



Attorneys At Law

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June 1, 2005

Honorable Chief Judge Jonathan Lippman
Chief Administrative Judge
Unified Court System
25 Beaver Street
New York, New York 10004

Re: Marks v. Billick


Index: 05107565

Honorable Judge Lippman:

We represent Bridget Marks, the Plaintiff in the above action. We are forwarding a courtesy copy of a lawsuit which alleges malpractice by a court certified psychiatrist in the matter of Marks v. Aylsworth, which was litigated in the New York County Family Court.

The allegations are very serious and we felt it prudent to bring the matter to the attention of the Unified Court System in light of the fact that the Defendant remains on the list of certified professionals who may be appointed by the Court in pending litigation. To ensure the interests of litigants, we respectfully submit that the Court contemplate the prudence of continuing appointments of Dr. Billick pending resolution of the action commenced by Ms. Marks.

Respectfully submitted,



Thomas D. Shanahan

cc: The Honorable Chief Judge Judith Kaye
New York State Attorney General

RECEIPT
NEW YORK COUNTY CLERK
60 CENTRE STREET
NEW YORK, NY 10007
R141

DEPARTMENT AMOUNT
1 GEN 165.00
7 SURCHARGE 45.00
TOTAL 210.00
CHECK 210.00
CONS CASHIER 13902 2345
DATE TIME 05 JUN 01 10:25 AM 41-1

COMPLETE THIS STUB

Endorse This INDEX NUMBER ON All Papers and advise your adversary of the number assigned. Sec. 202.5, Uniform Rules Of Trial Courts

DO NOT DETACH

Title of Action or Proceeding to be TYPED or PRINTED by applicant
SUPREME COURT, NEW YORK COUNTY

MARRIS v BILKICK

INDEX NUMBER FEE
\$210.00

05107565

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
BRIDGET MARKS, individually and as the custodial
parent of AMBER AYLSWORTH and
SCARLET AYLSWORTH,

Plaintiff,

- against -

DR. STEPHEN BATES BILLICK,

Defendants.
-----X

SUMMONS

Index No. 05707565
Filed: 6/1/05


JURY DEMANDED

YOU ARE HEREBY SUMMONED AND REQUIRED TO SERVE upon
plaintiff's attorney an answer to the complaint in this action within twenty days after the
service of this summons, exclusive of the day of service, or within thirty days after
service is complete if this summons is not personally delivered to you within the State of
New York. In case of your failure to answer, judgment will be taken against you by
default for the relief demanded in the complaint.

The basis of the venue designated is principle place of business for all parties and
the County wherein the causes of action accrued.

Dated: New York, New York
June 1, 2005

Yours, etc.


Thomas D. Shanahan
SHANAHAN & ASSOCIATES, P.C.
545 Fifth Avenue, Suite 1205
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
BRIDGET MARKS, individually and as the custodial
parent of AMBER AYLSWORTH and
SCARLET AYLSWORTH,

Plaintiff,

- against -

DR. STEPHEN BATES BILLICK,

Defendants.
-----X

**VERIFIED
COMPLAINT**

Index No. 05107565
Filed: 6/1/05

JURY DEMANDED

Plaintiffs, by and through their attorneys, SHANAHAN & ASSOCIATES, P.C.,
do hereby complain of the Defendant as follows:

THE PARTIES

1. At all times hereinafter mentioned, Plaintiff BRIDGET MARKS is a resident of New York County, New York ("Bridget").
2. At all times hereinafter mentioned, Plaintiff AMBER AYLSWORTH is a minor and the daughter of Bridget, her custodial parent ("Amber").
3. At all times hereinafter mentioned, Plaintiff SCARLET AYLSWORTH is a minor and the daughter of Bridget, her custodial parent ("Scarlet")(Amber and Scarlet collectively referred to as "the Twins").
4. Upon information and belief, Defendant DR. STEPHEN BATES BILLICK is a psychiatrist licensed to practice in the State of New York ("Billick"). Billick was the court appointed "neutral" retained to perform a visitation and custody evaluation in the

matter of Aylsworth v. Marks, V-01744-5/03.

5. Billick was appointed by Judge Arlene Goldberg on April 14, 2003 and issued his forensic report on October 20, 2003.

6. Venue is proper as New York County is the county of residence for all parties and the county in which the cause of action accrued.

