

he argued that both of the parties' children were emancipated, and Carolyn's answer and counterclaim, which contested the claim that the youngest child was emancipated and which sought a reduction in alimony based on a material change in circumstances. The court (Hon. Terri Klug Cafazzo) conducted a three day trial, with trial days on August 12 and 27 and October 27, 2021.

For purposes of this application, Carolyn will adopt the description of the procedural history set forth in the court's modification judgment, the relevant portions of which are as follows:

1. The Complaint for Modification was filed on May 6, 2021, by Plaintiff/Father and served on the Defendant/Mother on June 1, 2021.
2. The Defendant/Mother filed an Answer and Counterclaim on June 6, 2021.
3. In this modification action, Father requests the Court to modify the June 11, 2015, as of April 21, 2014, Amended Judgment of Divorce by reducing and or terminating Father's child support obligation.
4. In Mother's counterclaim she seeks to terminate or reduce her alimony obligation and terminate or reduce her life insurance obligation.
5. The Amended Divorce Judgment provides the following:

- a. The Mother's "normalized income" from her business, as established by the Father's business expert, (under the 2015 Amended Divorce Judgment) is \$350,000 annually.
- b. The Court imputed \$27,000 annual income (\$520.00 per week) to the Father, who was unemployed.
- c. The Mother was ordered to pay the Father \$2,049.81 weekly alimony.
- d. The Father was ordered to pay \$347.00 weekly to the Mother for child support for two unemancipated children.
- e. As a division of assets, the Mother was assigned her business valued at \$2.46 million by the Father's business expert based on the income capitalization method on her business profit, and the Mother was ordered to make a payment to the Father to equalize the assets in the amount of \$1,073,396.16 paid over a 10-year period, with 2% annual interest: and
- f. The Mother was ordered to maintain \$550,000 in life insurance for the benefit of the Father so long as she had an alimony obligation.

On February 4, 2022, the court issued its modification judgment (docketed on February 15, 2022). The court terminated James' child support obligations as to the parties' oldest child, reducing his total support obligations from \$347 weekly to \$74 weekly as of June 1, 2021 and ordered retroactive payment of \$9,555 for the overpayment. The court denied Carolyn's counterclaim, holding that she failed to meet her burden of showing a material change in

circumstances and that her alimony and insurance obligations should remain unchanged.

On February 23, 2022, Carolyn filed a motion for a new trial, together with a motion for leave to file the same. On March 15, 2022, the court denied both the motion for a new trial and the motion for leave to file the motion for a new trial. The court docketed both motions on March 24, 2022. Carolyn filed a timely notice of appeal on March 29, 2022.

The Appeals Court docketed the appeal on April 19, 2022. Carolyn filed her brief in the Appeals Court. James' brief is currently due on September 1, 2022.

B. Statement Of Facts

Carolyn does not agree with all of the trial court's factual findings. However, for purposes of this application, the findings by the court are as follows:

EMANCIPATION AND CHILD SUPPORT

6. The Court finds that Jasmine Elmore born September 26, 1997, was emancipated on September 26, 2020, and was undisputed at trial.
7. Father continued to pay child support in the amount of \$374.00 after the emancipation of Jasmine on September 9, 2020.

8. The Court finds Nekisha Elmore born February 12, 2001, is emancipated as of February 12, 2022, when she turns 21 years old.
9. Nekisha graduated from high school in 2019.
10. Nekisha is not enrolled in college.
11. Father testified credibly that he talks to Nekisha at least two times a week.
12. Father testified credibly that he learned from Nekisha that she was working full time at Tavern on the Square in Littleton, Massachusetts as a food runner.
13. Mother testified that Nekisha had been working at Tavern on the Square for one year as of August 27, 2021.
14. Father testified credibly that Nekisha left that job because she was not happy working there.
15. At the time of trial Nekisha was only working part time at a diner.
16. The Court finds Nekisha has the ability to work full time, has worked full time in the past but chooses to only work part time.
17. Father testified credibly that he knows of no medical condition, diagnosis, or mental impairments that would prevent Nekisha from working full time.
18. Mother did testify Nekisha was adopted by the parties and the biological mother had substance abuse and mental health issues and Nekisha was born with cocaine in her blood, however; nothing was offered as evidence to show that it impacts Nekisha today or prevents her from working full time.

19. Mother testified that Nekisha pays for her auto repairs, gas, clothing, some food, entertainment, and her vacations.
20. Mother further testified that she pays for Nekisha's cell phone, some food, and her car insurance.
21. Nekisha still resides with Mother.

ALIMONY

22. The Court finds Father's Financial Statement (Exhibit 2) filed with the Court on August 12, 2021, to be true and accurate.
23. The Court finds Mother's Financial Statement (Exhibit 3) filed with the Court on August 12, 2021, to be true and accurate.
24. Father's income as reflected on his Financial Statement is \$22,054.24 annually not including alimony. The Court finds Father's income is less than the imputed income of \$27,000.00 at the time of the Amended Judgment of Divorce.
25. The Court finds that Father is a real estate agent working 15 to 20 hours a week.
26. The Court finds that Father's 1099 (Exhibit 5) from Coldwell Banker accurately reflects the income he receives as a real estate agent.
27. The Court does not find that the Father's income from commissions for the sales of real estate as an agent should be greater than reflected on his 1099. Mother suggests that based on the values of the properties he markets on behalf of Coldwell Banker his commissions should be greater. The Court notes that the 1099 was compiled and produced by Coldwell Banker.

28. The Court finds that Father purchased two rental properties, one at 86 Corbett Street in Lowell and one at 255 North Road, Unit 146 in Chelmsford. These properties were purchased with the equalization payments Father receives as his share of the marital assets.
29. The Court finds Father's Financial Statement accurately reflects that he does not earn income from his rental properties.
30. The Court declines to disregard the depreciation Father took on his rental properties as reflected on his Financial Statement in the amount of \$11,916.84 and include that amount in Father's income.
31. The Court finds Father also purchased real estate at 25 Mission Road in Chelmsford in January 2019 for \$250,000.00.
32. Father put \$15,000.00 down on the property.
33. In August 2019, Father obtained a special permit to renovate 25 Mission Road.
34. The property was sold in 2020 for \$679,900.00.
35. Father testified that after costs of renovations he made approximately \$25,000.00.
36. Father's Financial Statement (Exhibit 2) states that his 2020 gross income was \$152,677.12 which he testified includes his alimony, self-employment income (commissions) and capital gain income. The Court finds that Father's alimony received in 2020 was \$106,590.12. If you deduct the alimony payments in the amount of \$106,590.12 from \$152,677.12 it equals \$46,087.50. If you deduct Father's income of \$22,054.24 as reflected on his Financial Statement from \$46,087.50 it equals \$24,033.26 which Father credibly testified, he had a one-time capital gain for that year of approximately \$25,000.00.

37. Father also owns 26 Highland Avenue, Chelmsford which he received as part of the division of marital assets pursuant to the divorce.
38. Father purchased a fourth property located at 17 Rockwood Lane in Lawrence, Massachusetts in July 2021 using his equalization payments from Mother.
39. Father testified he obtained a building permit to build on his Rockwood Lane, Lawrence property.
40. Father obtained a mortgage for 17 Rockwood Lane, Lawrence property, which mortgage had a rehabilitation rider for purposes of rehabilitating the property.
41. Father testified he intends to rehabilitate his Rockwood Lane, Lawrence property in accordance with the rehabilitation rider to the mortgage
42. Mr. Elmore purchased his Rockwood Lane, Lawrence property for \$300,000, and took a mortgage with a “rehabilitation rider” for around \$356,876.
43. Mother’s income as reflected on her Financial Statement (Exhibit 3) is \$935,054.12 annually. The Court finds Mother’s income is much greater than the income of \$350,000.00 used at the time of the Amended Judgment of Divorce to calculate alimony.
44. The Court finds that there was a disparity in the parties’ income at the time of the Amended Divorce Judgment.
45. The Court finds that there continues to be a disparity in the parties’ current income.
46. The Court does not find a material change in circumstances in Father’s income to warrant a reduction in alimony.

