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Summarizing recent significant New York appellate cases

For how long may a nonrespondent parent in a child neglect proceeding be subject to the intrusion of local social services agency supervision? The First Department recently condemned a local social services agency's policy and practice of continuing supervision of nonrespondent parents after a dispositional order, even when the nonrespondent parent had not been accused of any wrongdoing and the agency did not any safety concerns for the children. Let's take a look at that opinion and what else has been going on in the New York appellate courts over the last week.

FIRST DEPARTMENT

FAMILY LAW, SUPERVISION OF NONRESPONDENT PARENT

***Matter of L.M. (H.M.)*, 2026 NY Slip Op 05061 (1st Dept Aug. 20, 2026)**

Issue: **Does Family Court Act § 1054 authorize Family Court to place a nonrespondent parent who has not been accused of any wrongdoing in a child neglect proceeding under supervision of a local social services agency at the postdispositional stage of the proceeding?**

Facts: After the Administration for Children's Services filed a proceeding accusing the father of neglect based on his acts of domestic violence against nonrespondent mother in the children's presence, "Family Court issued the temporary order of protection and further ordered that the children be 'temporarily released to the nonrespondent mother under ACS supervision and household monitoring' although the children had not been removed from her care." For the next five months, ACS "caseworkers ma[de] announced and unannounced home visits to [the mother's] apartment. These visits sometimes required the children to be pulled out early from afterschool activities and sports events, or to miss them entirely. ACS also called the children's school and interviewed the children, and on at least one occasion interrupted the children's visit with their maternal grandmother in the hospital, forcing them to rush home to meet with a caseworker who had come to the home without advance notice. Notably, the mother was not accused of wrongdoing or named in ACS's neglect petition. Yet ACS conducted about 10 home visits in the five months preceding fact-finding simply because she reported experiencing domestic violence. These searches entailed a thorough search of the entirety of the home, including the mother's bedroom, the bathroom, the children's bedroom, and the contents of her refrigerator. During this period, ACS never raised any concerns about the mother's compliance with the temporary order of protection, the condition of her home, the care she provided the children, or her ability to protect the children from harm."

When the respondent father eventually consented to a finding of neglect, Family Court, in May 2024, again purported to "'release' the children to the mother under 'ACS supervision and household monitoring' for a period of nine months." The mother advised that she intended to move to Florida with the children, and asked that the supervision period be terminated when she moved. ACS asserted that it would only conduct video visits with the children after that point, and the Court ordered that supervision would be terminated as of February 28, 2025.

"In July 2024, the mother and children moved to Tampa, Florida. Despite ACS's assurances that supervision would be limited to video visits with the children, 10 virtual visits of their Florida home were conducted with limited warning beforehand. These video visits involved the caseworker virtually inspecting the kitchen, living room, bathroom, and children's bedroom, as well as the contents of the refrigerator. The caseworker also required the mother to send a video of the entire apartment, including footage of her own bedroom. Furthermore, the caseworker would often call or text the mother unexpectedly and demand to speak to the children. These unannounced virtual visits with ACS would often interrupt the mother's work day, and the mother reported that the children would be upset for the remainder of the day after speaking with the caseworker. The mother was also instructed to provide the caseworker with the children's medical and educational records, and despite her compliance, ACS still made separate calls to the children's school directly."

ACS did not stop with virtual visits, however. Rather, it "also enlisted Florida law enforcement to conduct inspections on its behalf. The mother alleges, without rebuttal in the record, that this is ACS's pattern for out-of-state families, even for nonrespondents not charged with wrongdoing. In August 2024, marshals were sent to the home of the mother's friend, where the mother and children had stayed in the weeks after they first arrived in Florida, and demanded to see the children and conduct a search of the premises . . . In October 2024, armed sheriffs came unannounced to the children's school, demanding that the children be pulled out of their respective classrooms. The children were then interviewed on school premises in a semipublic space, much to the children's embarrassment and distress . . . Moreover, on December 26, 2024, the day after Christmas, two armed sheriffs came to the mother's home looking for the children. They demanded to enter and inspect the home and announced, in voices loud enough to be overhead, that they were there due to the *mother's* ACS case."