FACTS COMMON TO ALL CAUSES OF ACTION

7. Billick is a psychiatrist who is authorized by the New York State Unified Court System to perform visitation and custody evaluations in family court proceedings.

8. On April 14, 2003, Billick was appointed by Judge Goldberg to perform a forensic evaluation for purposes of determining visitation to the non-custodial parent. Without the authorization of the Court, Law Guardian or parties, Billick revised the forensic evaluation from visitation to custody.

9. Between April 14, 2003 and July 2003, Billick conducted his purportedly neutral forensic evaluation resulting in a Forensic Psychiatric Report submitted to the Court on October 20, 2003 ("Billick Report").

10. The conclusion of the Billick Report was that custody should be transferred to the father from the mother and the Twins should relocate from New York to Malibu, California for purposes of their primary residence.

11. In support of his recommendations, Billick testified at trial in the matter of Aylsworth v. Marks on various days.

12. All Court appointed experts permitted to opine on custody including Julie Dowling and Lisa Lubell reviewed the Billick Report. Ms. Dowling and Ms. Lubell testified at trial that custody should be transferred to the father based heavily upon the

Billick Report.

13. On May 21, 2004, Judge Goldberg issued her “interim” order transferring custody from Bridget to the father of the Twins. Judge Goldberg relied heavily, and to her detriment and that of the Plaintiffs, on the Billick Report and opinions of Ms. Dowling and Ms. Lubell, of Lawyers for Children, which resulted therefrom.

14. On June 28, 2004, Judge Goldberg issued an “expanded” decision explaining her rationale for the transfer of custody from Bridget to the father of the Twins.

15. In the “expanded” decision, Judge Goldberg again relied heavily, and to her detriment and that of the Plaintiffs, on the Billick Report and opinions of Ms. Dowling and Ms. Lubell which resulted therefrom.

16. On March 31, 2005, the Appellate Division, First Department, restored custody to Bridget and reversed the determination of the trial court. In part, the Appellate Division reversed finding the trial court had relied too heavily on Billick and the Billick Report. As pertinent herein, Justices Sullivan and Saxe held:

“The custody determination turned largely on the testimony and report of Dr. Billick, the neutral forensic evaluator and only witness at the hearing to advocate relocation of the children to California, a recommendation, ultimately rejected by the court, that borders on punitive (emphasis added).

Notwithstanding Dr. Billick’s conclusion...[Billick] found nonetheless that: the children functioned at an appropriate level; Amber had a positive relationship with the father, the children want to see the father, enjoy being with him and are comfortable with him; they have a warm attachment to the father and showed no adverse behavior towards him and even have affection and fondness for the father’s wife. Thus, despite the finding that the mother was attempting to undermine the relationship between the father and the children, the relationship was, in fact, a healthy one, one that even yielded affection and fondness between the children and the father’s wife. Moreover, Dr. Billick also found that the mother is a “good enough mother”....

Finally, it seems apparent in reviewing this record, that the ultimate

decision as to the key issue in this case, i.e. whether to award custody to the father because of the mother's attempts to undermine his relationship with the children, was made on the basis of the experts' testimony. Courts should be ever mindful that, while the forensic expert may offer guidance and inform, the ultimate determination on any such issue is a judicial function, not one for the expert".

DUTY AND PROFESSIONAL STANDARD OF CARE APPLIED TO FORENSIC PSYCHIATRISTS

17. Although no well-established professional standard of care exists for court appointed forensic psychiatrists, guidelines described in the American Academy of Child and Adolescent Psychiatry's professional practice guidelines for child custody evaluation and sexual abuse allegations are generally accepted to be the standard for best practice concepts consistent with a professional standard of care. See American Academy of Child & Adolescent Psychiatry. (1997a & b). Practice parameters for child custody evaluations. *Journal of the American Academy of Child & Adolescent Psychiatry*, 36, (10 Supp), 57S-68S 1423-442. [Hereafter "AACAP, 1997a"], Practice parameters for the forensic evaluation of children and adolescents who may have been physically or sexually abused. *Journal of the American Academy of Child & Adolescent Psychiatry*, 36, 423-442. [Hereafter "AACAP, 1997b"], American Psychological Association. (1994). See also, Guidelines for child custody evaluations in divorce proceedings. *American Psychologist*, 49, 677-680; American Psychological Association (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060-1073; Committee on Ethical Guidelines for Forensic Psychologists. (1991). Speciality Guidelines for Forensic Psychologists. *Law and Human Behavior*, 15(6), 655-665. [Hereinafter "COPPS, 1991"]. The foregoing doctrines and treatise are fully incorporated herein by reference.

