

2012-2509

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

-----X  
MARGARET HEALY,

Plaintiff-appellant,

- against -

SLANEY O'HANLON and SUSAN McCARTHY,  
-----X

Defendants-respondents,

Index No.: 21646/11

AFFIDAVIT OF THE  
PLAINTIFF-  
APPELLANT  
MARGARET HEALY

Appellate Division  
Docket No.:

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

MARGARET HEALY, being duly sworn, deposes and says under the penalties of perjury:

1. I am the plaintiff-appellant residing in Brooklyn Heights, New York, for over thirty (30) years. I make and submit my Affidavit in support of the instant application to appeal from the Order of the Court Below ordering that I must give-up my service dog named Lucy for two-week visitations to the defendant Slaney O'Hanlon. A copy of the Order with notice of appeal and Request for Appellate Division Intervention ("RADI"), is attached as Exhibit 1. I would have moved sooner than I have but for the Order of the Court Below not having been entered and available until Wednesday, March 14, 2012.

2. I received Lucy as a puppy in my custody in about September 2009, and after she was abandoned, I have since exclusively owned and cared for her, including, but not limited to licensing and training her, feeding and bathing her, and providing veterinarian care and socializing her. A true and accurate copy of my license confirmation for Lucy and of my Affidavit with respect to licensing Lucy is attached as Exhibit 2. Defendants admitted, among

other facts, that Lucy has been in my custody for most of Lucy's life. Please see ¶61 of a true and accurate copy of the marked-up pleadings attached as Exhibit 3.

3. Lucy, as a puppy and maturing, demonstrated special aptitudes, including, but not limited to, very obediently following commands. As such, I immediately began training her to help and assist me with my long-term disability of dizziness and vertigo. Lucy became my constant companion with respect to coping with my disability. Before Lucy, I owned only teacup-sized Pomeranians, all of whom, are or were senior dogs with medical conditions, weighing less than 10 pounds, and never exhibiting the special aptitudes that Lucy demonstrated and who could therefore never perform as a service dog. Lucy, in addition to her special aptitudes, is a fairly strong, tall, 75-pound Golden Retriever and a Standard Poodle mix, and is the only dog that I have ever owned who has the relative youth, size, strength and intelligence to be a service dog for me.

4. My physician, James A. Underberg, M.D., treated me for more than fifteen (15) years, for my health, including disability. He provided the letter, dated December 13, 2011, a true and accurate copy of which is attached as Exhibit 4, attesting to my disability and need for Lucy as my service dog.

5. I am not a trainer certified in any way by the City or any governmental or non-governmental entity. Accordingly, although I had trained Lucy, I had to get her trained by a certified trainer. Lucy successfully completed the service dog training course. A true and accurate copy of the trainer's letter, dated December 20, 2011 is attached as Exhibit 5.

6. Lucy successfully passed the Canine Good Citizen Test, and was certified by The American Kennel Club. A true and accurate copy of the Certificate, dated November 28, 2011, is attached as Exhibit 6.

7. The New York City Department of Health and Mental Hygiene approved, registered and listed Lucy as my service dog, Service Tag Number 3215. A true and accurate copy of the letter, dated January 3, 2012, from the New York City Department of Health and Mental Hygiene is attached as Exhibit 7.

8. I have been relying upon Lucy to assist me with my disability for about two (2) years, even before Lucy was registered as a service dog. I have been and continue to rely on Lucy to assist me with my disability. I cannot properly function independently of my family and/or friends without Lucy as my companion.

9. The Court Below ordered me to give-up Lucy as my service dog servicing me to the defendant Slaney O'Hanlon for two (2) week visitations. Since I have a disability and Lucy is my service dog assisting me with my disability, this is an extreme hardship, a gross injustice and plainly wrong.

10. Additionally, the defendant Slaney O'Hanlon has never even seen Lucy in over two (2) years nor contribute in any way whatsoever to Lucy's life, including care, feeding shelter, training, veterinarian care, etc.

11. Very importantly, the defendants had threatened and intimidated me and were, accordingly, based on their gross misconduct, ordered to stay away from me and Lucy. True and accurate copies of the protective order and papers on which it is based are attached as Exhibit 8. Since the order of protection protecting me from the defendants, the defendants have, as far as I know, stayed away from us, and have not engaged in any other threatening, intimidating misconduct. Since there was apparently no further misconduct, I withdrew, without prejudice, my application to continue the order of protection. The defendants' gross misconduct further

evidences their unfitness, and that they should not be provided visitation depriving me of my service dog.

12. The other evidentiary facts that the Court Below failed to properly consider or weigh are:

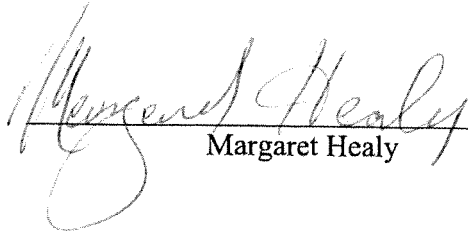
- the uncontradicted testimony is that the defendant Slaney O'Hanlon had miserably failed to care for Lucy by abandoning Lucy, as an eight month-old puppy to her two (2) brothers who were away attending college out-of-state and obviously were not caring for Lucy and Lady. The dogs were left alone, uncared for and unloved, without veterinary care, training, etc. During all of the two (2) years, defendants never checked-in on Lucy or followed-up to ensure she was being properly cared for.
- the defendants never contributed any time, effort nor money to the care of Lucy in over two (2) years. They never contributed any time, effort nor money to Lucy's care, including, but not limited to food, training, shelter, and/or veterinary care.
- defendants admitted at ¶61 of their answer (Exhibit 3) that Lucy has been in my custody for most of Lucy's life and therefore, that I have exclusively taken care of, trained, fed, bathed, etc., Lucy for most of Lucy's life.
- it is undisputed that the defendant Slaney O'Hanlon has had no contact with Lucy for over two years and made no effort to even visit her. At the time that defendant left the home in Manhasset where she was living with Lucy in September, 2009, Lucy was only eight months old. There is no doubt that harm would be caused to Lucy and I, if Lucy was not to remain with me because I need my service dog for my disability and because I have exclusively loved, taken care of and trained Lucy continuously since Lucy was abandoned by defendant and most of Lucy's life. Allowing broad, unsupervised visitation with strangers in an unfamiliar environment is clearly harmful and stressful.
- as a dog grows and matures so does the dog's attachment to the owner. It would be traumatic for Lucy to be removed from the only home and owner she knows and is familiar with and be forcibly taken away and brought to Upper Brookville, New York, twenty-nine (29) miles away, every two weeks. There is no evidence in the record with respect to specifically how the defendant Slaney O'Hanlon is going to take care of Lucy, if at all, and what her daily activities will be. Other than her general statement that the house where she lives has open space outside in the yard, there is no evidence with respect to how this environment will contribute to Lucy's health and happiness.

- in stark contrast to the defendant, I testified that I am retired and have devoted two (2) years of full-time continuous attention and time with Lucy and devote my full-time attention to the care and maintenance of Lucy. I walk Lucy three (3) miles per day and it is undisputed that I take excellent care of her.
- I have trained Lucy for two (2) years to be my service dog and Lucy underwent extensive expert service dog training by a certified expert trainer to be my service dog resulting in a very intimate, very special and emotionally strong bond between Lucy and I.
- I testified that Lucy gets car sick and the round trip car ride from Queens to Upper Brookville every two weeks cannot be good for Lucy.
- the Court Below failed to take note of the means that defendants employed to take Lucy from me. They engaged in violent "road rage" against me and menacingly descended on my apartment in September, 2011 and sought to force their way into the building thus leading to both police involvement and a Temporary Restraining Order being entered against them in this action based on the threat to my physical safety. Since they came to the Court Below with astonishingly unclean hands, the Court Below should not sanction their abandonment of Lucy and inappropriate and unlawful methods of obtaining possession by allowing a broad, unsupervised visitation half of the time.

A true and accurate copy of the certified transcript of my sworn-to Hearing testimony, pp. 54-57, taken on February 23rd, 2012, is attached as Exhibit 9.

13. I will immediately perfect the appeal as ordered by the Appellate Division to expeditiously have the appeal heard and to minimize any possible delay.

WHEREFORE, the Appellate Division is respectfully requested to grant the requested relief, together with such other and further relief as is just and proper in the circumstances.

  
 \_\_\_\_\_  
 Margaret Healy

Sworn to before me this  
 15th day of March 2012

  
 \_\_\_\_\_  
 Notary Public

KAMAL P. SONI  
 Notary Public, State of New York  
 No. 01SO6089949  
 Qualified in Kings County  
 Commission Expires March 31, 2015

**EXHIBIT 1**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET HEALY,

Index No.: 21646/11

plaintiff,

**NOTICE OF APPEAL**

- against -

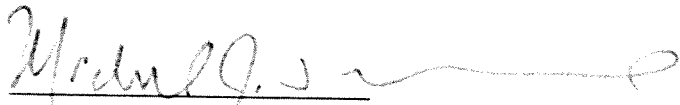
SLANEY O'HANLON and SUSAN McCARTHY,

defendants,  
-----X

COUNSEL:

PLEASE TAKE NOTICE, that plaintiff MARGARET HEALY, by and through her attorneys DEVEREAUX, BAUMGARTEN, 39 Broadway, Suite 910, New York, New York 10006, hereby appeals to the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, from each and every part of the Order of the Supreme Court, Kings County, IAS Part 32 (Hon. Yvonne Lewis, J.S.C.), dated March 6, 2012, entered on March 14, 2012, and served upon all parties with Notice of Entry on March 14, 2012. A copy is annexed hereto as Exhibit "A".

Dated: March 14, 2012  
New York, New York



Michael J. Devereaux, Esq.  
DEVEREAUX, BAUMGARTEN  
Attorneys for Plaintiff, MARGARET  
HEALY  
39 Broadway, Suite 910  
New York, New York 10006  
(212) 785-5959 (T)  
(212) 785-4487 (F)

TO: Stanley Alter, Esq.  
ALTER & ALTER LLP  
Attorney for Defendants, SLANEY  
O'HANLON and SUSAN McCARTHY  
300 East 42<sup>nd</sup> Street, 10<sup>th</sup> Floor  
New York, New York 10017  
(212) 867-7777

RECEIVED  
JUL 14 2012  
CLERK OF THE COURT

**Supreme Court of the State of New York  
Appellate Division : Second Judicial Department**

**Form A - Request for Appellate Division Intervention - Civil**

See § 670.3 of the rules of this court for directions on the use of this form (22 NYCRR 670.3).

**Case Title:** Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.

MARGARET HEALY,  
  
Plaintiff-appellant,  
  
- against -  
  
BLANEY O'HANLON and SUSAN MCCARTHY,  
  
Defendants-respondents,

<b>For Court of Original Instance</b>
Date Notice of Appeal Filed
<b>For Appellate Division</b>

<b>Case Type</b>	<input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<b>Filing Type</b>	<input type="checkbox"/> Transferred Proceeding <input type="checkbox"/> CPLR 5704 Review
Civil Action		<input checked="" type="checkbox"/> Appeal	
CPLR article 75 Arbitration		<input type="checkbox"/> Original Proceeding	

**Nature of Suit:** Check up to five of the following categories which best reflect the nature of the case.

<b>Administrative Review</b>	<b>D. Domestic Relations</b>	<b>F. Prisoners</b>	<b>I. Torts</b>
<input type="checkbox"/> 1 Freedom of Information Law <input type="checkbox"/> 2 Human Rights <input type="checkbox"/> 3 Licenses <input type="checkbox"/> 4 Public Employment <input type="checkbox"/> 5 Social Services <input type="checkbox"/> 6 Other	<input type="checkbox"/> 1 Adoption <input type="checkbox"/> 2 Attorney's Fees <input type="checkbox"/> 3 Children - Support <input type="checkbox"/> 4 Children - Custody/Visitation <input type="checkbox"/> 5 Children - Terminate Parental Rights <input type="checkbox"/> 6 Children - Abuse/Neglect <input type="checkbox"/> 7 Children - JD/PINS <input type="checkbox"/> 8 Equitable Distribution <input type="checkbox"/> 9 Exclusive Occupancy of Residence <input type="checkbox"/> 10 Expert's Fees <input type="checkbox"/> 11 Maintenance/Alimony <input type="checkbox"/> 12 Marital Status <input type="checkbox"/> 13 Paternity <input type="checkbox"/> 14 Spousal Support <input type="checkbox"/> 15 Other	<input type="checkbox"/> 1 Discipline <input type="checkbox"/> 2 Jail Time Calculation <input type="checkbox"/> 3 Parole <input type="checkbox"/> 4 Other <hr/> <b>G. Real Property</b> <input type="checkbox"/> 1 Condemnation <input type="checkbox"/> 2 Determine Title <input type="checkbox"/> 3 Easements <input type="checkbox"/> 4 Environmental <input type="checkbox"/> 5 Liens <input type="checkbox"/> 6 Mortgages <input type="checkbox"/> 7 Partition <input type="checkbox"/> 8 Rent <input type="checkbox"/> 9 Taxation <input type="checkbox"/> 10 Zoning <input type="checkbox"/> 11 Other	<input type="checkbox"/> 1 Assault, Battery, False Imprisonment <input type="checkbox"/> 2 Conversion <input type="checkbox"/> 3 Defamation <input type="checkbox"/> 4 Fraud <input type="checkbox"/> 5 Intentional Infliction of Emotional Distress <input type="checkbox"/> 6 Interference with Contract <input type="checkbox"/> 7 Malicious Prosecution/Abuse of Process <input type="checkbox"/> 8 Malpractice <input type="checkbox"/> 9 Negligence <input type="checkbox"/> 10 Nuisance <input type="checkbox"/> 11 Products Liability <input type="checkbox"/> 12 Strict Liability <input type="checkbox"/> 13 Trespass and/or Waste <input type="checkbox"/> 14 Other
<b>Business &amp; Other Relationships</b>			
<input type="checkbox"/> 1 Partnership/Joint Venture <input type="checkbox"/> 2 Business <input type="checkbox"/> 3 Religious <input type="checkbox"/> 4 Not-for-Profit <input type="checkbox"/> 5 Other			
<b>Contracts</b>			
<input type="checkbox"/> Brokerage <input type="checkbox"/> Commercial Paper <input type="checkbox"/> Construction <input type="checkbox"/> Employment <input type="checkbox"/> Insurance <input type="checkbox"/> Real Property <input type="checkbox"/> Sales <input type="checkbox"/> Secured <input type="checkbox"/> Other			
	<b>E. Miscellaneous</b>	<b>H. Statutory</b>	<b>J. Wills &amp; Estates</b>
	<input type="checkbox"/> 1 Constructive Trust <input type="checkbox"/> 2 Debtor & Creditor <input type="checkbox"/> 3 Declaratory Judgment <input type="checkbox"/> 4 Election Law <input type="checkbox"/> 5 Notice of Claim <input checked="" type="checkbox"/> 6 Other	<input type="checkbox"/> 1 City of Mount Vernon Charter §§ 120, 127-f, or 129 <input type="checkbox"/> 2 Eminent Domain Procedure Law § 207 <input type="checkbox"/> 3 General Municipal Law § 712 <input type="checkbox"/> 4 Labor Law § 220 <input type="checkbox"/> 5 Public Service Law §§ 128 or 170 <input type="checkbox"/> 6 Other	<input type="checkbox"/> 1 Accounting <input type="checkbox"/> 2 Discovery <input type="checkbox"/> 3 Probate/Administration <input type="checkbox"/> 4 Trusts <input type="checkbox"/> 5 Other



### Appeal

Paper Appealed From (check one only):

- |   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Amended Decree   | <input type="checkbox"/> Determination          | <input checked="" type="checkbox"/> Order   | <input type="checkbox"/> Resettled Order  |
| <input type="checkbox"/> Amended Judgment | <input type="checkbox"/> Finding                | <input type="checkbox"/> Order & Judgment   | <input type="checkbox"/> Ruling           |
| <input type="checkbox"/> Amended Order    | <input type="checkbox"/> Interlocutory Decree   | <input type="checkbox"/> Partial Decree     | <input type="checkbox"/> Other (specify): |
| <input type="checkbox"/> Decision         | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree   |   |
| <input type="checkbox"/> Decree           | <input type="checkbox"/> Judgment               | <input type="checkbox"/> Resettled Judgment |   |

Court: SUPREME COURT

County: KINGS

Dated: March 6, 2012

Entered: March 14, 2012

Judge (name in full): Yvonne Lewis

Index No.: 21646/2011

Stage:  Interlocutory  Final  Post-Final

Trial:  Yes  No If Yes:  Jury  Non-Jury

#### Prior Unperfected Appeal Information

Are any unperfected appeals pending in this case?  Yes  No. If yes, do you intend to perfect the appeal or appeals covered by the annexed notice of appeal with the prior appeals?  Yes  No. Set forth the Appellate Division Cause Number(s) of any prior, pending, unperfected appeals:

#### Original Proceeding

Commenced by:  Order to Show Cause  Notice of Petition  Writ of Habeas Corpus

Date Filed:

Statute authorizing commencement of proceeding in the Appellate Division:

#### Proceeding Transferred Pursuant to CPLR 7804(g)

Court:

County:

Judge (name in full):

Order of Transfer Date:

#### CPLR 5704 Review of Ex Parte Order

Court:

County:

Judge (name in full):

Dated:

#### Description of Appeal, Proceeding or Application and Statement of Issues

**Description:** If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of the proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

Appeal from each and every part of Order dated March 6, 2012 granting visitation of service dog Lucy. It is contrary to the applicable law, statute; contrary to the weight of the evidence; misapplied misapprehended, misconstrued the law, facts and evidence and constitutes an abuse of discretion; it is unjust.

**Amount:** If an appeal is from a money judgment, specify the amount awarded.

**Issues:** Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review.

Issues Continued:

Use Form B for Additional Appeal Information

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, defendant third-party plaintiff, third-party defendant, and intervenor. Examples of a party's Appellate Division status include: appellant, respondent, appellant-respondent, respondent-appellant, petitioner, and intervenor.

No.	Party Name	Original Status	Appellate Division Status
1	Margaret Healy	Plaintiff	Appellant
2	Slaney O'Hanlon	Defendant	Respondent
3	Susan McCarthy	Defendant	Respondent
4			
5			
6			
7			
8			
9			
0			
1			
2			
3			
4			
5			
6			
7			
8			
9			
0			

## Attorney Information

**Instructions:** Fill in the names of the attorneys or firms of attorneys for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided.

in the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: Michael J. Devereaux, Esq., DEVEREAUX, BAUMGARTEN  
 Address: 39 Broadway, Suite 910  
 City: New York State: NY Zip: 10006 Telephone No.: 212-785-5959

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C): 1

Attorney/Firm Name: Stanley Alter, Esq., ALTER & ALTER  
 Address: 300 East 42nd Street, 10th Floor  
 City: New York State: NY Zip: 10017 Telephone No.: 212-867-7777

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C): 2 & 3

Attorney/Firm Name:  
 Address:  
 City: State: Zip: Telephone No.:

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C):

Attorney/Firm Name:  
 Address:  
 City: State: Zip: Telephone No.:

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C):

Attorney/Firm Name:  
 Address:  
 City: State: Zip: Telephone No.:

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C):

Attorney/Firm Name:  
 Address:  
 City: State: Zip: Telephone No.:

Attorney Type:  Retained  Assigned  Government  Pro Se  Pro Hac Vice  
 Party or Parties Represented (set forth party number[s] from table above or from Form C):

### Use Form C for Additional Party and/or Attorney Information

The use of this form is explained in § 670.3 of the rules of the Appellate Division, Second Department (22 NYCRR 670.3). If this form is to be filed for an appeal, place the required papers in the following order: (1) the Request for Appellate Division Intervention [Form A, this document], (2) any required Additional Appeal Information Forms [Form B], (3) any required Additional Party and Attorney Information Forms [Form C], (4) the notice of appeal or order granting leave to appeal, (5) a copy of the paper or papers from which the appeal or appeals covered in the notice of appeal or order granting leave to appeal are taken, and (6) a copy of the decision or decisions of the court of original instance, if any.

**EXHIBIT A**

At an I.A.S. Trial Term, Part <sup>32</sup> of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 6<sup>th</sup> day of MARCH 2012

P R E S E N T :  
Hon. YVONNE LEWIS  
Justice

MARGARET HEALY  
Plaintiff(s)

Cal. No. 1  
Index No. 21646/11

- against -

SLANEY O'HANLON and Susan Mc CAOTTY  
Defendant(s)

The following papers numbered 1 to read on this motion Papers Numbered 1 of 2  
Notice of Motion - Order to Show Cause  
and Affidavits (Affirmations) Annexed \_\_\_\_\_  
Answering Affidavit (Affirmation) \_\_\_\_\_  
Reply Affidavit (Affirmation) \_\_\_\_\_  
\_\_\_\_\_ Affidavit (Affirmation) \_\_\_\_\_  
Pleadings - Exhibits \_\_\_\_\_  
Stipulations - Minutes \_\_\_\_\_  
Filed Papers \_\_\_\_\_

AFTER A HEARING IT IS ORDERED that the defendant, Slaney O'Hanlon have visitation with the dog brief. Visitation shall occur away from the residence of the plaintiff, and will commence on Saturday March 24, 2012 at 1:PM and continue uninterrupted for a period of two weeks. The defendant Slaney O'Hanlon shall have sole visitation with the dog any other two week period. The defendant Slaney O'Hanlon, and plaintiff shall meet at 1PM on the Saturday when the dog is to be

For Clerks use only  
MG \_\_\_\_\_  
MD \_\_\_\_\_  
Motion Seq. # \_\_\_\_\_

E N T E R  
11111  
J.S.C.

