

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF FULTON

GF2 8/2002

In the Matter of a **Custody/Visitation** Proceeding

File #: 9347
Docket #: V-00151-10
V-00152-10

Tracylee Fiume,

Petitioner,

- against -

SUMMONS

Megan Fiume,

Jason Fiume,

Respondents.

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

To: Megan Fiume
(Address Unknown)

A petition under Article 6 of the Family Court Act having been filed with this Court, and annexed hereto

YOU ARE HEREBY SUMMONED to appear before this court on

Date/Time: June 21, 2010 at 9:00 AM
Purpose: Adjourned for Personal Service
Part: EFS
Floor/Room: Floor 1/Room EFS
Presiding: Hon. Edward F. Skoda
Location: Courthouse
11 N. William St.
Johnstown, NY 12095

to answer the petition and to be dealt with in accordance with the Family Court Act.

On your failure to appear as herein directed, a warrant may be issued for your arrest.

Dated: May 11, 2010

Geraldine A. Bastolla, Clerk of Court

NOTICE: Family Court §154(c) provides that petitions brought pursuant to Article 4, 5, 6, 8 and 10 of the Family Court Act, in which an order of protection is sought or in which a violation of an order of protection is alleged, may be served outside the State of New York upon a Respondent who is not a resident or domiciliary of the State of New York. If no other grounds for obtaining personal jurisdiction over the Respondent exist aside from the application of this provision, the exercise of personal jurisdiction over the respondent is limited to the issue of the request for, or alleged violation of, the order of protection. Where the Respondent has been served with this summons and petition does not appear, the Family Court may proceed to a hearing with respect to issuance or enforcement of the order of protection.

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF FULTON

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In The Matter of a Proceeding for
Custody Visitation under Article 4 5 6
of the Family Court Act or Section 240
of the Domestic Relations Law

TRACYLEE FIUME,
Petitioner,

Docket No.
PETITION
 CUSTODY
 VISITATION

-against-

JASON FIUME and MEGAN FIUME,
Respondents.

.....
TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. a. Petitioner, Tracylee Fiume, [check applicable box]: resides is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: 13 East Clinton Street, Johnstown, NY 12095

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: the grandmother of the children

~~c. [Applicable when Petitioner is on active military duty or has recently returned from active military service; DELETE if inapplicable]:~~

~~Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:²~~

¹ Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act*, Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

² Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

~~_____ Petitioner returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:~~

2. a. Respondent #1, Jason Fiume, [check applicable box]: resides is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: Oneida County Correctional Facility, 6075 Judd Road, Oriskany, NY 13424

b. Respondent #1 is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: the father of the children

~~c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:~~

~~_____ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:³~~

~~_____ Respondent returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:~~

Respondent #2, Megan Fiume, [check applicable box]: resides is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]: 802 3rd Avenue, Utica, NY 13501; upon information and belief, Respondent #2 may be currently staying c/o Todd and Carina Aubuchon, 73 Jewett Road, Pittston, ME 04345-6852.

b. Respondent #2 is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]: the mother of the children

~~c. [Applicable when Respondent is on active military duty or has recently returned from active military service; DELETE if inapplicable]:~~

~~_____ Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:⁴~~

~~_____ Respondent returned from active duty, deployment or temporarily assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:~~

3. ~~[Delete if inapplicable]: An order was issued by _____ Court, _____ County, State of _____, referring the issue of custody visitation to the Family Court of the State of New York in and for the County of [specify]:~~

4. The name, present address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

<u>Name</u>	<u>Address</u>	<u>Date of Birth</u>
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³ Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

⁴ Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

Cheyenne Marie Fiume	802 3rd Ave., Utica, NY 13501	11/ 17/ 2007
Savannah May Fiume	802 3rd Ave., Utica, NY 13501	5/23/2009

5. (Upon information and belief) During the last five years, each child who is the subject of this proceeding resided at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

<u>Name of Child</u>	<u>Child's Address</u>	<u>Duration</u> (from/to)	<u>Name of Person</u> <u>With Whom Child</u> <u>Resided</u>	<u>Current Address</u> <u>of the Person With</u> <u>Whom Child Resided</u>
Cheyenne Marie Fiume			Jason Fiume	Oneida County Correctional Facility
Savannah May Fiume	both at 802 3rd Ave., Utica, NY 13501		Megan Fiume	802 3rd Ave., Utica, NY 13501

Upon information and belief, Cheyenne was born in Waterville, ME and Savannah was born in Brunswick, ME but both children have resided with Jason Fiume and Megan Fiume since birth, to best of Petitioner's knowledge.

