

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

497

CA 12-01914

PRESENT: SCUDDER, P.J., CENTRA, CARNI, SCONIERS, AND MARTOCHE, JJ.

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JAMES PANZARELLA, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

KAREN PANZARELLA, DEFENDANT-APPELLANT.

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HOGAN WILLIG PLLC, AMHERST (STEVEN G. WISEMAN OF COUNSEL), FOR  
DEFENDANT-APPELLANT.

LAW OFFICE OF RICHARD C. SLISZ, BUFFALO (RICHARD C. SLISZ OF COUNSEL),  
FOR PLAINTIFF-RESPONDENT.

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Appeal from an order of the Supreme Court, Erie County (Donna M. Siwek, J.), entered June 12, 2012. The order granted the cross motion of plaintiff to vacate the provisions of the parties' Stipulation of Settlement providing for child support.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Supreme Court properly granted plaintiff's cross motion seeking to vacate the provisions of the parties' Stipulation of Settlement (stipulation) concerning plaintiff's child support obligations on the ground that the stipulation failed to comply with Domestic Relations Law § 240 (1-b) (h). The stipulation "failed to include recitals stating that the parties were aware that following the [Child Support Standards Act] guidelines would result in the presumptively correct amount of support; . . . failed to set forth the presumptively correct amount of support that would have been fixed pursuant to the guidelines; and . . . failed to articulate the reason the parties chose to deviate from the guidelines. Consequently, [the stipulation] was invalid and unenforceable" (*Warnecke v Warnecke*, 12 AD3d 502, 503-504; see *Bushlow v Bushlow*, 89 AD3d 663, 664; *Jefferson v Jefferson*, 21 AD3d 879, 880-881).

Entered: May 3, 2013

Frances E. Cafarell  
Clerk of the Court