

Manuel P. Asensio
400 East 54th Street, 29th Floor
New York, New York 10022

August 2, 2017

Hon. Justice George Silver
Deputy Chief Administrative Judge for the New York City Courts
New York County Supreme Court
60 Center Street, Room 420
Part 10
New York, New York

Re: Assignment of NY Supreme Courts Civil Actions related to Stipulation of Settlement for Child Custody and Parenting Time incorporated not merged into the Judgment of Divorce ["JOD"] in the matrimonial action titled Emilie Marie Bosak v. Manuel P. Asensio, Supreme, Court, NY, **Index No. 300417/2011**. ["Custody Stipulation"]

Dear Deputy Chief Judge Silver:

I respectfully request a review and reassignment of the indiscriminate assignment under e-filed Request for Judicial Intervention ["RJI"] in two New York County Supreme Court cases and in two cases that are currently unassigned. The four cases relate to the above-defined Custody Stipulation. The four cases relate to Post-JOD Custody litigation. New York County Supreme Court Justice the Hon. Laura E. Drager entered the JOD on August 13, 2013. I was the defendant in the Matrimonial proceedings under Index No. 300417/2011.

The first of the unassigned cases is a breach of contract action captioned Asensio v. Bosak, Supreme, NY, **Index No. 153776/2017** in which I am the Plaintiff. The parties in this case are same as the parties to the Custody Stipulation. The Defendant has not answered the complaint or entered an appearance. Mitchell Cantor, Esq. represents me in this case. The second unassigned case is a Pro Se Article 78 Special Proceedings in New York County Supreme Court against Hon. Adetokunbo O. Fasanya of the New York County Family Court captioned Asensio v. Fasanya, Supreme, NY, **Index No. 155833/2017** relates to the Post-JOD child custody matters.

Hon. Justice George Silver
Deputy Chief Administrative Judge for the New York City Courts
Page 2 of 3

The first of the assigned cases is captioned Manuel P. Asensio v. Richard Spitzer, Supreme, NY, **Index No. 159812/2016**. The Hon. Lynn R. Kotler is the assigned judge. Mitchell Cantor, Esq. also represents me in this case. This is an action for intentional tort brought against Mr. Spitzer a supervisor appointed by Family Court Judge Fasanya who is the Respondent to the Article 78 Petition filed under Index No. 155833/2017. Mr. Spitzer's alleged misconduct is fundamental to the Post-JOD Child Custody, as well as the Article 78 proceedings under Index No. 155833/2017 referred to above. The second of the assigned cases is captioned Asensio v. Fasanya, Supreme, NY, Index No. **156692/2017**, Article 78 Special Proceeding related to compensation and misconduct of a judicial appointee. Judge Fasanya is also the Respondent. The Hon. Justice Nancy M. Bannon is the assigned judge in this matter. Attached hereto is my letter to Judge Bannon and Mr. Cantor's letter to Judge Kotler requesting the transfer these two cases to Judge Drager.

The four cases seek separate reliefs thus cannot be consolidated under one Index but relate to the Custody Stipulation and involved the parties thereto. Thus, they can be settled hopefully without trials. Assignment to one judge would directly address the issue that has complicated the Post-JOD litigation, which is Appellate Division for the First Department's decisions to rely on the Family Court Act's Article 1112 to render administrative orders to decline to review Judge Fasanya's Interim Administrative Orders, one of which is over four-year-old. Further, the Uniform Court System's Office of Court Administration does not engage in reviews of administrative decision-making.

The facts and record in these four cases are intertwined and inseparable from each other. They relate to one issue, which is my non-custodial parent's rights under the Custody Stipulation to enjoy and protect my relationship with and the welfare of the subject child and the custodial parent's duties to me as the non-custodial parent.

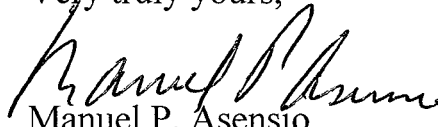
As noted in the attached letters the transfer will allow the two civil cases, the two Article 78 Special Proceedings and the Post-JOD litigation to be determined in a matter that is in the best interest of the child and judicial economy. It will also serve reason by allowing the New York Supreme Court judge with knowledge and experience with the parties and issues to manage the calendar and eliminate

Hon. Justice George Silver
Deputy Chief Administrative Judge for the New York City Courts
Page 3 of 3

the need for duplicate filings. This will be in the best interest of fairness and justice in avoiding misunderstandings and inconsistent determinations.

For these reasons, and others, I respectfully request that that Your Honor assign these four case to the Hon. Justice Drager who presided over the trial and settlement by the Custody Stipulation. I thank you in advance for your prompt attention to this request.

