

**Supreme Court of the State of New York**  
**Appellate Division: Second Judicial Department**

D12570  
Y/hu

\_\_\_\_\_AD3d\_\_\_\_\_

Argued - September 15, 2006

ANITA R. FLORIO, J.P.  
ROBERT W. SCHMIDT  
GABRIEL M. KRAUSMAN  
ROBERT A. LIFSON, JJ.

2005-11032

DECISION & ORDER

In the Matter of Bruce Serkez, respondent,  
v Rivka Serkez, appellant.

In the Matter of Rivka Serkez, appellant, v  
Bruce Serkez, respondent.

(Docket Nos. V-2992-04, V-2993-04, V-2994-04,  
O-2134-05, O-2213-05)

Mallow, Konstam & Hager, P.C., New York, N.Y. (Abe H. Konstam of counsel), for  
appellant.

Eric Ole Thorsen, New City, N.Y., for respondent.

Lurlyn Winchester, New City, N.Y., Law Guardian for the Child.

In several related visitation and family offense proceedings, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Rockland County (Warren, J.), dated November 3, 2005, as denied that branch of her motion which was to vacate a prior order of the same court entered July 6, 2005.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

Contrary to the appellant's contention, the Family Court properly denied that branch of her motion which sought to vacate its prior order entered July 6, 2005. Assuming that there was

November 14, 2006

Page 1.

MATTER OF SERKEZ v SERKEZ

the appearance of impropriety as alleged by the appellant, she failed to show the existence of any actual impropriety, prejudice, or bias with respect to the aforementioned order (*see* Judiciary Law § 14; *Rochester Community Individual Practice Assn. v Excellus Health Plan*, [Appeal 2] 305 AD2d 1007, 1008; *Matter of Kurz v Justices of Supreme Ct.*, 228 AD2d 74). The order was more than 30 pages long, was based on extensive findings adduced in a hearing that lasted approximately five days, and properly took into consideration the facts and applicable legal principles, including the “best interests of the child,” which is the overriding consideration in a custody determination (*Matter of Tropea v Tropea*, 87 NY2d 727; *see Friederwitzer v Friederwitzer*, 55 NY2d 89).

FLORIO, J.P., SCHMIDT, KRAUSMAN and LIFSON, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer  
Clerk of the Court