47. The Court finds that Mother continues to have the ability to pay alimony based on her income as reflected on her Financial Statement.
48. The Court finds that Father's expenses at the time of trial were \$2,727.50 a week as reflected on his Financial Statement (Exhibit 2) which includes mortgages and weekly expenses.
49. The Court finds at the time of the Amended Judgment of Divorce Father's weekly expenses were found by the Court to be \$2,126.41.
50. Father lists on page 8 of his August 6, 2021, Financial Statement: "Amex debt incurred in 2021 of \$1,500.00" and states "he is making weekly payments of \$528.00." The Court finds that paying down the Amex liability at the rate of \$528.00 a week, would result in the liability having been paid in its entirety within three weeks of August 6, 2021, which was shortly after the second day of trial. If the Court subtracts \$528.00 weekly from Father's weekly expenses, Father's weekly expenses would be \$2,199.50 which is approximately the same as his expenses at the time of the Amended Judgment of Divorce.
51. The Court further finds that if an additional adjustment in Father's expenses is made by deducting child support in the amount of \$347.00 per week, Father's weekly expenses would be \$1,852.50 per week which would only be a \$273.91 per week decrease in Father's expenses since the Amended Divorce Judgment.
52. The Court does not find \$273.91 a week decrease in expenses to be significant.
53. The Court does not find a material change in circumstances relative to Father's current need for alimony warranting a reduction or termination of alimony.

C. Statement Of The Issues With Respect To Which The Appellant Seeks Direct Appellate Review

1. Whether the Probate and Family Court may properly deny a party access to the courts by requiring that she seek permission to file pleadings, motions and other filings, in the absence of a finding that either party engaged in improper or abusive litigation tactics. This issue was raised and properly preserved in the lower court.

2. Whether the Probate and Family Court can refuse to permit a party to engage in any discovery, submit exhibits, or call expert witnesses in the absence of any improper conduct or discovery abuse. This issue was raised and properly preserved in the lower court.

Argument

D. Direct Appellate Review Should Be Granted To Address Whether The Trial Court May Require The Parties To Seek Permission To File Pleadings, Motions And Other Filings, Absent A Finding That Either Party Engaged In Improper Litigation Tactics

Following a contentious divorce, the trial court entered judgment in 2015. Additional litigation followed, during which the court (Kaplan, J.) entered a September 20, 2016 temporary order providing that “[n]either party may file any further Motions or Complaints except as set forth below prior to Trial.” This litigation concluded on October 26, 2016 with the dismissal of all pending complaints and counterclaims. The temporary order should have dissolved at that point. *Gordon v. Pitner*, 83 Mass. App. Ct. 1124 (2013 Mass. App. Unpub. LEXIS 428 at 4) (2013) (“the entry of this judgment, without any explanation to the contrary, extinguished the temporary order”). But following the dismissal, the parties treated the temporary order as still in force, requesting permission to file various pleadings and motions, including James’ May 2021 complaint for modification. Carolyn argued that it dissolved upon the October 2016 dismissal. Over her repeated objections, the

court (Klug Cafazzo, J.) treated the temporary order as still in force, requiring her to request permission for any filings and repeatedly denying such permission. Notably, assuming the order remained in force after 2016, no finding appears on the record justifying its entry or continuing existence. The order itself references a hearing, and the docket reflects a pretrial conference and hearing on September 20, but no written finding addresses the need for this order.

In appropriate circumstances, a court may enter a limited-filing order restricting the ability of a party to file motions or pleadings without permission. *See Bishay v. Superior Court Department of the Trial Court*, 487 Mass. 1012, 1013 (2021); *Watson v. Walker*, 455 Mass. 1004, 1005 (2009). Such gatekeeper orders may be appropriate where a litigant has repeatedly submitted vexatious, frivolous, and harassing filings after being cautioned against doing so. *Id.* *See Brookline v. Goldstein*, 388 Mass. 443, 448-449 (1983). *See also Afrasiabi v. Commonwealth*, 477 Mass. 1001, 1002 (2017). But “[a]ccess to the courts should not be restricted unnecessarily.” *Id.* at 448. Meaningful access to the courts is a fundamental constitutional right. *United Transp. Union v.*

Michigan Bar, 401 U.S. 576, 585 (1971); *Id.* at 449. See *Committee for Public Counsel Services v. Barnstable County Sheriff's Office*, 488 Mass. 460, 481-482 (2021). Thus, prior to restricting the right to file, the judge must consider whether less restrictive methods would suffice. *Brookline v. Goldstein*, 388 Mass. at 449. No such analysis appears on the record, nor does the record suggest that either party engaged in vexatious litigation.

While the docket reflects a substantial number of entries, the issues in the case were complex and ongoing. The court apparently made no findings explaining the need for the 2016 order, nor did the current judge explain why an expired temporary order issued by a different judge should be treated as a permanent gatekeeper order.

As discussed below, the judge permitted Carolyn to file her counterclaim for modification, but used the temporary order to deny her any discovery, refused to allow her to file necessary documents, excluded all trial exhibits, refused to allow her to call experts, and then concluded that she had not met her burden of proof.

This case is one of first impression in this Commonwealth—whether a court can restrict a party’s right to file pleadings and motions absent a finding that the party engaged in abusive litigation tactics. The court’s misuse of this temporary order deprived Carolyn of her right to due process under the Fifth Amendment to the United States Constitution and Art. 10 of the Massachusetts Declaration of Rights. Direct appellate review is warranted.

E. Direct Appellate Review Is Also Warranted Where, Absent Any Improper Conduct Or Abuse, The Trial Court Refused To Permit Carolyn To Conduct Any Discovery, Submit Exhibits, Or Call Expert Witnesses

Regardless of whether the 2016 temporary order was still in force, the trial court erroneously precluded Carolyn from conducting any discovery, excluded critical testimony and exhibits, and ultimately ruled that she had failed to meet her burden on her counterclaim. After James filed his complaint, Carolyn sought discovery of his income, resources and assets based on its relevance to both child support and alimony. James opposed all discovery. Carolyn sought permission to file a motion to compel discovery, which the court denied. James moved to quash the subpoenas, which the court allowed. The case then proceeded to trial without any discovery. On the second day of trial, Carolyn filed an emergency motion to suspend the trial, reconsider the prior discovery orders, permit discovery, and call additional trial witnesses. The court denied permission to file that motion, notwithstanding provisions in the Probate Rules permitting discovery as of right or the constitutional right to discovery. The court also denied Carolyn's request to submit exhibits,

to mark those exhibits for the record, and to call three expert witnesses. Direct appellate review is warranted to address whether a court may refuse to permit a party to conduct any discovery, submit exhibits, or call expert witnesses absent misconduct or discovery abuse.

1. Discovery

Whether there had been a material change in circumstances based on an increase in James' income was certainly a viable issue. In the divorce judgment, the court imputed an annual income of \$27,000 to James, who was then unemployed. By 2021, he appeared to be a successful sales associate with Coldwell Banker—from May 2019 to May 2021, he sold homes totaling \$12.8 million. In May 2021, he had listings or co-listings with a combined asking price of \$7 million. He also bought, renovated and sold an investment property in 2019-2020, and he currently owns three rental properties. Yet he claimed that he earned a pittance from these endeavors.

