

February 24, 2023

Electronically Delivered via NYSCEF

Rensselaer County Clerk's Office
105 3rd Street
Troy, New York 12180

Ref: Walker v. Walker
Index Number: EF2018-261675
Re: Motion for Recusal

Dear Clerk/Judge McGinty:

Please find enclosed: **Notice of Motion-Recusal** in the above entitled action. As you are aware there are other motions in front of the court.

Copies of the referenced Notice of Motion, have been provided to attorney for plaintiff Luke Walker, Leslie Silva, Esq. and Douglas Broda, AFC, as required.

Thank you for your courtesy and consideration of this important matter.

Respectfully submitted,

Alisha Clark Walker

Alisha Clark Walker
757 Taborton Road
Sand Lake, NY 12153

Cc: Leslie Silva, Esq. [via NYSCEF]
Douglas Broda, Esq. [via NYSCEF]
Arthur Dunn, Esq. [via NYSCEF]

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RENSSELAER**

LUKE WALKER

Plaintiff,

-against-

ALISHA CLARK WALKER

Defendant,

**NOTICE OF MOTION
[RECUSAL]**

Index No.: EF2018-261675

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Alisha Clark Walker, the Exhibits annexed thereto, and upon all of the Pleadings and Proceedings heretofore had herein, the undersigned will move this Court at a term to be held in and for the County of Rensselaer, at Troy, New York, on the 15th day of March, 2023 at 9:30 a.m. in the forenoon of that day, or as soon thereafter as Judge Anthony McGinty can hear and respond to this Motion, for an Order granting the Defendant the following relief:

1. Recusal of Judge Anthony McGinty from the aforementioned Supreme Court case for cause, due to his improvident gender bias and personal expressed malice and overall prejudice concerning this case. Note: The case is still active with Motions & Appeal(s) pending etc.]
2. Together with such other and further relief as to the Court may seem just and proper.

Dated: _____

Signed: _____

Alisha Clark Walker
757 Taborton Road
Sand Lake, NY 12153

Cc: Leslie Silva, Esq.
Douglas Broda, Esq. AFC
Arthur Dunn, Esq.
NYS Office of Court Administration, 3rd Dept.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RENSSELAER**

LUKE WALKER

Petitioner,

-against-

**Affidavit In Support
Recusal Motion**

ALISHA CLARK WALKER

Respondent,

Alisha Clark Walker, being duly sworn, deposes and states the following:

I am submitting this affidavit in support of my Motion to Recuse Judge Anthony McGinty from the above referenced Family Court action.

1. I am the defendant and mother in the above titled action and as such I am personally familiar with the facts and circumstances of this case.
2. I love both of my children very much and that I have been a previously acknowledged primary caregiver and concerned parent to them both since their birth. The children involved in this custody – parenting custodial case are Aurora Walker [age 10] and Trey Walker [age 6].
3. The father is a former registered sex offender who has also served time in jail for his convictions, and his live-in girlfriend is a professional avowed BDSM practitioner. Judge McGinty completely ignored the New York State "Sex Offender Registration Act" policies and procedures §168. The children live full time with the previously convicted sex offender father and his BDSM practicing paramour.
4. Judge Anthony McGinty, together with the current attorney for the child, Douglas Broda, has acted with animus and malice, and has improperly and unfairly disenfranchised me from my children whom I have not been able to see for almost 2 years.
5. Upon information and belief, Judge McGinty is also aware that I continue to fight as a mother should, and am currently in the middle of writing a book about my case and Judge McGinty is doing everything he can to stop all transparency of his prejudicial actions by issuing illegal orders.

