

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

D16879
Y/hu

_____AD3d_____

Argued - October 5, 2007

ROBERT W. SCHMIDT, J.P.
ROBERT A. SPOLZINO
FRED T. SANTUCCI
THOMAS A. DICKERSON, JJ.

2006-06455
2006-07104

DECISION & ORDER

In the Matter of Robert J. Clancy, respondent,
v Erika Paganini, appellant.
(Proceeding No. 1)

In the Matter of Erika Paganini, appellant,
v Robert J. Clancy, et al., respondents.
(Proceeding No. 2)

(Docket Nos. V-5301-05, V-678-05, V-679-05)

Amy L. Colvin, Halesite, N.Y., for appellant.

Myrka A. Gonzalez, Sayville, N.Y., for respondent Robert J. Clancy.

John Schlingheyde, Hicksville, N.Y., Law Guardian for the child.

In related child custody proceedings pursuant to Family Court Act article 6, the mother appeals from (1) so much of an order of the Family Court, Nassau County (Pessala, J.), dated May 31, 2006, as granted the father's motion to dismiss her petition for custody of the subject child on the ground that it failed to state a change of circumstances sufficient to warrant modification of a prior order of the same court dated December 3, 2004, granting custody to the maternal grandmother, dismissed the petition without prejudice, and referred the matter to a referee for a conference on, inter alia, the mother's amended petition, and (2) an order of the same court dated

November 13, 2007

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July 5, 2006, which, upon the mother's default in appearing, dismissed the mother's amended petition with prejudice.

ORDERED that the appeals are dismissed, without costs or disbursements, inter alia, as the orders appealed from were superseded by an order of the same court, dated February 6, 2006, entered on consent of the parties, from which no appeal lies (*see Matter of Mazarakis v Mazarakis*, 39 AD3d 758, 758-759; *Matter of Khan v Dolly*, 302 AD2d 596, 596).

SCHMIDT, J.P., SPOLZINO, SANTUCCI and DICKERSON, 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