Under Mass. R. Dom. Rel. P. 26(b)(1) “[p]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending

action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.” Mass. R. Dom. Rel. P. 33 permits a party, as of right, to “serve upon any other party written interrogatories to be answered by the party served[.]” Mass. R. Dom. Rel. P. 34 permits a party, as of right, to request that another party produce documents or make them available for inspection.

These rules follow principles articulated by the United States Supreme Court and this Court that discovery is necessary to define and clarify the issues at trial, and that due process principles require that discovery be broad in scope. *See Hickman v. Taylor*, 329 U.S. 495, 501 (1947); *Cronin v. Strayer*, 392 Mass. 525, 534 (1984). *See Bailey v. KS Mgmt. Servs., L.L.C.*, 35 F.4th 397, ___ (5th Cir. 2022) (discovery required regardless of whether, in the trial court’s view, the requested discovery is unnecessary).

Judges faced with discovery abuse may issue protective orders or regulate the scope and timing of discovery. *Id.* at 535-536. *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 35 (1984); *Global Investors Agent Corp. v. National Fire Ins. Co. of Hartford*, 76 Mass. App. Ct. 812, 820 (2010). But here, the court cited no authority suggesting that a judge may dispense with discovery altogether, nor does the record establish that Carolyn engaged in discovery abuse under any definition of that term. *Contrast Commonwealth v. Jones*, 478 Mass. 65, 67-72 (2017). Her requests were neither oppressive or overly broad, *Cronin v. Strayer*, 392 Mass. at 535, nor would the record support any finding of fraud or willful bad faith. *See Gos v. Brownstein*, 403 Mass. 252, 257 (1988). *Contrast Hunter v. Rose*, 463 Mass. 488, 501 (2102). Even then, the typical sanction is to award attorney's fees to the party subjected to discovery abuse. *See Hunter v. Rose*, 463 Mass. at 502. No authority in Massachusetts supports the elimination of all discovery.

Discovery sanctions are subject to review under due process principles. *Gos v. Brownstein*, 403 Mass. at 257. While the trial court did not characterize its rulings as

sanctions, it nevertheless precluded all discovery, apparently based on a flawed narrative that Carolyn was over litigating the case.

The court repeatedly suggested that counsel could cross-examine James based on his financial statement, but such cross-examination would be ineffective where the court would have to take James' word on critical issues, with the only source of impeachment being self-serving documents that he had prepared. *See Commonwealth v. Molina*, 454 Mass. 232, 236 (2009) (discovery is necessary to allow party to make effective use of available evidence in cross-examination).

Finally, in addressing why discovery was not needed, the trial court treated disputed factual issues as undisputed, explaining that James only works part-time and that "he's not a seasoned real estate agent. We know that." Carolyn's counsel responded, "we don't know that." While he may have been unemployed at the time of the divorce, he was extremely active in the real estate business, both in terms of selling and flipping properties. Ultimately, the court found critical facts absent any evidence and based on assumptions

that are likely incorrect. *C.f. Augat, Inc. v. Aegis, Inc.*, 417 Mass. 484, 489 (1994).

2. Expert Witnesses

Carolyn sought to call two expert witnesses, Vocational Specialist Nancy Segreve and CPA Kevin Flaherty, explaining that Segreve would “opine on Mr. Elmore’s earning capacity as a real estate agent for purposes of income attribution”, and Flaherty would extrapolate his income based on the taxes he pays. Following James’ testimony, Carolyn sought to call a third expert, Stephen Stratford, a real estate agent with knowledge of the Lowell area real estate market. He would have rebutted James’ testimony that the real estate market was worse in 2021 than in 2019 and that he could only earn \$65.10 weekly selling real estate. The court excluded all three experts, explaining at one point, “I do not believe you need to over litigate this with experts”.

Without just cause, the court precluded Carolyn from offering critical expert testimony. While the decision to permit or exclude expert testimony is generally discretionary, *Palandjian v. Foster*, 446 Mass. 100, 104

(2006), as with the discovery issue, the denial of Carolyn’s requests to call expert witnesses prevented her from contesting James’ claim or presenting her counterclaim. *See Commonwealth v. Hinds*, 487 Mass. 212, 228 (2021) (exclusion of expert testimony prevented defendant from presenting his theory of the case). Further, “[t]here are circumstances . . . in which a party may present rebuttal evidence as a matter of right and in which the denial of that right would be an error of law. Such cases arise when a party seeks to present evidence to refute evidence of the other side.” *Drake v. Goodman*, 386 Mass. 88, 92 (1982).

3. Exhibits

Carolyn offered into evidence multiple exhibits relating to James’ real estate activities, which the court excluded and refused to mark for identification. The trial court repeated the mantra that the case was somehow being over litigated. However, these materials were highly relevant to the contested issue at trial—whether James had significant income or was earning pocket change from his work. “[T]he substantial rights of a party are adversely affected when relevant evidence is erroneously excluded that, viewing the

record in a commonsense way, could have made a material difference”. *DeJesus v. Yogel*, 404 Mass. 44, 48 (1989). See *G.E.B. v. S.R.W.*, 422 Mass. 158, 169 (1996). Here, unquestionably, the excluded exhibits might have made a substantial difference in the outcome of the case.

Carolyn can find no reported decision in Massachusetts permitting the complete denial of discovery or the type of systematic exclusion of all relevant evidence in the case. Direct appellate review is warranted in the circumstances.

F. Statement Of Reasons Why Direct Appellate Review Is Appropriate

As described in Section D, *supra*, the trial court improperly restricted the parties, particularly Carolyn, from filing documents critical to her response to James' complaint and to her legitimate counterclaim seeking modification of the alimony award. The trial court's use of that order denied Carolyn her constitutional right to access the courts. No precedent exists in this Commonwealth for requiring such a gatekeeper order absent a pattern of abusive filings, and the propriety of such an order should be addressed by this Court.

Further, as described in Section E, *supra*, the trial court denied all discovery, refused to accept any exhibits from Carolyn, refused to permit her to call expert witnesses necessary to prove her case, and then concluded that she had failed to prove her case. The Probate Rules permit parties to conduct discovery as of right. She was also entitled under both the United States and Massachusetts constitutions to discovery, to offer exhibits, and to present expert witnesses as needed. In the absence of misconduct or some sort of discovery abuse, the trial court had no lawful basis for entering such orders. While the extent of the restrictions in

this case may have been extreme, similar restrictions are not uncommon in the Probate and Family Court. Direct appellate review is necessary to address the propriety of such orders.

Respectfully submitted,
Carolyn Elmore,

By her attorney,

A handwritten signature in blue ink, appearing to read 'Dana Curhan', with a long horizontal flourish extending to the right.

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Commonwealth of Massachusetts

Middlesex, SS.

Supreme Judicial Court
No.

Appeals Court
No. 2022-P-0356

James Elmore
Plaintiff/Appellee

v.

