

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

D25533  
C/kmg

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - December 1, 2009

REINALDO E. RIVERA, J.P.  
HOWARD MILLER  
JOHN M. LEVENTHAL  
CHERYL E. CHAMBERS, JJ.

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2008-11340

DECISION & ORDER

In the Matter of Derrick Baker, appellant,  
v Caren Durham, respondent.

(Docket Nos. V-01540-03, V-01541-03)

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Steven P. Forbes, Jamaica, N.Y., for appellant.

Salvatore C. Adamo, New York, N.Y., for respondent.

John C. Macklin, New Hyde Park, N.Y., attorney for the children.

In a child custody proceeding pursuant to Family Court Act article 6, the father appeals from an order of the Family Court, Queens County (Seiden, Ct. Atty. Ref.), dated September 2, 2008, which, after a hearing, denied his petition for a change of custody of the parties' children.

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

“[W]here parents enter into an agreement concerning custody, it will not be set aside unless there is a sufficient change in circumstances since the time of the stipulation and unless the modification of the custody agreement is in the best interests of the child” (*Matter of Lopez v Infante*, 55 AD3d 837, 837-838). The Family Court's determination to deny, after a hearing, the father's petition for a change of custody of the parties' children is supported by a sound and substantial basis in the record (*see Matter of Marriott v Hernandez*, 55 AD3d 613, 613-614; *Matter of Moorehead*

December 22, 2009

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*v Moorehead*, 197 AD2d 517, 519). Accordingly, there is no basis to disturb the Family Court's determination.

RIVERA, J.P., MILLER, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:

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

James Edward Pelzer  
Clerk of the Court