

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

PATRICK S. BIRT,
Plaintiff-Appellant,

Appeals Court No. 2026-P-1375
Worcester Probate and Family Court No. WO25W1359WD

v.

IVANA G. GURRIERI and CHRISTOPHER J. HUCKINS,
Defendants-Appellees.

APPLICATION FOR DIRECT APPELLATE REVIEW

APPEAL DESIGNATED PARTIALLY IMPOUNDED — SEE ACCOMPANYING NOTICE

On appeal from the Worcester Probate and Family Court.

Patrick S. Birt, self-represented
1665 Main Street, Apt. A211
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“Tr.” refers to the certified June 1, 2026 transcript. Citations use the original page or paragraph numbers of the identified documents.

I. REQUEST FOR DIRECT APPELLATE REVIEW

I, Patrick S. Birt, request direct appellate review under Mass. R. A. P. 11(a)(1) and (3). My appeal was docketed in the Appeals Court on September 21, 2026, as No. 2026-P-1375.

This appeal concerns whether a court may dismiss a parentage claim by imposing an unsupported cutoff on relationship evidence, treating the resulting court-created six-month period as insufficient, and ending the factual process it had directed the parties to follow. My court-ordered affidavit described a relationship spanning nearly a year, including regular and extended caregiving. The court created the six-month duration.

The court appointed a guardian ad litem (“GAL”) to investigate the impact of continued contact with my son. It then directed me to defer to the GAL report and identified a later stage for requesting an evidentiary hearing. In July, before the investigation was completed, the court dismissed my case and declared that I had already waived the hearing opportunity.

These questions warrant the SJC’s guidance on the substantial-relationship standard, concealed parentage, and the procedural notice owed to litigants who follow judicial directions. I request direct review and, on the merits, reversal of the dismissal and remand before a different judge.

II. STATEMENT OF PRIOR PROCEEDINGS

On or about May 19, 2025, I first submitted a complaint to establish parentage. The Registry rejected it and directed me to file in equity. I submitted a verified equity

complaint on or about July 28. The Registry returned it with a handwritten instruction to file in parentage because a remedy at law existed. With courthouse legal-services assistance, I prepared another parentage complaint, dated August 22, which the Registry accepted on September 2. September 2 was the date of acceptance after those earlier efforts. *Opposition to Renewed Motion to Dismiss* (“*Opposition*”), pp. 3–4; Tr. 38:13–39:9.

Huckins moved to dismiss based on his existing legal parentage. On December 23, 2025, Judge Keamy denied the motion without prejudice and ordered an affidavit alleging specific facts which, “if proven,” would establish a substantial relationship. Her order permitted a renewed dismissal motion and a separate request for an evidentiary hearing. December 23 Memorandum and Order, p. 4.

I filed the required affidavit on February 17, 2026. I moved for recusal on April 2 and renewed that request on April 28, addressing Judge Lee’s comments during a related custody hearing at which I was absent. June 16 Memorandum, pp. 2–3.

On May 11, Judge Lee appointed the custody-case GAL in this parentage case. Huckins renewed his dismissal motion on May 19. My opposition, entered May 22, requested denial or deferral pending the GAL process, an evidentiary hearing concerning disputed facts, and leave to amend. Certified trial-court docket; *Opposition*, pp. 12–16.

At the June 1 hearing, the parties were sworn. The court allowed the GAL's request to extend the original June 15 report deadline by ninety days and expressly discussed receiving the report in September. Tr. 2:6–8, 3:2–5, 4:23–25, 37:1–8.

Judge Lee heard the renewed dismissal motion and took it under advisement.

When I then raised the evidentiary-hearing procedure, he directed me toward the GAL report and a later hearing request. Tr. 38:9–10, 39:20–40:10. He denied renewed recusal in his June 16 memorandum, entered June 17.

The dismissal memorandum, dated July 7 and entered July 10, excluded postfiling relationship developments and declared the hearing opportunity waived. Judgment was entered July 14. I filed a Rule 59(e) motion on July 17. The court denied that motion and my request for oral argument in its August 4 memorandum, entered August 11. I filed my notice of appeal on August 17. Certified trial-court docket, entries 68–80.

On September 28, 2026, I filed a motion under Mass. R. A. P. 8(e) to settle and correct the record concerning three papers presented to the Registry on July 9: a motion for administrative clarification, a separate request for an evidentiary hearing, and a separate motion for leave to amend or supplement. My supporting affidavit identifies the Registry's July 9 receipt stamps and the subsequent return of those papers. July 9 preceded the July 14 entry of judgment. The motion asks

the court to settle their receipt, return, and filing status and remains pending.

September 28 Rule 8(e) Motion, pp. 2–5; Supporting Affidavit, ¶¶ 8–20.

On September 25, 2026, the Appeals Court corrected the lower-court docket number and clarified its partial-impoundment designation. September 25 Notice of Docket Entry, Paper No. 3.

III. SHORT STATEMENT OF RELEVANT FACTS

G.H. was twelve when my case was dismissed. The day after his birth, Gurrieri told me Huckins was his biological father and I was not. I relied on that representation. I learned otherwise in March 2025; genetic testing confirmed my biological parentage in June. Birt Affidavit, ¶¶ 2–4.

Gurrieri’s September 22, 2025 affidavit states that she and Huckins knew I was the biological father and agreed to tell me I was not. Having been sworn at the June 1 hearing, she again acknowledged responsibility for denying me the opportunity to participate: “He was not given the opportunity to choose” and “It’s our fault for not telling the truth.” Tr. 2:6–8, 42:6–23.

My affidavit describes regular weekend parenting beginning approximately April 2025; meals, supervision, transportation, bedtime and household routines; a bedroom for G.H.; involvement with school and sports; extended-family

relationships; and emotional support. It describes full-time care during August 7–12, 2025, September 23–October 2, 2025, and a period beginning February 13, 2026. Birt Affidavit, ¶¶ 5–12.

My opposition explained that DCF involvement preceded my introduction to G.H. and described concerns arising principally within the Huckins household. Those preexisting household, safety, and mental-health concerns were central to my request for investigation of G.H.’s circumstances and relationships. Opposition, pp. 10–13.

IV. ISSUES OF LAW AND PRESERVATION

1. Court-created cutoff and shortened relationship period. Whether a court may examine a court-ordered affidavit describing nearly one year of a parental relationship, impose an unsupported cutoff limiting consideration to the period between the father’s introduction and the Registry’s acceptance of the complaint, and categorically exclude later relationship facts as bootstrapping. Whether the court may then rely on the unsupported, court-created six-month period as the “most noteworthy” consideration supporting dismissal, without evaluating the relationship as a whole, including the concealment that prevented an earlier relationship from forming.

I raised the relationship standard, concealment, and the need for factual inquiry in my opposition. I challenged the cutoff and duration rationale in my Rule 59(e) motion. Opposition, pp. 5–13; Rule 59(e) Motion, pp. 6–10.

2. The court-directed GAL process and hearing waiver. Whether a court may order investigation of continuing contact, direct a self-represented litigant to defer to the GAL report and a later hearing request, then dismiss and declare that opportunity already waived without explaining the conflicting requirements.

I expressly requested denial or deferral pending the GAL process and raised the hearing procedure in writing and in court. I challenged the waiver ruling through Rule 59(e). Opposition, pp. 12–16; Tr. 39:20–40:10; Rule 59(e) Motion, pp. 4–6.

3. Relief on remand. Whether further proceedings should permit amendment and be assigned to a different judge.

I requested amendment in my opposition, at the hearing, and through Rule 59(e). I raised the appearance-of-impartiality concern in my recusal motions and expressly requested reassignment. Opposition, pp. 14–16; Tr. 10:4–6, 39:11–15; Rule 59(e) Motion, pp. 12–14; June 16 Memorandum, pp. 2–6.

The pending Rule 8(e) motion concerns additional July 9 hearing and amendment requests. My preservation arguments also rest on the earlier written submissions and certified transcript identified above.

V. BRIEF ARGUMENT

A. The court made duration decisive without applying the whole-relationship standard.

Dismissal under Rule 12(b)(6) receives de novo review: the appellate court independently applies the law, accepting well-pleaded facts and reasonable favorable inferences. *Curtis v. Herb Chambers I-95, Inc.*, 458 Mass. 674, 676 (2011).

The SJC recognizes a common-law parentage action based on a substantial parent-child relationship. *J.M. v. C.G.*, 492 Mass. 459, 461, 465–467 (2023). *A.D. v. K.S.*, 495 Mass. 722 (2025), expressly distinguishes that avenue in note 17. My claim rests on the parenting relationship alleged in my affidavit. The inquiry examines the relationship “as a whole,” including emotional bonds, support, caregiving, personal association, commitment, and consistency of interest. *C.C. v. A.B.*, 406 Mass. 679, 690 (1990).

My affidavit alleged concrete parenting responsibilities: recurring care, daily routines, school and athletic involvement, a place in my home and family, and emotional attachment. It included extended full-time care before September 2. Birt Affidavit, ¶¶ 5–12. Those allegations required application of the complete relationship standard.

Instead, the dismissal called duration the “most noteworthy” feature and an “essential consideration,” then relied on the absence of a reported decision finding a similarly short relationship with an eleven-year-old sufficient. July 7 Memorandum, p. 3. The absence of an identical reported case does not supply a minimum-duration rule.

The controlling decisions establish no categorical six-month minimum. *M.J.C. v. D.J.*, 410 Mass. 389, 394–395 (1991), examined what the putative father actually did during a four-and-a-half-month opportunity to form a relationship. *J.M.* reviewed findings after a two-day evidentiary hearing. 492 Mass. at 462, 467–468. These decisions direct attention to conduct and the actual relationship. The SJC should clarify when detailed parenting allegations require preliminary factual proceedings rather than dismissal based on elapsed time.

B. The court imposed an unsupported filing-date cutoff and reduced the period it evaluated to six months.

Judge Keamy required facts which, “if proven,” would establish a substantial relationship. December 23 Memorandum, p. 4. My responsive affidavit covered March 2025 through February 2026—nearly eleven months.

Judge Lee imposed September 2 as an absolute cutoff for relationship developments, excluded later developments as irrelevant, and evaluated approximately six months instead. July 7 Memorandum, p. 3. The court created that shortened period. My affidavit covered nearly eleven months.

The challenged rule is the blanket exclusion of later conduct bearing on the relationship already underway before filing. Continued caregiving can confirm that earlier parenting reflected lasting commitment, consistent involvement, and a parental bond. The dismissal said I could not “bootstrap” my allegations with later facts, then declared those facts irrelevant. *Id.* It did not explain why continued care could not corroborate the continuity and character of the relationship already alleged.

September 2 also followed repeated efforts to obtain court supervision. I submitted a parentage complaint, followed the Registry’s direction to file in equity, followed its contrary direction to return to parentage, and obtained legal-services assistance before acceptance. Opposition, pp. 3–4. The court then used that accepted filing date to restrict the relationship evidence.

Direct review is needed to determine whether this categorical exclusion is consistent with the whole-relationship inquiry required by *C.C.* and *J.M.*

C. The concealment explains why my opportunity to parent began when it did.

The day after G.H.’s birth, Gurrieri told me Huckins was his biological father and I was not. My affidavit explains my reliance and my response after learning the truth. Birt Affidavit, ¶¶ 2–4, 11. Gurrieri’s sworn affidavit describes their deliberate concealment. At the June 1 hearing, after being sworn, she acknowledged that I had been denied the opportunity to choose and that the failure to tell the truth was hers and Huckins’. Tr. 2:6–8, 42:6–23.

These facts directly bear on commitment and consistency. A court assessing why a relationship began late must examine what the parent knew and what opportunity he had. Comparing Huckins’ years of legal-parent status with the shorter period credited to me, without accounting for the concealment that produced that disparity, gives duration a distorted meaning.

C.C. expressly left open the rights of a putative father whose relationship was prevented by the mother’s conduct. 406 Mass. at 690 n.10. *M.J.C.* examined whether the mother’s actions or the father’s own choices explained the failure to

form a relationship. 410 Mass. at 394–395. Here, I alleged concealed parentage followed by prompt and sustained parenting. That explanation belongs in the substantial-relationship inquiry and supports direct review.

D. The court ordered investigation of continued contact, then excluded it from consideration.

The May 11 GAL appointment in my parentage case expressly directed investigation of:

“the timing, facts, and circumstances surrounding the child’s introduction to his biological father and the impact that continued contact is having on him.”

May 11 GAL Appointment, ¶ 10, p. 2.

The final clause matters. The court ordered examination of an ongoing relationship and its effects on G.H. The order also identified the child’s relationships and attachments as subjects for investigation. *Id.* On June 1, Judge Lee explained that he intended the investigation to cover the related cases and relevant relationships, and extended the report deadline into September. Tr. 3:2–5, 4:23–25, 5:3–6:7, 37:1–8.

My opposition expressly requested that the court deny or defer dismissal pending the GAL process. Opposition, p. 12. It explained that DCF involvement and

concerns arising principally within the Huckins household preceded my introduction to G.H. Opposition, pp. 10–13. The chronology mattered to the competing accounts of the child’s circumstances and the significance of continued contact.

At the July dismissal, the investigation was unfinished. The court ended the parentage inquiry while excluding the continuing relationship developments it had ordered investigated. Protecting the child’s best interests is the substantial-relationship threshold’s primary purpose. *J.M.*, 492 Mass. at 466. The SJC should resolve whether that categorical exclusion can be reconciled with the threshold’s purpose and the factual process the court directed.

E. The court directed me toward a later hearing request, then declared the opportunity already waived.

Judge Lee learned of my parentage action at the March 13 hearing. June 16 Memorandum, p. 2. Eighty days later, on June 1, he stated:

“And as of this date, I have not looked at the facts and circumstances of your complaint, the supporting affidavit, or the statute.”

Tr. 30:1–4. He then heard the renewed dismissal motion and again said he had not read my affidavit. Tr. 30:21–25, 34:5–11.

My written opposition had already requested the GAL process and an evidentiary hearing concerning disputed facts. Opposition, pp. 12–16. When I raised Judge Keamy’s hearing provision directly, Judge Lee said the matter was not ready for an evidentiary hearing and continued:

“I think we have to defer to the GAL report, and then at that point, we're looking at a pretrial conference. It may be appropriate to ask for an evidentiary hearing at that point.” Tr. 40:6–10.

The July memorandum nevertheless declared the hearing opportunity waived. July 7 Memorandum, p. 2. The August memorandum went further:

“At the time that the hearing commenced, Birt had already effectively waived his right to an evidentiary hearing.”

August 4 Memorandum, p. 4. Judge Keamy’s order stated no deadline for a hearing request and no automatic waiver. December 23 Memorandum, p. 4.

I raised the procedural question and received a direct answer identifying a future stage. The court later ruled that the opportunity had expired before I received that answer. The under-advisement statement did not explain this conflict: the GAL directions came afterward, in response to my question. Tr. 38:9–10, 39:20–40:10.

The SJC’s Judicial Guidelines for Civil Cases with Self-Represented Litigants address meaningful participation, procedural explanations, and understandable statements of the issues to be decided. Guidelines §§ 5.1, 5.2, 5.4 (2025). Section 5.2 recommends explaining the nature and scope of each court event and the process to follow. Here, the court needed to explain when a separate hearing request was required and the consequence of waiting, especially after directing me toward a later request.

The resulting harm was concrete: in July, the court dismissed my case and foreclosed the evidentiary opportunity while the investigation it had ordered remained unfinished. Direct review would clarify the notice required when judicial directions for later factual proceedings intersect with a pending dismissal motion.

F. Remand should permit amendment and require a different judge.

Rule 15(a) directs that leave to amend be freely given when justice requires. Mass. R. Dom. Rel. P. 15(a). Amendment decisions receive abuse-of-discretion review. *Goulet v. Whitin Machine Works, Inc.*, 399 Mass. 547, 549–550 (1987).

I requested amendment in writing and orally after following the Registry’s conflicting filing directions. Opposition, pp. 14–16; Tr. 39:11–15. Judge Lee described my point about supplemental pleadings as “well taken.” Tr. 40:25–41:3.

The July memorandum did not decide that request. Remand should permit amendment expressly pleading the common-law claim and consideration of available parentage remedies.

I also request an express direction assigning all further proceedings to a judge other than Judge Lee. Appellate courts may direct reassignment as part of the remedy on remand. *Botsaris v. Botsaris*, 26 Mass. App. Ct. 254, 260–261 (1988). The June 16 memorandum records Judge Lee’s evaluative comments about my introduction to G.H. and our communications during a custody hearing at which I was absent. June 16 Memorandum, pp. 2–3. I raised the appearance concern and expressly requested reassignment. Tr. 10:4–6.

Those circumstances, together with the conflicting directions and later foreclosure of the factual process, warrant a fresh assessment before a different judge.

Reassignment should be part of the remand order to protect the appearance of impartiality and ensure a meaningful reconsideration of the claim.

VI. REASONS DIRECT APPELLATE REVIEW IS APPROPRIATE

This appeal presents unresolved questions under the SJC’s parentage decisions. A court ordered investigation of an ongoing relationship, directed a self-represented parent toward that investigation, and then dismissed by excluding later relationship

developments and declaring the hearing opportunity waived. The certified transcript, appointment order, and written rulings present that conflict directly.

The questions reach beyond this family. Courts need guidance on how to evaluate relationships formed after concealed parentage is discovered, how later conduct may illuminate a relationship existing before filing, and when detailed parenting allegations require a preliminary factual hearing.

The current statutory framework adds importance. G.L. c. 209C, § 26(a), separately addresses relationship length, relationship nature, and potential harm; § 26(c) permits recognition of more than two parents when the child's best interests warrant it. Guidance on the common-law threshold will assist courts considering competing parentage claims and available remedies.

The procedural question also affects self-represented litigants throughout the Commonwealth: what notice is required before a court treats a hearing opportunity as waived after directing the litigant toward a later request. These issues warrant direct review under Rule 11(a)(1) and (3).

I respectfully request that the SJC **allow direct appellate review** and, upon deciding the merits:

1. Vacate the judgment of dismissal and the order denying Rule 59(e) relief;

2. Reject the unsupported, court-created cutoff that limited consideration to the period between my introduction to G.H. and the Registry’s acceptance of my complaint, excluded later relationship facts as bootstrapping, and used the unsupported, court-created six-month duration as the “most noteworthy” consideration supporting dismissal rather than evaluating the relationship as a whole;
3. Vacate the determination that the evidentiary-hearing opportunity was waived; and
4. Remand with express instructions permitting amendment, providing a preliminary evidentiary hearing on the substantial-parent-child-relationship issue under the correct legal standard, ensuring a fair opportunity to obtain, present, and challenge relevant evidence, and assigning all further proceedings in this parentage action to a judge other than Judge Lee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive, flowing style.

Patrick S. Birt
Plaintiff-Appellant, self-represented
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Dated: October 1, 2026

ATTACHMENT LIST

1. **Appeals Court docket entries — No. 2026-P-1375**, together with the September 25, 2026 order correcting the trial-court docket number and partial-impoundment designation.
2. **Certified Probate and Family Court docket entries — No. WO25W1359WD**, supplied in the Registry’s record-assembly package.
3. **Complaint to Establish Parentage**, dated August 22, 2025, and accepted by the Registry on September 2, 2025.
4. **Affidavit of Ivana Gurrieri**, dated September 22, 2025.
5. **Judge Keamy’s December 23, 2025 Memorandum of Decision and Order**, denying the initial motion to dismiss without prejudice and directing submission of an affidavit describing facts that, if proven, would establish a substantial parental relationship.
6. **Court-ordered affidavit of Patrick S. Birt**, filed February 17, 2026.
7. **Plaintiff’s Motion for Recusal** and supporting affidavit, filed April 2, 2026, together with the April 13, 2026 order denying recusal.
8. **May 11, 2026 Order Appointing Guardian ad Litem Teresa M. Rafferty in the parentage case**, including the investigation instructions concerning the child’s introduction to his biological father and the impact of continued contact. This document is from the registry. Missing / blank pages are original
9. **Defendant Christopher J. Huckins’s Renewed Motion to Dismiss**, filed May 19, 2026, together with its accompanying filed supporting papers.
- 10 **Plaintiff’s Opposition to Defendant Christopher J. Huckins’s Renewed Motion to Dismiss**, filed May 22, 2026.
- 11 **Plaintiff’s Renewed Motion for Recusal and Request for In Camera Review**, filed April 28, 2026, together with the **June 16, 2026 Memorandum of Decision and Order**, entered June 17,

2026, addressing the renewed recusal request and request for in camera review.

12. **July 7, 2026 Memorandum of Decision and Order allowing the renewed motion to dismiss**, entered July 10, 2026.
13. **Judgment of Dismissal dated July 7, 2026**, entered July 14, 2026.
14. **Plaintiff's Rule 59(e) filing package**, filed July 17, 2026, including the motion to alter or amend judgment, supporting statement and affidavit, separate request for oral hearing, proposed order, and certificate of service.
15. **August 4, 2026 Memorandum of Decision and Order**, entered August 11, 2026, denying the Rule 59(e) motion and the separate request for oral hearing.
16. **Plaintiff's Motion for Leave Pursuant to Standing Order 2-99(a)(3) to Submit Later-Received Registry Documents and to Complete the Record Concerning the July 9, 2026 Presentment**, filed August 10, 2026, together with its filed Verified Concise Statement of Facts and Law, supporting affidavit, proposed order, and certificate of service.
17. **Order denying the Motion for Leave to Submit Later-Received Registry Documents**, dated August 18, 2026, and entered August 19, 2026, including the court's endorsement referring to its August 4, 2026 order.
18. **Plaintiff's Rule 8(e) motion to correct the record**, filed September 28, 2026, together with its supporting affidavit, proposed order, and certificate of service. The motion remains pending.
19. **Complete certified transcript of the June 1, 2026 hearing**, including the transcriber's certification and all accompanying transcript pages.

CERTIFICATE OF COMPLIANCE

I, Patrick S. Birt, certify that this Application for Direct Appellate Review complies with Mass. R. A. P. 11(b) and 20(a), including the applicable length limit, and with Rule 21 concerning redaction of personal identifying information.

The application uses 14-point Times New Roman, a proportionally spaced font.

Section V contains 1,609 words, including headings, quotations, and citations.

Sections V and VI together contain 1,938 words. These counts were obtained using word count embedded in the Microsoft Word application version 16.106.

Signature:

A handwritten signature in black ink that reads "Patrick S. Birt". The signature is written in a cursive, flowing style.

Patrick S. Birt

Date: October 1, 2026

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

PATRICK S. BIRT, Plaintiff–Appellant

v.

**IVANA G. GURRIERI and CHRISTOPHER J. HUCKINS, Defendants–
Appellees**

Appeals Court No. **2026-P-1375**

Worcester Probate and Family Court No. **WO25W1359WD**

NOTICE CONCERNING PARTIAL IMPOUNDMENT

The Appeals Court’s September 25, 2026 order explains that its docket is designated partially impounded because of the nature of the case, without determining that any particular material in this case is impounded. The order directs compliance with Mass. R. A. P. 16(m) and 18(d), including segregation and clear identification of any impounded material that must be filed.

This application identifies the child by initials. It addresses the GAL appointment and the court’s directions before dismissal; the custody-case GAL report and its conclusions are not attached or reproduced. The partial-impoundment designation is not a request to impound the entire application. Any protection applicable to particular underlying record materials remains in effect.

The September 25 order is included among the application’s attachments. This notice accompanies the application to identify the existing appellate designation and the order governing it.

Signature:

A handwritten signature in black ink, appearing to read "Patrick S. Birt", written in a cursive style.

Patrick S. Birt

Plaintiff–Appellant, self-represented
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patricksbirt@pm.me

Date: October 1, 2026

**COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT**

PATRICK S. BIRT, Plaintiff–Appellant

v.

**IVANA G. GURRIERI and CHRISTOPHER J. HUCKINS, Defendants–
Appellees**

Appeals Court No. **2026-P-1375**

Worcester Probate and Family Court No. **WO25W1359WD**

CERTIFICATE OF SERVICE

I, Patrick S. Birt, certify under the penalties of perjury that on October 1, 2026, I served a true copy of this Application for Direct Appellate Review, including its attachments and notice concerning partial impoundment, upon the following persons via email:

Michael G. Xavier, Esq.

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Ivana G. Gurrieri

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Patrick S. Birt

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Date: October 1, 2026

ATTACHMENTS

APPEALS COURT

Full Court Panel Case

Case Docket

PATRICK S. BIRT vs. IVANA G. GURRIERI & another

THIS CASE CONTAINS IMPOUNDED MATERIAL OR PID

2026-P-1375

CASE HEADER

Case Status	No briefs yet
Status Date	09/21/2026
Nature	Domestic Relations/Family Law
Entry Date	09/21/2026
Appellant	Plaintiff
Case Type	Civil
Brief Status	Awaiting blue brief
Brief Due	11/02/2026
Arg/Submitted	
Decision Date	
Panel	
Citation	
Lower Court	Worcester Probate & Fam
TC Number	WO25W1359WD
Lower Ct Judge	Mark Twombly Lee, J.
TC Entry Date	09/02/2025
SJ Number	
FAR Number	
SJC Number	

INVOLVED PARTY	ATTORNEY APPEARANCE
Patrick S. Birt Pro Se Plaintiff/Appellant Awaiting blue brief Due 11/02/2026	
Ivana G. Gurrieri Pro Se Defendant/Appellee Awaiting red brief Due 12/02/2026	
Christopher J. Huckins Pro Se Defendant/Appellee Awaiting red brief Due 12/02/2026	

DOCKET ENTRIES

Entry Date	Paper	Entry Text
09/21/2026		IMPOUNDED INFORMATION: Financial statements and GAL reports.
09/21/2026	#1	Lower Court Assembly of the Record Package
09/21/2026		Notice of entry sent.
09/21/2026	#2	Civil Appeal Entry Form filed by Patrick S. Birt.
09/22/2026	#3	Motion to correct trial court docket number and clarify impoundment status filed by Patrick S. Birt.
09/22/2026		Self-Represented Parties notice sent this date
09/25/2026		RE#3: Allowed. The lower court docket number is corrected on this court's docket. Regarding impoundment, this court's docket is designed as partially impounded based on the case nature, as these matters often involve impounded financial statements or GAL reports, though not necessarily in this case. The appellant should indicate on the civil docketing statement any materials he is aware of that are impounded in the lower court record. For all filings, all parties should comply with Mass. R. A. P. 16(m) and Mass. R. A. P. 18(d) by refraining from filing impounded materials in this court, wherever possible, and if necessary segregating the materials and clearly designated them as impounded. *Notice.
09/28/2026	#4	Docketing Statement filed by Patrick S. Birt.

COMMONWEALTH OF MASSACHUSETTS

ATTACHMENT 2 NOTICE OF THE ASSEMBLY OF THE RECORD ON APPEAL
PARTIALLY IMPOUNDED APPELLATE COURT ENTRY STATEMENT PARTIALLY IMPOUNDEDCourt Department Probate and Family CourtCounty Worcester CountyTrial Court Docket No(s): WO25W1359WDCase Name: Patrick S. Birt vs. Ivana G. Gurrieri and Christopher Huckins**APPEARANCES**Attorney Name for each Plaintiff/Petitioner and Either BBO
Number OR Address and Telephone Number
(enter information then "tab" out to view)PRO SEAttorney Name for each Defendant/Respondent and Either BBO
Number OR Address and Telephone Number
(enter information then "tab" out to view)Michael Xavier, Esq BBO 644844Nature of the case (Select the most appropriate description): Domestic Relations/Family LawDate Petition, Complaint or Indictment Entered in Trial Court: Sep 2, 2025Is the Case or Any Information Impounded? No

If yes, attach a copy of the order of impoundment or provide the citation to the statute or rule pursuant to which the documents were impounded, and specify each impounded document (enter information then "tab" out to view). See S.J.C. Rule 1:15, § 2(a).

Date When Notice of Appeal Filed: Aug 17, 2026Appeal By (specify each party listed in notice of appeal): Patrick Birt

Identify the order or judgment being appealed (enter information then "tab" out to view):

Judgment of Dismissal 7/7/26 and Memorandum of Decision dated 8/4/26 Judge LeeDate Transcripts Ordered: _____ Number of Transcript Volumes: 1Enclosing CD(s) with PDF(s) of the Transcript: ☐ Yes ☒ NoDates of Transcribed Proceedings: 6/1/26In Criminal Cases, has a Stay of Execution of Sentence Been Granted? ☐ Yes ☒ NoDate Notice of Assembly Issued: Sep 21, 2026
Clerk, Clerk Magistrate, Register, or Recorder

To be filled in by the appellate court:

Date Entered in S.J.C. or Appeals Court: _____

S.J.C. or Appeals Court Docket Number: _____

Print Form

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

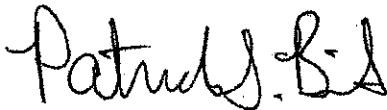
**IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,**
Defendants.

PLAINTIFF'S NOTICE OF APPEAL

Notice is hereby given that Plaintiff **Patrick S. Birt**, self-represented, appeals to the Massachusetts Appeals Court from:

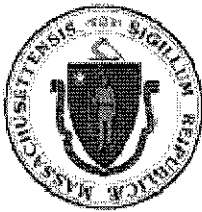
1. the **Judgment of Dismissal dated July 7, 2026 and entered on the docket on July 14, 2026**, dismissing Plaintiff's Complaint to Establish Parentage without prejudice, together with the underlying **Memorandum of Decision and Order dated July 7, 2026 and entered on the docket on July 10, 2026**, allowing Defendant Christopher J. Huckins' Renewed Motion to Dismiss; and
2. the **Memorandum of Decision and Order dated August 4, 2026 and entered on the docket on August 11, 2026**, denying Plaintiff's Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e) and denying Plaintiff's Request for Oral Hearing pursuant to Probate and Family Court Standing Order 2-99(b)(2).

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: August 17, 2026



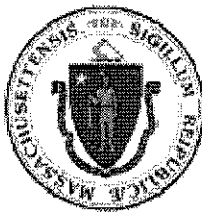
**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

WO25W1359WD Birt, Patrick S. vs. Gurrieri, Ivana G.

CASE TYPE: Parentage	FILE DATE: 09/02/2025
ACTION CODE: PA	CASE TRACK:
DESCRIPTION: Complaint to Establish Parentage	CASE STATUS: Closed
CASE DISPOSITION DATE: 07/07/2026	STATUS DATE: 07/14/2026
CASE DISPOSITION: Judgment of Dismissal	CASE SESSION:
CASE JUDGE: Lee, Mark T.	

PARTIES	
Plaintiff Birt, Patrick S. 1665 Main St Apt A211 Jefferson, MA 01522 Defendant Gurrieri, Ivana G. 631 Boston Turnpike Shrewsbury, MA 01545 Defendant Huckins, Christopher J. 16 Chestnut Hill Rd Northborough, MA 01532 Child Huckins, Giovanni Christopher 631 Boston Turnpike Shrewsbury, MA 01545	Attorney PROPER Pro Se Massachusetts Bar Added Date: 01/30/2026 Attorney PROPER Pro Se Massachusetts Bar Added Date: 09/10/2025

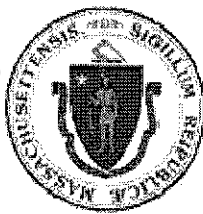
FINANCIAL DETAILS					
Date	Fees/Fines/Costs/Charge	Assessed	Paid	Dismissed	Balance
09/10/2025	FEE for filing a complaint to establish parentage, MGL 262 s.40 Receipt: 240307 Date: 09/11/2025	100.00	100.00	0.00	0.00
09/10/2025	Civil Filing Fee Surcharge due. Receipt: 240307 Date: 09/11/2025	15.00	15.00	0.00	0.00
09/10/2025	Blank Summons (except in matters relating to contempt or parentage) MGL 262 section 4b Receipt: 240307 Date: 09/11/2025	5.00	5.00	0.00	0.00
Total		120.00	120.00	0.00	0.00



**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

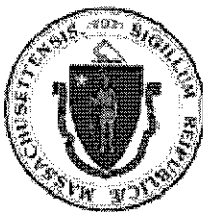
INFORMATIONAL DOCKET ENTRIES

Date	Ref	Description	Judge
09/02/2025	1	Complaint to Establish Parentage	
09/02/2025	2	Certificate of Birth	
09/02/2025	3	Child Care or Custody Disclosure Affidavit	
09/02/2025	4	Affidavit Of Petitioner /Plaintiff for Custody of Minor Children	
09/02/2025	5	Affidavit as to Military Service	
09/02/2025		Patrick S. Birt's Opt-In for Electronic Notification	
09/10/2025	6	NOTICE: Summons on Complaint to Establish Parentage	
09/10/2025		Notice Sent A NOTICE: Track Assignment Notice 8 Month Notice was generated and sent to: Plaintiff: Patrick S. Birt 1665 Main St Apt A211, Jefferson, MA 01522 Defendant: Ivana G. Gurrieri 631 Boston Turnpike, Shrewsbury, MA 01545 Defendant: Christopher J. Huckins 16 Chestnut Hill Rd, Northborough, MA 01532	
09/22/2025	7	Affidavit Of Defendant	
09/22/2025	8	Answer to Complaint to Establish Parentage Applies To: Gurrieri, Ivana G. (Defendant)	
09/30/2025	9	Summons Filed, Date of Service 09/23/2025 Complaint to Establish Parentage, Service on Christopher J. Huckins	
09/30/2025	10	Summons Filed, Date of Service 09/19/2025 Complaint to Establish Parentage, Service on Ivana G. Gurrieri	
10/01/2025	11	Motion To Dismiss	
10/07/2025	12	Pre-Trial Notice and Order Sent Judge: Keamy, Hon. Leilah A Event: Pretrial Conference Domestic and Equity Date: 02/25/2026 Time: 08:45 AM Result: Taken Off List	Keamy
10/10/2025	13	Patrick S. Birt's Certificate of Completion of Parent Education Program	
10/16/2025	14	Certificate of Service	
10/16/2025	15	Plaintiff's Opposition to Motion to dismiss	
10/20/2025	16	Certificate of Service	



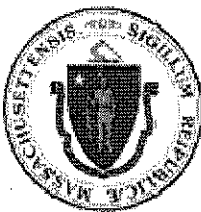
**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

10/22/2025	17	Notice of Appearance by Attorney Maria Milagros Rivera-Cotto, Esq. for Plaintiff/Petitioner Patrick S. Birt	
10/22/2025	18	Plaintiff's Emergency Ex Parte Motion To Continue/Reschedule Motion Hearing Scheduled for October 27, 2025	
10/22/2025	19	Affidavit Of Counsel In Support of Plaintiff's Emergency Ex Parte Motion to Continue Motion Hearing Scheduled for October 27, 2025	
11/24/2025	20	Plaintiff's Motion For Attorney Fees and Costs	
11/24/2025	21	Affidavit Of Counsel In support of Plaintiff's Motion for Attorney's Fees and Costs	
11/24/2025		Proposed Order	
12/03/2025	22	Plaintiff's Updated Opposition to Defendant Huckins' Motion to Dismiss Plaintiff's Complaint to Establish Parentage	
12/03/2025	23	Opposition to Plaintiff's Motion for Attorney's Fees and Costs	
12/03/2025		Proposed Order	
12/12/2025	24	Motion To Coordinate Parentage Proceedings with existing Custody Proceedings and request for Arc Counsel Participation	
01/05/2026	25	Memorandum of Decision and Order, Dated 12/23/2025	Keamy
		Judge: Keamy, Hon. Leilah A	
01/05/2026	26	Motion To Withdraw as Counsel	
01/13/2026	27	Plaintiff's Motion To Continue Pre-Trial Conference	
01/13/2026	28	Certificate of Service	
01/13/2026		Proposed Order	
01/30/2026		Event Resulted: Motion scheduled on: 01/30/2026 08:30 AM Has been: Order Issued Comments: Motion to Withdraw Allowed Hon. Leilah A Keamy, Presiding	Keamy
02/03/2026	29	Motion To Withdraw as Counsel ALLOWED on 01/30/2026 File Reference # 26	Tsizer
		Judge: Tsizer, Hon. Elena	
02/03/2026	30	Notice of Appearance	
02/03/2026	31	Certificate of Service	
02/03/2026	32	Plaintiff's Objections and Responses to Defendant Christopher J. Huckins' First Request for Production of Documents and Notice of Objection to Notice of Taking Deposition	



**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

02/03/2026	33	Certificate of Service	
02/03/2026	34	Plaintiff's Motion For Protective Order (Full stay through March 13, 2026 and until further order) Regarding Defendant Christopher J. Huckins' First Request for Production of Documents and Notice of Taking Deposition	
02/03/2026		Proposed Order	
02/03/2026	35	Certificate of Service	
02/10/2026	36	Plaintiff's Motion For expedited hearing and short order of notice on plaintiff's Motion for protective order; and for temporary interim relief pending hearing	
02/10/2026	37	Motion For Short Order of Notice ALLOWED on 02/10/2026 File Reference # 36 *as to short order of notice only* *See Separate Order*	
02/10/2026	38	Order 02/10/2026, Order on Request for Ex Parte Relief	Bailey
		Judge: Bailey, Hon. Kathryn M.	
02/10/2026	39	Certificate of Service	
02/17/2026	41	Affidavit	
02/17/2026	42	Certificate of Service	
02/18/2026	40	Motion For Protective Order (Full stay through March 13, 2026 and until further order) Regarding Defendant Christopher J. Huckins' First Request for Production of Documents and Notice of Taking Deposition DENIED on 02/13/2026 File Reference # 34	Tsizer
02/23/2026	43	Motion To Continue/Reschedule	
02/23/2026		Proposed Order	
02/27/2026	44	Motion To Continue/Reschedule ALLOWED on 02/25/2026 File Reference # 43	Tsizer
		Judge: Tsizer, Hon. Elena	
04/02/2026	45	Motion For Recusal	
		Applies To: Birt, Patrick S. (Plaintiff)	
04/02/2026	46	Affidavit In Support of Motion for Recusal	
04/02/2026		Proposed Order	
04/02/2026	47	Certificate of Service	
04/13/2026	48	Order 04/13/2026, Order on Plaintiff's Motion for Recusal	Lee



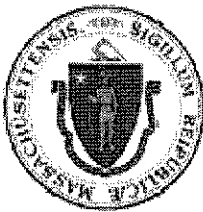
**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

04/27/2026	49	Notice of Limited Appearance	
		Applies To: McGrath, Esq., Marian E (Attorney) on behalf of Birt, Patrick S. (Plaintiff)	
04/28/2026	50	Motion For Recusal and Requests for in Camera Review	
04/28/2026	51	Affidavit In in Support of Plaintiff's Renewed Motion for Recusal	
04/28/2026		Proposed Order	
04/28/2026	52	Certificate of Service	
05/08/2026	53	Notice of Appearance by Attorney Michael Gabriel Xavier, Esq. for Defendant Christopher J. Huckins	
05/08/2026	54	Motion For Protective Order	
05/08/2026		Proposed Order	
05/08/2026	55	Certificate of Service	
05/11/2026	56	Fee Generating Appointment, Teresa M. Rafferty, LICSW, Ph.D. appointed as E Guardian ad litem - Evaluator On 05/11/2026 by Hon. Mark T. Lee Reason: Appointee has previously served on this case Appointment Terminated on 08/25/2026	
05/11/2026		Gal Report to be filed	
		Appt. of Guardian ad litem (Dom. Rel)-Cat. E/F Sent On: 05/11/2026 10:32:52	
05/11/2026	57	Appointment of Guardian Ad Litem Teresa M. Rafferty *VACATED 8/25/226*	Lee
		Judge: Lee, Hon. Mark T.	
05/19/2026	58	Renewed Motion To Dismiss	
05/19/2026		Proposed Order	
05/20/2026	59	Plaintiff's Expedited Motion For Administrative Clarification	
05/20/2026	60	Affidavit Of Patrick S. Birt in Support of Expedited Motion for Administrative Clarification	
05/20/2026		Proposed Order	
05/20/2026	61	Certificate of Service	
05/22/2026	62	Plaintiff's Opposition to Defendant Christopher J. Huckins' Renewed Motion to Dismiss	
05/22/2026	63	Certificate of Service	



**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

06/01/2026		Case Taken Under Advisement : Motion scheduled on: 06/01/2026 09:00 AM Has been: Under Advisement Hon. Mark T. Lee, Presiding	Lee
06/01/2026		Case Taken Under Advisement : Motion scheduled on: 06/01/2026 09:00 AM Has been: Under Advisement Hon. Mark T. Lee, Presiding	Lee
06/17/2026	64	Motion For Recusal and Requests for in Camera Review DENIED on 06/01/2026 File Reference # 50 *See Order*	Lee
06/17/2026	65	Motion For Administrative Clarification DENIED on 06/01/2026 File Reference # 59 *Without Prejudice*	Lee
06/17/2026	66	Memorandum of Decision and Order Dated June 16, 2026. Judge: Lee, Hon. Mark T.	Lee
07/10/2026	67	Motion To Dismiss (Renewed Motion) ALLOWED on 07/07/2026 File Reference # 58	Lee
07/10/2026	68	Memorandum of Decision and Order Dated July 7, 2026 Judge: Lee, Hon. Mark T.	Lee
07/14/2026	69	Judgment of Dismissal Dated July 7, 2026. Judge: Lee, Hon. Mark T.	Lee
07/17/2026	70	Motion To Amend Or Alter Judgement Pursuant to Mass R . Dom. Rel. P.59(e) - Lee, J.	
07/17/2026	71	Memorandum in Support of Motion to Amend	
07/17/2026	72	Affidavit Of Birt, Patrick S.	
07/17/2026		Proposed Order	
07/17/2026	73	Request For Oral Hearing on Rule 59 Motion	
07/17/2026	74	Certificate of Service	
08/10/2026	75	Plaintiff's Motion In Leave to Submit Later-Received Registry Documents	
08/10/2026	76	Memorandum in Support of Plaintiff's Motion In Leave to Submit Later-Received Registry Documents	
08/10/2026	77	Affidavit To Support of Plaintiff's Motion In Leave to Submit Later-Received Registry Documents	
08/10/2026		Proposed Order	
08/10/2026	78	Certificate of Service	



**MASSACHUSETTS
WORCESTER PROBATE AND FAMILY COURT
Docket Report**

08/11/2026	79	Memorandum of Decision and Order Dated August 4, 2026. Judge: Lee, Hon. Mark T.	Lee
08/17/2026	80	Plaintiff's Notice of Appeal	
08/17/2026	81	Certificate of Service	
08/19/2026	82	Notice	
08/19/2026	83	Certificate of Service	
08/19/2026	84	Motion For Leave to Submit Later-Received Registry Documents DENIED on 08/18/2026 File Reference # 75 *See Order Dated August 4, 2026*	Lee
09/16/2026	85	Action on Appeal as follows: Transcript Received 6/1/26	
09/21/2026	86	Action on Appeal as follows: Notice of Assembly of Record	

Probate and Family Court Department – Worcester Division

REGISTER'S OFFICE

Date: 9/21/26

To: Patrick S. Birt

Patrick S. Birt Vs. Ivana G. Gurrieri & Christopher J. Huckins No. WO25W1359WD

NOTICE OF ASSEMBLY OF RECORD ON APPEAL

In accordance with Rules of Appellate Procedure, Rule 9, subsection (d), notice this day has been sent to the Clerk of the Supreme Judicial Court/Appeals Court for the Commonwealth along with two certified copies of docket entries. Record has been fully assembled in the office of the Register of Probate for Worcester County.

In accordance with Rules of Appellate Procedure, Rule 10, subsection (a) and (b), the appealing party must enter the case in the Supreme Judicial Court/Appeals Court within fourteen (14) days of receipt of this notice. *This notice does not constitute entry in the Supreme Judicial Court/Appeals Court for the Commonwealth.*



Register

cc: Ivana Gurrieri
Christopher Huckins
Michael Xavier, Esq

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Probate and Family Court Dept. Of the Trial
Court
CIVIL ACTION

NO. WO25W1359WD

Patrick S. Birt, Plaintiff

Vs.

Ivana Gurrieri and Christopher Huckins, Defendant

NOTICE OF ASSEMBLY OF RECORD ON APPEAL
(PURSUANT TO MASS.R.A.P.9(d))

Pursuant to Mass.R.A.P.9(d), notice is hereby given that the record on appeal in the above action has been fully assembled pursuant to Mass.R.A.P.8(a). Accordingly, two (2) certified copies of the docket entries are transmitted herewith.

Dated at Worcester, Massachusetts, this 21st day of September, 20206.


REGISTER

NOTICE TO THE APPELLANT -PURSUANT TO MASS.R.A.P.10(a) WITHIN TEN (10) DAYS OF THE RECEIPT OF THE AFORESAID NOTICE THE APPELLANT SHALL PAY TO THE CLERK OF THE APPELLATE COURT THE DOCKET FEE FIXED BY THE LAW.

N.B. FOR CLERK'S USE ONLY

COPY SENT TO: CLERK OF THE APPEALS COURT -SUPREME JUDICIAL COURT-AND
ALL OTHER PARTIES OF RECORD

37 of 890 COMPLAINT TO ESTABLISH PARENTAGE G. L. c. 209C, § 5	Docket No.	Massachusetts Trial Court Probate and Family Court																					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; border-bottom: 1px solid black; text-align: center;">Patrick</td> <td style="width: 5%; border-bottom: 1px solid black; text-align: center;">S</td> <td style="width: 20%; border-bottom: 1px solid black; text-align: center;">Birt</td> <td style="width: 55%;"></td> </tr> <tr> <td style="text-align: center; font-size: small;">First Name</td> <td style="text-align: center; font-size: small;">MI</td> <td style="text-align: center; font-size: small;">Last Name</td> <td style="text-align: right;">, Plaintiff</td> </tr> <tr> <td colspan="4" style="text-align: center; padding: 5px 0;">v.</td> </tr> <tr> <td style="border-bottom: 1px solid black; text-align: center;">Ivana</td> <td style="border-bottom: 1px solid black; text-align: center;">G</td> <td style="border-bottom: 1px solid black; text-align: center;">Gurrieri</td> <td></td> </tr> <tr> <td style="text-align: center; font-size: small;">First Name</td> <td style="text-align: center; font-size: small;">MI</td> <td style="text-align: center; font-size: small;">Last Name</td> <td style="text-align: right;">, Defendant 1</td> </tr> </table>	Patrick	S	Birt		First Name	MI	Last Name	, Plaintiff	v.				Ivana	G	Gurrieri		First Name	MI	Last Name	, Defendant 1	Worcester Division ATTACHMENT 3		
Patrick	S	Birt																					
First Name	MI	Last Name	, Plaintiff																				
v.																							
Ivana	G	Gurrieri																					
First Name	MI	Last Name	, Defendant 1																				

If applicable:

Christopher	J	Huckins	
First Name	MI	Last Name	, Defendant 2

Information about the Child

1. Name of the Child

Giovanni	Christopher	Huckins	
First Name	Middle Name	Last Name	

2. The Child's current address:

631 Boston Turnpike	Shrewsbury	MA	01545
(Address)	(City/Town)	(State)	(Zip)
(Apt, Unit, No. etc.)			

3. The Child's date of birth: **3/4/2014** The Child's current age: **11**

Date

OR

The Child has not been born yet. The Child is expected to be born on: _____ at _____.

(Month/Year)
(Location)

FORM ALERT: A certified copy of the Child's birth certificate which has been certified by the Registry of Vital Records and Statistics (or the correct municipality) within the last six (6) months should be filed with this complaint.

I do **not** have a current birth certificate (record) and **cannot** legally obtain one.

Check here if you would like all certified copies of documents filed with the Court to be returned to the person who submitted them after review and processing.

Information About the Plaintiff

4. Name of the Plaintiff

Patrick	Shawn	Birt	
First Name	Middle Name	Last Name	

5. The Plaintiff's current address:

1665 Main St	Apt. A211	Jefferson	MA	01522-1188
(Address)	(Apt, Unit, No. etc.)	(City/Town)	(State)	(Zip)

Primary Phone #: **(508) 847-5480** E-mail: **patrickbirt@gmail.com**

6. The Plaintiff is (check one):

the person who gave birth. an alleged genetic parent. a presumed parent. the Child. the Child's guardian. the Child's next of kin.	the spouse of the person who gave birth at the time of the Child's birth or conception. a parent or personal representative of the person who gave birth if that person has died or abandoned the Child. a parent or personal representative of the other parent if the other parent has died who gave birth to the Child. a person standing in a parental relation to the Child.
--	---

7. ☐ An agency^{38 of 300} listed below is filing under their statutory authority.

☐ Department of Revenue ☐ Department of Children and Families ☐ other: _____

Agency's current address:

(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: _____ E-mail: _____

Information About the Defendant(s)

8.

Name of Defendant 1. Ivana Giovanna Gurrieri
First Name Middle Name Last Name

Defendant's current address:

631 Boston Turnpike Shrewsbury MA 01545
(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: (508) 723-4074 E-mail: ivakri19@yahoo.com

☐ I do not know the Defendant's current address and have listed their last known address below:

(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: _____ E-mail: _____

FORM ALERT: If the address or whereabouts of the Defendant is unknown you must file a Motion for Service by Alternate Means and Affidavit of Diligent Search (CJP 31) with a Military Affidavit (TC0002).

The Defendant is (check one): ☒ the person who gave birth. ☐ a presumed parent ☐ an alleged genetic parent

The Person who gave birth ☐ was ☒ was not married to the above-named Defendant at the time of the child's birth or within 300 days before the Child's birth.

Name of Defendant 2. Christopher John Huckins
First Name Middle Name Last Name

Defendant's current address:

15 Chestnut Hill Rd Northborough MA 01532
(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: 508-688-7214 E-mail: _____

☐ I do not know the Defendant's current address and have listed their last known address below:

(Address) (Apt, Unit, No. etc.) (City/Town) (State) (Zip)

Primary Phone #: _____ E-mail: _____

FORM ALERT: If the address or whereabouts of the Defendant is unknown you must file a Motion for Service by Alternate Means and Affidavit of Diligent Search (CJP 31) with a Military Affidavit (TC0002).

The Defendant is (check one): ☐ the person who gave birth. ☒ a presumed parent ☐ an alleged genetic parent

The Person who gave birth ☐ was ☒ was not married to the above-named Defendant at the time of the child's birth or within 300 days before the Child's birth.

☒ Plaintiff	Patrick Birt Name
☒ Defendant 1	Ivana Gurrieri Name
☒ Defendant 2	Christopher Huckins Name

and a new birth certificate to issue.
40 of 300

16. ☒ The Plaintiff requests that the Court prohibit the Defendant(s) from imposing any restraint on the Plaintiff and Child's personal liberty.

☐ Defendant 1

Name

☒ Defendant 2

Christopher Huckins

Name

17. ☐ The Plaintiff requests an interpreter for any court hearings. Language: _____

18. ☐ Additional requests:

Date: **August 22, 2025**

Patricia J. Bell

Signature of the Plaintiff

(Print name)

Information on Attorney for the Plaintiff, if any

Signature of Attorney

(Print name)

(Address)

(Apt, Unit, No. etc.)