On the day ACS supervision was supposed to expire, the agency moved, by order to show cause, to extend it for three more months because the *father* failed to comply with the required conditions of his neglect finding. ACS admitted in its motion that it had no concerns regarding the mother's care or the children's welfare, but nevertheless sought to extend its supervision over her and the children "*due to the father's failure to comply with the terms of the order of disposition*." Family Court granted a temporary extension of supervision, but ultimately two months later denied ACS's motion, finding that the agency had failed to demonstrate good cause why it should continue to exercise supervision over the nonrespondent mother and the children. ACS appealed.

Holding: The First Department, although noting that the appeal was moot since the supervision orders had expired, nevertheless used this opportunity to condemn ACS's practice of subjecting nonrespondent parents who have not been accused of any wrongdoing to supervision *after* entry of the dispositional order in child neglect proceedings. The court held that although Family Court Act § 1054 "provides that a court may direct a nonrespondent parent to undertake certain actions with respect to the child released into their care to ensure their accessibility for services, appointments, visitation and the like, it is clear, based on the unambiguous language in the statute, that the court may not place a parent who has not been accused of any wrongdoing under ACS supervision at the postdispositional stage of the proceeding."

Importantly, the court noted, "[t]o the extent that ACS argues that Family Court's temporary extension of supervision over the mother's household was reasonable given, among other things, the mother's history of 'failing to report the father's neglect by domestic violence,' we once again find that ACS's policy of pursuing supervision in such cases 'reinforces the coercive control underpinning abusive relationships, turns survivors into suspects, and requires the nonrespondent parent to answer for the respondent parent's abusive behaviors' and that adhering to such a policy would permit ACS to continue surveillance of the mother simply because the child's father committed acts of domestic violence against her. We reject this policy based on its faulty and unlawful premises."

The court explained that "by the time the dispositional order was issued, ACS had already been supervising the mother and children for approximately six months and voiced no concerns about the mother's willingness to enforce the order of protection and take appropriate steps should the father violate the order of protection against him. Nor were concerns voiced about the mother's willingness to make the children available for visits or appointments." Thus, the court held, no basis existed to continue ACS's supervisions of the nonrespondent mother and children after the dispositional order was entered, especially since she was never accused of neglecting the children.

SECOND DEPARTMENT

REAL PROPERTY, UNIFORM PARTITION OF HEIRS PROPERTY ACT

***Flouret v Sagland, LLC*, 2026 NY Slip Op 05009 (2d Dept Aug. 19, 2026)**

Issue: Are a trust and a limited liability company "individuals" within the meaning of RPAPL 993, such that property owned wholly by a trust and a limited liability company may constitute "heirs property" pursuant to the Uniform Partition of Heirs Property Act?

Facts: Two brothers, Stephen and Mark, acquired a property in Suffolk County as tenants in common. They later subdivided the property into three parcels with Stephen owning one, Mark owning one, and them jointly owning the middle parcel as tenants in common. "By deed dated December 11, 2020, Stephen conveyed his 50% interest in the subject property to the defendant, Sagland, LLC, the manager of which happens to be Stephen's daughter. By quitclaim deed dated September 3, 2023, Mark conveyed his 50% interest in the subject property to a trust, namely, the Mark Perlbinder 2023 Irrevocable Trust, the trustee of which is Muffy Flouret. Flouret happens to be the daughter of Mark . . . Thus, as of September 2023, the subject property was wholly owned by a trust and a limited liability company, as tenants in common."

In January 2022, Mark commenced this action against the LLC for partition and sale of the middle parcel. The LLC answered and "asserted affirmative defenses, including, inter alia, that the subject property is heirs property and, as such, is subject to the protections of RPAPL 993 and that Mark failed to comply with the procedural requirements thereunder." After the transfer of Mark's half of the property to the Trust, the Trustee was substituted as the plaintiff, and moved for summary judgment, arguing that "the subject property does not qualify as heirs property within the meaning of RPAPL 993 because the subject property is wholly owned by a trust and a limited liability company. The plaintiff specifically argued that a trust and a limited liability company could not constitute an 'individual,' 'relative,' or 'co-tenant who acquired title from a relative,' as those entities did not have ascendants, descendants, or other relations by blood, marriage, adoption, or law, and such a finding would be in derogation of the spirit of the legislative intent of RPAPL 993." The LLC opposed, arguing that "the subject property satisfied all of the requirements of heirs property promulgated in RPAPL 993 and, thus, the defendant was entitled to the protections provided by the statute. The defendant further contended that the owners of the subject property, a trust and a limited liability company, were created for the benefit of the individuals who had immediately preceded in ownership of the subject property, the brothers, such that they should be treated as individuals covered by the statute."