Carolyn Elmore
Defendant/Appellant

Application For Direct Appellate Review

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MI12D0926DR Elmore, Carolyn S. vs. Elmore, James

- Case Type: Domestic Relations
- Case Status: Closed
- File Date: 03/07/2012
- DCM Track:
- Initiating Action: Divorce 1B
- Status Date: 06/23/2015
- Case Judge: Klug-Cafazzo, Hon. Terri L.
- Next Event:

Property Information

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[More Party Information](#)**Subsequent Action/Subject**

<u>Description</u>	<u>Status</u>	<u>SA/Subject #</u>	<u>Pleading Party</u>	<u>Responding Party</u>	<u>Status Date</u>
S/A - Complaint for Contempt	Closed	1	Elmore, James	Elmore, Carolyn S.	04/21/2015
S/A - Complaint for Contempt	Closed	2	Elmore, James	Elmore, Carolyn S.	04/21/2015
S/A - Complaint for Contempt	Closed	3	Elmore, Carolyn S.	Elmore, James	04/21/2015
S/A - Complaint for Contempt	Closed	4	Elmore, James	Elmore, Carolyn S.	04/21/2015
S/A - Complaint for Contempt	Closed	5	Elmore, Carolyn S.	Elmore, James	04/21/2015
S/A - Complaint for Contempt	Closed	6	Elmore, Carolyn S.	Elmore, James	04/21/2015
S/A - Complaint for Contempt	Closed	7	Elmore, Carolyn S.	Elmore, James	10/08/2015
Modification CSP	Closed	8	Elmore, James	Elmore, Carolyn S.	06/10/2019
S/A - Complaint for Contempt	Closed	9	Elmore, Carolyn S.	Elmore, James	10/26/2016
S/A - Complaint for Contempt	Closed	10	Elmore, Carolyn S.	Elmore, James	10/26/2016
S/A - Complaint for Contempt	Closed	11	Elmore, James	Elmore, Carolyn S.	06/14/2017
S/A - Complaint for Contempt	Closed	12	Elmore, James	Elmore, Carolyn S.	07/28/2017
Modification CSP	Closed	13	Elmore, Carolyn S.	Elmore, James	06/21/2019
S/A - Complaint for Contempt	Closed	14	Elmore, Carolyn S.	Elmore, James	11/30/2017
S/A - Complaint for Contempt	Closed	15	Elmore, Carolyn S.	Elmore, James	11/30/2017
S/A - Complaint for Contempt	Closed	16	Elmore, Carolyn S.	Elmore, James	06/21/2019
S/A - Complaint for Contempt	Closed	17	Elmore, Carolyn S.	Elmore, James	06/21/2019
S/A - Complaint for Contempt	Closed	18	Elmore, James	Elmore, Carolyn S.	06/21/2019
Modification CSP	Closed	19	Elmore, James	Elmore, Carolyn S.	02/15/2022

Events

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
03/07/2012 02:45 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/12/2012 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/15/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
04/11/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
06/20/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
09/20/2012 11:00 AM	Judge Gibson Session	Courtroom 1	Pretrial Conference Domestic and Equity	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
10/03/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
11/08/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
11/28/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
11/28/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
12/06/2012 08:30 AM	Judge Gibson Session	Courtroom 1	Contempt Continued	Gibson, Hon. Dorothy M	Event Held
01/17/2013 09:00 AM	Judge Gibson Session	Courtroom 1	Pretrial Continued	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
01/30/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Not Held - Party did not Appear
02/27/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Not Held - Party did not Appear
03/13/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/21/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event Not Held - Party did not Appear
04/04/2013 09:00 AM	Judge Gibson Session	Courtroom 1	Pretrial Continued	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
05/02/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
05/15/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
05/15/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
06/06/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Contempt Continued	Gibson, Hon. Dorothy M	Event Held
06/06/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
06/06/2013 09:00 AM	Judge Gibson Session	Courtroom 1	Pretrial Continued	Gibson, Hon. Dorothy M	Event Held
08/08/2013 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
08/13/2013 02:00 PM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event Held
08/13/2013 02:00 PM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event Held
10/30/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
11/04/2013 08:45 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
11/06/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
11/12/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
11/12/2013 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
01/02/2014 08:45 AM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
01/27/2014 08:45 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
02/05/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
02/11/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
02/12/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
03/10/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/26/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Status Conference	Gibson, Hon. Dorothy M	Event Held
04/04/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Contempt Continued	Gibson, Hon. Dorothy M	Event Held
04/04/2014 09:30 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
04/07/2014 08:30 AM	Judge Gibson Session	Courtroom 1	Contempt Continued	Gibson, Hon. Dorothy M	Event Held
04/07/2014 09:30 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
04/08/2014 09:30 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
04/10/2014 09:30 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
04/11/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
06/09/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
06/10/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
06/16/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
06/17/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
06/23/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Taken Off List
07/18/2014 02:45 PM	Judge Kagan Session	Courtroom 4	Motion	Kagan, Hon. Spencer M	Event Held
07/21/2014 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
07/28/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Under Advisement
08/06/2014 08:45 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
08/22/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
09/29/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
09/30/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
10/06/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
10/07/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
10/20/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
10/21/2014 09:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
11/06/2014 03:10 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
11/13/2014 02:00 PM	Judge Gibson Session	Courtroom 1	Trial 2 Hours	Gibson, Hon. Dorothy M	Event not held: Continued by order of Court
11/17/2014 10:00 AM	Judge Gibson Session	Courtroom 1	Trial 1 Day	Gibson, Hon. Dorothy M	Event Held
01/28/2015 08:30 AM	Judge Gibson Session	Courtroom 1	Summons Issued, Contempt Returnable	Gibson, Hon. Dorothy M	Dismissed by agreement of parties
02/11/2015 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event not held: Continued by parties agreement
02/12/2015 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Under Advisement
02/27/2015 09:15 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/04/2015 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
03/04/2015 08:30 AM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Taken Off List
03/04/2015 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
03/12/2015 02:00 PM	Judge Gibson Session	Courtroom 1	Review Hearing	Gibson, Hon. Dorothy M	Event Held
03/25/2015 02:00 PM	Judge Gibson Session	Courtroom 1	Motion	Gibson, Hon. Dorothy M	Event Held
08/10/2015 08:30 AM	Judge Christopher Session	Courtroom 4	Motion	Christopher, Hon. Megan H	Event Held
09/28/2015 08:30 AM	Judge Christopher Session	Courtroom 4	Summons Issued, Contempt Returnable	Christopher, Hon. Megan H	Taken Off List
09/28/2015 08:30 AM	Judge Christopher Session	Courtroom 4	Summons Issued, Contempt Returnable	Christopher, Hon. Megan H	Event Held
02/29/2016 08:30 AM	Judge Christopher Session	Courtroom 4	Motion	Christopher, Hon. Megan H	Case Not Heard and Rescheduled
02/29/2016 08:30 AM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Event Held
06/22/2016 12:00 PM	Judge Kaplan Session	Courtroom 8	Pretrial Conference Domestic and Equity	Kaplan, Hon. Randy J	Event not held: Continued by parties agreement
06/24/2016 02:30 PM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Event Held
06/27/2016 08:30 AM	Judge Kaplan Session	Courtroom 8	Summons Issued, Contempt Returnable	Kaplan, Hon. Randy J	Taken Off List
06/27/2016 02:00 PM	Judge Kaplan Session	Courtroom 8	Summons Issued, Contempt Returnable	Kaplan, Hon. Randy J	Event not held: Continued by order of Court
07/11/2016 11:00 AM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Taken Off List
08/01/2016 02:45 PM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Event not held: Continued by order of Court
08/10/2016 12:00 PM	Judge Kaplan Session	Courtroom 8	Pretrial Conference Domestic and Equity	Kaplan, Hon. Randy J	Case Not Heard and Rescheduled
08/10/2016 12:00 PM	Judge Kaplan Session	Courtroom 8	Contempt Continued	Kaplan, Hon. Randy J	Case Not Heard and Rescheduled
09/20/2016 02:00 PM	Judge Kaplan Session	Courtroom 8	Contempt Continued	Kaplan, Hon. Randy J	Event Held