**BILLICK BREACHED THE PROFESSIONAL STANDARD OF CARE IN
CONDUCTING HIS FORENSIC PSYCHIATRIC EVALUATION**

18. Although a purported court appointed “neutral”, Billick and the Billick Report are biased and the procedures and practices implemented by Billick breach the professional standard of care for court appointed forensic evaluators.

19. Billick demonstrated at every stage of the evaluation process a strong and repetitive bias against the mother and a bias in favor of the father throughout the evaluation process.

20. Billick deviated from the professional standard of care by and through his failure to review mental health records of the fathers mental health providers and by solely focusing on the mental health records of the mothers mental health providers.

21. Billick deviated from the professional standard of care by and through his practices and procedures which corroborate confirmatory bias.

22. Billick deviated from the professional standard of care by and through his drawing conclusions before gathering all relevant and necessary data.

23. Billick deviated from the professional standard of care by and through his lack of any data to support his conclusions pertaining to purported parental alienation.

24. Billick deviated from the professional standard of care by and through his reliance on illegally audio taped conversations by the Father at the suggestion of Billick which Billick subsequently “lost”.

25. Billick deviated from the professional standard of care by and through his failure to consider all alternative theories to explain the conduct of Bridget including but not limited to the Protective Parent Model.

26. Billick deviated from the professional standard of care by and through his misinterpretation of Amber and Scarlet's use of language to suggest alienation.

27. Billick deviated from the professional standard of care by and through his total failure to gather third party information relative to the stability of the home provided to Amber and Scarlet by Bridget by and through his failure to interview: any of Bridget's family members; Amber and Scarlet's pediatrician; Amber and Scarlet's teachers; the parents of the playmates of Amber and Scarlet; or anyone else knowledgeable as to the day-to-day lives of Amber and Scarlet other than the family of the father.

28. Billick deviated from the professional standard of care by and through his failure to examine the medical records of Amber and Scarlet.

29. Billick deviated from the professional standard of care by and through his total failure to interview the father pertaining to the allegations of sexual abuse asserted by Bridget.

30. Billick deviated from the professional standard of care by and through his failure to utilize a structured interview format for interviewing Amber and Scarlet.

31. Billick deviated from the professional standard of care by and through his failure to utilize a multi-hypothetical framework in investigating the allegations of sexual abuse relevant in the litigation.

32. Billick deviated from the professional standard of care by and through his use of Amber and Scarlet's drawings to interpret their behavior without identifying reliable scientific methods utilized to interpret the drawings.

33. Billick deviated from the professional standard of care by and through his misapplication and misinterpretation of MMPI 2 Data.

34. Billick deviated from the professional standard of care by and through his diagnosing Bridget with personality disorder without foundation based upon examination and review of reliable data.

**THE PLAINTIFFS HAVE SUFFERED DAMAGE AS A
RESULT OF THE MALPRACTICE OF BILLICK**

35. As a result of the breach of the professional standard of care by Billick in compiling his forensic report, Amber and Scarlet had custody transferred from Bridget and the only home and life they had ever known to their father for a period of ten months. As such, Amber and Scarlet were denied the company and companionship of their mother and the only custodial care giver they had ever known.

36. As a result of the breach of the professional standard of care by Billick in compiling his forensic report, Bridget was denied the company and companionship of Amber and Scarlet for a period of ten months.

37. Plaintiffs have, and will continue to suffer substantial psychological damage as a direct and proximate result of the conduct of Billick.

FIRST CAUSE OF ACTION

38. Plaintiff repeats and realleges each and every allegation contained herein as if fully restated.

39. Billick owed Bridget a duty of care in conducting his forensic evaluation for purposes of determining custody in the family court proceeding giving rise to this action.

40. Billick negligently conducted his forensic evaluation by and through his repeated deviation from the professional standard of care as more fully stipulated herein.

41. As a proximate result of Billicks' negligence, Bridget has and continues to sustain permanent physical and emotional trauma, great pain, suffering and mental anguish in an amount currently unknown and to be determined by a jury.