INDEX# 21646/c1 --

DATE 3/6/12

PLAINTIFF HEALY

vs DEFENDANT O'HANLON

~~exchange~~ exchanged (picked up and/or returned) at the

Mojave Restaurant located in Adams Green.  
THE DOG WALKER WILL BE PICKED UP IN FRONT OF  
MATAVE RESTAURANT BY SCANEY O'HANLON ONLY  
& RETURNED IN FRONT OF MATAVE RESTAURANT  
BY SCANEY O'HANLON ONLY TO MARGARET HEALY.

Forthwith  
ENTERED/SO ORDERED  
HON. YVONNE LEWIS  
JSC

KINGS COUNTY CLERK  
FILED

2012 MAR -8 AM 8:46

*MDY*

Judge Lewis

(Part 1301)

Date	Title	Index	Type	No	Receipt
3802	Leahy - O'Hanlon	21646/11	SF2	1	NANCY T. SUNSHINE

RECEIVED  
KINGS COUNTY CLERK  
2012 MAR -8 AM 8:59



AFFIDAVIT OF SERVICE BY MAIL

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

JONATHAN PALADINI, being duly sworn, deposes and says: Deponent is not a party to the action, is over 18 years of age and resides in Kings County, New York.

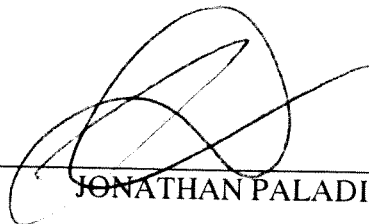
On March 14, 2012, deponent served the within

- **NOTICE OF APPEAL with RADl, and with EXHIBIT A (notice of entry, order, and affidavit of service)**


Upon:

Stanley Alter, Esq.  
ALTER & ALTER LLP  
300 East 42nd Street, 10th Floor  
New York, New York, 10017

by depositing true copies of the same in a post-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, properly addressed to each of said attorneys at the above address designated by them for those purposes.

  
\_\_\_\_\_  
JONATHAN PALADINI

Sworn to before me this  
14th day of March, 2011

  
\_\_\_\_\_  
Notary Public  
MICHAEL J. DEVEREAUX  
Notary Public, State of New York  
No 4942064  
Qualified in Nassau County  
Commission Expires March 6, 2011

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET HEALY,

Index No.: 21646/11

plaintiff,

- against -

SLANEY O'HANLON and SUSAN McCARTHY,

defendants,  
-----X

---

**NOTICE OF APPEAL with RADl, and with EXHIBIT A**  
**(notice of entry, order, and affidavit of service)**

---

**DEVEREAUX BAUMGARTEN**

39 BROADWAY, Suite 910  
NEW YORK, NEW YORK 10006  
TEL. (212) 785-5959 (T) / FAX (212) 785-4487 (F)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET HEALY,

Index No.: 21646/11

plaintiff,

NOTICE OF ENTRY

- against -

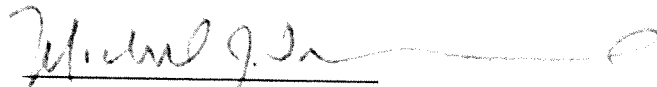
SLANEY O'HANLON and SUSAN McCARTHY,

defendants,  
-----X

COUNSEL:

PLEASE TAKE NOTICE that the within is a true copy of the stamped Decision and Order of The Honorable Yvonne Lewis, J.S.C., dated March 6, 2012, and duly entered in the County Clerk's Office on March 14, 2012.

Dated: March 14, 2012  
New York, New York



Michael J. Devereaux, Esq.  
DEVEREAUX BAUMGARTEN  
Attorneys for Plaintiff, MARGARET  
HEALY

39 Broadway, Suite 910  
New York, New York 10006  
(212) 785-5959 (T)  
(212) 785-4487 (F)

TO: Stanley Alter, Esq.  
ALTER & ALTER LLP  
Attorney for Defendants, SLANEY  
O'HANLON and SUSAN McCARTHY  
300 East 42<sup>nd</sup> Street, 10<sup>th</sup> Floor  
New York, New York 10017  
(212) 867-7777

RECEIVED  
KINGS COUNTY CLERK  
MAR 14 PM 2:01

At an I.A.S. Trial Term, Part <sup>32</sup> of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 6<sup>th</sup> day of MARCH 2012

P R E S E N T :  
Hon. VIVIANE LEWIS  
Justice

MARGARET HEALY  
Plaintiff(s)

Cal. No. 1  
Index No. 21646/11

- against -

SLANEY O'HANLON, and Susan Mc CAOTTY  
Defendant(s)

The following papers numbered 1 to read on this motion	Papers Numbered <u>1 of 2</u>
Notice of Motion - Order to Show Cause and Affidavits (Affirmations) Annexed	
Answering Affidavit (Affirmation)	
Reply Affidavit (Affirmation)	
_____ Affidavit (Affirmation)	
Pleadings - Exhibits	
Stipulations - Minutes	
Filed Papers	

AFTER A HEARING IT IS ORDERED That the defendant, Slaney O'Hanlon have visitation with the dog brief. Visitation shall occur away from the residence of the plaintiff, and will commence on Saturday March 24, 2012 at 1:00 PM and continue uninterrupted for a period of two weeks. The defendant Slaney O'Hanlon shall have sole visitation with the dog for other two week period. The defendant Slaney O'Hanlon, and plaintiff shall meet at 1:00 PM on the Saturday when the dog is to be

For Clerks use only  
MG \_\_\_\_\_  
MD \_\_\_\_\_  
Motion Seq. # \_\_\_\_\_

E N T E R  
11111  
J.S.C.

INDEX# 21646/c1 --

DATE 3/6/12

PLAINTIFF HEALY vs DEFENDANT O'HANLON

exchanged (pushed up and/or returned) at the  
~~restaurant~~  
 Mojave Restaurant located in Adams Green.  
 THE DOG LUCK WILL BE PICKED UP IN FRONT OF  
 MUTAVE RESTAURANT BY SCANEY O'HANLON ONLY  
 & RETURNED IN FRONT OF MUTAVE RESTAURANT  
 BY SCANEY O'HANLON ONLY TO MARGARET HEALY.

Forthwith  
 ENTERED/SO ORDERED  
 HON. YVONNE LEWIS  
 JSC

KINGS COUNTY CLERK  
FILED

2012 MAR -8 AM 8:46

*[Handwritten signature]*

Handwritten notes at the top of the page, possibly including a name like "Lynn" and a date like "1/28/11".

Date	Title	Index	Type	No	Receipt
3/8/12	Deelyn O'Hanlin	2/646/11	SFZ	1	NANCY T. SUNSHINE

2012 MAR -8 AM 8:59  
KINGS COUNTY CLERK  
RECEIVED

AFFIDAVIT OF SERVICE BY MAIL

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

JONATHAN PALADINI, being duly sworn, deposes and says: Deponent is not a party to the action, is over 18 years of age and resides in Kings County, New York.


On March 14, 2012, deponent served the within

• **NOTICE OF ENTRY**

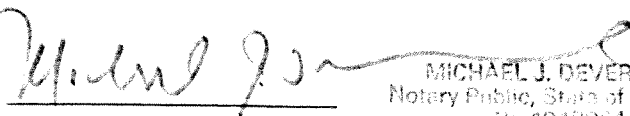
Upon:

Stanley Alter, Esq.  
ALTER & ALTER LLP  
300 East 42nd Street, 10th Floor  
New York, New York, 10017

by depositing true copies of the same in a post-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York, properly addressed to each of said attorneys at the above address designated by them for those purposes.

  
\_\_\_\_\_  
JONATHAN PALADINI

Sworn to before me this  
14th day of March, 2011

  
\_\_\_\_\_  
Notary Public  
MICHAEL J. DEVEREAUX  
Notary Public, State of New York  
No. 4948064  
Qualified in Nassau County  
Commission Expires March 6, 2015



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET HEALY,

Index No.: 21646/11

plaintiff,

- against -

SLANEY O'HANLON and SUSAN McCARTHY,

defendants,  
-----X

---

---

**NOTICE OF ENTRY**

---

---

**DEVEREAUX BAUMGARTEN**

39 BROADWAY, Suite 910  
NEW YORK, NEW YORK 10006  
TEL. (212) 785-5959 (T) / FAX (212) 785-4487 (F)

**EXHIBIT 2**

You have successfully purchased a license with the Dog Licensing System!  
Your Confirmation Number is: **459407**

The following is your dog's license number which will appear on the metal tag (for new licenses, otherwise you will only receive a renewal decal) that will be mailed to the registered address. Please print this page as proof of purchase and for future reference. Thank you for using the on-line system and for making your dog legal.

**Confirmation Receipt****Owner Information**

Name: Margaret O Healy  
Address: 135 Willow Street, 309, Brooklyn, NY 11201  
Username: killevy@msn.com

**Purchase Summary**

Item	License Number	Fee Type	Amount(\$)
1 Lucy (11/2008)	3070403	1 Year License	\$34.00
2 Donation to Support Dog Care		Donation	\$10.00
3		Credit Card Processing Fee	\$1.25
		Total Paid:	\$45.25

You will be receiving your new tag(s) in 4 weeks.

**Notarized Affidavit**

for Spayed or Neutered Dog

RE: LUCY NY LIC: 3070403

MARGARET HEALY

being

duly sworn, says: I reside at the address and am the owner of the dog indicated on the front of this dog license application.

This dog was spayed/neutered or examined and found to be spayed/neutered by Dr. MARC SIEBERT

Veterinarian at HEART OF CHELSEA ANIMAL HOSPITAL

(Street, Number, City, State, Zip) 257 W. 18<sup>TH</sup> ST. NEW YORK NY

ON (Date) JULY 26, 2010 10011

This affidavit is made to obtain a license for the dog referred to above.

*Margaret Healy*  
Applicant signature

Sworn to before me this 1<sup>ST</sup> day of DECEMBER 20 11.



KAMAL P. SONI  
Notary Public, State of New York  
No. 01SO6089949  
Qualified in Kings County  
Commission Expires March 31, 2015

Notary Public (Stamp & Signature)

**EXHIBIT 3**

P.L.R. 4012 MARKED PLEADINGS 10/17/11 P

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
MARGARET HEALY,

Index No.:

plaintiff,

VERIFIED COMPLAINT

- against -

SLANEY O'HANLON and SUSAN McCARTHY,

defendants,  
-----X

MARGARET HEALY, by and through her attorneys, Devereaux, Baumgarten, with offices at 39 Broadway, Suite 910, New York, New York 10006, hereby avers as follows:

**THE PARTIES**

1. Plaintiff Margaret Healy ("Margaret Healy"), is a resident of the State of New York, City of New York, County of Kings. A

2. Defendant Slaney O'Hanlon ("Ms. O'Hanlon"), is an individual residing in Queens County, New York at 39-23 213th Street, #2F, Bayside, New York 11361-2054. A

3. Defendant Susan McCarthy ("Ms. McCarthy"), is an individual residing in Queens County, New York at 39-23 213th Street, #2F, Bayside, New York 11361-2054. A

**NATURE OF THIS ACTION**

4. Margaret Healy is and has been the rightful owner of a dog named Lucy (hereinafter "Lucy"), for most of Lucy's life living in Kings County, New York. B

5. On about September 13, 2011, Ms. O'Hanlon wrongfully demanded that Margaret Healy turn over Lucy because she wrongfully claimed that she was the rightful owner of Lucy. D

6. Because Lucy was not turned over to Ms. O'Hanlon, both Ms. O'Hanlon and Ms. McCarthy began an aggressive and illegal campaign of aggravated harassment against Margaret Healy in an effort to intimidate her into giving Margaret Healy's dog Lucy to Ms. O'Hanlon. D

7. This complaint seeks a declaratory judgment that Margaret Healy is the rightful owner of Lucy, a temporary restraining order and an order of protection preventing Ms. McCarthy and Ms. O'Hanlon or their agents and/or representatives from communicating with Margaret Healy or her husband in any way, except through counsel, preventing them from going to Margaret Healy's residence and taking any further actions to obtain Lucy during the pendency of this lawsuit. A

8. This action also seeks monetary damages for Margaret Healy's mental anguish and pain and suffering resulting from Ms. McCarthy's unlawful assault and harassment. A

9. The relief herein sought has not been made before nor ever made to any other Court or Judge. A

**FACTS COMMON TO  
ALL CAUSES OF ACTION**

10. Margaret Healy is and has been a resident of Kings County, New York for over twenty (20) years. A

~~11.~~ Lucy was purchased by Margaret Healy's brother. D

~~12.~~ Margaret Healy's brother, at all relevant times, owned Lucy until Margaret Healy's brother gave Lucy to his sister Margaret Healy. D

~~13.~~ Margaret Healy's brother gave Lucy to Margaret Healy because Margaret Healy would afford and has afforded Lucy a great loving, caring, and stable life for most of Lucy's life. D

14. Margaret Healy licensed Lucy, with license number 3070403. A true and accurate copy of the license is attached as Exhibit 1. A

15. Margaret Healy vaccinated Lucy. A true and accurate copy of the Certificate of Vaccination is attached as Exhibit 2. OK!

16. Margaret Healy is and has been acting in the best interests of Lucy most of Lucy's entire life.

DK1

~~17.~~ Lucy has spent most of her life with Margaret Healy.

D

~~18.~~ Lucy has lived with Margaret Healy in Kings County, New York for most of Lucy's life.

D

K1 19. Lucy has been cared most of her life by Margaret Healy.

DK1

20. Margaret Healy is caring for Lucy.

21. Margaret Healy has been caring for Lucy for most of Lucy's life.

22. Margaret Healy has licensed Lucy and purchased the licenses for Lucy for most, if not all, of Lucy's life.

23. Margaret Healy holds the license for Lucy.

24. Lucy's license is in Margaret Healy's name as her owner.

25. Lucy is Margaret Healy's daily companion.

26. Lucy is Margaret Healy's morning companion.

27. Lucy is Margaret Healy's noon time and afternoon companion.

28. Lucy is Margaret Healy's evening companion.

29. Lucy is Margaret Healy's night time companion.

30. Lucy has been Margaret Healy's daily companion for most of Lucy's life.

31. Lucy has been Margaret Healy's morning companion for most of Lucy's life.

32. Lucy has been Margaret Healy's noon time and afternoon companion for most of Lucy's life.

33. Lucy has been Margaret Healy's evening companion for most of Lucy's life.

↓

21 34. Lucy has been Margaret Healy's night-time companion for most of Lucy's life.

DK1



- DKI 35. Lucy and Margaret Healy are generally together 24 hours a day, seven days a week. DKI
- 36. Lucy and Margaret Healy are generally together 24 hours a day, seven days a week for most of Lucy's life. ↑
- 37. Margaret Healy provides excellent care for Lucy.
- 38. Lucy has prospered living with and being in Margaret Healy's loving care and home.
- 39. Margaret Healy has provided excellent care to Lucy for most of Lucy's life. ↓
- CI 40. Lucy is known in and around the community to be Margaret Healy's companion. DKI
- 41. Lucy looks to Margaret Healy for direction, as her companion, owner and/or master.
- KI 42. Margaret Healy feeds Lucy all her meals. DKI
- 43. Margaret Healy has always fed Lucy all her meals throughout most of Lucy's life. ↓
- KI 44. Margaret Healy keeps Lucy clean and in excellent health.
- KI 45. Margaret Healy has kept Lucy clean and in excellent health for most of Lucy's life. DKI
- D 46. Nobody has cared for Lucy other than Margaret Healy for most of Lucy's life. D
- D 47. Nobody has fed Lucy other than Margaret Healy for most of Lucy's life. D
- KI 48. Margaret Healy has afforded veterinary care for most of Lucy's life. DKI
- D 49. Nobody other than Margaret Healy has provided veterinary care for most of Lucy's life. D
- DKI 50. Nobody other than Margaret Healy has seen to Lucy's needs, including Lucy's recreational needs and walking needs, for most of Lucy's life. DKI
- DKI 51. Margaret Healy and Lucy have emotionally bonded. D + DK1

- DKI 52. Margaret Healy and Lucy have socially bonded. D + DK1
- DKI 53. Margaret Healy has emotional and social attachments and bonds with Lucy. DK1
- DKI 54. Margaret Healy has seen after all of Lucy's needs for most of Lucy's life. DK1
- D 55. Lucy accepts Margaret Healy as her companion, owner and master for most of Lucy's life. D
- I 56. Margaret Healy has looked after and ensured Lucy's health throughout most of Lucy's life. DK1
- 57. Margaret Healy never abandoned Lucy.
- 58. Margaret Healy never lost Lucy.
- 59. Margaret Healy never abused Lucy.
- DKI 60. Lucy is in Margaret Healy's custody. DK1
- A 61. Lucy has been in Margaret Healy's custody for most of Lucy's life. A
- D 62. Margaret Healy owns Lucy. D
- DKI 63. Lucy is Margaret Healy's companion. DK1
- DKI 64. Margaret Healy is Lucy's companion. DK1
- D 65. Margaret Healy has trained Lucy over most of Lucy's life. D
- D 66. Lucy has been trained and/or educated by Margaret Healy. D
- DKI 67. Lucy obeys Margaret Healy. DK1
- DKI 68. Margaret Healy provides a stable environment for Lucy. DK1
- DKI 69. Margaret Healy has provided Lucy with a stable environment for most of Lucy's life. D + DK1
- DKI 70. Margaret Healy is and has been an excellent companion, owner and/or master to Lucy. D + DK1

21 71. Margaret Healy has and, at all relevant times, will always provide a stable environment for Lucy. DE1

21 72. Margaret Healy has and, at all relevant times, will have the financial means to care for and provide a stable environment for Lucy. DE1

A 73. On Friday, September 16, 2011, Ms. McCarthy called Margaret Healy. A

A 74. On Friday, September 16, 2011, Ms. McCarthy called Margaret Healy and left a voice mail message on Margaret Healy's home telephone answering machine. A

D 75. On Friday, September 16, 2011, Ms. McCarthy left a voice mail message for Margaret Healy on Margaret Healy's home answering machine that was threatening, foul, abusive, replete with curses, hatred and intimidation.

21 76. Complaint Report No. 5013 was taken by the Police Department at the 54th Precinct, 301 Gold Street, by Police Officer Simlet, Shield # 29374. A true and accurate copy of the complaint is attached as Exhibit 3. DE1

A 77. The crime charged is aggravated harassment. A

78. A true and accurate copy of the transcription of the threatening and intimidating voice mail message left by defendants is attached as Exhibit 4. D

79. Ms. O'Hanlon and Ms. McCarthy then escalated their campaign of threats and intimidation against Margaret Healy.

80. On Friday, September 16, 2011, Ms. McCarthy and Ms. O'Hanlon physically and personally accosted, threatened and intimidated Margaret Healy at Margaret Healy's home.

81. Ms. McCarthy and Ms. O'Hanlon misrepresented and lied to Margaret Healy's doorman telling him that they had an "appointment" with Margaret Healy. D

82. Ms. McCarthy and Ms. O'Hanlon never had an appointment to meet with Margaret Healy on Friday, September 16, 2011. A

83. Ms. McCarthy and Ms. O'Hanlon called the Police on Friday, September 16, 2011.

A

84. The Police came to Margaret Healy's residence on Friday, September 16, 2011.

A

85. The Police refused to force Margaret Healy to allow or permit defendants entrance or access to Margaret Healy's residence.

A

86. Ms. McCarthy and Ms. O'Hanlon then escalated their campaign of threats and intimidation against Margaret Healy.

D

87. On Friday, September 16, 2011, Ms. McCarthy deliberately and recklessly drove after Margaret Healy in "road rage," against Margaret Healy.

88. Ms. McCarthy drove perilously close to Margaret Healy threatening and intimidating her with Ms. McCarthy's huge SUV.

89. Margaret Healy was, at all relevant times, threatened and intimidated, and drove to the Police Precinct whereupon Ms. McCarthy drove off.

90. A temporary restraining order and Court-Order of protection is necessary to protect Margaret Healy, and her husband and her dog Lucy against the defendants during the pendency of this lawsuit.

D

AS AND FOR A FIRST CAUSE OF  
ACTION FOR A TEMPORARY  
RESTRAINING ORDER

91. Plaintiff repeats, reiterates, realleges and incorporates-by-reference each and every averment contained in ¶¶ "1" through "90," with the same force and effect as if actually and fully set forth herein.

92. That the Court is, respectfully, requested to grant plaintiff a temporary restraining order against the defendants enjoining or restraining them from further taking any action to take custody and/or possession of Margaret Healy's dog Lucy and threatening and/or intimidating

Margaret Healy and/or her husband, and from being in and around plaintiff's residence and neighborhood of Brooklyn Heights, New York.

