

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

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Submitted - January 3, 2008

WILLIAM F. MASTRO, J.P.
STEVEN W. FISHER
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2007-05406

DECISION & ORDER

In the Matter of Debra M. Handel, respondent,
v Rudolph C. Handel, appellant. (Proceeding No. 1)

In the Matter of Rudolph C. Handel, appellant,
v Debra M. Handel, respondent. (Proceeding No. 2)

(Docket No. F-3632-05)

Blangiardo & Blangiardo, Cutchogue, N.Y. (Eldridge & Langone, PLLC [Kenneth Gorman] of counsel), for appellant.

Joseph A. Solow, Hauppauge, N.Y., for respondent.

In two related child support proceedings pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Suffolk County (Simeone, J.), dated May 8, 2007, which denied his objections to an order of the same court (Buse, S.M.), dated December 8, 2006, denying, after a hearing, his petition for a downward modification of his child support obligation and awarding the mother child support arrears in the sum of \$9,397.50.

ORDERED that the order is affirmed, with costs.

Pursuant to a stipulation of settlement that was incorporated into but not merged with the parties' judgment of divorce, the father was required to pay the mother, who had sole physical custody of the parties' child, the sum of \$200 per week in child support. The stipulation provided that this obligation would terminate if certain "emancipation events" occurred. One such event would be if the child had a "[p]ermanent residence away from the residence of [the mother]."

February 13, 2008

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Contrary to the father's contention, the evidence at a hearing supports the Support Magistrate's conclusion that the child never had a permanent residence away from the mother's residence (*see Henry v Henry*, 272 AD2d 520, 521). Accordingly, the Family Court properly denied the father's objections to the Support Magistrate's order.

MASTRO, J.P., FISHER, DILLON and McCARTHY, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court