

The Star-Ledger

Custody fight breaks ground, will take place in civil court

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BY MARGARET McHUGH
Star-Ledger Staff

Already embroiled in a nasty custody battle, a retired multimillionaire developer is now suing his former Canadian common-law wife for turning their children against him.

Moses Segal is taking Cynthia Lynch to civil court, accusing her of damaging his relationship with their 9-year-old son and 12-year-old daughter by keeping them away from him and disparaging him. He named the children as plaintiffs with him against their mother.

The move is seen as a first in New Jersey -- an issue normally handled in Family Court will be litigated in civil court.

"We're hoping to set some precedent to building a higher deterrent to parental alienation," said attorney Steven Resnick, who filed the Oct. 26 lawsuit in Superior Court in Morristown

Since September 2006, Moses, 67, and Lynch, 49, have been in Family Court, where fights over custody and parenting are normally handled, and allegations of parental alienation are commonplace.

But Segal believes Lynch should have to pay for her actions, and he knows she has money: In 2005, a Canadian court ordered him to pay her more than \$10 million in child and spousal support, court records showed. Segal sold two properties in Canada to satisfy that order, Resnick said.

"We think a jury should have it, and let a community decide what is acceptable behavior," Resnick said.

"It's certainly a novel approach," said Denville attorney Patricia Barbarito, a former chair of the New Jersey State Bar Association's Family Law Section. "It will have to work its way through the court system and through appeals."

Lynn Fontaine Newsome, Lynch's attorney, said there is no legal basis for his claim. "It's inconceivable to me that there's any merit to this," Newsome said.

When they met in 1994, Segal was a divorced father of four and Lynch was an attorney. They lived in the Bahamas before moving to Toronto in 1996, and then separated in 2001. Though they never wed, their relationship amounted to a common-law marriage in Ontario, Resnick said.

Segal moved to the United States in 2003; Lynch claims he did so to avoid paying court-ordered support. A 2005 trial ended with the Superior Court of Ontario awarding her an \$11.1 million judgment (estimated at \$10.3 million in U.S. dollars), according to court records. Segal returned to Toronto.

Segal claims Lynch cut him off from contact with the children, and told lies to turn them against him -- including telling them Segal hired a hitman to kill her, according to family court records. Lynch left Toronto with the children in June 2006, and Segal hired a private investigator who tracked them to Long Hill Township, where she had enrolled the children in school using her last name, according to Segal.

Lynch claims she fled at the urging of police, who told her they had received a tip Segal hired somebody to kill her, family court records showed. "Police came and said there was a hit on her. Anybody would take that seriously. It's a very frightening thing," said Newsome, who is president of the New Jersey State Bar Association.

Segal called the allegation "bogus, inflammatory and outrageous," in court papers. Toronto police closed their investigation in September 2006 for lack of evidence, court records showed.

In an unusual twist, Segal recently fathered twin girls who were conceived through invitro fertilization using an egg donor and a surrogate, court records showed.

Lynch said in court papers the message to their children is he is replacing them, and that a mother is unnecessary. She produced a December 2005 e-mail in which Segal described his plan to have a boy and a girl through invitro fertilization because Lynch was making it difficult for the children to see him.

"The twins are just part of all the absurdity of all this," Newsome said.

Professor Claudette St. Romain of Seton Hall University Law School's Center for Social Justice sees danger in such litigation.

"To allow a parent to sue the other parent for large sums of money could allow for a kind of blackmail where the custodial parent is coerced into making a decision to allow increased visits" even if that is not in the child's best interest, St. Romain said.

Michael Argen, president of the New Jersey Council for Children's Rights, said it would be refreshing for parental alienation cases to be heard by a jury.

"When you present what truly goes on to lay people, I think they can quickly determine, hey, that's just not right. Most of this stuff is common sense."

Margaret McHugh can be reached at mmchugh@starledger.com or (973) 539-7119

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CIVIL DIVISION

MOSES SEGAL, Individually,)
EMILY SEGAL, A Minor by her)
Guardian ad Litem, MOSES)
SEGAL, and WILLIAM SEGAL, a)
Minor by his Guardian ad)
Litem, MOSES SEGAL,)
)
Plaintiffs,)
)
v.)
)
CYNTHIA LYNCH, An Individual,)
)
Defendant.)
)
)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY
Docket No. *MRS-L-3076-07*

Civil Action

**COMPLAINT, JURY DEMAND,
DEMAND FOR DISCOVERY,
DEPOSITION NOTICE, AND
DESIGNATION OF TRIAL
COUNSEL**

Plaintiff Moses Segal (hereinafter "Mr. Segal"), residing at 17 Nottingham Way, Township of Longhill, County of Morris, State of New Jersey, and plaintiffs Emily Segal and William Segal (collectively hereinafter "the children"), both minors by their guardian ad litem Moses Segal, and both residing at 26 Stonehedge Road, Township of Millington, County of Morris, State of New Jersey, by of complaint against defendant, allege and say:

FACTS COMMON TO ALL COUNTS

1. Defendant Cynthia Lynch (hereinafter "defendant") is an individual presently residing at 26 Stonehedge Road in Millington, New Jersey.