(City/Town)

(State)

(Zip)

Primary Phone #: _____

B.B.O. # _____

E-mail: _____

Affidavit of Ivana Gurrieri

Ms. Ivana Gurrieri

631 Boston Turnpike

Shrewsbury MA, 01545

(508) 723-4074

ivakri19@yahoo.com

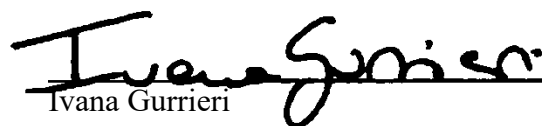
I, Ivana Gurrieri, mother of Giovanni C. Huckins, hereby declare that at the time of Giovanni's birth, both Christopher Huckins and I were fully aware that Mr. Huckins was not the biological father, as we had not engaged in any intimate relations, and, furthermore Mr. Huckins had undergone a vasectomy. We were both cognizant that Patrick Birt was the actual biological father. Additionally, all my friends and family, including my twelve-year-old daughter were aware of this circumstance.

During my pregnancy, Mr. Huckins consistently expressed his belief that Mr. Birt would not have been a suitable father for Giovanni and that Mr. Huckins should be identified as father on the birth certificate. I consented to sign the birth certificate listing Mr. Huckins as the father and to inform Mr. Birt that he was not the biological father. Both Mr. Huckins and I engaged in fraudulent actions by deceiving and defrauding Mr. Birt and by signing the birth certificate, a public record document, falsely listing Mr. Huckins as the father.

Furthermore, I misled Mr. Birt, and Mr. Huckins made no attempt to contact Mr. Birt regarding his parental intentions prior to the signing of the birth certificate.

I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.

Dated Sept 22, 2025


Ivana Gurrieri

ATTACHMENT 5

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

**Docket Number WO25W1359WD
Cross Reference WO19W1407WD**

Patrick S. Birt
Plaintiff

v.

**Ivana G. Gurrieri, and
Christopher J. Huckins**
Defendants

Memorandum of Decision and Order

On Christopher J. Huckins' Motion to Dismiss, filed on October 1, 2025

The Court, Keamy, J., held a non-evidentiary hearing on the above-captioned Motion on December 4, 2025. The Plaintiff, Patrick S. Birt ("Birt"), was represented by Attorney Maria Rivera-Cotto. The Defendant, Ivana G. Gurreri ("Gurreri"), was present and proceeded as a self-represented litigant. The Defendant, Christopher J. Huckins ("Huckins"), was represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

A. Background

The following facts are taken from the sparse record in the instant action only, viewing all relevant information in the light most favorable to Birt. This matter concerns one minor child: Giovanni C. Huckins ("Giovanni"), date of birth March 4, 2014. Giovanni is currently eleven years old. None of the parties have ever been married to each other. Gurreri is Giovanni's biological mother. At the time of Giovanni's birth, Huckins signed a Voluntary Acknowledgement of Paternity ("VAP") which was also signed by Gurreri. Huckins was listed as Giovanni's father on the birth certificate and remains listed as such presently. On March 5, 2014, Gurreri contacted Birt and informed him that he was not Giovanni's biological father and that Huckins was Giovanni's biological father.

On August 7, 2019, Huckins filed a Complaint for Custody and Parenting time against Gurrieri under the cross-referenced docket number. That action resulted in a Judgment issued on February 1, 2023 which incorporated an agreement of the parties.¹ Among other things, pursuant to the agreement Huckins has parenting time with Giovanni and Guerrieri and Huckins have shared legal custody of Giovanni. Said agreement also contained the following provision, “neither party shall tell Giovanni that [Huckins] is not his biological father, this shall be done in coordination with and following any recommendations of Giovanni’s therapist.” There is currently a modification action pending related to that Judgment, in which the Department of Children and Families (“DCF”) is involved and an attorney representing child (“ARC”) has been appointed to represent Giovanni.

On September 2, 2025, Birt filed the instant Complaint to Establish Parentage in which he seeks that the Court adjudicate Birt and Gurrieri to be Giovanni’s parents, order that Giovanni’s birth certificate be amended to reflect the same, order that Giovanni’s last name be changed to Birt, and make other orders related to custody and parenting time. On October 1, 2025, Huckins filed the instant Motion to Dismiss. On October 16, 2025, Birt filed an Opposition to Motion to Dismiss (“Opposition”). Among other things, Birt argues that he is Giovanni’s biological father, that Huckins and Gurrieri conspired to fraudulently keep him from asserting parental rights related to Giovanni, that he now has on-going parenting time with Giovanni, and that he and Giovanni have an established relationship and bond. On September 22, 2025, Gurrieri filed an Affidavit in which she represented that she and Huckins committed fraud to keep Birt from parenting Giovanni. Gurrieri testified at the hearing similar to the statements set forth in her Affidavit.

B. Whether the Instant Complaint Is Proper Pursuant to G. L. c. 209C

Pursuant to G. L. c. 209C, § 11 (a), there is a statute of repose which provides that “any challenge to a VAP must be brought within one year of it being signed.” J.M. v. C.G., 492 Mass. 459, 460–61 (2023). However, this statute of repose does not prohibit a party from making a common law claim of parentage if the party can first “demonstrate a substantial relationship between the putative parent and the child.” Id. at 461. The issue of law as to whether this common law claim can be made in a complaint brought pursuant to G. L. c. 209C or must be asserted pursuant to a complaint in equity is not settled in the case law.

In J.M., the plaintiff brought a complaint pursuant to G. L. c. 209C and a complaint in equity which were consolidated for trial. See J.M., 492 Mass. at 462 n. 7. The Trial Court held

¹ Gurrieri and Huckins are also the parents of the following minor child: Sofia I. Huckins (“Sofia”), date of birth January 31, 2009. A separate Complaint for Custody and Parenting Time under docket number WO19W1406WD was consolidated with this action and was resolved by the same agreement that was incorporated into the judgment. Birt does not assert any parentage claim regarding Sofia.

that it was solely relying on the complaint in equity because the plaintiff's common law claim could not be brought pursuant to G. L. c. 209C. On direct appellate review, the SJC acknowledged the Trial Court's conclusion of law, but did not resolve the issue. Whereas there is no mandatory authority in the case law, the Court declines to dismiss the instant complaint on this ground. However, the Court notes that this is an issue of subject matter jurisdiction which can be raised at any time.

C. Whether Birt Is Required to Show a Significant Relationship with Giovanni

The Court considers the allegations made by Birt and supported by Gurrieri that Gurrieri and Huckins took actions that prevented Birt from forming a substantial relationship with Giovanni. Whether a plaintiff is required to prove a substantial relationship with the child in such circumstances is, again, an unsettled issue of law. See C.C. v. A.B., 406 Mass. 579, 690 n. 10 (1990). ("We do not, nor need we, decide what rights a putative father might have in a case where, due to the actions of the mother, he had not yet formed a substantial relationship with the child.").

In considering whether it must resolve this issue of law in the instant matter, the Court considers the following from J.M., 492 Mass. at 462 n. 7.

M.H. also argues that he should not be required to demonstrate a substantial parent-child relationship because the mother in this case prevented him from forming one and kept him in the dark about Amelia's paternity until August 2020. This argument is without merit where the probate judge found that M.H. had ample reason to suspect his biological paternity as early as Amelia's conception, the mother updated M.H. as other potential biological fathers were ruled out, and the mother facilitated M.H.'s spending time with Amelia throughout her childhood. Although M.H. claimed that he did not know he had a right to establish his paternity of Amelia, this lack of knowledge cannot be ascribed to the mother. (internal quotations and citation omitted).

"There is a compelling public interest in the finality of paternity judgments." Paternity of Cheryl, 434 Mass. 23, 30 (2001). This interest is so compelling that the Legislature explicitly did not exclude fraud, duress, and material mistakes of fact from the statute of repose. See G. L. c. 209C, § 11 (a). In the instant matter, Birt knew about Giovanni's birth when it happened. He knew that he had sex with Gurrieri around the approximate time that Giovanni was conceived. Although Gurrieri told him that he was not the biological father, neither Gurrieri nor Huckins did anything to prevent Birt from commencing an action to be adjudicated the father or take any other actions to attempt to establish paternity of Giovanni in the one year immediately after Huckins signed the VAP. This is not an extreme case in which Gurrieri or Huckins hid from Birt that Giovanni

had been born or otherwise tried to preclude Birt from knowing about Giovanni's existence. Even if the law does provide for certain extraordinary common law parentage actions to proceed in the absence of a substantial relationship, the instant case does not present such an extraordinary situation. Birt must make a preliminary demonstration that he has a substantial relationship with Giovanni to proceed with the instant action.

D. Whether a Substantial Relationship Exists Between Birt and Giovanni

"[T]o proceed under common law where a child's parentage already has been determined, a plaintiff must first demonstrate a substantial relationship between the putative parent and the child." J.M., 492 Mass. at 461. The current record is insufficient for the Court to make such a determination. Based on all of the circumstances, the Court finds that it is appropriate to deny the instant Motion to Dismiss without prejudice and order Birt to file an Affidavit alleging specific facts which, if proven, will establish a substantial relationship between himself and Giovanni, within the meaning of the applicable case law. Huckins may, after the deadline for filing such Affidavit, file and mark for hearing a renewed motion to dismiss, if he elects to do so. If there is a renewed motion to dismiss, either party may file a separate request for an evidentiary hearing and the Court shall consider the request.

E. Order

1. The above-captioned Motion to Dismiss is denied without prejudice.
2. No later than February 23, 2026, Birt shall file an Affidavit alleging specific facts which, if proven, will establish a substantial relationship between himself and Giovanni, within the meaning of the applicable case law. If Birt does not timely comply with this order, then the Court shall sua sponte dismiss the instant complaint.

Date: December 23, 2025


 Leilah A. Kearny
 Justice of the Probate and Family Court

ATTACHMENT 6

**COMMONWEALTH OF MASSACHUSETTS
PROBATE AND FAMILY COURT DEPARTMENT
WORCESTER DIVISION**

Patrick Birt
Plaintiff

Docket No. WO25W1359WD

v.

Ivana Gurrieri & Christopher Huckins
Defendants

AFFIDAVIT OF PATRICK S. BIRT

I, Patrick S. Birt (“Affiant”), of Jefferson, Massachusetts, being duly sworn, depose and say under the pains and penalties of perjury as follows:

1. Identity and Role.

I am the Plaintiff in this action to establish parentage concerning the minor child Giovanni C. Huckins (“Giovanni”), born March 4, 2014.

I reside in Jefferson, Massachusetts.

2. How I Learned of Biological Parentage and Confirmation of Paternity.

I learned in or about March 2025 that Giovanni may be my biological son.

Shortly thereafter, I completed a genetic marker/DNA test through a laboratory, and the results confirmed that I am Giovanni’s biological father. I have a copy of those results. The test was performed on June 17, 2025 through Choice DNA Laboratory.

3. Lack of Earlier Knowledge.

March 5, 2014 the day after Giovanni’s birth, I was told by Ivana Gurrieri that Christopher Huckins was Giovanni’s biological father and that I was not. I relied on that representation and had no reason to question it at that time.

Accordingly, until March 2025, I had no knowledge or reason to believe I was Giovanni’s biological parent.

4. Initial Contact and First Meetings.

In or about March 2025, I was contacted by Giovanni's adult half-sibling, who informed me of Giovanni's biological parentage and expressed concern regarding Giovanni's emotional wellbeing.

After coordination with a member of Giovanni's family and careful consideration, Giovanni was informed of his biological relationship to me.

My first direct interaction with Giovanni occurred shortly thereafter, when Giovanni was eleven years old. During our early interactions, Giovanni asked whether I would remain involved in his life and expressed concern about being abandoned.

5. Regular and Continuous Contact (Weekends and Communication).

Since approximately April 2025, Giovanni has spent regular time with me, subject only to occasional changes due to school or family scheduling, typically from Friday evening through Sunday.

A typical weekend routine includes:

- On Fridays, I pick Giovanni up and we have dinner together and spend time in age-appropriate activities at my home.
- On Saturdays, I provide meals and supervision and we spend time together on ordinary family activities, including playing basketball, playing chess, watching movies, and other routine weekend activities.
- On Sundays, we continue our routine until the end of the visit, and Giovanni returns to his mother's care either by my transportation or by arranged pickup.

During the winter of 2025–2026, Giovanni participated in a Saturday basketball program, and I adjusted my schedule to attend games and to continue providing consistent weekend and

Monday morning school transportation during that period. When Giovanni is not physically with me, we remain in regular contact by telephone and text message.

6. Caregiving Responsibilities and Home Integration.

While Giovanni is in my care, I am responsible for his meals, daily supervision, transportation, bedtime routines, hygiene routines, and behavioral expectations.

Giovanni has his own bedroom and bathroom in my home and moves comfortably and independently within my household.

Giovanni is comfortable following structure and routines in my home, including homework time, meals, hygiene, and bedtime.

7. Extended Periods of 24/7 Care.

In addition to regular weekend time, I have provided extended periods of full-time care for Giovanni when his mother was unavailable, during which I assumed responsibility for Giovanni's daily needs.

(a) August 7, 2025 through August 12, 2025. Ivana Gurrieri had surgery, and Giovanni was in my care on a 24/7 basis during this period.

(b) September 23, 2025 through October 2, 2025. Ivana Gurrieri was traveling. During this entire period, Giovanni was in my care and I assumed primary day-to-day responsibility, including ensuring he attended school and transporting him to and from school.

(c) February 13, 2026 through February vacation week of 2026. Giovanni has been in my care on a continuous basis during this period and I was responsible for his daily needs.

8. School and Activities.

I am familiar with Giovanni's school and extracurricular activities. I have been listed as an emergency contact and have coordinated transportation and attendance for school and extracurricular activities.

I have attended many of Giovanni's basketball games and have transported him to and from athletic activities, including a summer basketball league where I was responsible for game-day transportation and attendance.

9. Family and Community Integration.

Giovanni has spent time with my extended family, including cousins close to his age, and he has formed positive relationships with them.

Giovanni has accompanied me to ordinary community and family activities.

Giovanni has developed a close bond with my dog, which is part of my household and daily routine.

10. Emotional Bond and Reliance.

Giovanni regularly seeks reassurance, advice, and emotional comfort from me.

On multiple occasions when Giovanni has been distressed or anxious, he initiated contact with me and appeared calmer after speaking with me.

Giovanni routinely expresses affection toward me through hugs and verbal expressions of closeness.

Giovanni has expressed on multiple occasions that he feels comfortable in my home.

Giovanni has stated that he wants consistent contact with me and has expressed that he wants to "make up for the eleven years" during which we did not know of our relationship.

11. Consistency of Intent and Absence of Voluntary Delay.

Since learning that Giovanni is my biological son, I have consistently sought to remain present, involved, and supportive in his life.

I have adjusted my work and personal schedule to ensure availability during weekends and extended periods when Giovanni is in my care.

Any delay in asserting parentage was not voluntary or strategic. It occurred because I did not know I was Giovanni's biological parent. Once I learned that I was Giovanni's biological father, I acted without hesitation.

12. Substantial Relationship.

My relationship with Giovanni is ongoing, consistent, and substantial. It includes regular weekend time, extended periods of full-time caregiving, ongoing communication, emotional reliance and trust, and integration into my home and family life.

13. Purpose.

I submit this affidavit to allege specific facts which, if proven, establish a substantial relationship between myself and Giovanni.

14. Closing.

I am willing to testify under oath to the facts stated herein.

The foregoing statements are true to the best of my knowledge and belief.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive, slightly slanted style.

Patrick S. Birt

Plaintiff, pro se

Dated: February 17, 2026

1665 Main St. Apt. A211

Jefferson, Massachusetts 01522

ATTACHMENT 7**COMMONWEALTH OF MASSACHUSETTS****TRIAL COURT****PROBATE AND FAMILY COURT**

WORCESTER, S.S.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI

And

CHRISTOPHER J. HUCKINS,
Defendants.**PLAINTIFF’S MOTION FOR RECUSAL**

Now comes the Plaintiff, Patrick S. Birt (“Plaintiff”), pro se, and respectfully moves that the Honorable Mark T. Lee recuse himself from further participation in this matter.

This motion is based upon the Court’s on-the-record statements and evaluative remarks made during a related proceeding involving the same minor child. Those remarks reflect that the Court has expressed evaluative views regarding Plaintiff’s relationship with the child and best-interests considerations as they relate to Plaintiff—issues central to this parentage action—before Plaintiff has had an opportunity to be heard in this case.

The appearance of prejudgment is heightened because prior rulings in this parentage action and related custody proceedings (WO19W1407WD) denied (without prejudice) efforts to terminate Plaintiff’s contact outright and contemplated further factual development of Plaintiff’s relationship with the child. The Court’s subsequent evaluative remarks concerning Plaintiff’s

contact and communications were made in a different proceeding where Plaintiff was not present and could not be heard.

Plaintiff does not seek to re-litigate custody orders through this motion. Plaintiff seeks recusal as a prophylactic measure to protect the integrity of this parentage proceeding and ensure that the issues presented are adjudicated on the evidentiary record developed in this docket, after full participation by the parties.

Plaintiff is not attaching any recording, transcript, or excerpt from any related proceeding. To the extent the Court deems it necessary to resolve this motion, Plaintiff respectfully requests that the Court review the official court record of the March 13, 2026 custody review hearing in camera for the limited purpose of determining whether recusal is required.

I. PROCEDURAL POSTURE AND RELATED PROCEEDINGS

1. This is an action pursuant to G.L. c. 209C in which Plaintiff seeks adjudication of parentage, recognition of parental rights, and the establishment of an appropriate relationship with the minor child, Giovanni C. Huckins.
2. On October 27, 2025, in related custody proceedings involving the same minor child, the Court (Keamy, J.) denied (without prejudice) the Defendant's motion to bar contact between Plaintiff and the child, thereby allowing the existing contact/relationship to continue pending further proceedings.
3. On December 23, 2025, in this parentage action, the Court (Keamy, J.) denied (without prejudice) Defendants' Motion to Dismiss and ordered Plaintiff to submit an affidavit addressing Plaintiff's substantial relationship with the child, thereby expressly

recognizing that the relationship issues required further factual development in this docket.

4. Plaintiff complied with that order and is actively pursuing adjudication of his parental rights.
5. The issues in this case necessarily include:
 - the existence and development of Plaintiff's relationship with the child; and
 - whether, and to what extent and under what conditions, Plaintiff's contact with the child is in the child's best interests.
6. Those same issues were addressed by the Court during a March 13, 2026 review hearing in a related custody matter involving the same minor child.

II. THE COURT'S REMARKS REGARDING PLAINTIFF IN THE RELATED CUSTODY PROCEEDING

7. During the March 13, 2026 custody review hearing, the Court made on-the-record remarks directly concerning Plaintiff, including, in substance, remarks that:
 - Plaintiff is not the father listed on the child's birth certificate;
 - Plaintiff's communications with the child included, facilitated, or were framed as involving derogatory commentary about the child's legal father; and
 - the Court expressed doubt that full, unfettered, unsupervised contact between Plaintiff and the child is in the child's best interests.
8. The Court also made evaluative remarks reflecting that it had begun weighing equities and responsibility among the adults in a manner that bore directly on the propriety of Plaintiff's involvement, despite Plaintiff not being present and not having an opportunity to respond.

9. These remarks were not merely administrative in nature. They reflect substantive evaluative concerns regarding Plaintiff's conduct, Plaintiff's role, and the appropriateness of Plaintiff's involvement in the child's life.
10. During the March 13, 2026 custody review hearing, counsel referenced selected text-message excerpts concerning Plaintiff's communications with the child.
11. On information and belief, those excerpts originated from materials produced in discovery in this parentage action. Plaintiff does not seek, by this motion, to litigate the admissibility or merits of any custody evidentiary presentation.
12. However, to the extent the Court's evaluative remarks concerning Plaintiff's communications and the propriety of Plaintiff's contact were informed by selected discovery excerpts presented in a different procedural context, without Plaintiff present and without any developed evidentiary record in this parentage docket, this contributes to the objective appearance that views on issues central to this action may have been formed outside the fact-development process contemplated by this case.
13. At the March 13, 2026 review hearing, the procedural posture of this parentage action—including the December 23, 2025 order requiring factual development of Plaintiff's relationship—was not presented for adjudication in that proceeding.

III. PLAINTIFF WAS NOT PRESENT AND HAD NO OPPORTUNITY TO BE HEARD

14. Plaintiff was not a party to the March 13, 2026 custody proceeding.
15. Plaintiff was not present, was not represented, and had no opportunity in that proceeding to:
 - present evidence;
 - challenge assertions;

- provide context; or
- respond to adverse characterizations regarding Plaintiff's communications or relationship with the child.

16. Nevertheless, the Court expressed evaluative views about Plaintiff on issues that are central to the adjudication of this parentage action.

IV. THE COURT'S REMARKS GO TO CORE ISSUES THAT MUST BE ADJUDICATED IN THIS CASE

17. The Court's remarks described above go directly to central issues in this parentage action, including:

- the nature and legitimacy of Plaintiff's relationship with the child; and
- whether contact between Plaintiff and the child, including the level of supervision or conditions, is in the child's best interests.

18. The appearance concern is not that the Court conducted a review hearing in a related case. The appearance concern is that the Court expressed evaluative views about Plaintiff and best-interests considerations bearing on Plaintiff's contact with the child in a setting where Plaintiff could not be heard, creating the objective appearance that those central issues may be approached with pre-formed views in this parentage action.

V. TENSION WITH THE PROCEDURAL POSTURE PREVIOUSLY ESTABLISHED IN THIS CASE

19. The October 27, 2025 order in the related custody proceedings denied (without prejudice) a request to bar Plaintiff's contact, allowing the relationship/contact to continue pending further proceedings.

20. In this parentage action, Plaintiff has been directed by prior order (December 23, 2025) to demonstrate and develop evidence of a substantial relationship with the child as part of the factual development contemplated in this docket.

21. At the same time, in the related custody proceeding on March 13, 2026, the Court expressed evaluative concerns about Plaintiff's contact with the child and the propriety of unsupervised contact, in a setting where Plaintiff was not present and had no opportunity to be heard.

22. This creates an untenable and prejudicial posture in which Plaintiff is effectively placed in a position where:

- good-faith compliance with the Court's prior directive to develop evidence of a relationship may be viewed adversely;
- the very relationship the Court previously contemplated would be factually developed may be implicitly constrained or judged based on remarks made outside the evidentiary process of this case; and
- a reasonable, fully informed observer could question whether the central issues in this action will be decided solely on the record developed in this docket after full participation by all parties.

23. Against that backdrop, the Court's subsequent remarks in the March 13, 2026 custody review hearing expressing concern about Plaintiff's communications and the propriety of unsupervised contact create an objective appearance of prejudgment regarding the very issues that this Court previously recognized require factual development in this parentage action.

VI. LEGAL STANDARD

24. A judge must recuse where the judge's impartiality might reasonably be questioned under an objective standard. See Lena v. Commonwealth, 369 Mass. 571 (1976); Haddad v. Gonzalez, 410 Mass. 855 (1991); Fogarty v. Commonwealth, 406 Mass. 103 (1989); Commonwealth v. Gogan, 389 Mass. 255 (1983); Demoulas v. Demoulas Super Mkts., Inc., 428 Mass. 543 (1998); Anthony's Pier Four, Inc. v. HBC Assocs., 411 Mass. 451 (1991).
25. Plaintiff does not allege actual bias. The issue is whether a reasonable, fully informed observer would conclude that the Court has already formed views on matters to be decided in this parentage action, such that the Court's impartiality might reasonably be questioned. See Lena v. Commonwealth, 369 Mass. 571 (1976).
26. Plaintiff recognizes that judicial rulings and remarks made during proceedings ordinarily do not require recusal unless they reflect deep-seated favoritism, antagonism, or prejudgment such that fair judgment is not possible. See Liteky v. United States, 510 U.S. 540 (1994); Haddad v. Gonzalez, 410 Mass. 855 (1991); Fogarty v. Commonwealth, 406 Mass. 103 (1989); Demoulas v. Demoulas Super Mkts., Inc., 424 Mass. 501 (1997).
27. Due process requires a fair tribunal and the appearance of justice. See In re Murchison, 349 U.S. 133 (1955). In extreme circumstances, recusal may be constitutionally required where the probability of actual bias is too high to be tolerable. See Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009).
28. Procedural due process analysis also considers the risk of erroneous deprivation where a person with substantial interests has not had a meaningful opportunity to be heard. See Mathews v. Eldridge, 424 U.S. 319 (1976).

29. The appearance of impartiality is vital to public confidence in the judiciary. See Liljeberg v. Health Servs. Acquisition Corp., 486 U.S. 847 (1988).

VII. RECUSAL IS NECESSARY TO PRESERVE THE INTEGRITY OF THE PROCEEDINGS

30. This case concerns fundamental parental rights and the future relationship between a father and his child.

31. The issues presented must be adjudicated by a judge who has not already expressed evaluative views about:

- the appropriateness of Plaintiff's involvement;
- the nature of Plaintiff's relationship with the child; or
- whether and under what conditions such involvement is in the child's best interests, prior to hearing Plaintiff's evidence in this parentage action.

32. Under the circumstances described above, a reasonable observer could question whether Plaintiff will receive a fair and impartial hearing on central issues in this action. Recusal is necessary to ensure that these issues are decided based solely on the evidence presented in this action, with full participation by all parties, and to preserve confidence in the fairness and integrity of the proceedings.

VIII. REQUEST FOR RELIEF

Plaintiff respectfully requests that the Court decide this Motion on the papers in advance of the May 21, 2026 pretrial conference. In the alternative, if the Court believes oral argument would assist, Plaintiff requests a brief hearing limited to argument. This request is made to promote prompt resolution of an appearance-of-impartiality issue and to avoid unnecessary litigation

activity in the interim. See Lena v. Commonwealth, 369 Mass. 571 (1976); Commonwealth v. Eddington, 71 Mass. App. Ct. 138 (2008).

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court:

1. Recuse itself from further participation in this matter;
2. Order that this case be reassigned to a different justice of the Probate and Family Court;
- and
3. Grant such other and further relief as justice may require.

Respectfully submitted,



Patrick S. Birt

Plaintiff, Pro Se

1665 Main Street, Apt. A211

Jefferson, MA 01522

(508) 847-5480

patricksbirt@pm.me

Dated: April 2, 2026

**COMMONWEALTH OF MASSACHUSETTS
PROBATE AND FAMILY COURT DEPARTMENT
WORCESTER DIVISION**

Patrick Birt
Plaintiff

Docket No. WO25W1359WD

v.
Ivana Gurrieri & Christopher Huckins
Defendants

AFFIDAVIT OF PATRICK S. BIRT IN SUPPORT OF MOTION FOR RECUSAL

I, Patrick S. Birt, being of full age, state as follows under the pains and penalties of perjury:

I. Identity and purpose

1. I am the Plaintiff in this action.
2. I submit this affidavit in support of my **Motion for Recusal** of the Honorable Mark T. Lee.
3. I make this affidavit based on my personal knowledge except where I state that I am informed and believe, and on those matters I believe the information to be true.

II. Procedural posture of this parentage action

4. This case is a parentage action in which I seek adjudication of parentage, recognition of parental rights, and establishment of an appropriate relationship with the minor child, Giovanni C. Huckins.
5. On **December 23, 2025**, in this docket, the Court (Keamy, J.) denied (without prejudice) Defendants' **Motion to Dismiss** and ordered me to submit an affidavit addressing my **substantial relationship** with the child.
6. I complied with the December 23, 2025 order and I continue to prosecute this parentage action.

III. Related custody proceedings

7. I am informed and believe there are related custody proceedings involving the same minor child.
8. On **October 27, 2025**, in related custody proceedings, the Court (Keamy, J.) denied (without prejudice) a motion to bar my contact with the child.
9. On **March 13, 2026**, a review hearing occurred in the related custody matter involving the child and the child's legal parents.
10. I was not a party to the March 13, 2026 custody proceeding.
11. I was not present at the March 13, 2026 custody review hearing, I was not represented there, and I had no opportunity in that proceeding to present evidence, challenge assertions, or provide context regarding my relationship or communications with the child.

IV. Basis for appearance-of-prejudgment concern

12. I am informed and believe that during the March 13, 2026 custody review hearing the Court made on-the-record remarks and evaluative statements concerning me, my role in the child's life, and best-interests considerations bearing on my communications/contact with the child.
13. I am informed and believe that counsel referenced selected text-message excerpts concerning my communications with the child during the March 13, 2026 custody review hearing.
14. On information and belief, those text-message excerpts originated from materials produced in discovery in this parentage action.

15. I am informed and believe that, during the March 13, 2026 custody review hearing, the Court indicated that it had not been provided the parentage docket materials and procedural history, including the December 23, 2025 order requiring factual development of my relationship with the child.

16. The issues implicated by the Court's on-the-record evaluative remarks in the related custody proceeding are central to this parentage action, including:

- the existence and development of my relationship with the child; and
- whether, and under what conditions, my contact with the child is in the child's best interests.

17. In my view, these circumstances create an untenable and prejudicial posture in which:

- good-faith compliance with the Court's prior directive to develop evidence of a relationship may be viewed adversely;
- the relationship the Court previously contemplated would be factually developed may be implicitly constrained or judged based on remarks made outside the evidentiary process of this case; and
- a reasonable, fully informed observer could question whether the central issues in this action will be decided solely on the record developed in this docket after full participation by all parties.

V. No exhibits; request for in camera review

18. I am not attaching, filing, or reproducing any recording, transcript, or excerpt from the March 13, 2026 custody review hearing in support of the Motion for Recusal.

19. If the Court deems it necessary to resolve the Motion for Recusal, I respectfully request that the Court review the official court record of the March 13, 2026 custody review hearing **in camera** for the limited purpose of determining whether recusal is required.

VI. Purpose

I submit this affidavit solely to support the Motion for Recusal and to preserve the integrity of this proceeding. I do not submit it to re-litigate any custody orders.

I declare under the pains and penalties of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: April 2, 2026

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive, flowing style.

Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt. A211
Jefferson, Massachusetts 01522

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket No. WO25W1359WD

Order

on PLAINTIFF'S MOTION FOR RECUSAL
(filed April 2, 2026)

PATRICK S. BIRT, Plaintiff

vs

IVANA G. GURRIERI and CHRISTOPHER J. HUCKINS, Defendants

The Plaintiff's (Biological Father's) Motion for Recusal on his complaint was reviewed administratively. Generally, recusal is a matter left to the discretion of the judge. See Com. v. Adkinson, 442 Mass. 410, 415 (2004). The test for recusal requires a two-prong examination. First, the judge must examine himself for bias. If the judge passes the internal test of freedom from disabling prejudice, he must then conduct an objective appraisal of whether this is a proceeding in which the judge's impartiality might reasonably be questioned. See Parenteau v. Jacobson, 32 Mass. App. Ct. 97, 100 (1992).

After consideration of all credible testimony and this undersigned judge's self-examination pursuant to the required two-prong examination involving the internal test of freedom from disabling prejudice and additionally the objective appraisal of whether this judge's impartiality might reasonably be questioned, it is ordered that:

1. The Plaintiff's motion for recusal is denied.

FINDINGS:

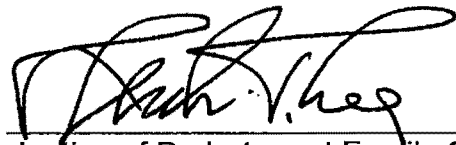
At hearing on March 13, 2026 on the Plaintiff's (Legal Father's) motion for the appointment of a Guardian Ad Litem, the court reviewed the child's recent mental health history, his fractured relationship with his legal Father and his

emerging relationship with his biological Father with whom he met for the first time within the last year after a partial mental health hospitalization.

One hour and fifteen minutes into the hearing, the court was advised of the Plaintiff's (Biological Father's) complaint for parentage – at no point in the hearing prior to learning this, were any evaluative comments made on any issues prayed for in the Plaintiff's complaint. The court also heard evidence that the child continues to see his biological Father and the court declined to interrupt that new relationship.

The court ordered the appointment of a Guardian Ad Litem to evaluate and determine what a safe and appropriate relationship for the child is with his Mother, legal Father and biological Father and will review that evaluation at a future hearing.

Dated: **April 13, 2026**

A handwritten signature in black ink, appearing to read "Mark T. Lee", written over a horizontal line.

Justice of Probate and Family Court
Mark T. Lee

ATTACHMENT 8

APPOINTMENT OF GUARDIAN AD LITEM DOMESTIC RELATIONS CATEGORY E/F	Docket No. WO25W1359WD	Commonwealth of Massachusetts The Trial Court Probate and Family Court
Patrick S. Birt vs. Ivana G. Gurrieri & Christopher J. Huckins	Worcester Probate and Family Court 225 Main Street Worcester, MA 01608 (508)831-2200	

1. The Court appoints: **Teresa M. Rafferty, LICSW, Ph.D.**
29 Forest Street
Worcester, MA 01609
(508)752-3009

appointed as: **E Guardian ad litem - Evaluator**

to report to the Court on the issue(s) of:

- | | | |
|--|--|---------------------------------------|
| ☐ custody | ☒ parenting plan | ☐ other: _____ |
| ☐ domestic violence | ☐ substance abuse/alcohol abuse | ☐ other: _____ |
| ☐ mental health | ☐ removal | ☐ other: _____ |

2. Select one of the following:

- ☐ The Court expects that the issues identified can be addressed with a limited focused assessment. Said assessment and report should be concluded in no more than eight (8) hours. The GAL standards for Category E and F shall not apply to the limited focused assessment.
- ☐ The Court expects that the issues identified can be addressed with a limited focused assessment within the framework of a visit to the home of each parent or guardian and discussion with necessary collaterals. Said assessment and report should be concluded in no more than fifteen (15) hours. The GAL standards for Category E and F shall not apply to the limited focused assessment.
- ☒ The Court expects that the issues identified should be the subject of a complete GAL evaluation/investigation and report to be concluded in 30 hours, but no more than thirty-five (35) hours. The GAL standards for Category E and F apply. A request for additional hours must be presented by motion and may be allowed for good cause shown.

3. The GAL ☒ shall ☐ shall not make such recommendations as deemed appropriate and in the best interests of the child(ren), relative to the issues stated above.
4. The GAL shall accept or decline said appointment as expeditiously as possible, but, in any event, within twenty (20) days of receipt by signing and returning the completed form to the Court Liaison.
5. The GAL shall contact the parties forthwith (within 14 days of the acceptance of appointment). The parties shall provide any information requested or deemed necessary by the GAL in connection with this appointment. The parties should also provide the GAL with whatever non-privileged records, releases, and/or documents requested. Each party or counsel shall keep the GAL informed of the status of the case and of the date(s) of any pre-trial conference, trial, or final hearing on the merits.

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6. _____ needs a _____ interpreter. If the GAL or parties are not able to provide an interpreter, the GAL shall contact the Court Liaison for assistance.
7. The GAL shall interview the parties and the child(ren). Each party may only provide the GAL with 3 collaterals to contact. The GAL may interview additional collaterals important to the evaluation/investigation in the GAL's discretion.
8. Any documents or records provided to the GAL by the parties, the children, or counsel, shall be provided to the opposing party contemporaneously.
9. If the GAL deems it necessary and appropriate, the GAL shall have the authority to:
- contact any or all persons having relevant knowledge regarding any family member, except that the GAL may not contact a prior GAL without the Court's permission.
 - consult with any professional having specialized knowledge, provided no privileged information is discussed without a waiver. If privileged information is being requested by the GAL for an adult who has not assented or for a minor (regardless of parental assent), a motion for access must first be allowed by the Court.
 - file a motion to request psychological and/or medical testing of any party and of the child(ren).
10. The report shall make specific reference to the following factors, if applicable, and to any other matter which the GAL believes may be of assistance to the Court:
- ☐ The social history including any relevant court activity record information (CARI) of the parties. The Probation Department shall provide access to CARIs of each parent/guardian to the GAL;
 - ☒ The marital and parenting history of the parties;
 - ☒ The age and educational history of the child(ren);
 - ☒ The health of the child(ren) and of the parties with particular reference to any special needs or problems;
 - ☒ The interests and activities of the child(ren) and the role each party plays, and has played in encouraging and developing such interests;
 - ☒ The demonstrated capacity of each party to understand and accommodate the individual needs of the child(ren);
 - ☐ The proposed parenting plan (if recommendation has been requested);
 - ☐ For each child age fourteen (14) or over, and within the GAL's discretion for each child under fourteen (14) years old, the preference of the child relative to the issues being addressed by the GAL together with the reason, if stated, for such preference(s);
 - ☒ The relationship and attachment of the child(ren) to each parent and to any other person who may have a significant effect upon the child(ren);
 - ☒ The demonstrated capacity of each parent to support an ongoing relationship between child(ren) and the other parent;
 - ☐ If domestic violence is an issue, consider each parent's capacity:
 - ☐ for impulse control;
 - ☐ to change problem solving style;
 - ☐ to empathize with the child(ren); and/or
 - ☐ to create and maintain a safe environment.
 - ☐ Any personality disorder or substance abuse issue which would impair either party's ability to mediate or co-parent, provided the GAL is a mental health clinician and was appointed as a Category E GAL.
 - ☒ other: the timing, facts, and circumstances surrounding the child's introduction to his biological father and
 - ☐ other: the impact that continued contact is having on him.

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11. The GAL's report shall be filed as expeditiously as possible, but no later than 06/15/2026
(date)

The GAL shall notify all parties when the report is filed with the Court. In the event additional time is necessary, the GAL shall file a motion in advance of the original due date for permission for additional hours and/or extension of due date. The motion shall include the specific reasons as to why the request is necessary. Notice must be provided to attorneys/parties and any objections shall be made within five (5) business days. Both the motion and objections shall be sent to the Court Liaison.

12. If the GAL determines any risk to the child(ren) as a result of current arrangements, the GAL shall immediately file an interim report, and bring said report to the attention of the Court.

13. Select one of the following:

- ☒ In accordance with Standing Order 2-08: Impoundment of Guardian Ad Litem Reports, if both parties are represented by counsel, both attorneys shall be provided one copy of the GAL report by the Court, however, no further copies shall be made. The parties shall be permitted to read the report, but they are not permitted to copy the report unless the Court has expressly authorized the release to a party.
- ☐ Both parties are represented by counsel. The GAL shall transmit (mail, e-mail, fax) a copy of the report directly to the parties' attorneys after the GAL has filed the report with the Court. No further copies shall be made. The parties shall be permitted to read the report, but they are not permitted to copy the report unless the Court has expressly authorized the release to a party.

The parties are prohibited from discussing the content of the report with the child(ren) without the express permission of the Court.

14. A party may file a motion requesting a copy. Such motion may be handled administratively unless otherwise ordered.

15. All copies of the report are to be returned to the Court at the conclusion of the case.

- ☒ The GAL shall be paid at the GAL's normal hourly rate including requested retainer, if any, and including any out-of-pocket expenses. These costs shall be paid:

☐ by the parent _____ %

☐ by the parent _____ %

☐ equally by the parties.

☒ other: In consideration of 3rd party, subject to reallocation at future hearing.

- ☐ The GAL shall be paid by the Commonwealth, the GAL shall be paid at the hourly rate allowed by the Commonwealth.

- ☐ Fees paid to the GAL may be reallocated at the time of trial or settlement of the case.

Court Liaison between GAL and Court:

- ☐ Chief Probation Officer/Probation Officer:

 (name and e-mail address)

- ☐ Assistant Judicial Case Manager:

 (name and e-mail address)

- ☐ Sessions Clerk:

 (name and e-mail address)

- ☐ Other:

 (name/title and e-mail address)

7/1/2020

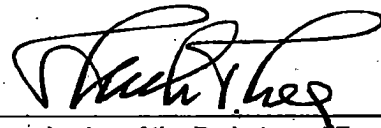
7/1/2020

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A Motion will be held on 06/01/2026 at 09:00 AM

It is further ordered:

Date 05/11/2026



Justice of the Probate and Family Court

Pursuant to Supreme Judicial Court Rule 1:07(7), no payment shall be made to or received by the guardian ad litem from any source on account of this appointment until the guardian ad litem has filed with the court the required statement, under the penalties of perjury, that certifies the services provided, the amount of payment and the itemization of expenses, as well as the required certification under Supreme Judicial Court Rule 1:07(8) that all fee reports for payments received in the previous fiscal year have been filed.

NOTE: If this appointment is to a person who is not next on the Fee Generating Appointment list, the appointing judge will provide a brief notation of the reason for the selection.

Party Information:

Plaintiff: Patrick S. Birt

Counsel: Melissa Nott Davis, Esq.

Nelson Mullins Riely and Scarborough LLP

One Financial Center

Suite 3500

Boston, MA 02111

Primary Phone: (617)217-4608

Defendant: Ivana G. Gurrieri

631 Boston Turnpike

Shrewsbury, MA 01545

Counsel: Pro Se

ATTACHMENT 9COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

WORCESTER, SS.

PROBATE AND FAMILY COURT
DOCKET NO. WO25W1359WD_____
PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI,
Defendant,CHRISTOPHER J. HUCKINS
Defendant.
_____**DEFENDANT CHRISTOPHER J. HUCKINS' RENEWED
MOTION TO DISMISS**

NOW COMES the Defendant, Christopher J. Huckins ("Mr. Huckins"), in the above-captioned matter and pursuant to Mass. R. Civ. P. 12(b)(6) and 12(b)(9), hereby submits this renewed motion requesting this Honorable Court to dismiss the Plaintiff, Patrick S. Birt's (the "Plaintiff" or "Mr. Birt") Complaint to Establish Parentage dated September 2, 2025.

As reasons therefore, Mr. Huckins states as follows:

1. Mr. Huckins is the Father of Giovanni Huckins (the "Minor Child").
2. Mr. Huckins signed a Voluntary Acknowledgement of Paternity upon the Minor Child's birth.
3. Mr. Huckins is on record as the Father of the Minor Child pursuant to his Birth Certificate dated April 1, 2014.

4. Pursuant to a Judgment from the Worcester Probate and Family Court dated February 1, 2023, Mr. Huckins shares joint legal custody of the Minor Child with the Defendant, Ivana G. Gurrieri ("Mother").

5. On September 2, 2025, more than 10 years after the Minor Child's birth and Mr. Huckins' Voluntary Acknowledgement of Parentage, Mr. Birt filed the underlying Complaint to Establish Parentage.

6. Mr. Birt is statutorily barred from bringing this action by a statute of repose.

7. ALM GL c. 209C § 11 states that "Unless either signatory rescinds the acknowledgment within 60 days of the date of signing as provided in this section, the acknowledgment shall establish parentage as of the date it has been signed and shall have the same force and effect as a judgment of parentage, subject to challenge within one year only on the basis of fraud, duress or material mistake of fact".

8. The Plaintiff did not bring this challenge of paternity within one (1) year of Mr. Huckins's Voluntary Acknowledgement of Parentage and thus is barred from bringing the instant Complaint to Establish Parentage.

9. Accordingly, on October 1, 2025, Mr. Huckins filed a Motion to Dismiss.

10. After hearing and consideration, on December 23, 2025, the Honorable Judge L. Keamy issued a Memorandum of Decision and Order (the "Memorandum") wherein Mr. Huckins' Motion to Dismiss was denied without prejudice, to give Mr. Birt an opportunity to file an affidavit showing a substantial relationship with the Minor Child.

11. In this Memorandum, Judge Keamy further invited Mr. Huckins to file a Renewed Motion to Dismiss.

12. Any relationship that Mr. Birt developed with the Minor Child arose more than ten (10) years after the statute of repose had expired under G.L. c. 209C §11. The legislature did not intend for post-expiration developments to alter that finality; rather, the statute reflects an intent that any relationship must have existed before the repose period lapsed. To hold otherwise would undermine the finality that the common law and the statute were designed to preserve.

13. As such, there should be no opportunity for Mr. Birt to demonstrate a substantial relationship with the Minor Child, as any such relationship arose only after the statute of repose had expired.

14. As stated by Judge Keamy, Mr. Birt was aware of the Minor Child's existence and knew that he had engaged in sexual relations with the Mother around the time of the Minor Child's conception. Even assuming the alleged fraudulent conduct by the Defendants, such conduct does not excuse the expiration of the statute of repose.

15. Mr. Birt could have, and under the law, should have, formed a substantial relationship with the Minor Child well before 2025. His failure to do so renders this Complaint void.

16. Further, during his deposition Mr. Birt admitted certain facts demonstrating that he was aware of the likelihood that he was the Father of the Minor Child during the Mother's pregnancy. Specifically:

- a. Mr. Birt testified at his deposition that Ms. Gurrieri informed him of her pregnancy after ending their relationship. (See Deposition Transcript, Page 37).
- b. Mr. Birt further testified that although she informed him that she was pregnant, he did not ask her who the father of the child was. (See Deposition Transcript, Page 38).

c. Mr. Birt also testified that on March 5, 2014, the day after the Minor Child's birth, Ms. Gurrieri informed him that the Minor Child had been born. (See Deposition Transcript, Page 40).

d. Mr. Birt further testified that on March 5, 2014, when he was told by Ms. Gurrieri that he was not the Minor Child's biological father, he did not take action to undergo or initiate any genetic testing, and instead relied on Ms. Gurrieri's information. (See Deposition Transcript, Page 176).

17. Mr. Birt knew of the likelihood that he could be the Minor Child's biological father since the birth of the Minor Child, and took no action to investigate this fact until 11 years had passed, long after the statute of repose had run, barring this instant claim.

18. The Court cites J.M. v. C.G., 492 Mass. 459, 460-461 (2023), in the Memorandum when stating "In J.M. the plaintiff brought a complaint pursuant to G.L. c. 209C and a complaint in equity which were consolidated for trial."

19. The Court emphasizes this procedural posture because the Plaintiff's common law claim in this case proceeded, if at all, through equity once the statute of repose under G.L. c. 209C §11 had run. Here, however, Mr. Birt has not filed a separate complaint in equity.

20. Accordingly, it is not appropriate for him to continue to pursue what is, in substance, an equitable parentage claim or to attempt to establish a substantial relationship with the Minor Child under this sole statutory complaint.

21. As the Court stated in the Memorandum, this is an issue of subject matter jurisdiction which can be raised at any time, and thus, Mr. Huckins, states herein that the Court does not have subject matter jurisdiction as no complaint in equity has been filed.

22. Even if the Court were to entertain Mr. Birt's claim under its equitable powers and consider his affidavit, he still has not established a substantial relationship as required by law. He has only recently begun to act in a pseudo-parental role toward the Minor Child in an effort to form such relationship, which falls far short of the substantial and enduring parent-child relationship contemplated by the statute and case law, particularly in light of the legislature's intent to promote finality.

23. Further, the only reason Mr. Birt has recently had the opportunity to cultivate any connection with the Minor Child is because Mother has been withholding the Child from Mr. Huckins and deliberately alienating the Minor Child from him, in an effort to gain leverage in the pending modification proceedings before this Court in Docket No. WO19W1407WD.

24. As the statute of repose has long since run, as he should not have had the opportunity to submit an affidavit in support of a time barred claim, and as the affidavit filed by Mr. Birt fails to demonstrate the substantial relationship that the law requires, Mr. Birt should not be permitted to proceed with this Complaint.

WHEREFORE, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint to Establish Parentage, with prejudice.

Respectfully submitted,
CHRISTOPHER J. HUCKINS.
By his Attorney,

/s/ Michael G. Xavier

Michael G. Xavier, BBO No. 644844
Prince Lobel Tye LLP
One International Place, Suite 3700
Boston, MA 02110
Tel: (617) 456-8000

Dated: May 19, 2026.

CERTIFICATE OF SERVICE/NOTICE OF HEARING

The undersigned hereby certifies that a true copy of the within *Defendant Christopher J. Huckins' Renewed Motion to Dismiss* was this day served upon Plaintiff, Patrick S. Birt, and the Defendant, Ivana G. Gurrieri, via email and first-class mail to:

Patrick S. Birt
1665 Main Street, Apt. A211
Jefferson, MA 01522

Ivana G. Gurrieri
631 Boston Turnpike Rd
Shrewsbury, MA 01545

**PLEASE NOTE THAT THE DEFENDANT INTENDS TO PRESENT THE
AFOREMENTIONED MOTION FOR HEARING ON JUNE 1, 2026, AT 8:30 A.M.
BEFORE THE WORCESTER PROBATE AND FAMILY COURT.**

SIGNED under the pains and penalties of perjury.

Dated: May 19, 2026

/s/ Michael G. Xavier

Michael G. Xavier, Esq.

**ATTACHMENT 10 COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER DIVISION

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI

and

CHRISTOPHER J. HUCKINS,
Defendants

**PLAINTIFF’S OPPOSITION TO DEFENDANT CHRISTOPHER J. HUCKINS’
RENEWED MOTION TO DISMISS**

NOW COMES Plaintiff, Patrick S. Birt (“Plaintiff”), pro se, and respectfully submits this Opposition to Defendant Christopher J. Huckins’ (“Defendant” or “Huckins”) Renewed Motion to Dismiss filed on or about May 19, 2026.

I. INTRODUCTION

Defendant’s Renewed Motion to Dismiss seeks dismissal with prejudice at the threshold stage by attempting to convert disputed facts, unresolved procedural issues, cross-docket factual allegations, and a curable pleading-form argument into an immediate final adjudication.

That is not the procedural path set by this Court.

Defendant’s Renewed Motion substantially repackages the finality, repose, and voluntary-acknowledgment arguments raised in Defendant’s original Motion to Dismiss. Defendant was expressly permitted to renew his motion, but renewal was contemplated within the Court-ordered substantial parent-child relationship gatekeeping framework. It was not an invitation to obtain a categorical dismissal with prejudice by relitigating the same finality/repose theme while disregarding the fact-based threshold inquiry required by *J.M. v. C.G.*, 492 Mass. 459 (2023).

On December 23, 2025, Judge Keamy denied Defendant's prior motion to dismiss without prejudice and ordered Plaintiff to file an affidavit alleging specific facts which, if proven, would establish a substantial parent-child relationship. Plaintiff complied by filing his affidavit dated February 17, 2026. Defendant's Renewed Motion should be evaluated within that Court-ordered gatekeeping framework.

The controlling issue is not whether Defendant prefers a categorical dismissal based on finality. The controlling issue is whether Plaintiff has alleged facts requiring the substantial-relationship inquiry recognized by the Supreme Judicial Court in *J.M. v. C.G.*, 492 Mass. 459 (2023), and *C.C. v. A.B.*, 406 Mass. 679 (1990).

Plaintiff has alleged those facts. Defendant disputes them, characterizes them, and seeks inferences from deposition excerpts and cross-docket narratives. Those disputes are not a proper basis for dismissal with prejudice on papers.