AS AND FOR A SECOND CAUSE OF  
ACTION FOR AN ORDER OF  
PROTECTION

93. Plaintiff repeats, reiterates, realleges and incorporates-by-reference each and every averment contained in ¶¶ "1" through "92," with the same force and effect as if actually and fully set forth herein.

94. That the Court is, respectfully, requested to grant plaintiff an order of protection against the defendants enjoining or restraining them from further taking any action to take custody and/or possession of Margaret Healy's dog Lucy and threatening and/or intimidating Margaret Healy and/or her husband, and from being in and around plaintiff's residence and neighborhood of Brooklyn Heights, New York.

AS AND FOR A THRID CAUSE OF  
ACTION FOR DECLARATORY  
JUDGMENT

95. Plaintiff repeats, reiterates, realleges and incorporates-by-reference each and every averment contained in ¶¶ "1" through "94," with the same force and effect as if actually and fully set forth herein.

96. That the plaintiff be granted a declaration that plaintiff is the rightful sole owner of her dog Lucy and that defendants have no rights.

AS AND FOR A FOURTH CAUSE OF  
ACTION FOR MONETARY DAMAGES

97. Plaintiff repeats, reiterates, realleges and incorporates-by-reference each and every averment contained in ¶¶ "1" through "96," with the same force and effect as if actually and fully set forth herein.

98. That defendants committed repeated aggravated harassment, threats and intimidation against the plaintiff.

99. The defendants put plaintiff in fear for her safety; the safety of her husband and; the safety of her dog, Lucy.

100. The defendants proximately caused plaintiff monetary damages, including punitive damages, of no less than \$500,000.00.

101. The relief herein requested has not been previously made to the Court and/or any other Court or Judge.

WHEREFORE, the Court is respectfully requested to grant plaintiff judgment, together with such and other and further relief as is just and proper in the Court.

Dated: September 22, 2011  
New York, New York

---

Michael J. Devereaux, Esq.  
DEVEREAUX BAUMGARTEN  
Attorneys for Plaintiff MARGARET HEALY  
39 Broadway, Suite 910  
New York NY 10006

TO: SUSAN McCARTHY O'HANLON  
39-23 213th Street, #2F  
Bayside, New York 11361-2054

SLANEY O'HANLON  
39-23 213th Street, #2F  
Bayside, New York 11361-2054

(P)

Healy  
10177

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----x  
MARGARET HEALY,

Index No. 21646/11

*Plaintiff,*

-against-

**VERIFIED ANSWER  
AND COUNTERCLAIM**

SLANEY O'HANLON and SUSAN McCARTHY,

*Defendants.*

OCT 17 2011

-----x

The defendants Slaney O'Hanlon and Susan McCarthy as and for their verified answer to the verified complaint respectfully alleges:

1. The defendants deny each and every allegation contained in paragraphs "4" "5" "6" "11" "12" "13" "17" "18" "41" "46" "47" "49" "51" "52" "55" "62" "65" "66" "69" "70" "75" "78" "79" "80" "81" "86" "87" "88" "89" "90" of the complaint.

2. The defendants deny knowledge or information sufficient to from a belief as to the allegations contained in paragraphs "15" "16" "19" "20" "21" "22" "23" "24" "25" "26" "27" "28" "29" "30" "31" "32" "33" "34" "35" "36" "37" "38" "39" "40" "42" "43" "44" "45" "48" "49" "50" "51" "52" "53" "54" "56" "57" "58" "59" "60" "63" "64" "65" "67" "68" "69" "70" "71" "72" "76" of the complaint.

10/17/11  
C

**IN ANSWER TO THE FIRST  
CAUSE OF ACTION**

3. Defendants admit or deny the allegations contained in paragraph 91 of the complaint as his heretofore been admitted or denied as if set forth at length herein.

**IN ANSER TO THE SECOND CAUSE OF  
ACTION**

4. The defendants admit or deny each and every allegation contained in paragraph "93" of the complaint as has been previously been admitted or denied as if fully set forth at length herein.

**IN ANSWER TO THE THIRD CAUSE OF  
ACTION**

5. The defendants admit or deny each and every allegation contained in paragraph "95" of the complaint as has heretofore been admitted or denied as if fully set forth at length herein.

**IN ANSWER TO THE FOURTH  
CAUSE OF ACTION**

6. The defendants admit or deny each and every allegation contained in paragraph "97" of the complaint as has been previously denied or admitted as if fully set forth at length herein.

7. Defendants deny each and every allegation contained in paragraph "98" "99" and "100" of the complaint.



**AS AND FOR A COMPLETE  
DEFENSE TO ALL CAUSES OF ACTION**

8. The plaintiff fails to state a cause of action in her complaint that entitles her to any relief.

**AS AND FOR A COUNTERCLAIM  
ON BEHALF OF THE DEFENDANT  
SLANEY O'HANLON**

9. That the defendant Slaney O'Hanlon is a resident of the State of New York, and the niece of the plaintiff.

10. That the plaintiff is a resident of the State of new York.

11. That in or about December 2008 the defendant Slaney O'Hanlon was given a Christmas gift of a Golden doodle dog, named Lucy, by her parents. Thereafter a chip was inserted into Lucy which chip designated the defendant, Slaney O'Hanlon as the owner of said dog.

12. That in or about August 2009, a divorce action was instituted by the defendant Susan O'Hanlon (McCarthy) against her husband, James O'Hanlon, based upon her husband's cruelty toward her. The plaintiff is the sister of James O'Hanlon. Plaintiff's husband, Walter Healy, represents James O'Hanlon in the divorce action instituted by Susan O'Hanlon (McCarthy).

13. At the time the divorce action was instituted the defendant, Slaney O'Hanlon, who justifiably feared her father, desired to go to a high

school in Baltimore, Maryland, where she had been accepted. Her mother sought custody of Slaney and permission for Slaney to attend High School in Maryland. The Court awarded the defendant Susan O'Hanlon custody of Slaney O'Hanlon, and permitted Slaney O'Hanlon to attend school in Baltimore.

14. In early September 2009, the defendant Slaney O'Hanlon, left for school in Baltimore, Maryland, leaving her dogs in the care and custody of her brothers and father.

15. That in or about January 2010 the defendant learned that her father, James O'Hanlon without her knowledge or consent, delivered her two dogs, Lady and Lucy, to her Aunt and Uncle (the plaintiff and Walter Healy) for safekeeping.

16. That the defendant Slaney O'Hanlon through her mother's counsel requested that her dogs (now in possession of the plaintiff and her husband) be given to her mother for her to care for her dogs and was advised that the dogs (Lady and Lucy) would be returned to her when she finished school and she was able to care for them.

17. The defendant, Slaney O'Hanlon, graduated from High School in Baltimore in June 2011, returned to New York, and by September 2011 was capable of caring for her dogs.

18. On or about September 16, 2011 the defendant Slaney O'Hanlon learned that one of her two dogs had died (Lady) and she demanded that the plaintiff return her dog, Lucy to her.

19. The plaintiff, upon information and belief acting, on the direction of the defendant's father; James O'Hanlon and her husband Walter Healy, did out of spite, malice and ill will, and solely to cause emotional stress and anxiety upon the defendants wrongfully failed and refused to return Lucy, defendant's dog, to the defendant, Slaney O'Hanlon.

20. That the plaintiff has wrongfully converted Lucy to the damage of the defendant, Slaney O'Hanlon, and in furtherance of her improper conduct to intentionally inflict injury upon Slaney O'Hanlon, the plaintiff has filed a false complaint with the Police Department.

21. As a result of the wrongful conduct of the plaintiff, the defendant Slaney O'Hanlon should be granted judgment directing the return of her dog Lucy to her, together with appropriate monetary damages for the intentional infliction of emotional harm. The amount of said damages to be determined at trial.

Wherefore, defendants demand judgment dismissing plaintiff's complaint, and judgment on the counterclaim in further of the defendant Slaney O'Hanlon against the plaintiff.

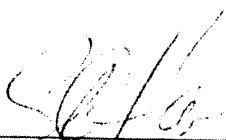
Alter & Alter LLP.  
*Attorney for Defendants*  
300 East 42<sup>nd</sup> Street  
New York, NY 10017  
(212) 867-7777

**VERIFICATION**

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

SUSAN O'HANLON, being duly sworn, says: I am a codefendant in the above-captioned action; I have read the annexed Answer and Counterclaim, know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matter I believe them to be true.

STANLEY ALTER  
Notary Public, State Of New York  
No. ~~31-0053096~~ *02A 0053695*  
Qualified In New York County  
Commission Expires October 30, 20 *12*

  
\_\_\_\_\_  
SUSAN O'HANLON

Sworn to before me this  
*14* day of October       , 2011



**EXHIBIT 4**

December 13, 2011

James A. Underberg MD  
317 E 34<sup>th</sup> Street  
7<sup>th</sup> Floor  
New York NY 10016  
(212)726-7430

NYC Dept. of Health and Mental Hygiene  
Veterinary Public Health Services  
Dog License Department  
PO Box 4768, Church Street Station  
New York, NY 10261-4768

**Re: Dog License No. 3070403  
Name of Dog – Lucy  
Name of Owner – Margaret Healy  
Service Dog Tag Request**

To Whom It May Concern:

I have been the primary care physician for Margaret Healy of 135 Willow St., Brooklyn, NY 11201 for more than 15 years. I am therefore fully familiar with Ms. Healy's medical history, including the serious risks, dangers and functional limitations stemming from her vertigo disability described below.

Ms. Healy suffers from unexpected attacks of vertigo. Ms. Healy's first attack was an unexpected sudden, very severe episode of vertigo and her husband called my emergency number. She exhibited loss of balance, head-spinning dizziness, nausea, vomiting, unsteadiness, and other symptoms characteristic of vertigo. Ms. Healy was hospitalized for several days and received medications, intravenous fluids, and other treatment and therapy appropriate to improve her condition.

I continue to monitor Ms. Healy's overall health. Ms. Healy reports having experienced continuing but milder symptoms of vertigo since that first sudden, severe attack. Fortunately, she has not been traumatically hurt. It is not possible to predict if or when she will have another severe, sudden attack. Ms. Healy's vertigo poses a grave risk and danger affecting Ms. Healy's health and quality of life and substantially limits one or more of her major life activities. In view of these factors, Ms. Healy meets the definition of disability under the Americans with Disabilities Act.

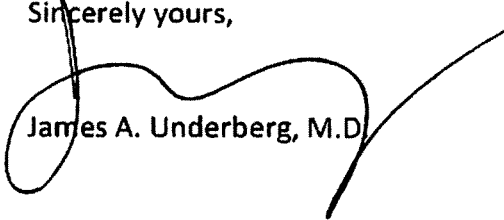


Ms. Healy needs to have the ability to call 911 or her husband or daughter for help if she is alone and suffers attacks of vertigo. Ms. Healy needs to be able to locate or reach her cell phone and notify others of her attacks of vertigo.

To help alleviate this serious risk, danger and limitations, and to enhance Ms. Healy's ability to live normally, I recommend that Ms. Healy have a service dog to mitigate her disability and improve her quality of life. I recommend that Ms. Healy's present dog, named Lucy, who has been her constant companion for years and stated to have already helped Ms. Healy to cope with her disability, be trained as her service dog to locate and bring Ms. Healy's cell phone to her so she can call for help in an emergency and otherwise to assist Ms. Healy. I understand that Lucy responds well and quickly to training methods and has already received from the American Kennel Club her Certificate as Canine Good Citizen. I understand that Ms. Healy and Lucy trained and worked together to accomplish this, and that Lucy and Ms. Healy work well together.

Please contact me as shown above if you have any questions or need more information.

Sincerely yours,



James A. Underberg, M.D.

**EXHIBIT 5**

**Tyril's Canine Academy**  
116-08 207 Street  
Cambria Heights, New York 11411  
(800) 434-2050  
<http://tyrilfrithtrainingacademy.org>

December 20, 2011

The New York City Department of Health  
And Mental Hygiene  
Veterinary Public Health Services  
Dog License Department  
PO Box 4768  
Church Street Station  
New York, NY 10261-4768

RE: Service Dog Tag Request  
Dog License No. 3070403

To Whom It May Concern,

My name is Tyril Frith the Director of Tyril's Canine Academy and I am writing this letter to confirm that Ms. Margaret Healy and her dog Lucy completed an eight week service dog training course. In this course the dog mastered basic obedience exercises and also learned to provide the invaluable necessary service of retrieving her owner's telephone on command for her owner. Lucy- a three year old Golden Doodle - has an excellent disposition and mastered all the exercises.

If you need any further information please feel free to contact me at (800) 434-2050.

Yours Truly,



Tyril Frith  
Director

**EXHIBIT 6**

# THE AMERICAN KENNEL CLUB

*This certifies that*

LUCY

*Borned by*

MS MARGARET O HEALY

*successfully passed the Canine Good Citizens Test on*

NOVEMBER 28, 2011

*and has been listed in the Canine Good Citizens Archives*

*by The American Kennel Club*



*Mary R. Bunch*  
*Canine Good Citizens Director*

**EXHIBIT 7**



NEW YORK CITY DEPARTMENT OF  
HEALTH AND MENTAL HYGIENE  
Thomas A. Farley, M.D., M.P.H.  
Commissioner

January 3, 2012

Margaret Healy  
135 Willow Street #309  
Brooklyn NY 11201

License No: 3070403  
Dog Name: Lucy  
Service Tag Number: 3215

Dear Ms. Healy

Your dog has been registered and listed as a service dog in New York City Department of Health & Mental Hygiene (NYC DOHMH) database. NYC DOHMH issues a unique numbered brass tag to help identify registered service dogs. Enclosed please find the gold colored service dog tag which should be placed on your dog's collar. You will be receiving the regular red colored tag New York dog tag separately.

This Service Dog Tag should be used for life of the animal and does not require renewal. Although the service tag is fee-exempt for dog assisting persons with a documented disability, you are still required to pay to renew the dog license annually.

If you have any questions, please contact the Dog License Unit at (212) 676-2120. Please remember that the law requires your dog be currently vaccinated against rabies, leashed while out in public, and that both tags be attached to your dog's collar.

Sincerely,

A handwritten signature in black ink that reads 'T Depitte'.

Tameka Depitte  
Assistant Public Health Advisor  
Veterinary Public Health Services

At the IAS Part 22 of the Supreme Court of the State of New York, County of Kings, located at 360 Adams Street, Brooklyn, New York on the 13<sup>th</sup> day of September 2011

Present: Hon. HON. SYLVIA G. ASH

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

MARGARET HEALY,

plaintiff,

- against -

SLANEY O'HANLON and SUSAN McCARTHY,

defendants,

Index No.: 21646/11

**EMERGENT ORDER  
TO SHOW CAUSE**

Upon reading the plaintiff's sworn-to verified complaint, sworn to on September 22, 2011, the Affirmation of Emergency of Thomas J. Chaves, Esq., dated September 22, 2011, and the exhibits annexed thereto,

Let the defendants Slaney O'Hanlon and Susan McCarthy show cause before this Honorable Court at Part 32<sup>IAS</sup> of the Supreme Court, Kings County to be held at 360 Adams Street, Brooklyn, New York on the 30<sup>TH</sup> day of September, 2011 at 9:30 a.m., or as soon thereafter as counsel can be heard, why an Order should not be entered

1. Restraining them and their relatives, agents and/or representatives from contacting plaintiff, or her husband Walter Healy, by any means whatsoever in person, via telephone, email, fax or letter;
2. Restraining them from going within to 1000 yards of plaintiff and her husband's residence 135 Willow Street, Brooklyn New York;

**KINGS COUNTY CLERK  
FEE PD \$ 46.00**

*[Handwritten Signature]*



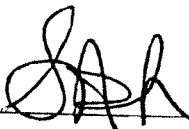
3. Restraining them from harassing, threatening or intimidating plaintiff or her husband;
4. Restraining them from taking any further action to obtain possession of plaintiff's dog, Lucy, during the pendency of this action;
5. And such other and further relief as the Court deems just and proper under the Circumstances.

NY  
SC

— PENDING THE HEARING ~~AND DETERMINATION~~ OF THIS APPLICATION, THE DEFENDANTS ARE ENJOINED AND RESTRAINED FROM ENGAGING IN ANY OF THE ACTIVITIES ENUMERATED IN THE FOREGOING NUMBERS # 1 TO 4.

Sufficient reason therefore, let service of a copy of this Order to Show Cause, and the ~~Summons and~~ Verified Complaint, Affirmation of Emergency and exhibits on which it is granted by personal service ~~by hand~~ upon the defendants Slaney O'Hanlon and Susan McCarthy on or before September ~~26~~<sup>26<sup>th</sup></sup>, 2011, be deemed good and sufficient service.

ENTER:

  
\_\_\_\_\_  
HON. SYLVIA G. ASH J.S.C.

**Transcription of Voice Mail Message left by Susan McCarthy O'Hanlon (516-507-4211) on 9-16-2011 at about 1:05 PM on home telephone of Margaret and Walter Healy at 718-625-6631**

Yeah, this is Susan McCarthy. And I've just been informed that my dog [Lady] died this morning - my daughter's dog. And I want to know why the two of you did not let us know that this dog was sick. You have no fucking heart. My daughter has not seen her dog since you took her. How you can sleep at night is beyond me. And I want Lucy [the dog still living] back immediately. How could you fucking do this to us? You Bitch!



INCIDENT INFORMATION SLIP  
 PD 301-164 (Rev. 1-97)

ACCIDENT REPORTS GIVEN OUT MON-FRI 10am-2pm  
 EXCEPT HOLIDAYS MONEY ORDER OR CHECK ONLY \$10 FEE

Welcome to 84 Pct 301 Gold Street Date: 09/18/11  
 (Command) (Address) (Telephone No.)  
 (718) 875-6231

We hope that your business with us was handled satisfactorily. Your particular matter has been assigned the following number:  
 Complaint Report No.: 5013 Accident Report No.: \_\_\_\_\_ Aided Report No.: \_\_\_\_\_

Reported to: P.O. SIMON 29394 Date of Occurrence: 09/16/11 Time: 2000  
 (Rank) (Name) (Shield No.)

Location of Occurrence: 8410 135 WILLOW  
 (Shield No.)  
 Crime: AGG. HARM ASSELT

Please keep this report should you have to refer to this matter in the future. If you need any further assistance feel free to contact us at telephone number 718-875-6231. Please let us know if you have any suggestions on how we can better serve you. As you may already know, we will provide you with a crime prevention survey of your residence or business. Please ask for more information on this and other crime prevention initiatives. Our goal is to make you and your property safe.

COURTESY — PROFESSIONALISM — RESPECT  
 REMEMBER: CALL "911" FOR EMERGENCIES ONLY!!!!

Agency NYPD

NEW YORK STATE DOMESTIC INCIDENT REPORT

Sprint # (NYC) WALK-IN Incident #

Month Day Year Time (24 hrs)  
09 16 11 0000

Address of Occurrence  
135 WILLIAM ST. BAYLOR NY 1001

APT # 3A  
Precinct (NYC) 64 Aided # (NYC)

Name (Last, First, M.I.) (include aliases)  
HEALEY MARGARET P.

Officer-Initiated  Radio Run  Walk-In   
Month Day Year Age 06 01 19.3  
If non-English, language:  Spanish  Chinese  Other:

Injured?  No  Yes

Removed to Hospital?  No  Yes If yes, what hospital?  
White  Black  Asian  Hispanic  Native American  Other:  Non-Hispanic  Unknown

Describe:  
Name (Last, First, M.I.) (include aliases)  
MICHAEL SUZUKI

Phone 516 507-4211 Month Day Year Age 06 16 19.3  
Street & City 39th St 213th St BAYLOR NY APT # 11361 Zip 11361  
If non-English, language:  Spanish  Chinese  Other:

Injured?  No  Yes

Removed to Hospital?  No  Yes If yes, what hospital?  
White  Black  Asian  Hispanic  Native American  Other:  Non-Hispanic  Unknown

Describe:

SUSPECT/P2 present?  Yes  No  
LIVING SITUATION: Do parties currently live together?  Yes  No  
IF NO, have they lived together in the past?  Yes  No  
Do the parties have a child-in-common?  Yes  No  
RELATIONSHIP: (SUSPECT / P2 to VICTIM / P1)  
 Married  Formerly Married  
 Intimate Partner/Dating  Former Intimate/Dating  
 Child of victim/party 1  Parent of victim/party 1  
 Relative: EX-LAW  Other:  
Prior DV History?  Yes  No  
Prior DV police report?  Yes  No  
Victim fearful?  Yes  No  
Access to weapons?  Yes  No  
Suspect: Drug/Alc History?  Yes  No  
Suspect: Hx suicide threat?  Yes  No  
Suspect: Probation/Parole?  Yes  No

Check all that apply:  
 Biting  Impaired Alcohol/Drugs  Pushing  Threats: (specify)  
 Destroyed Property (Estimated \$)  Injury to Child  Sexual Assault  Unwanted Contact  Threat with weapon  
 Forced Entry  Injury to Other Persons  Shooting  Verbal Abuse  Weapons used: (specify)  
 Forcible Restraint  Injury to Pet/Animal  Slapping  Violated Visitation/Custody Conditions  Blunt Object  
 Hair Pulling  Intimidation/Coercion  Slamming Body  OTHER Suspect Actions:  Gun  
 Homicide  Kicking  Strangulation/Choking  Suicide or Attempt  Motor Vehicle  
 Other: FAKE PPT  Sharp Instrument  
 Other:

Arrest Made?  Yes  No  
Reasons arrest not made on-scene:  No Offense Committed  No Probable Cause  Suspect Off-Scene  
Warrant/Criminal Summons to be requested  Violation level: not in police presence (no citizen's arrest)  Other:

Offenses	Law (e.g. PL)	Section (Sub)	Charges Filed	Offenses Involved: (check all that apply)
<u>HOMICIDE</u>	<u>240.1</u>			<input checked="" type="checkbox"/> Misdemeanor <input type="checkbox"/> Violation <input type="checkbox"/> Other (Specify)

Photos Taken? IF YES, photos taken of:  Victim Injuries  Suspect Injuries  Scene  Damaged Property  Other:  
Other evidence collected?  Yes  No  
If YES, describe:

Summary of investigation and basis of action taken. (Were excited utterances, spontaneous admissions or spontaneous statements made?)  Yes  No  
9/16/09 11:00 AM 135 WILLIAM ST BAYLOR NY 1001. A 911 CALL WAS RECEIVED FROM A RESIDENT AT THIS ADDRESS REPORTING A BATTERY ON A CHILD. POLICE ARRIVED AT THE SCENE AND LOCATED THE CHILD AND THE SUSPECT. THE SUSPECT WAS TAKEN INTO CUSTODY AND THE CHILD WAS TAKEN TO THE HOSPITAL FOR TREATMENT. THE SUSPECT WAS CHARGED WITH BATTERY ON A CHILD AND IS BEING HELD IN JAIL. THE CHILD IS CURRENTLY IN THE HOSPITAL AND IS DOING WELL. THE POLICE ARE CURRENTLY SEARCHING FOR THE CHILD'S PARENTS.

