

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

D15321
W/gts

_____AD3d_____

Submitted - April 26, 2007

REINALDO E. RIVERA, J.P.
GLORIA GOLDSTEIN
MARK C. DILLON
EDWARD D. CARNI, JJ.

2006-08723

DECISION & ORDER

In the Matter of Gail Beichman-Saul, respondent,
v David A. Loglisci, appellant.

(Docket No. F-18803-05)

David A. Loglisci, Kings Park, N.Y., appellant pro se.

Law Office of Kenneth M. Mollins, P.C., Melville, N.Y. (Richard D. Saul of counsel),
for respondent.

In a support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Simeone, J.), dated August 8, 2006, which denied his objections to an order of the same court (Livrieri, S.M.), dated May 15, 2006, which, after a hearing, inter alia, granted the mother's petition and directed him to pay arrears to the mother in the sum of \$829.50, representing 50% of the costs of child care for the parties' child.

ORDERED that the order dated August 8, 2006, is reversed, on the law, with costs, the father's objections to the order dated May 15, 2006, are sustained, the order dated May 15, 2006, is vacated, and the petition is denied.

Under the terms of a stipulation of settlement entered into between the parties, which was incorporated but not merged into their judgment of divorce, they were obligated to "equally share the cost of child care and . . . mutually agree upon the selection of the child care provider or program for the child." Here, the evidence established that the parties did not "mutually agree" upon a child care provider and thus, the father's obligation to "equally share" in the cost of the provider

May 29, 2007

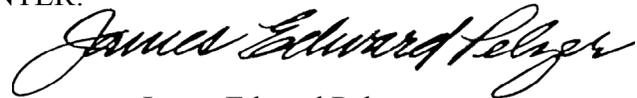
Page 1.

MATTER OF BEICHMAN-SAUL v LOGLISCI

never arose (*see Frydman v Frydman*, 32 AD3d 455, 456-457; *Dierna v Dierna* 11 AD3d 426; *Pollack v Pollack*, 276 AD2d 613, 614; *Matter of Citera v D'Amico*, 251 AD2d 662, 663; *Matter of Levenson v Levenson*, 166 AD2d 592). The father's objections to the child care providers selected by the mother were reasonable (*see Balk v Rosoff*, 280 AD2d 568, 569; *cf. Matter of Susan A. v Louis C.*, 32 AD3d 682, 683; *Cohn v Cohn*, 102 AD2d 859, 860). Accordingly, the Family Court should have sustained the father's objections to the Support Magistrate's order, and denied the mother's petition.

RIVERA, J.P., GOLDSTEIN, DILLON and CARNI, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court