This case is not a biology-only claim. Plaintiff's claim concerns biological parentage together with an alleged substantial parent-child relationship, a child's stability, a child's emotional welfare, and the consequences of abruptly disregarding or severing a bond the child recognizes as important. Defendant asks the Court to end the case before those facts are tested, before the GAL process is clarified or completed, and before the evidentiary process contemplated by Judge Keamy's order is addressed.

The timing of the Renewed Motion also matters. Before Defendant filed the Renewed Motion to Dismiss, the Court had already appointed a Category E GAL/evaluator in this parentage docket to investigate issues that directly overlap with Defendant's renewed motion, including the timing, facts, and circumstances surrounding the child's introduction to his biological father and the impact continued contact is having on the child. Plaintiff does not contend that the GAL appointment proves parentage, creates jurisdiction, or decides the threshold issue. Plaintiff contends only that the appointment is relevant to sequencing because Defendant now seeks dismissal with prejudice before the Court-ordered investigation is clarified or completed.

Defendant also asserts, in paragraph 23 of the Renewed Motion, that the "only reason" Plaintiff has had an opportunity to cultivate any connection with the child is because Mother allegedly withheld and alienated the child from Defendant for leverage in the related custody/modification proceeding. That assertion is disputed, materially incomplete, and not a proper basis for dismissal with prejudice. Defendant opened the cross-docket factual issue;

the March 13, 2026 review-hearing record reflects a far more complex, child-centered picture involving DCF, ARC Counsel, therapeutic concerns, the child's own stated position, mental-health and safety concerns, and the need for a GAL/mental-health evaluator.

Defendant's procedural argument regarding a separate equity complaint also does not support dismissal with prejudice. Plaintiff made multiple good-faith attempts to file the correct procedural vehicle. On or about May 19, 2025, Plaintiff first attempted to file a Complaint to Establish Parentage in this Court using the Court's parentage form. The Registry did not accept the filing and Plaintiff was directed to proceed by complaint in equity. Plaintiff then attempted to file a verified complaint in equity, and that filing was returned with direction that the matter should proceed as a complaint to establish parentage because there was a remedy at law. Plaintiff thereafter sought courthouse legal-services assistance and filed the present complaint, which was accepted. If the Court concludes that an express equity/common-law count or separate equity pleading is required, the appropriate remedy is leave to amend or clarify, not dismissal with prejudice.

Finally, the Court should consider that there are two named Defendants in this case. Defendant Gurrieri, the child's mother, has not joined Defendant Huckins' request for dismissal. To the contrary, she has provided sworn factual support relevant to Plaintiff's claim, including facts concerning concealment of biological parentage, Plaintiff's lack of knowledge, and the circumstances under which Defendant Huckins' legal parentage was established. Plaintiff does not rely on those facts to toll a statute of repose. Plaintiff relies on them to show that Defendant Huckins' "Plaintiff should have known" narrative is disputed, fact-dependent, and not a basis for dismissal with prejudice on a Rule 12 record.

For these reasons, the Renewed Motion to Dismiss should be denied. Alternatively, if the Court does not deny the Renewed Motion outright, the Court should deny Defendant's request for dismissal with prejudice and instead permit amendment, clarification, case management, and/or, if the Court reaches disputed factual issues, the evidentiary hearing contemplated by Judge Keamy's December 23, 2025 order.

II. RELEVANT PROCEDURAL HISTORY

1. On or about May 19, 2025, Plaintiff attempted to file a Complaint to Establish Parentage in this Court using the Court's parentage form.
2. The Registry did not accept the May 19, 2025 Complaint to Establish Parentage, and Plaintiff was directed to proceed by complaint in equity.

3. Plaintiff then attempted to comply with that direction. On or about July 28, 2025, Plaintiff attempted to file a verified complaint in equity seeking equitable parentage-related relief and related birth-record relief.
4. Plaintiff prepared that attempted equity filing after consulting courthouse resources, including the law library and publicly available Probate and Family Court materials.
5. The Registry returned the attempted equity filing with handwritten direction that the matter should proceed as a complaint to establish parentage because there was a remedy at law.
6. Plaintiff then sought assistance from courthouse legal-services resources and filed the present Complaint to Establish Parentage, dated August 22, 2025 and filed September 2, 2025, which was accepted.
7. This procedural history is relevant to Defendant's renewed argument that Plaintiff's case should be dismissed because Plaintiff did not file a separate equity complaint. Plaintiff made good-faith attempts to file both procedural vehicles and followed the directions given to him. If the Court determines that an express equity/common-law count or separately captioned equity pleading is required, the appropriate remedy is leave to amend or clarify, not dismissal with prejudice.
8. Defendant filed a prior Motion to Dismiss asserting, among other things, finality and time-limit arguments arising from the voluntary acknowledgment of parentage.
9. Defendant's original Motion to Dismiss focused on G.L. c. 209C § 11, VAP finality, and requested dismissal with prejudice.
10. Plaintiff's updated opposition to Defendant's original Motion to Dismiss distinguished Defendant's finality argument and requested evidentiary development concerning Plaintiff's knowledge, the circumstances of established legal parentage, Plaintiff's relationship with the child, and the impact on the child.
11. On December 23, 2025, Judge Keamy denied Defendant's motion without prejudice.
12. Judge Keamy ordered Plaintiff to file an affidavit alleging specific facts which, if proven, would establish a substantial parent-child relationship.
13. Judge Keamy's order permitted Defendant to file a renewed motion after Plaintiff's affidavit and allowed either party to request an evidentiary hearing.

14. Plaintiff filed his Court-ordered affidavit dated February 17, 2026.
15. Defendant Gurrieri, the child's mother and a named Defendant in this action, has not joined Defendant Huckins' request for dismissal and has provided sworn factual support relevant to Plaintiff's claim, including facts concerning concealment of biological parentage and Plaintiff's lack of knowledge.
16. On or about May 11, 2026, before Defendant filed the Renewed Motion to Dismiss, the Court appointed a Category E GAL/evaluator in this docket, WO25W1359WD. The GAL appointment assigned issues including the timing, facts, and circumstances surrounding the child's introduction to his biological father and the impact continued contact is having on him.
17. Defendant Huckins filed the Renewed Motion to Dismiss on or about May 19, 2026, after the GAL appointment had issued.

III. GOVERNING FRAMEWORK AND STANDARD OF REVIEW

A. The post-established-parentage inquiry is not categorical; it is fact-based.

Where legal parentage has already been established, the Supreme Judicial Court has recognized a narrow common-law/equity pathway subject to a substantial parent-child relationship threshold. *J.M. v. C.G.*, 492 Mass. 459 (2023); *C.C. v. A.B.*, 406 Mass. 679 (1990).

The substantial-relationship inquiry is not a label-based or pleadings-only exercise. It requires consideration of relationship facts, stability, the child's circumstances, and the effect of permitting or denying further proceedings.

Defendant's Renewed Motion attempts to replace that inquiry with a categorical rule: because legal parentage was previously established and statutory deadlines expired, Plaintiff's relationship with the child is legally irrelevant. That is not the framework this Court ordered and not the framework recognized in *J.M.*

This case is materially different from a case in which a biological father has no existing relationship with the child or does not seek to assume parental responsibility. Plaintiff alleges an actual, ongoing, substantial parent-child relationship and seeks to proceed under the relationship-based threshold Judge Keamy ordered Plaintiff to address by affidavit.

B. Probate and Family Court equity jurisdiction remains available in appropriate circumstances.

The Supreme Judicial Court has recognized that statutory limits under G.L. c. 209C do not eliminate the Probate and Family Court's general equity jurisdiction in appropriate parentage-related cases. *C.C. v. A.B.*, 406 Mass. 679 (1990). *J.M.* confirms that the common-law/equity pathway remains available where the required threshold showing is met.

Defendant's "no equity complaint" argument therefore does not warrant dismissal with prejudice. At most, it presents a pleading-form issue that can be cured by amendment or clarification.

C. Plaintiff's claim does not depend on tolling the statute of repose.

Plaintiff does not ask this Court to toll or extend a statute of repose. Plaintiff's position is that *J.M.* and *C.C.* preserve a separate, narrow common-law/equity pathway conditioned on a substantial parent-child relationship.

Defendant's Renewed Motion argues that even assuming alleged fraudulent conduct by the Defendants, such conduct does not excuse expiration of the statute of repose. Plaintiff does not rely on fraud to toll the statute of repose. Rather, Plaintiff relies on the common-law/equity pathway recognized in *J.M.* and *C.C.*

The sworn evidence concerning fraud and concealment is relevant for a different reason: it shows that Defendant Huckins' "Plaintiff should have known" narrative is disputed, fact-dependent, and not properly accepted as true on a motion to dismiss. It also informs the Court-ordered, fact-based gatekeeping inquiry into whether Plaintiff has alleged and can prove a substantial parent-child relationship.

D. A motion to dismiss does not permit resolution of disputed facts or contested factual narratives.

A motion to dismiss tests the legal sufficiency of the pleading. It is not a vehicle for resolving disputed facts, weighing credibility, or accepting one party's contested factual narrative as true.

Further, where a Rule 12(b)(6) motion relies on materials outside the pleadings and those materials are not excluded, the motion is treated as one for summary judgment and the parties

must be given a reasonable opportunity to present pertinent materials. Mass. R. Dom. Rel. P. 12.

Here, Defendant's Renewed Motion relies on deposition excerpts, disputed inferences, and cross-docket factual allegations. Those materials should not be used to enter dismissal with prejudice without the evidentiary procedure contemplated by Judge Keamy's December 23, 2025 order.

IV. ARGUMENT

A. Defendant's Renewed Motion improperly repackages the original repose/finality theory and seeks a categorical dismissal instead of the fact-based gatekeeping inquiry ordered by the Court.

Defendant's Renewed Motion substantially repackages the finality, repose, and voluntary-acknowledgment arguments raised in the original Motion to Dismiss. Those arguments were already before the Court. Judge Keamy did not dismiss the case on that record. Instead, the Court denied dismissal without prejudice, ordered Plaintiff to file a substantial-relationship affidavit, permitted Defendant to renew his motion thereafter, and allowed either party to request an evidentiary hearing.

Defendant was permitted to renew his motion. He was not given license to bypass the threshold procedure the Court established. Defendant's assertion that Plaintiff "should not have had the opportunity" to submit the affidavit directly conflicts with the December 23, 2025 order, which expressly required Plaintiff to file that affidavit and contemplated further procedure after it was filed.

Defendant now asks the Court to decide, as a matter of law and on papers, that Plaintiff's relationship with the child cannot matter because it developed after expiration of statutory deadlines. That position collapses the substantial-relationship test into an automatic bar.

That is not what Judge Keamy ordered. The Court ordered Plaintiff to file an affidavit alleging specific facts which, if proven, would establish a substantial relationship. Plaintiff complied. The proper next step is to evaluate that showing under the framework recognized in *J.M.*, not to dismiss with prejudice by declaring the Court-ordered affidavit procedure meaningless.

To the extent the Renewed Motion repeats the original finality/time-bar theme, the Court should adhere to the framework in *J.M.* and the gatekeeping sequence set by Judge Keamy, rather than treat this as a full re-run of the earlier motion.

B. Plaintiff's Court-ordered affidavit alleges facts that, if proven, establish a substantial parent-child relationship.

Plaintiff's February 17, 2026 affidavit alleges sustained parental-type involvement, including regular weekend time, extended periods of full-time caregiving, transportation, daily routines, home integration, ongoing communication, emotional reliance, and the child's expressed desire for consistent contact.

Those allegations are materially different from a claim based on biology alone. Plaintiff is not asking the Court to proceed merely because of genetic connection. Plaintiff is asking the Court to apply the relationship-based threshold inquiry the SJC requires and the Court ordered.

This distinction matters. Defendant's finality position is materially weaker where, as here, Plaintiff alleges an actual substantial parent-child relationship and seeks to assume parental responsibilities rather than relying on biology alone. Plaintiff's affidavit alleges more than genetic connection; it alleges regular caregiving, emotional reliance, home integration, and ongoing parent-child contact. That is precisely why the Court-ordered gatekeeping inquiry is fact-based and should not be collapsed into automatic dismissal.

Defendant's disagreement with Plaintiff's affidavit does not make the affidavit legally insufficient. It creates factual disputes.

C. The potential harm to the child from abruptly disregarding the relationship is itself a factual issue requiring evidence.

The substantial-relationship inquiry is not an abstract legal exercise. It concerns a child's lived reality, stability, emotional attachment, and potential harm if an alleged parent-child relationship is recognized or disregarded.

Plaintiff's prior opposition to Defendant's original Motion to Dismiss emphasized that the child's emotional well-being, mental-health and safety concerns, DCF involvement, ARC Counsel participation, and relationship with Plaintiff were central to why dismissal on papers would be harmful and premature. Those issues remain central now.

Defendant asks the Court to dismiss with prejudice before hearing evidence on whether the child has formed a substantial relationship with Plaintiff, whether the child relies on that relationship, and whether abruptly cutting off legal recognition of that relationship would harm the child. Those are precisely the issues that require the Court-ordered gatekeeping process, the GAL investigation, and/or, if the Court reaches disputed factual issues, the evidentiary hearing contemplated by Judge Keamy's December 23, 2025 order.

D. Defendant's reliance on deposition excerpts confirms that the Renewed Motion is not a clean Rule 12 dismissal motion.

Defendant relies on selected deposition testimony and asks the Court to draw disputed inferences about Plaintiff's knowledge, diligence, intent, and relationship with the child.

Those issues are fact-bound. They concern what Plaintiff was told, what Plaintiff knew or had reason to know, what opportunities existed, what role Defendant and Mother played in concealment or disclosure, how the child's relationship with Plaintiff developed, and what impact continued contact has on the child.

Those matters cannot fairly be reduced to a paper dismissal with prejudice, particularly where the Court already ordered an affidavit procedure and contemplated an evidentiary hearing.

If the Court considers materials outside the pleadings and Court-ordered affidavit, Plaintiff respectfully requests that the Court provide a fair opportunity to present responsive evidence rather than treating Defendant's selected excerpts and inferences as dispositive.

This is particularly important because discovery remains incomplete and asymmetrical. Plaintiff has participated in Defendant's discovery, including document production and deposition. Plaintiff has not yet had a comparable opportunity to depose Defendant Huckins or complete written discovery on the factual issues Defendant now asks the Court to decide, including timing, knowledge, relationship-development, concealment, and cross-docket allegations. Plaintiff does not raise discovery to delay the case; Plaintiff raises it because Defendant's fact-dependent request for dismissal with prejudice should not be decided as a summary factual adjudication on an incomplete record.

E. Defendant's "Plaintiff should have known" argument is a disputed factual narrative, not a ground for dismissal with prejudice.

Defendant argues that Plaintiff knew or should have known of possible parentage many years earlier. Plaintiff disputes Defendant's characterization.

Plaintiff's affidavit and supporting record reflect that Plaintiff was told after the child's birth that Defendant Huckins was the biological father and that Plaintiff was not. Defendant Gurrieri's sworn affidavit further supports Plaintiff's position that the truth was concealed from Plaintiff and that both legal parents knew at birth that Defendant Huckins was not the biological father.

The voluntary acknowledgment of parentage that Defendant invokes as final was a sworn parentage instrument signed under the pains and penalties of perjury. Plaintiff alleges, and Defendant Gurrieri's sworn affidavit supports, that the legal parents knew at the time that Defendant Huckins was not the child's biological father. Defendant therefore asks the Court to accept a "Plaintiff should have known" narrative while relying on a sworn parentage instrument that is itself part of the disputed factual record concerning what Plaintiff was told, what Defendant Huckins knew, and why Plaintiff did not act earlier.

Plaintiff does not offer Defendant Gurrieri's affidavit or the false-sworn-instrument issue to toll a statute of repose. Plaintiff offers them to show that Defendant Huckins' "Plaintiff should have known" narrative is disputed and cannot be accepted as fact on a renewed motion to dismiss.

Those facts are relevant because Defendant's "you slept on your rights" narrative depends on disputed facts and disputed inferences. The Court should not accept that narrative as a matter of law on a motion to dismiss.

F. Defendant's alienation allegation in paragraph 23 is materially disputed and cannot be accepted as fact on a motion to dismiss.

In paragraph 23 of the Renewed Motion to Dismiss, Defendant asserts that "the only reason" Plaintiff has had an opportunity to cultivate any connection with the child is because Mother has withheld the child from Defendant Huckins and deliberately alienated the child from him to gain leverage in the related custody/modification proceeding.

That assertion should not be credited as fact on a Rule 12 motion. It is a disputed cross-docket accusation, not an adjudicated finding, not a pleading defect, and not a basis for dismissal with prejudice in this parentage action.

Plaintiff denies that his relationship with the child exists "only" because of Mother's alleged withholding, alienation, or litigation strategy. The March 13, 2026 custody transcript reflects a materially more complex and child-centered record. DCF addressed concerns involving

Defendant's household, the child's mental-health and safety posture, the child's current readiness for contact, and the Department's view regarding forced contact or counseling involving Defendant Huckins at that time. ARC Counsel likewise reported the child's own stated position: that he was adamant he did not want contact with Defendant Huckins and wanted to continue seeing Plaintiff.

The March 13 record also undercuts Defendant's suggestion that Plaintiff's relationship with the child caused the deterioration between Defendant Huckins and the child. The March 13 record reflects testimony regarding DCF involvement beginning in March 2025 and concerns involving Defendant Huckins' household, the child's safety, and the child's mental-health and therapeutic posture. Those concerns were presented as preexisting child-safety, household, therapeutic, and DCF issues, not as the product of Plaintiff's involvement. Defendant may dispute causation, but that only reinforces that paragraph 23 is a contested factual narrative, not a basis for dismissal with prejudice.

Defendant's "only reason" allegation is further undermined by the contemporaneous timeline. The March 13, 2026 transcript reflects that Mother represented to the Court that, in early April 2025, she informed Defendant Huckins that DCF had been contacted regarding Plaintiff's involvement and that Department resources were being sought to assist with the child's relationship-building with Plaintiff. Plaintiff further states that DCF had direct involvement during this general period, including contact with Plaintiff and review of Plaintiff's home. Those facts are inconsistent with Defendant's attempt to portray Plaintiff's relationship with the child as the product of secret withholding or litigation leverage by Mother. At minimum, Defendant's competing version presents a factual dispute that cannot be resolved by accepting paragraph 23 as true on a renewed motion to dismiss.

Defendant's paragraph 23 also omits that the deterioration in the child's relationship with Defendant Huckins was presented at the March 13 hearing as connected to child-safety, household, therapeutic, DCF, and mental-health concerns, not simply Mother's alleged litigation strategy. ARC Counsel was appointed in the related custody matter so that the child's position could be presented to the Court, and the child's position was presented.

Defendant's own March 13 position further undercuts the attempt to use paragraph 23 as an established fact. Defendant, through counsel, requested a GAL because counsel argued that there was "more than meets the eye" and that a mental-health professional should investigate what was actually occurring and what path forward would be appropriate. The Court likewise

recognized that the child's relationship with Plaintiff had begun, that it was not clear whether terminating that relationship would be safe, and that a Category E mental-health clinician was necessary to assist the Court in determining what was safe for the child.

Accordingly, paragraph 23 does not support dismissal. It demonstrates the opposite. Defendant is asking this Court to import disputed custody-docket allegations into this parentage action and accept Defendant's characterization as fact, while omitting the child-centered record that led to DCF involvement, ARC Counsel's report of the child's position, mental-health and safety concerns, and the Court's appointment of a GAL/mental-health evaluator.

If Defendant intends to rely on allegations concerning withholding, alienation, therapeutic recommendations, DCF involvement, ARC Counsel, the child's stated wishes, household conditions, mental-health and safety concerns, or the reasons for the child's current contact posture, those matters require evidence, proper procedural safeguards, and an opportunity to respond. They should not be resolved through dismissal with prejudice on papers.

Plaintiff does not ask this Court to litigate the related custody docket within this parentage opposition. Plaintiff raises paragraph 23 only because Defendant placed that cross-docket allegation at issue in a renewed motion seeking dismissal with prejudice. The Court should decline to accept Defendant's disputed and materially incomplete characterization as fact, and should deny or defer the Renewed Motion pending the GAL process and/or, if the Court reaches disputed factual issues, the evidentiary hearing contemplated by Judge Keamy's December 23, 2025 order.

To the extent the Court determines that any transcript excerpts, DCF-related testimony, therapeutic references, or child-specific material require impoundment, in camera review, or other confidentiality safeguards, Plaintiff respectfully requests that such material be handled through the appropriate protective procedure rather than accepted or rejected based on Defendant's one-sided characterization.

G. A dismissal with prejudice on papers would foreclose the child-centered record before the Court-appointed mechanisms can function.

The child's voice and welfare are not collateral to this dispute. They are central to the substantial-relationship inquiry.

In the related custody matter, ARC Counsel was appointed so that the child's position could be presented to the Court. On March 13, 2026, the child's position was presented. In this parentage docket, the Court has now appointed a Category E GAL/evaluator to investigate overlapping relationship, timing, and impact issues. A dismissal with prejudice on papers would foreclose consideration of that child-centered record before the Court-appointed mechanisms can meaningfully function.

Plaintiff does not argue that the child's wishes alone decide parentage. Plaintiff argues that where a child's expressed position, emotional welfare, DCF involvement, therapeutic concerns, and alleged substantial relationship are all part of the record, dismissal with prejudice on a paper motion is premature and contrary to the gatekeeping process already established by the Court.

H. The Court appointed a GAL before Defendant filed the Renewed Motion, making dismissal with prejudice on papers premature.

The sequence matters. The Court appointed a Category E GAL/evaluator in WO25W1359WD before Defendant filed the Renewed Motion to Dismiss.

The GAL appointment directs investigation into issues that directly overlap with Defendant's renewed motion, including the timing, facts, and circumstances surrounding the child's introduction to his biological father and the impact continued contact is having on the child.

Defendant now asks the Court to dismiss this action with prejudice before that Court-ordered investigation is clarified or completed. Plaintiff does not contend that the GAL appointment proves Plaintiff's claim, creates jurisdiction, or decides the threshold issue. Rather, Plaintiff contends that the Court's appointment of a GAL to investigate overlapping relationship and impact issues weighs strongly against deciding those same issues summarily on a paper record.

This is especially true where Defendant's Renewed Motion relies on disputed allegations concerning alienation, withholding, the cause of the child's current contact posture, and the legitimacy and impact of Plaintiff's relationship with the child. Those issues are precisely the kind of child-centered, fact-dependent issues for which the Court has already ordered factual development.

The GAL appointment in WO25W1359WD directs investigation into the timing and circumstances of the child's introduction to Plaintiff and the impact of continued contact.

Those topics overlap directly with Defendant's "no substantial relationship," "pseudo-parent," and harmful-impact narrative. That overlap weighs against dismissal with prejudice on papers before the Court clarifies how the GAL process fits into the gatekeeping inquiry required by *J.M.*

Accordingly, dismissal with prejudice before the GAL process is clarified or completed, and before Plaintiff is afforded an orderly case-management track for the evidentiary process contemplated by Judge Keamy's December 23, 2025 order, would be premature.

I. The "no separate equity complaint" argument is curable and should not result in dismissal with prejudice.

Defendant argues that Plaintiff cannot proceed because Plaintiff did not file a separate complaint in equity.

That argument ignores the procedural history. On or about May 19, 2025, Plaintiff first attempted to file a Complaint to Establish Parentage using the Court's parentage form. The Registry did not accept that filing and Plaintiff was directed to proceed by complaint in equity. Plaintiff then attempted to comply with that direction by filing a verified complaint in equity on or about July 28, 2025. The Registry returned that attempted equity filing with handwritten direction that the matter should proceed as a complaint to establish parentage because there was a remedy at law. Plaintiff thereafter sought courthouse legal-services assistance and filed the present Complaint to Establish Parentage, dated August 22, 2025 and filed September 2, 2025, which was accepted.

Defendant should not obtain dismissal with prejudice based on the absence of a separately pending equity complaint where Plaintiff attempted to file both forms of pleading and followed the procedural direction given to him. If the Court determines that an express equity/common-law count or separately captioned equity pleading is required, the appropriate remedy is leave to amend, clarification of the pleadings, or acceptance of an amended count.

That result is consistent with the Rules of Domestic Relations Procedure. Rule 8 does not require technical pleading forms, and Rule 15 favors amendment when justice requires. The substance of Plaintiff's claim has been clear from the outset: Plaintiff seeks adjudication of parentage and equitable/common-law relief arising from his biological parentage, alleged concealment, and substantial parent-child relationship. Dismissal with prejudice would elevate form over substance and punish Plaintiff for attempting to follow the procedural path provided to him.

J. Defendant's Rule 12(b)(9) argument is undeveloped and does not support dismissal.

Defendant invokes Rule 12(b)(9), but the related custody proceeding is not the same claim for the same relief between the same parties.

This action seeks adjudication of parentage and related relief in WO25W1359WD. The related custody docket concerns custody and parenting disputes between Defendant Huckins and Defendant Gurrieri under existing custody orders. Plaintiff is not simply duplicating that custody action by seeking parentage adjudication in this docket.

Defendant invokes Rule 12(b)(9) but does not meet the required showing that the related custody matter is the same action seeking the same relief. At most, it is a related proceeding requiring coordination and careful case management. It does not justify dismissal of this parentage action under Rule 12(b)(9).

K. The Court should allow Plaintiff to provide any referenced record materials in the form directed by the Court.

Plaintiff understands that the Worcester Registry may not accept exhibits or attachments with this filing. Accordingly, this Opposition is filed without exhibits.

Plaintiff refers to materials that are already part of this Court's file or related Probate and Family Court proceedings, including prior orders, Plaintiff's previously filed affidavit, Defendant Gurrieri's affidavit, the May 11, 2026 GAL appointment order, the March 13, 2026 transcript from the related custody matter, Plaintiff's May 19, 2025 attempted Complaint to Establish Parentage and Registry direction to proceed in equity, and Plaintiff's later attempted equity filing/rejection history.

To the extent the Court requires any referenced transcript, order, affidavit, Registry rejection, attempted filing, or other record not attached due to Registry filing practice, Plaintiff respectfully requests leave to provide the material in the form directed by the Court, including by separate filing, impounded filing, in camera submission, or other procedure the Court deems appropriate.

V. REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

1. **DENY** Defendant Christopher J. Huckins' Renewed Motion to Dismiss;

2. In the alternative, if the Court does not deny the Renewed Motion outright, deny Defendant's request for dismissal with prejudice and instead enter an order that:
 - a. permits Plaintiff to amend, clarify, or otherwise regularize the pleadings to add an express equity/common-law count, if the Court deems such pleading necessary; and/or
 - b. schedules, or sets an orderly case-management track for, the evidentiary hearing contemplated by Judge Keamy's December 23, 2025 order on the threshold issue of a substantial parent-child relationship, if the Court reaches disputed factual issues requiring such hearing;
3. To the extent the Court considers Defendant's cross-docket factual allegations, including paragraph 23 of the Renewed Motion, require that those allegations be addressed only through proper evidentiary procedure and any necessary confidentiality safeguards;
4. Permit Plaintiff to provide any referenced transcript, order, affidavit, Registry rejection, attempted filing, or other record in the form directed by the Court, including by separate filing, impounded filing, in camera submission, or other appropriate procedure; and
5. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



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Dated: May 22, 2026

**COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER DIVISION

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF'S RENEWED MOTION FOR RECUSAL AND REQUEST FOR IN
CAMERA REVIEW**

Now comes the Plaintiff, Patrick S. Birt ("Plaintiff"), pro se, and respectfully files this Renewed Motion for Recusal requesting that the Honorable Mark T. Lee recuse himself from further participation in this parentage action, and further requesting in camera review of the official record of the March 13, 2026 custody review hearing in related Worcester Probate & Family Court dockets WO19W1406WD/WO19W1407WD.

This renewed motion is not based on disagreement with ordinary judicial rulings. It is based on the now-available official transcript, which confirms that during the March 13, 2026 custody review hearing, the Court evaluated Plaintiff's relationship with the minor child, Plaintiff's communications with the child, and the continuation and legal significance of that relationship; treated selected Plaintiff-related parentage-docket discovery materials from outside the custody docket as sufficiently reliable to be directed outward to third parties; expressed extraordinary and alarming concern while contemplating extreme intervention; and did so while Plaintiff was absent, unheard, and before the Court had grasped the basic posture of the pending Parentage Action and coordination request.

Because those same issues are central to the threshold gatekeeping determinations in this action, Plaintiff respectfully submits that a reasonable, fully informed observer could question whether WO25W1359WD can proceed before the same justice with the required appearance of impartiality.

A. Why this renewed motion is not duplicative

Plaintiff previously filed a Motion for Recusal on April 2, 2026, which was denied by Order dated April 13, 2026 after administrative review (the "April 13 Order").

At the time of Plaintiff's prior motion, Plaintiff did not have the complete official transcript of the March 13, 2026 custody review hearing.

This renewed motion is based on newly available official transcript evidence confirming specific statements, sequence, escalation, and directives that were not previously before the Court through pinpoint transcript references. The renewed motion therefore presents materially strengthened and transcript-confirmed grounds.

B. Why these issues matter acutely in this parentage case

This case is governed by a stability-driven gatekeeping framework because the child's legal parentage has already been established and the statutory challenge period has elapsed. See G.L. c. 209C, § 11(a); *J.M. v. C.G.*, 492 Mass. 459 (2023).

In that posture, Plaintiff must establish a substantial parent-child relationship before the case may proceed further. That inquiry is fact-based, best-interests-centered, and highly sensitive to judicial evaluation of Plaintiff's role, contact, communications, and effect on the child. See *J.M. v. C.G.*, 492 Mass. 459 (2023); *C.C. v. A.B.*, 406 Mass. 679 (1990); *M.J.C. v. D.J.*, 410 Mass. 389 (1991).

Accordingly, when the presiding judge in this action has already expressed evaluative views about those same issues in another proceeding where Plaintiff was absent, and has already directed Plaintiff-related parentage-docket discovery materials outward to third-party actors who may shape later best-interests assessments, the appearance concern is not abstract. It goes directly to whether Plaintiff will receive a gatekeeping determination on a clean evidentiary record in this docket.

C. Child-protective public filing

Because this is a public filing involving a minor child, Plaintiff refers to the minor child as "G.H." and avoids unnecessary identifying or clinical detail. Plaintiff requests in camera review of the full official transcript and/or recording for any broader context the Court deems necessary.

I. BACKGROUND AND PROCEDURAL POSTURE

1. Patrick S. Birt is the Plaintiff in this action seeking adjudication of parentage and related relief concerning the minor child, G.H.

2. Plaintiff's prior Motion for Recusal was filed on April 2, 2026 and denied by Order dated April 13, 2026.
3. Plaintiff is scheduled for a pretrial conference in this docket on May 21, 2026.
4. Plaintiff has now obtained and reviewed the official transcript of the March 13, 2026 custody review hearing in the related custody dockets.
5. The official transcript confirms that the Court repeatedly addressed Plaintiff by name or role, including "Patrick," "Mr. Burt," and "the gentleman," and addressed issues bearing directly on Plaintiff's relationship with G.H., Plaintiff's communications with G.H., and the continuation and legal significance of that relationship.
6. Plaintiff was not a party to that hearing, was not present, was not represented, and had no opportunity there to present evidence, respond to adverse characterizations, or provide context regarding the issues being discussed about him.
7. Since the retirement of Judge Keamy, these intertwined matters have rotated among multiple judges. Plaintiff does not contend that a newly assigned judge must adopt a prior judge's views. Plaintiff submits, however, that in a child-centered case involving overlapping dockets, prior rulings, and pending coordination requests, a reasonable observer would expect the Court to have meaningful and careful familiarity with the existing procedural framework before strong and potentially case-shaping evaluative statements are made concerning Plaintiff's relationship with G.H., Plaintiff's communications with G.H., and whether that relationship should be permitted to continue and be given legal effect in this docket.
8. On October 1, 2025, Defendant filed two motions: i) in the WO19W1407WD custody matter a motion seeking to bar Plaintiff's contact with G.H., which was denied and ii) a motion to dismiss the WO25W1359WD parentage action, which was denied. The Court instead required Plaintiff to submit proof directed to the substantial-relationship gatekeeping issue. Plaintiff does not argue that the Court was bound to reach the same conclusions on March 13. Plaintiff's point is that a reasonable observer would expect those prior rulings to form part of the baseline decisional context before the Court evaluated whether Plaintiff's relationship with G.H. should continue and what legal significance that relationship should carry in this parentage action, particularly where those issues directly bear on the child's welfare and the integrity of a pending parentage action.

II. TRANSCRIPT-CONFIRMED FACTS RELEVANT TO RECUSAL

9. The hearing was introduced as a review/status event concerning pending modification and contempt matters, ARC counsel's first appearance, and Defendant Huckins' motion for temporary orders seeking appointment of a Category E guardian ad litem, which had been filed only seven days earlier.
10. The transcript reflects that DCF and ARC counsel reported G.H.'s stated position regarding contact with the Defendant. DCF stated that G.H. did not want contact with Defendant Huckins at that time and should continue individual counseling. ARC counsel stated that G.H. was adamant about not wanting contact with the Defendant and wanted to continue seeing Plaintiff. The transcript does not reflect DCF or ARC counsel attributing G.H.'s position to Plaintiff.
11. The transcript then reflects that counsel for Defendant Huckins presented selected text-message excerpts and deposition characterizations concerning Plaintiff, stating only that those materials were obtained "in discovery," but without identifying on the record the originating docket or procedural footing of that discovery.
12. The transcript reflects that the Court did not attempt to ascertain the source, scope, completeness, or context of those materials before treating them as a predicate for consequential directives. That omission is especially disconcerting given the significant and potentially case-shaping use the Court then made of those materials.
13. Instead, the transcript reflects that the Court accepted and engaged with that selective presentation, drew evaluative conclusions from it, and then directed that Plaintiff-related materials obtained in the parentage docket be reviewed or shared with DCF, the child's therapist, and the GAL process as part of the custody case. Plaintiff respectfully submits that this was a striking and consequential use of selected cross-docket material without the ordinary safeguards or guardrails of full context, completeness, or adversarial testing in this docket.
14. The transcript further reflects that the Court escalated sharply and alarmingly during the hearing, stating that it had been close to issuing a sua sponte order, was alarmed and deeply troubled by what it had learned, and referenced both foster placement and flipping custody. Plaintiff submits that such extraordinary language underscores how far the hearing had moved from routine review/status management into a highly escalated evaluative posture.

15. The transcript also reflects that the Court repeatedly and sharply curtailed Defendant Gurrieri's attempts to provide explanatory context, including statements in substance that the Court did not want to know what she was trying to say and that she was not being recognized at certain points. While Plaintiff does not relitigate that hearing through this motion, those repeated curtailments contribute to the troubling appearance that Plaintiff-related issues were being evaluated on a narrowed and pressured record.
16. The transcript further reflects that, despite the Court's extensive evaluative engagement with Plaintiff-related issues, the Court was not at all aware of the basic posture of the pending Parentage Action and motion to coordinate related cases filed in both dockets. That lack of case orientation is deeply concerning in light of the strong and consequential statements the Court was simultaneously making and the fact that both dockets concern the same minor child.
17. Specifically, the transcript reflects that the Court accused in substance that Plaintiff had not come forward and filed a parentage complaint, was then corrected on the record, acknowledged that it was learning of the Parentage Action approximately one hour and fifteen minutes into the hearing, and then after being informed by Ms. Gurrieri that a motion to coordinate the dockets had been filed, asked where the coordination motion was.
18. After learning of the Parentage Action, the Court did not step back from evaluating Plaintiff-related issues. Rather, the Court continued doing so, including by stating in substance that it had no idea what the appropriate ruling was as to whether G.H.'s relationship with Plaintiff should terminate.
19. The transcript then reflects that the Court stated it did not think "full, unfettered, unsupervised contact with Patrick" was in G.H.'s best interest. Plaintiff respectfully submits that this was a pointed and consequential evaluative statement on a matter squarely central to this parentage action. It is especially disconcerting because the procedural framework already in place—following the prior denials of barring contact and dismissal of the parentage case and the order requiring Plaintiff to provide an affidavit showing a substantial relationship—contemplated that the nature and legal significance of Plaintiff's relationship with G.H. would be assessed through the gatekeeping process in this docket, on an appropriate record, rather than through

adverse best-interests pronouncements in a separate proceeding where Plaintiff was absent and unheard.

20. The transcript further reflects contextual remarks not independently dispositive but relevant cumulatively to appearance, including the Court's repeated first-name references to Defendant Huckins, the Court's statement that it did not think "Christopher, for a minute" had gone along with the texting, the Court's statement that it was "emotional," and the Court's statement that "whatever this man's faults are — he deserves better" referring to Defendant Huckins. Considered together, these remarks contribute to a disconcerting appearance of differential sympathy and evaluative alignment during a hearing already marked by sharp escalation.

III. LEGAL STANDARD

21. Plaintiff does not allege actual bias.
22. The governing question is whether a reasonable, fully informed observer could question the Court's impartiality in this parentage action based on what the now-available official transcript confirms occurred in the related custody proceeding.
23. Judicial rulings and ordinary in-court remarks generally do not require recusal standing alone. See *Liteky v. United States*, 510 U.S. 540 (1994); *Haddad v. Gonzalez*, 410 Mass. 855 (1991).
24. Plaintiff also recognizes that knowledge gained through participation in related judicial proceedings, standing alone, is ordinarily insufficient to require disqualification. See *Care & Protection of Martha*, 407 Mass. 319 (1990); *Care & Protection of Georgette*, 54 Mass. App. Ct. 778 (2002).
25. But the transcript here reflects substantially more than routine exposure to related facts. It reflects evaluative remarks about Plaintiff on issues central to this docket, use of selected cross-docket materials of unclarified procedural footing, outward dissemination of those materials to third-party actors, extraordinary and alarming judicial reaction accompanied by contemplated intervention, and late awareness of the very parentage and coordination posture that should have informed whether and how those issues were being addressed.
26. Due process requires a fair tribunal and the appearance of justice. See *In re Murchison*, 349 U.S. 133 (1955).

IV. ARGUMENT

A. The transcript reflects that the Court evaluated Plaintiff on issues central to this parentage action before Plaintiff had any opportunity to be heard.

27. This parentage action presently requires judicial assessment of whether Plaintiff has demonstrated a substantial parent-child relationship with G.H. sufficient to proceed under the governing gatekeeping framework, including the existence and quality of that relationship. That makes the appearance concern especially serious here: while the Court was still unaware of the basic posture of this parentage action, the transcript reflects that it was contemplating actions—including extreme intervention and limitation of contact—that could have interrupted, constrained, or adversely affected the very relationship Plaintiff had been ordered to demonstrate in this docket.
28. The transcript reflects that, in another proceeding where Plaintiff was absent and unheard, the Court nevertheless addressed that relationship and its future in concrete and evaluative terms.
29. The Court did not merely note Plaintiff's existence in the background. The Court characterized Plaintiff's communications in strongly evaluative terms, addressed whether Plaintiff's relationship with G.H. should continue, and expressly stated that full, unfettered, unsupervised contact with Plaintiff was not in G.H.'s best interest, thereby speaking directly to the practical continuation of the relationship before the threshold gatekeeping process in this docket had been completed.
30. That is not a stray remark. It is a transcript-confirmed best-interests conclusion on a matter central to this case. The appearance concern is heightened because the Court's remark effectively addressed the existence, legal significance, and practical continuation of Plaintiff's relationship before the very gatekeeping process designed to assess that relationship in this docket had been completed.
31. Plaintiff respectfully submits that a reasonable observer could seriously question whether the same justice can later decide, in this docket, whether Plaintiff has shown a substantial parent-child relationship and what legal significance that relationship carries, after having already expressed pointed views suggesting that the practical continuation of that relationship should be limited. In that circumstance, the threshold

gatekeeping inquiry risks appearing functionally prejudged rather than genuinely open.

B. The transcript reflects use and operationalization of selected cross-docket Plaintiff-related materials without first clarifying their source or procedural footing, and without meaningful guardrails on dissemination or use.

32. The transcript reflects that counsel for Defendant Huckins presented selected text-message excerpts and deposition characterizations concerning Plaintiff and stated only that such materials were obtained “in discovery.”
33. The transcript reflects that the Court failed to ask the foundational questions a reasonable observer would expect before such material is operationalized in a high-stakes child matter: from what docket did this discovery arise, by what procedural mechanism was it obtained, whether the excerpts were representative or complete, and what context was absent. That omission is particularly troubling where the material was then used to support consequential directives affecting future third-party assessments.
34. Instead, the Court moved directly from selective presentation to consequential use.
35. The Court directed DCF to review Plaintiff’s deposition transcript and the text messages presented by counsel. The Court further directed that the materials be shared with G.H.’s therapist, and later indicated that everybody in contact with G.H. should understand what he had been through. Plaintiff respectfully submits that this was an especially consequential and disconcerting admonition because the transcript does not reflect that the Court had first grounded it in any comprehensive review of the existing clinical or DCF record, or in a developed understanding of the broader factual and procedural context already surrounding G.H.’s recent circumstances. Rather, the transcript reflects that the Court made that statement while acting on selected excerpts presented in the hearing and while still lacking familiarity with the full posture of the related matters. Those directives extended the use of selected Plaintiff-related materials beyond the immediate hearing and into the agency, clinical, and GAL-related channels that may influence later best-interests assessments.
36. This is not a case of the Court merely hearing disputed material and reserving judgment. The Court operationalized those materials by turning them into inputs for third-party agency, clinical, and GAL-related review, despite the absence of any on-

the-record clarification of their source docket, completeness, representative character, or procedural footing in these custody matters.

37. In this parentage action, where Plaintiff's relationship, communications, and the threshold legal significance of that relationship are central, that sequence materially and troublingly heightens the appearance concern. It suggests that selected Plaintiff-related material, drawn from the parentage docket and presented without Plaintiff present, was set in motion to shape future best-interests perceptions without the protections of this case's evidentiary process.
38. The appearance concern is further heightened because the transcript reflects no meaningful on-the-record guardrails governing the dissemination and use of those materials. The Court did not address impoundment, confidentiality limitations, restricted-purpose use, retention, return, destruction, or any limitation on further circulation after review. In a hearing involving a minor child, sensitive custody and parenting issues, and materials drawn from outside this docket, the absence of such guardrails is especially troubling. It creates the appearance that selected cross-docket materials could be retained, reused, and allowed to influence third-party perceptions without defined procedural limits.
39. That concern is sharpened by the fact that DCF and ARC counsel had already placed on the record that G.H. did not want contact with Defendant Huckins at that time. Yet the Court, rather than pausing to impose structure and safeguards around sensitive materials touching the same child and overlapping disputes, directed broader dissemination of selected excerpts without first establishing the protections ordinarily expected where minor-child information and cross-docket materials are being pushed outward beyond the courtroom, or first indicating that the broader clinical and agency picture had been fully brought into view.

C. The transcript confirms a material and adverse posture misunderstanding while the Court was making Plaintiff-related evaluative judgments.

40. The transcript reflects that the Court stated in substance that Plaintiff had not come forward and filed a parentage complaint.
41. That statement was not merely an omission or a neutral lack of awareness. It was an affirmative and adverse misstatement about Plaintiff's procedural posture, made while

the Court was actively evaluating Plaintiff's role, Plaintiff's communications with G.H., and the future of Plaintiff's relationship with G.H.

42. The transcript further reflects that the Court was then corrected on the record, acknowledged learning of the Parentage Action approximately one hour and fifteen minutes into the hearing, and asked where the motion to coordinate related cases was.
43. Plaintiff does not contend that a momentary docket-level misunderstanding, standing alone, establishes bias. The concern is more serious than that.
44. The concern is that the Court had already engaged in pointed evaluative discussion about Plaintiff while lacking familiarity with the basic procedural posture necessary to place those issues in context. In a case involving overlapping dockets, prior rulings, and a pending coordination request concerning the same minor child, that lack of orientation is deeply troubling.
45. The Court's statement that Plaintiff had not come forward to file a parentage complaint carried an adverse implication — namely, that Plaintiff was informally or improperly involved in the child's life without having taken legal steps to present his claim. The transcript confirms that implication was wrong.
46. That error matters because it goes directly to appearance. A reasonable observer could conclude that the Court was evaluating Plaintiff through an inaccurate and unfavorable procedural lens at the very moment the Court was making consequential statements about Plaintiff's relationship with G.H. and whether that relationship should continue.
47. The appearance concern is heightened further because, even after learning of the Parentage Action and coordination posture, the Court did not step back from those evaluative remarks. Instead, the Court continued addressing whether Plaintiff's relationship with G.H. should terminate and whether the practical continuation of that relationship should be restricted.
48. In a parentage action governed by a substantial-relationship gatekeeping framework, where Plaintiff's relationship, communications, role, and the threshold legal significance of that relationship are central, a reasonable observer would expect meaningful familiarity with the basic procedural posture before the Court made such pointed evaluations. The transcript reflects the opposite.

D. The April 13 Order does not resolve the transcript-confirmed appearance concern.

49. The April 13 Order denied Plaintiff's prior recusal motion and found that the Court learned of Plaintiff's parentage complaint approximately one hour and fifteen minutes into the March 13 hearing.
50. Plaintiff does not dispute that the Court learned of the parentage docket late in the hearing.
51. Respectfully, the renewed concern is different. The official transcript now shows that the Court's evaluative engagement with Plaintiff-related issues did not depend on formal knowledge of the docket number. The Court was already evaluating Plaintiff's relationship, communications, role, and the child's contact with Plaintiff before Plaintiff had any opportunity to be heard in this parentage case, which makes the appearance problem more serious, not less.
52. The transcript further shows that after learning of the Parentage Action, the Court continued to address the future of Plaintiff's relationship with G.H., stating that it had "no idea what the appropriate ruling is" as to whether that relationship should terminate and later stating that it did not think "full, unfettered, unsupervised contact with Patrick" was in G.H.'s best interest.
53. Plaintiff respectfully submits that this sequence creates a serious appearance that the threshold gatekeeping issue in this action has already been functionally prejudged. Judge Keamy's prior order contemplated that Plaintiff would be permitted to make a threshold showing, through affidavit and, if necessary, further proceedings, that a substantial relationship exists. When, before that process has run its course, the Court states that it does not think "full, unfettered, unsupervised contact with Patrick" is in G.H.'s best interest, a reasonable observer could conclude that the practical outcome of Plaintiff's gatekeeping showing is no longer being approached as a genuinely open question.
54. The April 13 Order also does not address the significance of the fact that the Court's misunderstanding was not neutral, but affirmatively adverse in the way it framed Plaintiff before the Court was corrected. The transcript reflects not simply late awareness of the Parentage Action, but an on-the-record statement that Plaintiff had not come forward and filed a parentage complaint. That inaccurate framing matters because it cast Plaintiff in an unfavorable procedural posture at the same time the

Court was making consequential evaluative statements about Plaintiff's relationship with G.H.

55. The April 13 Order also states that the Court declined to interrupt the relationship and appointed a GAL to evaluate what relationship would be safe and appropriate. Plaintiff respectfully submits that this does not cure the appearance concern, because the transcript confirms that the Court had already ventured into strongly evaluative and potentially prejudgment-laden territory before those issues were ever adjudicated in this docket.
56. The issue is not whether the Court terminated Plaintiff's relationship with G.H. on March 13. The issue is that, before the threshold issues in this docket were adjudicated, the Court had already expressed evaluative views bearing on Plaintiff's relationship with G.H., directed Plaintiff-related materials outward to third-party actors, and continued doing so even after learning of the pending Parentage Action.
57. For that reason, this renewed motion is not duplicative. It is grounded in transcript-confirmed facts showing a broader, more serious, and more troubling sequence than what was previously before the Court.

E. The hearing's extraordinary escalation strengthens the appearance concern.

58. The transcript reflects that what began as a review/status hearing escalated into something far more consequential.
59. The Court stated that it had been close to a sua sponte order, referenced foster placement and flipping custody, described itself as alarmed and deeply troubled, and later stated that it was emotional.
60. Plaintiff does not contend that any such extreme order was entered.
61. Plaintiff's point is narrower and appearance-based: where the Court's reaction in a hearing reaches that level of alarm and contemplated intervention, while relying on a selective presentation and before understanding the full related-case posture, the appearance concern is materially and alarmingly heightened.
62. A reasonable observer could conclude that the Court had moved well beyond neutral status management and into forceful, highly consequential evaluative territory touching the same Plaintiff-related issues that must still be decided in this docket.

F. The narrowed process reflected in the hearing further contributes to the appearance concern.

- 63. The transcript reflects that when Defendant Gurrieri attempted to provide contextual explanation, the Court repeatedly curtailed those efforts.
- 64. Plaintiff does not seek to relitigate that hearing or transform this motion into a custody-process challenge.
- 65. But those exchanges matter here because they reinforce the troubling appearance that the Court's views about Plaintiff-related issues were formed on an asymmetrical, narrowed, and pressured record, while Plaintiff himself was not present at all.
- 66. That matters all the more where the selected excerpts and characterizations presented about Plaintiff were then directed outward to third parties who may influence future best-interests assessments.

G. Additional contextual features contribute cumulatively to the appearance concern.

- 67. Plaintiff acknowledges that differential forms of address and isolated sympathetic remarks, standing alone, would ordinarily not justify recusal.
- 68. But the transcript reflects that the Court repeatedly referred to Defendant Huckins by first name, stated that it did not think "Christopher" had gone along with the texting "for a minute," and stated that "whatever this man's faults are — he deserves better."
- 69. In isolation, those remarks might be dismissed as tone. In context, they contribute to the overall appearance concern because they occurred in the same hearing where the Court was simultaneously making evaluative statements about Plaintiff, expressing strong and unusual emotional reaction, and directing the dissemination of Plaintiff-related materials.
- 70. Plaintiff does not rely on these contextual features as a standalone basis for recusal. He relies on them as cumulative confirmation that the transcript reflects an appearance problem extending beyond ordinary courtroom management.

V. REQUEST FOR IN CAMERA REVIEW

- 71. Plaintiff does not seek to publicly file the full March 13 transcript or recording.

72. Plaintiff has not attached transcript excerpts to this public filing in order to avoid unnecessary public disclosure involving the minor child and the related custody proceeding.
73. Plaintiff respectfully requests that the Court review the full March 13 transcript and/or recording in camera to the extent the Court deems additional context necessary.