<u>Date</u>	<u>Session</u>	<u>Location</u>	<u>Type</u>	<u>Event Judge</u>	<u>Result</u>
09/20/2016 02:00 PM	Judge Kaplan Session	Courtroom 8	Pretrial Conference Domestic and Equity	Kaplan, Hon. Randy J	Event Held
09/26/2016 08:30 AM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Taken Off List
09/26/2016 08:30 AM	Judge Kaplan Session	Courtroom 8	Summons Issued, Contempt Returnable	Kaplan, Hon. Randy J	Taken Off List
10/17/2016 08:30 AM	Judge Kaplan Session	Courtroom 8	Motion	Kaplan, Hon. Randy J	Taken Off List
05/01/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Held
05/01/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Held
05/01/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Taken Off List
05/01/2017 10:00 AM	Judge Kaplan Session	Courtroom 8	Summons Issued, Contempt Returnable	Kaplan, Hon. Randy J	Taken Off List
05/01/2017 10:00 AM	Judge Kaplan Session	Courtroom 8	Summons Issued, Contempt Returnable	Kaplan, Hon. Randy J	Taken Off List
06/05/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Motion	Bisenius, Hon. Theresa A	Event Held
07/03/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Review Hearing	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
07/03/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Contempt Continued	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
07/24/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Contempt Continued	Bisenius, Hon. Theresa A	Event Held
07/24/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Contempt Continued	Bisenius, Hon. Theresa A	Event Held
08/14/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
09/18/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Held
11/20/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Contempt Continued	Bisenius, Hon. Theresa A	Event Held
11/27/2017 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Held
01/08/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Motion	Bisenius, Hon. Theresa A	Taken Off List
04/30/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
06/04/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Held

Date	Session	Location	Type	Event Judge	Result
06/25/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
07/30/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Motion	Bisenius, Hon. Theresa A	Taken Off List
08/08/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Contempt Continued	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
08/08/2018 08:30 AM	Judge Bisenius Session	Courtroom 8	Summons Issued, Contempt Returnable	Bisenius, Hon. Theresa A	Event Not Held - Rescheduled/Continued
10/01/2018 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Not Held - Rescheduled/Continued
10/01/2018 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Not Held - Rescheduled/Continued
12/17/2018 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Held
12/17/2018 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Held
12/28/2018 02:30 PM	Judge Gargas Session Courtroom 4	Courtroom 4	Motion	Gargas, Hon. Melanie J	Event Held
01/24/2019 09:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Motion	Gargas, Hon. Melanie J	Event Held
02/13/2019 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Motion	Gargas, Hon. Melanie J	Event Held
02/13/2019 02:00 PM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Held
02/13/2019 02:00 PM	Judge Gargas Session Courtroom 4	Courtroom 4	Evidentiary Hearing	Gargas, Hon. Melanie J	Event Held
02/13/2019 02:00 PM	Judge Gargas Session Courtroom 4	Courtroom 4	Contempt Continued	Gargas, Hon. Melanie J	Event Held
04/22/2019 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Summons Issued, Contempt Returnable	Gargas, Hon. Melanie J	Event Not Held - Rescheduled/Continued
05/16/2019 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Motion	Gargas, Hon. Melanie J	Event Held
05/21/2019 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Motion	Gargas, Hon. Melanie J	Event Held in Advance
06/11/2019 08:30 AM	Judge Gargas Session Courtroom 4	Courtroom 4	Trial 1 Day	Gargas, Hon. Melanie J	Event Held
08/12/2021 12:00 PM	Judge Cafazzo Hearing (COVID) Session	Www.Zoomgov.com/my/cafazzo	Pretrial Conference Domestic and Equity	Klug- Cafazzo, Hon. Terri L.	No Action Taken: No Judgmen/Decree/Order Issued
08/27/2021 09:00 AM	Judge Klug Cafazzo Session Courtroom 11	Lowell Courtroom 11 - 5th Floor	Trial Half Day	Klug- Cafazzo, Hon. Terri L.	No Action Taken: No Judgmen/Decree/Order Issued
10/27/2021 02:00 PM	Judge Klug Cafazzo Session Courtroom 11	Lowell Courtroom 11 - 5th Floor	Trial 2 Hours	Klug- Cafazzo, Hon. Terri L.	Under Advisement

Docket Information

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12/09/1926	Summons Filed, Date of Service 12/02/2015	345	
03/07/2012	Certificate of Marriage	2	Image

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03/07/2012	Affidavit Disclosing Care and Custody	3	Image
03/07/2012	Complaint for Divorce - Irretrievable Breakdown 1B	1	Image
03/07/2012	Motion For Temorary Orders	4	Image
03/07/2012	Plaintiff's Motion To Vacate Marital Home	5	Image
03/07/2012	Plaintiff's motion For Motion For Short Order	6	Image
03/07/2012	Summons issued on complaint for Divorce.		
03/07/2012	Track assignment notice issued. NOTICE: Track Assignment Notice 14 Month Track Sent on: 03/07/2012 14:24:52		
03/12/2012	Motion for Short Order of Notice	7	Image
03/12/2012	Motion for Emergency Custody Elmore, James F	8	Image
03/12/2012	Motion for Short Order of Notice by Elmore, Carolyn S	9	Image
03/12/2012	Motion for Temporary Orders Elmore, James F	11	Image
03/12/2012	Motion for Appointment of A Guardian Ad Litem	12	Image
03/12/2012	Motion for Emergency Custody	13	Image
03/12/2012	Motion for Allowance of Counsel Fees	14	Image
03/15/2012	Summons Filed, Date of Service 03/07/2012	16	Image
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03/15/2012	Financial Statement	18	Image
03/15/2012	Stipulation of the Parties	19	Image
03/15/2012	Financial Statement W	41	Image
03/29/2012	Motion for Short Order of Notice by Elmore, Carolyn S Allowed 03/12/2012	10	Image
03/29/2012	Temporary Order dated 03/12/2012	15	Image
03/29/2012	Motion to Strike Affidavit of Gregory Burke Allowed 03/15/2012	20	Image
03/29/2012	Motion for Appointment of A Guardian Ad Litem Allowed 03/15/2012	21	Image
03/29/2012	Order Appointing David Aptaker as Guardian Ad Litem dated 03/15/2012	22	Image
03/29/2012	Order Appointing David Goldman as Guardian Ad Litem dated 03/15/2012	23	Image
04/06/2012	Financial Statement W	42	Image
04/11/2012	Pre-Trial Notice and Order Sent Event: Pretrial Conference Domestic and Equity Date: 09/20/2012 Time: 11:00 AM Result: Event not held: Continued by parties agreement	24	
04/11/2012	Motion for Reconsideration of Order dated March 12, 2012 and Request for a Hearing (in plastic sent to J. Gibson)	25	Image

