

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

D25397
G/prt

_____AD3d_____

Submitted - November 23, 2009

WILLIAM F. MASTRO, J.P.
FRED T. SANTUCCI
ARIEL E. BELEN
CHERYL E. CHAMBERS, JJ.

2009-06347

DECISION & ORDER

In the Matter of Stacey O'Donnell, f/k/a Stacy
Goldenberg, respondent, v Alan Goldenberg,
appellant.

(Docket Nos. V-951-09, V-952-09, V-953-09,
V-954-09)

Reynolds, Caronia, Gianelli, Hagney, LaPinta & Quatela, LLP, Hauppauge, N.Y.
(Dawn L. Hargraves of counsel), for appellant.

In a child custody proceeding pursuant to Family Court Act article 6, the father
appeals, by permission, from an order of the Family Court, Suffolk County (Genchi, J.), dated June
10, 2009, which denied his motion for recusal.

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

Absent a legal disqualification under Judiciary Law § 14, a court is the sole arbiter of
the need for recusal, and its decision is a matter of discretion and personal conscience (*see People
v Moreno*, 70 NY2d 403, 405-406; *Irizarry v State of New York*, 56 AD3d 613, 614; *Matter of Imre
v Johnson*, 54 AD3d 427, 427-428). Here, the father failed to set forth any demonstrable proof of
bias to warrant the conclusion that the court's refusal to recuse itself was an improvident exercise of
discretion (*see Matter of Imre v Johnson*, 54 AD3d at 428; *Schwartzberg v Kingsbridge Hgts. Care
Ctr., Inc.*, 28 AD3d 465, 466; *Anjam v Anjam*, 191 AD2d 531).

MASTRO, J.P., SANTUCCI, BELEN and CHAMBERS, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 15, 2009

MATTER OF O'DONNELL, f/k/a GOLDENBERG v GOLDENBERG