

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

D17775  
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Argued - December 7, 2007

FRED T. SANTUCCI, J.P.  
HOWARD MILLER  
ROBERT A. LIFSON  
JOSEPH COVELLO, JJ.

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2006-06512

DECISION & ORDER

In the Matter of Jackson Etienne, appellant,  
v Irmonde Sylvain, respondent.  
(Proceeding No. 1)

In the Matter of Irmonde Sylvain, respondent,  
v Jackson Etienne, appellant.  
(Proceeding No. 2)

(Docket Nos. V-00598-95, V-00599-95,  
V-22726-05, V-22727-05)

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Salvatore C. Adamo, New York, N.Y., for appellant.

Virginia Geiss, Brooklyn, N.Y., for respondent.

Carol Sherman, Brooklyn, N.Y. (Barbara H. Dildine and Judith Munger of counsel),  
Law Guardian for the children.

In two related child custody proceedings pursuant to Family Court Act article 6 and Domestic Relations Law article 5-A (Uniform Child Custody Jurisdiction and Enforcement Act), the father appeals from an order of the Family Court, Kings County (Pearl, J.), dated June 7, 2006, which, after a hearing, denied his petition to modify the parties' judgment of divorce to award him sole legal and physical custody of the parties' children, and granted the mother's petition to modify the parties' judgment of divorce and award her sole legal and physical custody of the parties' children and permit her to relocate with the children to France.

January 29, 2008

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

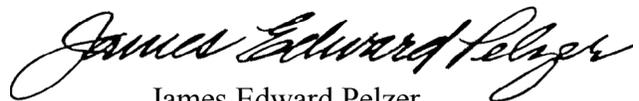
The essential consideration in determining custody is the best interests of the child (*see Eschbach v Eschbach*, 56 NY2d 167, 172; *Friederwitzer v Friederwitzer*, 55 NY2d 89, 94; *Grossman v Grossman*, 5 AD3d 486). “Since the Family Court's custody determination is largely dependent upon an assessment of the credibility of the witnesses and upon the character, temperament, and sincerity of the parents, its determination should not be disturbed unless it lacks a sound and substantial basis in the record” (*Plaza v Plaza*, 305 AD2d 607; *see Louise E.S. v W. Stephen S.*, 64 NY2d 946, 947; *Grossman v Grossman*, 5 AD3d at 486-487).

Here, the Family Court's determination, has a sound and substantial basis in the record. Accordingly, the Family Court's determination to award sole custody of the parties' children to the mother will not be disturbed. Contrary to the father's claim, a review of the court's decision indicates that it gave careful consideration to all of the relevant factors (*see Galanos v Galanos*, 28 AD3d 554, 555).

The Family Court's determination that relocation of the parties' children to France was in the best interests of the children is supported by a sound and substantial basis in the record (*see Matter of Tropea v Tropea*, 87 NY2d 727). The visitation schedule allows for the continuation of a meaningful relationship between the father and the children (*see Matter of Tropea v Tropea*, 87 NY2d 727; *Cooke v Alaimo*, 44 AD3d 655).

SANTUCCI, J.P., MILLER, LIFSON and COVELLO, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court