I. Disenfranchisement of Children:

6. The reversal of child custody and disenfranchisement of our children's mother and award of custody to **the petitioner father was an inexplicable and erroneous award of primary custody, and even though it was pointed out in multiple petitions and evidence that he had abused the respondent and that he was a registered sex offender [involving crimes of moral turpitude], living with a BDSM practitioner, the court completely ignored these salient facts.**
7. Since the temporary full custody was given to a registered sex offender's father in 2019, there has been little to no contact between the children and their loving mother depriving them also of their unfettered constitutional rights to a parent. All motions, testimony and evidence of parental alienation have been ignored by Judge McGinty, clearly sex bias.
8. Depriving a parent of the right to raise his or her own child is viewed by many as "more grievous" than a prison sentence, and the determination of parental rights is often referred to as the "civil death penalty." Even in Standards for Parental Representation in State Intervention Matters, ILS (2015),
<https://www.ils.ny.gov/files/Parental%20Representation%20Standards%20Final%20110615.pdf>. E.g. *Troxel v. Granville*, 530 U.S. 57, 65 (2000)

"The liberty interest at issue in this case – the interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by this Court."; *Parham v. J. R.*, 442 U.S. 584, 602 (1979)

"Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course.". *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

Stephanie N. Gwillim, *The Death Penalty of Civil Cases: The Need for Individualized Assessment and Judicial Education When Termination Parental Rights of Mentally Ill Individuals*, 29 St Louis U Pub L Rev 341 (2009) (citing *In re K.A. W.*, 133 S.W.3d 1, 12 (Sup. Ct., Mo. 2004); see also *In re Smith*, 77 Ohio App.3d 1, 16 (1991) ("A termination of parental rights is the family law equivalent of the death penalty in a 5 cases of alleged maltreatment, parents' fundamental liberty interest in raising their children does "not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State...parents retain a vital interest in preventing the irretrievable destruction of their family life."

9. Likewise, the New York Court of Appeals has emphasized that "governmental interference with the liberty of a parent to supervise and rear a child" is prohibited, "except upon a showing of overriding necessity." Children also have liberty interests in the parent-child relationship. Our Court of Appeals has recognized the fundamentals.
10. I believe that Judge Anthony McGinty, has used his position of power to intentionally inflict harm and pain on me and such extreme suffering for any mother to bear that cannot protect her child. To sever and rip apart a relationship from a mother and child and child and mother; when there are zero findings of unfitness who comes from a very stable home all we wanted to do was be protected from abuse. **This constitutes cruel and inhuman behavior.**
11. The court should be aware that I currently have full custody both legal and physical of my 2 year old son Elijah LaPorta.

II. ABUSE OF DISCRETION,

Extensive Public History of favoritism to abusive parents and sex bias discrimination:

12. It is unclear why the New York Judiciary system assigned an acting Supreme Court Judge from a county far away [Ulster County], with a long history of being sued by multiple abused mothers for unfairly giving custody to abusers to a very public case about an abuser unfairly given full custody without trial (Walker v. Cholakis, 2019).
13. There are a number of publicized cases that reveal Judge McGinty's policies, practices, procedures, and standards are gender-biased, unconstitutional, have a disparate impact on women, and violate women's NYS entitled equal economic, property ownership, and custody rights in contested Judgment of Custody Orders when domestic violence ("DV") exists. [see **Exhibit "A"**]
14. The first hearing of Walker v. Walker in front of Judge McGinty, Founder of Mother's against McGinty, appeared, Francesca Amato, as a Court monitor on defendant's behalf. Ms. Amato had an article published in 2021 documenting Judge McGinty's underlying bias against mothers from abusers [**Exhibit "A"**].
<https://nypost.com/2021/08/20/ny-judge-favored-abusive-men-over-battered-women-in-custody-cases-lawsuit-claims/>

15. **Judge McGinty gender based bias is a form of discrimination**, which is defined as “the process by which a member, or members, of a socially defined group, is, or are, treated differently (especially unfairly) because of their membership in that group.” Kreiger, N., *Discrimination and Health Inequalities*, 44 Int’l J. Health Servs, no.4, 643-710, 650 (2014), citing, Jary, D. & Jary, J., Collins Dictionary of Sociology (2d ed. 1995). It involves not only “socially derived beliefs” but also “patterns of dominance and oppression, viewed as expressions of a struggle for power and privilege.” Kreiger, N., *Embodying Inequality: A Review of Concepts, Measures, and Methods for Studying Health Consequences of Discrimination*, 29 Int’l J. Health Servs no.2, 295-352 (1999) (citations omitted). When an individual or group suffers discriminatory harm, they suffer injury to their dignity, autonomy, and humanity. See *Jackson, V., Constitutional Dialogue and Human Dignity: States and Transnational Constitutional Discourse*, 65 Mont. L.Rev. 15-40 (2004).
16. Negative stereotypes about women encourage judges to disbelieve women’s allegations of child sexual abuse; gender bias problems are particularly acute in family courts, and most problematic when sexual abuse of children is alleged in custody or visitation proceedings. One report specifically noted, “one striking example is the tendency to doubt the credibility of women who make these allegations, and to characterize them as hysterical or vindictive even when medical evidence corroborates a claim of child abuse.”); Report of the *Florida Supreme Court Gender Bias Study Commission Executive Summary* (March 1990),

