

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

D25063
W/cb

_____AD3d_____

Submitted - October 16, 2009

JOSEPH COVELLO, J.P.
FRED T. SANTUCCI
CHERYL E. CHAMBERS
PLUMMER E. LOTT, JJ.

2008-11524

DECISION & ORDER

In the Matter of Dawn Forman, appellant, v Eugene
Frost, Jr., respondent.
(Proceeding No. 1)

In the Matter of Eugene Frost, Jr., respondent, v Dawn
Forman, appellant.
(Proceeding No. 2)

(Docket Nos. F-585/08A, F-585/08B)

Mark Diamond, New York, N.Y., for appellant.

Stern & Rindner, Goshen, N.Y (Howard C. Rindner of counsel), for respondent.

In related child support proceedings pursuant to Family Court Act article 4, the mother appeals from an order of the Family Court, Orange County (Woods, J.), entered November 12, 2008, which denied her objections to an order of the same court (Braxton, S.M.) entered September 10, 2008, which, after a hearing, denied her petition for an award of child support arrears, and granted the father's petition to modify his child support obligation as set forth in a judgment of divorce entered April 2, 2003.

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

The mother's contentions regarding her decision to proceed pro se are unpreserved

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for appellate review, as they were not raised in her objections to the Support Magistrate's order (*see Matter of Primus v Mason-Primus*, 63 AD3d 743, 744; *Matter of Corr v Corr*, 3 AD3d 567).

The evidence adduced at the hearing demonstrated that the father's employment was terminated through no fault of his own, and that he diligently made a good-faith effort to obtain employment commensurate with his qualifications and experience. Accordingly, the Family Court properly denied the mother's objections to so much of the Support Magistrate's order as granted the father's petition to modify the child support provision contained in a stipulation of settlement, which was incorporated, but not merged, into the parties' judgment of divorce (*see Matter of DiPaola v DiPaola*, 28 AD3d 480; *Matter of Ketcham v Crawford*, 1 AD3d 359, 361).

The Family Court properly denied the mother's objections to so much of the Support Magistrate's order as denied her petition for an award of child support arrears, as the record supports the Support Magistrate's finding that the mother was not entitled to such an award (*see Matter of Mais v Jarrett*, 5 AD3d 491; *Lemme v Lemme*, 295 AD2d 407; *Matter of Grant v Grant*, 265 AD2d 19, 23).

The mother's remaining contention is without merit.

COVELLO, J.P., SANTUCCI, CHAMBERS and LOTT, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court