Supreme Court denied summary judgment, holding that "the subject property is heirs property pursuant to RPAPL 993 and that, as a result, the procedures of RPAPL 993 are applicable."

Holding: The Second Department reversed, holding that "the specific language of the statute makes clear that RPAPL 993 was intended to protect humans from predatory entities seeking to deprive families of their ancestral homes and attempting to take advantage of those families in the hopes of a partition and sale creating a windfall in the entities' favor, necessitating the protections promulgated in the statute. This intention is reflected in the text of the statute itself, in which the Legislature took great care to choose appropriate descriptors such as 'individual,' 'relative,' 'ascendant,' 'descendant,' 'collateral,' and 'persons,' which did not include entities such as trusts and limited liability companies."

The court explained, "RPAPL 993 is a relatively new equitable statute that was enacted by the Legislature in December 2019, which supersedes the general partition statutes for those properties that so qualify as heirs property. RPAPL 993 was passed to protect individuals from predatory entities who purportedly own a fraction of the property and seek to divest those individuals from property they acquired or inherited from family members. Specifically, the statute was meant to shield 'family-held lands from speculators who acquire properties by leveraging minority interests to force a partition sale [and] to allow relatives holding fractional interests to acquire full ownership or receive full value of their interest in legacy real property.'" To qualify as "heirs property," the statute provides that the property must be held as tenants in common and satisfy *all* of the following:

(i) there is no agreement in a record binding all of the co-tenants which governs the partition of the property;

(ii) any of the co-tenants acquired title from a relative, whether living or deceased;

(iii) the property is used for residential or agricultural purposes; and

(iv) any of the following applies:

(A) twenty percent or more of the interests are held by co-tenants who are relatives;

(B) twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased;

(C) twenty percent or more of the co-tenants are relatives of each other; or

(D) any co-tenant who acquired title from a relative resides in the property.

The Court noted, the Legislature defined the terms "relative," "ascendant," "descendant," and "collateral" in terms that can only apply to humans, rather than entities. Although the term "individual" was not statutorily defined, its dictionary definition too led to the conclusion that it could only apply to humans. "Simply put, a trust and a limited liability company are not, by definition, individuals, let alone relatives, ascendants, descendants, collaterals, or "individual[s] otherwise related to another individual by blood, marriage, adoption, or law of this state" (RPAPL 993[2][i]), as is required under RPAPL 993. Trusts and limited liability companies do not have relatives, cannot have children, cannot be married, cannot adopt, and so on. Thus, the defendant's invitation to construe RPAPL 993 as including limited liability companies and trusts as individuals is unpersuasive, as it is plainly unsupported by the language of the statute itself."

Further, the court held that "[t]o the extent that the defendant argues here that the subject property is heirs property because the representatives of the owners are related to each other and were related to Mark and Stephen, this Court finds that contention to be unpersuasive. The fact that the trust and the limited liability company are managed by people related to each other and to the brothers is entirely happenstance. Today, the owners are managed by individuals related to each other and to the brothers, but tomorrow they may not be. To adopt the defendant's argument would leave this Court with an unworkable rule that is too reliant on coincidence." Nor would construing entities to be individuals comport with the Legislature's purpose of protecting against deceptive schemes from predatory real estate speculators. "The brothers employed sophisticated means to transfer, and presumably to protect, their ownership interests in the subject property to a trust and a limited liability company, which, it is respectfully submitted, were not intended by the Legislature to be protected by RPAPL 993. As such, the owners presumably are not susceptible to deceptive schemes employed by predatory real estate speculators. The purpose behind RPAPL 993 was to protect families, who inherited or acquired their interests in property from their relatives, from deceptive schemes employed by predatory real estate speculators, and not to protect, as here, sophisticated entities. The statute's purpose further supports the plaintiff's position that the Legislature did not intend RPAPL 993 to apply to real property that was entirely held by trusts and limited liability companies."

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