III. Continuous Violations of Constitutionally protected rights of mother and children by Judge McGinty

17. Judge McGinty has caused the children and the mother tremendous emotional pain and suffering with extreme violations of their civil and fundamental human rights.
18. On September 8th, 2021 Mr. Walker stated, verified by his attorney, Leslie Silva, that:
“Our daughter is nine years old and able to work on a computer. Despite my best attempts to shield her from her Mother's actions, it is reasonable to believe that she could eventually find them and be exposed to adult topics and false accusations. The impact is certain to be detrimental to her best interest.”

Yet, there is no concern by Judge McGinty the fathers live-in sex worker’s girlfriend posts extremely disturbing adult content on her social media, mostly public viewed instagram, almost daily including “sucking dick”, burning genitalia for pleasure and

bestiality. The judge by his actions demonstrates that he simply does not care about justice.

19. Judge McGinty's imposed gag orders and temporary restraining orders on the mother's free speech but not on the previously registered sex offender's father's or especially the BDSM girlfriend continued inappropriate adult behavior on her social media around the children and around the children's home. Judge McGinty ignored all evidence brought forth by mother in his decision. This is a clear example of bias and violation of the mother's civil (first amendment rights).
20. Judge McGinty had a civil rights federal action, 2 USC Sec. 1983 and 1985, (*Walker v. McGinty, et al, 2022*) brought against him for violation of civil rights during the trial of Walker v. Walker. Upon information and belief, Judge McGinty was aware of this federal action, was therefore in a conflict of interest, and continued to conduct the biased trial without recusing himself.
21. Anthony McGinty even further restricted the mother's civil rights and the children's civil rights in "So Orders" by restricting all communication between the mother and her children indefinitely in concert and bias litigation (motions) by the attorney for the child, Douglas Broda on February 14th, 2022.
- 22. No gag order has been placed on the father or his sex worker girlfriend currently working their nefarious business out of the children's home, posting on adult material out of the home, clearly demonstrating the judges abuse of discretion and showing extreme bias and discrimination.**
23. Such conduct has violated federal and state protected constitutional rights, discriminatory protection, under the equal protection clause and those of parent and children to proper due process under the law. [42 USC 1983. etc.] [NYS Code of Judicial Conduct, NYS Professional Standards, ABA Code of Judicial Conduct].
24. Defendant Mother also challenges Judge McGinty's protection of the fathers criminal "egregious" domestic violence standard for domestic violence for custody Orders in contested cases. Excluding all other forms including the coercive control subtype (as defined in scientific research studies and by the NYS Office for the Prevention of Domestic Violence) which abusers use joint Custody Orders and fraud upon the court to obtain orders that violate a protected class(s) legally entitled economic and property rights and fundamental liberties.

25. Judge McGinty has continually engaged in non-evidence-based, gender-biased policies, practices, procedures, and standards for deciding legally entitled economic, property ownership, and custody rights in Custody Orders in contested cases family court and enforcement are unconstitutional.