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04/11/2012	Motion to Incorporate Stipulation as Temporary Order	28	Image
04/11/2012	Motion to Enlarge Scope of GAL Investigation	30	Image
04/17/2012	Order Appointing Attorney David Goldman as GAL dated 03/15/2012	26	Image
04/17/2012	Motion to Establish Parenting Plan	27	Image
04/17/2012	Motion to Incorporate Stipulation as Temporary Order Allowed 04/11/2012	29	Image
04/17/2012	Motion to Enlarge Scope of GAL Investigation Allowed 04/11/2012	31	Image
04/17/2012	Scheduling Order dated 04/11/2012	32	Image
04/19/2012	Opposition TO RECONSIDERATION Attorney Perocchi Esq., Joyce G Attorney Jamieson, Esq., Peter	37	Image
04/19/2012	Motion TO STRIKE AFFIDAVIT	38	Image
04/23/2012	Request tapes	35	
04/24/2012	Motion for Clarification of order Dated April 11,2012 By Judge Gibson	33	Image
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04/24/2012	James F. Elmore's Certificate of Completion of Parent Education Program	36	Image
05/14/2012	Motion IS Denied 05/01/2012 Motion for Reconsideration of Order dated March 12, 2012 and Request for a Hearing (in plastic sent to J. Gibson)	39	Image
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06/19/2012	Opposition to Plaintiff's Motion for Legal Custody of the Minor Children Applies To: Elmore, James (Defendant); Jamieson, Esq., Peter (Attorney) on behalf of Elmore, James (Defendant)	53	Image
06/20/2012	Motion for Legal Custody of Minor Children	43	Image
06/20/2012	Motion to Strike Plaintiff's Motion for Legal Custody of Minor Children & Affidavit in Support of Motion	45	Image
06/27/2012	Motion for Legal Custody of Minor Children Denied 06/20/2012	44	Image
06/27/2012	Motion for legal Custody of Minor Children & Affidavit in Support of Motion Allowed 06/20/2012	46	Image
08/22/2012	Motion to appoint Ralph Koplowitz as therapist for Nekisha Elmore in accordance with Judge Gibson's Court order dated 6/20/2012 Applies To: Elmore, Carolyn S (Plaintiff); Urukalo, Esq., Suzana (Attorney) on behalf of Elmore, Carolyn S (Plaintiff)	49	Image
08/22/2012	Motion to appoint therapist for minor child Applies To: Elmore, James (Defendant); Jamieson, Esq., Peter (Attorney) on behalf of Elmore, James (Defendant)	50	Image
08/22/2012	Motion to Appoint Therapist for Minor Child Applies To: Elmore, James (Defendant); Jamieson, Esq., Peter (Attorney) on behalf of Elmore, James (Defendant)	54	Image
08/27/2012	Subsequent Action Contempt Filed	47	Image

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10/02/2012	Opposition to Plaintiff's Motion for Legal Custody of the Minor Children Applies To: Elmore, James (Defendant); Jamieson, Esq., Peter (Attorney) on behalf of Elmore, James (Defendant)	55	Image
10/03/2012	Motion for Legal Custody of the Minor Children...10/3/12, See Margin Applies To: Elmore, Carolyn S (Plaintiff); Urukalo, Esq., Suzana (Attorney) on behalf of Elmore, Carolyn S (Plaintiff)	56	Image
10/03/2012	Carolyn S Elmore's Certificate of Completion of Parent Education Program	57	Image
10/03/2012	Motion to Strike Defendant's Opposition to Plaintiff's Motion for Legal Custody Applies To: Elmore, Carolyn S (Plaintiff); Urukalo, Esq., Suzana (Attorney) on behalf of Elmore, Carolyn S (Plaintiff)	58	Image
10/22/2012	Motion to Strike Defendant's Opposition to Plaintiff's Motion for Legal Custody Denied 10/03/2012	59	Image
11/08/2012	Motion to Continue Contempt Hearing with Assent	60	Image
11/13/2012	Motion to Continue Contempt Hearing with Assent Allowed 11/08/2012 continued to 12/6/12 at 8:30 am.	61	Image
11/28/2012	Motion to Amend contempt filed 08/27/12	62	Image
11/28/2012	second Amended Complaint for contempt filed 11/28/12	64	Image
11/28/2012	p. Motion to require job search	65	Image
11/28/2012	p. Motion to reduce alimony	67	Image
11/28/2012	d. Motion to Compel production of docs and fees	69	Image
11/28/2012	Motion to Continue pt conf to 04/04/13	71	Image
11/28/2012	D. Opposition to motion to reduce alimony and submit job search	73	Image
11/28/2012	Financial Statement Applies To: Elmore, Carolyn S (Plaintiff); Elmore, James (Defendant)	74	Image
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01/02/2013	Motion to require job search Denied 11/28/2012	66	Image
01/02/2013	Motion to reduce alimony Allowed 11/28/2012 see margin	68	Image
01/02/2013	Motion to Compel production of docs and fees Allowed 11/28/2012	70	Image
01/02/2013	Motion Continue pt conf to 04/04/13 Allowed 11/28/2012	72	Image

<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
01/02/2013	Order appointing special master 11/28/12	75	Image
01/02/2013	Order deferred to a trial on merits 12/06/12	77	Image
01/02/2013	Order on contempt filed 11/28/12 12/06/12	79	Image
01/18/2013	Subsequent Action Contempt Filed	80	Image
01/30/2013	W's Motion to appt. GAL re waiver of privilege	84	Image
01/30/2013	W's Motion for academic placement for Jasmine Elmore	86	Image
01/30/2013	H's Motion to bifurcate	88	Image
01/30/2013	H's Motion for counsel fees pendente lite	89	Image
01/30/2013	H's Motion to consolidate	91	
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03/13/2013	H's Motion to modify parenting plan	101	Image
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04/04/2013	Stipulation of the Parties	111	Image
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06/06/2013	Financial Statement of W	115	Image
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<u>Docket Date</u>	<u>Docket Text</u>	<u>File Ref Nbr.</u>	<u>Image Avail.</u>
07/30/2013	Motion neither party is to provide any further information to the Child's therapist without a Court order Allowed 03/13/2013	100	Image
07/30/2013	Order dated 3/13/13 on motion to modify parenting plan	102	Image
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07/30/2013	Order dated 3/13/13 for production of dept. of Children & Families for hearing decision and any findings etc.	106	Image
07/30/2013	Motion to continue pretrial Allowed on 4/4/13	108	Image
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Case Disposition		
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Judgment of Divorce Nisi	04/21/2015	Klug-Cafazzo, Hon. Terri L.

MI12D0926DR Elmore, Carolyn S. vs. Elmore, James

Case Type:
Domestic Relations

Case Status:
Closed

File Date
03/07/2012

DCM Track:

Initiating Action:
Divorce 1B

Status Date:
06/23/2015

Case Judge:
Klug-Cafazzo, Hon. Terri L.

Next Event:

Property Information

All Information Party Subsequent Action/Subject Event Docket Disposition

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10/27/2021	Case Taken Under Advisement: Trial 2 Hours scheduled on: 10/27/2021 02:00 PM Has been: Under Advisement Hon. Terri L. Klug-Cafazzo, Presiding		
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02/15/2022	Motion To Impound as to Items 1, 2 & 3 will be impounded ALLOWED on 08/12/2021 File Reference # 660 Judge: Klug-Cafazzo, Hon. Terri L.	661	Image
02/22/2022	Carolyn S. Elmore's Pretrial Memorandum filed 08/09/2021 ***** Impounded *****	618	
02/22/2022	Images Not Available for Public View, E# 618		Image
02/22/2022	Carolyn S. Elmore's Opposition to James F Elmore's Motion to Quash Subpoena / For Protective Order / for Attorneys's Fees and to Stay Discovery Filed 08/09/2021 ***** Impounded *****	623	
02/22/2022	Images Not Available for Public View, E# 623		Image
02/22/2022	Affidavit Of Carolyn S. Elmore, in Opposition to James F Elmore's Motion to Quash Subpoena / For Protective Order / for Attorneys's Fees and to Stay Discovery Filed 08/09/2021 ***** Impounded *****	624	
02/22/2022	Images Not Available for Public View, E# 624		Image
02/23/2022	Motion For Permission to File	662	Image
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03/02/2022	Opposition	666	Image
03/07/2022	Defendant, Carolyn Motion For Permission to File Defendant's Reply to Plaintiff's Opppsition w/o File	667	Image
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COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT

MIDDLESEX, ss

DOCKET NO. 12D 0926

JAMES ELMORE, Plaintiff

v.

