

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1189

CAF 14-00520

PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, VALENTINO, AND WHALEN, JJ.

IN THE MATTER OF ROBERT E. TROMBLEY, JR.,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

KRISTIN S. PAYNE, RESPONDENT-APPELLANT.

IN THE MATTER OF KRISTIN S. PAYNE,
PETITIONER-APPELLANT,

V

ROBERT E. TROMBLEY, JR., RESPONDENT-RESPONDENT.

KELIANN M. ARGY, ORCHARD PARK, FOR RESPONDENT-APPELLANT AND
PETITIONER-APPELLANT.

MICHAEL STEINBERG, ROCHESTER, FOR PETITIONER-RESPONDENT AND
RESPONDENT-RESPONDENT.

FARES A. RUMI, ATTORNEY FOR THE CHILDREN, ROCHESTER.

Appeal from an order of the Family Court, Genesee County (Eric R. Adams, J.), entered March 5, 2014 in proceedings pursuant to Family Court Act article 6. The order, among other things, granted sole custody of the subject children to Robert E. Trombley, Jr.

It is hereby ORDERED that said appeal is unanimously dismissed without costs.

Memorandum: Respondent-petitioner mother appeals from an order that, inter alia, dismissed her cross petition seeking modification of a prior custody order and sole custody of the children. While this appeal was pending, the parties filed additional modification petitions and, after a hearing, Family Court issued an order continuing sole custody of the children with petitioner-respondent father and visitation with the mother. We conclude that this appeal is therefore moot (*see Matter of Smith v Cashaw* [appeal No. 1], 129 AD3d 1551, 1551; *Matter of Morgia v Horning* [appeal No. 1], 119 AD3d 1355, 1355; *Matter of Kirkpatrick v Kirkpatrick*, 117 AD3d 1575, 1576), and the exception to the mootness doctrine does not apply (*see Smith*, 129 AD3d at 1551; *Kirkpatrick*, 117 AD3d at 1576; *see generally Matter*

of Hearst Corp. v Clyne, 50 NY2d 707, 714-715).

Entered: November 13, 2015

Frances E. Cafarell
Clerk of the Court