IV. Examples of Judge McGinty's bias at Trial; **Retaliatory Decision**

26. Judge McGinty has demonstrated a pattern of courtroom behavior, which I feel was disdainful, disrespectful, while ignoring the key facts, jumping to false conclusions, and virtually ignored me, in violation of due process and in violation of the best interests of and protection of my children.
27. Judge McGinty appeared to even 'doze off at trial' during my testimony, especially for my testimony on forensic accounting on equitable distribution issues during the 4th day of trial testimony.
28. In the trial of Walker v. Walker, Judge McGinty completely and totally ignored and discounted testimony of the defendant's witness, [REDACTED]. Ms. [REDACTED] was an employee of family owned business, Clark Walker Studio. Ms. [REDACTED] testified under oath that the father sexually assaulted her on job. In fact, Judge McGinty said her testimony was "not credible." This is just another example of Judge McGinty totally dismissing testimony of victims of abusers. Ms. [REDACTED] stated it took a lot of courage to face her abuser in court as a witness just for the Judge to completely ignore her claims was extremely hard and caused her PTSD.
29. Judge McGinty also ignored the fact that the BDSM practicing and advocating paramour Sara-Miller Hornick, continues to work out of the children's home and during the children's vacation, running a BDSM sex worker bondage business, even as recently as the date of this recusal filing.
30. Judge McGinty never took into consideration that I am and have always been the fit primary sole custodial primary attachment figure and completely violated the best interest of the child standard as well. Judge McGinty also never took into consideration that I am the primary and fit caregiver of Elijah Blue LaPorta, (2) since birth.
31. During trial Judge McGinty violated due process and did not allow key material evidence including the father's sex offender multiple arrests and convictions or the father's paramour, or allow Sara Miller-Hornick's book "Ultimate Guide to Bondage" into evidence.

32. During the trial Judge McGinty allowed the attorney for the child, Douglas Broda, to act not for the children but what can only be construed as being in the capacity of an extension of the plaintiff fathers legal team, **interrupting and objecting over 300 times to defendant wife/mother presentation of her custody case.**
33. During trial, Attorney for the Child, Douglas Broda, often screamed at and waved his finger at mother during her testimony.
On record Alisha Clark Walker states: "Please stop waving your hand in my face, you're scaring me."
Judge McGinty allowed attorney for the child Douglas Broda, to harass the mother defendant in the courtroom creating an unsafe environment for a DV victim.
34. Judge McGinty did not consider the theft of the family business, Clark + Walker Studio, even though clear evidence of this was brought forth by the defendant wife.
35. The father makes over \$100,000/ year according to his income taxes. Judge McGinty did not award or even consider any statutory spousal support over 4 years of litigation to the defendant wife creating favoritism towards the father and clear sex bias decisions.
36. Judge McGinty did not properly consider the relative financial condition of the parties and of the displaced homemaker defendant wife in equitable distribution decision making another argument for sex bias and favoritism towards father.
37. Judge McGinty did improper imputation of income to displaced homemaker defendant wife going back to initial party separation and wrongfully assessing 4 years of back child support. Defendant Income below self-support reserve level, already awarded in pauperis status by court showing extreme sex bias. In the decision, Judge McGinty Wrongly asserted Equitable Distribution Assessments against the impoverished defendant wife.
This is a violation of DRL equitable distribution factors and existing NYS public policy.
38. Judge McGinty Improperly ruled on the subject of Federal 42 USC 1983 civil rights lawsuit(s) brought forth towards the defendant.
39. Judge McGinty incorrectly vaulted the marital property, 766 Taborton Road Property and Assessment of back taxes to defendant wife. Judge McGinty did not allow any evidence nor consider extensive testimony on the home's evaluation showing clear bias towards plaintiff father.

40. Judge McGinty in his decision often described the children as the “father’s children” or “his” children, often not even recognizing the mother, illustrating further a pattern of invidious bias and discrimination..
41. According to the Rules of the Chief Administrative Judge of the NYS Unified Court System, **Code of Judicial Conduct: Canon 2: ‘A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.’ Canon 3: ‘A Judge Shall Perform the Duties Of Judicial Office Impartially and Diligently.**
42. **Upon information and belief, the judge improvidently signed the Order and Judgement before reviewing or replying to the defendant wife’s Response Issues, to which the Attorney for plaintiff husband drafted Order and Judgment on February 6, 2023. [Exhibit “B”]**
43. **The Judge’s decision is reflective of a distorted and shocking to the conscience gender bias and was made against the proper spirit of justice, the law and of current public policy in New York State. The judge’s decision has also been designed to further make the defendant wife a pauper, and is believed to have been made to ultimately attempt to incarcerate the defendant wife and in retribution against her willingness to speak her mind openly to those in positions of power.**
44. The decision to file this recusal motion was made in good faith after careful thought and consideration and in the interests of justice.