CAROLYN ELMORE, Defendant

FURTHER TEMPORARY ORDER

After hearing the Court enters the following Further Temporary Orders:

1. Neither party may file any further Motions or Complaints except as set forth below prior to the Trial.

2. Mother has filed the following Motions and Complaints which are pending:

- a. Motion to Compel KOR of Nabnasset Lake Country Club
- b. Complaint for Contempt filed on August 15, 2016
- c. Complaint for Contempt filed on April 11, 2016
- d. Motion to Amend Answer
- e. Motion for Attorney's Fees filed August 22, 2016
- f. Motion for Attorney's Fees filed on June 23, 2016

3. Mother's counsel has also filed a Supplemental Affidavit in support of fees for the April 11, 2016 Contempt on September 20, 2016 and Mother has filed an Affidavit in Support of her April 11, 2016 Contempt. Mother's counsel has requested that she be allowed to file another Supplemental Affidavit in Support of her request for fees for the August 15, 2016 and an Affidavit from Mother in support of this Contempt.

4. Father has filed the following Motions, which he just provided to Mother's counsel, which are pending:

- a. Motion to Preclude Further Discovery or Depositions
- b. Motion to Amend his Complaint for Modification
- c. Motion to Modify the 209A Order

5. Mother has requested permission to file Oppositions to all of Father's Motions.

6. Mother's Complaints for Contempt shall be consolidated with the Complaint for Modification and Counterclaim and will be heard at the trial on the merits. The hearing on

[Handwritten signature]
9/21/16

411

September 26, 2016 is cancelled. In the event that there are additional violations of the allegations raised in the existing two Complaints for Contempt that have occurred after the filing through the date of trial then Mother shall file a detailed Affidavit with the Court, with a copy to Father's counsel, three weeks prior to trial. In addition Mother's counsel may file a Supplemental Affidavit of Fees and provide a copy to Father's counsel. Mother may not file any further Affidavits regarding the August 22, 2016 Contempt. The Court shall rely on Mother's testimony and the Exhibits presented at Trial.

7. Mother and Father's Motions to Amend their Complaints have been allowed administratively by the Court.

8. The Motion to Modify the 209A will not be heard. The Court is unable to schedule, 2016 and the Court does not find there is an emergency. Additionally at the hearing today Mother indicated that she would not be attending the Memorial Service.

9. Father's Motion to Preclude Further Discovery shall be submitted to the Discovery Master by September 26, 2016. Mother may file a written Opposition to the Motion by October 6, 2016 and submit it to the Discovery Master and Father's counsel. The Master shall file his written recommendations as to this issue with the Court.

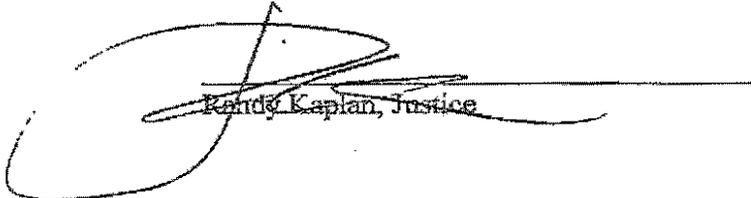
10. On Mother's Motion to Compel KOR Deposition for Nabnasset Lake Country Club Father's counsel shall file with the Court any written Opposition to the Motion by October 3, 2016 (sent to the Court by fax at 617-374-0099). The Court will then address the Motion Administratively.

11. The matter was scheduled today for a Pre-Trial Conference but neither party has completed their discovery. By October 3, 2016 each party will provide the Discovery Master detailed list of outstanding discovery and the opposing party will file a written response with the Discovery Master by October 14, 2016. There will be no further responsive pleadings filed with the Master unless he gives the parties written permission. The Master will file with the Court any of his written recommendations on discovery.

12. The Court will not reschedule the Pre-Trial Conference until Discovery is completed. The Master shall notify the Court in writing (via fax) when all discovery is completed to his satisfaction. The Court will then contact counsel to find a mutually agreeable date for the Pre-Trial. At least seven days prior to the Pre-Trial counsel must meet and exchange detailed Proposed Judgments and their Pre-Trial Memos. The parties do not have to be present at the meeting but must be available by phone so that they can participate in settlement discussions. At the Pre-Trial they will submit their Proposed Judgments and a statement of any agreement on any issues.

Date:

9/20/16


Randy Kaplan, Justice

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

MIDDLESEX, SS

DOCKET NO. MI 12D0926 DR

James Elmore, Plaintiff

vs.

Carolyn S. Elmore, Defendant

MODIFICATION JUDGMENT

(On Complaint for Modification filed May 6, 2021, and Counterclaim filed June 6, 2021)

All persons interested having been notified in accordance with the law, this matter came on for trial before the Court, Cafazzo, J. on August 12, 2021, August 17, 2021, and October 27, 2021, both parties appeared represented by counsel. Exhibits 1-8 were entered into evidence and both parties testified.

After hearing and evaluating all credible, relevant evidence and drawing all reasonable inferences therefrom, **IT IS HEREBY ORDERED AND ADJUDGED THAT:**

1. **Father's child support obligation for Nekisha Elmore, born February 12, 2001, is terminated as of February 12, 2022.**
2. **Father's child support payments in the amount of \$347.00 per week from June 1, 2021 (the date of service of the Complaint for Modification) until February 12, 2022, shall be reduced to \$74.00 per week for one child over 18 years of age pursuant to the child support guidelines in affect at that time of the service of the Complaint for Modification.**
3. **Mother shall pay Father \$9,555.00 within 30 days of this judgment which is the amount Father overpaid in child support for 35 weeks (6/1/2021 to 2/4/2022) in the amount of \$273.00 per week (the difference between \$347.00 and \$74.00). Father shall pay one more week in child support at \$74.00 per week or shall be deducted from the amount owed from Mother to Father.**
4. **Alimony payments to Father shall not be terminated or reduced and remain the same.**
5. **Mother's life insurance obligation shall not be terminated or reduced and remain in effect.**

12/7/2020

6. Each party is responsible for their own attorney's fees.

Prior judgment not herein modified shall remain in full force and effect.

RELEVANT PROCEDURAL BACKGROUND

1. The Complaint for Modification was filed on May 6, 2021, by Plaintiff/Father and served on the Defendant/Mother on June 1, 2021.
2. The Defendant/Mother filed an Answer and Counterclaim on June 6, 2021. 21, 2014.
3. In this modification action, Father requests the Court to modify the June 11, 2015, as of April 21, 2014, Amended Judgment of Divorce by reducing and or terminating Father's child support obligation.
4. In Mother's counterclaim she seeks to terminate or reduce her alimony obligation and terminate or reduce her life insurance obligation.
5. The Amended Divorce Judgment provides the following:
 - a. The Mother's "normalized income" from her business, as established by the Father's business expert, (under the 2015 Amended Divorce Judgment) is \$350,000 annually.
 - b. The Court imputed \$27,000 annual income (\$520.00 per week) to the Father, who was unemployed.
 - c. The Mother was ordered to pay the Father \$2,049.81 weekly alimony.
 - d. The Father was ordered to pay \$347.00 weekly to the Mother for child support for two unemancipated children.
 - e. As a division of assets, the Mother was assigned her business valued at \$2.46 million by the Father's business expert based on the income capitalization method on her business profit, and the Mother was ordered to make a payment to the Father to equalize the assets in the amount of \$1,073,396.16 paid over a 10-year period, with 2% annual interest: and
 - f. The Mother was ordered to maintain \$550,000 in life insurance for the benefit of the Father so long as she had an alimony obligation.

