

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

D13441  
O/cb

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Submitted - December 7, 2006

STEPHEN G. CRANE, J.P.  
PETER B. SKELOS  
ROBERT A. LIFSON  
MARK C. DILLON, JJ.

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2006-03690

DECISION & ORDER

In the Matter of David Staib, respondent, v  
Christine Staib, appellant.

(Index No. 18493/04)

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Galasso Langione & Botter, LLP, Garden City, N.Y. (Jeffrey L. Catterson of  
counsel), for appellant.

Robert D. Gallo, Sayville, N.Y., Law Guardian for the children.

In a habeas corpus proceeding pursuant to Domestic Relations Law § 70, the mother appeals from an order of the Supreme Court, Suffolk County (Bivona, J.), dated January 26, 2006, which, in effect, granted the petition by, inter alia, providing that the parties shall have joint custody of the subject children and establishing a schedule of visitation.

ORDERED that the order is affirmed, without costs or disbursements.

That part of the order on appeal providing that the parties shall have joint custody of the subject children was based on the appellant's open-court stipulation. The stipulation was not an agreement to agree, and therefore was enforceable, as it contained all material terms (*cf. Matter of Burnett v Student*, 278 AD2d 626; *Sagan v Sagan*, 73 AD2d 509, 510; *Parrinelli v Parrinelli*, 138 Misc 2d 49). The Supreme Court properly resolved the outstanding issues with respect to visitation (*see Mollo v Mollo*, 110 AD2d 686, 687).

January 16, 2007

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The appellant's remaining contentions are without merit.

CRANE, J.P., SKELOS, LIFSON and DILLON, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court