VI. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

1. Allow this Renewed Motion for Recusal;
2. Recuse the Honorable Mark T. Lee from further participation in WO25W1359WD;
3. Reassign this matter to a different justice of the Worcester Probate and Family Court;
and
4. Allow Plaintiff's request for in camera review of the March 13 transcript and/or recording.
5. In the alternative, if the Court denies recusal, Plaintiff respectfully requests narrowly tailored protective and record-management orders to preserve the appearance and integrity of the gatekeeping record in this parentage docket, including:
 - (a) An order clarifying that statements made and directives issued during the March 13, 2026 custody review hearing in WO19W1406WD/WO19W1407WD are not findings or adjudications concerning the existence, legal significance, or continuation of Plaintiff's relationship with the minor child for purposes of WO25W1359WD;
 - (b) An order that any deposition excerpts and text-message materials concerning Plaintiff that are provided to third parties (including DCF, clinicians, and any GAL/evaluator) be provided only for a limited child-safety assessment purpose, not as merits determinations in this parentage case, and not be further disseminated or characterized as court-endorsed absent further order;
 - (c) An order requiring that any evaluator/GAL report identify the source and completeness of any such materials relied upon, including whether reviewed in full or in excerpted form, to ensure transparency and avoid the appearance of reliance on selective cross-docket excerpts.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is fluid and cursive, with the first name "Patrick" being the most prominent part.

Patrick S. Birt

Plaintiff, Pro Se

1665 Main Street, Apt. A211

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(508) 847-5480

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Dated: April 28, 2026

THE COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

WORCESTER DIVISION

DOCKET No. WO 25W 1359 WD
CROSS REFERENCING WO 19W 1407 WD

WO 19W 1406 WD

PATRICK S. BIRT,
PLAINTIFF

v.

IVANA G. GURRIERI AND
CHRISTOPHER J. HUCKINS,
DEFENDANTS

MEMORANDUM OF DECISION AND ORDER

*On Patrick S. Birt's Renewed Motion for Recusal and Request for In Camera Review,
filed on April 28, 2026*

The Court (Lee, J.) held a non-evidentiary hearing on June 1, 2026. Plaintiff, Patrick S. Birt ("Birt"), appeared and was self-represented. Defendant, Ivana G. Gurrieri ("Gurrieri"), appeared and was self-represented. Defendant, Christopher J. Huckins ("Huckins"), appeared and was represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

I. BACKGROUND

The specific facts of this case are further detailed in the Court's (Keamy, J.) December 23, 2025 Memorandum of Decision and Order. Said Memorandum of Decision and Order is incorporated by reference herein. Briefly, this action concerns one minor child, Giovanni C. Huckins ("Giovanni"), born on March 4, 2014, currently age twelve (12). Gurrieri is the biological and legal mother of Giovanni. Huckins is Giovanni's legal father pursuant to a voluntary acknowledgement of parentage ("VAP") he executed shortly after Giovanni was born. Birt has no legal relationship with Giovanni and avers to be Giovanni's biological father.

On August 7, 2019, Huckins filed a Complaint for Custody and Parenting Time against Gurrieri under the cross-referenced docket number, 19W 1407 WD. On February 1, 2023, the Court (Keamy, J.) issued a Judgment ("2023 Judgment") on Huckins' Complaint which incorporated an agreement of the parties. The agreement provided that Guerrieri and Huckins have shared legal custody of Giovanni and established custody and parenting time provisions between Guerrieri and Huckins.

On May 22, 2025, Gurrieri filed a Complaint for Modification under the cross-referenced docket number in which she requested the 2023 Judgment be modified to grant her sole physical custody of Giovanni.

On May 27, 2025, Huckins filed a Complaint for Contempt in which he alleged that Gurrieri violated the 2023 Judgment by introducing Giovanni to Birt, a man she believed to be Giovanni's biological Father, without Huckins' express permission nor in adherence with the recommendations of Giovanni's therapist.

On September 2, 2025, Birt filed a Complaint to Establish Parentage in which he sought the Court to adjudicate Birt and Gurrieri to be Giovanni's parents, order Giovanni's birth certificate to be amended to reflect the same, order Giovanni's last name to be changed to Birt, and issue orders related to custody and parenting time.

On March 6, 2026, Huckins filed a Motion for Temporary Orders in which he requested the Court appoint a GAL to evaluate the current circumstances.

On March 13, 2026, the Court (Lee, J.) held a review hearing on Gurrieri's May 2025 Complaint for Modification, and Huckins' May 27, 2025 Complaint for Contempt and March 6, 2026 Motion for Appointment of Guardian ad Litem ("GAL"). Present at the hearing were Huckins, represented by Attorney Xavier; Gurrieri, self-represented; Department of Children and Families ("DCF") representative, Odella Gomez, via telephone; and Attorney Representing Child ("ARC") Counsel, Hannah White.

The March 13, 2026 hearing was the first time the undersigned had presided over any proceedings in this matter. Furthermore, the Court was not informed of Birt's instant Complaint to Establish Parentage until approximately one hour into the hearing; consequently, the Court had not presided over any proceedings in the cross-referenced parentage action either. As the March 13, 2026 hearing progressed, the Court made various statements about Giovanni's current situation, including his recent hospitalization in a mental health facility. The Court expressed serious concerns regarding Gurrieri's parental judgment, particularly the manner in which Birt's alleged biological relationship to Giovanni was disclosed. Additionally, the Court noted with disapproval Gurrieri's failure to supervise or place boundaries on Giovanni's communications with Birt. The Court heard testimony that Giovanni and Birt continue to communicate and have informal parenting time, and declined to interrupt their emerging relationship. The Court allowed Huckins' Motion for a GAL and on March 17, 2026, Teresa Rafferty, LICSW, Ph.D. was appointed as Category E GAL to investigate and report on the factual circumstances surrounding Giovanni's introduction to Birt and to assess the resulting impact on Giovanni's well-being.

On April 2, 2026, Birt filed a Motion for Recusal based upon the Court's on-the-record statements and evaluative remarks made during the March 13, 2026 proceeding and alleged the Court expressed "evaluative views about [Birt] on issues that are central to the adjudication of the

parentage action.” Birt’s April 2, 2026 Motion sought recusal as a “prophylactic measure to protect the integrity of [his] parentage proceeding” to ensure the issues are adjudicated on the evidentiary record developed within the relevant docket. Birt alleged that the “appearance of prejudgment is heightened” as the Court contemplated the factual development of Birt’s relationship with Giovanni during the March 13, 2026 proceeding where Birt was not present and could not be heard.

On April 13, 2026, the Court (Lee, J.) issued an Order denying Birt’s Motion for Recusal, stating that, after administrative review, the Court found no disabling prejudice for a question of objective impartiality.

On April 22, 2026, Gurrieri filed a Motion for Recusal, Reassignment, and Related Protective Relief alleging an objective appearance concern for impartiality.

On April 28, 2026, Birt filed a Renewed Motion for Recusal and Request for an In Camera Review (“Renewed Motion”), alleging it was not duplicative of his previous Motion for Recusal due to newly available transcripts from the March 13, 2026 hearing. Birt’s Renewed Motion alleges that the Court evaluated and drew selective conclusions from evidence presented by Huckins’ counsel, which was prejudicial to Birt’s parentage case. Birt’s Renewed Motion alleged that the Court “repeatedly and sharply” curtailed Gurrieri’s attempt to provide “explanatory context”, which contributed to the appearance that issues were being evaluated on a “narrowed and pressured record.” Section III, point 21 of Birt’s Renewed Motion states that he does not allege “actual bias.” Birt continues that the governing question is whether a reasonable, fully formed observer could question the Court’s impartiality in the parentage action based on the Court transcripts in the related custody proceedings of March 13, 2026.

On June 1, 2026, the parties appeared before the Court (Lee, J.) for a hearing on their Motions to Recuse and In-Camera Review. The Court stated on the record that he was neither personally nor professionally acquainted with any of the parties. After being heard on her Motion during the hearing, Mother voluntarily withdrew her Motion to Recuse on the record.

II. ANALYSIS

A. STANDARD OF REVIEW

The Court considers Birt’s Renewed Motion for Recusal and In Camera Review. Recusal is the act of withdrawing from a case due to a potential conflict or lack of impartiality taken by a judicial official upon the recognition that their involvement in the matter may be biased or perceived as such. The issue is whether the undersigned should be recused from the matter based on the relevant two-step analysis.

The test for recusal requires a two-prong examination in which the judge must first examine themselves for bias. If the judge passes the internal test of freedom from disabling prejudice, they

must then conduct an objective appraisal of whether this is a proceeding in which their impartiality might reasonably be questioned. See Parenteau v. Jacobson, 32 Mass. App. Ct. 97, 100 (1992). Generally, recusal is a matter left to the discretion of the judge. To show that a judge abused his discretion by failing to recuse himself, a party ordinarily must show that the judge demonstrated a bias or prejudice arising from an extrajudicial source, and not from something learned from participation in the case. See Commonwealth v. Adkinson, 442 Mass. 410, 415 (2004). A judge must first consult his own emotions and conscience to determine whether he possesses the capacity to rule fairly. If the judge passes the internal test of freedom from internal prejudice, a judge must also conduct an objective appraisal of whether his impartiality might reasonably be questioned. See Commonwealth v. Daye, 435 Mass. 463, 464 (2001), Lena v. Commonwealth, 369 Mass. 571 (1976).

B. INTERNAL TEST FOR BIAS

A presiding judge must first consult with their own emotions and conscience when faced with a question of their capacity to rule fairly in a proceeding. See Lena, 369 Mass. at 575. Birt's Renewed Motion is predicated upon allegations of judicial bias that this judge had evaluated the relationship, communications, role, and contact with Giovanni before hearing Birt on his Complaint to Establish Parentage. However, Birt's Renewed Motion also states that "Plaintiff does not allege actual bias." Where "nothing in the record suggests actual bias on the part of the judge" and the record adequately demonstrates that the judge has searched their conscience to determine they are free of bias, recusal is not necessary. See Commonwealth v. Eddington, 71 Mass. App. Ct. 138, 139 (2008).

During the June 1, 2026 hearing, the Court stated that he did not know the parties personally or professionally, and that no prior relationship existed to give the appearance of bias in this matter. The Court extensively expressed that the purpose of the GAL investigation and report was to gather information on the relationships between the parties. At the June 1, 2026 hearing, Birt stated that he did not believe the Court was impartial or "against him."

The Court has engaged in a careful and honest self-examination. The Court harbors no personal bias, prejudice, or animosity toward the parties or counsel on this matter. Further, the Court maintains its confidence in the ability to preside over this matter fairly, impartially, and in accordance with the law. Because Birt's Renewed Motion explicitly disclaims an allegation for actual bias, and the Court does not identify bias, recusal is unnecessary.

C. WHETHER THE COURT'S IMPARTIALITY MAY REASONABLY BE QUESTIONED

A Judge shall recuse themselves in any proceeding in which the judge cannot be impartial, or the judge's impartiality might be reasonably questioned. See S. J. C. Rule 3:09, Canon 2, Rule 11, as appearing in 484 Mass. 1042, 1046 (2020). A motion to recuse requires demonstrating actual bias or an appearance of impropriety by an objective appraiser.

Birt's Renewed Motion alleges a "material and adverse posture misunderstanding" in reference to a statement made approximately one hour into the March 13, 2026 hearing that the Court was advised of Birt's Complaint to Establish Parentage during the March 13, 2026 hearing. Birt's Renewed Motion states that the Court's remarks about his relationship with Giovanni were not dependent on "formal knowledge" of the docket, creating a serious appearance problem. This case has been meticulously reviewed by several judicial officers prior to the undersigned. Now that it is before this Court for the first time, Birt relies on an isolated misstatement as grounds for disqualification. It is well established that a mere misstatement or an unfavorable disposition does not constitute grounds for recusal. "The alleged bias and prejudice to be disqualifying must arise from an extrajudicial source and not from something learned from participation in the case or from a hearing in a related proceeding." Gallagher v. Mass. Bay Transit Authority, 1993 Mass. App. Div. 9. "Nor does the formation of an opinion based upon information developed in the course of the prior related proceedings." Adoption of Seth, 29 Mass. App. Ct. 343, 351 (1990).

While a judge must be "ever vigilant to make certain that his personal and private beliefs do not interfere with his judicial role," Commonwealth v. Mills, 436 Mass. 387, 401 (2002), a judge may freely state their philosophy and particularized rationale on the record without the appearance of bias. See Commonwealth v. Arce, 106 Mass. App. Ct. 1133 (2026). The Court's comments on March 13, 2026 about Birt's relationship with Giovanni, the manner in which Giovanni learned of his alleged biological relationship to Birt, and Giovanni's mental health do not amount to bias which interfere with the judicial role to warrant recusal. While a judge must avoid words or conduct that may reasonably be perceived as manifesting bias, this does not preclude judges from making legitimate reference to a person's status or condition when it is relevant to an issue in a proceeding. See S. J. C. Rule 3:09, Canon 2, Rule 2 (2016). The actions of the parties, referenced by the Court during the March 13, 2026 hearing, are directly related to Giovanni's well-being and best interests, and therefore the Court's statements do not present the appearance of impartiality or bias. Critical or disapproving judicial remarks made to counsel, the parties, or regarding their cases during the course of trial do not ordinarily support a bias or partiality challenge. See Commonwealth v. Deconinck, 480 Mass. 254, 269 (2018).

Birt referenced the Court's "sharp" demeanor during the March 13, 2026 hearing, at which Gurrieri stated she felt she was not fairly heard. "While harsh words are not the preferred method for maintaining order in a court room (See S. J. C. Rule 3:09, Canon 3 (A)(3), as appearing in 382 Mass. 809 (1981)) ("judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others")), a full reading of the transcript demonstrates that the judge took the measures he felt necessary to maintain control of the proceeding. Commonwealth v. O'Neil, 418 Mass. 760, 764-765 (1994)." Daye, 435 Mass. at 470. A review of the record from March 13, 2026, at which Gurrieri appeared self-represented, shows that she initially addressed the Court for approximately fifteen (15) to twenty (20) uninterrupted minutes. After providing her statements, Gurrieri frequently interjected while DCF and Huckins' counsel addressed the Court. After the Court acknowledged Gurrieri's inappropriate behavior, Gurrieri continued to disregard courtroom

decorum by interrupting the Court and speaking over the judge. Gurrieri was provided ample opportunity to present her position, and was directed to allow the proceedings to continue without disruption. Judges must maintain order in proceedings before the court. See Judicial Guidelines for Civil Cases Involving Self Represented Litigants, § 3.1 (2025); see also Commonwealth v. Perez, 390 Mass. 308, 316 (1983). “Litigants have no absolute right to present their arguments in whatever way they prefer. . . . The trial judge has broad authority to place reasonable limits on the parties’ presentation of their positions.” Demoulas v. Demoulas, 428 Mass. 555, 590 (1998). See Commonwealth v. Comley, 103 Mass. App. Ct. 1123 (2024) (affirming denial of recusal where the hearing transcript revealed the Court maintained impartiality and provided counsel ample opportunity to argue the merits despite repeated interruptions); see also Erickson v. Commonwealth, 462 Mass. 1006, 1007 (2012).

After careful consideration and an objective appraisal of the circumstances, the Court finds that this is not a proceeding in which this judge’s impartiality might reasonably be questioned.

D. CONCLUSION

The undersigned has conducted the required two-prong analysis for judicial bias. First, the Court has satisfied the subjective inquiry and confirms its capacity to rule fairly and impartially. Second, evaluating the matter objectively, the Court concludes that no reasonable observer would harbor any doubts regarding this impartiality. Accordingly, the Renewed Motion is DENIED.

III. ORDER

1. The Renewed Motion for Recusal and Request for In Camera Review is DENIED.
2. The Motion for Recusal, Reassignment, and Related Protective Relief is WITHDRAWN.

SO ORDERED.

Date: June 16, 2026



Honorable Mark T. Lee, Justice
Worcester Probate and Family Court

ATTACHMENT 12

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

**Docket Number WO25W1359WD
Cross Reference WO19W1407WD**

**Patrick S. Birt
Plaintiff**

v.

**Ivana G. Gurrieri, and
Christopher J. Huckins
Defendants**

Memorandum of Decision and Order

On Christopher J. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026

The Court, Lee, J., held a non-evidentiary hearing on the above-captioned motion on June 1, 2026. The Plaintiff, Patrick S. Birt ("Birt"), appeared and was self-represented. The Defendant, Ivana G. Gurrieri ("Gurrieri"), appeared and was self-represented. The Defendant, Christopher J. Huckins ("Huckins"), appeared and was represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

A. Background

This memorandum of decision relates back to the Memorandum of Decision and Order issued by the Court (Keamy, J.) on December 23, 2025 ("December 2025 Order"). Said December 2025 Order is incorporated by reference herein. Briefly, this action concerns one minor child: Giovanni C. Huckins ("Giovanni"), date of birth March 4, 2014, currently age twelve. Gurrieri is the biological and legal mother of Giovanni. Huckins is Giovanni's legal father pursuant to a voluntary acknowledgement of parentage ("VAP") he executed shortly after Giovanni was born. Birt has no legal relationship with Giovanni. He avers to be Giovanni's biological father.

Huckins filed a motion to dismiss on October 1, 2025. In the December 2025 Order, the Court found that Birt is required to make a demonstration that he has a preexisting substantial relationship with Giovanni as a threshold requirement to proceeding with his claim in the instant action. The Court found that the record at that time was insufficient for the Court to determine whether Birt had the requisite substantial relationship with Giovanni to allow his claim to proceed.

It ordered Birt to file an affidavit alleging specific facts which, if proven, will establish a substantial relationship between himself and Giovanni within the meaning of applicable case law. The December 2025 Order further provided that, after filing of Birt's Affidavit, Huckins was permitted to file and mark for hearing a renewed motion to dismiss. Further, the December 2025 Order provided that, if a renewed motion to dismiss was filed, either party was permitted to file a separate request for evidentiary hearing and the Court would consider the request.

Birt filed his Affidavit on February 12, 2026 ("Birt's Affidavit"). Huckins filed his renewed motion to dismiss on May 19, 2026. Neither party requested an evidentiary hearing in compliance with the December 2025 Order. Accordingly, the rights of all parties to seek an evidentiary hearing on this issue are waived. The Court held a non-evidentiary hearing on the renewed motion to dismiss on June 1, 2026, as described above.

B. Legal Analysis

Viewing the record in the light most favorable to Birt, the issue for the Court on the above-captioned motion is whether Birt has alleged facts, which if proven true, would entitle him to the relief he seeks. Namely, Birt seeks that he and Gurrieri be adjudicated Giovanni's parents, Giovanni's birth certificate be amended to reflect the same, Giovanni's last name be changed to Birt, and for the Court to make further orders related to custody and parenting time. As detailed in the December 2025 Order, Birt's claims are precluded by the applicable statute of repose.

Birt may only pursue his claims, notwithstanding the statute of repose, if he can establish a preexisting substantial relationship within the meaning of the case law. See A.D. v. K.S., 495 Mass. 722, 734 (2025). "Where a child's parentage already has been established legally, the substantial relationship test is a necessary balancing test accounting for the fact that a new parentage suit disrupts a family and a child's life and potentially will result in the displacement of one legal parent with another person." J.M. v. C.G., 492 Mass. 459, 465 (2023).

The Court looks to the specific facts alleged in Birt's Affidavit. It is important to note that the case law requires that a plaintiff have a preexisting substantial relationship with the subject child of an action. The one-year ultimate time limit for challenging a VAP is intended to provide stability and permanency related to nonmarital children. There is a compelling public interest in

the finality of parentage judgments, and without the time limit parentage established by VAPs would be open to challenges indefinitely, frustrating the relevant interests in finality of parentage judgments. See J.M., 492 Mass. at 463–64.

Regardless of the outcome of parentage cases brought after the time limit, the very litigation process itself may place great strain on an established family. See id. at 464. Birt must establish he had a sufficient preexisting substantial relationship at the inception of this parentage action. He cannot use his parentage action as a vehicle to establish a substantial relationship or bootstrap his specific factual allegations of a substantial relationship with alleged facts after the commencement of his parentage action.

Birt filed his parentage action on September 2, 2025. Birt's Affidavit avers various facts which occurred after he filed his parentage action. These are not relevant to the Court's analysis of whether Birt had a substantial relationship with Giovanni that would allow him to pursue his parentage action. The length of time that Birt alleges he had any relationship whatsoever is the most noteworthy thing in Birt's Affidavit. Birt avers that he had his first "direct contact" with Giovanni in March 2025, when Giovanni was eleven years old. Birt had only had contact with Giovanni for approximately six months when he filed his parentage action.

Birt's Affidavit further avers that he has weekly contact with Giovanni and describes activities in which he engages with Giovanni. He avers that he had full-time care of Giovanni from August 7, 2025 through August 12, 2025, while Gurrieri was recovering from surgery. Birt also describes that Giovanni has met members of Birt's extended family, Birt has had some involvement with Giovanni's school and extracurricular activities, that Giovanni and Birt have an emotional bond, and other things.

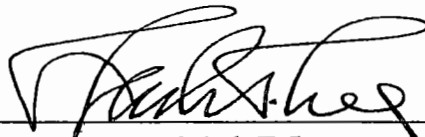
The standard of law to find a sufficient preexisting substantial relationship within the meaning of the case law is exacting. This is especially true where Huckins had been established as Giovanni's legal father through the first eleven years of his life. Duration of the alleged relationship between Birt and Giovanni is an essential consideration in the Court's analysis. Birt has not cited to any case law, and the Court is not aware of any case law, where such a short relationship with a child eleven years old has been found to be a substantial relationship within the meaning of the case law.

While Birt's Affidavit has described what might be a positive and caring relationship, it fails to allege facts which, if proven true, could plausibly lead the Court to find a sufficient parent-child substantial relationship within the meaning of the case law to allow him to continue with this litigation. The Court finds that Birt has not alleged sufficient facts to plausibly suggest that he is entitled to the relief he seeks. Accordingly, Birt has not stated a claim upon which relief can be granted. An order shall issue allowing Huckins' renewed motion to dismiss.

C. Order

1. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026, is allowed.
2. Judgment of Dismissal shall issue dismissing Birt's Complaint to Establish Parentage, filed on September 2, 2025.

Date: *July 7, 2026*



Mark T. Lee
Justice of the Probate and Family Court

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT

WORCESTER, SS.

PROBATE AND FAMILY COURT
DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI,
Defendant,

CHRISTOPHER J. HUCKINS
Defendant.

July 7, 2026 (67)

~~MOTION ALLOWED-DENIED~~

Mark T. Lee
JUDGE OF PROBATE COURT
MARK T. LEE

DEFENDANT CHRISTOPHER J. HUCKINS' RENEWED
MOTION TO DISMISS

NOW COMES the Defendant, Christopher J. Huckins ("Mr. Huckins"), in the above-captioned matter and pursuant to Mass. R. Civ. P. 12(b)(6) and 12(b)(9), hereby submits this renewed motion requesting this Honorable Court to dismiss the Plaintiff, Patrick S. Birt's (the "Plaintiff" or "Mr. Birt") Complaint to Establish Parentage dated September 2, 2025.

As reasons therefore, Mr. Huckins states as follows:

1. Mr. Huckins is the Father of Giovanni Huckins (the "Minor Child").
2. Mr. Huckins signed a Voluntary Acknowledgement of Paternity upon the Minor Child's birth.
3. Mr. Huckins is on record as the Father of the Minor Child pursuant to his Birth Certificate dated April 1, 2014.

4. Pursuant to a Judgment from the Worcester Probate and Family Court dated February 1, 2023, Mr. Huckins shares joint legal custody of the Minor Child with the Defendant, Ivana G. Gurrieri (“Mother”).

5. On September 2, 2025, more than 10 years after the Minor Child’s birth and Mr. Huckins’ Voluntary Acknowledgement of Parentage, Mr. Birt filed the underlying Complaint to Establish Parentage.

6. Mr. Birt is statutorily barred from bringing this action by a statute of repose.

7. ALM GL c. 209C § 11 states that “Unless either signatory rescinds the acknowledgment within 60 days of the date of signing as provided in this section, the acknowledgment shall establish parentage as of the date it has been signed and shall have the same force and effect as a judgment of parentage, subject to challenge within one year only on the basis of fraud, duress or material mistake of fact”.

8. The Plaintiff did not bring this challenge of paternity within one (1) year of Mr. Huckins’s Voluntary Acknowledgement of Parentage and thus is barred from bringing the instant Complaint to Establish Parentage.

9. Accordingly, on October 1, 2025, Mr. Huckins filed a Motion to Dismiss.

10. After hearing and consideration, on December 23, 2025, the Honorable Judge L. Keamy issued a Memorandum of Decision and Order (the “Memorandum”) wherein Mr. Huckins’ Motion to Dismiss was denied without prejudice, to give Mr. Birt an opportunity to file an affidavit showing a substantial relationship with the Minor Child.

11. In this Memorandum, Judge Keamy further invited Mr. Huckins to file a Renewed Motion to Dismiss.

12. Any relationship that Mr. Birt developed with the Minor Child arose more than ten (10) years after the statute of repose had expired under G.L. c. 209C §11. The legislature did not intend for post-expiration developments to alter that finality; rather, the statute reflects an intent that any relationship must have existed before the repose period lapsed. To hold otherwise would undermine the finality that the common law and the statute were designed to preserve.

13. As such, there should be no opportunity for Mr. Birt to demonstrate a substantial relationship with the Minor Child, as any such relationship arose only after the statute of repose had expired.

14. As stated by Judge Keamy, Mr. Birt was aware of the Minor Child's existence and knew that he had engaged in sexual relations with the Mother around the time of the Minor Child's conception. Even assuming the alleged fraudulent conduct by the Defendants, such conduct does not excuse the expiration of the statute of repose.

15. Mr. Birt could have, and under the law, should have, formed a substantial relationship with the Minor Child well before 2025. His failure to do so renders this Complaint void.

16. Further, during his deposition Mr. Birt admitted certain facts demonstrating that he was aware of the likelihood that he was the Father of the Minor Child during the Mother's pregnancy. Specifically:

- a. Mr. Birt testified at his deposition that Ms. Gurrieti informed him of her pregnancy after ending their relationship. (See Deposition Transcript, Page 37).
- b. Mr. Birt further testified that although she informed him that she was pregnant, he did not ask her who the father of the child was. (See Deposition Transcript, Page 38).

c. Mr. Birt also testified that on March 5, 2014, the day after the Minor Child's birth, Ms. Gurrieri informed him that the Minor Child had been born. (See Deposition Transcript, Page 40).

d. Mr. Birt further testified that on March 5, 2014, when he was told by Ms. Gurrieri that he was not the Minor Child's biological father, he did not take action to undergo or initiate any genetic testing, and instead relied on Ms. Gurrieri's information. (See Deposition Transcript, Page 176).

17. Mr. Birt knew of the likelihood that he could be the Minor Child's biological father since the birth of the Minor Child, and took no action to investigate this fact until 11 years had passed, long after the statute of repose had run, barring this instant claim.

18. The Court cites J.M. v. C.G., 492 Mass. 459, 460-461 (2023), in the Memorandum when stating "In J.M. the plaintiff brought a complaint pursuant to G.L. c. 209C and a complaint in equity which were consolidated for trial."

19. The Court emphasizes this procedural posture because the Plaintiff's common law claim in this case proceeded, if at all, through equity once the statute of repose under G.L. c. 209C §11 had run. Here, however, Mr. Birt has not filed a separate complaint in equity.

20. Accordingly, it is not appropriate for him to continue to pursue what is, in substance, an equitable parentage claim or to attempt to establish a substantial relationship with the Minor Child under this sole statutory complaint.

21. As the Court stated in the Memorandum, this is an issue of subject matter jurisdiction which can be raised at any time, and thus, Mr. Huckins, states herein that the Court does not have subject matter jurisdiction as no complaint in equity has been filed.

22. Even if the Court were to entertain Mr. Birt's claim under its equitable powers and consider his affidavit, he still has not established a substantial relationship as required by law. He has only recently begun to act in a pseudo-parental role toward the Minor Child in an effort to form such relationship, which falls far short of the substantial and enduring parent-child relationship contemplated by the statute and case law, particularly in light of the legislature's intent to promote finality.

23. Further, the only reason Mr. Birt has recently had the opportunity to cultivate any connection with the Minor Child is because Mother has been withholding the Child from Mr. Huckins and deliberately alienating the Minor Child from him, in an effort to gain leverage in the pending modification proceedings before this Court in Docket No. WO19W1407WD.

24. As the statute of repose has long since run, as he should not have had the opportunity to submit an affidavit in support of a time barred claim, and as the affidavit filed by Mr. Birt fails to demonstrate the substantial relationship that the law requires, Mr. Birt should not be permitted to proceed with this Complaint.

WHEREFORE, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint to Establish Parentage, with prejudice.

Respectfully submitted,
CHRISTOPHER J. HUCKINS,
By his Attorney,

/s/ Michael G. Xavier

Michael G. Xavier, BBO No. 644844
mxavier@princelobel.com
Prince Lobel Tye LLP
One International Place, Suite 3700
Boston, MA 02110
Tel: (617) 456-8000

Dated: May 19, 2026.

CERTIFICATE OF SERVICE/NOTICE OF HEARING

The undersigned hereby certifies that a true copy of the within *Defendant Christopher J. Huckins' Renewed Motion to Dismiss* was this day served upon Plaintiff, Patrick S. Birt, and the Defendant, Ivana G. Gurrieri, via email and first-class mail to:

Patrick S. Birt
1665 Main Street, Apt. A211
Jefferson, MA 01522
patricksbirt@pm.me

Ivana G. Gurrieri
631 Boston Turnpike Rd
Shrewsbury, MA 01545
Ivana_gurrieri@hotmail.com
Ivakri19@yahoo.com

**PLEASE NOTE THAT THE DEFENDANT INTENDS TO PRESENT THE
AFOREMENTIONED MOTION FOR HEARING ON JUNE 1, 2026, AT 8:30 A.M.
BEFORE THE WORCESTER PROBATE AND FAMILY COURT.**

SIGNED under the pains and penalties of perjury.

Dated: May 19, 2026

/s/ Michael G. Xavier

Michael G. Xavier, Esq.

ATTACHMENT 13

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket No. WO25W1359WD

JUDGMENT OF DISMISSAL

Patrick S. Birt, Plaintiff

vs

Ivana G. Gurrieri and Christopher J. Huckins, Defendants

It is ordered and adjudged that the **Complaint to Establish Parentage** filed on **September 2, 2025** be and hereby is DISMISSED without prejudice.

Dated: **July 7, 2026**



Justice of Probate and Family Court
Mark T. Lee

ATTACHMENT 14**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT****WORCESTER SS.****DOCKET NO. WO25W1359WD**PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.**PLAINTIFF’S MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO MASS.
R. DOM. REL. P. 59(e) — LEE, J.**

NOW COMES Plaintiff Patrick S. Birt (“Plaintiff”), self-represented, and respectfully moves pursuant to Mass. R. Dom. Rel. P. 59(e) to alter or amend and vacate the Judgment of Dismissal dated July 7, 2026 and entered on July 14, 2026, and to reconsider the legal and procedural conclusions stated in the July 7, 2026 Memorandum of Decision and Order entered on July 10, 2026.

Plaintiff does not ask the Court through this Motion to adjudicate ultimate parentage, custody, parenting time, or Defendant Huckins’ fitness. Plaintiff requests restoration of the orderly, fact-based, coordinated, and child-centered process established by Judge Keamy’s December 23, 2025 order and expressly reinforced by this Court at the June 1, 2026 hearing.

The present Judgment is not merely an adverse ruling with which Plaintiff disagrees. It is the product of an **extraordinary, deeply troubling, and wholly unannounced procedural reversal**.

On June 1, the Court stated that the case was not ready for an evidentiary hearing, that the matter should defer to the Category E GAL report, that waiting for the GAL was the best course, and that Plaintiff’s request to supplement his pleading was “well taken.” The Court extended the GAL process into September, selected September 30 as the next date, and described future proceedings involving evidence, possible resolution, or trial.

The Court also facially allowed Plaintiff’s Motion to Coordinate, directed the parties toward same-day scheduling and shared GAL and pretrial tracking, and operationally established a coordinated case-management structure. The related custody dockets later recorded the coordination motion as allowed.

Plaintiff left the June 1 hearing reasonably understanding that the parentage action would remain pending while the neutral GAL and coordinated factual process proceeded—not that the action would be dismissed weeks later, before the report, on the ground that Plaintiff had waived the hearing the Court itself had just described as premature.

A Court may modify a proposed procedural sequence. But it cannot fairly announce a concrete GAL-first and coordinated process, induce a self-represented litigant to rely upon it, and then extinguish his action for failing to take the very procedural step the Court stated was premature—without warning, clarification, or an opportunity to respond.

The written disposition did the exact opposite of the course announced in open court. It dismissed before the GAL report, declared the evidentiary process waived, imposed a previously undisclosed September 2, 2025 cutoff, excluded later relationship evidence as “bootstrapping,” and treated approximately six months as legally inadequate without identifying a controlling minimum-duration rule.

The Memorandum did not identify, withdraw, vacate, narrow, or explain the allowed coordination. It did not identify the separate order referenced by the notation “See Order.” It did not explain why the coordinated September process had been abandoned or what became of the parentage-specific GAL investigation.

That reversal is **starkly irreconcilable with the June 1 record, procedurally incoherent, profoundly prejudicial, and manifestly unfair.**

The Memorandum also relied heavily upon displacement of Defendant Huckins as an unavoidable consequence of Plaintiff’s claim. It did so without deciding Plaintiff’s pre-judgment request for amendment or determining whether any properly pleaded, narrower, or alternative relief might be legally available.

The judgment-entry sequence intensified the unfairness. Plaintiff physically presented and served three pleadings on July 9 while the case remained active and no final judgment had entered. Only afterward on were a Memorandum and corrected Judgment bearing earlier July 7 face dates placed on the docket, while Plaintiff’s July 9 pleadings remained absent from the public record.

Plaintiff does not ask the Court to infer an improper motive. He asks the Court to confront the objective result: a later-entered judgment bearing an earlier date now appears to precede pleadings that were physically tendered before judgment became effective. That outcome is **procedurally intolerable and cannot fairly be allowed to erase Plaintiff’s contemporaneously documented presentment.**

In accordance with Probate and Family Court Standing Order 2-99, Plaintiff contemporaneously serves and submits:

1. Plaintiff's Verified Concise Statement of Facts and Law;
2. Plaintiff's supporting Affidavit;
3. a copy of the Judgment of Dismissal dated July 7, 2026 and entered July 14, 2026;
4. a copy of the July 7, 2026 Memorandum of Decision and Order entered July 10, 2026;
5. a request for hearing;
6. a Proposed Order; and
7. a separate Certificate of Service covering the complete filing package.

I. PLAINTIFF'S JULY 9 PRESENTMENT PRECEDED ENTRY OF FINAL JUDGMENT AND MUST BE PRESERVED

1. On July 8, 2026, Plaintiff received by mail an earlier separate document titled "Judgment of Dismissal," signed and dated June 26, 2026.
2. The June 26 document omitted Defendant Huckins from its caption, although Defendant Huckins was a named Defendant and the moving party whose Renewed Motion was being allowed.
3. The June 26 document was never entered on the docket.
4. Plaintiff's attempted protective Notice of Appeal was rejected because no judgment bearing the identified date appeared on the docket.
5. On July 9, Plaintiff appeared personally at the Registry while WO25W1359WD remained publicly listed as active and no separate final judgment had entered.
6. Plaintiff physically presented and tendered the following pleadings for filing:
 - a. an Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;
 - b. a Request for Evidentiary Hearing on the Substantial-Relationship Issue; and
 - c. a Motion for Leave to Amend or Supplement under Rules 15(a) and 15(d).
 Plaintiff did not receive file-stamped copies, a filing receipt, or a written rejection concerning those three pleadings.
7. Registry personnel did not accept Plaintiff's separately prepared post-judgment filings because no final judgment appeared on the docket.
8. At approximately 3:30 p.m. on July 9, Plaintiff served the three tendered pleadings and their proposed orders upon Attorney Xavier, Defendant Gurrieri, and Attorney Xavier's office by email.

9. Plaintiff's service email expressly identified the documents as having been "filed/presented today" and preserved all post-judgment remedies, appellate rights, objections, and positions concerning judgment-entry status.
10. At 6:41 a.m. on July 10, Attorney Xavier responded:
"I am confused by your filings as the case is concluded. Please advise."
11. At 10:49 a.m. on July 10, Plaintiff responded that no dismissal or judgment had appeared on the docket when he was at the Registry and that the Registry had refused post-judgment filings for that reason.
12. On July 10, the docket first reflected that Defendant Huckins' Renewed Motion had been allowed on July 7 and that a Memorandum of Decision and Order bearing a July 7 date had been entered.
13. The Memorandum stated that a separate Judgment of Dismissal "shall issue."
14. As of July 13:
 - a. the case remained listed as active;
 - b. no separate Judgment of Dismissal appeared;
 - c. no final disposition appeared; and
 - d. Plaintiff's July 9 pleadings remained absent from the docket.
15. On July 14, the Registry entered a separate Judgment of Dismissal bearing a July 7 face date and changed the case status to closed.
16. The docket's actual entry column states:
"07/14/2026 Judgment of Dismissal Dated July 7, 2026."
17. Plaintiff's July 9 presentment therefore preceded the actual entry of final judgment.
18. The later-entered Memorandum and Judgment now bear face dates preceding Plaintiff's presentment, while Plaintiff's tendered pleadings remain absent from the docket.
19. Whatever administrative explanation may exist, the resulting chronology is **deeply troubling, objectively prejudicial, and fundamentally inconsistent with the actual sequence of presentment and entry.**
20. An earlier face date on a later-entered document cannot erase, subordinate, or retroactively nullify pleadings physically tendered while the case remained active and no judgment had become effective.

II. THE JUDGMENT SHOULD BE ALTERED OR AMENDED

A. The waiver finding is a manifestly unfair reversal of the Court's direct June 1 instructions

22. Judge Keamy's December 23 order required Plaintiff to file an affidavit alleging specific facts which, if proven, would establish a substantial parent-child relationship and permitted either party to request an evidentiary hearing following a renewed dismissal motion.
23. Plaintiff complied by signing and filing the Court-ordered affidavit on February 17, 2026.
24. During the June 1 hearing, Plaintiff expressly raised Judge Keamy's evidentiary-hearing provision.
25. Plaintiff did not overlook the issue, remain silent, or abandon the request. He brought the precise procedural question directly to the Court's attention.
26. The Court responded that the matter was not ready for an evidentiary hearing and stated: "I think we have to defer to the GAL report."
27. The Court further stated that an evidentiary hearing could appropriately be requested later, at the pretrial stage after the GAL report.
28. When Defendant Huckins continued challenging the existence of Plaintiff's substantial relationship with the child, the Court stated that the GAL could provide factual information concerning that issue and that waiting for completion of the GAL investigation was "the best course of action."
29. The Court also stated that after the September GAL report, the related matters could move forward with evidence, possible resolution, or trial.
30. The Court took the Renewed Motion under advisement, and the docket thereafter continued to identify the June 1 motion events as under advisement.
31. During the June 1 proceeding, the Court also stated that, as of that date, it had not reviewed the facts and circumstances of the Complaint, the supporting affidavit, or the governing statute, and later referred to the affidavit as not yet read.
32. Plaintiff does not contend that the Court failed to review those materials before issuing its written ruling. Those statements nevertheless further confirmed that June 1 was not communicated as the completion of a final merits determination.
33. The Court's statements, the under-advisement status, the extended GAL process, the September 30 date, and the anticipated future evidentiary proceedings were not vague, incidental, or merely aspirational. They announced an integrated GAL-first procedural sequence upon which Plaintiff reasonably relied.
34. Plaintiff does not request special treatment or exemption from procedural rules because he is self-represented.

35. Plaintiff emphasizes his self-represented status because he did exactly what a responsible self-represented litigant should do: he identified the procedural question, raised it directly, requested clarification concerning sequencing, and followed the Court's answer.
36. The later Memorandum nevertheless declared that "the rights of all parties" to request an evidentiary hearing had been waived.
37. That conclusion cannot be reconciled fairly with the Court's direct response to Plaintiff on June 1.
38. Plaintiff was affirmatively told that the hearing was premature and should follow the GAL process, and was then penalized for not demanding the hearing before the GAL process was complete.
39. This was not an ordinary misunderstanding. It was a **manifestly unfair procedural trap created by the direct conflict between the Court's oral instruction and its later written waiver finding.**
40. No fair reading of the June 1 hearing placed Plaintiff on notice that dismissal would issue before the GAL report or that compliance with the Court's stated sequence would later be treated as forfeiture.
41. Fundamental fairness requires that the waiver finding be vacated.

B. The written decision crossed the Rule 12 boundary the Court imposed upon Defendant Huckins

42. Defendant Huckins brought the Renewed Motion under Rule 12.
43. When Defendant Huckins' counsel attempted on June 1 to rely upon deposition testimony, text messages, disputed financial evidence, alleged emotional harm, and cross-docket allegations, the Court restricted counsel to the pleadings.
44. The Court stated:
"If you want to go outside of that box, we're at a summary judgment motion."
45. Plaintiff's Court-ordered affidavit alleged recurring parenting time, extended periods of full-time care, daily parental routines, transportation, home and family integration, school involvement, extracurricular participation, financial contributions, regular communication, and emotional attachment.
46. The Memorandum acknowledged weekly contact, full-time caregiving, extended-family integration, school and extracurricular involvement, and an emotional bond.
47. It did not identify an essential category of parental conduct entirely absent from Plaintiff's allegations.

48. Instead, the Memorandum declared duration the “most noteworthy” factor, compared approximately six months against Defendant Huckins’ eleven-year legal status, minimized Plaintiff’s alleged relationship, and reached the ultimate conclusion that the relationship could not qualify.
49. That was not merely a determination of pleading sufficiency. It was **merits-level factual weighing and comparative evaluation without testimony, cross-examination, credibility findings, or completion of the Court-ordered neutral investigation.**
50. Rule 12 requires well-pleaded facts and reasonable inferences to be viewed in Plaintiff’s favor. *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008). The substantial-relationship inquiry is fact-based and considers the relationship as a whole. *C.C. v. A.B.*, 406 Mass. 679, 689–691 (1990); *J.M. v. C.G.*, 492 Mass. 459, 465–468 (2023).
51. The substantial-relationship determination reviewed in *J.M. v. C.G.* was reached only after a **two-day evidentiary hearing and resulting factual findings**. It was not decided by weighing competing parental relationships on a Rule 12 record.
52. Here, by contrast, the Court reached a dispositive qualitative conclusion without testimony, cross-examination, credibility findings, completion of the Category E GAL investigation, or the preliminary evidentiary process contemplated by Judge Keamy.
53. The procedure followed in *J.M.* is especially significant because the clear-and-convincing burden governs the claimant’s ultimate proof. It does not transform the Rule 12 pleading stage into a substitute trial or authorize the Court to resolve the weight and comparative significance of disputed relationship evidence without an evidentiary record.
54. Requiring Plaintiff to prove the ultimate clear-and-convincing case through a paper affidavit, after stating that factual development should await the GAL, was **internally inconsistent, procedurally untenable, and manifestly unfair.**

C. The Memorandum imposed an unsupported complaint-date cutoff and an impossible procedural double bind

55. The Memorandum held that Plaintiff had to possess a sufficient substantial relationship “at the inception of this parentage action,” excluded all later facts, and characterized reliance upon them as “bootstrapping.”
56. Neither G.L. c. 209C, § 11, Judge Keamy’s order, nor the authorities cited in the Memorandum expressly establishes:
 - a. September 2 as a rigid evidentiary cutoff;
 - b. approximately six months as categorically insufficient;

- c. any objective minimum relationship duration; or
- d. that later evidence may never confirm the continuity, quality, and genuine parental character of a relationship already underway before filing.

57. September 2 was not a relationship-maturation date deliberately chosen by Plaintiff.
58. Plaintiff attempted to file a parentage complaint earlier, was directed to proceed in equity, attempted an equity complaint, was directed back to parentage, and ultimately obtained acceptance after seeking courthouse legal-services assistance.
59. The September 2 cutoff first appeared in the written dismissal. Plaintiff had no prior notice that the date on which the Registry finally accepted his pleading would become an outcome-determinative substantive barrier.
60. The resulting rule creates an **impossible, circular, and fundamentally unfair procedural double bind**:
 - a. waiting longer could support allegations of delay, informal interference, and failure to seek Court supervision;
 - b. filing promptly makes the relationship too short; and
 - c. continuing the relationship after filing produces evidence excluded as “bootstrapping.”
61. The Memorandum supplies no principled answer to the unavoidable question:
If approximately six months was legally insufficient, **what period was required—seven months, ten months, one year, or two years?**
62. No statute, order, or cited authority provided Plaintiff with an objective standard telling him when his relationship had existed long enough to permit filing.
63. The absence of a reported appellate decision involving the identical age of the child and identical number of months of contact is not affirmative authority that Plaintiff’s allegations were legally impossible.
64. Even if the Court concludes that a qualifying relationship had to exist at commencement, later facts remain relevant at minimum as corroborative evidence of continuity, quality, permanence, and genuine parental character.
65. The categorical exclusion of all later evidence was unnecessarily absolute and converted an evolving parent-child relationship into a permanently frozen six-month snapshot.

D. The duration comparison ignored Defendant Gurrieri’s opposing litigation position, the sworn concealment record, and the process ordered to investigate the child’s present circumstances

66. Defendant Gurrieri did not join Defendant Huckins’ Renewed Motion to Dismiss.

67. Defendant Gurrieri's filed Answer requests that Defendant Gurrieri and Plaintiff be adjudicated the child's legal parents.
68. That divergent position does not, standing alone, bar consideration of Defendant Huckins' motion, but it confirms that the named Defendants were not presenting a unified factual or legal position supporting dismissal.
69. Defendant Gurrieri also filed an affidavit under the penalties of perjury stating that she and Defendant Huckins knew Plaintiff was the biological father, identified Defendant Huckins as the father, told Plaintiff that he was not the biological father, and thereby prevented Plaintiff from making an informed decision concerning parentage.
70. Those remain sworn allegations and party positions, not adjudicated findings. Plaintiff does not invoke them to toll or disregard the statute of repose.
71. During the June 1 hearing, Defendant Gurrieri expressly rejected the position that Plaintiff was at fault for the eleven-year absence. She stated that Plaintiff "was not given the opportunity to choose," that he had been "denied the opportunity," and: "It's our fault. For not telling the truth."
72. Attorney Xavier did not contemporaneously object to Defendant Gurrieri making that statement.
73. When later invited to respond, Attorney Xavier stated that Defendant Huckins disputed many of the facts and argued that fraud did not toll or defeat the statute of repose.
74. Defendant Gurrieri's statement was therefore not an admission by Defendant Huckins, but it unmistakably demonstrated a **material factual dispute that could not fairly be resolved by blaming Plaintiff for an absence one named Defendant swore the Defendants themselves created.**
75. The concealment evidence is directly relevant to whether Plaintiff knowingly abandoned an available parental opportunity, why no earlier relationship formed, and whether the contrasting relationship durations can fairly be weighed without examining how those durations came about.
76. *C.C. v. A.B.* expressly left unresolved what rights a putative parent might possess where the mother's conduct prevented formation of a substantial relationship. 406 Mass. at 690 n.10.
77. Judge Keamy identified that same unresolved issue in her December 23 order. That open question weighs heavily against treating the shortened duration as categorically fatal without factual development.

78. The same alleged concealment that gave Defendant Huckins the exclusive opportunity to develop an eleven-year legal-parent relationship deprived Plaintiff of the opportunity to develop one during the same period.
79. The Memorandum nevertheless credited Defendant Huckins with the resulting eleven years, penalized Plaintiff for the corresponding absence, and excluded Plaintiff's continuing relationship evidence.
80. That analysis is **circular, materially incomplete, self-reinforcing, and manifestly inequitable**.
81. Before Defendant Huckins filed the Renewed Motion, the Court appointed a complete Category E GAL in WO25W1359WD to investigate attachment, significant relationships, the circumstances of the child's introduction to Plaintiff, and the impact of continued contact.
82. On June 1, the Court stated that the investigation should be global, should "cover all bases," and should precede further evidentiary proceedings.
83. The resulting prejudice is not limited to Plaintiff. The child is twelve years old and is the person whose identity, attachments, stability, and existing relationships are directly affected.
84. The child's wishes do not control parentage, and Plaintiff does not seek to make him testify or bear responsibility for the legal outcome. Plaintiff seeks restoration of the neutral process selected to evaluate his interests without placing him directly between the adults.
85. Although the Judgment states that dismissal is without prejudice, the Memorandum permanently fixes the relationship inquiry at September 2, 2025, declares approximately six months insufficient, and excludes every later fact as irrelevant "bootstrapping."
86. No future filing can make the relationship longer as of September 2. The dismissal therefore operates as an **effectively permanent and practically preclusive barrier**, making the "without prejudice" label largely illusory.
87. Taken together, Defendant Gurrieri's contrary litigation position, her sworn affidavit, her June 1 statement, Defendant Huckins' factual dispute, the unsettled legal issue identified in *C.C.*, and the unfinished GAL investigation required factual development.
88. Those matters could not fairly be collapsed into a paper conclusion that Plaintiff's absence was blameworthy, his duration necessarily insufficient, and his continuing relationship legally irrelevant.

E. The Court allowed and operationally implemented coordination, then dismissed without identifying, withdrawing, or explaining that process

89. Plaintiff previously filed a Motion to Coordinate Parentage Proceedings with Existing Custody Proceedings and Request for ARC Counsel Participation.
90. The Motion expressly sought coordination rather than wholesale merger of the separate dockets.
91. The requested coordination addressed overlapping scheduling, GAL, relationship, child-impact, DCF, therapeutic, and cross-docket issues concerning the same child.
92. Among the requested safeguards was that no dispositive ruling in the parentage action issue until ARC counsel had been heard.
93. The source copy of the Motion bears the Court’s signature, the notation “ALLOWED,” an apparent June 1, 2026 date, and the direction: “See Order.”
94. Because the endorsement directs “See Order,” Plaintiff does not contend that every item of requested relief was necessarily granted exactly as drafted.
95. The referenced separate order has not appeared in WO25W1359WD, WO19W1406WD, or WO19W1407WD.
96. The absence of that order prevents Plaintiff from determining:
 - a. the precise scope of the coordination allowed;
 - b. whether the requested ARC-counsel safeguard was granted, narrowed, or rejected;
 - c. whether the coordination was limited to scheduling and GAL administration;
 - d. whether cross-docket notice safeguards were imposed; and
 - e. whether the coordination was later modified or terminated.
97. The June 1 hearing independently establishes that coordination was operationally implemented.
98. The Court asked whether the matters should be scheduled on the same days and whether, when one case was scheduled, Plaintiff’s case should also be scheduled.
99. Attorney Xavier agreed generally that the cases should be tracked together for pretrial and GAL-investigation purposes, while maintaining appropriate confidentiality limits concerning custody-docket matters.
100. The Court also discussed a September return date and a future evidentiary process after completion of the GAL report.
101. The related custody dockets later recorded the Motion to Coordinate as allowed on June 11, 2026, with the allowance entered on July 10, 2026.

