

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

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C/kmb

____AD3d____

Submitted - October 9, 2012

PETER B. SKELOS, J.P.
ANITA R. FLORIO
JOHN M. LEVENTHAL
L. PRISCILLA HALL, JJ.

2011-10243

DECISION & ORDER

In the Matter of Stephen Risi, appellant,
v Alissa Risi, respondent.

(Docket No. C-5419-11)

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

Lisa Lewis, Brooklyn, N.Y., for respondent.

In a conciliation proceeding pursuant to Family Court Act article 9, the husband appeals from an order of the Family Court, Kings County (Hepner, J.), dated October 11, 2011, which, in effect, dismissed the proceeding.

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

The husband filed a petition for conciliation with his wife, pursuant to Family Court Act article 9 (*see* Family Ct Act § 921). However, “[u]nless both spouses consent to the continuation of [such a proceeding, it] terminates ninety days after the filing of the petition” (Family Ct Act § 926).

Here, in the husband’s absence, the Family Court, in effect, dismissed the proceeding more than 90 days after its commencement because the wife did not consent to its continuation. Contrary to the husband’s contention, his due process rights were not violated because the proceeding was so dismissed in his absence (*cf. People v McCune*, 98 AD3d 631, 632).

November 14, 2012

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The husband's remaining contention is without merit.

SKELOS, J.P., FLORIO, LEVENTHAL and HALL, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court