2. Mr. Segal and defendant, although never married, cohabitated for over approximately (6) six years in Toronto, Canada.

3. During their relationship, the parties had two children: minor plaintiff Emily Anna Lynch Segal (DOB December 7, 1994), and minor plaintiff William Matthew Lynch Segal (DOB August 6, 1998).

4. The children presently reside with defendant.

5. From the time of their birth, Mr. Segal was a loving, active, and involved father in the children's lives.

6. During his cohabitation with defendant, Mr. Segal fed, diapered, bathed, cared for, and played with the children on an everyday basis.

7. Although Mr. Segal and defendant separated in 2001, Ms. Lynch resided only blocks from where Mr. Segal resided and continued to play an active role in children's lives.

8. In 2003, Mr. Segal relocated from Canada.

9. While Mr. Segal lived in Canada, he enjoyed frequent contact with the children, without defendant's interference.

10. After Mr. Segal moved to the United States, however, defendant refused to establish a schedule of parenting time, and allowed Mr. Segal to have contact with the children only at her convenience, and only by email or telephone.

11. Despite the physical distance and defendant's obstructive efforts, Mr. Segal made consistent efforts to maintain his relationship with the children.

12. Mr. Segal saw the children whenever possible, and kept in frequent contact with the children through telephone calls and e-mail correspondence.

13. From mid-2005 through June of 2006, Mr. Segal began seeing the children approximately every two weeks, which was much more frequently than he had seen them when he first moved to the United States.

14. In June 2006, however, defendant unexpectedly and unjustifiably cut off all contact and communication between Mr. Segal and the children.

15. Defendant changed her phone number, blocked all e-mail between Mr. Segal and the children, did not allow the children to contact Mr. Segal, and moved the children from their home in Toronto, Canada to 183 Winding Way in Stirling, New Jersey.

16. As a result of defendant's conduct, Mr. Segal and the children went more than three months without any contact with each other.

17. Upon information and belief, defendant not only cut off all contact between Mr. Segal and the children, but further alienated the children from Mr. Segal by telling them false and spiteful things about their father.

18. Mr. Segal hired a private investigator and learned that defendant had moved with the children to the Stirling, New Jersey address identified above.

19. Mr. Segal also learned that the children had been enrolled in schools in Stirling, New Jersey under the last name of "Lynch."

20. With this knowledge, Mr. Segal filed a verified complaint and order to show cause in the Superior Court of New Jersey, Chancery 'Division-Family Part, Morris County' in September 2006.

21. Mr. Segal's application sought various injunctive relief as well as a resumption of parental time and contact with the children.

22. As a result of Mr. Segal's application, he was permitted supervised visitation with children beginning in or around October 2006.

23. Once visitation resumed, it became apparent to Mr. Segal that defendant's actions had a negative impact on his relationship with the children.

24. Upon information and belief, defendant continues to tell the children lies about their father, and continues to negatively interfere with their relationship.

25. A court-appointed psychologist has determined that defendant engaged in alienating behavior with the children.

26. Mr. Segal and the children have all suffered tremendous emotional damages as a direct and proximate result of defendant's actions.

COUNT I

MR. SEGAL: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

27. Mr. Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

28. Defendant acted intentionally, recklessly, and with deliberate disregard of the high degree of probability that Mr. Segal would sustain severe emotional distress and damages as a result of her cutting off all contact and communications between the children and Mr. Segal, and taking other actions to further alienate the children from Mr. Segal.

29. Defendant's conduct was so extreme and outrageous as to go beyond all possible bounds of decency.

30. Defendant's conduct was a direct and proximate cause of severe, extreme, and permanent emotional distress and other damages to Mr. Segal.

WHEREFORE Mr. Segal demands judgment against the defendant for compensatory, punitive and other damages, together with interest, costs of suit and such other relief this Court deems appropriate.

COUNT II

MR. SEGAL: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

31. Mr. Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

32. Defendant was negligent in cutting off communications between Mr. Segal and the children, and in taking other actions to further alienate the children from Mr. Segal.

33. As a direct and proximate result of defendant's negligence, Mr. Segal was damaged and made to sustain severe emotional distress and other damages.

WHEREFORE Mr. Segal demands judgment against the defendant for compensatory and other damages, together with interest, costs of suit and such other relief this Court deems equitable.

COUNT III

EMILY SEGAL: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

34. Emily Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

35. Defendant acted intentionally, recklessly, and with deliberate disregard of the high degree of probability that Emily Segal would sustain severe emotional distress and damages as a result of cutting off all contact and communications

between Emily Segal and her father, and taking other actions to further alienate Emily Segal from her father.