WHEREFORE, the undersigned Respondent parent and mother requests:

1. That Judge Anthony McGinty recuse himself from this case as and for the enumerated reasons as stated herein and for the appointment of an impartial and neutral judge to fairly and impartially rehear and reconsider this case affecting the best interests of my children as well as the proper equitable distribution of the marital estate.
2. And for such other and further relief as to this Court may seem just and proper.

Respectfully submitted

Alisha Clark Walker
757 Taborton Road
Sand Lake, NY 12153

Date: _____

Sworn to me on ____ day
of February, 2023

Notary Public

Cc: Leslie Silva, Esq., sent via NYSCEF
Douglas Broda, Esq. sent via NYSCEF
Arthur Dunn, Esq., sent via NYSCEF

Exhibit “A”

NEWS EXCLUSIVE



Upstate judge favored abusive men over battered women in custody cases, lawsuit claims

By Lorena Mongelli

August 20, 2021 | 3:07pm | Updated

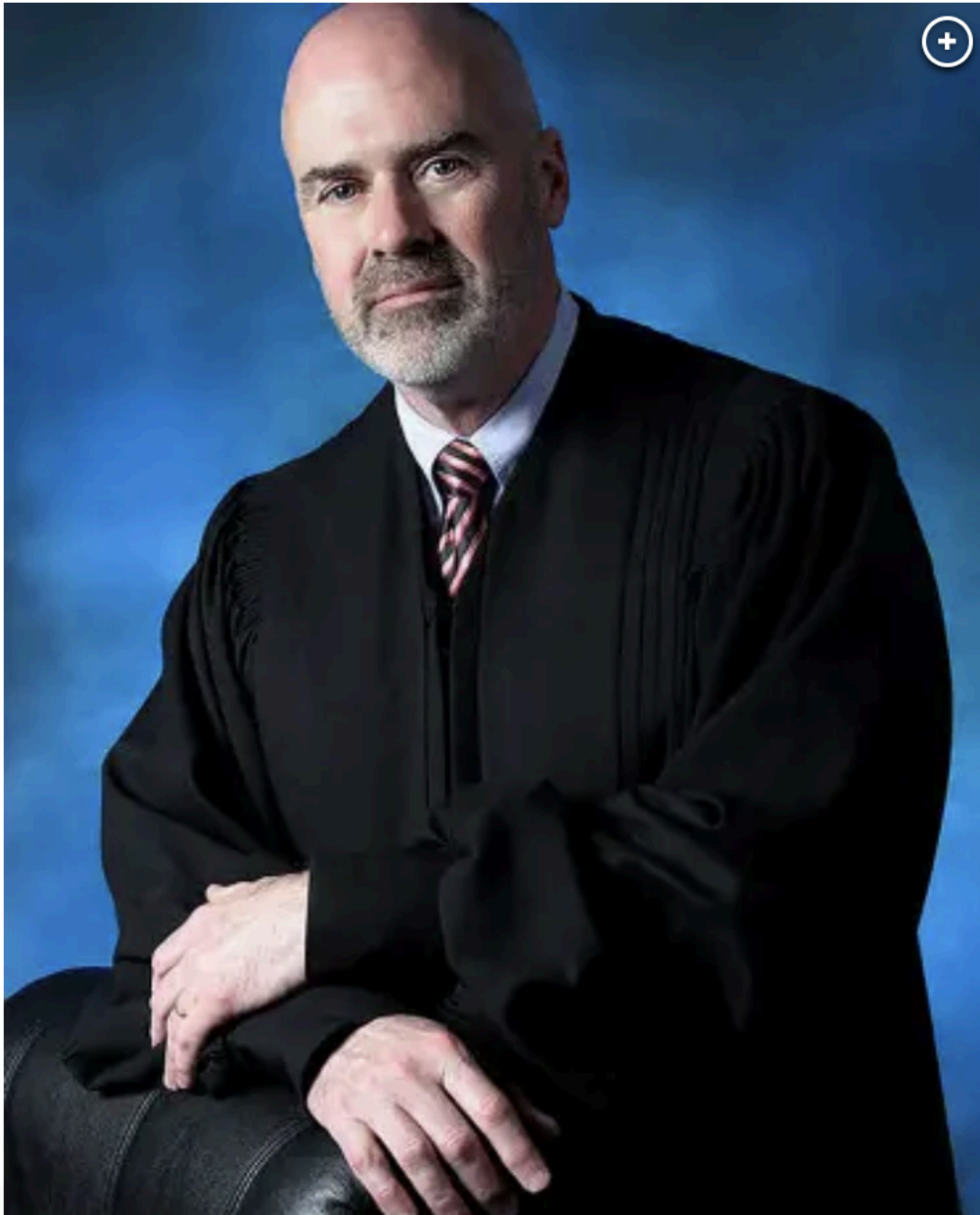


Exhibit “B”

February 6, 2023

Sent via NYSCEF

Hon. Anthony McGinty, A.S.C.J.
Rensselaer County Courthouse
80 Second Street
Troy, NY 12180

**RE: Counter Response to Ms. Silva’s
‘Findings of Fact & Law’
Judgement/Order
Case of: Walker v Walker
Index No.: 2018-261675
[Response Proposed Order]**

Hon. Judge McGinty:

Please accept this as my Counter and Critique to the plaintiff Attorney's Silva, Draft of Your Findings of Fact and Conclusions of Law in the above referenced divorce matter.

First, the draft was **submitted 2 days late by Ms. Silva**, and not within the 30 days of the decision as required, and after business hours and therefore **‘the cause of action should be deemed abandoned’** per your honors specific statement on the last page of the decision.

I also find it perplexing that your honor would assign the duty to draft the outrageous biased, discriminatory and prejudicial decision into a proposed order by and to the plaintiff's attorney in the first place.

Any final order needs to mention for the record that I have no convictions of breaking the law on my record, as does the plaintiff husband. Since your Decision also referenced that the plaintiff husband had been previously both convicted and also been diagnosed by Dr. O'Connor in her first evaluation of Mr. Walker as having “an adjustment and personality disorder with narcissistic features” should be included in any final Order/Judgment.