AGENCIES involved with the parties or incident:  Adult Protective Services  Child Protective Services (or ACS)  Domestic Violence Services  Firearms Licensing  
Guns in House  Guns Seized  Has Permit  Permit Seized Issuing County:  
Permit #(s): Name on Permit(s):  
TACTS INITIATED BY POLICE:

Sprint # (NYC)

Incident #

Precinct (w/CTV)

Aided # (NYC)

Complaint #

Page 2 of the NYS Domestic Incident Report: STATEMENT OF ALLEGATIONS / SUPPORTING DEPOSITION

Suspect Name (Last, First, M.I.)

I, MARGARET HEALY (victim/deponent name), state that on 9/16/11, (date) at 4pm Yo, (nombre de victima/deponente), declaro que en tal fecha

(location of incident), in the County/City/Town/Village of Brooklyn of the state of New York, the following did occur: (donde el incidente ocurrio), el condado/ciudad/aldea/pueblo de del estado de Nueva York, lo siguiente ocurrio:

My sister-in-law Susan McCARTHY O'HANLON left a dreadful voice mail message on my phone demanding the return of a dog that my brother gave me 2 years ago, after she + her daughter abandoned it in the house with my brother. He owned the dog and gave it to me in late 2009. LATER Friday evening she and her daughter arrived in my lobby demanding that the doorman let them in which he didn't, saying that they came for the dog according to arrangement - untrue! When I thought she was gone I went out in car to find my husband + dog to drive off. She appeared in SUV + followed me around block. I stopped again at front door she flew out of car come up to me, shouting "bitch" etc + I drove away + followed close all the way to police station + parked behind me, but did not follow me in. I was sure she was going to hit my car as she was always erratic. There is even a divorce and I was never frightened in my life.

Use Statements made herein are punishable as a Class A Misdemeanor, pursuant to section 210.45 of the Penal Law. araciones falsas hechas aqui son castigables como una clase de delito menor, de acuerdo con la seccion 210.45 de la Penal.

m/Deponent Signature a de victima/deponente

Date Fecha

Notes Whether or not this form is signed, this DIR form will be filed with law enforcement. Nota: Si esta forma esta firmada, o no, esta DIR forma sera registrada con la policia.

reter

Date

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

MARGARET HEALY,

plaintiff,

INDEX NO.

21646/11

- against -

AFFIDAVIT

IN SUPPORT

SCANNY O'HANLON AND SUSAN McKEE,  
defendants.

MARGARET HEALY, of full age,  
being duly sworn deposes and says:  
I am the plaintiff in the  
above matter. As such, I am fully  
familiar with all matters stated  
herein based on personal knowledge.

(2)

I submit this affidavit in support of the within order to show cause seeking emergent relief for a temporary restraining order without notice to defendants.

2. Plaintiff could not give notice of this order to show cause seeking the temporary restraining order to both defendants because she does not know how to get in contact with them and in addition to contact them would put my safety in jeopardy.

3

3. The reason I am concerned for my physical safety is because defendants have acted unlawfully in stalking me and harassing me.

4. Specifically, on Friday September 16, 2011, both defendants came to my apartment building and told our doorman that they had an appointment with <sup>me</sup> I had not seen or heard from either defendant in two years. Defendant Ms. McCarthy threatened the doorman



④

and he called the police, defendant Ms. McCarthy lied to the police and tried to get them to take my dog Lucy.

5. That very same night of September 16, 2011, Ms. McCarthy followed me in her car to the police department and she tried to forcibly stop my car. I felt very threatened and afraid.

6. ON September 21, 2011, Ms. McCarthy appeared again with two different police officers and again tried

(5)

to get them to give her my dog  
Lucy. I was afraid, threatened  
and intimidated.

7. On September 16, 2011, defendant  
Ms. McCarthy left me a voice  
phone message in which she  
cursed at me and notified me that  
Lucy was not our dog. (The transcript  
of the phone message is annexed  
to the Verified Complaint as Exhibit

(4).

8. I fear for my safety and  
unless defendants are restrained

(6)

from coming near me, I believe  
they will continue to stalk and  
harass me.

WHEREFORE, I respectfully  
request that your Honor grant  
this order to show cause seeking  
temporary restraint.

Margaret Healy  
MARGARET HEALY

Sworn to Before  
me this <sup>23RD</sup>  
day of September 2014

~~Notary Public~~  
Notary Public

**EXHIBIT 8**

At the IAS Part 22 of the Supreme Court of the State of New York, County of Kings, located at 360 Adams Street, Brooklyn, New York on the 13<sup>th</sup> day of September 2011

Present: Hon. HON. SYLVIA G. ASH  
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

MARGARET HEALY, -----X

- against -

plaintiff,

SLANEY O'HANLON and SUSAN McCARTHY,

defendants, -----X

Index No.: 21646/1

**EMERGENT ORDER  
TO SHOW CAUSE**

Upon reading the plaintiff's sworn-to verified complaint, sworn to on September 22, 2011, the Affirmation of Emergency of Thomas J. Chaves, Esq., dated September 22, 2011, and the exhibits annexed thereto,

Let the defendants Slaney O'Hanlon and Susan McCarthy show cause before this Honorable Court at Part <sup>1A5</sup> 32 of the Supreme Court, Kings County to be held at 360 Adams Street, Brooklyn, New York on the 30<sup>th</sup> day of September, 2011 at 9:30 a.m., or as soon thereafter as counsel can be heard, why an Order should not be entered

1. Restraining them and their relatives, agents and/or representatives from contacting plaintiff, or her husband Walter Healy, by any means whatsoever in person, via telephone, email, fax or letter;
2. Restraining them from going within to 1000 yards of plaintiff and her husband's residence 135 Willow Street, Brooklyn New York;

**KINGS COUNTY CLERK  
FEE PD \$ 45.00**

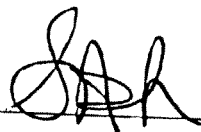
*[Handwritten Signature]*

3. Restraining them from harassing, threatening or intimidating plaintiff or her husband;
4. Restraining them from taking any further action to obtain possession of plaintiff's dog, Lucy, during the pendency of this action;
5. And such other and further relief as the Court deems just and proper under the Circumstances.

— PENDING THE HEARING ~~AND DETERMINATION~~ OF THIS APPLICATION, THE DEFENDANTS ARE ENJOINED AND RESTRAINED FROM ENGAGING IN ANY OF THE ACTIVITIES ENUMERATED IN THE FOREGOING NUMBERS # 1 TO 4.

Sufficient reason therefore, let service of a copy of this Order to Show Cause, and the ~~Summons and~~ Verified Complaint, Affirmation of Emergency and exhibits on which it is granted by personal service ~~by hand~~ upon the defendants Slaney O'Hanlon and Susan McCarthy on or before September ~~26<sup>th</sup>~~, 2011, be deemed good and sufficient service.

ENTER:



HON. SYLVIA G. ASH

J.S.C.

**Transcription of Voice Mail Message left by Susan McCarthy O'Hanlon (516-507-4211) on 9-16-2011 at about 1:05 PM on home telephone of Margaret and Walter Healy at 718-625-6631**

Yeah, this is Susan McCarthy. And I've just been informed that my dog [Lady] died this morning - my daughter's dog. And I want to know why the two of you did not let us know that this dog was sick. You have no fucking heart. My daughter has not seen her dog since you took her. How you can sleep at night is beyond me. And I want Lucy [the dog still living] back immediately. How could you fucking do this to us? You Bitch!

INCIDENT INFORMATION SLIP  
PD 301-134 (Rev. 1-97)

ACCIDENT REPORTS GIVEN OUT MON-FRI 10am-2pm \$10 FEE  
EXCEPT HOLIDAYS MONEY ORDER OR CHECK ONLY

Name to: 34 Pat Date: 09/18/11  
(Command) 301 Gold Street (713) 875-6231  
(Address) (Telephone No.)

Please note that your business with us was handled satisfactorily. Your particular matter has been assigned the following number:  
Incident Report No.: 5013 Accident Report No.: \_\_\_\_\_ Aided Report No.: \_\_\_\_\_

Reported to: PO. GIMLES 29394 Date of Occurrence: 09/16/11 Time: 2000  
(Rank) (Name) (Shield No.)  
Date of Occurrence: 2/10/10 135 WILLOW  
ALDEN HARRINGTON

Please keep this report should you have to refer to this matter in the future. If you need any further assistance feel free to  
contact us at telephone number 713-875-6231. Please let us know if you have any suggestions on how we can  
serve you. As you may already know, we will provide you with a crime prevention survey of your residence or business.  
For more information on this and other crime prevention initiatives. Our goal is to make you and your property safe.

COURTESY — PROFESSIONALISM — RESPECT  
REMEMBER: CALL "911" FOR EMERGENCIES ONLY!!!!



NEW YORK STATE DOMESTIC INCIDENT REPORT

17 PD

Day: 16, Year: 11, Time: 1000, Address of Occurrence: 135 WILLOW ST. CHURCH HTS. NY 10011

Sprint # (NYC): WALK-IN, Incident #: 6461

Officer-Initiated  Radio Run  Walk-In

Offense # 17000

Month: 06, Day: 01, Year: 19.3, Age: 17.3

Sex:  Male,  Female

Language:  Spanish,  Chinese,  Other

Removed to Hospital?  No,  Yes

Race:  White,  Black,  Asian,  Hispanic,  Native American,  Other

Phone: 516.507.4211, APT #: 11361

LIVING SITUATION

Do parties currently live together?  Yes,  No

IF NO, have they lived together in the past?  Yes,  No

Do the parties have a child-in-common?  Yes,  No

RELATIONSHIP: (SUSPECT / P1 to VICTIM / P1)

Married,  Intimate Partner/Dating,  Formerly Married,  Former Intimate/Dating,  Child of victim/party I,  Parent of victim/party I,  Relative: BROTHER,  Other

Prior DV History?  Yes,  No

Prior DV police report?  Yes,  No

Victim fearful?  Yes,  No

Access to weapons?  Yes,  No

Suspect: Drug/Alc History?  Yes,  No

Suspect: Hx suicide threat?  Yes,  No

Suspect: Probation/Parole?  Yes,  No

Offenses

Impaired Alcohol/Drugs,  Injury to Child,  Injury to Other Persons,  Injury to Pet/Animal,  Interference with Phone,  Intimidation/Coercion,  Kicking,  Punching

Pushing,  Sexual Assault,  Shooting,  Slapping,  Slamming Body,  Stabbing,  Strangulation "Choking",  Suicide or Attempt

Threw Items,  Unwanted Contact,  Verbal Abuse,  Violated Visitation/Custody Conditions,  OTHER Suspect Actions

Threats (specify):  Injure/Kill Persons,  Injure/Kill Self,  Injure/Kill Pet/Animal,  Take Child,  Destroy/Take Property,  Other: PAGE

Threat with weapon,  Weapons used (specify):  Blunt Object,  Gun,  Motor Vehicle,  Sharp Instrument,  Other

Reasons arrest not made on-scene:  No Offense Committed,  No Probable Cause,  Suspect Off-Scene

Warrant/Criminal Summons to be requested:  Violation level: not in police presence (no citizen's arrest),  Other

Offenses Involved: (check all that apply)

Misdemeanor,  Violation,  Felony,  Other (Specify)

Registry Checked?  Yes,  No

Order of Protection?  Yes,  No

Stay Away Order?  Yes,  No

Order Violated?  Yes,  No

Any PRIOR orders?  Yes,  No

Other evidence collected?  Yes,  No

IF YES, describe:

COMPLETE STATEMENT OF FACTS

On 06/01/19, at 10:00 AM, 135 WILLOW ST. CHURCH HTS. NY 10011, I was dispatched to a domestic violence incident. Upon arrival, I observed a female victim (V) who appeared distressed and was being held in a room by a male suspect (S). The victim stated that she had been sexually assaulted by the suspect. I observed the suspect's hands on the victim's chest and groin. I separated the parties and provided medical attention to the victim. The suspect was arrested on charges of Sexual Assault and Intimidation/Coercion. The victim was transported to a hospital for medical evaluation. The suspect was transported to a police station for processing.

Use to suspect a child may be the victim of abuse, or endangerment?  Yes,  No

BUSE HOTLINE REGISTRY # 1-800-635-1522

Permit #(s): \_\_\_\_\_

Issuing County: \_\_\_\_\_

ADULT PROTECTIVE SERVICES  CHILD PROTECTIVE SERVICES (FOR ACS)  DOMESTIC VIOLENCE SERVICES  FIREARMS LICENSING

Sprint # (NYC)	Incident #	Precinct, WVA, CTY	Aided # (NYC)	Complaint #
----------------	------------	--------------------	---------------	-------------

Page 2 of the NYS Domestic Incident Report:  
**STATEMENT OF ALLEGATIONS / SUPPORTING DEPOSITION**

Victim Name (Last, First, M.I.)

GARET HEALY (victim/deponent name), state that on 9/16/11, (date) at Spring  
 (nombre de victima/deponente), declaro que en tal fecha 9/16/11 en Spring  
 of incident), in the County/City/Town/Village of Brooklyn of the state of New York, the following did occur:  
 (incidente ocurrio), el condado/ciudad/aldea/pueblo de Brooklyn del estado de Nueva York, lo siguiente ocurrio:

Sister-in-law Susan McCARTHY O'HANLON left a dreadful  
 mail message on my phone demanding the return of  
 a truck my brother gave me 2 years ago, after she +  
 supplies abandoned it in the house with my brother +  
 used the dog and gave it to me in late 2009.  
 -A Friday evening <sup>around</sup> she and her daughter arrived  
 by Robby demanding that the doorman let them in  
 he didn't, saying that they came for the dog according  
 arrangement - untrue! When I thought she was gone  
 I took my car to find my husband + dog to drive  
 She appeared in SUV + followed me around that block.  
 I stopped again at front door she flew out of car  
 up to me shouting "bitch" etc + I drove away  
 moved close all the way to police station + parked  
 me, but did not follow me in. I was sure she  
 to hit my car as she was always erratic. There is no  
 any divorce and I was never subjugated in my life

Statements made herein are punishable as a Class A Misdemeanor, pursuant to section 210.45 of the Penal Law.  
 falsas hechas aqui son castigables como una clase de delito menor, de acuerdo con la seccion 210.45 de la

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 /deponente \_\_\_\_\_ Fecha \_\_\_\_\_  
 \_\_\_\_\_ Date \_\_\_\_\_

**Notes**  
 Whether or not this form is signed, this DIR form will be filed with law enforcement.  
**Nota:**  
 Si esta forma esta firmada, o no, esta DIR forma sera registrada con la policia.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

MARGARET HEALY,

plaintiff,

INDEX NO.  
21646/11

- against -

SCADBY O'HANLON and SUSAN McKEEHEY,  
defendants.

AFFIDAVIT  
IN SUPPORT

MARGARET HEALY, of full age,

being duly sworn deposes and says:

I am the plaintiff in the  
above matter. To such, I am fully  
familiar with all matters stated  
herein based on personal knowledge.

(2)

I submit this affidavit in support of the within order to show cause seeking emergent relief for a temporary restraining order without notice to defendants.

2. Plaintiff could not give notice of this order to show cause seeking the temporary restraining order to both defendants because she does not know how to get in contact with them and in addition contact them would put my safety in jeopardy.

3

3. The reason I am concerned for my physical safety is because defendants have acted unlawfully in stalking me and harassing me.

4. Specifically, on Friday September 16, 2011, both defendants came to my apartment building and told our doorman that they had an appointment with <sup>me</sup>. I had not seen a head from either defendant in two years. Defendant S. McCarthy threatened the doorman

④

and he called the police, defendant  
Ms. McCarthy tried to stop police  
and tried to get them to take my  
dog Lucy.

5. That very same night of  
September 16, 2011, Ms. McCarthy  
followed me in her car to the  
police department and she tried  
to forcibly stop my car. I felt  
very threatened and afraid.

6. On September 21, 2011, Ms. McCarthy  
appeared again with two different  
police officers and again tried

5

to get them to give her my dog  
Lucey. I was afraid, threatened  
and intimidated.

7. On September 16, 2011, defendant  
Ms. McElroy left me a voice, pre-recorded  
phone message in which she  
cursed at me and notified me that  
Lucey was not our dog. (The transcript  
of the phone message is annexed  
to the Verified Complaint as Exhibit

6

8. I fear for my safety and  
unless defendants are restrained

(6)

from coming near me, I believe they will continue to stalk and harass me.

WHEREFORE, I respectfully request that your Honor grant the order to show cause seeking temporary restraint.

Margaret Healy  
MARGARET HEALY

Sworn to Before  
me this <sup>23RD</sup>  
day of September 2011

~~Notary Public~~  
Notary Public



## **EXHIBIT 9**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS- CIVIL TERM-PART 32

-----x

MARGARET HEALY,	:	
	Petitioner,	: INDEX NO.
	-against-	: 21646/11
SLANEY O'HANLON and	:	
SUSAN MC CARTHY,	:	
	Respondents.:	

-----x

H E A R I N G  
360 Adams Street  
Brooklyn, N.Y. 11201  
February 23, 2012

B E F O R E:  
  
HONORABLE YVONNE LEWIS  
Judge.

A P P E A R A N C E S:

MICHAEL J. DEVEREAUX and ASSOCIATES, PC  
39 Broadway Suite 910  
New York, New York 10006  
BY: MICHAEL J. DEVEREAUX, ESQ.  
BY: THOMAS J. CHAVES, ESQ.  
For the Petitioners

STANLEY ALTER, ESQ.  
300 East 42nd Street 10th Floor  
New York, New York 10017  
For the Respondents

LISA L. DIMINO, RPR  
SENIOR COURT REPORTER

1  
2 THE CLERK: Okay. In the matter of Healy  
3 versus O'Hanlon, Index Number 21646 of '11. State  
4 your appearance for the record. Start with the  
5 plaintiff.

6 MR. DEVEREAUX: Michael J. Devereaux,  
7 attorney for plaintiff.

8 MR. ALTER: Stanley Alter, attorney for the  
9 defendant. Good afternoon.

10 MR. DEVEREAUX: Good afternoon.

11 THE COURT: Good to see you, I think. I need  
12 to talk to counsel first at the bench.

13 MR. DEVEREAUX: Sure.

14 (Bench conference held off the record.)

15 THE COURT: You are before the Court on a  
16 request for preliminary injunction, and I'm ready to  
17 proceed on a hearing to determine whether or not  
18 preliminary injunction is warranted in this case.  
19 Are you ready to proceed?

20 MR. ALTER: If your Honor please, I got back  
21 to my office, I left the court yesterday, and didn't  
22 get to my office until about twelve o'clock. And  
23 sitting on my desk was an urgent letter addressed to  
24 me saying that the plaintiff is going to withdraw  
25 their motion. And I think, if my recollection is the  
26 basis for the withdrawals, the fact that my clients

1  
2 have not gone near the premises or spoken to the  
3 plaintiff since the institution of this proceeding  
4 and that they understand that I'm going to go forward  
5 or want to go forward with the aspect of my client  
6 having some sort of custody or-- pardon me for using  
7 the word "custody", some sort of time with her pet,  
8 with her dog.

9 Now, they also graciously tell me that the  
10 day after we're in court and spent the morning, that  
11 they would consent to the letter of Mr. Scharoff  
12 going into evidence without the need of Mr. Scharoff  
13 being present. And I take that, I take their  
14 withdrawals fine, that saves everybody time.