102. The source endorsement, however, appears dated June 1, while the custody dockets identify a different allowance date. No separate order explains that discrepancy.
103. WO25W1359WD did not record an allowance or denial of the coordination motion before the Judgment was entered.
104. The July 7 dismissal Memorandum does not mention the facial allowance, the shared GAL and pretrial tracking, the missing “See Order” order, or the later custody-docket entries.
105. The Memorandum does not state that coordination was vacated, narrowed, superseded, or rendered moot.
106. It does not explain why the coordinated September process no longer applied or what became of the parentage-specific GAL investigation.
107. Plaintiff does not contend that coordination legally immunized WO25W1359WD from every later dispositive motion.
108. Plaintiff contends that the Court could not fairly establish and implement a coordinated factual process, communicate that the matters would return after the GAL report, induce reliance upon that structure, and then terminate the parentage docket without notice or any explanation of what became of the process it had just allowed.
109. That unexplained sequence was **procedurally incoherent, deeply disturbing, materially prejudicial, and another stark example of the difference between the process announced on June 1 and the process ultimately imposed in writing.**

III. AMENDMENT WAS AN EXPRESSLY ACKNOWLEDGED BUT UNDECIDED LESS-DRASTIC REMEDY

110. Plaintiff’s Opposition requested leave to amend, clarify, or supplement if a more express common-law or equity pleading was required.
111. Plaintiff explained that he attempted both procedural vehicles and followed conflicting Registry directions.
112. On June 1, the Court stated:
“Your point is well taken on leave to file whatever supplemental pleadings you want.”
113. The July 7 Memorandum did not decide that request, find amendment futile, or explain why the less drastic Rule 15 remedy was unavailable.
114. Mass. R. Dom. Rel. P. 15 directs that leave to amend be freely given when justice requires and permits supplemental pleading upon just terms even when the original pleading is defective in stating a claim.

115. Plaintiff does not ask the Court through this Rule 59 Motion to adjudicate a new claim under G.L. c. 209C, § 26, to determine that § 26 overrides the VAP statute of repose, or to adjudicate Plaintiff immediately as an additional legal parent.
116. Plaintiff identifies § 26(c) only as limited statutory context relevant to whether amendment was necessarily futile. Section 26(c) permits a court, in an appropriate parentage proceeding, to adjudicate a child as having more than two parents when that result is in the child's best interest.
117. The existence of that potential statutory framework does not establish that Plaintiff is entitled to relief under § 26, does not eliminate any threshold Plaintiff must satisfy, and does not decide the interaction among § 11, § 26, and the common-law substantial-relationship pathway.
118. It does demonstrate that displacement of Defendant Huckins may not be the only conceivable remedial structure if Plaintiff is permitted to amend and can establish a legally sufficient claim. Whether any such alternative is actually available should be determined through an amended pleading and focused adversarial briefing—not summarily foreclosed through the dismissal of the entire action.
119. Ending the action while leaving the expressly acknowledged amendment request unresolved was **unnecessarily harsh, procedurally unfair, and an elevation of form over substance.**

WHEREFORE

Plaintiff respectfully requests that this Honorable Court:

- A. ALLOW this Motion;
- B. ALTER OR AMEND AND VACATE the Judgment of Dismissal dated July 7, 2026 and entered July 14, 2026;
- C. RECONSIDER AND REVISE the legal and procedural conclusions stated in the July 7, 2026 Memorandum of Decision and Order;
- D. VACATE the finding that Plaintiff and the other parties waived the right to request an evidentiary hearing;
- E. WITHDRAW OR RECONSIDER the September 2, 2025 cutoff and the conclusion that all postfiling relationship evidence is irrelevant or constitutes improper “bootstrapping”;
- F. CLARIFY that later relationship evidence may be considered at minimum as corroborative evidence of the continuity, quality, permanence, and parental nature of the relationship alleged to exist when the action commenced;

G. RESTORE WO25W1359WD to active substantive status;

H. DENY Defendant Huckins' Renewed Motion to Dismiss or, alternatively, defer final determination pending:

1. completion or clarification of the coordinated Category E GAL process;
2. adjudication of Plaintiff's Motion for Leave to Amend or Supplement;
3. any focused supplemental briefing the Court determines appropriate; and
4. an appropriate preliminary evidentiary proceeding;

I. ALLOW Plaintiff to amend or supplement his Complaint to plead expressly:

1. his primary common-law and equitable substantial-relationship claim; and
2. any alternative relief the Court determines may lawfully be pleaded after focused briefing, including, if legally available, a non-displacing parentage remedy under G.L. c. 209C, § 26(c), without adjudicating the merits of that alternative through this Motion;

J. Alternatively, VACATE the Judgment for the limited purpose of adjudicating Plaintiff's pre-judgment request for leave to amend or supplement and determining, after focused briefing, whether the proposed amendment would be legally available or futile;

K. PRESERVE July 9, 2026 as the date on which Plaintiff physically tendered or presented his Administrative Motion for Clarification, Request for Evidentiary Hearing, and Motion for Leave to Amend or Supplement;

L. DIRECT the Registry to docket those pleadings with an appropriate notation reflecting their July 9 tender or presentment, or, alternatively, permit Plaintiff to refile them without prejudice to his position concerning the July 9 presentment date;

M. CLARIFY that the July 7 face date on the later-entered Judgment does not retroactively precede or nullify Plaintiff's July 9 presentment;

N. CLARIFY that the operative Judgment was entered under Rule 79 on July 14, 2026;

O. CLARIFY whether the unentered June 26 Judgment was withdrawn, superseded, corrected, or replaced by the July 7 Judgment;

P. IDENTIFY AND ENTER the separate coordination order referenced by "See Order," or confirm that no separate order issued;

Q. CLARIFY:

1. the scope and effective date of the allowed Motion to Coordinate;
2. whether coordination was limited to scheduling, pretrial tracking, GAL administration, or other specified matters;
3. whether the requested ARC-counsel safeguard was granted, narrowed, or rejected;

4. whether the coordination ruling was later vacated, narrowed, superseded, or rendered moot; and
5. why the coordinated September process was terminated before the GAL report;

R. Upon restoration of WO25W1359WD, RESTORE appropriate limited coordination for GAL administration, scheduling, pretrial management, notice, and orderly use of cross-docket materials, while preserving the separate identity, party status, confidentiality, and procedural requirements of each docket;

S. RESTORE OR CLARIFY the parentage-specific scope of the Category E GAL appointment;

T. DETERMINE that this Motion is timely; and

U. Grant such other and further relief as justice requires.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is fluid and cursive, with the first name "Patrick" being the most prominent part.

Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: July 17, 2026

**COPIES OF CHALLENGED JUDGMENT AND
ORDER
SUBMITTED PURSUANT TO PROBATE AND
FAMILY COURT STANDING ORDER 2-99**

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket No. WO25W1359WD

JUDGMENT OF DISMISSAL

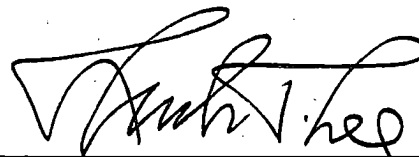
Patrick S. Birt, Plaintiff

vs

Ivana G. Gurrieri and Christopher J. Huckins, Defendants

It is ordered and adjudged that the **Complaint to Establish Parentage**
filed on **September 2, 2025** be and hereby is DISMISSED without prejudice.

Dated: July 7, 2026



**Justice of Probate and Family Court
Mark T. Lee**

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket Number WO25W1359WD

Cross Reference WO19W1407WD

**Patrick S. Birt
Plaintiff**

v.

**Ivana G. Gurrieri, and
Christopher J. Huckins
Defendants**

Memorandum of Decision and Order

On Christopher J. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026

The Court, Lee, J., held a non-evidentiary hearing on the above-captioned motion on June 1, 2026. The Plaintiff, Patrick S. Birt ("Birt"), appeared and was self-represented. The Defendant, Ivana G. Gurreri ("Gurreri"), appeared and was self-represented. The Defendant, Christopher J. Huckins ("Huckins"), appeared and was represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

A. Background

This memorandum of decision relates back to the Memorandum of Decision and Order issued by the Court (Keamy, J.) on December 23, 2025 ("December 2025 Order"). Said December 2025 Order is incorporated by reference herein. Briefly, this action concerns one minor child: Giovanni C. Huckins ("Giovanni"), date of birth March 4, 2014, currently age twelve. Gurrieri is the biological and legal mother of Giovanni. Huckins is Giovanni's legal father pursuant to a voluntary acknowledgement of parentage ("VAP") he executed shortly after Giovanni was born. Birt has no legal relationship with Giovanni. He avers to be Giovanni's biological father.

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Huckins filed a motion to dismiss on October 1, 2025. In the December 2025 Order, the Court found that Birt is required to make a demonstration that he has a preexisting substantial relationship with Giovanni as a threshold requirement to proceeding with his claim in the instant action. The Court found that the record at that time was insufficient for the Court to determine whether Birt had the requisite substantial relationship with Giovanni to allow his claim to proceed.

It ordered Birt to file an affidavit alleging specific facts which, if proven, will establish a substantial relationship between himself and Giovanni within the meaning of applicable case law. The December 2025 Order further provided that, after filing of Birt's Affidavit, Huckins was permitted to file and mark for hearing a renewed motion to dismiss. Further, the December 2025 Order provided that, if a renewed motion to dismiss was filed, either party was permitted to file a separate request for evidentiary hearing and the Court would consider the request.

Birt filed his Affidavit on February 12, 2026 ("Birt's Affidavit"). Huckins filed his renewed motion to dismiss on May 19, 2026. Neither party requested an evidentiary hearing in compliance with the December 2025 Order. Accordingly, the rights of all parties to seek an evidentiary hearing on this issue are waived. The Court held a non-evidentiary hearing on the renewed motion to dismiss on June 1, 2026, as described above.

B. Legal Analysis

Viewing the record in the light most favorable to Birt, the issue for the Court on the above-captioned motion is whether Birt has alleged facts, which if proven true, would entitle him to the relief he seeks. Namely, Birt seeks that he and Gurrieri be adjudicated Giovanni's parents, Giovanni's birth certificate be amended to reflect the same, Giovanni's last name be changed to Birt, and for the Court to make further orders related to custody and parenting time. As detailed in the December 2025 Order, Birt's claims are precluded by the applicable statute of repose.

Birt may only pursue his claims, notwithstanding the statute of repose, if he can establish a preexisting substantial relationship within the meaning of the case law. See A.D. v. K.S., 495 Mass. 722, 734 (2025). "Where a child's parentage already has been established legally, the substantial relationship test is a necessary balancing test accounting for the fact that a new parentage suit disrupts a family and a child's life and potentially will result in the displacement of one legal parent with another person." J.M. v. C.G., 492 Mass. 459, 465 (2023).

The Court looks to the specific facts alleged in Birt's Affidavit. It is important to note that the case law requires that a plaintiff have a preexisting substantial relationship with the subject child of an action. The one-year ultimate time limit for challenging a VAP is intended to provide stability and permanency related to nonmarital children. There is a compelling public interest in

the finality of parentage judgments, and without the time limit parentage established by VAPs would be open to challenges indefinitely, frustrating the relevant interests in finality of parentage judgments. See J.M., 492 Mass. at 463–64.

Regardless of the outcome of parentage cases brought after the time limit, the very litigation process itself may place great strain on an established family. See id. at 464. Birt must establish he had a sufficient preexisting substantial relationship at the inception of this parentage action. He cannot use his parentage action as a vehicle to establish a substantial relationship or bootstrap his specific factual allegations of a substantial relationship with alleged facts after the commencement of his parentage action.

Birt filed his parentage action on September 2, 2025. Birt's Affidavit avers various facts which occurred after he filed his parentage action. These are not relevant to the Court's analysis of whether Birt had a substantial relationship with Giovanni that would allow him to pursue his parentage action. The length of time that Birt alleges he had any relationship whatsoever is the most noteworthy thing in Birt's Affidavit. Birt avers that he had his first "direct contact" with Giovanni in March 2025, when Giovanni was eleven years old. Birt had only had contact with Giovanni for approximately six months when he filed his parentage action.

Birt's Affidavit further avers that he has weekly contact with Giovanni and describes activities in which he engages with Giovanni. He avers that he had full-time care of Giovanni from August 7, 2025 through August 12, 2025, while Gurrieri was recovering from surgery. Birt also describes that Giovanni has met members of Birt's extended family, Birt has had some involvement with Giovanni's school and extracurricular activities, that Giovanni and Birt have an emotional bond, and other things.

The standard of law to find a sufficient preexisting substantial relationship within the meaning of the case law is exacting. This is especially true where Huckins had been established as Giovanni's legal father through the first eleven years of his life. Duration of the alleged relationship between Birt and Giovanni is an essential consideration in the Court's analysis. Birt has not cited to any case law, and the Court is not aware of any case law, where such a short relationship with a child eleven years old has been found to be a substantial relationship within the meaning of the case law.

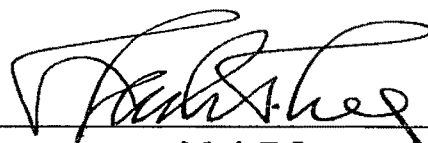
While Birt's Affidavit has described what might be a positive and caring relationship, it fails to allege facts which, if proven true, could plausibly lead the Court to find a sufficient parent-child substantial relationship within the meaning of the case law to allow him to continue with this litigation. The Court finds that Birt has not alleged sufficient facts to plausibly suggest that he is entitled to the relief he seeks. Accordingly, Birt has not stated a claim upon which relief can be granted. An order shall issue allowing Huckins' renewed motion to dismiss.

C. Order

1. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026, is allowed.
2. Judgment of Dismissal shall issue dismissing Birt's Complaint to Establish Parentage, filed on September 2, 2025.

Date:

July 7, 2026

A handwritten signature in black ink, appearing to read "Mark T. Lee", written over a horizontal line.

Mark T. Lee

Justice of the Probate and Family Court

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF’S VERIFIED CONCISE STATEMENT OF FACTS AND LAW IN
SUPPORT OF MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO
MASS. R. DOM. REL. P. 59(e)**

Plaintiff Patrick S. Birt (“Plaintiff”), self-represented, submits this Verified Concise Statement pursuant to Probate and Family Court Standing Order 2-99 in support of his timely Motion under Mass. R. Dom. Rel. P. 59(e).

I. PRELIMINARY STATEMENT

Plaintiff does not ask the Court through Rule 59 to adjudicate ultimate parentage, custody, parenting time, or Defendant Huckins’ fitness. He asks the Court to vacate a dismissal produced by an **extraordinary, deeply troubling, and wholly unannounced departure** from the procedure communicated and implemented on June 1, 2026.

On June 1, the Court stated that an evidentiary hearing was premature, that the matter should “defer to the GAL report,” that waiting for the Category E GAL was “the best course of action,” and that Plaintiff’s supplementation point was “well taken.” The Court extended the GAL process into September and implemented coordinated GAL, pretrial, and scheduling procedures.

The written ruling did the opposite. It dismissed before the GAL report, declared the hearing opportunity waived, imposed a previously undisclosed September 2, 2025 cutoff, excluded later relationship evidence as “bootstrapping,” and treated approximately six months as legally insufficient without identifying a controlling minimum-duration rule. The reversal was **profoundly prejudicial and manifestly unfair**.

II. THE JULY 9 PRESENTMENT PRECEDED ENTRY OF FINAL JUDGMENT

On July 8, Plaintiff received an earlier Judgment dated June 26 that omitted Defendant Huckins and was never entered. His attempted Notice of Appeal was rejected because no entered judgment bearing that date appeared.

On July 9, while the case remained active, Plaintiff personally tendered an Administrative Motion for Clarification, Request for Evidentiary Hearing, and Motion for Leave to Amend or Supplement. He did not receive file-stamped copies, a receipt, or written rejection. He served copies electronically that afternoon and contemporaneously described them as “filed/presented today.”

On July 10, the docket first reflected entry of a Memorandum bearing a July 7 date. The case remained active through July 13. On July 14, the Registry entered a corrected Judgment bearing a July 7 face date and closed the case. Plaintiff’s July 9 pleadings remain absent.

A later-entered judgment cannot fairly erase pleadings physically tendered before judgment became effective. Plaintiff requests preservation of July 9 as the date of presentment or, alternatively, permission to refile without prejudice to that position.

III. THE WAIVER FINDING CONTRADICTED THE COURT’S DIRECT INSTRUCTIONS

Judge Keamy’s December 23, 2025 order required Plaintiff to file an affidavit alleging facts which, if proven, would establish a substantial relationship and permitted a request for an evidentiary hearing following a renewed dismissal motion. Plaintiff complied.

At the June 1 hearing, Plaintiff expressly raised that provision. The Court responded that the matter was not ready, should defer to the GAL, and could return to an evidentiary hearing at the later pretrial stage. When Defendant Huckins continued challenging the relationship, the Court stated that the GAL could provide factual information and that waiting for the GAL was the best course.

Plaintiff did not remain silent or abandon the issue. He asked the precise procedural question and followed the Court’s answer. A Court may change a proposed sequence, but it cannot fairly direct a self-represented litigant to defer a hearing and then extinguish the case because he did not demand the deferred hearing sooner. The later waiver finding created a **manifestly unfair procedural trap** and should be vacated.

IV. THE MEMORANDUM WEIGHED A FACT-BASED THRESHOLD UNDER RULE 12

Plaintiff’s affidavit alleged recurring parenting time, extended full-time care, daily routines, transportation, family integration, school involvement, financial contributions, regular communication, and emotional attachment. The Memorandum acknowledged weekly contact, full-time caregiving, family integration, school and activity involvement, and an emotional bond. It identified no essential parental category absent from the allegations.

Instead, it declared duration the “most noteworthy” consideration, compared approximately six months against Defendant Huckins’ eleven-year legal status, minimized the alleged relationship, and reached an ultimate qualitative conclusion without testimony, credibility findings, or the GAL report.

On June 1, the Court restricted Defendant Huckins from using deposition testimony and disputed evidence within a Rule 12 motion, explaining that going outside the pleadings would enter summary-judgment territory. The written ruling crossed that boundary. Rule 12 requires well-pleaded facts and reasonable inferences to be viewed in Plaintiff’s favor. *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008).

The substantial-relationship inquiry is fact-based. *C.C. v. A.B.*, 406 Mass. 679, 689–691 (1990); *J.M. v. C.G.*, 492 Mass. 459, 465–468 (2023). *J.M.* reached its determination only after a two-day evidentiary hearing and factual findings. Its ultimate burden does not transform Rule 12 into a substitute trial.

V. THE FILING-DATE CUTOFF CREATED AN UNSUPPORTED AND EFFECTIVELY PERMANENT BAR

The Memorandum required a sufficient relationship “at the inception” of the action, excluded later facts, and labeled them “bootstrapping.” Neither G.L. c. 209C, § 11, Judge Keamy’s order, nor the cited decisions expressly establishes September 2 as an absolute evidentiary freeze, approximately six months as categorically insufficient, or any objective minimum duration. September 2 was the date the Registry finally accepted Plaintiff’s pleading—not a relationship-maturation date. Plaintiff first attempted a parentage complaint, was directed to equity, attempted an equity complaint, was directed back to parentage, obtained legal-services assistance, and then secured acceptance.

The ruling creates an **impossible double bind**: waiting invites allegations of delay or informal interference; filing promptly makes the relationship too short; and continuing it after filing produces “bootstrapping.” If six months was insufficient, no authority identified what duration was required.

At minimum, later facts may corroborate the continuity, quality, permanence, and parental nature of the relationship alleged at filing. The “without prejudice” label does not cure the defect because no future filing can make the relationship longer as of September 2. The reasoning therefore functions as an **effectively permanent barrier**.

VI. THE DURATION ANALYSIS OMITTED THE DISPUTED CAUSE OF THE DISPARITY

Defendant Gurrieri did not join Defendant Huckins’ Renewed Motion. Her Answer requests adjudication of Defendant Gurrieri and Plaintiff as the child’s legal parents. She also swore that she and Defendant Huckins knew Plaintiff was the biological father, identified Defendant Huckins as father, and told Plaintiff he was not the biological father. These remain sworn allegations and party positions, not findings, and Plaintiff does not rely upon them to toll § 11.

They dispute abandonment and explain why no earlier relationship formed. On June 1, Defendant Gurrieri stated that Plaintiff “was not given the opportunity to choose,” was “denied the opportunity,” and: “It’s our fault. For not telling the truth.”

Defendant Huckins disputes the factual and legal consequences. That dispute required factual development rather than treating Plaintiff’s absence as indifference.

C.C. left unresolved what rights a putative parent may have where the mother’s conduct prevented formation of a substantial relationship. 406 Mass. at 690 n.10. Judge Keamy identified that same open issue. Crediting Defendant Huckins with the duration allegedly produced by concealment while penalizing Plaintiff for the corresponding absence was **circular, incomplete, and manifestly inequitable**.

VII. THE COURT ALLOWED COORDINATION AND A GAL-FIRST PROCESS, THEN DISMISSED WITHOUT EXPLANATION

A copy of the Motion to Coordinate in Plaintiff’s possession bears the Court’s signature, “ALLOWED,” an apparent June 1 date, and “See Order.” No separate order has appeared, so Plaintiff does not claim every requested provision was granted. The June 1 hearing nevertheless implemented shared GAL, pretrial, and scheduling procedures, and the custody dockets later recorded the motion as allowed.

The dismissal did not identify, withdraw, narrow, or explain the coordination. It did not locate the referenced order, explain why the coordinated September process no longer applied, or address what became of the parentage-specific GAL appointment.

Coordination did not immunize this case from a dispositive motion. But the Court could not fairly implement a coordinated factual process, communicate that the cases would return after the GAL report, induce reliance upon that structure, and then terminate WO25W1359WD without notice or explanation. That sequence was **procedurally incoherent and materially prejudicial**.

VIII. THE COURT BYPASSED AN EXPRESSLY ACKNOWLEDGED AMENDMENT REQUEST

Plaintiff’s Opposition requested leave to amend, clarify, or supplement if a more express common-law or equity pleading was required. On June 1, the Court called supplementation “well taken.” The Memorandum did not decide amendment or find it futile. Rule 15 directs that leave be freely given when justice requires.

Plaintiff does not seek adjudication of a new claim under G.L. c. 209C, § 26 through Rule 59 and does not contend that § 26 overrides § 11 or eliminates any required threshold. Section 26(c) is identified only as limited statutory context relevant to whether amendment was necessarily futile and whether displacement of Defendant Huckins was the only conceivable remedial structure.

Whether any alternative relief is legally available should be determined through an amended pleading and focused adversarial briefing—not foreclosed by dismissing the entire action without deciding the pending amendment request. Ending the action while leaving that less-drastic remedy unresolved was **unnecessarily harsh and an elevation of form over substance**.

IX. CONCLUSION

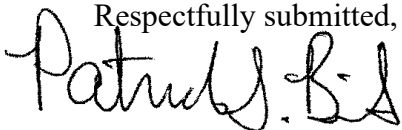
Plaintiff respectfully requests that the Court vacate the Judgment and waiver finding; restore WO25W1359WD; preserve the July 9 presentment; reconsider the September 2 cutoff and categorical “bootstrapping” ruling; deny or defer Defendant Huckins’ Renewed Motion; clarify the allowed coordination and missing “See Order” order; decide Plaintiff’s pre-judgment request for amendment; restore or clarify the parentage-specific GAL process; and conduct any appropriate preliminary factual proceeding.

VERIFICATION

I, Patrick S. Birt, certify under the penalties of perjury that the factual statements in this Verified Concise Statement that concern my actions, filings, receipt of documents, and understanding of the June 16, 2026 proceeding are true and accurate to the best of my personal knowledge, and that the remaining procedural statements accurately reflect the cited Court record.

Signed under the penalties of perjury.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: July 17, 2026

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**AFFIDAVIT OF PATRICK S. BIRT REGARDING PROCEDURAL RELIANCE,
HEARING RECORD, RECEIPT OF JUDGMENT, FILING ATTEMPTS, SERVICE,
AND DOCKET CHRONOLOGY**

I, Patrick S. Birt, certify under the penalties of perjury as follows:

I. IDENTITY AND BASIS OF KNOWLEDGE

1. I am the Plaintiff in WO25W1359WD.
2. I reside at 1665 Main Street, Apartment A211, Jefferson, Massachusetts 01522.
3. I am over the age of eighteen and competent to make this Affidavit.
4. I submit this Affidavit in support of my Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e).
5. Unless otherwise stated, the facts contained in this Affidavit are based upon my personal knowledge.
6. I was personally present at the June 1, 2026 hearing and personally heard the statements described below.
7. I subsequently obtained and reviewed a copy of the Court's electronic audio recording of the June 1 proceeding.
8. I also reviewed an unofficial working transcription prepared from that recording.
9. The working transcription has not been certified by a court-approved transcription service, and I do not represent it as an official or certified transcript.
10. The direct quotations attributed below to the Court, Defendant Gurrieri, Attorney Xavier, or me were reviewed against the Court's electronic audio recording.

11. Statements concerning my understanding and reliance describe what I personally understood from the proceeding and how that understanding affected my subsequent actions.
12. When I describe docket events, I rely upon docket records that I personally reviewed and retained.
13. I retain copies of the relevant pleadings, email correspondence, eFile rejection information, mailed dismissal packet, mailing envelope, Court audio recording, working transcription, endorsed Motion to Coordinate, and docket records described below.
14. I do not ask the Court through this Affidavit to adjudicate ultimate parentage, custody, parenting time, Defendant Huckins' fitness, or any disputed custody-docket allegation.
15. I submit this Affidavit to document the procedural sequence, my reliance upon the Court's June 1 statements and actions, my July 9 presentment, and the later judgment-entry chronology.

II. FILING HISTORY AND JUDGE KEAMY'S PROCEDURAL FRAMEWORK

16. In approximately March 2025, I learned and confirmed that I was the child's biological father.
17. After learning that information, I began developing a direct relationship with the child.
18. I sought to place the parentage issue before the Probate and Family Court rather than allow the relationship and legal uncertainty to continue indefinitely without Court supervision.
19. On or about May 19, 2025, I attempted to file a Complaint to Establish Parentage using the Court's parentage form.
20. Registry personnel did not accept that filing and directed me to proceed through a complaint in equity.
21. I followed that direction and prepared a verified complaint in equity.
22. On or about July 28, 2025, I presented the equity complaint for filing.
23. That filing was returned to me with handwritten direction stating, in substance, that the matter should proceed as a complaint to establish parentage because a remedy at law existed.
24. I then obtained assistance through courthouse legal-services resources.
25. The present Complaint to Establish Parentage was accepted by the Registry on September 2, 2025.
26. September 2 was the date on which the Registry ultimately accepted the procedural vehicle I had been directed to use.

27. September 2 was not a date I selected because I believed the relationship had reached any particular legally required duration.
28. On December 23, 2025, Judge Keamy denied Defendant Huckins' original Motion to Dismiss without prejudice.
29. Judge Keamy ordered me to file an affidavit alleging specific facts which, if proven, would establish a substantial parent-child relationship.
30. I understood Judge Keamy's order to create a preliminary factual process rather than a final adjudication based solely upon a paper affidavit.
31. I signed and filed the Court-ordered substantial-relationship affidavit on February 17, 2026.
32. I did not understand that affidavit to replace testimony, cross-examination, credibility findings, a GAL investigation, or any evidentiary proceeding the Court later determined was necessary.

III. THE PARENTAGE-DOCKET GAL AND MY OPPOSITION TO DISMISSAL

33. On May 11, 2026, the Court appointed a Category E GAL/evaluator in WO25W1359WD.
34. I reviewed the GAL appointment.
35. I understood the parentage-docket GAL appointment to include investigation of the child's relationships and attachments, the roles of the involved adults, the circumstances surrounding the child's introduction to me, and the effect of continued contact.
36. I understood that the GAL was intended to provide neutral information rather than serve as an advocate for me or any other party.
37. I was prepared to participate fully in that investigation.
38. I did not know what conclusions or recommendations the GAL would ultimately reach.
39. I did not understand the GAL appointment itself to establish that I had already proven parentage or a legally sufficient substantial relationship.
40. I understood that the GAL process would develop information relevant to disputed, fact-based issues before the Court.
41. On May 22, 2026, I filed my Opposition to Defendant Huckins' Renewed Motion to Dismiss.
42. In that Opposition, I requested that the Renewed Motion be denied or deferred pending factual development and completion of the GAL process.
43. I also requested an evidentiary hearing if the Court intended to resolve disputed factual issues.

44. I further requested leave to amend, clarify, or supplement the Complaint if the Court concluded that a more express common-law or equitable claim was required.

45. I did not receive any filing from Defendant Gurrieri joining Defendant Huckins' Renewed Motion to Dismiss.

46. I reviewed Defendant Gurrieri's Answer, which requests that Defendant Gurrieri and I be adjudicated the child's legal parents.

IV. THE JUNE 1 HEARING AND MY RELIANCE UPON THE COURT'S DIRECTIONS

47. I attended the June 1, 2026 hearing and represented myself.

48. During that hearing, the Court discussed the GAL investigation as a broad or global investigation intended to address the relevant relationships and circumstances involving the child.

49. I heard the Court state that the GAL investigation should "cover all bases."

50. Before Attorney Xavier completed his argument concerning the Renewed Motion to Dismiss, I heard the Court state that, as of that point, it had not yet reviewed the facts and circumstances of my Complaint, the supporting affidavit, or the governing statute.

51. I do not contend that the Court failed to review those materials before issuing its later written ruling.

52. The Court's statement contributed to my understanding that the June 1 hearing was not being communicated as the completion of a final factual or merits determination.

53. When Attorney Xavier attempted to rely upon matters involving my deposition, text messages, financial matters, alleged emotional harm, and other disputed facts, I heard the Court restrict his argument to the pleadings.

54. I heard the Court state:

"If you want to go outside of that box, we're at a summary judgment motion."

55. During my response, I described my earlier filing attempts and the conflicting procedural directions I had received from the Registry.

56. I expressly raised Judge Keamy's provision concerning an evidentiary hearing.

57. The Court responded:

"Okay, I don't think we're ready."

58. The Court then stated:

"I think we have to defer to the GAL report."

59. I heard the Court explain that an evidentiary hearing could appropriately be requested later, after the GAL report and at the pretrial stage.
60. After hearing my explanation concerning my earlier filing attempts, the Court stated:
“Your point is well taken on leave to file whatever supplemental pleadings you want.”
61. When Defendant Huckins continued challenging whether I had alleged or developed a substantial relationship, I heard the Court state that the GAL could provide factual information concerning whether I had such a relationship with the child.
62. I heard the Court state that waiting for completion of the GAL investigation was “the best course of action.”
63. The Court discussed September proceedings after completion of the GAL process.
64. I heard the Court describe a future process involving evidence, possible resolution, or trial.
65. I understood from those statements that the GAL process would be completed before the Court made a final determination concerning the disputed substantial-relationship facts.
66. I understood that an evidentiary hearing was premature at that time, not permanently waived.
67. I understood that I could request an evidentiary hearing after completion of the GAL report if one remained necessary.
68. I understood that my amendment and supplementation request remained open.
69. I understood that the parentage case would remain pending through the GAL process and anticipated September proceedings.
70. I did not understand that the Court intended to dismiss the parentage action before completion of the GAL report.
71. I did not understand that following the Court’s stated GAL-first sequence would later be treated as a waiver of an evidentiary hearing.
72. I did not knowingly, intentionally, or voluntarily waive an evidentiary hearing.
73. I did not knowingly, intentionally, or voluntarily abandon my request for leave to amend or supplement.
74. Had the Court stated that it intended to decide the Renewed Motion before completion of the GAL process, I would have immediately filed a separate written request for an evidentiary hearing.
75. I also would have requested an immediate ruling upon my request for leave to amend or supplement.

76. I would not have waited for the anticipated September proceedings if I had been informed that waiting could later be treated as forfeiture.
77. After the hearing, the docket continued to identify the June 1 motion events as under advisement.
78. The docket also reflected a September 30, 2026 proceeding associated with the GAL and coordinated case-management process.

V. THE ALLOWED COORDINATION AND MISSING “SEE ORDER” ORDER

79. Before the June 1 hearing, I had filed a Motion to Coordinate Parentage Proceedings with Existing Custody Proceedings and Request for ARC Counsel Participation.
80. I sought coordination because the parentage and custody dockets involved the same child and overlapping GAL, relationship, DCF, therapeutic, scheduling, and child-impact issues.
81. I did not seek to merge the separate cases into a single docket.
82. I did not understand coordination to make me a party to either custody case.
83. I did not understand coordination to eliminate the separate procedural requirements, confidentiality protections, or party status applicable to each docket.
84. I later reviewed a copy of my Motion to Coordinate bearing Judge Lee’s signature, the notation “ALLOWED,” an apparent June 1, 2026 date, and the instruction: “See Order.”
85. I have not received or located the separate order referenced by “See Order.”
86. Because I have not received that order, I cannot determine the complete scope of what the Court allowed.
87. I cannot determine whether every provision requested in my Motion to Coordinate was granted, modified, limited, or rejected.
88. In particular, I cannot determine whether the requested safeguard involving ARC counsel was granted, narrowed, or denied.
89. The June 1 hearing nevertheless reflected that coordination was being implemented for case-management purposes.
90. I heard the Court discuss placing the parentage and custody matters on the same or corresponding hearing dates.
91. I heard the Court discuss tracking the cases together for GAL, pretrial, and scheduling purposes.

92. I understood that the matters would return to Court after the GAL investigation on a coordinated schedule.
93. I later reviewed custody-docket entries recording the Motion to Coordinate as allowed on June 11, 2026.
94. Those entries were placed on the custody dockets on or about July 10, 2026.
95. The copy of the endorsed motion I reviewed appeared to bear a June 1 date, while the custody dockets identified June 11 as the allowance date.
96. I have not received an order explaining that date difference.
97. I have not found an entry in WO25W1359WD identifying the precise scope of the coordination allowance.
98. I have not received an order vacating, narrowing, superseding, or terminating the coordination process before dismissal.
99. The dismissal Memorandum did not explain what became of the allowed coordination, the missing “See Order” order, the coordinated September process, or the parentage-specific GAL appointment.
100. I relied upon both the Court’s June 1 statements and its implementation of coordinated GAL and scheduling procedures in understanding that WO25W1359WD would remain pending through the factual-development process.

VI. DEFENDANT GURRIERI’S JUNE 1 STATEMENTS CONCERNING MY HISTORICAL ABSENCE

101. During the June 1 hearing, I heard Defendant Gurrieri reject the suggestion that I should be blamed for not having been present in the child’s life during the preceding eleven years.
102. I heard Defendant Gurrieri state that I “was not given the opportunity to choose.”
103. I heard her state that I had been “denied the opportunity.”
104. I also heard her state:
“It’s our fault. For not telling the truth.”
105. I understood the word “our” to refer to Defendant Gurrieri and Defendant Huckins, based upon the remainder of her statement.
106. I did not hear Attorney Xavier make a contemporaneous objection while Defendant Gurrieri made those statements.

107. When Attorney Xavier later responded, I heard him state that Defendant Huckins disputed many of the facts.

108. I also heard Attorney Xavier argue that allegations of fraud did not toll or defeat the applicable statute of repose.

109. I did not understand Defendant Gurrieri's statements to constitute an adjudicated factual finding against Defendant Huckins.

110. I understood the exchange to demonstrate that the cause and meaning of my eleven-year historical absence were materially disputed and had not been resolved through testimony or factual findings.

VII. MY EFFORTS NOT TO PLACE THE CHILD IN THE MIDDLE

111. I have not asked the child to prepare an affidavit for my Rule 59 motion.

112. I have not asked the child to write to the Court concerning the Rule 59 motion.

113. I have not asked the child to testify concerning the Rule 59 motion.

114. I do not want the child placed in the middle of the legal dispute or made responsible for its outcome.

115. I understood that the GAL process would allow the child's circumstances, attachments, and interests to be evaluated by a neutral professional rather than through competing adult descriptions.

116. After receiving the dismissal, I no longer understood whether the GAL would complete or file a report in WO25W1359WD.

117. I also no longer understood whether the parentage Court would receive or consider the GAL's findings concerning my relationship with the child.

118. Through Rule 59, I seek restoration or clarification of the parentage-specific GAL and coordinated factual-development process.

VIII. RECEIPT OF THE JUNE 26 DISMISSAL PACKET

119. On July 8, 2026, I received by mail a packet from the Court.

120. The first page was a separate document titled "Judgment of Dismissal."

121. That Judgment was signed by Judge Lee and dated June 26, 2026.

122. The June 26 Judgment stated that my Complaint to Establish Parentage was dismissed without prejudice.

123. The caption on the June 26 Judgment identified Defendant Gurrieri but omitted Defendant Huckins.
124. Defendant Huckins was a named Defendant and the party who had filed the Renewed Motion to Dismiss.
125. The remaining pages contained a Memorandum of Decision and Order allowing Defendant Huckins' Renewed Motion to Dismiss.
126. When I received the packet, neither the June 26 Judgment nor the accompanying Memorandum appeared as an entered event on the public docket.
127. The case continued to appear active.
128. I had opted into electronic Court notifications.
129. I did not receive an electronic notification informing me that the June 26 Judgment had been entered.
130. I attempted to file a protective Notice of Appeal electronically.
131. That submission was rejected because no judgment bearing the date I identified appeared on the docket.
132. I retain the eFile rejection information associated with that submission.

IX. JULY 9 REGISTRY PRESENTMENT AND SERVICE

133. On July 9, 2026, I appeared personally at the Worcester Probate and Family Court Registry.
134. At that time, WO25W1359WD remained publicly listed as active.
135. No separate final Judgment of Dismissal appeared on the docket.
136. I physically presented and tendered the following pleadings for filing:
 - a. Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;
 - b. Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue Pursuant to the December 23, 2025 Order; and
 - c. Plaintiff's Motion for Leave to Amend or Supplement Complaint Pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).
137. I did not receive file-stamped copies of those pleadings.
138. I did not receive a filing receipt.
139. I did not receive a written rejection concerning those three pleadings.
140. Those pleadings have not appeared on the public docket.

- 141. I also attempted to present separately prepared postjudgment filings.
- 142. Registry personnel told me that the postjudgment filings could not be accepted because no final judgment appeared on the docket.
- 143. I did not receive a written rejection cover sheet concerning that in-person refusal.
- 144. At approximately 3:30 p.m. on July 9, I served the three tendered pleadings and their proposed orders by email.
- 145. My service email was addressed to Attorney Michael Xavier and copied to Defendant Gurrieri and Attorney Xavier's office.
- 146. The email identified the documents as having been "filed/presented today."
- 147. The email stated that service was made without waiver of postjudgment remedies, appellate rights, objections, or my position concerning judgment-entry status.
- 148. At 6:41 a.m. on July 10, Attorney Xavier responded:
"I am confused by your filings as the case is concluded. Please advise."
- 149. At 10:49 a.m. on July 10, I responded that the dismissal or judgment had not appeared on the docket when I was at the Registry.
- 150. I also explained that the Registry had not accepted my proposed post-judgment filings for that reason.
- 151. I stated that the July 9 filings addressed that procedural problem.
- 152. I retain the complete email chain.

X. JULY 10 THROUGH JULY 14 DOCKET CHRONOLOGY

- 153. On July 10, 2026, I reviewed the docket again.
- 154. The docket then reflected that Defendant Huckins' Renewed Motion to Dismiss had been allowed on July 7, 2026.
- 155. The docket also reflected entry of a Memorandum of Decision and Order dated July 7, 2026.
- 156. The July 7 Memorandum stated that a separate Judgment of Dismissal "shall issue."
- 157. The case nevertheless remained listed as active on July 10.
- 158. No separate Judgment of Dismissal appeared on the July 10 docket.
- 159. My July 9 pleadings did not appear on the July 10 docket.
- 160. I reviewed and printed the docket again on July 13.
- 161. As of July 13, the case remained listed as active.
- 162. As of July 13, no separate Judgment of Dismissal appeared.

163. As of July 13, my July 9 pleadings remained absent.

164. On July 14, I again reviewed the docket.

165. The docket then contained a new entry stating:

“07/14/2026 Judgment of Dismissal Dated July 7, 2026.”

166. The case status had changed from active to closed.

167. The status date was July 14, 2026.

168. The separate Judgment entered on July 14 included both Defendant Gurrieri and Defendant Huckins in its caption.

169. I did not receive an electronic notification advising me that the corrected Judgment had been entered on July 14.

170. I discovered the entry through my own review of the docket.

171. As of the date of this Affidavit, my three July 9 pleadings do not appear on the public docket.

172. I have not received an order denying, rejecting, withdrawing, or otherwise disposing of those three pleadings.

173. I have not received an order explaining whether the June 26 Judgment was withdrawn, corrected, superseded, or replaced.

174. I have not received an order explaining why the corrected Judgment bears a July 7 face date even though the docket records its entry on July 14.

175. I do not ask the Court through this Affidavit to infer an improper motive from that chronology.

176. I ask that the actual sequence of presentment and docket entry be preserved accurately.

XI. MY RELIANCE, SURPRISE, PREJUDICE, AND REQUEST FOR AMENDMENT

177. I did not expect the Court to guarantee me a favorable result.

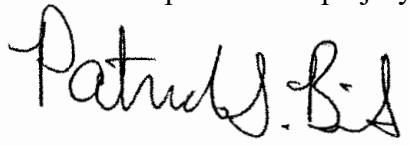
178. I did expect the Court either to follow the GAL-first and coordinated process communicated on June 1 or to notify the parties clearly before changing that process and issuing a dispositive ruling.

179. I was shocked and genuinely blindsided when I received a dismissal before completion of the GAL report.

180. I was particularly surprised that the written Memorandum declared the opportunity for an evidentiary hearing waived after I had raised that exact issue and understood the Court to state that the hearing was premature.

181. I relied upon the Court's June 1 statements in not filing another immediate request for an evidentiary hearing before completion of the GAL process.
182. I also relied upon the allowed and operationally implemented coordination in understanding that the parentage action would remain pending through the coordinated September process.
183. I acted promptly after receiving the June 26 packet.
184. I attempted to preserve my postjudgment and appellate rights despite the conflict between the mailed documents and the public docket.
185. I have not intentionally delayed any filing addressed by this Affidavit.
186. I am prepared to file an amended complaint promptly if the Court grants leave to amend.
187. My primary requested relief remains adjudication, after a fair factual process, of Defendant Gurrieri and me as the child's legal parents.
188. I am also prepared, if amendment is allowed, to plead any narrower or alternative parentage relief that the Court determines may legally be presented after focused briefing.
189. I do not ask the Court through Rule 59 to adjudicate a new claim under G.L. c. 209C, § 26.
190. I do not ask the Court through Rule 59 to determine that § 26 overrides the VAP statute of repose or eliminates any threshold I must satisfy.
191. I do not ask the Court through Rule 59 to adjudicate me immediately as an additional legal parent.
192. I identify a possible alternative-parent theory only to preserve my request for amendment and to permit the Court to determine, after an amended pleading and adversarial briefing, whether any narrower relief is legally available.
193. My willingness to plead an alternative theory is not a concession concerning the circumstances surrounding the VAP.
194. It is not a concession concerning Defendant Huckins' fitness.
195. It is not a concession that Defendant Huckins should receive custody, parenting time, decision-making authority, visitation, or contact.
196. I understand those issues to require their own appropriate record and adjudication.
197. I ask the Court to vacate or alter the Judgment so that my pre-judgment request for amendment may be decided, the GAL and coordination issues may be clarified, and any necessary preliminary factual procedure may occur before my claim is permanently foreclosed.

Signed under the penalties of perjury.

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive style with a large initial 'P' and a distinct 'B'.

Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: July 17, 2026

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF’S REQUEST FOR ORAL HEARING ON RULE 59(e) MOTION
PURSUANT TO STANDING ORDER 2-99(b)(2) — LEE, J.**

Plaintiff Patrick S. Birt, self-represented, respectfully requests an oral hearing on his contemporaneously filed Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e).

Plaintiff submits this separate request pursuant to Probate and Family Court Standing Order 2-99(b)(2). Plaintiff recognizes that Rule 59(e) does not automatically require oral argument and that the Court determines whether a hearing is necessary or helpful.

A hearing would materially assist the Court because the Rule 59(e) Motion asks the Court to reconcile:

1. the Court’s electronically recorded June 1, 2026 statements that an evidentiary hearing was premature, that the matter should defer to the Category E GAL report, and that waiting for the GAL was the best course, with the later written conclusion that the hearing opportunity had been waived;
2. the GAL-first and coordinated September process communicated and implemented on June 1 with dismissal before completion of that process;
3. the Rule 12 pleading standard stated during the June 1 hearing with the comparative factual evaluation performed in the dismissal Memorandum;
4. the acknowledged request for amendment with the dismissal of the action without adjudication of that request;
5. the facial allowance of Plaintiff’s Motion to Coordinate and the missing separate order referenced by “See Order” with the unexplained termination of WO25W1359WD;

6. the July 9, 2026 tender of pleadings while the case remained active with the later entry on July 14 of a Judgment bearing a July 7 face date; and
7. the Memorandum's displacement rationale with the alternative additional-parent framework now contained in G.L. c. 209C, § 26(c).

The Court's own electronic recording is central to the procedural-reliance issue. An oral hearing would allow the Court and parties to address the recording accurately and would permit Plaintiff to answer any questions concerning his reliance, the unusual judgment-entry chronology, the requested amendment, the GAL process, and the limited alternative relief sought.

Plaintiff does not request through this hearing that the Court immediately adjudicate ultimate parentage, custody, parenting time, Defendant Huckins' fitness, or any disputed custody-docket allegation. He requests an opportunity to address whether the Judgment should be vacated or altered so that the claim may proceed through a fair and orderly factual process.

WHEREFORE, Plaintiff respectfully requests that the Court schedule an oral hearing on his Rule 59(c) Motion and provide notice of the date, time, location, and whether the hearing will be conducted in person, remotely, or in hybrid form.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive, flowing style.

Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: July 17, 2026

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

WORCESTER S.S.

DOCKET NO.

WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI

And

CHRISTOPHER J. HUCKINS,
Defendants.

**PROPOSED ORDER ON PLAINTIFF’S MOTION TO ALTER OR
AMEND JUDGMENT PURSUANT TO MASS. R. DOM. REL. P. 59(e)**

After review of Plaintiff’s Motion to Alter or Amend Judgment, Plaintiff’s Verified Concise Statement of Facts and Law, Plaintiff’s supporting Affidavit, the challenged Memorandum of Decision and Order, the Judgment of Dismissal, and the docket record, Plaintiff’s Motion is **ALLOWED to the extent set forth below**.

The Court does not through this Order adjudicate ultimate parentage, custody, parenting time, visitation, decision-making authority, Defendant Huckins’ fitness, or the merits of any disputed allegation arising in the related custody proceedings.

It is hereby **ORDERED**:

I. TIMELINESS AND OPERATIVE JUDGMENT

1. Plaintiff’s Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e) is **TIMELY**.
2. The operative Judgment of Dismissal was entered on the docket on **July 14, 2026**, notwithstanding that the separate Judgment bears a July 7, 2026 face date.

3. The earlier Judgment of Dismissal dated June 26, 2026, which was mailed to Plaintiff but was not entered on the docket and omitted Defendant Huckins from its caption, is deemed **SUPERSEDED AND WITHOUT OPERATIVE EFFECT**.
4. The July 7 face date appearing on the corrected Judgment shall not be construed as causing that Judgment to have taken effect before its actual docket entry.

II. VACATUR AND RESTORATION OF THE ACTION

5. The Judgment of Dismissal dated July 7, 2026 and entered on July 14, 2026 is **VACATED**.
6. WO25W1359WD shall be **REOPENED AND RESTORED TO ACTIVE STATUS**.
7. The July 7, 2026 Memorandum of Decision and Order is vacated to the extent that it:
 - a. allowed Defendant Huckins' Renewed Motion to Dismiss;
 - b. determined that Plaintiff or the parties waived the opportunity to request an evidentiary hearing;
 - c. treated September 2, 2025 as an absolute evidentiary cutoff;
 - d. categorically excluded all later relationship evidence as irrelevant "bootstrapping"; and
 - e. terminated the action before Plaintiff's request for amendment, the parentage-docket GAL process, and any necessary preliminary factual procedure were resolved.
8. Defendant Huckins' Renewed Motion to Dismiss is **DENIED WITHOUT PREJUDICE** to any procedurally appropriate motion directed to the amended pleadings or to a later-developed record.

III. EVIDENTIARY-HEARING ISSUE

9. The prior determination that the parties waived the opportunity to request an evidentiary hearing concerning the substantial-relationship issue is **VACATED**.
10. Plaintiff's opportunity to request an appropriate preliminary evidentiary hearing is **PRESERVED**.
11. No party shall be deemed to have waived a future request for an evidentiary proceeding merely by having complied with the GAL-first and coordinated case-management sequence discussed at the June 1, 2026 hearing.
12. After the amended pleadings, the GAL status clarification, and any focused briefing ordered below, the Court shall determine:
 - a. whether the substantial-relationship threshold may properly be resolved as a matter of law;
 - b. whether an evidentiary hearing is required;
 - c. whether any GAL work should be completed before such a hearing; and
 - d. what factual and procedural sequence is appropriate.

IV. JULY 9, 2026 PRESENTMENT

13. The Court acknowledges Plaintiff's sworn representation that, on July 9, 2026, while the case remained listed as active and before entry of final judgment, he personally tendered or presented the following pleadings to the Worcester Registry:
 - a. Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;
 - b. Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue; and

- c. Plaintiff's Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).
- 14. Plaintiff did not receive file-stamped copies, a filing receipt, or a written rejection concerning those three pleadings.
- 15. Plaintiff may refile those pleadings within **seven days** after notice of this Order.
- 16. Upon refiling, the Registry shall docket the pleadings with a notation substantially stating:

"Previously tendered or presented by Plaintiff on July 9, 2026; docketed pursuant to Order of the Court."
- 17. Recognition of the July 9 tender is for preservation and procedural-clarification purposes. It does not constitute an adjudication of the merits of any tendered pleading beyond the relief expressly granted through this Order.
- 18. The July 7 face date appearing on the corrected Judgment shall not retroactively nullify or subordinate Plaintiff's July 9 presentment.

