

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

D15010  
W/hu

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Submitted - March 23, 2007

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
ANITA R. FLORIO  
RUTH C. BALKIN, JJ.

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2006-05428

DECISION & ORDER

Kathie A. Gooler, respondent, v Anthony Gooler,  
appellant.

(Index No. 516/05)

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Bloom & Bloom, P.C., New Windsor, N.Y. (Peter E. Bloom of counsel), for  
appellant.

Silver, Forrester, Schisano, Lesser & Dreyer, New Windsor, N.Y. (Barry B. Silver  
and Steven A. Kimmel of counsel), for respondent.

Marsha E. Koretzky, Goshen, N.Y., Law Guardian for the children.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his  
brief, from so much of a judgment of divorce of the Supreme Court, Orange County (Rosenwasser,  
J.), dated April 28, 2006, as, after a nonjury trial, awarded custody of the parties' children to the  
plaintiff.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

Contrary to the father's contention, the Supreme Court considered the totality of the  
circumstances in determining that the best interests of the children would be served by awarding the  
mother sole custody (*see Friederwitzer v Friederwitzer*, 55 NY2d 89, 95; *Grossman v Grossman*,  
5 AD3d 546). Since the Supreme Court's determination has a sound and substantial basis in the  
record, it will not be disturbed (*see Matter of Palm v Palm*, 15 AD3d 405; *Matter of Plate v Plate*,  
264 AD2d 447; *Matter of Kom v Kom*, 167 AD2d 492).

May 8, 2007

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The father's remaining contentions are without merit.

SCHMIDT, J.P., SANTUCCI, FLORIO and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court