15 But, I tell you, very frankly, your Honor, it  
16 also goes to another level, it shows the sad nature  
17 of this motion, the waste of everybody's time  
18 yesterday and today, judge.

19 THE COURT: People make determinations based  
20 upon circumstances and happenings. It seems to me  
21 that they may have decided after yesterday's  
22 proceedings to do what they did as opposed to that  
23 having been a waste of time. It may have been the  
24 use of time that got them to that position.

25 MR. DEVEREAUX: May I be heard, judge?

26 THE COURT: Absolutely.

1  
2 MR. DEVEREAUX: I think he's referring, I'm  
3 not sure, to the motion to quash. Again, we never  
4 received-- statutory notice requires 203(a), with all  
5 due respect, you don't have to notify your adversary  
6 of a trial subpoena. Since 2003, you have to notify  
7 your adversary of a trial subpoena. He never  
8 provided any notice to us. The only way we found out  
9 about it, I found out about it through my client,  
10 through the non-party-- strike that. I never found  
11 out from my client.

12 I found out, Mr. Walter Healy who called me  
13 up and said, are you aware of a subpoena having been  
14 served, a trial subpoena having been served on a  
15 non-party. I said, no, we haven't received any such  
16 notice, I imagine I will get notice. So, we have no  
17 offer of proof. It doesn't comply with the statute  
18 mandated. It's non-waiveable, it's not something  
19 that's only allowed-- that I have to comply with and  
20 Mr. Scharoff doesn't have to comply with it, we have  
21 to comply with it. It's non-waiveable. That's one  
22 reason we made the motion to quash.

23 Also, it appears that the letter or whatever  
24 he's trying to do with Mr. Scharoff is absolutely  
25 irrelevant to any visitation or custody-- visitation  
26 issue. Certainly, custody is not an issue right now.

1  
2 It can't be at this preliminarily stage. We cannot  
3 pull a My Cousin Vinny and accelerate through the  
4 trial and forget about discovery and everything else.  
5 You have to do it in an orderly progressive fashion.

6 I received a non-party trial subpoena,  
7 judicial subpoena, not signed by the Court. We don't  
8 know what he wants Mr. Scharoff for. Now he's saying  
9 that I must have known we want Mr. Scharoff for a  
10 letter.

11 THE COURT: I thought it was just consented  
12 to, the entry of a letter.

13 MR. DEVEREAUX: We made that speculation on  
14 our own. We decided, you know what, we don't know  
15 what he wants Mr. Scharoff for, it can't be any issue  
16 related to visitation. Maybe he wants it for this  
17 letter that has nothing to do with visitation, let's  
18 cut to the quit, we'll admit it in.

19 THE COURT: Well, if we're there --

20 MR. ALTER: I --

21 THE COURT: Stop. I started talking. You  
22 need to stop. Thank you. What I need from you all  
23 is to proceed forward and we're proceeding. If we're  
24 not proceeding and we don't need Mr. Scharoff,  
25 perhaps he might like to leave.

26 MR. DEVEREAUX: It's his subpoena, judge. I

1  
2 didn't subpoena --

3 MR. ALTER: Your Honor, we're already arguing  
4 a subpoena issue.

5 THE COURT: We're not rearguing the subpoena  
6 issue.

7 MR. ALTER: Because very frankly, Mr.  
8 Devereaux sent me a letter outlining the terms of the  
9 subpoena, had it in his possession and asked me to  
10 respond, if I would withdraw the subpoena.

11 MR. DEVEREAUX: Yes. I am required to do  
12 that.

13 MR. ALTER: So, the claim --

14 THE COURT: You need to talk one at a time.

15 MR. ALTER: So, the claim he didn't know  
16 anything about the subpoena, judge, is a little  
17 ludicrous; however, I have in my hand the letter that  
18 I was referring to dated February 22nd withdrawing  
19 their motion.

20 THE COURT: Let me do this again. Start all  
21 over. I need to know whether or not you're ready to  
22 proceed. I heard your recitation about the subpoena.  
23 You did not answer the question if you're ready to  
24 proceed and to what extent you want to proceed or  
25 don't. That's all I want to hear from you after he's  
26 done.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. DEVEREAUX: Yes, your Honor.

MR. ALTER: Your Honor, I'm ready to proceed on the issue of visitation with the dog.

THE COURT: Only on that issue?

MR. DEVEREAUX: Yes. They're withdrawing, according to them.

THE COURT: Go ahead.

MR. DEVEREAUX: Your Honor, I would let my counsel who I will speak for now-- we're withdrawing the order to show cause. I have an affidavit from my client consenting.

THE COURT: Order to show cause in its entirety?

MR. DEVEREAUX: In its entirety. And therefore, we believe and I think there's no predicate for a visitation issue which was never made, I believe he may have brought it up orally, but there's certainly no papers on it and there's no application before this Court or notice of motion or cross-notice of motion made downstairs.

So, there's no jurisdictional predicate for the consideration of a visitation issue, which goes beyond the scope of the order to show cause and we believe goes beyond the scope of any hearing right now. If he wants to address a visitation issue, he



1  
2 should do it on papers, and we'll have a hearing  
3 before the Court on the papers.

4 I don't believe there's a predicate right now  
5 for him to be asking for visitation when the order to  
6 show cause was withdrawn.

7 THE COURT: You may want to address a possible  
8 determination of the Court that withdrawal of this  
9 motion is purely for the reason to escape the  
10 jurisdiction of the court on issues that you do not  
11 wish to address. And if it's only to that end, then  
12 the Court might not determine that you can withdraw.

13 MR. DEVEREAUX: I agree.

14 THE COURT: Determine that you cannot  
15 withdraw.

16 MR. DEVEREAUX: Certainly I have the  
17 affidavit and that's one of the things I thought your  
18 Honor may be concerned with. It's the  
19 cost-effective-- that's here, your Honor, the  
20 cost-effectiveness of it and also the reality of it  
21 is since the incidents occurred and since we received  
22 from Judge Ash the temporary restraining order, there  
23 have been no further incidents.

24 We cannot believe that any other incidents  
25 will be occurring, but if they do, we certainly will,  
26 without prejudice, of course, do another order to

1  
2 show cause for restraint. We cannot imagine, we hope  
3 reasonably that these-- that people are reasonable  
4 and incidents won't occur again.

5 So, cost-effectiveness is, let's proceed,  
6 let's get on with the issues in the case, and let's  
7 get this going in an orderly fashion. We still don't  
8 have an answer. I believe we don't have any  
9 discovery yet. That's what we're looking for. It's  
10 not done just for that purpose.

11 However, truth be told, judge, I didn't  
12 make-- the scope of the order to show cause is the  
13 scope and they're bringing up something outside that  
14 scope and it's inappropriate to that extent. So,  
15 there is-- we would have that issue regardless, and  
16 it's preserved for appeal. I believe Mr. Chaves told  
17 me it's preserved for appellate review. It goes way  
18 beyond any scope right now, there's no basis for a  
19 visitation issue when he hasn't made a written notice  
20 of motion for that issue, for that relief. I don't  
21 believe it's in the complaint, in his answering  
22 papers. In the counterclaim, he asked for custody,  
23 not visitation.

24 MR. ALTER: May I be heard, judge?

25 THE COURT: I think you are fine.

26 Historically, visitation is an item under custody.

1  
2 Custody at issue, visitation is at issue.

3 MR. DEVEREAUX: And I agree with you,  
4 visitation, custody is at issue, but not at this  
5 point in time; however, if your Honor deems it to be  
6 an issue at this point in time, we're ready to  
7 proceed on that visitation issue, but we have our  
8 objections respectfully preserved.

9 THE COURT: Absolutely.

10 MR. DEVEREAUX: One of the things, whatever  
11 you want to do, your Honor, I don't want to jump the  
12 gun.

13 THE COURT: I'm listening. You're done?

14 MR. DEVEREAUX: I think I answered your  
15 questions; is that correct?

16 THE COURT: All right. To the extent that the  
17 issue of the visitation has come before this Court on  
18 this order to show cause, the Court will hear that  
19 issue. All other aspects of the order to show cause  
20 can be withdrawn.

21 MR. DEVEREAUX: Okay. Just to clarify for the  
22 record, I'm sorry, judge, it's our order to show  
23 cause did not deal with visitation, did not bring up  
24 or request or have anything to do with visitation, so  
25 I've just got to make that clear for the record.

26 THE COURT: You think the record's not clear?

1

MR. DEVEREAUX: Can Mr. Scharoff be released?

2

3

THE COURT: Absolutely.

4

MR. ALTER: No.

5

MR. DEVEREAUX: I'm sorry?

6

MR. ALTER: I have some questions to ask Mr.

7

Scharoff.

8

THE COURT: With respect to visitation?

9

MR. ALTER: That's correct, your Honor.

10

THE COURT: I need an offer of proof.

11

Counsel, outside, outside in the hallway.

12

(The following takes place out of the

13

courtroom.)

14

THE COURT: I want an offer of proof as to why

15

Mr. Scharoff has to stay.

16

MR. ALTER: Fine. Your Honor, the question

17

involved --

18

THE COURT: Scharoff.

19

MR. ALTER: The question is a matter-- is

20

ownership and abandonment of the dog. The Nassau

21

County divorce action occurred or commenced in August

22

of 2009. I, after getting custody and slating

23

permission to go down to Baltimore to the school,

24

made a demand upon Mr. Scharoff for the return of the

25

dogs. Mr. Scharoff in writing wrote a letter to me

26

acknowledging that Slaney is the owner, she got the

2 dog as a gift from her father, and then recites a  
3 whole history of how this dog is going to be cared  
4 for in her absence.

5 And then there's one paragraph that says that  
6 when Slaney is capable of taking care of the dogs,  
7 Mr. O'Hanlon and her father will make arrangements to  
8 have the dogs returned to her. That's Mr. Scharoff,  
9 Mr. Healy's co-counsel. So, he can't-- they can't  
10 claim that they --

11 THE COURT: What are the questions you need to  
12 ask him?

13 MR. ALTER: I want to ask him if he, in fact,  
14 this letter was in response to my inquiry to get the  
15 dogs back. I want to ask him if he had any  
16 conversations with Ms. Healy, who's not his client,  
17 as to what was the nature of her getting the dogs,  
18 and whether he had a conversation with Mr. Healy  
19 concerning --

20 THE COURT: All that goes to the ultimate  
21 issue, not to visitation?

22 MR. ALTER: It goes to the issue, judge, that  
23 she has an interest in these dogs. She, in fact,  
24 owns these dogs and she has a right to be with these  
25 dogs until the ultimate issue is determined.

26 THE COURT: All that is clear from --

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

MR. ALTER: It's --

THE COURT: --from the letter?

MR. ALTER: If it's clear from the letter,  
your Honor?

THE COURT: Not that she has a right to  
visitation, that's the ultimate issue right here.

MR. ALTER: That's the issue before you,  
right.

THE COURT: But that she has an interest,  
based on what you just said-- I didn't read the  
letter, if it says what you said, it says it's clear  
she has an interest in the dogs and I don't see at  
this point a reason to ask the questions that you  
indicate you want to ask of him.

MR. ALTER: I just want to make sure that this  
letter was written in response to my request for the  
return of the dogs because this --

THE COURT: There's nothing that will prove  
that in that letter.

MR. ALTER: That's right.

MR. CHAVES: Thomas Chaves on behalf of  
plaintiff. Just, very briefly, 'cause we don't want  
to go through an endless rehash that's already been  
spoken about, the concern that I have at this point  
in time, given the procedural history of the case, is

1  
2 that first we can stipulate that a dog under New York  
3 law is property. Now we veered into this idea of  
4 visitation of the property. And your Honor indicated  
5 yesterday a willingness to consider making new law in  
6 the area because I think we can all agree there isn't  
7 any precedent now which would even allow for that  
8 consideration.

9  
10 Now, moving from that as the baseline, in  
11 terms of what the issues are with respect to whether  
12 the person should have visitation or not have  
13 visitation, it's been spoken about in this context in  
14 this courtroom as visitation and custody. And that's  
15 more akin to what happens with matrimonial actions  
16 where there are minor children involved.

17  
18 So, if that's really what we're going to be  
19 involved with, the real issue is whether she's  
20 entitled to visitation, and considering whether she  
21 is or not, her disputed ownership one way or the  
22 other is not, in my view, relevant. No one's  
23 disputing in this case that she claims that she's the  
24 owner of the dog. She says, I'm the owner of the  
25 dog. No one's disputing that.

26  
THE COURT: So, that is not the issue, you're  
saying claims as opposed to--

MR. CHAVES: Right.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

THE COURT: Excuse me.

MR. CHAVES: I'm sorry.

THE COURT: Are you saying that no one's contesting the fact that she owns the dog?

MR. CHAVES: No. The opposite, no one's disputing that she claims she owns the dog.

THE COURT: Right. That's not sufficient. In other words, my position is on behalf of plaintiff, that if visitation is even going to be allowed, which was strenuously objected to, that the real standard should be what's in the best interest of the dog and that has nothing to do with who the owner of the dog is at this particular moment moving forward.

In other words, ultimately, if a jury determines that Slaney, the defendant, is the owner of the dog, then the ownership gets transferred and she gets possession of the dog. My understanding of what this application is-- see, we don't have any papers, so it's very difficult to kind of surmise what's even being suggested. It's very vague. You need to be direct and to the point, all that extra stuff.

MR. CHAVES: Direct and to the point is if we're even going to deal with the issue of visitation, anything this lawyer says in a divorce



1  
2 context a year ago has nothing to do with what's  
3 going on today in 2012. It's wholly irrelevant.

4 THE COURT: You can ask that question. You  
5 may have to wait for others, but at this point, I  
6 don't hear that. I'll only hear that when I hear the  
7 answer. So, we'll call Mr. Scharoff for that.

8 MR. DEVEREAUX: We reserve our objections, of  
9 course.

10 THE COURT: Of course.

11 MR. DEVEREAUX: Thank you, judge. May I be  
12 dismissed?

13 THE COURT: May you be excused? No, we need  
14 to talk again at the end of the hearing about whether  
15 or not there are any sanctions.

16 (Resume in open courtroom.)

17 THE COURT: You want to call your first  
18 witness?

19 MR. ALTER: Mr. Scharoff.

20 J E R O M E S C H A R O F F, called as a witness,  
21 having been sworn by the court officer, took the  
22 stand and testified as follows:

23 THE COURT OFFICER: State your name and  
24 business address for the record, spell your last  
25 name.

26 THE WITNESS: Jerome Scharoff, S-C-H-A-R-O-F-F,

100 Garden City Plaza, Garden City, New York 11530.

THE COURT OFFICER: Be seated.

MR. ALTER: Your Honor, may I stand on the other side?

DIRECT EXAMINATION

BY MR. ALTER:

Q. Good afternoon, Mr. Scharoff.

A. Good afternoon, Mr. Alter.

Q. How are you today?

A. Fantastic.

Q. Mr. Scharoff, tell the Court your occupation?

A. I'm a lawyer.

Q. And practicing where?

A. Garden City.

Q. And sir, are you representing a James O'Hanlon in a divorce action against the named defendant in this action, Susan O'Hanlon?

A. Yes.

Q. And did there come a point in time when-- did you know that there were several dogs living in the marital residence?

THE COURT: I'm sorry, I didn't hear that.

Q. Did you know in 2009, September 2009, that there were several dogs living in the marital residence?

MR. CHAVES: Objection.

2 THE COURT: Sustained. You have a very  
3 limited scope, until we get beyond that scope.

4 MR. ALTER: May we mark this, your Honor?

5 THE COURT: Yes, we can mark it on the  
6 consent indicated earlier in evidence.

7 MR. CHAVES: Yes, judge, this is the October  
8 15, 2009 letter from Mr. Scharoff.

9 THE COURT: He is marking it.

10 MR. CHAVES: Judge, I don't mean to  
11 interrupt, I just thought I wanted to bring to the  
12 Court's attention, if Mr. Alter's going to question  
13 Mr. Scharoff with respect to a letter that was sent  
14 to him, does he not then become a witness, himself,  
15 in connection with the case?

16 THE COURT: He's not going to question him in  
17 connection with the substance of the letter, but the  
18 premise of the letter.

19 MR. CHAVES: Well, if it goes beyond anything  
20 outside of the letter --

21 THE COURT: We're going to try to make sure  
22 it doesn't go beyond, that's the only scope he had to  
23 ask questions.

24 Q. Mr. Scharoff --

25 MR. ALTER: Was this marked?

26 THE COURT OFFICER: Yes, on the bottom.

1  
2 Q. Mr. Scharoff, I show you what's been marked as  
3 Defendant's Exhibit A?

4 THE COURT OFFICER: A.

5 Q. You were the author of that letter; is that  
6 correct?

7 A. Excuse me?

8 Q. You were the author of that letter; is that  
9 correct?

10 A. Looks that way, yes.

11 Q. Mr. Scharoff, was that letter written in response  
12 to a request to return the dogs to Slaney O'Hanlon and Susan  
13 O'Hanlon?

14 A. I don't remember. It was from 2009.

15 Q. Have you read this letter recently?

16 A. I can read the letter over.

17 Q. Please read it.

18 THE COURT: I think we got the answer to that  
19 already.

20 A. What's the question?

21 Q. Was that letter written in response to a request  
22 for the return of the dogs?

23 A. It appears as though there was an issue with who  
24 was going to have possession over the dogs, according to  
25 this letter.

26 Q. And that letter is cc'd, Mr. Healy?

1  
2 A. It says on the second page.

3 Q. Who's Mr. Healy?

4 A. Mr. Healy is my co-counsel on the divorce case.

5 Q. And is he sitting in this courtroom?

6 A. Yes.

7 Q. No further questions.

8 MR. CHAVES: I don't have anything for  
9 cross-examination. Thank you.

10 THE COURT: I'm sorry?

11 MR. CHAVES: I don't have anything for  
12 cross-examination.

13 THE COURT: There being no cross-examination,  
14 I think that concludes our request for testimony from  
15 you, Mr. Scharoff. You may step down.

16 (Witness excused.)

17 THE COURT: I'd like to see the letter.

18 MR. SCHAROFF: Am I free to go, your Honor?

19 THE COURT: Yes, you are free to go.

20 MR. ALTER: Your Honor, may I have one moment  
21 with Mr. Scharoff in the hall?

22 THE COURT: We'll take a two-minute break,  
23 five minutes if you need to. We'll take an official  
24 five-minute break.

25 (Break taken.)

26 MR. CHAVES: Judge, before the visitation

2 part of this hearing proceeds, I have here documents  
3 which I want the Court to take judicial notice of and  
4 which I don't want to surprise my adversary during  
5 his visitation hearing. This is a certification that  
6 the dog, Lucy, is a service dog for the plaintiff,  
7 Margaret Healy.

8 There's an elaborate process requiring proof  
9 of a medical condition, which necessitates the use of  
10 a service dog. There's a training program for the  
11 dog to become a service dog and I have the letter and  
12 the license of certification with me. I have a copy  
13 for Mr. Alter, and also, a copy for the Court that I  
14 intend to use and mark into evidence. I did not  
15 want, however, to spring it in the middle of the  
16 proceeding at the point in time when we call Margaret  
17 Healy.

18 THE COURT: Okay. Are we ready to proceed?

19 MR. ALTER: Yes, your Honor. Ms. O'Hanlon.  
20 S L A N E Y O ' H A N L O N, called as a witness,  
21 having been sworn by the clerk, took the stand and  
22 testified as follows:

23 THE CLERK: State your name and address.

24 THE WITNESS: Slaney O'Hanlon, 135 Wolver  
25 Hollow Road, Upper Brookfield, New York 11071.

26 MR. ALTER: May I, your Honor?

1  
2 THE COURT: Yes, you may inquire.

3 MR. ALTER: Thank you.

4 DIRECT EXAMINATION

5 BY MR. ALTER:

6 Q. Slaney, I take you back to August of 2009, where  
7 were you living at that time?

8 A. I was living in Manhasset.

9 THE COURT: It's going to be necessary for you  
10 to yell at your counsel.

11 A. I was living in Manhasset, New York with my two  
12 parents.

13 THE COURT: With my?

14 THE WITNESS: Parents.

15 Q. Did you have any pets living with you at the time?

16 A. I had two dogs.

17 Q. And can you give me the names of the dogs?

18 A. Lady and Lucy.

19 Q. And when did you get Lucy?

20 A. Christmas of 2008.

21 Q. And how did you get Lucy?

22 A. My parents got her for me as a Christmas gift.

23 Q. Do you recall where did you get Lucy from? Do you  
24 know where Lucy came from?

25 A. Virginia.

26 Q. What breed is Lucy?

1

A. A Golden Doodle.

2

3

Q. Is there any particular reason why a Golden Doodle was obtained for you?

4

5

A. Because I am allergic to dogs and she's hypoallergenic, so I am not allergic to her.

6

7

Q. Do you recall when Lucy came into the household?

8

A. Yes.

9

Q. And who cared for Lucy-- you got her in December of 2008?

10

11

A. Yes.

12

Q. Who cared for Lucy between December of 2008 and, let's say, the end of August 2009?

13

14

A. I did.

15

Q. When you say, cared for her, what did you do?

16

A. I fed her, I walked her, I groomed her, took care of her.

17

18

Q. Did you have a yard at your home?

19

A. Yes.

20

Q. Did Lucy go out in the yard?

21

A. Yes, I would take her out to play with her.

22

Q. Where you're living now, can you tell the Court how big a living area you have?

23

24

A. I live in a three-bedroom house, and I'm not sure actually how many acres, a few acres of land, and it's away

25

26

from any main streets.



