

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

D23116
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_____AD3d_____

Submitted - April 3, 2009

ROBERT A. SPOLZINO, J.P.
FRED T. SANTUCCI
ARIEL E. BELEN
PLUMMER E. LOTT, JJ.

2008-10364

DECISION & ORDER

In the Matter of Haitham Awwad, respondent,
v Lori-Ann Awwad, appellant.

(Docket No. F-01836-08)

Larkin, Axelrod, Ingrassia & Tetenbaum, LLP, Newburgh, N.Y. (Azra J. Khan of
counsel), for appellant.

In a support proceeding pursuant to Family Court Act article 4, the mother appeals from an order of the Family Court, Orange County (Klein, J.), dated October 10, 2008, which denied her objections to an order of the same court (Braxton, S.M.), entered August 12, 2008, which, after a hearing, inter alia, granted the father's petition for a downward modification of his child support obligation as set forth in an order of the same court dated August 25, 2006, to the extent of reducing his child support obligation from the sum of \$933 per month to the sum of \$352 per month.

ORDERED that the order dated October 10, 2008, is reversed, on the law, with costs, the objections are sustained, the order entered August 12, 2008, is vacated, the petition is denied, and the order dated August 25, 2006, is reinstated.

The Family Court should have granted the mother's objections to the Support Magistrate's order granting the father's petition for a downward modification of his child support obligation. "A downward modification of a parent's child support obligation may be granted where the parent demonstrates a substantial and unanticipated change in circumstances" (*Matter of Muselevichus v Muselevichus*, 40 AD3d 997, 998). Although the loss of employment can constitute such a change in circumstances, the father failed to present competent proof that, after he lost his job, he made a good-faith effort to obtain new employment commensurate with his qualifications and

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experience (see *Matter of Piernick v Nazinitsky*, 48 AD3d 690; *Matter of Fragola v Alfaro*, 45 AD3d 684; *Matter of Terjesen v Terjesen*, 29 AD3d 705).

SPOLZINO, J.P., SANTUCCI, BELEN and LOTT, JJ., concur.

ENTER:

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

James Edward Pelzer
Clerk of the Court