

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

---

In the Matter of

**Child's Name**

Family File No. XXXX  
Docket No. XXXXXX

A Child(ren) Under the Age of 18

Alleged to be Neglected by

**Respondent.**

NOTICE OF MOTION FOR  
MODIFICATION OF ORDER  
OF FACT-FINDING AND  
DISPOSITION

---

STATE OF NEW YORK     )  
COUNTY OF ONONDAGA) ss.:

PLEASE TAKE NOTICE, that upon the annexed affidavit of RESPONDENT and the Attorney Affirmation, sworn to and upon all the proceedings heretofore had herein, a motion will be made at this Court at Part 1 of Onondaga County Family Court on \_\_\_\_\_ or as soon thereafter as the parties can be heard for an Order modifying the Order of Fact-Finding and Disposition issued by this Court on January 20, 2018, as provided in Article 10 of the Family Court Act, and for such other and further relief as to the Court may deem just and proper.

Date: March 23, 2018

Yours, etc.

---

Respondents Attorney

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

---

In the Matter of

**Child's Name**

Family File No. XXXX

Docket No. XXXXXX

A Child(ren) Under the Age of 18

Alleged to be Neglected by

AFFIDAVIT IN SUPPORT OF  
MOTION FOR MODIFICATION  
OF ORDER OF FACT-FINDING  
AND DISPOSITION

**Respondent.**

---

STATE OF NEW YORK )  
COUNTY OF ONONDAGA) ss.:

**Respondent**, being duly sworn, under oath states as follows:

1. My name is **Respondent**, and I currently reside at 1234 Parental Ave, Justice, NY 15468 I am the father of **Child** (DOB: 00/00/0000).
2. An Order of Fact-Finding and Disposition under Article 10 of the Family Court Act was entered into at a term of the Family Court of the State of New York, held in and for the County of Onondaga at Syracuse, New York on January 20, 2018 (Exhibit 1).
3. Per the order of the Court I was to have supervised parenting time with my child by a person deemed appropriate by the Onondaga County Department of Children and Family Services.
4. On or about December 14, 2017 my child was placed in foster care has remained there ever since. I went weeks without having any parenting time with my child.
5. I did not get any parenting time with my daughter until December 28, 2017. On or about January 5, 2018, there was a bench order at that time for me to have weekly parenting time with my child. I saw my child on or about February 2, 2018 and did not see her again until February 17, 2018. Then on March 3, 2018, child was a no show to my parenting time. I did not see my child again until March 10, 2018 when I began at the XXXX program.
6. My parenting times were arranged to occur at the XXXX program run by the institution for one hour, twice a week on Tuesdays and Thursdays.
7. Now my parenting time is only once a week on Thursdays at the XXXX program. This was based on the foster parent's schedule.

8. Since starting the XXXX program there have been a total of eight missed parenting time sessions, due to the child not being sent. I provided my caseworker with this information in writing (Exhibit 2).
9. I have consistently shown up every Thursday for my parenting time at 3:00 pm and Department of Children and Family Services has denied me my parenting time on an overwhelming number of occasions. I have also consistently notified my caseworker of each and every time that I was denied parenting time. My caseworker has told me to document the missed parenting time and talk to my lawyer.
10. On February 22, 2018, I provided my caseworker with the name of my friend who is willing to supervise my parenting time. This friend has worked for the XXXXXX School District for X years and is an extremely appropriate supervisor. I was informed she not an option but not provided a reason as to why.
11. My friend also had a relationship with my child for over a year and had a strong bond with my child before she was removed from my care and custody.
12. My child and I have a very strong bond and it is imperative that we be able to have parenting time and talk on a regular basis to continue to grow and strengthen our father child relationship.
13. I was the primary custodian of my child before she was removed. I love my child so much and want all the best in the world for her.
14. I have been continuously compliant with the Department of Children and Family Services.
15. An Order of Fact Finding and Disposition filed and entered January 20, 2018 Ordered me to complete a variety of services which are the following;
  - I. Domestic Violence at Vera House
  - II. Undergo alcohol/ substance abuse treatment and follow recommendations
  - III. Submit to random drug screens and sign releases for results
  - IV. I shall not use or be under the influence Of drugs and/or alcohol while in the presence of the child
  - V. I have supervised contact only with my child
  - VI. Allow announced and unannounced visits to my home
  - VII. Sign any and all releases of confidential information deemed necessary and relevant and
  - VIII. Notify the Department of Children and Family Services of any change of address, employment, household composition or telephone number.
16. I have successfully completed a 10 week program at Vera House (Exhibit 3).
17. I did undergo an alcohol/substance abuse treatment evaluation; there are no recommendations for treatment (Exhibit 4).