SECOND CAUSE OF ACTION

42. Plaintiff repeats and realleges each and every allegation contained herein as if fully restated.

43. Billick owed Amber a duty of care in conducting his forensic evaluation for purposes of determining custody in the family court proceeding giving rise to this action.

44. Billick negligently conducted his forensic evaluation by and through his repeated deviation from the professional standard of care as more fully stipulated herein.

45. As a proximate result of Billicks' negligence, Amber has and continues to sustain permanent physical and emotional trauma, great pain, suffering and mental anguish in an amount currently unknown and to be determined by a jury.

THIRD CAUSE OF ACTION

46. Plaintiff repeats and realleges each and every allegation contained herein as if fully restated.

47. Billick owed Scarlet a duty of care in conducting his forensic evaluation for purposes of determining custody in the family court proceeding giving rise to this action.

48. Billick negligently conducted his forensic evaluation by and through his repeated deviation from the professional standard of care as more fully stipulated herein.

49. As a proximate result of Billicks' negligence, Scarlet has and continues to sustain permanent physical and emotional trauma, great pain, suffering and mental anguish in an amount currently unknown and to be determined by a jury.


WHEREFORE, Plaintiffs demand judgment against Defendant Stephen Bates

Billick, as follows:

1. On the first cause of action, an amount currently unknown and to be determined by a jury.
2. On the second cause of action, an amount currently unknown and to be determined by a jury.
3. On the third cause of action, an amount currently unknown and to be determined by a jury.
4. Costs and disbursements of this action and such other and further relief as this Court may deem just, equitable and proper.

Dated: New York, New York
June 1, 2005

Yours, etc.



Thomas D. Shanahan
SHANAHAN & ASSOCIATES, P.C.
545 Fifth Avenue, Suite 1205
New York, New York 10017
(212) 867-1100

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
BRIDGET MARKS, individually and as the custodial
parent of AMBER AYLSWORTH and SCARLET
AYLSWORTH,

Plaintiffs,

- against -

DR. STEPHEN BATES BILLICK,

Defendants.

-----X

Thomas D. Shanahan, an attorney admitted to practice before this Court, does

hereby certify pursuant to C.P.L.R. §3012-a:

1. I have reviewed the facts of the case and consulted with a physician who is licenced to practice medicine and are knowledgeable in the issues relevant in this action.

2. On the basis of those consultations, it is my belief that there is a reasonable basis for commencement of this action.

3. Prior to commencing this action, I reviewed the facts with Dr. Michael Stone. His resume is attached.

4. After reviewing the facts with Dr. Stone and based upon his finding of merit, this action was commenced.

5. Based upon the foregoing, I certify pursuant to C.P.L.R. §3012-a that this action has merit.

Dated: New York, New York
June 1, 2005



Thomas D. Shanahan
SHANAHAN & ASSOCIATES, P.C.
545 Fifth Avenue, Suite 1205
New York, New York 10017
(212) 867-1100

CERTIFICATION

Index No.

Filed:

VERIFICATION

Bridget Marks on her behalf of that of her minor children, has read the foregoing Verified Complaint and knows the content of same to be true subject to penalty of perjury. Those allegations proceeded by Upon Information and Belief, she believes to be true.

Dated: New York, New York
June 1, 2005

Bridget Marks

SUPREME

NEW YORK

BRIDGET MARKS, individually and as the custodial parent of Amber AYLSWORTH and
SCARLET AYLSWORTH,

Plaintiff,

- against -

DR. STEPHEN BATES BILLYCK

Defendant

SUMMONS, VERIFIED COMPLAINT AND CERTIFICATION
SHANAHAN & ASSOCIATES, P.C.

Attorney(s) for

Office and Post Office Address, Telephone

545 Fifth Avenue, Suite 1205
NEW YORK, NEW YORK 10014
PHONE (212) 867-1100
FAX (212) 972-1787

To

Signature (Rule 130-1.1-a)

Print name beneath

Service of a copy of the within is hereby admitted.

Attorney(s) for

Dated: _____

PLEASE TAKE NOTICE

NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on _____ at _____ M.

of which the within is a true copy
one of the judges of the

Dated,

Yours, etc.

SHANAHAN & ASSOCIATES, P.C.