a term of the Family Court of the
State of New York held in and for the
County of _____,
at _____, New York
on _____, _____.

PRESENT:
Hon.
Judge

.....
In The Matter of a Proceeding to
Modify a Custody Visitation Order
under the *Uniform Child Custody Jurisdiction
and Enforcement Act*

Docket No.
 FINAL ORDER
 TEMPORARY ORDER
ON PETITION TO
MODIFY ORDER OF
 CUSTODY VISITATION
– UCCJEA

Petitioner

-against-

Respondent

.....
The Petitioner herein having filed a petition on [specify date]: _____, pursuant to the
Uniform Child Custody Jurisdiction and Enforcement Act [Domestic Relations Law Art. 5-A], requesting
an order modifying an order of custody visitation of the following minor children [list each child as
follows]:

Name of Child: Date of Birth: Address¹

And Respondent having appeared before this Court, either in person or by telephone, audiovisual
or other electronic means, to answer the petition, having been advised by the Court of the right to counsel,
and having admitted denied the allegations of the petition;

**[Applicable where the judgment or order had been entered in conjunction with a New
York child protective dispositional or permanency hearing order directing custody with a relative or
other non-parent, pursuant to Family Court Act §1055-b or §1089-a; delete if inapplicable]:**

And since the judgment order was issued in conjunction with the following child
protective or permanency proceeding [specify Family Court, county and docket #]:

¹ Unless the Court has ordered the address to be kept confidential pursuant to New York State Domestic
Relations Law §§76-h(5), 254 or Family Court Act §154-b. .

and provided that the following local department of social services [specify]: _____ and the following attorney for the child(ren)[specify]: _____ must be notified and made parties to any subsequent proceedings for modification of the judgment or order:

the department of social services was so notified and did did not appear; and the attorney for the children was so notified and did did not appear;

[Required in ALL cases in which at least one party is not a parent of the child; check applicable boxes and attach General Form GF-32, if applicable]:

And the Court having inquired as to whether the child may be a Native-American child who may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation, the Court has determined the following:

A. the Court has reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation;

And the following having been duly notified [check applicable box(es)]:

parent/custodian tribe/nation [REQUIRED]

United States Secretary of the Interior [REQUIRED if tribal contact undetermined];

And the tribe/nation having: appeared and participated as a party;

appeared and declined to assume jurisdiction;

appeared and requested transfer of jurisdiction, which was granted denied;

not appeared;

And the required findings of fact and conclusions of law having been made pursuant to the *Indian Child Welfare Act* and **General Form GF-32** having been attached in an Addendum to this Order.

OR

B. the Court does not have reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963].

[Applicable to cases where Petitioner is a relative or other non-parent and where hearing on modification petition was consolidated with child protective dispositional or permanency hearing, pursuant to F.C.A. §§1055-b or 1089-a; delete if inapplicable]:

This Court finds that:

Termination of the order placing or remanding the child(ren) pursuant to Article 10 or 10-A of the Family Court Act will will not not jeopardize the child(ren)'s safety and is is not in the best interests of the child(ren).

The child(ren)'s birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

The child has been living with the following foster parent(s)[specify]: _____ for a period in excess of one year, who G has/have G has/have not consented to the award of custody to the Petitioner.

The local department of social services, the petitioner in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner.

The attorney for the child(ren) [specify]: _____ in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner.

[Check applicable box(es)]:

And the Court having searched the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records, and having notified the attorneys for the parties and for the child [check if applicable]: Q and the following self-represented party or parties [specify]: _____ of the results of these searches;

And the Court having considered and relied upon the following results of these searches in making this decision [specify; if no results found, so indicate]: _____

[Applicable to TEMPORARY orders only]: And the Court, having dispensed with the search of the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records because these databases had been reviewed within the past 90 days;

[Applicable where a party had made an allegation of domestic violence or child abuse; findings must be stated on the record, included in a written decision OR included in this order; check applicable box]:

And the Court having explained its findings on alleged domestic violence or child abuse on the _____ record;

And the Court having issued a written decision containing its findings on alleged domestic violence or child abuse;

And the Court having found that the allegation that [specify party]: _____ had committed domestic violence or child abuse against [specify party or child(ren)]: _____

was was not proven by a preponderance of the evidence, and having considered the effect of such domestic violence or child abuse upon the best interests of the child(ren) and relevant facts and circumstances as follows in making this order [specify how findings, facts and circumstances were factored into this Order]: _____