18. I have submitted to drug screens on my own, and through the alcohol and substance abuse evaluation (Exhibit 5). I have not been asked by the Department of Children and Family Services for any other screens but I am more than willing to provide them with screens when they request me to do so.
19. I am never under the influence of drugs or alcohol in the presence of my child.
20. I have only had supervised parenting time with my child.
21. The Department of Children and Family Services has now been to my home.
22. I have had no change of address, employment, household composition or telephone number.
23. I also completed a psychological examination with Dr. Smith; there was no recommendation for follow up treatment or care.
24. I also completed a parenting class (Exhibit 6).
25. Furthermore, the medical conditions I suffered from in the winter of 2017 are not reoccurring (Exhibit 7).
26. I was ordered to be placed under the Supervision of the Onondaga County Department of Children and Family Services for 12 months.
27. Under the Order of Fact Finding and Disposition, for the period of supervision, my child was placed in foster care/DCFS custody. DCFS has not provided me with adequate parenting time and violates the bench directive on an almost weekly basis.
28. I have made significant progress and completed all services that have been requested of me. I have worked to ameliorate the circumstances that lead to the filing of the petition
29. Based on my full compliance and completion of all requested services, I am respectfully requesting unsupervised contact including overnights with my child.
30. I have stable and appropriate housing for my child to attend parenting time. My child has their own room at my house; there is a bed, toys, clothing, a desk, chairs and a television. I have lived at my current address for three years. The home is fully furnished and safe for my child.
31. I have stability financially to care for my child (Exhibit 8).
32. I am more than willing and capable to have my child be unsupervised with me. I have completed all services that were ordered and I will continue to be compliant with the Department of Children and Family Services.
33. I remain in regular contact with my caseworker.

34. It is in my child's best interest to have as much parenting time with me as possible in the least restrictive manner.
35. I have made significant progress and completed all services that have been requested of me. I have worked to ameliorate the circumstances that lead to the filing of the petition
36. Therefore, I respectfully request (a) Unsupervised parenting time at least four times per week with my child (b) that I am granted such other relief as the court finds just and proper.

Date:

Yours, etc.

---

Respondent Parent

FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

---

In the Matter of

**Child's Name**

Family File No. XXXX  
Docket No. XXXXXX

A Child(ren) Under the Age of 18

Alleged to be Neglected by

**Respondent Parent.**

AFFIRMATION IN SUPPORT OF  
MOTION FOR MODIFICATION  
OF ORDER OF FACT-FINDING  
AND DISPOSITION

---

STATE OF NEW YORK     )  
COUNTY OF ONONDAGA) ss.:

I, **Attorney Name**, Esq., hereby respectfully affirm under the penalty of perjury as follows:

1. I am an attorney licensed to practice in the courts of the State of New York and as such I am duly admitted. I am employed at the Frank H. Hiscock Legal Aid Society.
2. I represent Respondent, who is the father of the subject child who has been removed from his care and custody, and was placed in foster care.
3. As such, I am fully familiar with the facts and circumstances of this case.
4. I make this Affirmation in support of the Respondent's Motion for Modification of Order of Fact finding and Disposition. Specifically, I am requesting the subject child and my client enjoy extended periods of unsupervised contact with one another.
5. I make this Affirmation under the penalty of perjury upon information and belief, the sources of which are:
  - a. My interview of the Respondent
  - b. My review of the petition and supporting documents
  - c. All of the Court proceedings thus far
6. An Order of Fact Finding and Disposition under Article 10 of the Family court act was entered into at a term of the Family Court of the State of New York, held in and for the County of Onondaga at Syracuse, New York on January 20, 2018.
7. Per that Order, my client should have weekly parenting time with his child. There was also a bench directive on or about January 5, 2018 for my client to have twice weekly parenting times

with his child. Both the Order of Fact Finding and Disposition and the Bench Order have been violated on numerous occasions (Exhibit 9).

8. My client has completed all services requested of him by the Department of Children and Family Services, as well as all Court Ordered services, which includes a parenting class, psychological evaluation, domestic violence classes, alcohol/substance abuse evaluation and to follow recommendations. He is fit to have this child unsupervised in order to prepare for her return home.

9. DCFS has been non-compliant with the Court Ordered parenting time on numerous occasions. Since the parenting time began there the foster parents did not send the child to eight parenting time sessions (Exhibit 10).

10. There were many more parenting time sessions missed before the XXXX program began, which is outlined in my client's affidavit. .

12. My client was ordered to be placed under the Supervision of the Onondaga County Department of Children and Family Services for 12 months.

14. Under the Order of Fact Finding and Disposition, for the period of supervision, the child was placed in foster care. DCFS was not compliant with the order from the court as they did not provide my client with sufficient parenting time.

15. My client has made significant progress and completed all services that have been requested of him by the Department of Children and Family Services; he has worked diligently to ameliorate the circumstances that lead to the filing of the petition

16. Based on my client's full compliance and completion of all requested services, I am respectfully requesting a the order be modified to provide my client with a minimum of 4 times per week unsupervised parenting time, to include overnights.

18. There is good cause to modify the Order of Fact Finding and Disposition, based on my client completing all court ordered services and the continuation of his court ordered parenting time being violated.

19. My client has ameliorated any and all concerns that were put forth to him from the Department of Children and Family Services. There are no safety reasons as to why the child should not be unsupervised with my client.

20. Upon information and belief, my client has a stable income, stable and appropriate housing and all necessities required to take care of the child. He is fit, ready and able to have his child unsupervised and then returned. It is in the child's best interest to have a substantial and continuous relationship with their father. Furthermore, his parenting time should be in the least restrictive manner and as natural as possible.

21. Therefore, I respectfully request (a) that my client is granted a minimum of four parenting time sessions per week, unsupervised to include overnights (b) that he is granted such other relief as the court finds just and proper.

DATED:

Respectfully Submitted

---

Respondents Attorney