Very truly yours,


Manuel P. Asensio
Petitioner

cc: Honorable Judge Adetokunbo O. Fasanya
New York County Family Court
60 Lafayette Street
Part 5, 10th Floor
New York, New York 10013
(646) 386-5285
bdewire@nycourts.gov

Attorney for Judge Fasanya:
James Cooney, Assistant Attorney General
New York Attorney General, New York City Office
120 Broadway, New York City, NY 10271-0332
(212) 416-6082
james.cooney@ag.ny.gov

Emilie Bosak, Party to the Custody Stipulation,
Defendant in the Breach of Contract case
And Plaintiff/Defendant in Post JOV Litigation
355 East 72st Street, Apartment 17C
New York, NY 10021 (917) 579-1413
emilie.bosak@gmail.com

Scott Christensen, Esq.
Counsel of Record to Richard Spitzer in Tort Action
schristesen@110-law.com

Mitchell Cantor, Esq.
Law Offices of Mitchell Cantor
355 Lexington Avenue
Suite 401
New York, New York 10017
mc@mcantorlawoffice.com
(212) 679-7820

Carmen Restivo
Attorney for the Child
Appointed by Honorable Adetokunbo O. Fasanya
299 Broadway Ste 1415
New York, NY 10007
(718) 767-3798
crestivoesq@AOL.com

Attachments.

VERIFICATION

I, Manuel P. Asensio, duly sworn, deposes and says on the 2st day of August 2017, that I am the Defendant in Index No. 300417/2011 the Petitioner Index No. 156692/2017 and Index No. 155833/2017 and a plaintiff Index No. 153776/2017 and Index No. 159812/2016 and I swear the fact statements contained herein are true and correct to the best of my own personal knowledge, expect as to matters stated based on knowledge and belief and to those I solemnly swear that I believe them to be true. I make this Verification under oath under penalty of perjury.

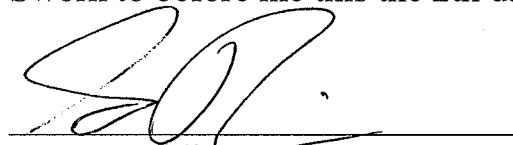
I do so swear:



Manuel P. Asensio

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

Sworn to before me this the 2th day of August 2017



Notary Public

<p>SAMUEL T RICHMAN Notary Public, State of New York No. 01RI6339167 Qualified in Kings County Commission Expires March 28, 2020</p>

Law Offices of Mitchell Cantor

355 Lexington Avenue, Suite 401
New York, New York 10017
Telephone: (212) 679-7820
Email: mc@mcantorlawoffice.com

August 1, 2017

Hon. Lynn R. Kotler
Justice of the Supreme Court of the
State of New York, Part 8
80 Centre St., Room 280
New York, NY 10013

Re: Manuel P. Asensio v. Richard Spitzer, Supreme, NY, Index No. 159812/2016

Dear Judge Kotler:

Defendant's motion to dismiss and plaintiff's opposition thereto in the above referenced matter were submitted to this Part on July 20, 2017. This matter is an action for intentional tort brought against Richard Spitzer, a supervisor appointed by the Hon. Adetokunbo O. Fasanya of the Family Court, New York County, in the context of a custody modification action. That custody modification action was filed in Family Court pursuant to a Stipulation Agreement for Custody and Visitation that was incorporated, not merged into the Judgment of Divorce (JOD) in the original matrimonial action titled Emilie Marie Bosak v. Manuel P. Asensio, Supreme, Court, NY, Index No. 300417/2011 that was entered on August 13, 2013 by the NY Supreme Court Justice Laura E. Drager. I represent Mr. Asensio, who is the Plaintiff in this case and is the defendant in the Matrimonial action, in Post-Judgment Matrimonial actions in Index No. 300417/2011.

I also represent Mr. Asensio in a breach of contract action captioned Asensio v. Bosak, Supreme, NY, Index No. 153776/2017 in which I filed an RJI last night. Justice Drager has jurisdiction over the Supreme Court's Post Judgment Matrimonial actions under the Stipulation concerning custody and visitation.

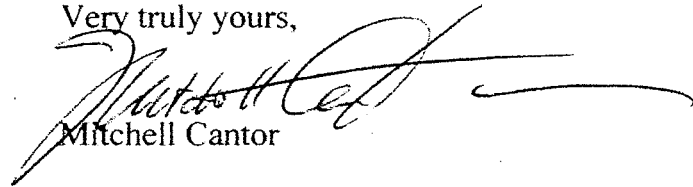
Mr. Asensio is also the Petitioner in two pro se Article 78 New York County Supreme Court special proceedings against Family Court Judge Adetokunbo O. Fasanya. Asensio v. Fasanya, Supreme, NY, Index No. 155833/2017 is unassigned at this time but an RJI has been filed. The Hon. Nancy Bannon is presently assigned to the second Article 78 proceedings, Asensio v. Fasanya, Supreme, NY, Index No. 156692/2017. Mr. Spitzer's conduct alleged in the matter before Your Honor is the fundamental to underlying all Post-Judgement Matrimonial custody

and visitation proceedings and the Article 78 proceedings. It is my understanding that the Petitioner is seeking to have both of these matters assigned to the Hon. Laura E. Drager.