1  
2 Q. Is that acres of land wooded or is it fields? What  
3 is it?

4 A. It's fields and a little bit of trees.

5 Q. Did there come a time that you left New York State  
6 in around sometime in 2009?

7 A. Yes, I left in September of 2009 for school.

8 Q. Where did you go?

9 A. Baltimore, Maryland.

10 Q. And do you recall?

11 THE COURT: I'm sorry, when was that?

12 THE WITNESS: September 2009.

13 Q. And where was that?

14 A. In Maryland.

15 Q. And why did you go there?

16 A. For school, I went to a boarding school there.

17 Q. And did you need Court permission to go to school  
18 in Baltimore?

19 A. Yes, yes.

20 Q. And the Court gave you permission?

21 A. Yes.

22 Q. Do you remember the name of the judge?

23 A. Judge Diamond.

24 Q. In what court? Do you recall?

25 A. Nassau County.

26 Q. And that was after a hearing?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. Yes.

Q. Did your father want you to go to court?

MR. CHAVES: Objection.

THE COURT: Sustained, unless you want to be heard.

MR. ALTER: I will withdraw, judge.

Q. When you left to go to school in Baltimore, what was your understanding as to who was to take care of the dogs?

A. My understanding was that my brothers and my father would take care of my two dogs.

Q. And how many brothers did you have in the residence?

A. Two.

Q. Could you give their names?

A. Emmitt and James O'Hanlon.

Q. Did you have any conversations with them concerning their care of the dog while you were gone?

A. I had a conversation with my older brother, James, and he told me --

Q. Not what he told you. I just want to know if you had a conversation?

A. Yes.

Q. Did there come a time that you requested that your dogs be turned over to you?

1  
2 A. Yes.

3 Q. And how was that request made?

4 A. I asked my mother to ask you to take whatever you  
5 had to do, I don't know.

6 Q. Did there come a time that you learned that your  
7 aunt, Margaret Healy?

8 A. Yes.

9 Q. Was caring for your dogs?

10 A. Yes.

11 Q. Were you concerned about your aunt caring for the  
12 dogs?

13 A. No. She had cared for my dogs in the past, so I  
14 didn't think it would be a problem.

15 Q. When did you finish up school in Baltimore?

16 A. In May of 2011.

17 Q. And when did you move into or your mother acquire  
18 the right to move into the home that you presently occupy?

19 A. We moved in December of 2011.

20 Q. Did you request your dogs?

21 A. Yes.

22 Q. And was that request denied?

23 A. Yes.

24 Q. Now, do you want to see your dog?

25 A. Yes.

26 Q. Care for your dog?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. Yes.

Q. You like animals, don't you?

A. Yes.

Q. Are you involved with animals?

A. Yes, I play polo, which is horses.

Q. Any other animals?

A. I have been around animals my whole life.

Q. Have you had pets your whole life?

A. Yes.

Q. How many dogs have you had in the household while you were growing up there?

A. In total, we've had three, but at one time, we've had two.

Q. And the other dog was Lady?

A. Yes.

Q. And was that dog given to you?

A. Yes, by my grandfather.

Q. Grandfather who lives where?

A. In Ireland.

Q. He gave you that dog?

A. Yes.

Q. That dog recently died; is that correct?

MR. CHAVES: Objection.

MR. ALTER: I will rephrase.

MR. CHAVES: It's not an issue of form, it's an

1  
2 issue of scope. There's no issue with respect --

3 MR. CHAVES: I'll withdraw the question,  
4 judge, I'll withdraw the question.

5 THE COURT: As you wish.

6 Q. Do you have time now to care for Lucy?

7 A. Yes.

8 Q. Have you made arrangements with regard to your  
9 further education?

10 A. Yes, I hope to attend Nassau Community College,  
11 which is down the block from where I live.

12 Q. So that you will be available to care for your dog?

13 A. Yes.

14 Q. Did your dog relate to you while you were rearing  
15 it?

16 MR. CHAVES: Objection.

17 THE COURT: I would ask you to rephrase it.

18 Q. Were you able to train your dog?

19 A. When I was with her, yes.

20 THE COURT: I need you, for the record, to be  
21 clear which dog.

22 MR. ALTER: Lucy, your Honor, yes, Lucy, the  
23 dog.

24 THE COURT: The record needs to say-- have the  
25 name in it, not so much that I need to hear it.

26 Q. The Golden Doodle, what did you train the dog to

1  
2 do?

3 A. I trained her to sit, to lay down, I mean, she was  
4 young when I left, so I didn't have much time.

5 Q. She was with you how many months?

6 A. From December to September.

7 Q. Would you want to be with your dog now?

8 A. Yes.

9 Q. How much time can you spare, your time, to care for  
10 your dog?

11 A. I would spend every day with it.

12 MR. ALTER: Judge, no further questions.

13 MR. CHAVES: Judge, before I begin my  
14 cross-examination, it's obvious, that defendant is  
15 emotionally upset, maybe we can take a five-minute  
16 break, so she could compose--

17 THE COURT: Do you need a break?

18 THE WITNESS: No.

19 THE COURT: You do not need a break?

20 THE WITNESS: No.

21 MR. CHAVES: Should I wait for the tissue,  
22 judge?

23 THE COURT: No. She said she didn't need a  
24 break.

25 MR. CHAVES: All right, judge, thank you.

26 CROSS EXAMINATION

1  
2 BY MR. CHAVES:

3 Q. Ms. O'Hanlon, how old are you?

4 A. Nineteen.

5 Q. Now, let's go back in time a little bit to the  
6 point in time when Lucy, the dog at issue here, came to your  
7 house in Manhasset. Do you remember that time?

8 A. Yes.

9 Q. At that time, what grade were you in?

10 A. I was about to go into my junior year of high  
11 school -- oh, no, I was in my sophomore year of high school.

12 Q. At that time, you were at Manhasset High School; is  
13 that correct?

14 A. Yes.

15 Q. Was your intention to go to Manhasset High School  
16 for your junior year?

17 A. At the time I got her, yes.

18 Q. So, the dog lived with you for a while. And then  
19 there came a point in time where you and your mother  
20 abruptly left that house in Manhasset; is that not correct?

21 MR. ALTER: Objection.

22 THE COURT: Rephrase.

23 Q. There came a point in time when you and your  
24 mother, together, left that house as your residence; isn't  
25 that correct?

26 A. Yes.

1  
2 Q. And before you left that house, you didn't do  
3 anything to make any arrangements for the care of Lucy, did  
4 you?

5 A. I had spoken to my brother and he said he would  
6 take care of her.

7 Q. You did nothing other than that, correct?

8 A. Yes.

9 Q. Now, with respect to your leaving that home, had  
10 you told your father that you were going to leave?

11 A. No.

12 Q. So, you just took off, correct?

13 A. Correct. I had to get out of the house.

14 Q. Right. I understand.

15 THE COURT: I'm sorry, I didn't hear what you  
16 said.

17 MR. CHAVES: She said she had to get out.

18 THE COURT: I didn't ask you.

19 MR. CHAVES: Sorry.

20 THE WITNESS: I said I had to get out of my  
21 house.

22 Q. So, you and your mother left together, correct?

23 A. Yes.

24 Q. And you didn't take the dog with you, did you?

25 A. No.

26 Q. When you left the house, where did you go to live?



1  
2 A. We were in between places. We were living with my  
3 mom's sister for a while. We lived with friends.

4 Q. Your mother's sister?

5 A. Yes.

6 Q. Where does she live?

7 A. In Brooklyn.

8 Q. So, she's your aunt, correct?

9 A. Yes.

10 Q. And does she live in an apartment or a house?

11 A. An apartment.

12 Q. How big is that apartment?

13 A. It's not very big, one bedroom.

14 Q. How long did you stay there for?

15 A. A few weeks. I don't remember exactly how long.

16 Q. After you stayed in that apartment for a few weeks,  
17 where did you go?

18 A. We stayed at a friend's house for a few days and  
19 then in September I left for school.

20 Q. The friend's house, who was the friend?

21 A. It's a family friend from Manhasset.

22 Q. This person has a house in Manhasset?

23 A. Yes.

24 Q. So, just so we're all clear on the sequence of  
25 events, you and your mother leave the Manhasset house with  
26 no notice to your father. You take off. You go to this one

1  
2 apartment and then after staying there a week or two, then  
3 you go to this house in Manhassat, correct?

4 A. Yes.

5 Q. Who's the owner of the house in Manhasset?

6 A. Beth Shelton.

7 THE COURT: I'm sorry, I could not hear you.

8 THE WITNESS: Beth Shelton.

9 Q. And you say she's a friend?

10 A. She's my mother's friend.

11 Q. Friend of your mother?

12 A. Yes.

13 Q. And had you been in that house prior to going there  
14 to live?

15 A. In the past, yes.

16 Q. Can you describe for the Court something about that  
17 house, its size and who lives there?

18 THE COURT: Relevance?

19 MR. CHAVES: In terms of taking care of the  
20 dog.

21 MR. ALTER: Objection, your Honor.

22 THE COURT: Sustained.

23 Q. All right. Now, when you went to stay in this  
24 particular house, how many bedrooms did the house have?

25 MR. ALTER: Objection, your Honor.

26 THE COURT: Sustained, unless, of course, you

1  
2 want to be heard.

3 MR. CHAVES: I'll move on.

4 Q. Was there any reason that Ms. Shelton-- is that  
5 her name?

6 A. Shelton.

7 Q. Shelton or Sholten?

8 A. Shelton.

9 Q. That Ms. Shelton had indicated to you in any way  
10 that Lucy could not come to stay there?

11 MR. ALTER: Objection, your Honor.

12 THE COURT: Sustained.

13 Q. As far as you know, was there any reason why Lucy  
14 was not brought to that house?

15 A. We couldn't take care of her. I left her in the  
16 Manhasset house because I thought she'd be better off there.

17 Q. So, you-- now between the time you left that house  
18 in Manhasset, the primary house, and then moved to the  
19 house, the other house in Manhasset, how far away from your  
20 original house is the other house of Ms. Shelton,  
21 approximately?

22 A. Ten, fifteen minutes.

23 Q. Ten or-- that's a ten or fifteen-minute drive?

24 A. I'd say ten. I don't know.

25 Q. Approximately?

26 A. About ten minutes.

1  
2 Q. And during the point in time that you were living  
3 in that house of Ms. Shelton ten or fifteen minutes away  
4 from your original house, did you make any efforts to try to  
5 see Lucy?

6 A. I had asked my mom if we might never be able to get  
7 her back. She said yes, but I was too scared to go back to  
8 the other house.

9 Q. Well, at that time, you had indicated that you had  
10 your two brothers, were they living in the house in  
11 Manhassat at that time?

12 A. Yes.

13 Q. And how old are your brothers?

14 A. Now they are twenty-one and twenty-three.

15 Q. Now, after you moved out and you were going to the  
16 apartment and then living with Ms. Shelton, were you in  
17 communication with your two brothers?

18 A. Yes.

19 Q. Did you request of your two brothers that you be  
20 allowed to see Lucy?

21 A. I don't remember-- yeah, probably, but they didn't  
22 want to get involved.

23 Q. All right. Now then, in September of that year,  
24 you went to this school, correct?

25 A. Yes.

26 Q. Now, let's talk for a minute about this particular

1  
2 school. This school is a prep school, is it not?

3 A. Yes.

4 THE COURT: This school is what?

5 MR. CHAVES: A prep school.

6 Q. And this is a boarding school, is it not?

7 A. Yes.

8 Q. And you have testified it's in Baltimore?

9 A. Yes.

10 Q. Is it in Baltimore county or Baltimore city?

11 A. County.

12 MR. ALTER: Objection, your Honor.

13 THE COURT: Sustained.

14 Q. This particular boarding school?

15 THE COURT: This particular?

16 Q. Boarding school, how long is the school year? When  
17 does it start and when does it end?

18 A. It starts in September and ends in June.

19 Q. And during the course of the school year, are there  
20 breaks, such as for Thanksgiving, Christmas, probably  
21 winter, spring?

22 A. Yes.

23 Q. Those types of breaks?

24 A. Yes.

25 Q. Now, in that first year when you were a student  
26 there, when these breaks occurred, what, if anything, did

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

you do?

A. I went home.

Q. Now, home is defined at that point--

A. I'm sorry, I went back to New York with my mother in Bayside.

THE COURT: With my mother?

THE WITNESS: I went to see my mom. We were living in Bayside.

Q. Right. You were living in Bayside?

A. Yes.

Q. What were the living conditions or circumstances there? I mean, was it an apartment? A house?

A. It was a very small apartment.

Q. A very small apartment?

A. Yes.

Q. When you define "very small"?

A. It had two small bedrooms, one small living room, small kitchen. That's it.

Q. And who was living there besides your mother, if anyone?

MR. ALTER: Objection.

THE COURT: You need to rephrase it.

Q. Let me ask you this, when you had these various breaks at this prep school, you testified you had come back to New York City and you would go to stay with your mother,

1  
2 correct?

3 A. Yes.

4 Q. Is there any reason you can think of why Lucy could  
5 not come to live with you at that point in time?

6 A. Because there was a small apartment. Lucy's a big  
7 dog. She would have been better off in Manhasset. I didn't  
8 want to bring her into a small environment when she had a  
9 five-bedroom house in Manhasset.

10 Q. Well, let me ask you this: After you went to the  
11 boarding school, were you in communication with your  
12 brothers?

13 A. Yes.

14 Q. Did they not discuss with you what Lucy's living  
15 conditions were?

16 A. When she was living with my aunt?

17 Q. No.

18 A. When she was in Manhasset?

19 Q. Yes.

20 A. That she was in Manhasset and she was fine.

21 Q. Now, but at no time when you came back during these  
22 vacations did you make any attempt to actually see Lucy;  
23 isn't that he correct?

24 A. Yes because I was too afraid to see my father.

25 Q. But, I mean, your brothers had access to cars, is  
26 that not correct?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

THE COURT: I'm sorry, had access to what?

Q. Cars, is that not correct?

A. Yes.

Q. So, as far as you know, there's nothing that would have prevented them from putting Lucy in a car and driving Lucy to see you; isn't that correct?

MR. ALTER: Objection.

THE COURT: Sustained. You may, though, rephrase.

Q. Did you ever request to see Lucy?

A. Yes.

Q. And who did you make that request to?

A. I would make it to my mother to ask a lawyer to go through the lawyers.

Q. Forgetting all the lawyers. Did you ever say to your brother, can you please drive Lucy, my dog, to see me?

A. Yes, but unfortunately, they did not want to get involved because it was in between my parents, they didn't want to be involved in the divorce. That's how they saw it. My father would give them a hard time about it if they tried.

Q. Okay. So, you requested to see the dog, and they said, we can't bring the dog to you even for five minutes for you to spend time with?

A. Correct.



1

Q. And this continued over a course of time, correct?

2

3

A. Yes.

4

Q. So, did you do anything, other than what you've just testified to, during the school year when you were in this prep school in Baltimore to try to see the dog, anything else?

5

6

7

8

A. Besides requesting for the return of my dogs and being told that I wouldn't get them until I was able to take care of them by myself, no.

9

10

11

Q. So, all this was a communication with you and your mother; isn't that correct?

12

13

A. Yes.

14

Q. And isn't it true that you came to learn at a certain point in time that your aunt, Margaret Healy, had possession of Lucy?

15

16

17

A. Yes.

18

Q. And how did you learn about that?

19

A. I was told by my mother.

20

Q. You rely on your mother for a lot of things, do you not?

21

22

MR. ALTER: Objection.

23

THE COURT: Sustained.

24

Q. Other than your mother advising you about this, did you learn from your brothers --

25

26

MR. ALTER: Objection as to "advising," your

1  
2 Honor.

3 Q. All right. Let me rephrase. Did your brothers  
4 communicate to you where Lucy was?

5 A. Not that I recall. I might have talked to them  
6 about it. It was a long time ago.

7 Q. So, you came to learn that Lucy was living with  
8 your Aunt Margaret, correct?

9 A. Yes.

10 Q. And at the point in time when you learned of this,  
11 were you concerned in any way about that?

12 A. I had asked that my mother be given the dogs for  
13 safe-keeping, but when I was told that I would get them back  
14 after I graduated, I wasn't concerned because my aunt has  
15 taken care of my dogs in the past. I didn't think it would  
16 be a problem.

17 Q. Isn't it fair to say that, from your knowledge of  
18 your aunt, that she's an animal lover?

19 A. Yes.

20 Q. And as far as you knew, before her taking Lucy in,  
21 she'd always taken great care of whatever pets and animals  
22 she had, correct?

23 A. Correct.

24 Q. So, the fact that she had the dog, in and of  
25 itself, was not a concern to you with respect to the care  
26 and upkeep of the dog, isn't that correct?

1

A. Correct.

2

3

Q. Now, you testified that your mother was living in this two-bedroom apartment in Queens, correct?

4

5

A. Correct.

6

Q. And you also testified that wasn't a suitable place for Lucy. So, how could she have taken the dog back?

7

8

A. I was --

9

THE COURT: Sustained.

10

Q. Well, let me ask you this: So, you're going to school and you come back at the end of the first year there, that was your junior year, correct?

11

12

13

A. Yes.

14

Q. After you came back, the school year ends in June, where did you go?

15

16

A. Went to Bayside to live with my mother.

17

Q. To live with your mother. And by that point in time, Lucy was living with the plaintiff, Margaret Healy, correct?

18

19

20

A. Correct.

21

Q. And she's your aunt, correct?

22

A. Correct.

23

Q. After you came back in June, did you call her to say, I want to see Lucy?

24

25

A. No because I didn't think I was allowed.

26

Q. Who was stopping you?

THE COURT: Sustained. Rephrase if you want.

Q. Did anyone indicate to you that you could not call your own aunt?

A. No.

Q. Was it important to you to see Lucy at that time?

A. Yes.

Q. Did you do anything to try to see the dog?

A. I did not think I was allowed to.

Q. Okay. That particular summer, what did you do? Did you work? Did you go to school? Did you do something else?

A. I worked at my parent's restaurant.

Q. Your parent's restaurant?

A. Yes.

Q. What is the name of that restaurant?

A. Mojave.

Q. And what do you do there?

A. I was a hostess.

Q. And generally, what hours did you have?

A. I would work maybe two or three nights a week.

Q. So, let's assume you worked three nights a week there, that would leave you four days free; is that correct or incorrect?

A. Correct.

Q. So that if you wanted to, if you were quote,

1  
2 "allowed" to, you could have seen the dog in those other  
3 four days, correct?

4 A. Correct.

5 MR. ALTER: Objection.

6 Q. Now, isn't it also true --

7 THE COURT: Wait. There's an objection. You  
8 want me to respond or you're taking back the  
9 question?

10 Q. I'll rephrase. I'll ask a new question. Now,  
11 isn't it true that your mother also works in that same  
12 restaurant?

13 MR. ALTER: Objection to relevance, judge.

14 THE COURT: Relevance.

15 MR. ALTER: It goes to this whole idea of the  
16 propriety of visitation and the history of the whole  
17 course of dealings.

18 THE COURT: Sustained.

19 Q. So, you do this job over the summer, and then it's  
20 senior year, correct?

21 A. Correct.

22 Q. And you go back to the school in Baltimore,  
23 correct?

24 A. Correct.

25 Q. And you go through the same procedure again, you  
26 have the same vacations and so forth, correct?

1

A. Correct.

2

3

Q. By that point in time, was your mother still living in that apartment in Queens or she had gone somewhere else?

4

5

A. We were still in Queens.

6

Q. And your brothers did not live there, it was just your mother and you, correct?

7

8

A. Correct.

9

Q. So that you would have one bedroom and she would have one bedroom, correct?

10

11

A. Correct.

12

Q. So, when you came back on these various vacations, did you do anything to try to see Lucy?

13

14

A. No because I didn't think I was allowed. I thought I had to graduate school first, which is what I was told.

15

16

Q. Who told you that?

17

A. When I requested my dogs, the response which I believe is the letter was that I would get Lucy back when I graduated when I could take care of her on my own.

18

19

20

Q. But, did you have any discussion with your brothers about the issues of seeing the dog?

21

22

A. No.

23

Q. No discussion about it?

24

A. No. They did not want to be involved.

25

Q. Are there any other relatives who could have been quote, "been involved," unquote?

26

1

A. Correct.

2

3

Q. By that point in time, was your mother still living in that apartment in Queens or she had gone somewhere else?

4

5

A. We were still in Queens.

6

7

Q. And your brothers did not live there, it was just your mother and you, correct?

8

A. Correct.

9

10

Q. So that you would have one bedroom and she would have one bedroom, correct?

11

A. Correct.

12

13

Q. So, when you came back on these various vacations, did you do anything to try to see Lucy?

14

15

A. No because I didn't think I was allowed. I thought I had to graduate school first, which is what I was told.

16

Q. Who told you that?

17

18

A. When I requested my dogs, the response which I believe is the letter was that I would get Lucy back when I graduated when I could take care of her on my own.

