

STATE OF NEW YORK
SUPREME COURT

APPELLATE DIVISION, THIRD DEPARTMENT

In the Matter of:

PAUL JJ.,
Petitioner,

ATTORNEY AFFIRMATION IN
OPPOSITION TO MOTION

- AGAINST -

Appeal Nos. 527575
527576
528724

HEATHER JJ.,
Respondent.

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

Alexandra G. Verrigni, Esq., an attorney duly admitted to practice in the courts of the State of New York, affirms under penalty of perjury as follows:

1. I am appellate attorney of record for the Respondent, Heather JJ., appointed by Supreme Court, Appellate Division, Third Department, by Order dated December 4, 2018, and have offices at 865 Riverview Road, Rexford, New York 12148-1314; tel. no. 518-399-3228; facsimile no. 518-384-0795; and email address of agverrigni@earthlink.net.

2. I am fully familiar with the facts surrounding this matter and make this affirmation in opposition to the motion filed on December 31, 2019, by Appellant in the New York State Appellate Division, Third Department to vacate the Court's own Order decided and entered on December 31, 2019, copy attached, as, *inter alia*, an unconstitutional infringement of his right to free speech.

3. Appellant's pronouncements give new meaning to the term frivolous.

4. It is respectfully submitted the First Amendment does not grant a free-for-all in the unfettered pursuit of an agenda of paper terrorism,¹ fraud, and disruption without restraint by rule of law [*see, generally, Schenck v. United States*, 249 U.S. 47 (1919) and progeny].

5. Prominent examples of lawful control of free speech range from the New York Penal Code proscriptions against harassment [*see, e.g., McKinney's Penal Law* §§ 240.25 and 240.26], to United States Supreme Court decisions against child pornography as protected speech [*see, New York v. Ferber*, 458 U.S. 747 (1982); *Miller v. California*, 413 U.S. 15 (1973)] or decisions that determine commercial speech is less protected [*see, Central Hudson Gas & Electric v. Public Service Commission*, 447 U.S. 557 (1980); *Zauderer v. Office Disciplinary Counsel*, 471 U.S. 626 (1985)].

6. In the instant matter, this Court and the appealed-from Decision and Order granted Appellant the right to proceed *pro se* and the privilege and convenience to access the NYCEF system in his appeal. He is subject to rules guiding the orderly conduct of court business and communications with respect to all officers of the court, notwithstanding he is not an attorney.

7. Appellant fails to set forth any facts or decisions that substantiate with specificity how the Appellate Division Order has infringed his speech or his ability to pursue his appeal, which one would presume is the issue at hand. If he expressly violates the mandatory guidelines set forth in the December 31, 2019 Decision and Order, he should suffer the commensurate consequence.

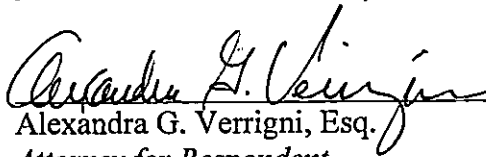
¹ Defined as “. . . a neologism to refer to the use of false, liens, frivolous lawsuits, bogus letters of credit and other legal documents lacking sound factual basis as a method of harassment, especially against government officials” (Wikipedia at https://en.wikipedia.org/wiki/Paper_terrorism (citations omitted)).

8. The Decision and Order on Motion dated December 31, 2019 expressly reserves to the Appellant a reasonable opportunity to be heard, protecting his due process rights, if an imposition of sanctions and costs is sought.

WHEREFORE, the undersigned respectfully requests the Appellant's motion be denied in its entirety and for such other, further, and different relief as to this Court is proper.

Dated: January 9, 2020

ALEXANDRA G. VERRIGNI, PLLC



Alexandra G. Verrigni, Esq.

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Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: December 31, 2019

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In the Matter of PAUL JJ.,
Appellant,

v

HEATHER JJ.,
Respondent.

DECISION AND ORDER
ON MOTION

(And Two Other Related Proceedings.)

Upon the Court's own motion it is

ORDERED that Matthew C. Hug, Esq. is relieved of the assignment to represent appellant upon these appeals, and it is further

ORDERED that appellant shall be permitted to represent himself on the appeals, and it is further

ORDERED that the appeals shall be set down for the March 2020 term of this Court. Appellant shall file and serve the appellant's brief on or before January 22, 2020. The briefs of respondent and the attorney for the child shall be filed and served on or before February 14, 2020. The reply brief, if any, shall be filed and served on or before February 24, 2020, and it is further

ORDERED that appellant shall comply with the Practice Rules of the Appellate Division (see 22 NYCRR 1250 and 850) and the Electronic Filing Rules of the Appellate Division (see 22 NYCRR 1245), and it is further

ORDERED that all communications by appellant with the Court and with counsel for the other parties to the appeal shall be in writing and such written communications shall be uploaded to NYSCEF. Appellant shall refrain from email, telephone, facsimile or any means of communication other than written communication uploaded to NYSCEF, and it is further

ORDERED that appellant's failure to comply with this order shall be subject to such sanction as the Court may impose (see 22 NYCRR 1250.1 [h]), including the dismissal of the appeals. The imposition of sanctions and costs may be made upon motion or upon the Court's own initiative, after a reasonable opportunity to be heard. The Court may impose sanctions and/or costs upon a written decision setting forth the conduct on which the imposition is made.

Lynch, J.P., Clark, Mulvey and Colangelo, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive style with a large, prominent "R" and "M".

Robert D. Mayberger
Clerk of the Court