

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

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_____AD3d_____

Argued - February 5, 2009

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
MARK C. DILLON
RANDALL T. ENG, JJ.

2008-06494

DECISION & ORDER

Aaron Rosenberg, respondent, v Nancy A. Rosenberg,
a/k/a Nancy Smith Rosenberg, appellant.

(Index No. 8331/03)

David M. Chidekel, New York, N.Y., for appellant.

Eric Dubinsky, Westbury, N.Y., for respondent.

Daniel P. Moskowitz, Jamaica, N.Y., attorney for the child.

In an action for a divorce and ancillary relief, the mother appeals from an order of the Supreme Court, Queens County (Strauss, J.), entered June 25, 2008, which, in effect, denied her motion for an evidentiary hearing on the issue of interim visitation and directed certain visitation between the father and the parties' minor child.

ORDERED that the order is affirmed, with costs.

Contrary to the mother's contention, a hearing is not necessary where, as here, the court possesses adequate relevant information to enable it to make an informed and provident determination as to the child's best interests (*see Matter of Vanjak v Pesa*, 26 AD3d 512; *Assini v Assini*, 11 AD3d 417, 418; *Matter of Smith v Molody-Smith*, 307 AD2d 364; *Matter of Vangas v Ladas*, 259 AD2d 755; *Webster v Webster*, 163 AD2d 178). The Supreme Court examined the parents over several court appearances and conducted an in camera interview of the child to ascertain her wishes. These actions were sufficient to enable the Supreme Court to make an informed and

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provident determination on the issue of interim visitation (*see Matter of Vangas v Ladas*, 259 AD2d 755). The mother's remaining contentions are proper issues for the retrial on visitation, directed by this Court on the prior appeal (*see Rosenberg v Rosenberg*, 44 AD3d 1022), but do not warrant setting aside the interim schedule of visitation set by the Supreme Court.

The father's request for an award of counsel fees in connection with this appeal is not properly made to this Court.

The father's remaining contention is not properly before this Court.

MASTRO, J.P., SKELOS, DILLON and ENG, 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