V. AMENDED PLEADING

- 19. Plaintiff's pre-judgment request for leave to amend or supplement is **ALLOWED** as provided below.
- 20. Plaintiff may file and serve an amended complaint within **fourteen days** after notice of this Order.
- 21. The amended complaint may expressly plead Plaintiff's asserted common-law and equitable substantial-relationship parentage claim.
- 22. Plaintiff may identify any alternative parentage remedy that he contends may be legally available, subject to:
 - a. Defendant Gurrieri's and Defendant Huckins' rights to respond;
 - b. focused briefing concerning the legal availability of the proposed alternative;

- c. the requirements of G.L. c. 209C, including §§ 11 and 26;
 - d. the common-law and equitable authorities governing substantial-relationship claims; and
 - e. further order of the Court.
23. This Order does **not** determine that G.L. c. 209C, § 26:
- a. creates an independent cause of action or basis for standing under the circumstances alleged;
 - b. overrides the effect of G.L. c. 209C, § 11;
 - c. eliminates any substantial-relationship or other applicable threshold;
 - d. entitles Plaintiff to adjudication as an additional legal parent; or
 - e. requires Defendant Huckins' legal-parent status to remain in effect or to be displaced.
24. Section 26 is preserved only as potential statutory context relevant to the availability and futility of amendment. Its application, if any, shall be determined after an amended pleading and focused adversarial briefing.
25. Permission to amend shall not be construed as an immediate adjudication of parentage or as a determination of custody, parenting time, visitation, decision-making authority, contact, support, or fitness.
26. Defendant Gurrieri and Defendant Huckins shall answer or otherwise respond to the amended complaint within the time provided by the applicable rules.

VI. RELATIONSHIP EVIDENCE

27. The Court makes no present finding that Plaintiff possessed or did not possess a legally sufficient substantial relationship with the child when the action commenced.

28. Evidence arising after September 2, 2025 shall not be categorically excluded solely because it postdates the filing of the Complaint.
29. Subject to the ordinary rules of evidence and further order of the Court, later evidence may be considered for the limited purpose of evaluating or corroborating:
 - a. the continuity of a relationship alleged to exist when the action commenced;
 - b. the nature and quality of that relationship;
 - c. whether the relationship was temporary or enduring;
 - d. the parental character of Plaintiff's alleged conduct; and
 - e. the credibility and weight of the parties' competing factual accounts.
30. Nothing in this Order permits a party to create after filing a relationship that did not exist when the action commenced.
31. The proper weight and permissible use of later evidence remain for determination upon a developed record.

VII. CATEGORY E GAL

32. The May 11, 2026 Category E GAL appointment entered in WO25W1359WD is **RESTORED AND REMAINS IN EFFECT**, subject to further order of the Court.
33. The Court Liaison shall notify the appointed GAL that WO25W1359WD has been reopened.
34. Within fourteen days after receiving notice, the GAL or Court Liaison shall advise the Court and parties concerning:
 - a. whether the parentage-docket investigation remains active;
 - b. what parentage-specific work has been completed;

- c. what additional work, if any, remains;
 - d. whether additional time or authorized hours are required; and
 - e. the anticipated date of any report or status submission.
35. The GAL shall not be directed through this Order to reach a legal conclusion concerning parentage, statutory interpretation, or the legal sufficiency of Plaintiff's claims.
36. Nothing in this Order requires the child to testify, prepare an affidavit, communicate directly with the Court, or assume responsibility for the legal outcome.

VIII. COORDINATION AND SEPARATE DOCKETS

37. The endorsement stating "ALLOWED" and "See Order" on Plaintiff's Motion to Coordinate is **CLARIFIED AND SUPERSEDED** by the coordination provisions contained in this Order.
38. WO25W1359WD, WO19W1406WD, and WO19W1407WD shall remain **SEPARATE ACTIONS**.
39. This Order does not consolidate those actions.
40. Plaintiff's status as a party in WO25W1359WD does not make him a party to either custody docket.
41. Coordination shall be limited to matters reasonably necessary for:
- a. scheduling;
 - b. GAL administration;
 - c. status and case-management conferences;
 - d. avoiding inconsistent procedural directives;
 - e. reducing duplicative investigative demands upon the child; and

- f. identifying the source, scope, and completeness of any cross-docket material proposed for use.
- 42. No allegation, statement, report, filing, or disputed factual narrative from a custody docket shall be treated as an established fact in WO25W1359WD merely because it appears in a related proceeding.
- 43. No impounded, confidential, therapeutic, DCF, GAL, or otherwise protected material from a custody docket shall be used substantively in WO25W1359WD unless:
 - a. its use is authorized by applicable law or further Court order;
 - b. its source and completeness are identified;
 - c. the parties in WO25W1359WD receive appropriate notice; and
 - d. each party receives a fair opportunity to respond.
- 44. Nothing in this Order authorizes Plaintiff to inspect or obtain custody-docket materials to which he is not otherwise legally entitled.
- 45. Nothing in this Order resolves any custody, modification, contempt, parenting-time, visitation, contact, or decision-making issue pending in WO19W1406WD or WO19W1407WD.

IX. FURTHER PROCEEDINGS

- 46. After the amended complaint and responsive pleadings are filed, the parties may submit focused memoranda on a schedule established by the Court concerning:
 - a. the proper common-law and equitable procedural vehicle;
 - b. the interaction among G.L. c. 209C, §§ 11 and 26;
 - c. whether any proposed alternative parentage remedy is legally available;
 - d. the permissible use of postfiling relationship evidence; and

- e. the need and proper scope of any preliminary evidentiary procedure.
47. The Registry shall schedule a case-management conference after:
- a. the amended complaint and responsive pleadings have been filed;
 - b. the status of the parentage-docket GAL investigation has been clarified; and
 - c. any focused memoranda ordered by the Court have been submitted.
48. At the case-management conference, the Court shall address:
- a. the sequencing of GAL and evidentiary proceedings;
 - b. the need and scope of any preliminary evidentiary hearing;
 - c. any appropriate discovery;
 - d. the use and protection of cross-docket records;
 - e. the continued scope of limited coordination; and
 - f. a schedule for further disposition of the parentage claim.
49. No final adjudication of Plaintiff's parentage claim or any possible alternative parentage theory is made through this Order.
50. All relief not expressly granted herein is reserved for further determination upon an appropriate record.

SO ORDERED.

Dated: _____, 2026

Justice of the Probate and Family Court

CERTIFICATE OF SERVICE

I, Patrick S. Birt, certify that on July 17, 2026, I served true and accurate copies of the following documents:

1. Plaintiff's Motion to Alter or Amend Judgment Pursuant to Mass. R. Dom. Rel. P. 59(e), including the appended copies of the July 7, 2026 Memorandum of Decision and Order and the Judgment of Dismissal dated July 7, 2026 and entered July 14, 2026;
2. Plaintiff's Verified Concise Statement of Facts and Law in Support of Motion to Alter or Amend Judgment;
3. Affidavit of Patrick S. Birt in Support of Plaintiff's Motion to Alter or Amend Judgment;
4. Proposed Order on Plaintiff's Motion to Alter or Amend Judgment; and
5. Plaintiff's Request for Oral Hearing on Rule 59(e) Motion Pursuant to Standing Order 2-99(b)(2) — Lee, J.

Service was made upon:

Michael G. Xavier, Esq.

Prince Lobel Tye LLP
One International Place, Suite 3700
Boston, MA 02110
Email: mxavier@princelobel.com
Counsel for Defendant Christopher J. Huckins

Ivana G. Gurrieri

631 Boston Turnpike Road
Shrewsbury, MA 01545
Email: ivakri19@yahoo.com
Defendant, self-represented

I certify under the pains and penalties of perjury that the foregoing is true and correct.

Dated: July 17, 2026



Patrick S. Birt
Plaintiff, Pro Se
1665 Main St. Apt. A211
Jefferson, MA 01522
patricksbirt@pm.me

ATTACHMENT 15

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

**Docket Number WO25W1359WD
Cross Reference WO19W1407WD**

Patrick S. Birt
Plaintiff

v.

**Ivana G. Gurrieri, and
Christopher J. Huckins**
Defendants

Memorandum of Decision and Order

On Patrick S. Birt's Motion to Alter or Amend Judgment Pursuant to
Mass. R. Dom. Rel. P. 59 (e) — Lee, J., filed on July 17, 2026, and

Patrick S. Birt's Request for Oral Hearing on Rule 59 (e) Motion
Pursuant to Standing Order 2-99 (b) (2) — Lee, J., filed on July 17, 2026

In this matter, the Plaintiff, Patrick S. Birt ("Birt"), appeared and was self-represented. The Defendant, Ivana G. Gurreri ("Gurrieri"), is self-represented. The Defendant, Christopher J. Huckins ("Huckins"), is represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

I. Discussion

The Court first addresses averments made by Birt regarding his attempts to make filings that were rejected and arguments regarding the timeliness of his pending motions. The Court has read and considered all of the materials submitted by Birt regarding his post-trial motions. The Court does not consider the motions to be untimely, nor has it adjudicated the motions based on any procedural grounds. However, the Court notes that Birt's argument that he "emphasizes his self-represented status" is misguided. "Self-represented litigants are held to the same standards as practicing attorneys." Kane v. Muir, 431 Mass. 1001, 1002 (2000) (internal brackets and quotations omitted).

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The underlying issue in this matter is parentage of one minor child: Giovanni C. Huckins (“Giovanni”), date of birth March 4, 2014, currently age twelve. Gurrieri is Giovanni’s biological and legal mother. Huckins executed a voluntary acknowledgement of parentage (“VAP”) shortly after Giovanni was born. Huckins has been Giovanni’s father, in all senses of the term, for Giovanni’s entire life. In the instant action, Birt seeks to challenge the VAP executed by Huckins, have Huckins removed as Giovanni’s legal father, and have himself declared Giovanni’s legal father.

This case illustrates the importance of finality in parentage judgments. “There is a compelling interest in the finality of paternity judgments.” Paternity of Cheryl, 434 Mass. 23, 30 (2001), citing G. L. c. 209C, § 11. For the first eleven years of his life, Huckins was Giovanni’s father. Giovanni knew Huckins as his father. The community knew Huckins as Giovanni’s father. The state knew Huckins as Giovanni’s father, by recognition of the VAP. The Court knew Huckins as Giovanni’s father in a prior action pursuant to G. L. c. 209C. At the time Birt commenced his action, he was seeking an order that, among other things, an eleven year old child being told that Huckins was no longer his father and that from now on Birt was his father.

In such circumstances, regardless of the outcome, the very existence of such actions place great strain on an established family unit. Specifically, the suggestion to an eleven year old child that his father might be removed as his father and that another person may become his new father may create substantial strain and confusion on such a child. “Without regard to the outcome of a paternity case, even the very trial of such a case might place great strain on a unitary family.” C.C. v. A.B., 406 Mass. 679, 691 (1990).

In furtherance of this public policy, the Legislature imposed a one year statute of repose on challenges to VAPs. See G. L. c. 209C, § 11 (a). Except for limited exceptions not relevant here, as the Court (Keamy, J.) found in its December 23, 2025 Memorandum of Decision and Order (“December 2025 Order”), a party may only challenge a VAP notwithstanding the statute of repose if they can establish a preexisting substantial relationship with the subject child. See A.D. v. K.S., 495 Mass. 722, 734 (2025). In such circumstances, it is appropriate for the Court to impose a heightened pleading requirement on the plaintiff. See generally, Frazier v. Frazier, 96 Mass. App. Ct. 775, 778 (2019). Accordingly, the December 2025 Order required Birt to file an affidavit detailing his substantial relationship with the child.

Birt’s instant pleadings, and his pleadings and representations throughout this action, show a fundamental misunderstanding that he believes he can use this action as a vehicle to establish a substantial relationship with Giovanni. To read the case law in such a way would contravene the well established public policy regarding finality of parentage judgments, and render meaningless or diminished the statute of repose established by G. L. c. 209C, § 11 (a).

A review of the case law shows the extremely high standard that is required to proceed on such an action notwithstanding the statute of repose. In C.C., the subject child was given the plaintiff's last name and the plaintiff cared for the child beginning immediately at the time of the child's birth. This was considered a substantial relationship within the meaning of the case law that allowed the plaintiff to proceed in their parentage action notwithstanding the statute of repose.

To be clear, the Court has reviewed the entirety of Birt's February 17, 2026 Affidavit and considered all of the averments made by Birt therein. The Court accepted as true all of the factual averments made therein. Many of the relevant averments are discussed in the Court's July 7, 2026 Memorandum of Decision and Order. Reviewing the affidavit as a whole, the Court properly explained that the length of the relationship Birt avers to have had with Giovanni was the most noteworthy part of the analysis. Birt had six months of contact with an eleven year old child at the time he commenced his parentage action.

The alleged relationship does not come close in time or scope to the relationship the plaintiff in C.C. had with the subject child in that case. Even now, in his 2-99 pleadings, Birt still cannot cite to any case in which a plaintiff alleged a relationship similar, or in any way analogous, in time or scope to the relationship he alleged to have with Giovanni which a court has found to be a substantial relationship to allow a plaintiff to challenge a VAP and pursue a parentage claim. Birt's claim is exactly the type which public policy, case law, and the statute of repose are intended to dispose of at the earliest possible step in proceedings. The Court properly found that Birt did not state a claim upon which it is plausible he will be granted relief. There is no merit to the arguments in the instant motions.

Lastly, the Court addresses the procedural arguments raised by Birt regarding the June 1, 2026 hearing. The December 2025 Order explicitly provides that "[i]f there is a renewed motion to dismiss, either party may file a separate request for an evidentiary hearing, and the Court shall consider the request." No party filed any such request. On May 22, 2026, Birt filed an Opposition to Huckins' Renewed Motion to Dismiss. As part of said opposition, Birt requested that the Court schedule an evidentiary hearing "if the Court reaches disputed factual issues requiring such a hearing."

Even if this was a proper request for an evidentiary hearing pursuant to the December 2025 Order, which it was not, it was a conditional request only upon the contingency of such a hearing being required if the Court reached disputed factual issues. As previously discussed, the Court took Birt's averments in his February 17, 2026 affidavit as true. There were no disputed factual issues, and the contingency by which Birt indicated he may want an evidentiary hearing did not operate.

The renewed motion to dismiss was properly marked for hearing on June 1, 2026. The December 2025 Order explicitly required any request for evidentiary hearing to be filed as a separate request. Birt filed an opposition to the renewed motion to dismiss and appeared at the June 1, 2026 hearing having not filed any request for an evidentiary hearing. At this point, his right to such a hearing was waived pursuant to the terms of the December 2025 Order. Birt's argument that he did not request an evidentiary hearing based on the Court's representations at the June 1, 2026 hearing are without merit. At the time that the hearing commenced, Birt had already effectively waived his right to an evidentiary hearing.

Regardless, the renewed motion to dismiss was explicitly called to hearing and presented by Huckins at the June 1, 2026 hearing. No party requested an evidentiary hearing, orally or otherwise, at the June 1, 2026 hearing. The matter proceeded on representations. All parties were given due opportunity to argue the motion. After argument, the motion was explicitly taken under advisement.

Statements made by the Court during said hearing, and Birt's perception of what he thought the outcome of the renewed motion to dismiss would be, do not preserve his right to an evidentiary hearing. He essentially argues that he can now request an evidentiary hearing because he thought he would receive a favorable ruling on the renewed motion to dismiss and did not. The Court explicitly took the motion under advisement. Now that the motion has been decided, Birt cannot now request an evidentiary hearing based on how he believed the Court would rule on a motion that it took under advisement. To the extent that Birt argues that he should have been allowed to amend previous pleadings, he never filed any such motions to amend. An order shall issue denying the above-captioned motions.

II. Order

1. Birt's Motion to Alter or Amend Judgment Pursuant to Mass. R. Dom. Rel. P. 59 (e) — Lee, J., filed on July 17, 2026, is denied.
2. Birt's Request for Oral Hearing on Rule 59 (e) Motion Pursuant to Standing Order 2-99 (b) (2) — Lee, J., filed on July 17, 2026, is denied.

Date: August 4, 2026



Mark T. Lee
Justice of the Probate and Family Court

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF’S MOTION FOR LEAVE PURSUANT TO PROBATE AND FAMILY
COURT STANDING ORDER 2-99(a)(3) TO SUBMIT LATER-RECEIVED REGISTRY
DOCUMENTS IN SUPPORT OF PENDING MASS. R. DOM. REL. P. 59(e) MOTION
AND TO COMPLETE THE RECORD CONCERNING JULY 9, 2026 PRESENTMENT
— LEE, J.**

NOW COMES the Plaintiff, Patrick S. Birt (“Plaintiff”), self-represented, and respectfully moves pursuant to Probate and Family Court Standing Order 2-99(a)(3) for leave to submit later-received Registry documents reflecting the Worcester Registry’s July 9, 2026 receipt of three pleadings tendered by Plaintiff and the Registry’s subsequent administrative return of those pleadings with the notation “improper pleadings, case dismissed.”

In accordance with Standing Order 2-99, Plaintiff contemporaneously submits his Verified Concise Statement of Facts and Law, supporting Affidavit, copy of the Judgment of Dismissal and Memorandum of Decision and Order at issue, Proposed Order, and Certificate of Service.

This Motion is narrow, but the record problem it addresses is serious. Plaintiff physically tendered three pleadings to the Worcester Registry on July 9, 2026. The Registry subsequently returned those pleadings bearing official receipt stamps and accompanied by a review sheet stating “improper pleadings, case dismissed.” None of those events presently appears on the docket. That omission is troubling, materially incomplete, and materially prejudicial to a fair and accurate post-judgment record and preservation of that record for any appellate review.

This Motion is directed to preservation and completion of the record concerning Plaintiff's July 9, 2026 presentment, the Registry's documented receipt of the three pleadings, their subsequent administrative return, and the absence of those events from the present docket.

This is not a second or amended Rule 59 motion. Plaintiff does not through this Motion seek to add a new substantive ground for relief, enlarge the substantive relief requested in his pending Motion to Alter or Amend Judgment, or extend, restart, or otherwise alter any Rule 59 or appellate deadline.

Plaintiff seeks leave only to submit later-received, Registry-generated or Registry-returned materials that were not in his possession when he filed his Rule 59 papers and that objectively corroborate the July 9, 2026 presentment and subsequent Registry treatment already described and placed at issue in those timely papers.

In support of this Motion, Plaintiff states as follows:

1. On July 17, 2026, Plaintiff timely filed and served a Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e), together with the required Standing Order 2-99 post-hearing filing materials.
2. In those timely Rule 59 papers, Plaintiff stated that, on July 9, 2026, he had personally appeared at the Worcester Probate and Family Court Registry and presented three pleadings for filing in docket number WO25W1359WD, but had not received stamped copies, a filing receipt, or a written rejection or return notice.
3. The three pleadings presented by Plaintiff on July 9, 2026 were:
 - a. **Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;**
 - b. **Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue;** and
 - c. **Plaintiff's Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).**
4. Plaintiff's timely Rule 59 papers already requested preservation of the July 9 presentment, appropriate docket treatment of those pleadings, or, alternatively, permission to refile them without prejudice to Plaintiff's position concerning the July 9 presentment and filing date.

5. When Plaintiff filed his Rule 59 papers on July 17, 2026, the Registry had not returned the three pleadings to him and had not provided him with the Registry receipt-stamped copies, Registry review sheet, or return envelope described below.
6. The Registry subsequently returned the three pleadings to Plaintiff in a package postmarked July 20, 2026, which Plaintiff received on July 23, 2026.
7. Each of the three returned pleadings bears the official Registry stamp:

“RECEIVED
REGISTER OF PROBATE
2026 JUL 9 PM 12:55”

8. The returned package also contained a Worcester Probate and Family Court review sheet identifying docket number WO25W1359WD.
9. None of the review sheet’s listed standard filing-defect boxes—including missing fee, incomplete form, illegibility, missing signature, missing forms, or wrong county—was marked.
10. Instead, the review sheet bears the handwritten notation:
“improper pleadings, case dismissed.”
11. The review sheet is undated. Plaintiff does not ask the Court to infer when the notation was written, who made the underlying administrative determination, or any improper motive.
12. The envelope used to return the pleadings bears a July 20, 2026 postmark.
13. The current docket does not reflect:
 - a. the Registry’s July 9, 2026 receipt of the three pleadings;
 - b. their subsequent administrative return; or
 - c. any other docket disposition reflecting the Registry’s receipt and subsequent treatment of those three pleadings.
14. The docket reflects that the Memorandum of Decision and Order dated July 7, 2026 was entered on July 10, 2026, and that the separate Judgment of Dismissal dated July 7, 2026 was entered on July 14, 2026.
15. Mass. R. Dom. Rel. P. 58 provides that a judgment becomes effective when set forth and entered as provided in Rule 79(a). The Registry’s official receipt stamps therefore document receipt of all three pleadings on July 9, 2026, before entry of the separate Judgment of Dismissal on July 14, 2026.

16. Mass. R. Dom. Rel. P. 77(c) provides that a paper received by the Register is deemed filed as of the date of receipt and that, if the fact of filing is subsequently disputed, that question is for the Court to determine.
17. Rule 77(c) is directly relevant because the Registry's own official stamps objectively document receipt of all three pleadings on July 9, 2026, while the present docket contains no corresponding entry reflecting their receipt or subsequent administrative treatment.
18. Mass. R. Dom. Rel. P. 79(a) further requires filed papers, orders, and judgments to be entered chronologically in the civil docket and requires the entry of an order or judgment to reflect the date on which the entry was made.
19. Plaintiff does not ask the Court through this Motion for Leave to adjudicate the merits of the three July 9 pleadings or every procedural consequence flowing from their Rule 77(c) filing date. Plaintiff asks that the documentary evidence of receipt and subsequent administrative return be accepted so that the Court may determine any appropriate filing and procedural effect on a complete record.
20. The later-received Registry materials are not collateral to the pending Rule 59 Motion. They directly corroborate procedural issues already raised in that timely Motion.
21. In particular:
 - a. one of the omitted pleadings is Plaintiff's specific **Request for Evidentiary Hearing**, directly relevant to the Memorandum's determination that the opportunity to request an evidentiary hearing had been waived;
 - b. another is Plaintiff's **Motion for Leave to Amend or Supplement Complaint**, relevant to whether Plaintiff presented a less-drastic alternative to dismissal before entry of final Judgment; and
 - c. the third is Plaintiff's **Administrative Motion for Clarification**, which sought contemporaneous clarification of the unusual judgment-entry, docket-status, notice, rejected-appeal, GAL, and case-management chronology later raised in Plaintiff's timely Rule 59 Motion.
22. Plaintiff does not seek to relitigate those substantive issues through this Motion for Leave. He seeks to ensure that the already-pending Rule 59 issues are considered on a complete procedural record that includes the Registry's own later-received documentary evidence concerning the July 9 presentment.

23. Without the later-received Registry materials, the file remains materially incomplete and, as to the July 9 chronology, objectively misleading because it contains no record of a documented filing event that occurred before entry of the separate Judgment.
24. That omission is troubling, materially prejudicial, and fundamentally inconsistent with meaningful post-judgment review and preservation of a complete trial-court record for any appellate review.
25. Plaintiff asks only that the later-received Registry materials be accepted into the file, associated with the pending Rule 59 record, and given appropriate docket treatment so that the record accurately reflects the Registry's documented receipt and subsequent administrative return of the three pleadings.
26. The proposed supplemental submission is narrowly limited to:
 - a. the Registry-received copy of Plaintiff's July 9, 2026 **Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status**;
 - b. the Registry-received copy of Plaintiff's July 9, 2026 **Request for Evidentiary Hearing on the Substantial-Relationship Issue**;
 - c. the Registry-received copy of Plaintiff's July 9, 2026 **Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d)**;
 - d. the Worcester Probate and Family Court Registry review sheet bearing the notation "improper pleadings, case dismissed"; and
 - e. the return envelope bearing the July 20, 2026 postmark.
27. Good cause exists for leave under Standing Order 2-99(a)(3) because:
 - a. the materials were not in Plaintiff's possession when he filed his timely Rule 59 papers;
 - b. the materials were returned by the Registry only after the Rule 59 filing;
 - c. the materials bear official Registry-generated markings documenting the July 9 receipt event;
 - d. the materials corroborate, rather than alter or expand, grounds already timely raised;
 - e. the current docket does not reflect the documented receipt and subsequent administrative treatment; and
 - f. consideration of the materials will permit the Court to address the already-pending post-judgment issues on a more accurate and complete procedural record.

28. Absent allowance of this Motion, the record will continue to omit the Registry's own documentary evidence of July 9 receipt and subsequent administrative return, leaving a materially incomplete record concerning an event already directly at issue in Plaintiff's timely Rule 59 Motion.
29. No unfair prejudice will result from allowance of this Motion. Defendant Huckins and Defendant Gurrieri were served with the three July 9 pleadings on July 9, 2026. They are being served with this Motion and its supporting papers and will be served with the later-received Registry materials if leave is granted.
30. Plaintiff submits this Motion in good faith and for the purpose expressly contemplated by Standing Order 2-99(a)(3): obtaining judicial leave before submitting additional papers relating to a pending Rule 59(e) Motion.
31. Plaintiff does not seek a separate oral hearing solely on this Motion for Leave. Plaintiff preserves, and does not withdraw, narrow, supersede, or waive, his separately filed Request for Oral Hearing on the pending Rule 59(e) Motion.
32. Plaintiff respectfully requests that this Motion for Leave be decided on the written submissions before disposition of the pending Rule 59(e) Motion or, alternatively, be addressed at any hearing the Court schedules on that Motion.

WHEREFORE,

Plaintiff respectfully requests that this Honorable Court:

A. ALLOW this Motion for Leave pursuant to Probate and Family Court Standing Order 2-99(a)(3);

B. ACCEPT the contemporaneously filed supporting Affidavit and Verified Concise Statement of Facts and Law for purposes of deciding this Motion;

C. AUTHORIZE Plaintiff, promptly after notice of allowance, to file and serve as separate documents:

1. the three Registry-received July 9, 2026 pleadings identified above;
2. the Worcester Probate and Family Court Registry review sheet bearing the notation "improper pleadings, case dismissed"; and
3. the return envelope bearing the July 20, 2026 postmark;

D. DIRECT that the authorized materials be associated with the post-judgment record in docket number WO25W1359WD and with the record concerning Plaintiff's pending Mass. R. Dom. Rel. P. 59(e) Motion before disposition of that Motion;

E. DIRECT appropriate docket treatment, consistent with Mass. R. Dom. Rel. P. 77(c) and 79(a), reflecting that the three specified pleadings were received by the Worcester Registry on July 9, 2026 at 12:55 p.m. and were subsequently administratively returned, while reserving for determination in connection with the pending Rule 59(e) Motion the procedural consequences, if any, of that filing chronology;

F. CLARIFY that the authorized supplemental submission:

1. does not constitute a new or amended Rule 59 motion;
2. does not add a new substantive ground for relief;
3. does not enlarge the substantive relief requested in Plaintiff's pending Rule 59(e) Motion;
4. does not extend, restart, or otherwise alter any Rule 59 or appellate deadline;
5. does not withdraw, narrow, supersede, or waive Plaintiff's separately filed Request for Oral Hearing on the pending Rule 59(e) Motion; and
6. is submitted solely to preserve and complete the record concerning the July 9, 2026 presentment, Registry receipt, and subsequent administrative return of the three pleadings;

G. PRESERVE, without deciding through this Motion for Leave, Plaintiff's existing requests in his timely Rule 59(e) Motion concerning the legal effect, filing date, and appropriate docket treatment of the July 9, 2026 pleadings; and

H. GRANT such other and further relief as justice requires.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: August 10, 2026

**COPIES OF CHALLENGED JUDGMENT AND
ORDER
SUBMITTED PURSUANT TO PROBATE AND
FAMILY COURT STANDING ORDER 2-99**

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket No. WO25W1359WD

JUDGMENT OF DISMISSAL

Patrick S. Birt, Plaintiff

VS

Ivana G. Gurrieri and Christopher J. Huckins, Defendants

It is ordered and adjudged that the **Complaint to Establish Parentage**
filed on **September 2, 2025** be and hereby is DISMISSED without prejudice.

Dated: July 7, 2026



**Justice of Probate and Family Court
Mark T. Lee**

**Commonwealth of Massachusetts
The Trial Court
Probate and Family Court Department**

Worcester Division

Docket Number WO25W1359WD

Cross Reference WO19W1407WD

**Patrick S. Birt
Plaintiff**

v.

**Ivana G. Gurrieri, and
Christopher J. Huckins
Defendants**

Memorandum of Decision and Order

On Christopher J. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026

The Court, Lee, J., held a non-evidentiary hearing on the above-captioned motion on June 1, 2026. The Plaintiff, Patrick S. Birt ("Birt"), appeared and was self-represented. The Defendant, Ivana G. Gurreri ("Gurreri"), appeared and was self-represented. The Defendant, Christopher J. Huckins ("Huckins"), appeared and was represented by Attorney Michael G. Xavier. After due consideration, the Court issues the following Memorandum of Decision and Order.

A. Background

This memorandum of decision relates back to the Memorandum of Decision and Order issued by the Court (Keamy, J.) on December 23, 2025 ("December 2025 Order"). Said December 2025 Order is incorporated by reference herein. Briefly, this action concerns one minor child: Giovanni C. Huckins ("Giovanni"), date of birth March 4, 2014, currently age twelve. Gurrieri is the biological and legal mother of Giovanni. Huckins is Giovanni's legal father pursuant to a voluntary acknowledgement of parentage ("VAP") he executed shortly after Giovanni was born. Birt has no legal relationship with Giovanni. He avers to be Giovanni's biological father.

Huckins filed a motion to dismiss on October 1, 2025. In the December 2025 Order, the Court found that Birt is required to make a demonstration that he has a preexisting substantial relationship with Giovanni as a threshold requirement to proceeding with his claim in the instant action. The Court found that the record at that time was insufficient for the Court to determine whether Birt had the requisite substantial relationship with Giovanni to allow his claim to proceed.

It ordered Birt to file an affidavit alleging specific facts which, if proven, will establish a substantial relationship between himself and Giovanni within the meaning of applicable case law. The December 2025 Order further provided that, after filing of Birt's Affidavit, Huckins was permitted to file and mark for hearing a renewed motion to dismiss. Further, the December 2025 Order provided that, if a renewed motion to dismiss was filed, either party was permitted to file a separate request for evidentiary hearing and the Court would consider the request.

Birt filed his Affidavit on February 12, 2026 ("Birt's Affidavit"). Huckins filed his renewed motion to dismiss on May 19, 2026. Neither party requested an evidentiary hearing in compliance with the December 2025 Order. Accordingly, the rights of all parties to seek an evidentiary hearing on this issue are waived. The Court held a non-evidentiary hearing on the renewed motion to dismiss on June 1, 2026, as described above.

B. Legal Analysis

Viewing the record in the light most favorable to Birt, the issue for the Court on the above-captioned motion is whether Birt has alleged facts, which if proven true, would entitle him to the relief he seeks. Namely, Birt seeks that he and Gurrieri be adjudicated Giovanni's parents, Giovanni's birth certificate be amended to reflect the same, Giovanni's last name be changed to Birt, and for the Court to make further orders related to custody and parenting time. As detailed in the December 2025 Order, Birt's claims are precluded by the applicable statute of repose.

Birt may only pursue his claims, notwithstanding the statute of repose, if he can establish a preexisting substantial relationship within the meaning of the case law. See A.D. v. K.S., 495 Mass. 722, 734 (2025). "Where a child's parentage already has been established legally, the substantial relationship test is a necessary balancing test accounting for the fact that a new parentage suit disrupts a family and a child's life and potentially will result in the displacement of one legal parent with another person." J.M. v. C.G., 492 Mass. 459, 465 (2023).

The Court looks to the specific facts alleged in Birt's Affidavit. It is important to note that the case law requires that a plaintiff have a preexisting substantial relationship with the subject child of an action. The one-year ultimate time limit for challenging a VAP is intended to provide stability and permanency related to nonmarital children. There is a compelling public interest in

the finality of parentage judgments, and without the time limit parentage established by VAPs would be open to challenges indefinitely, frustrating the relevant interests in finality of parentage judgments. See J.M., 492 Mass. at 463–64.

Regardless of the outcome of parentage cases brought after the time limit, the very litigation process itself may place great strain on an established family. See id. at 464. Birt must establish he had a sufficient preexisting substantial relationship at the inception of this parentage action. He cannot use his parentage action as a vehicle to establish a substantial relationship or bootstrap his specific factual allegations of a substantial relationship with alleged facts after the commencement of his parentage action.

Birt filed his parentage action on September 2, 2025. Birt's Affidavit avers various facts which occurred after he filed his parentage action. These are not relevant to the Court's analysis of whether Birt had a substantial relationship with Giovanni that would allow him to pursue his parentage action. The length of time that Birt alleges he had any relationship whatsoever is the most noteworthy thing in Birt's Affidavit. Birt avers that he had his first "direct contact" with Giovanni in March 2025, when Giovanni was eleven years old. Birt had only had contact with Giovanni for approximately six months when he filed his parentage action.

Birt's Affidavit further avers that he has weekly contact with Giovanni and describes activities in which he engages with Giovanni. He avers that he had full-time care of Giovanni from August 7, 2025 through August 12, 2025, while Gurrieri was recovering from surgery. Birt also describes that Giovanni has met members of Birt's extended family, Birt has had some involvement with Giovanni's school and extracurricular activities, that Giovanni and Birt have an emotional bond, and other things.

The standard of law to find a sufficient preexisting substantial relationship within the meaning of the case law is exacting. This is especially true where Huckins had been established as Giovanni's legal father through the first eleven years of his life. Duration of the alleged relationship between Birt and Giovanni is an essential consideration in the Court's analysis. Birt has not cited to any case law, and the Court is not aware of any case law, where such a short relationship with a child eleven years old has been found to be a substantial relationship within the meaning of the case law.

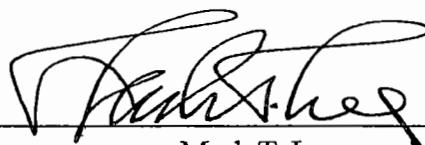
While Birt's Affidavit has described what might be a positive and caring relationship, it fails to allege facts which, if proven true, could plausibly lead the Court to find a sufficient parent-child substantial relationship within the meaning of the case law to allow him to continue with this litigation. The Court finds that Birt has not alleged sufficient facts to plausibly suggest that he is entitled to the relief he seeks. Accordingly, Birt has not stated a claim upon which relief can be granted. An order shall issue allowing Huckins' renewed motion to dismiss.

C. Order

1. Huckins' Renewed Motion to Dismiss, filed on May 19, 2026, is allowed.
2. Judgment of Dismissal shall issue dismissing Birt's Complaint to Establish Parentage, filed on September 2, 2025.

Date:

July 7, 2026

A handwritten signature in black ink, appearing to read "Mark T. Lee", written over a horizontal line.

Mark T. Lee
Justice of the Probate and Family Court

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF’S VERIFIED CONCISE STATEMENT OF FACTS AND LAW IN
SUPPORT OF MOTION FOR LEAVE PURSUANT TO PROBATE AND FAMILY
COURT STANDING ORDER 2-99(a)(3) RELATING TO PENDING MASS. R. DOM.
REL. P. 59(e) MOTION — LEE, J.**

Plaintiff Patrick S. Birt (“Plaintiff”), self-represented, submits this Verified Concise Statement of Facts and Law pursuant to Probate and Family Court Standing Order 2-99 in support of his Motion for Leave under Standing Order 2-99(a)(3) to submit later-received Registry documents concerning Plaintiff’s July 9, 2026 presentment of three pleadings and their subsequent administrative return.

I. NATURE OF THE REQUEST

1. Plaintiff’s request is narrow. On July 17, 2026, Plaintiff timely filed his Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e).
2. That timely Rule 59 filing already placed Plaintiff’s July 9, 2026 Registry presentment at issue and requested preservation and appropriate docket treatment of three pleadings Plaintiff had personally tendered before entry of final Judgment.
3. After Plaintiff filed Rule 59, the Worcester Registry returned those three pleadings to him. Each bears an official Registry stamp documenting receipt on July 9, 2026 at 12:55 p.m. The returned package also contained an undated Registry review sheet stating “improper pleadings, case dismissed.”
4. Those Registry-generated materials were not in Plaintiff’s possession when his Rule 59 papers were filed. Plaintiff therefore seeks leave under Standing Order 2-99(a)(3) before submitting them in connection with the pending Rule 59 Motion.
5. This is not a second or amended Rule 59 motion. Plaintiff does not seek through this filing to add a new substantive ground, enlarge the relief requested in Rule 59, or extend, restart, or otherwise alter any post-judgment or appellate deadline.

II. THE LATER-RECEIVED REGISTRY RECORD

6. On July 9, 2026, Plaintiff personally appeared at the Worcester Probate and Family Court Registry and tendered for filing:
 - a. Plaintiff's **Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status**;
 - b. Plaintiff's **Request for Evidentiary Hearing on the Substantial-Relationship Issue**;
 - and
 - c. Plaintiff's **Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d)**.
7. At that time, no separate final Judgment of Dismissal had been entered on the public docket. Plaintiff did not receive stamped copies, a filing receipt, or a written return or rejection concerning the three pleadings.
8. Plaintiff transmitted copies of the three pleadings by email to Attorney Michael G. Xavier and Defendant Gurrieri on July 9.
9. Plaintiff's timely July 17 Rule 59 papers expressly described the July 9 presentment and the absence of any stamped copies or written Registry disposition.
10. The Registry subsequently returned the three pleadings in an envelope postmarked July 20, 2026. Plaintiff received the package on July 23, 2026.
11. Each returned pleading bears the official Registry stamp:

“RECEIVED
REGISTER OF PROBATE
2026 JUL 9 PM 12:55”
12. The returned package also contained a Worcester Probate and Family Court review sheet identifying WO25W1359WD. None of the listed standard filing-defect boxes was marked. Instead, the review sheet bears the handwritten notation “improper pleadings, case dismissed.” The review sheet is undated.
13. The current docket does not reflect the July 9 receipt of the three pleadings, their subsequent administrative return, or any other docket disposition reflecting the Registry's receipt and treatment of those documents.
14. The docket reflects that the Memorandum of Decision and Order dated July 7, 2026 was entered on July 10, 2026. The separate Judgment of Dismissal dated July 7, 2026 was entered on July 14, 2026.
15. The Registry's own receipt stamps therefore document its receipt of all three pleadings on July 9, before entry of the separate Judgment of Dismissal.

III. THE RULES SUPPORT LEAVE AND COMPLETION OF THE RECORD

16. Standing Order 2-99(a)(3) provides that additional papers not served with the original post-hearing motion or authorized responsive statement may be filed only with leave of court. Plaintiff is following that procedure by seeking judicial leave before submitting the later-received Registry materials.
17. Mass. R. Dom. Rel. P. 58 provides that a judgment is effective when set forth and entered as provided in Rule 79(a). The operative separate Judgment here was entered July 14, 2026. The Registry's July 9 receipt therefore preceded entry of that Judgment.
18. Mass. R. Dom. Rel. P. 77(c) provides that a paper received by the Register is deemed filed as of the date of receipt. If the fact of filing is subsequently disputed, Rule 77(c) places resolution of that question with the Court.
19. Mass. R. Dom. Rel. P. 79(a) further provides for the chronological entry of filed papers, orders, and judgments in the civil docket.
20. Plaintiff does not ask through the present Motion for Leave to adjudicate the ultimate merits of the July 9 pleadings or every procedural consequence flowing from their Rule 77(c) filing date. He asks that the later-received documentary evidence be accepted so that the Court may determine appropriate filing and procedural treatment on a complete record.

IV. THE MATERIALS ARE DIRECTLY RELEVANT TO ISSUES ALREADY RAISED UNDER RULE 59

21. The proposed materials do not create a new Rule 59 theory. They objectively corroborate procedural events already described and placed at issue in Plaintiff's timely Rule 59 papers.
22. In particular:
 - a. the July 9 **Request for Evidentiary Hearing** is directly relevant to the Memorandum's determination that the opportunity to request an evidentiary hearing had been waived;
 - b. the July 9 **Motion for Leave to Amend or Supplement Complaint** is relevant to whether Plaintiff presented a less-drastic alternative to dismissal before entry of final Judgment; and
 - c. the July 9 **Administrative Motion for Clarification** documents Plaintiff's contemporaneous effort to address the unusual judgment-entry, docket-status, notice, GAL, and case-management chronology subsequently raised under Rule 59.
23. Plaintiff does not seek through this Motion for Leave to relitigate those substantive issues. He seeks to ensure that the pending Rule 59 Motion is considered on a complete procedural record containing the Registry's own documentary evidence concerning the July 9 presentment.

24. Without those materials, the record contains no documentary entry reflecting a Registry receipt event that occurred before final Judgment and that bears directly upon issues already before the Court under Rule 59. The resulting omission is troubling, materially incomplete, and materially prejudicial to meaningful post-judgment review and preservation of an accurate trial-court record for any appellate review.

V. GOOD CAUSE AND ABSENCE OF PREJUDICE

25. Good cause exists for leave because the proposed materials:
- a. were not in Plaintiff's possession when his timely Rule 59 papers were filed;
 - b. were returned by the Registry only after that filing;
 - c. bear official Registry-generated markings documenting receipt on July 9;
 - d. corroborate rather than alter or expand grounds already timely raised;
 - e. concern procedural events that presently do not appear on the docket; and
 - f. will permit the Court to consider the already-pending Rule 59 issues on a more accurate and complete procedural record.
26. Allowance will cause no unfair prejudice. Attorney Xavier and Defendant Gurrieri received copies of the three pleadings on July 9, and all parties are being served with the present Standing Order 2-99 filing package. The later-received Registry materials will be separately filed and served only if judicial leave is granted.
27. Plaintiff does not seek a separate oral hearing solely on the present Motion for Leave and does not withdraw, narrow, supersede, or waive his separately filed Request for Oral Hearing on the pending Rule 59(e) Motion.

VI. CONCLUSION

For these reasons, Plaintiff respectfully requests that the Court:

1. allow Plaintiff's Motion for Leave under Standing Order 2-99(a)(3);
2. authorize Plaintiff to file the three Registry-received July 9 pleadings, the Registry review sheet, and the return envelope as separate documents;
3. associate those materials with the record concerning the pending Rule 59(e) Motion;
4. direct appropriate docket treatment consistent with Mass. R. Dom. Rel. P. 77(c) and 79(a), while reserving the ultimate procedural consequences of the July 9 filing chronology for determination in connection with the pending Rule 59(e) Motion; and
5. clarify that the supplemental submission does not constitute a new or amended Rule 59 motion, add a new substantive ground for relief, enlarge the relief previously requested, or alter any applicable deadline.

VERIFICATION

I, Patrick S. Birt, certify under the penalties of perjury that the factual statements contained in this Verified Concise Statement concerning my actions, filings, receipt and transmission of documents, and the later-returned Registry materials are true and accurate based upon my personal knowledge, and that the statements concerning docket events accurately reflect the court docket and records I have reviewed.

SIGNED UNDER THE PENALTIES OF PERJURY.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me
Date: August 10, 2026

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**AFFIDAVIT OF PATRICK S. BIRT IN SUPPORT OF MOTION FOR LEAVE
PURSUANT TO STANDING ORDER 2-99(a)(3) AND AUTHENTICATION OF LATER-
RECEIVED REGISTRY MATERIALS — LEE, J.**

I, Patrick S. Birt, certify under the penalties of perjury as follows:

I. IDENTITY AND BASIS OF KNOWLEDGE

1. I am the Plaintiff in WO25W1359WD and am presently self-represented.
2. I am over the age of eighteen and competent to make this Affidavit.
3. Except where I expressly refer to a court docket or document that I personally reviewed, the facts stated in this Affidavit are based upon my personal knowledge.
4. I submit this Affidavit in support of my Motion for Leave pursuant to Probate and Family Court Standing Order 2-99(a)(3) to submit later-received Registry materials relating to my July 9, 2026 presentment of three pleadings.
5. The purpose of this Affidavit is limited to documenting the July 9 presentment, my subsequent receipt of the Registry-returned materials, authenticating those materials, and identifying the related docket chronology.
6. I do not submit this Affidavit as a new or amended Rule 59 motion, and I do not ask the Court through this Affidavit to determine the ultimate merits of the three July 9 pleadings.

II. JULY 9, 2026 REGISTRY PRESENTMENT AND SERVICE

7. On July 9, 2026, I personally appeared at the Worcester Probate and Family Court Registry.
8. Before and at the time of my appearance, I reviewed the public docket in WO25W1359WD.

9. At that time, no separate final Judgment of Dismissal appeared on the public docket, and the case remained publicly identified as active.
10. I personally presented and tendered to the Registry the following three pleadings:
 - a. **Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;**
 - b. **Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue;** and
 - c. **Plaintiff's Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).**
11. Registry personnel retained those three pleadings when I presented them.
12. I did not receive Registry-stamped copies of the three pleadings before leaving the Registry on July 9.
13. I did not receive a filing receipt concerning those three pleadings on July 9.
14. I did not receive a written rejection, return sheet, or other written disposition concerning those three pleadings on July 9.
15. At approximately 3:30 p.m. on July 9, 2026, I served copies of the three pleadings and their proposed orders by electronic mail upon Attorney Michael G. Xavier, counsel for Defendant Huckins, and Defendant Gurrieri.
16. My July 9 service email identified the documents as having been "filed/presented today."
17. I retain a copy of that email and the related email correspondence.

III. JULY 17 RULE 59 FILING

18. On July 17, 2026, I filed and served my Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e), together with its Standing Order 2-99 filing materials.
19. My July 17 Rule 59 papers expressly described my July 9 presentment of the three pleadings.
20. My July 17 papers also stated that I had not received file-stamped copies, a filing receipt, or a written rejection concerning those three pleadings.
21. Those statements were true and accurate when I signed and filed the Rule 59 papers.
22. As of July 17, 2026, the Registry had not returned the three July 9 pleadings to me.
23. As of July 17, 2026, I had not received the Registry review sheet described below.
24. As of July 17, 2026, I therefore did not possess the later-received Registry materials that are the subject of the present Motion for Leave.

IV. REGISTRY RETURN OF THE JULY 9 PLEADINGS

- 25. The Registry subsequently returned the three pleadings to me in one mailed package.
- 26. The envelope used to return the materials bears a postmark of July 20, 2026.
- 27. I received the returned Registry package on July 23, 2026.
- 28. The package contained the same three pleadings that I had personally presented to the Worcester Registry on July 9, 2026.
- 29. Each of those three returned pleadings bears an official Registry stamp stating:

“RECEIVED

REGISTER OF PROBATE

2026 JUL 9 PM 12:55”

- 30. The package also contained a Worcester Probate and Family Court review sheet identifying docket number WO25W1359WD.
- 31. I personally reviewed that review sheet after receiving the package.
- 32. None of the standard filing-defect boxes appearing on the review sheet was marked.
- 33. Instead, the review sheet bears the handwritten notation:

“improper pleadings, case dismissed.”
- 34. The review sheet itself does not contain a date identifying when that notation was written.
- 35. I do not know when the handwritten notation was placed on the review sheet.
- 36. I do not know who wrote the notation.
- 37. I do not have personal knowledge of when the decision to return the three pleadings was made.
- 38. I do not have personal knowledge of any communication between Registry personnel and the Court concerning the administrative return of the three pleadings.
- 39. I do not ask the Court to infer an improper motive from the notation, the timing of the return, or the absence of the pleadings from the docket.

V. AUTHENTICATION AND PRESERVATION OF THE RETURNED MATERIALS

- 40. I have preserved the original Registry-received copies of all three July 9 pleadings.
- 41. I have preserved the original Worcester Probate and Family Court review sheet that was returned with those pleadings.
- 42. I have preserved the original envelope in which the Registry returned those materials to me.

43. The copies of the three Registry-received pleadings that I seek leave to file are true and accurate copies of the documents returned to me by the Worcester Registry.
44. The copy of the Registry review sheet that I seek leave to file is a true and accurate copy of the review sheet returned to me by the Registry.
45. The copy of the July 20, 2026 return envelope that I seek leave to file is a true and accurate copy of the envelope in which I received the returned materials.
46. I will retain the originals and make them available to the Court if requested.

VI. RELATED DOCKET CHRONOLOGY

47. I personally reviewed the public docket after my July 9 Registry appearance.
48. On July 10, 2026, the docket reflected entry of a Memorandum of Decision and Order bearing a July 7, 2026 date.
49. The July 7 Memorandum stated that a separate Judgment of Dismissal “shall issue.”
50. No separate Judgment of Dismissal appeared on the public docket when I reviewed it on July 10.
51. My three July 9 pleadings did not appear on the public docket when I reviewed it on July 10.
52. I reviewed the docket again on July 13, 2026.
53. As of that review, no separate Judgment of Dismissal appeared on the public docket, and the three July 9 pleadings remained absent.
54. On July 14, 2026, I reviewed the public docket again.
55. The docket then contained an entry stating:
“07/14/2026 Judgment of Dismissal Dated July 7, 2026.”
56. The case status had also changed to closed.
57. The Judgment entered on July 14 bears a July 7, 2026 date.
58. The Registry stamps on the three returned pleadings state that they were received on July 9, 2026 at 12:55 p.m.
59. As of the date I sign this Affidavit, I have again reviewed the public docket in WO25W1359WD.
60. The three July 9 pleadings do not appear on the public docket.
61. I have not located a docket entry reflecting the Registry’s July 9 receipt of those three pleadings or their subsequent administrative return.

VII. LIMITED PURPOSE OF THIS AFFIDAVIT

62. The Registry-returned materials described above were not available to me when I filed my Rule 59 papers on July 17, 2026.
63. They now provide documentary evidence generated or returned by the Registry concerning the July 9 presentment that I had already described in my timely Rule 59 papers.
64. I submit this Affidavit solely to authenticate those later-received materials and establish the chronology necessary for the Court to determine my Motion for Leave under Standing Order 2-99(a)(3).
65. I do not ask through this Affidavit that the three July 9 pleadings be deemed allowed.
66. I do not ask through this Affidavit that the Court decide the ultimate procedural consequences of their July 9 receipt.
67. I respectfully request only that the Court consider these sworn facts in deciding whether I may submit the later-received Registry materials and whether appropriate docket treatment should be addressed in connection with my pending Rule 59(e) Motion.

SIGNED UNDER THE PENALTIES OF PERJURY.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick S. Birt". The signature is written in a cursive, flowing style.

Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: August 10, 2026

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

WORCESTER S.S.

DOCKET NO.

WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI

And

CHRISTOPHER J. HUCKINS,
Defendants.