6. [Check applicable box(es). Delete inapplicable provisions]:

a. The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:

The father was married to the child(ren)'s mother at the time of the conception or birth. Jason and Megan were married on January 21, 2008

~~— G An order of filiation was made on [specify date and court and attach true copy]:~~

~~— G An acknowledgment of paternity was signed on [specify date]: _____ by [specify who signed and attach a true copy]: _____~~

~~— G The father is deceased.~~

~~b. G The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.~~

~~e. G A paternity agreement or compromise was approved by the Family Court of County on _____, _____, concerning [name parties to agreement or compromise] _____ and child(ren):~~

~~A true copy of the agreement or compromise is attached to this petition.~~

~~_____ 7. [Applicable to cases in which mother is not a party]: The name and address of the mother is [indicate if deceased or if address ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:~~

~~8. [Delete if inapplicable]: Petitioner has participated as a _____ party _____ witness _____ other capacity [specify]: _____ in other litigation concerning the custody of the same children in _____ New York State _____ Other jurisdiction [specify]:5~~

~~If so, specify type of case, capacity of participation, court, location and status of case.~~

5 If litigation occurred in Native-American tribunal, so indicate.

9. A custody or visitation proceeding concerning the same child(ren) _____ is X is not pending in New York State. [If pending, give court docket number and status of case]: None known to Petitioner

10. The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]: Inapplicable

11. _____ Petitioner X Respondent obtained custody of the child(ren) on [specify date]: , as follows: The two Respondents are the natural parents of the children. Respondent #1, the father, is currently incarcerated. Respondent #2, the mother, has stated her intention to relocate with the children to New England.

~~_____ 12. [Applicable to cases in which child protective petition or permanency hearing report has been filed regarding the children and in which petitioner is a relative or other non-parent; delete if inapplicable]:~~

~~_____ a. G A child protective petition, Docket # [specify]: _____, was filed in Family Court, [specify county]: _____ on [specify date]: _____ alleging that [specify names of respondents on that petition]:~~

~~neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]:~~

~~_____ b. G A permanency report, Docket # [specify]: _____, pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: _____ on [specify date]: _____ indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: _____ pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.~~

~~_____ c. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:~~

~~_____ d. The child's legally established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:~~

~~_____ e. The child has been living with the following foster parent(s) [specify]: _____ since [specify date]: _____ The foster parent(s)~~

~~G has/have G has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:~~

~~_____ f. The local department of social services [specify]: _____ in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:~~

~~_____ g. The attorney for the child(ren) [specify]: _____ in the related child abuse or neglect permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:~~

13. It would be in the best interests of the child(ren) to have custody X visitation awarded to the Petitioner for the following reasons:

The Petitioner, who is the grandmother of the children, has recently established a relationship with the children and it would compound the emotional trauma to the children if, after losing their father to incarceration, they are cut off from continuing contact with their grandmother as well.

14. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es)]: against Respondent, Jason Fiume

~~against me~~

in the following criminal, matrimonial or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

Upon information and belief, there is a Temporary Order of Protection currently in effect in favor of Megan Fiume against Jason Fiume, from the criminal court in Oneida County in which charges against Jason are pending. The Petitioner does not have a copy of it and is not certain of which court is involved.

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]: Unknown

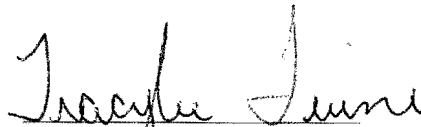
15. ~~Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:~~

16. The subject child(ren) are are not Native-American child(ren) subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding ___ custody visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated: January 24, 2010



Petitioner

Tracylee Fiume



Signature of Attorney, if any

Attorney's Name (Print or Type)

Ellen S. Ross

Attorney's Address and Telephone Number

105 North Perry Street

Johnstown, NY 12095

518-736-1146

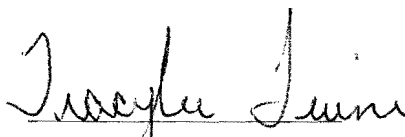
VERIFICATION

STATE OF NEW YORK)

:SS:

COUNTY OF FULTON

TRACYLEE FIUME, being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.


Petitioner

Sworn to before me this 24th

day of January, 2010



Notary Public, State of New York

Qualified in Fulton County

Commission Expires 9/30/2013