FINDINGS OF FACT AND RATIONALE

EMANCIPATION AND CHILD SUPPORT

6. The Court finds that Jasmine Elmore born September 26, 1997, was emancipated on September 26, 2020, and was undisputed at trial.
7. Father continued to pay child support in the amount of \$374.00 after the emancipation of Jasmine on September 9, 2020.
8. The Court finds Nekisha Elmore born February 12, 2001, is emancipated as of February 21, 2022, when she turns 21 years old.
9. Nekisha graduated from high school in 2019.
10. Nekisha is not enrolled in college.
11. Father testified credibly that he talks to Nekisha at least two times a week.
12. Father testified credibly that he learned from Nekisha that she was working full time at Tavern on the Square in Littleton, Massachusetts as a food runner.
13. Mother testified that Nekisha had been working at Tavern on the Square for one year as of August 27, 2021,
14. Father testified credibly that Nekisha left that job because she was not happy working there.
15. At the time of trial Nekisha was only working part time at a diner.
16. The Court finds Nekisha has the ability to work full time, has worked full time in the past but chooses to only work part time.
17. Father testified credibly that he knows of no medical condition, diagnosis, or mental impairments that would prevent Nikisha from working full time.
18. Mother did testify Nekisha was adopted by the parties and the biological mother had substance abuse and mental health issues and Nekisha was born with cocaine in her

blood, however; nothing was offered as evidence to show that it impacts Nikisha today or prevents her from working full time.

19. Mother testified that Nekisha pays for her auto repairs, gas, clothing, some food, entertainment, and her vacations.

20. Mother further testified that she pays for Nekisha's cell phone, some food, and her car insurance.

21. Nekisha still resides with Mother.

ALIMONY

22. The Court finds Father's Financial Statement (Exhibit 2) filed with the Court on August 12, 2021, to be true and accurate.

23. The Court finds Mother's Financial Statement (Exhibit 3) filed with the Court on August 12, 2021, to be true and accurate.

24. Father's income as reflected on his Financial Statement is \$22,054.24 annually not including alimony. The Court finds Father's income is less than the imputed income of \$27,000.00 at the time of the Amended Judgment of Divorce.

25. The Court finds that Father is a real estate agent working 15 to 20 hours a week.

26. The Court finds that Father's 1099 (Exhibit 5) from Coldwell Banker accurately reflects the income he receives as a real estate agent.

27. The Court does not find that the Father's income from commissions for the sales of real estate as an agent should be greater than reflected on his 1099. Mother suggests that based on the values of the properties he markets on behalf of Coldwell Banker his commissions should be greater. The Court notes that the 1099 was compiled and produced by Coldwell Banker.

28. The Court finds that Father purchased two rental properties , one at 86 Corbett Street in Lowell and one at 255 North Road, Unit 146 in Chelmsford. These properties were purchased with the equalization payments Father receives as his share of the martial assets.
29. The Court finds Father's Financial Statement accurately reflects that he does not earn income from his rental properties.
30. The Court declines to disregard the depreciation Father took on his rental properties as reflected on his Financial Statement in the amount of \$11,916.84 and include that amount in Father's income.
31. The Court finds Father also purchased real estate at 25 Mission Road in Chelmsford in January 2019 for \$250,000.00.
32. Father put \$15,000.00 down on the property.
33. In August 2019, Father obtained a special permit to renovate 25 Mission Road.
34. The property was sold in 2020 for \$679,900.00.
35. Father testified that after costs of renovations he made approximately \$25, 000.00.
36. Father's Financial Statement (Exhibit 2) states that his 2020 gross income was \$152,677.12 which he testified includes his alimony, self-employment income (commissions) and capital gain income. The Court finds that Father's alimony received in 2020 was \$106,590.12. If you deduct the alimony payments in the amount of \$106,590.12 from \$152,677.12 it equals \$46,087.50. If you deduct Father's income of \$22, 054.24 as reflected on his Financial Statement from \$46,0870.50 it equals \$24,033.26 which Father credibly testified, he had a one-time capital gain for that year of approximately \$25,000.00.

37. Father also owns 26 Highland Avenue, Chelmsford which he received as part of the division of marital assets pursuant to the divorce.
38. Father purchased a fourth property located at 17 Rockwood Lane in Lawrence, Massachusetts in July 2021 using his equalization payments from Mother.
39. Father testified he obtained a building permit to build on his Rockwood Lane, Lawrence property.
40. Father obtained a mortgage for 17 Rockwood Lane, Lawrence property, which mortgage had a rehabilitation rider for purposes of rehabilitating the property.
41. Father testified he intends to rehabilitate his Rockwood Lane, Lawrence property in accordance with the rehabilitation rider to the mortgage
42. Mr. Elmore purchased his Rockwood Lane, Lawrence property for \$300,000, and took a mortgage with a “rehabilitation rider” for around \$356,876.
43. Mother’s income as reflected on her Financial Statement (Exhibit 3) is \$935,054.12 annually. The Court finds Mother’s income is much greater than the income of \$350,000.00 used at the time of the Amended Judgment of Divorce to calculate alimony.
44. The Court finds that there was a disparity in the parties’ income at the time of the Amended Divorce Judgment.
45. The Court finds that there continues to be a disparity in the parties’ current income.
46. The Court does not find a material change in circumstances in Father’s income to warrant a reduction in alimony.
47. The Court finds that Mother continues to have the ability to pay alimony based on her income as reflected on her Financial Statement.

48. The Court finds that Father's expenses at the time of trial were \$2,727.50 a week as reflected on his Financial Statement (Exhibit 2) which includes mortgages and weekly expenses.
49. The Court finds at the time of the Amended Judgment of Divorce Father's weekly expenses were found by the Court to be \$2,126.41.
50. Father lists on page 8 of his August 6, 2021, Financial Statement: "Amex debt incurred in 2021 of \$1,500.00" and states "he is making weekly payments of \$528.00." The Court finds that paying down the Amex liability at the rate of \$528.00 a week, would result in the liability having been paid in its entirety within three weeks of August 6, 2021, which was shortly after the second day of trial. If the Court subtracts \$528.00 weekly from Father's weekly expenses, Father's weekly expenses would be \$2,199.50 which is approximately the same as his expenses at the time of the Amended Judgment of Divorce.
51. The Court further finds that if an additional adjustment in Father's expenses is made by deducting child support in the amount of \$347.00 per week, Father's weekly expenses would be \$1,852.50 per week which would only be a \$273.91 per week decrease in Father's expenses since the Amended Divorce Judgment.
52. The Court does not find \$273.91 a week decrease in expenses to be significant.
53. The Court does not find a material change in circumstances relative to Father's current need for alimony warranting a reduction or termination of alimony.

General term alimony may be modified upon showing a material change in circumstances warranting modification. M.G.L.c. 28, §49(e). "A party seeking to modify an existing alimony award 'must demonstrate a material change of circumstances since the entry of

the judgment’.” Emery v. Sturtevant, 91 Mass.App.Ct. 502, 507 (2017). Mother failed to meet the burden of proof by preponderance of the evidence that there has been a material change of circumstances since the entry of the Amended Judgment of Divorce warranting a modification of alimony.

Date: Feb. 4, 2022



Terri Klug Cafazzo, Justice of the
Middlesex Probate and Family Court

Certification Pursuant To Mass. R. App. P. 16(k)

I certify that this document complies with the relevant rules of court pertaining to the preparation and filing of briefs. Those rules include Mass. R. App. P. 16(a)(13) (addendum); Mass. R. App. P. 16(e) (references to the record); Mass. R. App. P. 18 (appendix to the briefs); Mass. R. App. P. 20 (form and length of briefs, appendices, and other documents); Mass. R. App. P. 21 (redaction).

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Commonwealth of Massachusetts

Middlesex, SS.

Supreme Judicial Court
No.

Appeals Court
No. 2022-P-0356

James Elmore
Plaintiff/Appellee

v.

Carolyn Elmore
Defendant/Appellant

Certificate of Service

I certify that on July 8, 2022, I served the attached application for direct appellate review by sending it through the eFileMA system to:

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