19

20

Q. But, did you have any discussion with your brothers about the issues of seeing the dog?

21

22

A. No.

23

Q. No discussion about it?

24

A. No. They did not want to be involved.

25

26

Q. Are there any other relatives who could have been quote, "been involved," unquote?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. No.

Q. How about friends?

A. No.

Q. How about Mrs. Shelton?

A. No.

MR. ALTER: Objection, your Honor.

Q. No one?

THE COURT: Sustained.

Q. Okay. So, another year passes, and during that point in time, you never contacted Margaret Healy; is that fair to say?

A. Yes.

Q. And you have sworn affidavits, is that not correct, in connection with this case?

A. Yes.

Q. And in that affidavit, didn't you say that you love Margaret Healy dearly; isn't that in the affidavit somewhere?

A. Yes.

Q. So, if you love her dearly, was there anything preventing you from calling her?

THE COURT: Sustained. Asked and answered.

Q. All right. So, another year goes by and now we're finished with high school, correct?

A. Yes.



1  
2 Q. You graduated from the prep school and this was in  
3 June of 2011, correct?

4 A. Correct.

5 Q. So, from the time that you left the house that you  
6 had originally lived in in Manhassat up until the point in  
7 time when you graduated from high school, this prep school  
8 in Baltimore, you haven't seen Lucy at all?

9 A. Correct.

10 Q. And you had not contacted-- had any communication  
11 with Margaret Healy, correct?

12 A. Yes.

13 Q. Now, while you were at this prep school in  
14 Baltimore, did at that time you have access to the Internet?

15 A. Yes.

16 Q. Did you have e-mail?

17 A. Yes.

18 Q. Did you ever consider sending an e-mail to Margaret  
19 Healy?

20 A. No.

21 Q. Did you have a cell phone, Blackberry, I-phone or  
22 something like that?

23 A. Yes.

24 Q. Did you ever consider texting her?

25 A. No.

26 Q. Did you ever consider writing a letter to her?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. No.

Q. None of the above?

A. No.

Q. Fine. So, you come back from school in June of 2011, correct?

A. Correct.

Q. And when you come back from school in June of 2011, what did you do?

A. I went to live with my mom in Bayside.

Q. So, that was in June of 2011. What did you do last summer?

A. I worked at my parent's restaurant.

Q. And how long did you work there?

A. I am still working there. I am taking a year off, so since then.

Q. Didn't there come a point in time when you went to somewhere outside the country?

A. Yes. I went to Argentina.

Q. When was it that you went to Argentina?

A. About --

MR. ALTER: Objection, judge, as to relevancy.

THE COURT: I'm sorry.

MR. ALTER: Objection as to relevancy, your Honor, as to her going to Argentina or taking a trip to Florida, what's the relevance?

1  
2 THE COURT: Well, that part's already in  
3 evidence. The question is is it relevant when she  
4 went over -- when she was away from the home. It  
5 seems to me if you rephrase, I will probably be able  
6 to find some relevance.

7 Q. Let me ask: Did you go to Argentina?

8 A. Yes.

9 Q. How long were you there?

10 A. Three weeks.

11 Q. And when you came back, did you go to Bayside  
12 again?

13 A. No. At that time we were living in upper  
14 Brookville, New York.

15 THE COURT: I'm sorry, I didn't hear.

16 THE WITNESS: We were living in upper  
17 Brookville, New York.

18 THE COURT: Upper Brookville.

19 Q. That house where your mother currently lives?

20 A. Yes.

21 Q. And after you were in that house, again, did you  
22 make any attempt to try to contact Margaret Healy?

23 A. Yes.

24 Q. You did?

25 A. When-- well, the reason why we're here.

26 Q. You're talking about those incidents in September.

1  
2 I mean, before that.

3 A. I'm confused.

4 Q. All right?

5 THE COURT: I did not hear you.

6 THE WITNESS: Sorry. I'm just confused at what  
7 he's asking.

8 Q. It was a bad question. Before the incidents in  
9 September, had you made any effort to contact Margaret  
10 Healy?

11 A. No.

12 Q. At any point in time, did you ask anyone between  
13 the time you left the home in 2009 about up until summer of  
14 2011 to even have a picture of Lucy?

15 A. No, I have pictures of Lucy.

16 Q. Old pictures?

17 A. Yes.

18 Q. Now, isn't it true that you have some serious  
19 interest in polo?

20 A. Yes.

21 Q. And you're actually an avid polo player, is that  
22 not correct?

23 A. That's correct.

24 Q. And in order to do that, do you not have to travel?

25 MR. ALTER: Objection, your Honor, relevancy.

26 THE COURT: Sustained.

1  
2 Q. Do you have any current plans at this time to  
3 continue your travels to further your polo playing career?

4 MR. ALTER: Objection. Relevancy.

5 THE COURT: Sustained, but you could-- you  
6 need some background.

7 Q. Let's take the background. You went to Argentina,  
8 you came back, and then you left to go to Florida, is that  
9 not correct?

10 A. To visit a friend.

11 THE COURT: Well, a background foundation is  
12 what I mean, not --

13 Q. Wasn't there something else that you did after you  
14 came back from your trip to Argentina that was in connection  
15 with polo?

16 A. No.

17 Q. Did you not go to Florida?

18 A. To visit a friend. Friends play polo there, but I  
19 was not playing.

20 Q. So, in other words, it was to watch someone else  
21 play polo?

22 MR. ALTER: Objection, your Honor.

23 THE COURT: Sustained.

24 Q. How long were you in Florida?

25 A. For a week.

26 Q. Have you gone anywhere else?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. No.

Q. And your intention, you say, is to go to Nassau Community College; is that correct?

A. Yes.

Q. Now, with respect to the care of Lucy, it would be fair to say that even though you hadn't had contact with Lucy, you would believe, based on your prior experience, that Margaret Healy took excellent care of Lucy, is that not correct?

A. Yes.

MR. CHAVES: I don't have anything further.

Thank you.

REDIRECT EXAMINATION

BY MR. ALTER:

Q. You were asked some questions about going to the house where you left with your mother. Did you ever go back to the house to obtain any of your property?

A. Once, but I didn't get much.

Q. What happened? Did your father bring a proceeding against you and your mother for doing so?

A. Yes.

Q. A contempt proceeding?

A. Yes.

Q. And you were there to remove your property?

A. Yes.

1  
2 Q. Did you know that Mr. Healy was representing your  
3 father?

4 A. Yes.

5 MR. CHAVES: Objection.

6 THE COURT: I'm going to allow the area of  
7 questioning. You need to back up a little bit,  
8 though, so that the record is clear.

9 MR. ALTER: I will, your Honor.

10 Q. Do you recall the day that you were in court  
11 asking-- where your mother was asking for your permission to  
12 go to school in Baltimore?

13 A. Yes.

14 Q. Was your father represented by counsel opposing  
15 that motion?

16 A. Yes.

17 Q. And is that attorney present in this courtroom?

18 A. Yes.

19 Q. Is that Mr. Healy?

20 A. Yes.

21 Q. No further questions.

22 MR. CHAVES: I don't have anything else.

23 Thank you.

24 THE COURT: You have nothing else. I believe  
25 that means then, Ms. Hanlon, that counsel have  
26 completed their request of information testimony from

2 you. You may step down.

3 THE WITNESS: Thank you.

4 (Witness excused from witness stand.)

5 THE COURT: Another witness?

6 MR. ALTER: No, your Honor. The defendant  
7 rests.

8 MR. CHAVES: I call Margaret Healy, please.

9 THE COURT: Okay. I take it that's a rest.

10 MR. ALTER: That's a rest, your Honor.

11 M A R G A R E T H E A L Y, called as a witness,  
12 having been sworn by the clerk, took the stand and  
13 testified as follows:

14 THE CLERK: In a loud voice, state your name  
15 for the record.

16 THE WITNESS: Margaret Healy.

17 MR. CHAVES: May I proceed, judge?

18 THE COURT: You may.

19 DIRECT EXAMINATION

20 BY MR. CHAVES:

21 Q. Good afternoon, Ms. Healy. We've already heard  
22 about all the family relationships. Just very briefly, tell  
23 the Court your history of care of animals and dogs, in  
24 general, just very briefly.

25 A. Well, I have--

26 THE COURT: You're going to have to speak up,



2 also.

3 A. I have always had dogs, and --

4 MR. ALTER: Your Honor, may I sit in the  
5 chair?

6 THE COURT: Absolutely.

7 A. And then in addition to dogs, then I went and  
8 sought and purchased whatever. I have had several rescue  
9 dogs from groups that rescued them and I took care of those  
10 and some of those were senior when I got them.

11 Q. Is it fair to say that you're an animal lover?

12 A. Yes.

13 Q. Is it fair to say you're a dog lover?

14 A. Yes.

15 Q. Now, let's focus in on Lucy.

16 A. Uh huh.

17 Q. When was the first time that you had any  
18 substantial contact with this dog, Lucy?

19 A. The first time was when I went to the house to get  
20 her.

21 Q. The house you're referring to is the one in  
22 Manhasset?

23 A. Yes.

24 Q. That's the one that Ms. O'Hanlon just testified  
25 about that she was living in?

26 A. Yes, and I went to take the two dogs.

1

2

Q. That were residing there at that time?

3

A. Yes.

4

5

Q. All right. I want to focus in on Lucy 'cause that's what we're here for today. Now, how did it come about that you even went there at that time to take those dogs?

6

7

8

9

10

11

12

13

14

15

16

A. Well, I didn't see the situation coming down the pike as early as everybody else did about the family breaking up. So, after my sister-in-law and my niece left the home, a month or two months passed and all that was there taking care of the dogs was my brother and he worked about fourteen hours every day and would leave early in the morning and not return until about seven in the evening. And the two boys were away at school, starting in that September.

17

18

19

20

So, the dogs were alone all day long in a tiny area off the kitchen, a little hallway, with a door at the end of it. And when I got there that night, the large dog was caged in a cage that was too small.

21

Q. All right. With respect to the two brothers?

22

A. Yes.

23

24

Q. Do you know where they were? You said they were away at school, but where were they?

25

A. School.

26

Q. What schools were they attending?

1  
2 THE COURT: Who "they" are, brothers, she has  
3 brothers?

4 MR. CHAVES: The brothers is Ms. O'Hanlon's  
5 two brothers.

6 A. Yes, Emmitt and James.

7 Q. Where was Emmitt at that time?

8 A. In Cincinnati. I think I get confused with the  
9 conservatories, and I believe James was still in Cincinnati  
10 and after that went to Indiana.

11 Q. So, each of these two brothers were outside of the  
12 tri-state area?

13 A. Yes.

14 Q. So, at that time, it was your brother whose name is  
15 James; is that correct?

16 A. Yes.

17 Q. James O'Hanlon, who's Slaney O'Hanlon's father?

18 A. Yes.

19 Q. And Susan McCarthy O'Hanlon's husband?

20 A. Yes.

21 Q. So, it was him and two dogs, including Lucy?

22 A. Yes.

23 Q. And you came there to take Lucy and the other  
24 doing, correct?

25 A. On a Thursday night.

26 Q. You took the dogs. And when you took the dogs,

1  
2 where did you take the dogs to?

3 A. To my home in my car.

4 Q. And your home is in Brooklyn Heights?

5 A. Yes.

6 Q. Can you describe what living arrangements are that  
7 you have in Brooklyn Heights?

8 A. I have four apartments at the end of a long  
9 corridor and --

10 THE COURT: You had what?

11 THE WITNESS: Four apartments.

12 THE COURT: Four apartments?

13 THE WITNESS: Yes.

14 A. For our own use at the end of the corridor. And  
15 so, no one comes down there, and there's a lots of room and  
16 the dogs both were free, roam free, which they did not in  
17 their large house.

18 Q. The one in Manhassat?

19 A. Uh huh.

20 Q. Now, when you brought Lucy and the other dog into  
21 your apartment and apartments in Brooklyn Heights, did you  
22 have your own dog separate and apart from those two dogs,  
23 another dog?

24 A. Yes, a small dog.

25 Q. What kind of dog is that?

26 A. Pomeranian.

1

Q. How long have you had that dog?

2

3

A. He will be thirteen soon.

4

5

Q. At the point in time when Lucy came to live with you and your husband, were either of you working at that time?

6

7

A. I was not working.

8

Q. Was your husband, Mr. Healy, working at that time?

9

A. No, I think he was not working.

10

Q. So, would you focus most of your time on the pets?

11

A. Yes.

12

13

Q. And with respect to taking care of Lucy, we don't need to go through a day in the life, but if you can just briefly tell the Court what you did to take care of Lucy on an average day, just very briefly?

14

15

16

A. Feed her, grooming, she walks over three miles every day since she arrived.

17

18

THE COURT: What? She what?

19

THE WITNESS: Walks over three miles.

20

21

A. And when she came, she had no training, so there was a lot of hard work. She could not even walk on a leash, she was fifty pounds with no training at all and eight months.

22

23

24

Q. So, the dog came and you started to train the dog.

25

And would you say that the care you gave the dog was-- how would you describe it as being?

26

2 A. It took most of my time, but the dog is a wonderful  
3 dog and it was enjoyable.

4 Q. Now, when you received the dog, what was your  
5 understanding with respect to what your role was concerning  
6 the dog?

7 A. I took the dog because there had been damage in  
8 that small area and Ms. McCarthy was complaining about that,  
9 and Jimmy, my brother, James, could not take care of them  
10 properly and the big dog was caged all day long. So, I took  
11 the dogs until they said they were going to sell the house.  
12 And I took the dogs until that got straightened out and I  
13 assumed that Ms. McCarthy and Slaney would return in a  
14 couple of weeks to take the dogs back.

15 Q. All right. Now, after you took Lucy in --

16 A. Yes.

17 Q. --did you hear from Ms. McCarthy?

18 A. No.

19 Q. Did you hear from Ms. O'Hanlon?

20 A. No.

21 Q. So, a couple of weeks passed, a couple of weeks  
22 turned into months?

23 A. Yes. And then there was a letter from their  
24 attorney asking to have the dogs returned to the same  
25 Manhasset house to the same conditions that I took them out  
26 of.

1  
2 Q. Did you feel that was appropriate or inappropriate  
3 for the dogs?

4 A. I thought it would be cruel to put them back to  
5 what they had gotten out of.

6 Q. At that point in time, that was, I believe, in  
7 October of 2009, Ms. McCarthy, we'll call her Ms. McCarthy  
8 for purpose of today, she was not residing in that home;  
9 isn't that true?

10 A. No.

11 Q. And --

12 A. It still was just my brother, but the boys would  
13 come home from school periodically.

14 Q. I see. And if the boys, you refer to your nephews,  
15 wanted to see the dogs, would you do anything to prevent  
16 them from doing that?

17 A. No, no.

18 Q. At any time during this process, did you hear from  
19 your niece, Ms. O'Hanlon, asking to see the dogs?

20 A. No.

21 Q. Did you get any kind of contact from her either by  
22 phone call, e-mail, letter, anything?

23 A. No.

24 Q. All right. And what was going on with the dog? A  
25 few weeks passed, a couple of months passed, how was the dog  
26 doing?

1  
2 A. The dog was doing fine and I kept working on her  
3 training and it took months and months for her to learn to  
4 walk outside without pulling and tugging, but she did really  
5 well.

6 Q. You did all this training yourself?

7 A. At the beginning, yes, at the beginning I did  
8 myself.

9 Q. These weeks turned into months?

10 A. Yes.

11 Q. And the months turned into a year?

12 A. Yes. And then I thought that was it.

13 Q. And then a year turned into another year?

14 A. Yes.

15 Q. Now, during this whole entire time of,  
16 approximately, two years, more or less, did you ever hear  
17 from your niece saying, I want to know about the dog, let  
18 alone, see the dog?

19 A. No.

20 Q. Nothing?

21 A. No, and nothing from Susan.

22 Q. Susan, the mother?

23 A. Yes.

24 Q. What about the two brothers, the nephews, did they  
25 say anything to you with respect to Ms. O'Hanlon wanting to  
26 see her supposed dog?



1

A. No, no.

2

3

Q. Nothing?

4

A. No. I never saw them again.

5

Q. The next time you saw them was when they showed up  
in September; isn't that correct?

6

7

A. After Lady died, yes.

8

Q. The incident in September?

9

A. Yes.

10

Q. So, for over a period of how long would you say,  
tell the Court to the best of your memory, between the time  
that you actually took Lucy to your apartment in Brooklyn  
Heights to September of 2011 when they showed up, how long a  
period of time was that?

11

12

13

14

15

A. Over two years.

16

Q. Over two years. And during that two-year time, as  
far as you're aware, you had continuous custody, so to  
speak?

17

18

A. Yes.

19

Q. Of Lucy?

20

A. Uh huh.

21

Q. Now, during that point in time over those two  
years, did you do any affirmative steps to become the owner  
of Lucy?

22

23

24

A. Well, after I thought they were never returning, I  
licensed her.

25

26

1  
2 Q. Did there come a point in time when you came to  
3 conclude that they had abandoned the dog?

4 A. Yes.

5 MR. ALTER: Objection, your Honor, calling for  
6 a legal conclusion on this witness' part.

7 THE COURT: Assuming the normal meaning of the  
8 word, rather than a legal disposition, I will let you  
9 answer that question.

10 A. Yes, after one year.

11 Q. And it was only after that point in time that you  
12 took the affirmative step of getting the license, so that  
13 you became the owner, yes?

14 A. Yes.

15 Q. Now, did there also come a point in time when you  
16 started a process to train Lucy to become a service dog?

17 A. Yes, I started that myself.

18 Q. All right. And if you can tell the Court what led  
19 you to believe that it would be appropriate to have Lucy  
20 become your service dog?

21 A. Well, several years ago, I had an attack of Vertigo  
22 and I was in the hospital for several days, so there's  
23 always the possibility that that can come back. So, I  
24 started with her doing different things like bring me a  
25 phone or she can help me get up, which she does. She's very  
26 easy to train. And she was doing a lot of that stuff. But,

1  
2 then, people said and my doctor said that it would be good--

3 MR. ALTER: Objection, your Honor as to what  
4 people said and what her doctor said.

5 THE COURT: Just as to what people said.  
6 Okay. Sustained. You need to answer it without  
7 saying what other people said.

8 THE WITNESS: Okay.

9 Q. Let me just interrupt you, if I can, and we'll  
10 start with a new question, if we can. So, this idea came up  
11 of being a service dog. Now, did you go to a doctor in  
12 connection with that?

13 A. Yes.

14 Q. And who was that doctor?

15 A. My Dr. Underberg.

16 Q. What kind of doctor is he? Do you know?

17 A. Internist.

18 Q. And he's your family doctor, so to speak?

19 A. My primary doctor.

20 Q. And ultimately, describe the process of what Lucy  
21 had to do in order to be certified to actually be a service  
22 dog?

23 A. Well then, we had the trainer come. And first she  
24 got her canine good citizen certificate, which is based on  
25 obedience, but that was-- had come a long way. And then we  
26 had the trainer train her specifically to do things to make

1  
2 her a service dog where she could help me in my situation,  
3 if that should arise, and there's a test.

4 So, we sent in film and the application and  
5 the documentation from my doctor and the trainer's input to  
6 the Department of Health, and --

7 Q. You indicated there was some type of test. What  
8 type of test are you referring to?

9 A. Well, just that she can do these things and we said  
10 to take a disc, showing this stuff that she can do.

11 Q. Right. Now, in order to obtain this certification  
12 or license, did you have to present any medical evidence to  
13 the city?

14 A. I-- yes, it was from my doctor.

15 Q. Dr. Underberg?

16 A. Yes.

17 Q. Did there come a point in time when Lucy did become  
18 a service dog?

19 A. Yes.

20 Q. All right.

21 MR. CHAVES: Can I have this marked, please,  
22 judge?

23 THE COURT: You may have it marked.

24 MR. CHAVES: I guess this will be Plaintiff's  
25 1.

26 THE COURT: It will be Plaintiff's 1. What's

1  
2 the date on that letter?

3 MR. ALTER: The letter's dated January 3,  
4 2012.

5 THE COURT: January 3rd?

6 MR. ALTER: 3/2012.

7 THE COURT: Thank you.

8 MR. CHAVES: May I approach the witness?  
9 Judge, may I approach the witness?

10 THE COURT: You may. Sorry. I didn't hear  
11 you.

12 Q. I'd like you to take a look at that. Ms. Healy,  
13 what is that letter, do you know?

14 A. Yes, it's the letter from the Department of Health  
15 saying that Lucy's been registered as a service dog.

16 Q. And that was a letter that you received from a  
17 woman named Tamika Depitte, D-E-P-I-T-T-E?

18 A. Yes.

19 Q. From the New York City Department of Health and  
20 Mental Hygiene?

21 A. Yes.

22 Q. And on the second page, what is contained, attached  
23 to the letter?

24 A. The special, the special license for a service dog,  
25 and it also comes with a special medal that they wear.

26 Q. All right. Now, with respect to having Lucy as

1  
2 your service dog --

3 A. Uh huh.

4 Q. --does that give you and the dog any particular  
5 special privileges with respect to where you can go, how you  
6 can go places and so forth?