**PROPOSED ORDER ON PLAINTIFF’S MOTION FOR LEAVE
PURSUANT TO PROBATE AND FAMILY COURT STANDING
ORDER 2-99(a)(3) TO SUBMIT LATER-RECEIVED REGISTRY
DOCUMENTS IN SUPPORT OF PENDING MASS. R. DOM. REL. P.
59(e) MOTION — LEE, J.**

After consideration of Plaintiff’s Motion for Leave pursuant to Probate and Family Court Standing Order 2-99(a)(3), Plaintiff’s Verified Concise Statement of Facts and Law, supporting Affidavit, and the record in this matter, it is hereby **ORDERED** as follows:

1. **Plaintiff’s Motion for Leave is ALLOWED.**
2. Plaintiff’s contemporaneously filed **Verified Concise Statement of Facts and Law and Affidavit of Patrick S. Birt in Support of Motion for Leave and Authentication of Later-Received Registry Materials** are accepted for purposes of the present Motion for Leave.
3. Plaintiff is authorized, promptly after notice of this Order, to file and serve as separate documents:

- a. the Registry-received copy of Plaintiff's July 9, 2026 **Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status**;
 - b. the Registry-received copy of Plaintiff's July 9, 2026 **Request for Evidentiary Hearing on the Substantial-Relationship Issue**;
 - c. the Registry-received copy of Plaintiff's July 9, 2026 **Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d)**;
 - d. the Worcester Probate and Family Court Registry review sheet bearing the notation "**improper pleadings, case dismissed**"; and
 - e. the return envelope bearing the July 20, 2026 postmark.
4. The materials authorized for filing by Paragraph 3 shall be associated with the post-judgment record in docket WO25W1359WD and with the record concerning Plaintiff's pending Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e), and shall be considered before disposition of that pending Motion.
 5. Consistent with Mass. R. Dom. Rel. P. 77(c) and 79(a), the Registry shall provide appropriate docket treatment reflecting that the three pleadings identified in Paragraph 3(a)-(c) were received by the Worcester Registry on **July 9, 2026 at 12:55 p.m.** and were subsequently administratively returned.
 6. Nothing in this Order presently determines:
 - a. the substantive merits of any of the three July 9, 2026 pleadings;
 - b. whether any of those pleadings should ultimately be allowed or denied;
 - c. every procedural or substantive consequence arising from the July 9, 2026 receipt or filing chronology; or
 - d. the merits of Plaintiff's pending Rule 59(e) Motion.

7. The supplemental submission authorized by this Order:
 - a. does not constitute a new or amended Rule 59 motion;
 - b. does not add a new substantive ground for Rule 59 relief;
 - c. does not enlarge the substantive relief requested in Plaintiff's pending Rule 59(e) Motion;
 - d. does not extend, restart, or otherwise alter any Rule 59 or appellate deadline;
and
 - e. is authorized solely to preserve and complete the record concerning the July 9, 2026 presentment, Registry receipt, and subsequent administrative return of the three pleadings.
8. Nothing in this Order withdraws, narrows, supersedes, or waives Plaintiff's separately filed **Request for Oral Hearing** on his pending Rule 59(e) Motion.
9. Plaintiff's existing requests in his timely Rule 59(e) Motion concerning the filing date, legal effect, and appropriate docket treatment of the July 9, 2026 pleadings are **preserved for determination in connection with the pending Rule 59(e) Motion.**

SO ORDERED.

Dated: _____, 2026

Justice of the Probate and Family Court

CERTIFICATE OF SERVICE

I, Patrick S. Birt, Plaintiff, self-represented, hereby certify that on **August 10, 2026**, I served true and accurate copies of the following documents:

1. **Plaintiff's Motion for Leave Pursuant to Probate and Family Court Standing Order 2-99(a)(3) to Submit Later-Received Registry Documents in Support of Pending Mass. R. Dom. Rel. P. 59(e) Motion and to Complete the Record Concerning July 9, 2026 Presentment — Lee, J.**, including the copies of the challenged **Judgment of Dismissal and Memorandum of Decision and Order** submitted with the Motion pursuant to Standing Order 2-99;
2. **Plaintiff's Verified Concise Statement of Facts and Law in Support of Motion for Leave Pursuant to Probate and Family Court Standing Order 2-99(a)(3) Relating to Pending Mass. R. Dom. Rel. P. 59(e) Motion — Lee, J.;**
3. **Affidavit of Patrick S. Birt in Support of Motion for Leave Pursuant to Standing Order 2-99(a)(3) and Authentication of Later-Received Registry Materials — Lee, J.;** and
4. **Proposed Order on Plaintiff's Motion for Leave Pursuant to Probate and Family Court Standing Order 2-99(a)(3) to Submit Later-Received Registry Documents in Support of Pending Mass. R. Dom. Rel. P. 59(e) Motion — Lee, J.**

Service was made by **electronic mail** upon:

Michael G. Xavier, Esq.

Prince Lobel Tye LLP

One International Place, Suite 3700

Boston, MA 02110

Email: mxavier@princelobel.com

Counsel for Defendant Christopher J. Huckins

Ivana G. Gurrieri

631 Boston Turnpike Road

Shrewsbury, MA 01545

Email: ivakri19@yahoo.com

Defendant, self-represented

I certify under the pains and penalties of perjury that the foregoing is true and correct.

Dated: August 10, 2026



Patrick S. Birt

Plaintiff, Pro Se
1665 Main St. Apt. A211
Jefferson, MA 01522
patricksbirt@pm.me

ATTACHMENT 17**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT****WORCESTER SS.****DOCKET NO. WO25W1359WD**PATRICK S. BIRT,
Plaintiff,

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.*August 10, 2026*
MOTION ALLOWED-DENIED*[Signature]*
JUDGE OF PROBATE COURT**MARK T. LEE***See Order: 8.4.2026*

PLAINTIFF'S MOTION FOR LEAVE PURSUANT TO PROBATE AND FAMILY COURT STANDING ORDER 2-99(a)(3) TO SUBMIT LATER-RECEIVED REGISTRY DOCUMENTS IN SUPPORT OF PENDING MASS. R. DOM. REL. P. 59(e) MOTION AND TO COMPLETE THE RECORD CONCERNING JULY 9, 2026 PRESENTMENT — LEE, J.

NOW COMES the Plaintiff, Patrick S. Birt ("Plaintiff"), self-represented, and respectfully moves pursuant to Probate and Family Court Standing Order 2-99(a)(3) for leave to submit later-received Registry documents reflecting the Worcester Registry's July 9, 2026 receipt of three pleadings tendered by Plaintiff and the Registry's subsequent administrative return of those pleadings with the notation "improper pleadings, case dismissed."

In accordance with Standing Order 2-99, Plaintiff contemporaneously submits his Verified Concise Statement of Facts and Law, supporting Affidavit, copy of the Judgment of Dismissal and Memorandum of Decision and Order at issue, Proposed Order, and Certificate of Service.

This Motion is narrow, but the record problem it addresses is serious. Plaintiff physically tendered three pleadings to the Worcester Registry on July 9, 2026. The Registry subsequently returned those pleadings bearing official receipt stamps and accompanied by a review sheet stating "improper pleadings, case dismissed." None of those events presently appears on the docket. That omission is troubling, materially incomplete, and materially prejudicial to a fair and accurate post-judgment record and preservation of that record for any appellate review.

74
75

This Motion is directed to preservation and completion of the record concerning Plaintiff's July 9, 2026 presentment, the Registry's documented receipt of the three pleadings, their subsequent administrative return, and the absence of those events from the present docket.

This is not a second or amended Rule 59 motion. Plaintiff does not through this Motion seek to add a new substantive ground for relief, enlarge the substantive relief requested in his pending Motion to Alter or Amend Judgment, or extend, restart, or otherwise alter any Rule 59 or appellate deadline.

Plaintiff seeks leave only to submit later-received, Registry-generated or Registry-returned materials that were not in his possession when he filed his Rule 59 papers and that objectively corroborate the July 9, 2026 presentment and subsequent Registry treatment already described and placed at issue in those timely papers.

In support of this Motion, Plaintiff states as follows:

1. On July 17, 2026, Plaintiff timely filed and served a Motion to Alter or Amend Judgment pursuant to Mass. R. Dom. Rel. P. 59(e), together with the required Standing Order 2-99 post-hearing filing materials.
2. In those timely Rule 59 papers, Plaintiff stated that, on July 9, 2026, he had personally appeared at the Worcester Probate and Family Court Registry and presented three pleadings for filing in docket number WO25W1359WD, but had not received stamped copies, a filing receipt, or a written rejection or return notice.
3. The three pleadings presented by Plaintiff on July 9, 2026 were:
 - a. **Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;**
 - b. **Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue;** and
 - c. **Plaintiff's Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).**
4. Plaintiff's timely Rule 59 papers already requested preservation of the July 9 presentment, appropriate docket treatment of those pleadings, or, alternatively, permission to refile them without prejudice to Plaintiff's position concerning the July 9 presentment and filing date.

5. When Plaintiff filed his Rule 59 papers on July 17, 2026, the Registry had not returned the three pleadings to him and had not provided him with the Registry receipt-stamped copies, Registry review sheet, or return envelope described below.
6. The Registry subsequently returned the three pleadings to Plaintiff in a package postmarked July 20, 2026, which Plaintiff received on July 23, 2026.
7. Each of the three returned pleadings bears the official Registry stamp:

“RECEIVED
REGISTER OF PROBATE
2026 JUL 9 PM 12:55”

8. The returned package also contained a Worcester Probate and Family Court review sheet identifying docket number WO25W1359WD.
9. None of the review sheet’s listed standard filing-defect boxes—including missing fee, incomplete form, illegibility, missing signature, missing forms, or wrong county—was marked.
10. Instead, the review sheet bears the handwritten notation:
“improper pleadings, case dismissed.”
11. The review sheet is undated. Plaintiff does not ask the Court to infer when the notation was written, who made the underlying administrative determination, or any improper motive.
12. The envelope used to return the pleadings bears a July 20, 2026 postmark.
13. The current docket does not reflect:
 - a. the Registry’s July 9, 2026 receipt of the three pleadings;
 - b. their subsequent administrative return; or
 - c. any other docket disposition reflecting the Registry’s receipt and subsequent treatment of those three pleadings.
14. The docket reflects that the Memorandum of Decision and Order dated July 7, 2026 was entered on July 10, 2026, and that the separate Judgment of Dismissal dated July 7, 2026 was entered on July 14, 2026.
15. Mass. R. Dom. Rel. P. 58 provides that a judgment becomes effective when set forth and entered as provided in Rule 79(a). The Registry’s official receipt stamps therefore document receipt of all three pleadings on July 9, 2026, before entry of the separate Judgment of Dismissal on July 14, 2026.

16. Mass. R. Dom. Rel. P. 77(c) provides that a paper received by the Register is deemed filed as of the date of receipt and that, if the fact of filing is subsequently disputed, that question is for the Court to determine.
17. Rule 77(c) is directly relevant because the Registry's own official stamps objectively document receipt of all three pleadings on July 9, 2026, while the present docket contains no corresponding entry reflecting their receipt or subsequent administrative treatment.
18. Mass. R. Dom. Rel. P. 79(a) further requires filed papers, orders, and judgments to be entered chronologically in the civil docket and requires the entry of an order or judgment to reflect the date on which the entry was made.
19. Plaintiff does not ask the Court through this Motion for Leave to adjudicate the merits of the three July 9 pleadings or every procedural consequence flowing from their Rule 77(c) filing date. Plaintiff asks that the documentary evidence of receipt and subsequent administrative return be accepted so that the Court may determine any appropriate filing and procedural effect on a complete record.
20. The later-received Registry materials are not collateral to the pending Rule 59 Motion. They directly corroborate procedural issues already raised in that timely Motion.
21. In particular:
 - a. one of the omitted pleadings is Plaintiff's specific **Request for Evidentiary Hearing**, directly relevant to the Memorandum's determination that the opportunity to request an evidentiary hearing had been waived;
 - b. another is Plaintiff's **Motion for Leave to Amend or Supplement Complaint**, relevant to whether Plaintiff presented a less-drastic alternative to dismissal before entry of final Judgment; and
 - c. the third is Plaintiff's **Administrative Motion for Clarification**, which sought contemporaneous clarification of the unusual judgment-entry, docket-status, notice, rejected-appeal, GAL, and case-management chronology later raised in Plaintiff's timely Rule 59 Motion.
22. Plaintiff does not seek to relitigate those substantive issues through this Motion for Leave. He seeks to ensure that the already-pending Rule 59 issues are considered on a complete procedural record that includes the Registry's own later-received documentary evidence concerning the July 9 presentment.

23. Without the later-received Registry materials, the file remains materially incomplete and, as to the July 9 chronology, objectively misleading because it contains no record of a documented filing event that occurred before entry of the separate Judgment.
24. That omission is troubling, materially prejudicial, and fundamentally inconsistent with meaningful post-judgment review and preservation of a complete trial-court record for any appellate review.
25. Plaintiff asks only that the later-received Registry materials be accepted into the file, associated with the pending Rule 59 record, and given appropriate docket treatment so that the record accurately reflects the Registry's documented receipt and subsequent administrative return of the three pleadings.
26. The proposed supplemental submission is narrowly limited to:
 - a. the Registry-received copy of Plaintiff's July 9, 2026 **Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status**;
 - b. the Registry-received copy of Plaintiff's July 9, 2026 **Request for Evidentiary Hearing on the Substantial-Relationship Issue**;
 - c. the Registry-received copy of Plaintiff's July 9, 2026 **Motion for Leave to Amend or Supplement Complaint pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d)**;
 - d. the Worcester Probate and Family Court Registry review sheet bearing the notation "improper pleadings, case dismissed"; and
 - e. the return envelope bearing the July 20, 2026 postmark.
27. Good cause exists for leave under Standing Order 2-99(a)(3) because:
 - a. the materials were not in Plaintiff's possession when he filed his timely Rule 59 papers;
 - b. the materials were returned by the Registry only after the Rule 59 filing;
 - c. the materials bear official Registry-generated markings documenting the July 9 receipt event;
 - d. the materials corroborate, rather than alter or expand, grounds already timely raised;
 - e. the current docket does not reflect the documented receipt and subsequent administrative treatment; and
 - f. consideration of the materials will permit the Court to address the already-pending post-judgment issues on a more accurate and complete procedural record.

28. Absent allowance of this Motion, the record will continue to omit the Registry's own documentary evidence of July 9 receipt and subsequent administrative return, leaving a materially incomplete record concerning an event already directly at issue in Plaintiff's timely Rule 59 Motion.
29. No unfair prejudice will result from allowance of this Motion. Defendant Huckins and Defendant Gurrieri were served with the three July 9 pleadings on July 9, 2026. They are being served with this Motion and its supporting papers and will be served with the later-received Registry materials if leave is granted.
30. Plaintiff submits this Motion in good faith and for the purpose expressly contemplated by Standing Order 2-99(a)(3): obtaining judicial leave before submitting additional papers relating to a pending Rule 59(e) Motion.
31. Plaintiff does not seek a separate oral hearing solely on this Motion for Leave. Plaintiff preserves, and does not withdraw, narrow, supersede, or waive, his separately filed Request for Oral Hearing on the pending Rule 59(e) Motion.
32. Plaintiff respectfully requests that this Motion for Leave be decided on the written submissions before disposition of the pending Rule 59(e) Motion or, alternatively, be addressed at any hearing the Court schedules on that Motion.

WHEREFORE,

Plaintiff respectfully requests that this Honorable Court:

A. ALLOW this Motion for Leave pursuant to Probate and Family Court Standing Order 2-99(a)(3);

B. ACCEPT the contemporaneously filed supporting Affidavit and Verified Concise Statement of Facts and Law for purposes of deciding this Motion;

C. AUTHORIZE Plaintiff, promptly after notice of allowance, to file and serve as separate documents:

1. the three Registry-received July 9, 2026 pleadings identified above;
2. the Worcester Probate and Family Court Registry review sheet bearing the notation "improper pleadings, case dismissed"; and
3. the return envelope bearing the July 20, 2026 postmark;

D. DIRECT that the authorized materials be associated with the post-judgment record in docket number WO25W1359WD and with the record concerning Plaintiff's pending Mass. R. Dom. Rel. P. 59(e) Motion before disposition of that Motion;

E. DIRECT appropriate docket treatment, consistent with Mass. R. Dom. Rel. P. 77(c) and 79(a), reflecting that the three specified pleadings were received by the Worcester Registry on July 9, 2026 at 12:55 p.m. and were subsequently administratively returned, while reserving for determination in connection with the pending Rule 59(e) Motion the procedural consequences, if any, of that filing chronology;

F. CLARIFY that the authorized supplemental submission:

1. does not constitute a new or amended Rule 59 motion;
2. does not add a new substantive ground for relief;
3. does not enlarge the substantive relief requested in Plaintiff's pending Rule 59(e) Motion;
4. does not extend, restart, or otherwise alter any Rule 59 or appellate deadline;
5. does not withdraw, narrow, supersede, or waive Plaintiff's separately filed Request for Oral Hearing on the pending Rule 59(e) Motion; and
6. is submitted solely to preserve and complete the record concerning the July 9, 2026 presentment, Registry receipt, and subsequent administrative return of the three pleadings;

G. PRESERVE, without deciding through this Motion for Leave, Plaintiff's existing requests in his timely Rule 59(e) Motion concerning the legal effect, filing date, and appropriate docket treatment of the July 9, 2026 pleadings; and

H. GRANT such other and further relief as justice requires.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: August 10, 2026

ATTACHMENT 18

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.**DOCKET NO. WO25W1359WD**

PATRICK S. BIRT,
Plaintiff,

Related Appellate Docket No. 2026-P-1375

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PLAINTIFF-APPELLANT'S MOTION PURSUANT TO MASS. R. APP. P. 8(e)(1)-(2)
AND MASS. R. DOM. REL. P. 77(c) AND 79(a) TO SETTLE, CORRECT, AND
SUPPLEMENT THE RECORD ON APPEAL CONCERNING JULY 9, 2026 REGISTRY
RECEIPT AND RETURN**

NOW COMES Plaintiff-Appellant Patrick S. Birt ("Birt"), self-represented, and respectfully moves pursuant to Mass. R. App. P. 8(e)(1)-(2), Mass. R. Dom. Rel. P. 77(c), and Mass. R. Dom. Rel. P. 79(a) for a limited order settling and correcting the record on appeal concerning the Worcester Probate and Family Court Registry's documented receipt on July 9, 2026 of three papers presented by Birt and the Registry's subsequent administrative return of those papers.

This Motion concerns the accuracy and completeness of the appellate record only. Birt does not seek through this Motion reconsideration of the Judgment of Dismissal, allowance of any July 9 pleading on its merits, reopening of the underlying action, or additional relief under Mass. R. Dom. Rel. P. 59 or Probate and Family Court Standing Order 2-99.

The appeal from the Judgment of Dismissal and denial of Birt's Rule 59(e) motion is presently pending as Appeals Court No. 2026-P-1375. The lower-court docket transmitted as part of the assembled record does not reflect the Registry's July 9 receipt or subsequent return of the three papers. Because those events bear directly on issues preserved for appellate review concerning amendment, an evidentiary-hearing request, judgment-entry chronology, and postjudgment relief, correction of the record is material to the pending appeal.

I. DOCUMENTED JULY 9, 2026 REGISTRY EVENT

1. On June 26, 2026, the Court signed a Memorandum of Decision and Order allowing Defendant Christopher J. Huckins' Renewed Motion to Dismiss and a separate Judgment of Dismissal.
2. Those June 26 documents were mailed to Birt on July 2, 2026 and received by him on July 8, 2026.
3. Neither June 26 document was entered on the electronic docket in WO25W1359WD.
4. After receiving those documents on July 8, Birt attempted to file a protective Notice of Appeal electronically.
5. The Clerk's Office rejected that submission on July 8 with the explanation: **"there is no judgment with that date."**
6. On July 9, 2026, Birt personally appeared at the Worcester Probate and Family Court Registry and presented the following three papers in WO25W1359WD:
 - a. **Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;**
 - b. **Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue Pursuant to the December 23, 2025 Order;** and
 - c. **Plaintiff's Motion for Leave to Amend or Supplement Complaint Pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).**
7. The Registry retained the three papers when Birt presented them.
8. Each of the three originals subsequently returned to Birt bears the official Worcester Register of Probate stamp:

RECEIVED

REGISTER OF PROBATE

2026 JUL 9 PM 12:55

9. The Registry subsequently returned the three papers to Birt.
10. The returned materials included a Worcester Probate and Family Court review sheet identifying WO25W1359WD and bearing the handwritten notation:
"improper pleadings, case dismissed."
11. The review sheet does not identify the date on which that notation was made.
12. The envelope used to return the papers bears a July 20, 2026 postmark.
13. The electronic docket contains no entry reflecting:

- a. the Registry's July 9, 2026 receipt of the three papers;
- b. their subsequent administrative return; or
- c. any other docket disposition memorializing the Registry's receipt and treatment of those papers.

- 14. On July 10, 2026, the docket first reflected entry of a Memorandum of Decision and Order bearing a July 7, 2026 date and allowing Defendant Huckins' Renewed Motion to Dismiss.
- 15. A separate Judgment of Dismissal bearing a July 7, 2026 date was entered on the docket on July 14, 2026.
- 16. The Judgment of Dismissal became the final judgment from which Birt subsequently sought Rule 59(e) relief and appealed.

II. RULE 8(e) AUTHORIZES CORRECTION OF THE APPELLATE RECORD

- 17. Mass. R. App. P. 8(a) defines the record on appeal as including the documents and exhibits on file, the transcript of proceedings, and the docket entries.
- 18. Mass. R. App. P. 8(e)(1) provides that when anything material is omitted from the record, the lower court, on motion, shall settle the dispute and add the omitted material to the record on appeal.
- 19. Mass. R. App. P. 8(e)(2) further provides that when the appellate record fails to accord with what occurred in the lower court, the lower court, on motion, shall settle any dispute and conform the record to the truth.
- 20. No stipulation of all parties is submitted with this Motion. Birt therefore invokes the Court's record-settlement authority under Rule 8(e).
- 21. Mass. R. Dom. Rel. P. 77(c) requires the Register to date-stamp papers received and provides that a paper received by the Register is deemed filed as of the date of receipt. If the fact of filing is disputed, Rule 77(c) assigns determination of that question to the Court.
- 22. Mass. R. Dom. Rel. P. 79(a) provides that papers filed with the Register shall be entered chronologically in the civil docket and that docket entries shall briefly show the nature of each paper filed.
- 23. Mass. R. Dom. Rel. P. 58 provides that a judgment is effective only when set forth on a separate document and entered as provided by Rule 79(a).
- 24. The present record therefore contains an objective omission requiring settlement under Rule 8(e): three papers bear official Registry stamps documenting receipt on July 9,

2026, but the docket transmitted on appeal contains no record of that receipt or their later administrative return.

III. THE OMITTED MATERIAL IS MATERIAL TO THE APPEAL

25. The July 9 papers are not offered through this Motion as new substantive evidence concerning parentage.
26. They concern procedural matters already placed at issue in Birt's timely Rule 59(e) motion and now identified for appellate review.
27. One of the papers was a specific written **Request for Evidentiary Hearing**.
28. Another was a separately captioned **Motion for Leave to Amend or Supplement Complaint pursuant to Rule 15**.
29. The third was an **Administrative Motion for Clarification** expressly addressing the unusual judgment-entry status, the rejected July 8 Notice of Appeal, and the uncertainty created by Birt's receipt of signed dismissal documents that had not been entered on the docket.
30. The Court's August 4, 2026 Memorandum denying Rule 59(e) relief addressed whether Birt had requested an evidentiary hearing and whether he had filed a motion to amend.
31. The July 9 presentment and the Registry's documented treatment of those papers are therefore material to an accurate appellate record, regardless of what legal effect the reviewing court ultimately assigns to them.

IV. THIS MOTION DOES NOT SEEK A MERITS RULING ON THE JULY 9 PAPERS

32. Birt recognizes that Defendant Huckins may contend that the Court had already reached a decision to dismiss before July 9 because the Court had signed dismissal documents on June 26.
33. Birt does not ask the Court to resolve through this Rule 8(e) Motion whether that prior decisional act ultimately rendered any of the July 9 requests meritorious, moot, untimely, procedurally unavailable, or otherwise ineffective.
34. The narrower record question is whether the appellate record should accurately reflect what occurred: the Registry received the three identified papers on July 9 at 12:55 p.m., retained them, and later returned them administratively.
35. The existence of a dispute concerning the **legal effect** of the July 9 papers does not eliminate the documented **fact of their receipt**.
36. To the extent the Court determines that the filing status of the papers is disputed, Birt respectfully requests that the Court resolve that discrete question pursuant to Rule 77(c).

37. In the alternative, if the Court declines to determine through this Motion that the papers were filed as of July 9 under Rule 77(c), Birt requests at minimum that the record and docket be corrected to state accurately that the three papers were received by the Registry on July 9, 2026 at 12:55 p.m. and were subsequently administratively returned.

V. PRIOR AUGUST 10 FILING

38. On August 10, 2026, Birt filed a motion pursuant to Probate and Family Court Standing Order 2-99(a)(3) seeking leave to submit the later-received Registry materials in connection with his Rule 59(e) proceeding and to complete the record concerning the July 9 presentment.

39. That motion was denied on August 18, 2026.

40. The present Motion is not a request to reconsider that denial and does not seek additional Rule 59 relief.

41. The present Motion invokes the distinct procedure established by Mass. R. App. P. 8(e) for settling and correcting the record after an appeal has been taken and while the appellate proceeding is pending.

VI. REQUEST FOR PROMPT RECORD SETTLEMENT

42. The appeal is docketed as Appeals Court No. 2026-P-1375, and Birt is presently preparing the record appendix and appellate brief.

43. A prompt ruling will permit the appendix and record citations to reflect accurately whatever determination this Court makes concerning the July 9 record.

44. Birt respectfully requests determination on the written submissions. If the Court concludes that a factual dispute concerning receipt or filing requires a hearing, Birt requests a limited hearing confined to settlement of the record under Rule 8(e) and Rule 77(c).

WHEREFORE

Plaintiff-Appellant Patrick S. Birt respectfully requests that this Honorable Court:

A. DETERMINE that the Worcester Probate and Family Court Registry received on July 9, 2026 at 12:55 p.m. the three papers identified in Paragraph 6 above;

B. DETERMINE that the Registry subsequently administratively returned those three papers to Birt with a Registry review sheet bearing the notation "improper pleadings, case dismissed";

C. SETTLE AND CORRECT the record on appeal pursuant to Mass. R. App. P. 8(e)(1)-(2) so that it accurately reflects the July 9 receipt and subsequent return;

D. DETERMINE, pursuant to Mass. R. Dom. Rel. P. 77(c), that the three papers are deemed filed as of July 9, 2026, or, alternatively, expressly reserve their ultimate legal effect while directing the docket to reflect their documented receipt and administrative return;

E. DIRECT the Register to enter appropriate chronological docket entries pursuant to Mass. R. Dom. Rel. P. 79(a) identifying each of the three July 9 papers and their subsequent administrative return;

F. AUTHORIZE AND DIRECT the Register, for purposes of correcting and supplementing the record on appeal, to accept and associate with WO25W1359WD separately submitted true copies of:

1. the Registry-received July 9, 2026 Administrative Motion for Clarification;
2. the Registry-received July 9, 2026 Request for Evidentiary Hearing;
3. the Registry-received July 9, 2026 Motion for Leave to Amend or Supplement Complaint;
4. the Registry review sheet returned with those papers; and
5. the July 20, 2026 return envelope.

G. DIRECT the Register to transmit or otherwise provide notice of the corrected or supplemental record to the Massachusetts Appeals Court in Appeals Court No. 2026-P-1375 in the manner required for a correction pursuant to Mass. R. App. P. 8(e);

H. CLARIFY that allowance of this Motion settles and corrects the appellate record only and does not itself constitute allowance, denial, or adjudication on the merits of any of the three July 9 papers; and

I. GRANT such other limited relief as is necessary to cause the lower-court and appellate records to conform accurately to what occurred.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: September 28, 2026

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

Related Appellate Docket No. **2026-P-1375**

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**AFFIDAVIT OF PATRICK S. BIRT IN SUPPORT OF PLAINTIFF-APPELLANT'S
MOTION PURSUANT TO MASS. R. APP. P. 8(e)(1)-(2) TO SETTLE, CORRECT, AND
SUPPLEMENT THE RECORD ON APPEAL**

I, Patrick S. Birt, certify under the penalties of perjury as follows:

I. IDENTITY AND PURPOSE

1. I am the Plaintiff-Appellant in Worcester Probate and Family Court docket number WO25W1359WD and the Appellant in Massachusetts Appeals Court No. 2026-P-1375.
2. I am presently self-represented.
3. Except where I expressly refer to a court docket or document that I personally reviewed, the facts stated in this Affidavit are based upon my personal knowledge.
4. I submit this Affidavit in support of my Motion pursuant to Mass. R. App. P. 8(e)(1)-(2) to settle, correct, and supplement the record on appeal concerning the Worcester Probate and Family Court Registry's receipt and subsequent return of three papers on July 9, 2026.
5. The purpose of this Affidavit is limited to documenting and authenticating the July 9 Registry event and the related docket chronology.
6. I do not submit this Affidavit to seek reconsideration of the Judgment of Dismissal or adjudication of the substantive merits of any of the three July 9 papers.

II. JULY 9, 2026 REGISTRY PRESENTMENT

7. On July 9, 2026, I personally appeared at the Worcester Probate and Family Court Registry.
8. I personally presented and tendered to the Registry the following three papers in docket WO25W1359WD:

a. **Plaintiff's Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;**

b. **Plaintiff's Request for Evidentiary Hearing on the Substantial-Relationship Issue Pursuant to the December 23, 2025 Order;** and

c. **Plaintiff's Motion for Leave to Amend or Supplement Complaint Pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).**

9. Registry personnel retained the three papers when I presented them.
10. I did not receive Registry-stamped copies of the papers before leaving the Registry on July 9.
11. I did not receive a filing receipt on July 9.
12. I did not receive a written rejection, return sheet, or other written disposition concerning the three papers on July 9.
13. Later that day, I served copies of all three papers by electronic mail upon Attorney Michael G. Xavier, counsel for Defendant Christopher J. Huckins, and Defendant Ivana G. Gurrieri.

III. REGISTRY RETURN AND RECEIPT STAMPS

14. The Worcester Registry subsequently returned the three papers to me in one mailed package.
15. The envelope used to return the materials bears a postmark of **July 20, 2026**.
16. I received the returned Registry package on July 23, 2026.
17. The package contained the same three papers that I had personally presented to the Registry on July 9, 2026.
18. The returned Administrative Motion for Clarification bears an official Worcester Register of Probate receipt stamp stating:
RECEIVED
REGISTER OF PROBATE
2026 JUL 9 PM 12:55
19. The returned Request for Evidentiary Hearing bears the same official Registry receipt stamp dated **July 9, 2026 at 12:55 p.m.**
20. The returned Motion for Leave to Amend or Supplement Complaint bears the same official Registry receipt stamp dated **July 9, 2026 at 12:55 p.m.**
21. I have preserved the original Registry-received copy of each of those three papers.

The same receipt-and-return facts were previously sworn to in your August filing, including the July 20 postmark and July 23 receipt.

IV. REGISTRY REVIEW SHEET

22. The returned package also contained a Worcester Probate and Family Court review sheet relating to WO25W1359WD.
23. I personally reviewed that sheet upon receiving the returned package.
24. None of the standard filing-defect boxes appearing on the review sheet for matters such as missing filing fee, incomplete form, illegibility, missing signature, missing forms, or wrong county was marked.
25. The review sheet instead directs the reader to additional notes and bears the handwritten notation:
“improper pleadings, case dismissed.”
26. The review sheet does not contain a date identifying when that handwritten notation was made.
27. I do not know when the handwritten notation was placed on the review sheet.
28. I do not know who wrote the notation.
29. I do not have personal knowledge of when the decision to return the three papers was made.
30. I do not have personal knowledge of any communication between Registry personnel and the Court concerning the return of the three papers.
31. I do not ask the Court through this Affidavit to infer any improper motive from the review sheet, the timing of the return, or the absence of the papers from the docket.

V. AUTHENTICATION AND PRESERVATION OF THE RETURNED MATERIALS

32. I have preserved the original Registry-received Administrative Motion for Clarification.
33. I have preserved the original Registry-received Request for Evidentiary Hearing.
34. I have preserved the original Registry-received Motion for Leave to Amend or Supplement Complaint.
35. I have preserved the original Registry review sheet that was returned with those papers.
36. I have preserved the original envelope in which the Registry returned the papers to me.
37. The copies of the three Registry-received papers in my possession are true and accurate copies of the papers returned to me by the Worcester Registry.
38. The copy of the Registry review sheet in my possession is a true and accurate copy of the review sheet returned to me by the Registry.

39. The copy of the July 20, 2026 return envelope in my possession is a true and accurate copy of the envelope in which the Registry returned those materials to me.

40. I will retain all originals and make them available to the Court for inspection if requested.

VI. JULY 10 AND JULY 14 DOCKET CHRONOLOGY

41. I reviewed the public docket in WO25W1359WD after my July 9 Registry appearance.

42. On July 10, 2026, the docket reflected that Defendant Huckins's Renewed Motion to Dismiss had been allowed.

43. The docket also reflected on July 10 the entry of a **Memorandum of Decision and Order dated July 7, 2026.**

44. The July 7 Memorandum stated that a separate Judgment of Dismissal **"shall issue."**

45. No separate Judgment of Dismissal appeared on the public docket when I reviewed it on July 10.

46. The three papers I presented to the Registry on July 9 did not appear on the public docket when I reviewed it on July 10.

47. I reviewed the docket again on July 13, 2026.

48. As of that review, no separate Judgment of Dismissal appeared on the public docket.

49. The three July 9 papers also remained absent from the public docket.

50. On July 14, 2026, the docket reflected an entry for:

"Judgment of Dismissal Dated July 7, 2026."

51. The case status thereafter reflected that WO25W1359WD was closed.

52. The certified docket subsequently assembled and transmitted in connection with Appeals Court No. 2026-P-1375 likewise reflects:

a. the Renewed Motion to Dismiss allowed and the Memorandum of Decision and Order entered on **July 10, 2026**; and

b. the separate Judgment of Dismissal entered on **July 14, 2026.**

The certified docket confirms those exact entries: the renewed dismissal was allowed and the memorandum entered July 10, followed by the separate Judgment on July 14.

VII. PRESENT OMISSION FROM THE RECORD

53. The Registry receipt stamps on the three returned papers document receipt of all three by the Worcester Registry on **July 9, 2026 at 12:55 p.m.**

54. The certified docket assembled for appeal contains no entry identifying the Registry's July 9 receipt of those three papers.

55. I have not located in the certified docket any entry reflecting the Registry's subsequent administrative return of the three papers.
56. The certified docket therefore reflects the July 10 entry of the Memorandum of Decision and Order and the July 14 entry of the separate Judgment of Dismissal, but it does not reflect the intervening July 9 Registry receipt documented by the official receipt stamps on the returned papers.

VIII. LIMITED PURPOSE OF THIS AFFIDAVIT

57. I submit the foregoing sworn facts so that the Court may determine what occurred on July 9, 2026 and what correction or supplementation of the record on appeal is appropriate.
58. I do not ask through this Affidavit that any of the July 9 papers be deemed allowed.
59. I do not ask through this Affidavit that the Court determine the ultimate legal effect, timeliness, or substantive merits of the July 9 papers.
60. I do not ask through this Affidavit that the underlying parentage action be reopened.
61. I ask only that the Court consider these sworn facts in determining whether the lower-court and appellate records should be settled and corrected to reflect the Registry's documented July 9 receipt and subsequent return of the three papers.
62. If the Court determines that inspection of any original Registry-received document, review sheet, or return envelope is necessary to resolve the Motion, I will produce the originals at the Court's request.

SIGNED UNDER THE PENALTIES OF PERJURY.

Respectfully submitted,



Patrick S. Birt
Plaintiff, pro se
1665 Main St. Apt A211
Jefferson, MA 01522
patricksbirt@pm.me

Date: September 28, 2026

**COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT**

WORCESTER SS.

DOCKET NO. WO25W1359WD

PATRICK S. BIRT,
Plaintiff,

Related Appellate Docket No. **2026-P-1375**

v.

IVANA G. GURRIERI and
CHRISTOPHER J. HUCKINS,
Defendants.

**PROPOSED ORDER ON PLAINTIFF-APPELLANT’S MOTION PURSUANT TO
MASS. R. APP. P. 8(e)(1)-(2) AND MASS. R. DOM. REL. P. 77(c) AND 79(a) TO
SETTLE, CORRECT, AND SUPPLEMENT THE RECORD ON APPEAL**

After consideration of Plaintiff-Appellant Patrick S. Birt’s Motion pursuant to Mass. R. App. P. 8(e)(1)-(2), the supporting Affidavit of Patrick S. Birt, and the docket and record in this matter, the Motion is **ALLOWED as follows:**

1. The Court finds for purposes of settling and correcting the record on appeal that the Worcester Probate and Family Court Registry received the following three papers in WO25W1359WD on **July 9, 2026 at 12:55 p.m.:**
 - a. Plaintiff’s Administrative Motion for Clarification of Judgment Entry, Docket Status, Notice, Rejected Notice of Appeal, GAL Status, and Case-Management Status;
 - b. Plaintiff’s Request for Evidentiary Hearing on the Substantial-Relationship Issue Pursuant to the December 23, 2025 Order; and
 - c. Plaintiff’s Motion for Leave to Amend or Supplement Complaint Pursuant to Mass. R. Dom. Rel. P. 15(a) and 15(d).
2. The Court further finds for purposes of settling and correcting the record that the Registry subsequently returned those three papers to Plaintiff-Appellant.
3. The returned papers bear Worcester Register of Probate receipt stamps dated **July 9, 2026 at 12:55 p.m.**
4. The returned materials included a Worcester Probate and Family Court review sheet bearing the handwritten notation “**improper pleadings, case dismissed.**”
5. The envelope in which the materials were returned bears a **July 20, 2026** postmark.

6. The present electronic docket does not reflect the Registry's July 9 receipt or subsequent administrative return of the three papers identified above.
7. The docket reflects that the Memorandum of Decision and Order dated July 7, 2026 was entered on **July 10, 2026**, and that the separate Judgment of Dismissal dated July 7, 2026 was entered on **July 14, 2026**. The certified docket transmitted on appeal reflects the same chronology.
8. Pursuant to Mass. R. App. P. 8(e)(1) and (2), the lower-court record shall be corrected and supplemented so that it accurately reflects the July 9, 2026 Registry receipt and subsequent administrative return described above. Rule 8(e) directs the lower court, on motion, to add material omissions and conform the record to what actually occurred.
9. Within seven (7) days of notice of this Order, Plaintiff-Appellant is authorized to submit separately to the Worcester Probate and Family Court Registry true copies of:
 - a. the Registry-received Administrative Motion for Clarification;
 - b. the Registry-received Request for Evidentiary Hearing;
 - c. the Registry-received Motion for Leave to Amend or Supplement Complaint;
 - d. the Registry review sheet returned with those papers; and
 - e. the return envelope bearing the July 20, 2026 postmark.
10. The Register shall accept those copies for the limited purpose of completing and correcting the record on appeal and shall associate them with WO25W1359WD accordingly.
11. The Register shall make an appropriate chronological docket entry or entries reflecting substantially the following:
07/09/2026 — Registry received at 12:55 p.m. Plaintiff's Administrative Motion for Clarification, Request for Evidentiary Hearing, and Motion for Leave to Amend or Supplement Complaint. Papers subsequently administratively returned by Registry.
12. The precise technical form of the docket notation may be modified by the Register as necessary, provided that the corrected docket accurately reflects the July 9 receipt and subsequent administrative return.
13. After completion of the foregoing correction and supplementation, the Register shall transmit or otherwise provide the appropriate corrected or supplemental record information to the Massachusetts Appeals Court in **Appeals Court No. 2026-P-1375** pursuant to Mass. R. App. P. 8(e).
14. This Order settles and corrects the historical record only.

15. Nothing in this Order:

- a. allows or denies the substantive relief requested in any of the three July 9 papers;
- b. reopens WO25W1359WD;
- c. alters, vacates, or amends the Judgment of Dismissal;
- d. determines whether any July 9 paper was substantively timely or meritorious;
- e. determines the ultimate legal effect of the July 9 Registry receipt; or
- f. limits any argument available to any party in Appeals Court No. 2026-P-1375.

16. To the extent any question remains concerning the legal consequences of the July 9 receipt under Mass. R. Dom. Rel. P. 77(c), that issue is reserved. This Order determines only that the record shall accurately reflect the documented receipt and subsequent administrative return.

SO ORDERED.

Dated: _____, 2026

Justice of the Probate and Family Court

CERTIFICATE OF SERVICE

I, Patrick S. Birt, Plaintiff, self-represented, hereby certify that on **September 28, 2026**, I served true and accurate copies of the following documents:

1. Plaintiff-Appellant's Motion Pursuant to Mass. R. App. P. 8(e)(1)-(2) and Mass. R. Dom. Rel. P. 77(c) and 79(a) to Settle, Correct, and Supplement the Record on Appeal Concerning July 9, 2026 Registry Receipt and Return;
2. Affidavit of Patrick S. Birt in Support of Plaintiff-Appellant's Motion Pursuant to Mass. R. App. P. 8(e)(1)-(2) to Settle, Correct, and Supplement the Record on Appeal; and
3. Proposed Order on Plaintiff-Appellant's Motion Pursuant to Mass. R. App. P. 8(e)(1)-(2) and Mass. R. Dom. Rel. P. 77(c) and 79(a) to Settle, Correct, and Supplement the Record on Appeal.

Service was made by **electronic mail** upon:

Michael G. Xavier, Esq.

Prince Lobel Tye LLP
One International Place, Suite 3700
Boston, MA 02110
Email: mxavier@princelobel.com
Counsel for Defendant Christopher J. Huckins

Ivana G. Gurrieri

631 Boston Turnpike Road
Shrewsbury, MA 01545
Email: ivakri19@yahoo.com
Defendant, self-represented

I certify under the pains and penalties of perjury that the foregoing is true and correct.

Dated: September 28, 2026



Patrick S. Birt
Plaintiff, Pro Se
1665 Main St. Apt. A211
Jefferson, MA 01522
patricksbirt@pm.me

ATTACHMENT 19

Pages: 1-59

COMMONWEALTH OF MASSACHUSETTS
WORCESTER, SS PROBATE AND FAMILY COURT DEPARTMENT
OF THE TRIAL COURT

* * * * *

PATRICK BIRT

vs.

Docket No. WO25W1359WD

IVANA GURRIERI AND
CHRISTOPHER HUCKINS

* * * * *

MOTION HEARING:
BEFORE THE HONORABLE MARK LEE

APPEARANCES:

For the Plaintiff:
By: Patrick Birt, Pro se

For the Defendant Gurrieri:
By: Ivana Gurrieri, Pro se

For the Defendant Huckins:
Prince Lobel Tye LLP
1 International Plaza, Suite 3700
Boston, MA 02110
By: Michael Xavier, Esq.

Worcester, Massachusetts
June 1, 2026

Elizabeth Marzano
Official Court Transcriber

1 (Court called to order)
2 (Parties present)
3 (9:36 a.m.)

4

5 THE CLERK: Calling the
6 Birt/Gurrieri/Harrington -- I'm sorry, Huckins
7 matter, 19W1406, 07, and 25W1359. Will the
8 parties please raise their right hands.

9 (PARTIES SWORN)

10 THE CLERK: Your name, please.

11 MR. HUCKINS: Christopher Huckins. Good
12 morning, Your Honor.

13 MR. XAVIER: Good morning, Your Honor. My
14 name is Michael Xavier. I represent
15 Christopher Huckins.

16 MR. BIRT: Good morning, Your Honor. I'm
17 Patrick Birt, pro se.

18 THE COURT: Good morning.

19 MS. GURRIERI: Good morning, Your Honor.
20 This is Ivana Gurrieri, and I'm representing
21 myself.

22 THE COURT: Good morning.

23 On the 19W file, I have a motion to
24 recuse from Mom.

25 I have GAL's motion for appointment
of a limited purpose GAL to either exercise or

1 assert the child's patient/therapist privilege.

2 And then I have the Guardian Ad
3 Litem's motion to extend the time for the
4 report. They're looking for an extension from
5 June 15th for 90 days. So a report by fall.

6 And then I have your renewed motion
7 to recuse and your motion to recuse. How do
8 you wish to proceed?

9 MR. XAVIER: And, Judge, I also have a
10 motion to dismiss as well.

11 But I think it makes sense, Judge, in
12 terms of the GAL's motions.

13 THE COURT: This one?

14 THE CLERK: Yes.

15 MR. XAVIER: I think --

16 THE COURT: I beg your pardon. Just give
17 me a moment.

18 MR. XAVIER: Sure.

19 (Pause in proceedings)

20 THE COURT: Okay. The proposed order on
21 the motion was stapled to the front. Okay, I
22 have -- I have that motion.

23 But does anybody have an objection to
24 me ordering the limited purpose to assist the
25 Guardian Ad Litem and to extend the Guardian Ad

1 Litem's time for performance?

2 MR. XAVIER: I do not, Judge.

3 MS. GURRIERI: I do not.

4 THE COURT: Do you?

5 MR. BIRT: I do not. I'm not a party in
6 the custody case, so I don't know if I get a
7 vote.

8 THE COURT: I think you do.

9 MR. BIRT: Okay.

10 THE COURT: Because it was my intention to
11 have the Guardian Ad Litem, sort of, do a
12 global on the whole thing. And what the
13 Guardian Ad Litem is doing is trying to figure
14 out if there is valuable information in the
15 patient/therapist privilege.

16 MR. BIRT: Mm-hm.

17 THE COURT: Child can't waive their
18 patient/therapist privilege, so the limited
19 purpose GAL is there to make that
20 determination. It's sort of a substituted
21 judgment on behalf of the child.

22 MR. BIRT: I don't object.

23 THE COURT: Okay. So with everyone's
24 assent, I'm going to allow those two procedural
25 motions. Yes?

1 THE CLERK: (Inaudible - speaking away
2 from microphone - 9:40:15).

3 THE COURT: With regard to the appointment
4 of the GAL, at some point, I had a conversation
5 with my assistant judicial case manager about
6 expanding the appointment to the 25W case
7 because I felt it was necessary with the two
8 pending actions that the GAL would not be
9 limited in interviewing any relevant contacts.

10 In looking at this just this morning,
11 I don't see that that has occurred. I don't
12 mean to speak out of turn when you said "I
13 don't know if I have a place at the table
14 here."

15 MR. BIRT: Mm-hm.

16 THE COURT: I don't mean to speak out of
17 turn, but that was my intention. I didn't want
18 to just have a limited investigation between
19 the parents that are on the birth certificate
20 and then find out later that we needed to
21 include other parties and have further delay
22 and further investigation.

23 So I want to be clear that -- on the
24 record this morning that I understand you have
25 a motion to dismiss. Obviously, I'm going to

1 hear you on that today.

2 But as of this moment right now, my
3 goal was to have the investigation cover all
4 bases, okay, going forward. And that I will
5 seek clarification of that because I know I
6 addressed that at least two or three weeks ago
7 administratively.

8 Okay. So that is that. I believe
9 the motion to recuse are first?

10 MR. XAVIER: I think so.

11 THE COURT: Okay. So who would like to go
12 first?

13 MR. BIRT: Your choice, Your Honor.

14 MS. GURRIERI: Your choice.

15 MR. BIRT: Okay, then I'll go first.

16 THE COURT: Sure.

17 MR. BIRT: Your Honor, I want to be clear.
18 I'm not saying the Court personally has any
19 animus or dislikes me. I'm not asking for
20 recusal just because I disagree with the
21 ruling.

22 More of the motion is about
23 appearance and record integrity in my parentage
24 case. To my knowledge, neither defendants have
25 filed a written opposition to renew my -- to my

1 renewed motion to recuse. I ask the Court to
2 treat it as unopposed on the written record
3 subject to any questions the Court has or any
4 oral response.

5 My motion is not based on one
6 sentence. It's based on the whole March 13th
7 sequence. I'm not a party to the custody
8 hearing. I was not there. I was not
9 represented. I had no chance to respond.

10 But the hearing discussed me. It
11 discussed my relationship with Gio. It
12 discussed my communications with Gio. It
13 discussed whether my relationship with Gio
14 should continue. Those are the same issues at
15 the center of my parentage case.

16 The transcript shows the Court was
17 unaware that my parentage case was already
18 pending and that my motion to coordinate had
19 already been filed.

20 The Court stated, in substance, that
21 I had not come forward and filed a parentage
22 case. That was incorrect. And it was not a
23 small detail. It made me look like someone
24 informally inserting myself into Gio's life
25 instead of someone who had filed a parentage

1 case and was following Judge Keamy's process.

2 Then, after the Court learned that my
3 parentage case did exist, the Court did not
4 step back. The Court continued making
5 statements about my relationship with Gio,
6 including that full, unfettered, unsupervised
7 contact with me was not in Gio's best interest.
8 That is the heart of my concern.

9 How can a reasonable observer hear
10 that and still believe the parentage case is
11 fully open in front of the same judge?

12 Selected materials about me from the
13 parentage case were also used in the custody
14 hearing. My deposition, text messages,
15 parentage case material. I was not there to
16 explain, nor did the Court inquire about the
17 source, the context, or whether the materials
18 were complete.

19 Then those materials are directed
20 outward to DCF, Gio's therapist, and the
21 Guardian Ad Litem. Once selected materials are
22 sent outward like that, without guardrails,
23 they can shape later assessments about me and
24 Gio before I ever get my own case heard.

25 I also want to mention the Court's

1 language about Defendant Huckins. I'm not
2 saying that first name use alone requires
3 recusal. I'm not saying one sympathetic
4 sentence alone requires recusal. But in
5 context, it matters.

6 The Court referred to Defendant
7 Huckins by first name. The Court said it did
8 not think Christopher went along with the
9 texting for a minute. And the Court said that
10 whatever Defendant Huckins faults were, he
11 deserves better.

12 In isolation, maybe those are just
13 comments. But in the same hearing, the Court
14 also making evaluative comments about me, my
15 contact with Gio, and sending selected
16 materials about me to DCF and therapy, taken
17 together, that creates an appearance problem.

18 So my concern is not one remark.
19 It's the whole sequence. I was absent. The
20 Court was unaware my parentage case existed.
21 The Court made an incorrect statement that I
22 had not filed.

23 Selected materials about me were
24 used. Those materials were sent outward.

25 The Court made evaluative remarks

1 about my relationship with Gio. And those are
2 the same issues the Court would now have to
3 decide in my parentage case.

4 For that reason, I respectfully ask
5 the Court to recuse and have this case
6 reassigned.

7 THE COURT: Just for the sake of the
8 record, my lack of knowledge of your parentage
9 case was corrected prior to the conclusion of
10 the hearing.

11 And I did specifically state on the
12 record that I was not going to interfere with
13 the ongoing relationship between you and the
14 child. That I had no information as to whether
15 or not it was in his best interest or not in
16 his best interest.

17 And as I had stated in previous
18 oppositions, my ire at that hearing was the
19 context of how the child discovered your
20 existence and the timing of that discovery
21 coming right after a partial hospitalization, I
22 believe it was.

23 MR. BIRT: It was.

24 THE COURT: Okay. And whether or not too
25 much information was coming at him too quickly.

1 He was already in a volatile situation with the
2 person whom he's called his father for his
3 lifetime. He was coming out of a partial
4 hospitalization.

5 And I was looking for some boundaries
6 and some guardrails to make sure that he wasn't
7 getting overwhelmed with new information. I
8 formed no opinions as to whether or not the
9 contact with you was good or bad.