**And the matter having duly come on to be heard before this Court;
NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto; it is hereby**

ADJUDGED that [check applicable box(es)]: _____

1. This Court has jurisdiction to modify the child custody or visitation order issued by [specify state or other jurisdiction, index or docket number and date]: _____ on the following grounds [check applicable box(es)]: _____

This Court has jurisdiction to make an initial determination of custody or visitation

and [check at least one box]:

- the court of the other state has determined that it no longer has exclusive, continuing jurisdiction;
 - the court of the other state has determined that a court of this State would be a more convenient forum;
 - a court of the other state has determined that the child, the child's parents and any other person acting as a parent do not presently reside in the other state;
 - a court of New York State has determined that the child, the child's parents and any other person acting as a parent do not presently reside in the other state;
- This Court has determined that the other state no longer has exclusive continuing jurisdiction and this Court has jurisdiction to modify the order because [check applicable box(es)]:
- Neither the child, the child's parents nor any other person acting as a parent presently reside in the other state;
 - New York State has been the home state of the child for at least six months as of the date of this order;
 - New York State would be a more convenient forum based upon the following factors [specify]:

OR

- This Court does not have jurisdiction to modify the order.

2. [Applicable where temporary, emergency order is issued]: This Court has jurisdiction to modify the order on a temporary, emergency basis, pursuant to Domestic Relations Law §76-c, because the child is presently in this State and [check one or both boxes]:

- the child has been abandoned; and/or
- it is necessary in an emergency to protect the child, a sibling or parent of the child.

3. Petitioner incurred the following attorneys' fees and expenses in prosecuting this action [specify]:

AND IT IS THEREFORE ORDERED that [check applicable box]:

The Petition to Modify is **GRANTED** and the order of custody or visitation shall be modified as follows [specify]:

The Petition to Modify is **GRANTED** solely on a temporary, emergency basis as follows [specify]:

This temporary, emergency order shall remain in effect until an order is obtained from another court having jurisdiction to modify the order of custody or visitation pursuant to Section 76-b of the Domestic Relations Law. This temporary, emergency order shall become final if this State becomes the home state of the child(ren) and if no child custody proceeding is commenced in a state having jurisdiction to modify the order of custody or visitation pursuant to DRL §76-b.

[Check box if applicable]: Because the child(ren) is/are in imminent risk of harm, this

order shall remain in effect until another court having jurisdiction to modify the order of custody or visitation pursuant to Domestic Relations Law §76-b has taken steps to assure the protection of the child(ren).

OR

The Petition to Modify is **DENIED** and is hereby dismissed. This dismissal is without prejudice to any remedies, if any, that Petitioner may have in another state or other jurisdiction; and it is further

[Applicable to cases involving a party or parties in the military; DELETE IF INAPPLICABLE]:

ORDERED that, since Petitioner Respondent is on active duty, deployed or temporarily assigned to military service and since such service affects such party's ability to act as a joint or primary custodian of the child(ren), the return of such party from such active duty shall constitute a substantial change of circumstances sufficient to entitle such party to a review of this Order for possible modification if in the child(ren)'s best interests, unless the parties and child(ren)'s attorney have otherwise stipulated or agreed; and it is further

ORDERED that during the period of active military service, deployment or temporary assignment, the party on such duty shall be permitted the following contact and visitation with the child [specify, including electronic communication and visitation during military leaves]:

; and it is further

[Applicable to cases where hearing on modification petition was consolidated with child protective dispositional or permanency hearing, pursuant to F.C.A. §§1055-b or 1089-a; delete if inapplicable]:

ORDERED that the following local department of social services [specify]:
and the following attorney for the child(ren)[specify]: shall be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the Order; and it is further

ORDERED that the Respondent pay the Petitioner the following fees and costs in connection with this proceeding [specify]:

; and it is further

[Applicable in cases involving Native-American child(ren) where government agency is a party; check box, if applicable]:

ORDERED that the following should be notified of this proceeding [specify]:
the custodian of the child; tribe/nation; United States Secretary of the Interior

ORDERED that in light of the assumption of jurisdiction by the tribe/nation, this petition is **DISMISSED WITHOUT PREJUDICE**; (and it is further)

ORDERED that

ENTER

Judge of the Family Court

Dated: , .

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OR ELETRONIC TRANSMISSION OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

- Order mailed, emailed or electronically transmitted on [specify date(s) and to whom sent]: _____
- Order received in court on [specify date(s) and to whom given]: _____