

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

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CAF 10-02227

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, SCONIERS, AND MARTOCHE, JJ.

IN THE MATTER OF MARGARET HARVEY,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

THOMAS BENEDICT, RESPONDENT-APPELLANT.

D.J. & J.A. CIRANDO, ESQS., SYRACUSE (ELIZABETH deV. MOELLER OF
COUNSEL), FOR RESPONDENT-APPELLANT.

Appeal from an order of the Family Court, Cayuga County (Thomas G. Leone, J.), entered February 2, 2010 in a proceeding pursuant to Family Court Act article 4. The order confirmed the decision and order of the Support Magistrate granting in part the petition seeking a modification of respondent's child support obligation.

It is hereby ORDERED that the order so appealed from is unanimously reversed on the law without costs and the matter is remitted to Family Court, Cayuga County, for further proceedings in accordance with the following Memorandum: Petitioner mother commenced this proceeding seeking an order modifying the child support obligation of respondent father and directing him to contribute toward the payment of college expenses for the parties' daughter. Following a hearing, Family Court granted in part the petition, and the father appealed. Family Court Act § 424-a (a) provides that, "in all child support proceedings . . . , there shall be compulsory financial disclosure by both parties of their respective financial states" Pursuant to that statute, each party must submit a sworn statement of net worth, as well as a recent pay stub, the most recent state and federal tax returns and a copy of his or her W-2 statement. The statute further provides that "[n]o showing of special circumstances shall be required before such disclosure is ordered and such disclosure may not be waived by either party or by the court" (*id.*). Here, neither party submitted a sworn statement of net worth, and the mother failed to submit a recent pay stub or her tax returns. We therefore reverse the order and remit the matter to Family Court for a new hearing on the petition following the parties' compliance with the financial disclosure requirements of section 424-a (a).

Entered: April 1, 2011

Patricia L. Morgan
Clerk of the Court