10 In fact, I was concerned at the end
11 of that hearing about interrupting the contact
12 and the negative impact it might have on him
13 and this whole process, which is why I
14 appointed a Guardian At Litem.

15 And which is why a few weeks ago, I
16 took some pains to make sure that the
17 investigation was looking at the entire scope
18 of what's gone on here in the last year.

19 MR. BIRT: I appreciate that, Your Honor.
20 I did file this before you did assign the
21 Guardian Ad Litem in my parentage case, so I
22 appreciate that.

23 THE COURT: I'll hear from you.

24 MS. GURRIERI: So I want to thank you for
25 what you just said because it makes me feel so

1 much better. I -- that's all I want, really.
2 I can read to you what I was going to say to
3 you. (Inaudible - background noise - 9:48:21).

4 THE COURT: I'm sorry. I can't hear you.

5 MS. GURRIERI: I am sorry. I think you
6 addressed my concerns, but I'm just going to
7 say to you what I want to say.

8 THE COURT: Sure.

9 MS. GURRIERI: All right. Well, I came
10 over here to ask you to recuse yourself. And
11 really, what I really want, it's just a fair
12 process and for you to really understand what's
13 going on with Giovanni. That's all I'm
14 concerned about.

15 And the concern is because you're a
16 new judge appointed to the case, you do not
17 know the history. And last time,, I didn't
18 have the opportunity to speak and tell you some
19 of the background that was going on.

20 Also, I want to be clear, I'm not
21 here to attack you. I'm not saying you're a
22 bad judge.

23 THE COURT: And I'm not taking any of this
24 personally, just so you know.

25 MS. GURRIERI: And I'm not saying the

1 Court -- thank you so much.

2 THE COURT: Mm-hm.

3 MS. GURRIERI: I'm not saying that the
4 Court personally hates me. And I'm no asking
5 you to stop the GAL. I'm cooperating with the
6 GAL, and I believe the GAL is trying to
7 understand the truth, and I'm very supportive
8 about that, because the only thing I want is
9 for you to really know what's going on, because
10 what I tell you, it's bias. What they tell you
11 is bias. What the GAL is going to tell you is
12 objective, and I look forward to that.

13 My concern is about the March 13th
14 hearing and whether I had confidence that I
15 will be heard fairly going forward. There were
16 a few things that made me feel like I was not
17 being heard fairly.

18 For instance, I filed a motion to
19 coordinate the cases before the attorney filed
20 the motion for the GAL. His motion was heard.
21 Mine was not heard. Even today my motion is
22 not heard to coordinate the cases. He filed a
23 week ago, his motion for dismissal, and yet
24 today is being heard.

25 THE COURT: Is there a motion to

1 consolidate the cases?

2 MS. GURRIERI: No, coordinate.

3 MR. BIRT: Excuse me, Your Honor. It's
4 coordinate the cases.

5 MS. GURRIERI: Yeah. Coordinate, not
6 consolidate. To coordinate the cases, I filed.

7 THE COURT: Well, I -- I understand
8 coordinate to be consolidate.

9 MS. GURRIERI: Yeah.

10 THE COURT: Which is the term of art we
11 use.

12 MS. GURRIERI: I'm sorry. I --

13 THE COURT: It's okay.

14 MR. BIRT: There's two. Excuse me, Your
15 Honor. There's two. There's one in my case,
16 and there's one in the custody case.

17 THE COURT: Were you served with a motion
18 to coordinate or consolidate the cases?

19 MR. XAVIER: There's been several motions.
20 I know that there's protective case management
21 order. I may have been, Judge. I don't have a
22 copy of it in front of me. It sounds familiar
23 that there was a motion to coordinate, at some
24 point, filed. I don't believe it's been
25 scheduled by the Registry.

1 MS. GURRIERI: I served him and I have
2 proof.

3 THE COURT: Okay. But I'm wondering --

4 MR. BIRT: Mine's been on the docket since
5 December of last year.

6 THE COURT: Oh. But it's never been
7 scheduled for hearing?

8 MS. GURRIERI: No, no. And that was one
9 thing I'm like, why? And then...

10 THE COURT: Go ahead.

11 MS. GURRIERI: You want me to go?

12 So, like, another instance, Judge
13 Keamy at the approach, and I can ask a
14 transcript for you to read if you want me to.
15 But her approach was that we were supposed to
16 follow, to the comma, whatever DCF directives
17 were. So she just wanted both of us to do
18 exactly what DCF wanted.

19 And she asked us from the bench, say,
20 "You going to do it? That's what I'm asking
21 you." And I said yes.

22 So when you said to me that you
23 thought I was going to wash my hands by
24 following the DCF and psychologist, it felt
25 horrible because I was just doing what the

1 prior judge said to do and that's all I was
2 doing.

3 So I was accused of washing my hands.
4 When I did, I was only following prior judge's
5 orders. And I could not say that to you. You
6 got mad at me for whatever reason. I don't
7 know. Maybe sometimes I get too emotional.
8 I'm sorry. I'm not an attorney.

9 And this is -- as a mother, this is
10 scary for me because it's the well being of
11 Giovanni and people really do not know. So I'm
12 happy that GAL is actually involved.

13 Then there was, like, something else
14 I wanted to tell you, for instance, was the
15 fact that they had prior asked the Judge Keamy
16 to stop Giovanni from seeing Patrick.

17 First of all, during a hearing. Then
18 they actually filed a motion to prevent
19 contact, and Judge Keamy denied it. Both
20 because she thought there was not in Giovanni's
21 best interest for him not to see the biological
22 father.

23 And I just wanted to bring that to
24 your attention because you were new to the
25 case, and I felt I could not say it.

1 And then -- and then when I came
2 across -- that was portrayed like Giovanni is
3 doing so bad, that's not true. And I am 200
4 percent positive that that's going to come out
5 from the GAL report.

6 Giovanni is thriving. Giovanni is so
7 happy. Giovanni is eating. He has friends.
8 He's doing so well in school. And I think I
9 wanted to be able to say that to you, but I
10 couldn't.

11 And there are more details on why I
12 felt this way. They're included in my motion
13 for recusal and my affidavit.

14 And I think the Attorney Xavier was
15 allowed to explain the materials that were
16 provided. And when I tried to explain my side,
17 they give a context, I felt like I was stopped.

18 And then the Court also mentioned
19 very serious things, including changing custody
20 and foster care, and that was terrifying. And
21 just that would have been devastating. Even
22 DCF said that when they came to the house.

23 And I'm a mother. I am not an
24 attorney. English is not my first language.
25 And when a hearing moves very fast and I'm

1 stopped from explaining, I cannot protect
2 myself the same way an attorney can. I need to
3 know that I will have a fair chance to speak
4 before serious decisions are made about
5 Giovanni.

6 And I understand that the Court can
7 ask hard questions. I understand the Court can
8 make decisions that I do not like. But my
9 concern is not that I disagree with your
10 ruling.

11 My concern is the serious views
12 seemed to be formed before I had a fair chance
13 to explain. And that's why I was going to ask
14 the Court to decide whether another judge
15 should handle this case so that everyone can
16 have confidence in the process.

17 But after what you said to Mr. Birt,
18 I changed my mind because I think you can be
19 fair. The process is going to be fair. So I
20 thank you for addressing it.

21 THE COURT: So I just want to put on the
22 record, I don't believe I know any of -- either
23 of you professionally, personally. I don't
24 believe there's any relationship that you've
25 raised between friends or anything that would

1 give an appearance of bias other than the
2 problems that you had with the hearing that was
3 conducted previously in this case.

4 MS. GURRIERI: Yes.

5 THE COURT: Regardless of what I decide to
6 do on the motions to recuse, the outcome of
7 that hearing was to set this case up so that
8 there could be a hearing on everybody's
9 petition and that there would be the unbiased
10 information gathering of a clinical GAL in
11 assessing what everybody's relationship should
12 be going forward. Okay?

13 MS. GURRIERI: Yes.

14 THE COURT: So whether I remain on the
15 case or a new judge -- which I believe was an
16 issue Mr. Birt raised in his pleadings
17 previously, that a lot of hands had been on
18 this file. Okay?

19 Regardless of what my decision is,
20 the case, hopefully in September when the
21 Guardian Ad Litem comes in with the report,
22 will be in a position for this judge or another
23 judge, okay, to move forward with the evidence
24 at that point. Okay? And either come to a
25 resolution or schedule the matter for trial.

1 All right?

2 MS. GURRIERI: But I'm going to recuse
3 my --

4 THE COURT: I'm sorry?

5 MS. GURRIERI: I'm going to recuse my
6 motion to recuse.

7 THE COURT: Okay. I'm gonna just note on
8 your pleading "withdrawn at hearing."

9 MS. GURRIERI: Yes.

10 THE COURT: Okay? Counsel, I'll hear you
11 on the motion to dismiss.

12 MR. XAVIER: Oh, you don't need to hear me
13 on the --

14 THE COURT: I'm sorry. I didn't mean to
15 jump the gun.

16 MR. XAVIER: That's okay.

17 THE COURT: If you'd like to be heard on
18 an opposition of the recusal.

19 MR. XAVIER: Very briefly. I am opposing
20 the motion for recusal, Judge. I didn't file a
21 written opposition on it. I don't believe the
22 rules require that I file one since it's
23 scheduled for hearing. It wasn't scheduled
24 under Rule 78, administrative status, Judge. I
25 do oppose it.

1 I have no personal relationship with
2 the Court. I've never had any cases with the
3 Court when the Court was in private practice.

4 And I was present at that last
5 hearing, Judge, and what I experienced was a
6 concern by the Court. And the Court has
7 definitely the ability to express its concerns
8 about the wellbeing of any child that is
9 subject to a case that's before the Court. And
10 we had a very child-focused hearing.

11 And since we are on the record,
12 Judge, and I don't want to belabor the issue,
13 but I did read some text messages, Judge, at
14 the last hearing, which were devastatingly, I
15 believe, detrimental to this child's wellbeing.
16 And the Court rightfully raised that concern.

17 And I don't hear any remorse, nor do
18 I expect that there will be from Mother at
19 that -- from having the child be subjected to
20 that, Judge. But I think that the Court's
21 comments came from a place of concern for the
22 child.

23 I don't believe the Court made any
24 decisions that were adverse to either party. I
25 think the decisions that were made are made in

1 furtherance of the investigation that the GAL
2 is doing, Judge.

3 But just for the record, Judge, you
4 know, there were significant text messages.
5 This child has been known that Court
6 proceedings are ongoing. This child was taken
7 to a genetic marker test without my client
8 being a part of that process.

9 You know, he's been informed by Mr.
10 Birt. Well, Mr. Birt has made comments adverse
11 to my client, Judge, in text messages with the
12 child, Judge.

13 So I think rightfully the Court
14 had -- was right to be concerned about some of
15 that conduct. And it is not uncommon for a
16 Court to suggest a sua sponte order or other
17 orders -- the Court can always make orders
18 that's in the best interest of a child if the
19 Court hears some information that provokes the
20 same, Judge.

21 So I think the Court was certainly
22 in -- in the right in addressing those issues,
23 Judge. Mother had ample time to respond. She
24 filed an opposition to my motion for the GAL,
25 Judge.

1 And it's also concerning that that
2 was a closed proceeding. DCF was involved.
3 There's information being provided to Mr. Birt
4 by Ms. Gurrieri that are part of the
5 proceedings that are closed. So I do have some
6 concerns, Judge.

7 So I also want to put on the record
8 that, you know, we can't have judges recuse
9 themselves every time a litigant has a
10 complaint about something that the Court hears
11 when the Court is making a comment that
12 rightfully admonishes their conduct.

13 I will tell you that during these
14 proceedings, I've had experiences where Ms.
15 Gurrieri has pointed me to the rules of
16 professional responsibility, and Mr. Birt has
17 also done the same.

18 So when there's pushback or there's
19 some antagonism or there's some conflict, you
20 know, unfortunately, it's been my experience
21 that there's been some reference that my
22 conduct has been inappropriate.

23 So, Judge, I don't think the burden
24 has been met. I'm asking the Court to deny the
25 motion to recuse. I think the comments the

1 Court made were child-focused.

2 I think the text messages, the
3 conduct, the history of what happened to this
4 child, and my client not being involved in how
5 he was -- how he learned that he's not his
6 biological father after eleven years was
7 horrible. It was horrible. So I'm asking the
8 Court to deny the motion.

9 THE COURT: Okay. Any response?

10 MS. GURRIERI: I already recused -- I
11 already asked to dismiss mine. So I -- I ask
12 the Court to recuse my --

13 THE COURT: To take no action on yours.

14 MS. GURRIERI: To take no action on mine,
15 to dismiss my motion.

16 THE COURT: Okay.

17 MR. BIRT: Well, Your Honor, if recusal --
18 if you do not recuse, I want to just preserve
19 my objection for the narrow record safeguards.

20 I'd like to clarify that nothing said
21 or directed during the March 13th custody
22 hearing finding in my parentage case was about
23 my relationship with you. I'm just trying to
24 protect my case.

25 Second, I wanted to clarify the

1 deposition excerpts, texts, and other parenting
2 material sent to DCF's therapist or the GAL are
3 limited purpose materials and not Court
4 findings against me in this parentage case.

5 And third, please require that any
6 GAL or evaluator report to identify the source
7 and completeness of the material about me,
8 whether it was reviewed in full or only in
9 excerpts as he's indicated.

10 THE COURT: If I could just stop you right
11 there.

12 My -- the only order I made, and
13 correct me if I'm wrong, my memory is faulty
14 because I don't have the order right in front
15 of me, was that you police the text messages
16 that you -- you testified at hearing that
17 Giovanni was texting with Mr. Birt, okay, and
18 that you didn't know what they were texting.
19 And I asked you to exercise some oversight --

20 MS. GURRIERI: Yes.

21 THE COURT: -- on those text messages.

22 MS. GURRIERI: Yes.

23 THE COURT: Is that correct?

24 MS. GURRIERI: Yes. I don't --

25 THE COURT: Is that the only --

1 MS. GURRIERI: That was --

2 MR. XAVIER: Judge, you also ordered that
3 I provide a copy of the deposition transcript
4 and the text message to DCF and Gio's
5 therapists -- that Mom provide Gio's therapist
6 and to the Guardian Ad Litem. I would have
7 done that anyhow.

8 THE COURT: Okay.

9 MR. XAVIER: I would have done it anyhow.
10 So the GAL has a copy of the deposition
11 transcript.

12 THE COURT: That order would have been in
13 harmony with what Judge Keamy had previously
14 told the parents, okay, and you weren't
15 present -- well, I assume you've listened to
16 MassCourts.

17 MR. XAVIER: Mm-hm.

18 THE COURT: You've listened to the
19 hearing.

20 MR. XAVIER: Yup.

21 THE COURT: So I was asking DCF, "Are you
22 aware of this?" Okay? If these parents are
23 supposed to be following every recommendation
24 made by DCF, DCF needs to be fully informed.

25 MR. BIRT: I agree.

1 THE COURT: Okay. And if somebody has a
2 bad day with a text message, that's not
3 determinative of the outcome of the case.

4 MS. GURRIERI: Yes.

5 THE COURT: Okay?

6 MS. GURRIERI: Yes.

7 THE COURT: And I'm sure, now that
8 everybody is aware that any text message they
9 send may be written by the judge or seen by
10 DCF, they're texting appropriately and
11 accordingly.

12 MS. GURRIERI: And I went through the
13 messages, and there aren't, like, hundred of
14 messages. It only happened once.

15 THE COURT: But all I was asking at that
16 hearing was you had testified previously that
17 your daughter had decided to make the
18 introduction.

19 MS. GURRIERI: Yes.

20 THE COURT: That you didn't know about the
21 introduction. That you didn't know about the
22 texts. And what I asked is that you get
23 involved --

24 MS. GURRIERI: Yes, with the text
25 messages.

1 THE COURT: -- as a parent with Giovanni,
2 okay, and exercise some oversight.

3 MS. GURRIERI: Yes. And we had the
4 conversation about that.

5 THE COURT: And my concern was that not
6 too much was coming at Giovanni too fast so
7 soon after a hospitalization.

8 MS. GURRIERI: Yes. I -- yes, I agree.
9 But that, unfortunately, happened in the past.
10 It could not be changed. So the only thing --
11 (inaudible - simultaneous speech - 10:05:19).

12 THE COURT: I'm just explaining where the
13 Court was coming from at that hearing.

14 MS. GURRIERI: I understand what you did,
15 why you did it, and that is why I asked for
16 dismissing my motion to recuse. And I thank
17 you for explaining.

18 THE COURT: You were reading from
19 something that was prepared and I interrupted
20 you. I don't -- I want you to complete what
21 you were reading.

22 MR. BIRT: That's okay. I just -- like I
23 said, if you do decide to not recuse yourself
24 from the parentage case, I'm just trying to put
25 guardrails on any information from this

1 parentage case that is distributed into the
2 custody case, and that it not be used as a
3 dispositive motion against me in this case.

4 So in my opinion, not being a lawyer,
5 the text messages, the deposition was
6 completely operationalized by the Court and
7 sent out to these other third parties without
8 any real guardrails. So there was no
9 impoundment record. There was nothing that
10 stopped anybody from making copies,
11 distributing.

12 And those documents will or could, if
13 they were excerpted, which I don't know,
14 because I didn't get distributed those things,
15 they could be held against me in the parentage
16 case.

17 So I'm just trying to protect the
18 integrity of the parentage case from things
19 being distributed into the custody case and
20 then later used against me in this case.

21 THE COURT: Okay. So, as you know, during
22 that hearing, I wasn't aware of the parentage
23 case until about an hour into the proceedings.
24 Okay?

25 MR. BIRT: Mm-hm.

1 THE COURT: And as of this date, I have
2 not looked at the facts and circumstances of
3 your complaint, the supporting affidavit, or
4 the statute. Okay?

5 The issue -- the issue that I see is
6 I want the GAL to have -- I want the GAL to be
7 the eyes and the ears.

8 MR. BIRT: You and me both. Absolutely,
9 Your Honor. I agree.

10 THE COURT: Okay? Eyes and ears.

11 I want -- if DCF is telling either of
12 these parents what they should or shouldn't be
13 doing, I want them to have the full picture.

14 MS. GURRIERI: Yes.

15 THE COURT: Any -- yes?

16 MR. XAVIER: I don't have anything to add,
17 Judge, on the motion to recuse. I think that
18 we've --

19 THE COURT: Okay.

20 MR. XAVIER: -- done enough on that issue.

21 THE COURT: All right. You have a motion
22 to dismiss?

23 MR. XAVIER: I do. Thank you. May I be
24 heard?

25 THE COURT: You may.

1 MR. XAVIER: Thank you, Judge.

2 Judge, I filed a renewed motion to
3 dismiss the complaint that -- to establish
4 parentage dated September 2nd of 2025, pursuant
5 to Rule 12B6 and 12B9. That complaint was
6 filed by Mr. Birt.

7 I filed a previous motion to dismiss.
8 Judge Keamy denied it and gave me the
9 opportunity, after Mr. Birt filed an
10 opposition -- filed his affidavit, to renew
11 that motion. That was based on a memorandum of
12 decision and order dated December 23, 2025, by
13 Judge Keamy at the time.

14 Not to belabor all the procedural
15 background, Judge, but just for the record, Mr.
16 Hu -- as the Court may recall, Mr. Huckins has
17 been Giovanni Huckins's father since his birth.
18 Gio is now 12 years old.

19 At the time of his birth, my client
20 filed and signed a voluntary acknowledgment of
21 paternity at the birth, Judge. He's on record
22 as the father of the minor child. He's on the
23 birth certificate dated April 1st of 2014.

24 There was a judgment out of this
25 court, Your Honor, where my client, Mr.

1 Huckins, shares legal custody of the minor
2 child with Mother, one of the defendants in
3 this case.

4 It was not until more than ten years
5 after Gio's birth and after the voluntary
6 acknowledgment of paternity that Mr. Birt filed
7 the underlying complaint to establish
8 paternity.

9 As the Court may be aware, Mr. Birt
10 is statutorily barred from bringing this action
11 by a statute of repose since it's been more
12 than a year from the voluntary acknowledgment
13 of paternity.

14 According to ALM General Laws 209C,
15 that unless either signatory rescinds the
16 acknowledgment within 60 days of the signing as
17 provided in that section, the acknowledgment
18 shall establish paternity. As of the date of
19 assignment shall have the same force and effect
20 as a judge in the parentage subject to
21 challenge within one year only on the basis of
22 fraud, duress, material mistake of fact.

23 It wasn't until about a year -- the
24 plaintiffs did not bring a challenge of
25 paternity within a year of the VAP. The

1 voluntary acknowledgment of paternity.

2 We filed, Judge, on October 1, 2025,
3 the motion to dismiss. We had a hearing. The
4 Court denied without prejudice my motion to
5 give Mr. Birt, as I said, an opportunity to
6 file an affidavit showing a substantial
7 relationship with the minor child.

8 I will also state, Judge, that to
9 date there's been no complaint inequity, which
10 I've seen in other cases where someone is
11 looking to establish de facto parentage or the
12 parentage in another manner that hasn't been
13 filed. Mr. Birt states that the Registry has
14 not accepted that, but I have had no issues
15 doing the same in other cases.

16 So we did file, Judge, a renewed
17 motion to dismiss. Again, there should be no
18 opportunity to demonstrate a substantial
19 relationship, as any relationship only arose
20 after the statute of repose had been been
21 expired.

22 But, Judge, I also did learn at the
23 deposition that Mr. Birt did admit certain
24 facts demonstrating he was aware the
25 likelihood --

1 THE COURT: Whoa, whoa, whoa. Let's stop
2 there. Okay? Because your motion is on the
3 sufficiency of the pleadings.

4 MR. XAVIER: It is, correct.

5 THE COURT: So we're not going to get into
6 deposition testimony. It's -- the Court denied
7 your motion without prejudice, asked Mr. Birt
8 to file another affidavit, which you did, which
9 I haven't read.

10 And what specifically is your motion
11 attacking as far as that goes?

12 MR. XAVIER: Understood. I'll move to
13 that.

14 And, Judge, I am relying the Court --
15 relying, Judge, on JM versus GC 492 Mass 459,
16 which is one of the seminal cases, Judge. And
17 I have a copy if the Court wants it. And I
18 know that Mr. Birt is also familiar with that
19 case.

20 That case discusses what a litigant
21 needs to demonstrate in order to support that
22 there's a relationship that is substantial, a
23 substantial parent relationship with clear and
24 convincing evidence.

25 In that case, Judge, the Court found

1 that the moving party in that case was not
2 routinely involved in the health, education, or
3 welfare. It did not support the child
4 financially and emotionally as a parent does.
5 And the Court declined in that case, which is
6 JM versus GC, to determine that there was a
7 substantial relationship with the child.

8 In this case, Judge, I'm asking the
9 Court, based on the affidavit, to dismiss the
10 case. I will say, Judge, that this is a
11 relationship of approximately one year.
12 There's been no financial support.

13 My client has been providing child
14 support and financial support throughout Gio's
15 entire life. He provided a home for him. The
16 parties lived together for three years. Mr.
17 Birt has had a relationship for approximately a
18 year, and he has no financial obligations. He
19 hasn't been involved in the child's education.

20 That was the decision that was made
21 prior to his involvement in this child's life,
22 which my client has been involved in for eleven
23 years.

24 He has no say in involvement in the
25 child's medical decisions. Those decisions

1 have been made for the past twelve years by the
2 two parties in this case. He's had no
3 involvement in that.

4 With respect --

5 THE COURT: Okay, but that --
6 respectfully, I'm looking -- if it's a 12 --
7 12B motion, I'm looking at the sufficiency of
8 the pleadings before the Court. All right?

9 If you want to go outside of that
10 box, we're at a summary judgment motion.

11 MR. XAVIER: Understood.

12 THE COURT: Okay.

13 MR. XAVIER: Understood. So, and Judge,
14 just to, sort of, wrap up then, my other issue
15 is that the Courts also look at what the
16 emotional support has been for this child.
17 That is a sufficient pleading that needs to be
18 asserted in the affidavit.

19 I will say, based on the text
20 messages that I've reviewed -- again, it's
21 discovery. The emotional support has been
22 adverse to this child who has -- essentially,
23 these two parties have worked against this
24 child to alienate and to forbid my client to
25 have a relationship.

1 THE COURT: Again, that goes to evidence.
2 And as when this hearing started, we were
3 talking about making sure that the GAL had
4 whatever they needed to complete their
5 investigation. Okay? And we're looking at
6 September.

7 MR. XAVIER: We are.

8 THE COURT: For that to come in.

9 MR. XAVIER: And the only thing I would
10 add, Judge, is that this -- in Mr. Birt's
11 opposition, he mentions that the GAL is doing
12 an investigation as to what, if any,
13 relationship this child should have ongoing.

14 Judge, if the Court decides to
15 dismiss this action, I believe that the GAL
16 would still have the ability, under the
17 modification action, the contempt action that's
18 pending between the mother and father, to look
19 into that, Judge.

20 We're not looking -- Judge, the issue
21 is parentage versus having visitation with this
22 child. They're two different issues.

23 THE COURT: Okay. But as you've already
24 raised, on the equity side of this Court's
25 jurisdiction, there are other complaints that

1 the gentleman could raise that go outside of
2 the amendments to 209.

3 MR. XAVIER: Right. And he has not raised
4 so, Judge.

5 THE COURT: Okay. But we haven't even had
6 a pretrial conference on his complaint. Have
7 we had a pretrial conference on the mod?

8 MR. XAVIER: We have not.

9 THE COURT: Okay. So I'll take your
10 motion under advisement.

11 Do you have anything to say on the
12 motion?

13 MR. BIRT: Yes, I'd like to just address
14 the equity complaint. Defendant Huckins says I
15 didn't file the right equity complaint.

16 I tried to file the right vehicle. I
17 began with complaint in parentage. I submitted
18 that to the Registry, and it was rejected with
19 a handwritten note on the post-it that said,
20 "This is supposed to be a complaint in equity."

21 So I went down to legal services and
22 asked, what is it? What can I do? So I did
23 research with the legal library, legal
24 services, and filed a verified complaint in
25 equity that was rejected by the Registry and

1 said with a handwritten note that there is a
2 remedy of law and it is a complaint for
3 parentage.

4 So I filed -- I went to legal
5 services. The only difference between the
6 original parentage complaint that I filed and
7 the one that Legal Services helped me file is
8 theirs was typewritten, mine was handwritten,
9 and they accepted it. So that's why we're here
10 today.

11 I got -- you know, it's not really a
12 reason to dismiss with prejudice. If you want
13 to grant leave and I amend or clarify, I can
14 file an equity complaint if the Court, you
15 know, so supposes.

16 The other things that Mr. Huckins,
17 again, I agree with you that he wants it both
18 ways. He's filing under Rule 12, and that's
19 just for the pleadings.

20 If there's going to be evidence in
21 this case, I believe that Judge Keamy had put
22 in her memo an offering for that. She said
23 that either side could ask for an evidentiary
24 here. So she --

25 THE COURT: Okay. But I -- I don't think

1 we're ready --

2 MR. BIRT: No, I don't either.

3 THE COURT: -- for an evidentiary hearing.

4 MR. BIRT: I don't either. I think this
5 is all premature.

6 THE COURT: Yeah. I think we have to
7 defer to the GAL report, and then at that
8 point, we're looking at a pretrial conference.
9 It may be appropriate to ask for an evidentiary
10 hearing at that point.

11 I want to be clear with all the
12 parties. I know counsel knows this. The judge
13 doesn't have control over what gets accepted or
14 rejected at the clerk's office.

15 MR. BIRT: I get it.

16 THE COURT: That said, I have a problem
17 with hearing that properly completed pleadings
18 are being rejected at the counter. If you file
19 a complaint in equity that has a caption, a
20 docket number, parties, some stated complaint,
21 I'm a little flummoxed at the ability of
22 somebody at the counter to make a legal
23 decision as to whether or not to accept that
24 filing.

25 So your point is well taken on leave

1 to file whatever supplemental pleadings you
2 want. But I am hearing that Mr. Birt did
3 follow through on Judge Keamy's December order.

4 MR. XAVIER: He filed an affidavit, Judge,
5 yes.

6 THE COURT: And filed -- the call of the
7 order was to file an affidavit or a more
8 substantive affidavit?

9 MR. BIRT: An affidavit, if proven
10 correct, would prove a substantial relationship
11 between me and Gio, correct.

12 THE COURT: Okay. And your argument is?

13 MR. XAVIER: That he doesn't -- his
14 affidavit does not allege specific facts under
15 the case law that would substantiate beyond
16 clear and convincing evidence that he, in fact,
17 has a substantial relationship with his child.

18 THE COURT: Okay.

19 MS. GURRIERI: Your Honor, may I say
20 something?

21 THE COURT: Yes.

22 MS. GURRIERI: Okay. So I think to what
23 you just said, the GAL will be able to provide
24 you an answer with on the fact whether or not
25 Mr. Birt has a substantial relationship with

1 Giovanni or not. So I think waiting for the
2 GAL to finish her investigation is the best
3 course of action, in my opinion.

4 Then I would like to say that I
5 disagree with the position that I have taken.
6 Making Mr. Birt at fault for not being present
7 in Giovanni's life, when really it's my fault
8 and Mr. Huckins' fault if he was not in
9 Giovanni's life. He was not given the
10 opportunity to choose.

11 So we cannot stand here and accuse
12 him of not being there emotionally for Giovanni
13 or not being there financially for Giovanni.
14 Because on March 4, 2014, when Giovanni was
15 born, Mr. Huckins and I erroneously made the
16 decision not to put his name on the birth
17 certificate while knowing that he was not a
18 biological father. And agreeing that we were
19 going to tell him that he was not the father.
20 So he was denied that opportunity.

21 So he cannot sit here and say it's
22 his fault. It's our fault for not telling the
23 truth. And then he was saying about Giovanni,
24 they're not being happy. As already mentioned
25 earlier, I am 100 percent positive that from

1 the GAL findings, you're going to find out that
2 Giovanni has never been happier than now.

3 And I think he mentioned it -- was
4 already mentioned the last time with Judge
5 Keamy, when she denied the motion to dismiss
6 and asked with further orders for a affidavit
7 from Mr. Birt.

8 THE COURT: Mr. Birt, any response to
9 that?

10 MR. BIRT: Yeah, I. mean, Judge Keamy's
11 framework has been put in place by her
12 memorandum. I think the intention was that the
13 defense could obviously renew their motion to
14 dismissed.

15 But within the framework that she
16 identified in her memo, that's not what's
17 happening here. What's happening is basically
18 a repackaging of the same exact statute of
19 repose argument.

20 There was -- you know, there was
21 fraud committed here, Your Honor. You know,
22 Defendant Gurrieri has filed an affidavit that
23 states basically what she just stated just now.
24 Both the defendants knew that he was not the
25 biological father, that I was the biological

1 father, and then informed me that I wasn't.

2 So I don't think the defense can have
3 it both ways. They either can have it under
4 Rule 12 and do the pleadings under the statute
5 of repose, or they can start introducing facts
6 that require evidence.

7 THE COURT: Counsel?

8 MR. XAVIER: Well, I will say, Judge, that
9 my client disputes many of the facts that are
10 raised by Mother in this case. He was -- I'm
11 not sure it makes a lot of sense.

12 THE COURT: Let's -- without getting to
13 the substance of that, do you agree that if
14 there's an underlying fraud, the statute of
15 repose doesn't apply?

16 MR. XAVIER: I don't agree with that
17 because the case law specifically talks about
18 finality in parentage cases, and fraud is not
19 an issue, number one.

20 Number two, there are many
21 definitions of family. And this gentleman was
22 this child's family for many, many, many, many
23 years. So fraud does not -- is not -- does not
24 toll the repose.

25 The case law is pretty clear on that,

1 and I can send the cases to the Court. That is
2 not the case because finality is much more
3 important charge. This child has had this
4 gentleman in his life for twelve years. The
5 finality over states fraud, number one.

6 Number two, anyone can come forward
7 and voluntarily be a parent of a child. They
8 don't have to be that biological child's
9 parent. The case law certainly affords that.
10 So I -- I disagree with that, as the law.

11 And my client was certainly told in
12 no circum -- in no set of circumstances that
13 she did not want Mr. Birt to be involved in
14 this child's life at the time. It may not
15 matter, but my client went along with it. He
16 asserted himself as this child's father for
17 many, many years, Judge.

18 THE COURT: I want to move on to whether
19 or not we can do anything with the --

20 MS. GURRIERI: But that's not true.
21 Sorry.

22 THE COURT: -- with the motion to
23 coordinate parentage proceedings with existing
24 custody proceedings.

25 MR. XAVIER: So my only concern with that,

1 Judge, is that there's a lot of sensitive
2 information in the DCF records that Mr. Birt's
3 not -- not privileged to, not privy of. I'm
4 not sure -- he hasn't been declared a parent of
5 this child.

6 And there's been a lot of information
7 in those closed proceedings that have come
8 before this Court relative to Gianni (sic) and
9 his emotional state, his mental health records.
10 I think that that should --

11 THE COURT: What do you have to say --
12 what do you have to say that if information
13 regarding him has been shared with DCF?

14 MR. XAVIER: Well, he has an opportunity,
15 Judge, also to meet with DCF. He's met with
16 DCF. Ms. Gurrieri is a part of this case, so
17 any documents that I provide to DCF, I provide
18 to her.

19 There's no question in my mind that
20 anything I've provided to DCF that involves Mr.
21 Birt, she will provide to him.

22 If you look at their pleadings, they
23 almost mirror each other. So there's a lot of
24 work that's -- that's conjoined, and that's
25 fine.

1 THE COURT: I appreciate your real -- real
2 world take on the case. But to his point,
3 which is, well, if information is being shared
4 to DCF about me, why doesn't it go both ways?

5 MR. XAVIER: Well, DCF or the GAL?

6 THE COURT: I mean, is there any
7 disagreement, as we all stand here in court,
8 that there's GMT testing that confirms that Mr.
9 Birt is --

10 MR. XAVIER: We are not in disagreement,
11 Judge. The testing was done absent my client's
12 consent. The child knew. Behind his back.
13 The child was involved. Yes, the testing was
14 done. That's not disputed.

15 THE COURT: Okay. Well, do you think
16 there's an argument that judicial economy is
17 supported by not putting these cases together?

18 MR. XAVIER: I think, Judge, in terms of
19 scheduling, I think it's fine. To schedule
20 them together would support that. I think that
21 makes some sense for them to be tracked with
22 each other.

23 But to the extent that there's
24 sensitive information from DCF that doesn't
25 involve, and this gentleman should not be privy

1 to, I would like those sessions to remain
2 closed and not be involved and have access to
3 the records.

4 My understanding is that Ms. Gurrieri
5 has provided him with DCF records. She's
6 provided him a lot of information. There's a
7 reason why we have closed sessions. He is not
8 a parent to this child.

9 THE COURT: Legally.

10 MR. XAVIER: Legally. That's correct. My
11 client has been for twelve years.

12 THE COURT: Mm-hm.

13 MR. XAVIER: And from his perspective, he
14 is being pushed out.

15 THE COURT: What do you have to say about
16 that?

17 MR. BIRT: On coordination, we both have a
18 similar motion. I have it my parentage case,
19 she has it in the custody case.

20 I'm not asking to be a party to the
21 custody. I'm not asking to merge everything.
22 I'm asking that the Court manage and overlap
23 what already exists.

24 THE COURT: So schedule everything on the
25 same days.

1 MR. BIRT: Yep. Both dockets involve Gio.
2 Both involve the same parentage facts, DCF
3 therapy, context, disclosure history, and now
4 the same Guardian Ad Litem. Parentage case
5 materials have already been used in the custody
6 case.

7 THE COURT: So are we all in agreement
8 that if this case is scheduled, your case will
9 be scheduled for a hearing as well?

10 MR. XAVIER: That's fine. I think that
11 makes some sense.

12 THE COURT: Are you in agreement on that?

13 MR. BIRT: Yes.

14 THE COURT: All right. Regardless of what
15 my status in the case is going forward, any
16 opposition to me putting this in the "with
17 assent" pile on the GAL and for scheduling --
18 case management and scheduling both -- both
19 cases will be managed hearings.

20 MS. GURRIERI: May I ask a question?

21 THE COURT: I'd like an -- I'd like my
22 question to get answered before you ask your
23 question.

24 MS. GURRIERI: Okay.

25 MR. XAVIER: I think in general, yes. I

1 mean, if there's a contempt on the MOD case,
2 I'm not sure that needs to be always scheduled
3 with the underlying -- the underlying parentage
4 case, if that makes sense. Like, if Mother's
5 in contempt of something.

6 But generally speaking, in terms of
7 tracking these cases for a pretrial and the GAL
8 investigation, I think it makes sense, Judge,
9 right now to have them both scheduled on the
10 same day.

11 To the extent that there's DCF
12 involvement or some other sensitive information
13 on the modification case, I'd ask that that
14 proceeding -- that Mr. Birt not be present in
15 that proceeding, but the proceedings could be
16 scheduled on the same day.

17 MR. BIRT: I object to a couple of things.
18 Number one, in the custody hearing, the last
19 March 13th hearing, I was extensively
20 mentioned. Discovery used in my parentage case
21 was extensively used in the custody case. So I
22 just don't feel that it's fair that he has it
23 both ways.

24 I've already asked that he copy me on
25 GAL communications that are just about me and

1 my case because we can't unring the bell. His
2 firm has already sent an email to the GAL
3 misrepresenting what the contempt complaint is
4 about.

5 He put in the email, "Here is the
6 copy of the contempt complaint as relates to
7 Patrick Birt," and then copied my renewed
8 motion to recuse in this case to the Guardian
9 Ad Litem.

10 Now, Ms. Gurrieri contacted me
11 because she was confused. She thought that
12 defense had filed a complaint contempt against
13 me and wanted clarification. This took me by
14 complete surprise, Your Honor.

15 So I did email Mr. Xavier asking that
16 if he does send anything to the GAL that is
17 about me and my parentage case, that I get
18 contemporaneously copied at the same time. He
19 refused.

20 He actually didn't even address me.
21 He addressed the GAL and said that I should not
22 be interfering in this process, which I wasn't.
23 That there's been a leak, that I suspect the
24 Mother, and I will address this with Court.
25 That was his reply to the GAL.

1 So that's why I filed my motion for
2 the GAL and protected communications.

3 MS. GURRIERI: And --

4 MR. XAVIER: My concern, Judge, again, is
5 that we have had close proceedings in this
6 case. We've had DCF records, very sensitive
7 information about a suicidal child.

8 Information that's been given to Mr. Birt
9 without his ability to have those materials.

10 He's not a party to the modification
11 case. Somehow he was able to get a recording
12 of that hearing without being a part of that
13 case, which I can't get those recordings
14 without having an appearance in the case. I'm
15 not sure how he got them. So my concern is
16 this sensitive information.

17 So far, the only information I
18 provided to the GAL were pleadings which people
19 can get online, number one.

20 And what the Court ordered me to
21 provide to the GAL. I provided nothing else
22 with respect to Mr. Birt's involvement in this
23 case. I also have not seen any information
24 that Mr. Birt has provided to the GAL that
25 was -- at all.

1 MR. BIRT: I haven't provided anything to
2 the GAL.

3 THE COURT: Okay.

4 MR. BIRT: One aspect of --

5 THE COURT: But I think if we're going to
6 have an agreement that as far as case
7 management goes and scheduling of hearings,
8 okay, that things will be scheduled on the same
9 day. We can argue about who gets to
10 participate if DCF is testifying at the hearing
11 or not.

12 But that fairness dictates if I'm
13 clarifying the GAL's role and saying, look, I
14 don't want you limiting your investigation to
15 the two legal parents in this case. I want an
16 overview of everything.

17 I think everybody who has a case
18 pending and is involved should be subject to
19 the same rules that we always apply, which is
20 any communications with the GAL are copied
21 around. Does that strike you as unfair?

22 MR. XAVIER: No, Judge. In my position, I
23 was also not quite clear that there were two
24 different orders for the GAL. It was confusing
25 to me. So --

1 THE COURT: Well, I made --

2 MR. XAVIER: It's a little --

3 THE COURT: I made the order --

4 MR. XAVIER: You clarified it today.

5 THE COURT: -- that day on the mod back in
6 March. And then it occurred to me later,
7 administratively, when I started looking at
8 motions to recuse, I meant for the
9 investigation to include everything that's gone
10 on in this child's life in the last year. I
11 want to make sure it's all covered.

12 MR. XAVIER: My only concern -- and I
13 appreciate that, Judge, and I don't disagree.

14 My only concern is that the extent
15 that there's sensitive information, DCF
16 records, school records, other records that Mr.
17 Birt is not privileged to have, my concern is
18 him having those records.

19 To the extent that he -- he is
20 concerned about any criticisms I have about his
21 ability to parent --

22 THE COURT: Okay. I'm not concerned about
23 that, though, because DCF, as you know, is an
24 island in the stream, and they operate on their
25 own rules, and they're not going to disperse

1 that information absent a Court order in Mr.
2 Birt's case that allows him to have access to
3 those records.

4 Given his status right now, as we
5 stand here in court, okay, I don't think I need
6 to make an order with regard to that because
7 the Department's going to follow its own
8 regulations.

9 MR. XAVIER: No, understood. But to the
10 extent that I want to provide the GAL with DCF
11 records or educational records or medical
12 records, those are records that Mr. Birt would
13 not necessarily have access to.

14 MR. BIRT: Nor have I asked for.

15 MR. XAVIER: But if I'm communicating with
16 the GAL and copying all the parties, I would be
17 required to do that. That's my only concern.

18 To the extent there's information
19 just about Mr. Birt that he already has the
20 information on, I'm happy to do that, Judge.
21 That makes perfect sense. Such as his
22 deposition transcript, the text messages.

23 THE COURT: I think subject -- so we're
24 going to keep things in separate boxes.
25 There's a mod, there's a parentage complaint.

1 Okay. I do think the gentleman's entitled to a
2 cover letter. Maybe not the enclosures.

3 MR. XAVIER: I think that makes sense.

4 THE COURT: Okay? But he's entitled to a
5 cover letter.

6 And if he wants to discover those
7 materials in the process of litigating his
8 case, he knows they're identified as to what he
9 needs to be looking for. Do you agree, Mr.
10 Birt?

11 MR. BIRT: Yes, I do. Thank you, Your
12 Honor.

13 MR. XAVIER: I think that makes -- Judge,
14 I think that's a perfect compromise.

15 THE COURT: Okay. Anything else today?

16 MR. XAVIER: No. I think, Judge, we have,
17 I believe, a review date at the end of the
18 month. It may make some sense --

19 THE COURT: To be here towards the end of
20 September?

21 MR. XAVIER: -- towards if --

22 MS. GURRIERI: Yeah.

23 MR. XAVIER: -- 90 days from today is
24 September --

25 MS. GURRIERI: From the 15th of June, 90

1 days.

2 MR. XAVIER: So maybe September at the
3 beginning for a pretrial.

4 THE CLERK: I have September 2nd, the 9th.
5 So 9-2 or 9-9 or 9-16.

6 MR. XAVIER: Madam Clerk, did you say 9-2?

7 THE CLERK: I did.

8 MS. GURRIERI: Which day?

9 MR. XAVIER: I can't. I'm sorry, Madam
10 Clerk. What was the next one?

11 THE CLERK: 9-9?

12 THE COURT: Well, if --

13 MS. GURRIERI: No, if --

14 THE COURT: -- if I'm extending the --

15 MS. GURRIERI: It has to be after 9-15,
16 right? 90 days.

17 MR. XAVIER: Well, 90 days is what,
18 September?

19 MS. GURRIERI: After September 15.

20 MR. XAVIER: So wouldn't it be
21 September --

22 THE CLERK: September 30th?

23 THE COURT: Yeah, that's what I was
24 thinking towards the back end of the month.
25 Because the investigator's asking for 90 days

1 from June 15th.

2 MR. XAVIER: Oh, I'm sorry. June 15th.

3 Okay.

4 MS. GURRIERI: Yeah.

5 MR. BIRT: Your Honor, just to clarify,
6 she asked for that continuance in the custody
7 case. Does that also apply to the GAL
8 appointment in the parentage case?

9 THE COURT: As far as I'm concerned, it
10 does.

11 MR. BIRT: Okay. Just making sure.

12 MR. XAVIER: Madam Clerk, did you say --
13 what day did you give at the end of the
14 September?

15 THE CLERK: September 30th.

16 MR. XAVIER: That works for me, Judge.

17 MS. GURRIERI: What did she say?

18 MR. BIRT: September 30th.

19 MS. GURRIERI: September 30th? Okay.

20 THE COURT: Thank you all. Have a good
21 morning.

22 MR. XAVIER: Thank you.

23 MS. GURRIERI: Thank you, Your Honor.

24 MR. BIRT: Thank you, Your Honor.

25 MS. GURRIERI: Have a good day.

1 (Court adjourned at 10:36 a.m.)

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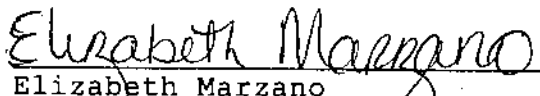
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C E R T I F I C A T I O N

I, ELIZABETH MARZANO, APPROVED COURT TRANSCRIBER,
DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE
TRANSCRIPT FROM THE DIGITAL RECORDING PROVIDED TO ME IN THE
ABOVE-ENTITLED MATTER.

I, ELIZABETH MARZANO, FURTHER CERTIFY THAT THE
FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE OF
THE TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT TO THE BEST
OF MY ABILITY.

I, ELIZABETH MARZANO, FURTHER CERTIFY THAT I
NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF
THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN,
AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE
INTERESTED IN THE OUTCOME OF THE ACTION.


Elizabeth Marzano
50 State Street 3rd floor
Springfield, MA 01103
413/748-7901



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TODAY'S DATE: 9-10-26

CASE NAME: Patrick Birt v. Ivana Gurrieri and Christopher Huckins

DOCKET NO: WO25W1359WD

RECORDING DATE: 6-1-26 **JUDGE:** Mark Lee

TYPE: **FTR** VIAZ ZOOM JAVS

QUALITY: **EXCELLENT** GOOD FAIR POOR

ISSUES

Background noise: 9:48:21

Low audio:

Simultaneous speech: 10:05:19

Indiscernible speech:

Speaking away from microphone: 9:40:15

No audible response:

NOTE:

MR. BIRT: [37] 2/14 4/4 4/8 4/15 4/21 5/14 6/12 6/14 6/16 10/22 11/18 14/2 14/13 15/3 24/16 26/24 28/21 29/24 30/7 38/12 40/1 40/3 40/14 41/8 43/9 48/16 48/25 49/12 50/16 52/25 53/3 55/13 56/10 58/4 58/10 58/17 58/23 MR. HUCKINS: [1] 2/9 MR. XAVIER: [60] MS. GURRIERI: [52] 2/17 4/2 6/13 11/23 12/4 12/8 12/24 13/2 14/1 14/4 14/8 14/11 14/25 15/7 15/10 19/3 19/12 20/1 20/4 20/8 24/9 24/13 25/19 25/21 25/23 25/25 27/3 27/5 27/11 27/18 27/23 28/2 28/7 28/13 30/13 41/18 41/21 45/19 49/19 49/23 52/2 56/21 56/24 57/7 57/12 57/14 57/18 58/3 58/16 58/18 58/22 58/24 THE CLERK: [9] 2/2 2/8 3/13 4/25 57/3 57/6 57/10 57/21 58/14 THE COURT: [113]	9 9-15 [1] 57/15 9-16 [1] 57/5 9-2 [2] 57/5 57/6 9-9 [2] 57/5 57/11 90 [6] 3/5 56/23 56/25 57/16 57/17 57/25 9:36 [1] 2/2 9:40:15 [1] 5/2 9:48:21 [1] 12/3 9th [1] 57/4	allege [1] 41/14 allow [1] 4/24 allowed [1] 17/15 allows [1] 55/2 ALM [1] 32/14 almost [1] 46/23 alone [2] 9/2 9/4 along [2] 9/8 45/15 already [13] 7/17 7/19 11/1 24/10 24/11 37/23 42/24 43/4 48/23 49/5 50/24 51/2 55/19 also [18] 3/9 8/13 8/25 9/14 12/20 17/18 23/1 23/7 23/17 26/2 33/8 33/22 34/18 36/15 46/15 52/23 53/23 58/7 always [3] 22/17 50/2 53/19 am [7] 12/5 17/3 17/23 20/19 34/14 41/2 42/25 amend [1] 39/13 amendments [1] 38/2 ample [1] 22/23 animus [1] 6/19 another [5] 15/12 18/14 19/22 33/12 34/8 answer [1] 41/24 answered [1] 49/22 antagonism [1] 23/19 any [26] 5/9 6/18 7/3 7/3 12/23 18/22 18/24 21/2 21/8 21/17 21/23 24/9 25/5 27/8 28/25 29/8 30/15 33/19 37/12 43/8 46/17 47/6 49/15 52/23 53/20 54/20 anybody [2] 3/23 29/10 anyhow [2] 26/7 26/9 anyone [1] 45/6 anything [8] 18/25 30/16 38/11 45/19 46/20 51/16 53/1 56/15 appearance [4] 6/23 9/17 19/1 52/14 APPEARANCES [1] 1/14 apply [3] 44/15 53/19 58/7 appointed [2] 11/14 12/16 appointment [4] 2/24 5/3 5/6 58/8 appreciate [4] 11/19 11/22 47/1 54/13 approach [2] 15/13 15/15 appropriate [1] 40/9 appropriately [1] 27/10 approximately [2] 35/11 35/17 April [1] 31/23 are [28] 5/19 6/9 7/14 8/19 8/21 9/12 10/1 17/11 18/4 21/11 21/25 22/6 23/4 23/5 25/2 26/21 26/22 37/7 37/25 40/18 44/9 44/20 47/10 49/7 49/12 50/25 53/20 55/12 aren't [1] 27/13 argue [1] 53/9 argument [3] 41/12 43/19 47/16 arose [1] 33/19 around [1] 53/21 art [1] 14/10 as [42] 3/10 6/2 7/2 10/14 10/17 11/8 16/9 25/9 28/1 29/2 29/21 30/1 31/16 31/22 32/9 32/16 32/18 32/20 33/5 33/19 34/11 34/11 35/4 37/2 37/12 37/23 40/23 42/24 45/10 45/16 47/7 49/9 51/6 53/6 53/6 53/21 54/23 55/4 55/21 56/8 58/9 58/9 ask [12] 7/1 10/4 12/10 15/13 18/7 18/13 24/11 39/23 40/9 49/20 49/22 50/13 asked [12] 15/19 16/15 24/11 25/19 27/22 28/15 34/7 38/22 43/6 50/24 55/14 58/6 asking [13] 6/19 13/4 15/20 23/24 24/7 26/21 27/15 35/8 48/20 48/21 48/22
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5 59 [1] 1/1		
6 60 [1] 32/16		
7 78 [1] 20/24		

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