Any final order needs to mention that the defendant wife, Alisha Walker, was a primary caregiver for the children” [first paragraph page 3, Findings with respect to custodial issues, of the Decision after Trial].

Any final order needs to include that “on the positive side, Dr. O'Connor found Ms. Walker to be intelligent, assertive, articulate, and dominant. Dr. O'Connor testified that it is clear that the children love their mother”. [page 14 first paragraph of the Decision after Trial].

Any final order should not involve that there is something wrong with respect to my filing of Federal civil rights lawsuits upon the wrongful actions of parties that have infringed upon my basic parental rights and liberty interests in this matter.

Any final order needs to reflect that I am also contesting any order that infringes on my Federally protected right of free speech under the First Amendment of the United States and New York State Constitution.

Any Decision/Order should reflect on the fact of: An unauthorized 'theft of the family owned business', Unjust and Unfair determination on the value and apportionment of the last remaining marital real estate at the 766 Taborton Road waterfront property, and the unconscionable ruling on child support and claimed child support arrears that did not take into account my time as primary legal custodian to the children as well as my current poor economic situation.

I would request that your honor reconsider various egregious parts of the Decision before making any Final Order.

Any final order needs to reflect that I am also contesting the decision in its entirety and nothing in my closing arguments or any exhibits were included in the decision. The decision seems to flow directly from Plaintiff husband's commentary regarding replete with his statements beginning many of your honors decisions after trial. The decision should be subjected to reconsideration and review.

As you are aware, I will be perfecting a vigorous appeal to the obviously one sided, biased, discriminatory and vindictive decision and order.

I request that all the parties, including your honor, provide the courtesy of a written answer to this counter response within 14 days before signing off on any Order in the above matrimonial matter.

Thank you for your consideration.

Sincerely,

Alisha Clark Walker

Alisha Clark Walker, Pro Se Litigant
signed electronically
757 Taborton Road
Sand Lake, NY 12153

cc: Leslie Silva, Esq. via NYSCEF
Douglas Broda, Esq., AFC via NYSCEF
Arthur Dunn, Esq., via NYSCEF