Consequently, I respectfully request that you transfer this case to the Hon. Laura E. Drager that it is inseparable from the related cases identified herein. This will allow this matter to be determined in the context of its related, ancillary and underlying litigation in order to maximize judicial resources and to prevent duplications of filings and inconsistent determinations.

I thank you in advance for your prompt attention to this request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mitchell Cantor", with a long horizontal flourish extending to the right.

Mitchell Cantor

cc: Scott Christesen, Esq.

Manuel P. Asensio
400 East 54th Street, 29th Floor
New York, New York 10022

August 1, 2017

Hon. Justice Nancy M. Bannon
111 Centre Street, Room 448
New York, New York 10013
Phone: (646) 386-5587
Law Clerk: Lawrence Goldberg, Esq.

Re: Asensio v. Fasanya, Supreme, NY, Index No. **156692/2017**, Article 78
Special Proceeding.

Dear Judge Kotler:

Attached is a Request for Judicial Intervention ["RJI"] that was filed last night in a related case. It is a breach of contract action captioned Asensio v. Bosak, Supreme, NY, **Index No. 153776/2017** in which I am also the Plaintiff. Mitchell Cantor, Esq. who represents me in this case filed the RJI. It lists four Supreme Court cases related to this case. They all relate to Post Judgment of Divorce (JOD) child custody and visitation litigation.

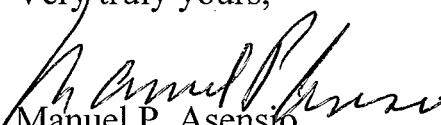
Other cases related to this action include Manuel P. Asensio v. Richard Spitzer, Supreme, NY, **Index No. 159812/2016**. This is an action for intentional tort brought against Mr. Spitzer a supervisor appointed by the Hon. Adetokunbo O. Fasanya of the New York County Family Court in a custody case. Mr. Spitzer's alleged misconduct is fundamental to the Post-JOD child custody and visitation proceedings, as well as this Article 78 and a second separate Article 78 proceeding. I filed the Family Court action under the Stipulation for Child Custody and Visitation that was incorporated not merged into the JOD in the matrimonial action titled Emilie Marie Bosak v. Manuel P. Asensio, Supreme, Court, NY, **Index No. 300417/2011**. New York County Supreme Court Justice the Hon. Laura E. Drager entered the JOD on August 13, 2013. I was the defendant in the Matrimonial action. Mr. Cantor also represents me in Post-JOD actions in Index No. 300417/2011.

As I noted above, I am the Petitioner in a second separate pro se Article 78 Special Proceedings in New York County Supreme Court against Family Court Judge Fasanya. This second case titled Asensio v. Fasanya, Supreme, NY, **Index No. 155833/2017** also relates to the Post-JOD child custody matters. I filed an RJI that is unassigned at this time. I am seeking to have this matter assigned to the Hon. Drager.

I respectfully request that you transfer this case to the Hon. Laura E. Drager. The facts and record in these four case are inseparable from each other. They related to one issue, a non-custodial parent's right to protect their relationship with and the welfare of their child. The transfer will allow the two civil cases, the two Article 78 Special Proceedings and the Post-JOD matters to be determined in a matter that is in the best interest of the child and judicial economy. It will also serve reason by allowing one New York Supreme Court judge to manage the calendar and eliminate duplicate filings. This should also be in the best interest of fairness and justice in avoiding misunderstandings and inconsistent determinations.

I thank you in advance for your prompt attention to this request.

Very truly yours,


Manuel P. Asensio
Petitioner

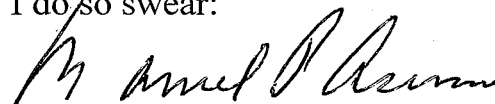
cc: Honorable Judge Adetokunbo O. Fasanya
New York County Family Court
60 Lafayette Street
Part 5, 10th Floor
New York, New York 10013
(646) 386-5285
bdewire@nycourts.gov

Attorney for Judge Fasanya:
James Cooney, Assistant Attorney General
New York Attorney General, New York City Office
120 Broadway, New York City, NY 10271-0332
(212) 416-6082
james.cooney@ag.ny.gov

VERIFICATION

I, Manuel P. Asensio, duly sworn, deposes and says on the 1st day of August 2017, that I am the Petitioner in Asensio v. Fasanya, Supreme, NY, Index No. **156692/2017** Article 78 Special Proceeding that I swear the fact statements contained herein are true and correct to the best of my own personal knowledge, except as to matters stated based on knowledge and belief and to those I solemnly swear that I believe them to be true. I make this Verification under oath under penalty of perjury.

I do so swear:

A handwritten signature in black ink, appearing to read "Manuel P. Asensio", written over a horizontal line.

Manuel P. Asensio