7 A. Yes.

8 Q. Can you tell the Court briefly what that is in your  
9 understanding?

10 A. Well, when I'm out, I can take her into the stores,  
11 wherever I go, I can take her.

12 Q. Have you come to depend on Lucy with respect to  
13 those types of issues?

14 MR. ALTER: Objection.

15 THE COURT: I will allow it. You may answer.

16 A. Yes.

17 Q. Now, once Lucy has been certified as your service  
18 dog, is that something that --

19 THE COURT: Counsel, approach.

20 (Bench conference held off the record.)

21 THE COURT: The record should indicate that  
22 the Court registered an objection, but is allowing  
23 Mr. Chaves to rephrase and continue.

24 Q. All right. Thank you, judge. Let me backtrack  
25 for a moment, Ms. Healy. Lucy became registered and listed  
26 as a service dog. Through this process, from your

1  
2 understanding, did she become your service dog?

3 A. Yes.

4 Q. Is that part of the application process, in other  
5 words, there has to be a person for whom the dog is trained  
6 to be --

7 A. Yes, yes.

8 Q. --the service dog?

9 MR. ALTER: Objection as to leading, your  
10 Honor.

11 THE COURT: It is a little leading. So, I'm  
12 going to strike the last question and answer and let  
13 you rephrase.

14 Q. All right. Let me ask a new question. When you  
15 made the application to start the process, was it your  
16 intention for Lucy to become your service dog?

17 A. Yes.

18 Q. And as you went through the process, ultimately, as  
19 far as you were concerned and what the City notified you, is  
20 your understanding that she's your service dog?

21 A. Yes, she is.

22 Q. In your understanding of what a service dog does,  
23 once the service dog license is given, that service dog is  
24 attached to the person, so to speak, so the owner of the  
25 dog --

26 THE COURT: Sustained.

1  
2 Q. Let me ask a new question: Is that-- Lucy could  
3 not serve as anyone else's service dog, as far as you know;  
4 is that correct?

5 MR. ALTER: Objection.

6 THE COURT: I'm going to sustain that for the  
7 moment, allowing you, maybe, to be able to ask it  
8 later.

9 MR. CHAVES: All right. Thank you, judge.

10 Q. So, now that Lucy is a service dog and you use her  
11 as a service dog, is that something that she does every day  
12 in terms of what you do every day? In other words, do you  
13 use her every day as a service dog?

14 A. Pretty much, yes.

15 Q. Can you tell the Court, specifically, not every  
16 day, but in general, on an average day, what does Lucy do as  
17 your service dog?

18 A. First of all, because she's my service dog, and the  
19 whole process, she's with me all of the time, and no matter  
20 how far she can go, she's always where I am, even if there's  
21 other people in the house. So, if she's-- if anything  
22 happens to me or even if I were to stumble, she just comes  
23 and she stands there.

24 Q. Now, would it be, in your view, detrimental to you  
25 if you were not able to have Lucy with you to the same  
26 extent that you have her now?



1

2

A. Well --

3

MR. ALTER: Objection.

4

THE COURT: Rephrase.

5

Q. All right. Would it cause you a problem if Lucy was not with you the same amount of time that she is now?

6

7

A. Yes.

8

MR. ALTER: Objection.

9

THE COURT: You may answer.

10

A. Yes.

11

Q. Can you describe for the Court how that would cause a problem for you?

12

13

A. Well, I would not have the security that I have now when she's there. And if I need something, she-- for instance, if I fell or whatever and I could not get to the phone, she will go, no matter where the phone is, and she will pick it up and bring it to me, so I know that, for instance, she's there were I to have another attack or whatever of Vertigo.

14

15

16

17

18

19

20

Q. Of Vertigo, you're referring to?

21

A. Yes.

22

Q. Now, with respect to your niece, Ms. O'Hanlon, who currently resides with the mother somewhere in Long Island?

23

24

THE COURT: Oh, no, no, no, we're going to redo that question.

25

26

MR. CHAVES: I forget where they live. They

1  
2 live somewhere. In any case, wherever they live --

3 THE COURT: I want to strike that too. Stop,  
4 stop, stop. Rethink.

5 Q. They live in a house, some sort of quasi-farm on  
6 the end of Long Island, do you have any concerns for Lucy if  
7 she were to go to that house or area?

8 A. If she were running free like that in the fields  
9 all the time, I might have some concern. But, when she  
10 lives with me, there's no concern there either. If you're  
11 going to bring up fields as opposed to the city because she  
12 has plenty of room at home and is not confined to a small  
13 area, and then she's out every single day and she truly  
14 walks over three miles a day, as well as running free in the  
15 dog park, so --

16 Q. Now, with respect to Ms. McCarthy, at any point in  
17 time, were you ever aware of her taking care of Lucy?

18 A. No, no, I did not know whether she did or not.

19 Q. So, you don't know one way or the other?

20 A. No.

21 Q. At no time has she directly contacted you to do  
22 anything with respect to Lucy up until September of 2011,  
23 just Ms. McCarthy?

24 A. No.

25 MR. CHAVES: I don't have anything further.

26 Thank you, judge.

1

2 THE COURT: I thank you. I assume cross?

2

3

MR. ALTER: Thank you, judge.

4

5 THE COURT: I forgot you were over there. We  
6 have, I guess I better do this real quick, under our  
7 austerity measures in the courthouse, we have to be  
8 out of the courtroom by 4:30. I don't think you'll  
9 take that long, but in case there's other stuff, it  
10 occurred to me that I had not indicated that to  
11 either side and I need you to know that. Whenever  
12 you're ready. Thank you.

5

6

7

8

9

10

11

12

CROSS EXAMINATION

13

BY MR. ALTER:

14

Q. Ms. Hanley, you testified that your husband's not  
15 working; is that correct?

15

16

A. Right.

17

Q. He is an attorney; is that correct?

18

A. Yes.

19

Q. Is he performing services, legal services for your  
20 brother in the divorce action?

20

21

A. Yes.

22

Q. As a matter of fact, he goes to court every time  
23 your brother goes to court, right?

23

24

A. Yes, yes.

25

Q. And he writes letters, to your knowledge?

26

A. Yes.

1

Q. And attends meetings?

2

3

A. Yes. When I said not working-- okay.

4

Q. And tell me, you have Lucy as a service animal; is that correct?

5

6

A. Yes.

7

Q. How long a process did it take to have Lucy become a licensed service dog?

8

9

A. Well, I had worked with her first, but if you're talking about the formal training and the application, it probably was about three to four months.

10

11

12

Q. Three to four months. And you got the license in January 2012?

13

14

A. Yes, but she was --

15

Q. Please. And when did you start this lawsuit?

16

A. September or October.

17

Q. Of?

18

A. Of 2009.

19

Q. 2-- I think it was 2011?

20

A. 2011, sorry.

21

Q. The fall; is that correct?

22

A. Pardon? 2011.

23

THE COURT: Is your question when the lawsuit started?

24

25

MR. ALTER: Yes.

26

THE COURT: The papers speak for it, clearly,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

the index number indicates it was started in 2011.

Do you need the date?

MR. ALTER: No.

THE COURT: You do.

Q. Was it in September of 2011, Mrs. Healy?

A. It may have been October. I'm not sure.

Q. And Mrs. Healy, did you mention in any of your papers that your dog was being trained as a service animal?

A. No.

Q. Isn't it a fact that you decided to train your dog as a service animal after you started this lawsuit?

A. No.

Q. Well, tell me, you had vertigo?

A. Yes.

Q. Did you have it before you started this lawsuit?

A. Yes.

Q. And for how long a period of time did you suffer from that malady?

A. Five years, about.

Q. And how many dogs have you had during that five-year period?

A. Four.

Q. Did you ever seek to train any of your other four dogs?

A. No.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Q. To be service dogs?

A. I did not have large --

Q. Yes or no?

A. No.

Q. Tell me, Ms. Healy, you went to your brother's house on a Thursday, I believe, to pick up the two dogs?

A. Uh huh.

Q. Is that correct?

A. Yes.

Q. Did you have any conversations with anyone prior to your going to pick up the two dogs?

A. Yes, my brother.

Q. You had a conversation with your brother. And your understanding that you were going to care for these dogs or bore them for a short period of time; is that right?

A. Pretty much, yes.

Q. Well, that was how long? How long a period of time did you think you were going to keep these dogs?

A. A couple of months, at tops.

Q. Now, tell me, when did you get the dogs?

A. September.

Q. September?

A. I think so. The end of September.

Q. And if I told you that Mrs. O'Hanlon started her lawsuit in mid-August of that year?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A. Uh huh.

MR. CHAVES: Objection.

Q. Do you know when she moved out of the house?

THE COURT: I'm sorry, there's an objection.

MR. CHAVES: The objection is "her lawsuit,"  
it's a divorce action, it's not a lawsuit.

MR. ALTER: Pardon me. I'll rephrase, judge,  
if you want.

THE COURT: Go ahead, and calm down.

Q. Do you know that Ms. O'Hanlon started her divorce  
action in August of 2009?

A. Yes.

Q. And do you know that Slaney was granted her  
permission to go to Baltimore in late August of 2009?

A. Yes.

Q. And do you know that she had left the house because  
she was afraid to live there?

A. That's what I heard.

Q. Did her father tell you that?

A. Yes.

Q. And did you learn that Slaney had demanded to have  
her dogs back?

A. Not until your letter, I believe.

Q. Do you have a copy of my letter?

A. No.

1

Q. Who gave you a copy of my letter?

2

3

A. I do not have a copy of your --

4

Q. Did you ever see my letter?

5

A. I have seen your letter, yes.

6

Q. And who showed it to you?

7

A. Probably my husband.

8

Q. Did you see the letter written back to me about my demands for the --

9

10

A. Yes.

11

MR. ALTER: May I see Exhibit A, your Honor?

12

THE COURT: You may.

13

THE CLERK: That was the first thing that was marked.

14

15

MR. ALTER: I have a copy of it, judge.

16

THE COURT: We need to make sure we've got the exhibit. You mean the letter?

17

18

MR. ALTER: I have a copy, if I can show it to the witness.

19

20

THE COURT: I want to wait and make sure we've got--

21

22

MR. ALTER: I'm talking about the Scharoff letter.

23

24

THE COURT: Let me see the letter. Yes, that's good. Okay.

25

26

MR. ALTER: Can I show it to her?



2 THE COURT: Yes.

3 Q. You saw that letter, did you not, Ms. Healy?

4 A. Yes.

5 Q. And you read it, did you not?

6 A. Yes.

7 Q. And when did you see that letter?

8 A. After it came, I believe.

9 Q. Was it before or after you obtained Lucy?

10 A. After.

11 THE COURT: I'm sorry?

12 THE WITNESS: After.

13 THE COURT: One second. Before we continue,  
14 I need to just--the Court needs a copy of the letter.  
15 Anybody have an extra copy of the letter? I just  
16 want to look at it for a second. I can wait. Do you  
17 have another copy?

18 MR. ALTER: I think so.

19 THE COURT: If you don't, you can take this  
20 one back.

21 Q. Mrs. Healy?

22 A. Uh huh.

23 Q. Can you turn to the second page of the letter and  
24 go up to the third paragraph from the last one, which  
25 starts, Mr. O'Hanlon?

26 A. Yes.

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Q. It's --

A. Yes.

Q. Did you read that paragraph?

A. I did read that, yes, I did read that.

Q. Did you understand it when you read it?

A. I understood it to mean --

Q. I'm asking you if you understood it?

A. I understood it.

MR. CHAVES: Judge, I'm going to object. He's badgering the witness. I don't understand why.

THE COURT: Let me just ask him to be a little calmer. I don't see badgering yet, but you're getting there.

MR. ALTER: I'll stop, judge.

Q. Ms. Healy, in the third paragraph that you are reading?

A. Uh huh.

Q. Is there any time limit set forth when Slaney was to pick up her dogs?

MR. CHAVES: Objection. The document speaks for itself.

THE COURT: You can answer that.

THE WITNESS: Answer?

THE COURT: Yes, ma'am.

A. No.

1  
2 Q. She was to pick up her dogs or her father was to  
3 make arrangements when it was determined that she could care  
4 for the dogs; is that right?

5 A. Two years later?

6 Q. I'm not asking you the time frame, ma'am, I'm  
7 asking you if that's what the paragraph says?

8 A. That's what the paragraph says.

9 MR. CHAVES: I'm going to object. Again, it  
10 speaks for itself. I don't understand why we're  
11 arguing over what the words of the document are.

12 MR. ALTER: Your Honor, we have this  
13 testimony.

14 THE COURT: I don't think we're arguing over  
15 that. I think it's over her understanding of it.

16 MR. CHAVES: That's not what the questions  
17 have been.

18 THE COURT: I must have missed that somehow.

19 MR. ALTER: Yeah, I think so.

20 Q. Ms. Healy, when you picked up the dogs, the dogs  
21 were-- one was in a cage?

22 A. The large one.

23 Q. That was Lucy?

24 A. Yes.

25 Q. In a cage?

26 A. Yes.

1  
2 Q. And your brother was caring for these dogs; is that  
3 right?

4 A. Fifteen minutes in the --

5 Q. Please. Your brother was caring for these dogs?

6 A. Yes, he was.

7 Q. And not your nephews?

8 A. No.

9 Q. Doesn't your nephew work at Mojave?

10 A. Now.

11 Q. Well, when did he start working in Mojave?

12 A. Possibly, a year ago, when he left school.

13 Q. Tell me, do you know how to contact Slaney?

14 A. Yes.

15 Q. Did you ever pick up the phone to try and reach out  
16 to Slaney?

17 A. No.

18 Q. Did you ever write Slaney and tell her she could  
19 have her dogs back?

20 A. No.

21 Q. Did you have a close relationship with Slaney?

22 A. No.

23 Q. You were her Godmother?

24 A. Yes.

25 Q. Tell me how often did you see Slaney before she  
26 left her father's house?

1  
2 A. I think it had been a couple of years since I saw  
3 Slaney before she left her father's house.

4 Q. Did you ever watch the dogs --

5 A. Yes, at Susan's request. Slaney --

6 MR. CHAVES: Can I interrupt?

7 MR. ALTER: I didn't finish the question.

8 MR. CHAVES: There's no question, no answer.

9 I want the witness to let him finish. There seems to  
10 be a running-- this running over each other and  
11 not --

12 THE COURT: Strike the record as to the  
13 crossovers.

14 MR. ALTER: I will rephrase.

15 THE COURT: And start back.

16 MR. ALTER: Thank you.

17 Q. Ms. Healy, before you picked up Lucy that Thursday  
18 night, there were times where you watched the dogs owned by  
19 your-- owned by Slaney or --

20 A. Yes.

21 Q. Is that correct?

22 A. Yes.

23 Q. And you took care of them for a week or two at a  
24 time?

25 A. Yes.

26 Q. On prior occasions when they were on vacation; is

1  
2 that correct?

3 A. Yes.

4 Q. Now, tell me, when you say the dogs have plenty of  
5 room to run, that's within your five apartments residence,  
6 they run within the area of the five apartments?

7 A. No, I said they were free.

8 Q. They were free. They walk within that area?

9 A. Yes. Not in a cage.

10 Q. And you walk three miles and is it you who walks?

11 A. Yes.

12 Q. With your vertigo?

13 A. Yes. I do not have vertigo on a daily basis.

14 Q. Pardon me?

15 A. I do not have vertigo on a daily basis.

16 Q. You really don't know how and in what manner Slaney  
17 cared for her dog when the dog was with her?

18 A. I do, if you judge on the condition of the two dogs  
19 I picked up that night.

20 Q. Well, didn't your brother have the two dogs for  
21 over a month and a half before you picked them up?

22 A. Yes.

23 Q. Isn't it a fact that your brother put the dog in a  
24 large cage?

25 A. Ms. McCarthy wanted that because of the damage.

26 Q. Please. Please. Isn't it a fact that your brother

1  
2 put the dog in a large cage; is that right?

3 A. Yes.

4 Q. Because he was leaving the house; is that correct?

5 A. No, because he was told to.

6 Q. Were you told that Slaney was the owner of the dog?

7 A. When they initiated-- when they responded to the  
8 lawsuit, that's the first I heard that Slaney was the owner  
9 of the two dogs. I knew she was the owner of Lucy.

10 Q. You knew she was the owner of Lucy. When did you  
11 learn that she was the owner of Lucy?

12 A. When she came to our apartment saying so and my  
13 brother told me that he and Slaney had gone to Virginia to  
14 get the dog.

15 Q. That's the first time in 2000 --

16 A. That's the only --

17 Q. 2011, you learned that it was Slaney's dog?

18 A. Yes. I didn't know.

19 Q. Isn't it in the letter?

20 A. Yes.

21 MR. CHAVES: I'm going to object. He's  
22 interrupting.

23 MR. ALTER: You're right. Your Honor, I stand  
24 corrected. I'll keep my mouth closed until the  
25 witness is finished.

26 THE COURT: Sir, what question do you want

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

answered?

Q. I want answered the question: Didn't you learn it was Slaney's dog in the letter of October 2011?

A. Yes. Yes.

Q. Pardon me?

THE COURT: I think you indicated the date on the letter, your wrong date, 2009. You want to rephrase the question?

MR. ALTER: That's correct.

Q. Isn't it a fact that you learned that Slaney was the-- isn't it a fact you learned that Slaney was the owner when you read the letter of 2009?

A. Yes.

Q. And it was a gift to Slaney?

A. Yes.

Q. Was it your impression that her father could give away Slaney's property to you?

A. That was my impression.

Q. Thank you.

MR. ALTER: No further questions, judge.

MR. CHAVES: Judge, the only thing I would add is I would move into evidence Plaintiff's 1 at this time.

THE COURT: I'm sorry? You had said you had no further questions?



1

MR. ALTER: No further questions.

2

3

THE COURT: You have no redirect? You need a minute, counsel?

4

5

MR. CHAVES: Not really. What I want to do at this time is --

6

7

THE COURT: I need to know whether or not you have any questions of this witness.

8

9

MR. CHAVES: No, I do not have any questions at this time.

10

11

THE COURT: Let her step down, then you can continue. Thank you very much.

12

13

(Witness excused from the witness stand.)

14

MR. CHAVES: Judge, I would just move Plaintiff's 1 into evidence for purpose of this hearing.

15

16

17

THE COURT: Objections?

18

MR. ALTER: Is that the license, judge?

19

THE COURT: It is the letter indicating-- well, that's--

20

21

MR. ALTER: I'll object to it.

22

THE CLERK: The letter 1 through 12.

23

THE COURT: Well, you got some basis for your objection?

24

25

MR. ALTER: Hearsay.

26

THE COURT: Under the strict rules of

1  
2 evidence, that would be-- this item would be  
3 objectionable. We are, however, in a realm of law  
4 that does not look to the strict rules of evidence on  
5 the questions of custody and/or visitation as we are  
6 and so the Court will admit and allow to be marked  
7 this item in evidence as Defense Number 1.

8 MR. ALTER: I believe it's plaintiff.

9 THE COURT: I'm sorry, Plaintiff's Number 1,  
10 I didn't realize I said that.

11 THE CLERK: Marked in evidence Plaintiff's  
12 Number 1 marked in evidence. So marked.

13 THE COURT: Anything else, counselor?

14 MR. CHAVES: No, I don't have anything else  
15 at this time, judge.

16 THE COURT: I take it that means you are  
17 resting?

18 MR. CHAVES: Yes, judge.

19 THE COURT: Oh, dear me, dear me, counsel, we  
20 have five minutes for closing arguments. Do you want  
21 to make them now or should we --

22 MR. CHAVES: I prefer to come back, judge.

23 THE COURT: Okay. When is the soonest they  
24 can come back? The soonest date we have available?

25 MR. ALTER: Judge, respectfully, can we have  
26 a bench conference?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

THE COURT: Yes, absolutely.

(Bench conference held off the record.)

THE CLERK: March 6th in the morning.

MR. CHAVES: I have an appearance in JCP in the morning. That's the only thing I have.

THE CLERK: We'll work it out with them. Check in with them and tell them you're upstairs and we'll work it out.

MR. CHAVES: Otherwise, that date is okay.

MR. ALTER: Tuesday, March 6th, judge.

THE CLERK: 9:30.

MR. CHAVES: Thank you.

MR. ALTER: Just counsel?

THE COURT: Parties, if they want, you don't have to be here. There's no requirement for them to be here. Okay. Thank you all. Why don't you all come back up.

(Bench conference held off the record.)

THE COURT: The record should reflect the Court has determined not to sanction.

(Matter adjourned to March 6, 2012.)

C E R T I F I C A T I O N

I hereby certify that the foregoing is a true and accurate copy of the stenographic proceedings of the hearing held in the above matter.

---

LISA L. DIMINO, R.P.R.  
OFFICIAL COURT REPORTER

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

-----X  
MARGARET HEALY,

Index No.: 21646/11

Plaintiff-appellant,

- against -

SLANEY O'HANLON and SUSAN McCARTHY,

Defendants-respondents,  
-----X

---

---

**AFFIDAVIT OF THE PLAINTIFF-APPELLANT  
MARGARET HEALY WITH EXHIBITS 1 – 9**

---

---

**DEVEREAUX, BAUMGARTEN**

39 BROADWAY, Suite 910  
NEW YORK, NEW YORK 10006  
TEL. (212) 785-5959 (T) / FAX (212) 785-4487 (F)