

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

D24705
C/kmg

_____AD3d_____

Argued - September 24, 2009

A. GAIL PRUDENTI, P.J.
HOWARD MILLER
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2007-03121

DECISION & ORDER

In the Matter of Elizabeth DeMichiel, appellant,
v Stephen DeMichiel, respondent.
(Proceeding No. 1)

In the Matter of Stephen DeMichiel, respondent,
v Elizabeth DeMichiel, appellant.
(Proceeding No. 2)

(Docket Nos. V-6144-06, V-6145-06, V-6146-06,
V-10846-06, V-10847-06, V-10848-06)

Stephen Kolnik, Yonkers, N.Y., for appellant.

Gloria Marchetti-Bruck, Mount Kisco, N.Y., attorney for the children.

In two related child custody proceedings pursuant to Family Court Act article 6, the mother appeals from an order of the Family Court, Westchester County (Duffy, J.), entered March 2, 2007, which, after a hearing, denied her petition for joint custody of the parties' two minor children and granted the father's cross petition for sole custody of the parties' two minor children.

ORDERED the order is affirmed, without costs or disbursements.

In these related custody proceedings, the mother was assigned counsel to represent her at an early stage of the proceedings but, on the second day of the custody hearing, she requested an adjournment to obtain new counsel. When the Family Court denied the mother's untimely request, the mother moved to relieve assigned counsel. The Family Court asked her if she wished to represent

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herself and the mother answered in the affirmative. Assigned counsel was relieved from representing the mother but was appointed as legal advisor to assist her. After the hearing, the Family Court awarded sole legal custody of the parties' two minor children to the father.

On appeal, the mother contends that it was error to continue her assigned counsel as her “legal advisor,” where there was “an admittedly fractured relationship.” However, there is no indication in the record that the mother objected to the retention of her assigned counsel as her legal advisor; nor was she entitled to assigned counsel of her choice (*see Matter of Ashley D.*, 268 AD2d 803).

The mother’s remaining contentions are without merit.

PRUDENTI, P.J., MILLER, CHAMBERS and ROMAN, 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