36. Defendant's conduct was so extreme and outrageous as to go beyond all possible bounds of decency.

37. Defendant's conduct was a direct and proximate cause of severe, extreme, and permanent emotional distress and other damages to Emily Segal.

WHEREFORE Emily Segal demands judgment against the defendant for compensatory, punitive and other damages, together with interest, costs of suit and such other relief this Court deems appropriate.

COUNT IV

EMILY SEGAL: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

38. Emily Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

39. Defendant was negligent in cutting off communications between Emily Segal and Mr. Segal, and in taking other actions to further alienate Emily Segal from her father.

40. As a direct and proximate result of defendant's negligence, Emily Segal was damaged and made to sustain severe emotional distress and other damages.

WHEREFORE Emily Segal demands judgment against the defendant for compensatory and other damages, together with

interest, costs of suit and such other relief this Court deems equitable.

COUNT V

WILLIAM SEGAL: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

41. William Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

42. Defendant acted intentionally, recklessly, and with deliberate disregard of the high degree of probability that William Segal would sustain severe emotional distress and damages as a result of cutting off all contact and communications between William Segal and his father, and taking other actions to further alienate William Segal from his father.

43. Defendant's conduct was so extreme and outrageous as to go beyond all possible bounds of decency.

44. Defendant's conduct was a direct and proximate cause of severe, extreme, and permanent emotional distress and other damages to William Segal.

WHEREFORE William Segal demands judgment against the defendant for compensatory, punitive and other damages, together with interest, costs of suit and such other relief this Court deems appropriate.

COUNT VI

WILLIAM SEGAL: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

45. William Segal repeats and realleges each and every allegation heretofore plead as if set forth at length herein and makes them a part hereof.

46. Defendant was negligent in cutting off communications between William Segal and Mr. Segal, and in taking other actions to further alienate William Segal from his father.

47. As a direct and proximate result of defendant's negligence, William Segal was damaged and made to sustain severe emotional distress and other damages.

WHEREFORE William Segal demands judgment against the defendant for compensatory and other damages, together with interest, costs of suit and such other relief this Court deems equitable.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues herein.

DEMAND FOR DISCOVERY

Plaintiffs hereby demand answers to Form C Interrogatories with the time prescribed by the New Jersey Court Rules.

DEMAND FOR INSURANCE INFORMATION

Pursuant to R. 4:10-2(b), plaintiffs hereby demand copies of the declaration of pages of any and all insurance agreements

by which any person carrying on an insurance business may be liable to satisfy part of all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

DEPOSITION NOTICE

PLEASE TAKE NOTICE that in accordance with the Rules of Civil Practice and Procedure, testimony will be taken by deposition upon oral argument before a person authorized by the laws of the State of New Jersey to administer oaths on November 28, 2007 at 10 a.m. at the offices of Budd Lerner, P.C., 150 John F. Kennedy Parkway, Short Hills, New Jersey, with respect to any and all matters relevant to the subject matter involved in this action, at which time and place you will please produce the following person whose testimony is to be taken:

CYNTHIA LYNCH

GUARDIAN CERTIFICATION PURSUANT TO RULE 4:26-2(b)(1)

Moses Segal is the natural father of minor-plaintiff, Emily Segal (DOB December 7, 1994). Moses Segal has joint legal custody of his daughter Emily, and a parenting schedule. Moses Segal has no interest in conflict with that of his daughter Emily. Moses Segal consents to serve as the guardian ad litem for his daughter Emily.

Moses Segal is also the natural father of minor-plaintiff, William Segal (DOB August 6, 1998). Moses Segal has joint legal

custody of his son William, and a parenting schedule. Moses Segal has no interest in conflict with that of his son William. Moses Segal consents to serve as the guardian ad litem for his son William.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, plaintiffs designate Steven M. Resnick, Esq. and Christopher R. Paldino, Esq. as co-trial counsel in this matter.

BUDD LARNER, P.C.
Attorneys for Plaintiffs

BY:



STEVEN M. RESNICK, ESQ.

DATED: October 25, 2007

RULE 4:5-1 CERTIFICATION

Steven M. Resnick, Esq., of full age, hereby certifies that:

1. I am an attorney at law in the State of New Jersey and a shareholder in the law firm Budd Lerner, P.C., attorneys for plaintiff in this action.

2. To the best of my knowledge, the matter in controversy is not the subject of any other action pending in any Court or any pending arbitration proceeding. There is, however, a non-jury action involving parenting time and custody between these parties and currently pending in Morris County, Family Part, under Docket No. FD-14-171-07.

3. No other actions or arbitration proceedings are contemplated by this plaintiff relating to this matter.

4. I know of no other parties that should be joined in this action at this time although it is anticipated that the names of various parties will be clarified after discovery.

I certify that the foregoing statements made by me are true. I am aware that if the foregoing statements made by me are willfully false, I am subject to punishment.

BUDD LARNER, P.C.
Attorneys for Plaintiffs

BY: 

STEVEN M. RESNICK, ESQ.

DATED: October 25, 2007
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