

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

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CAF 12-01784

PRESENT: CENTRA, J.P., FAHEY, LINDLEY, SCONIERS, AND WHALEN, JJ.

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IN THE MATTER OF CHRISTOPHER G. SALO,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

PATRICIA A. SALO, RESPONDENT-RESPONDENT.

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PETER J. DIGIORGIO, JR., UTICA, FOR PETITIONER-APPELLANT.

CARA A. WALDMAN, FAIRPORT, FOR RESPONDENT-RESPONDENT.

PAUL M. DEEP, ATTORNEY FOR THE CHILD, UTICA.

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Appeal from an order of the Family Court, Oneida County (Joan E. Shkane, J.), entered July 30, 2012 in proceedings pursuant to Family Court Act article 6. The order dismissed the petitions for lack of jurisdiction.

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

Memorandum: Petitioner filed two petitions alleging violations of a prior custody order, and a modification petition based on a change in circumstances. Petitioner appeals from an order in which Family Court dismissed the petitions for lack of jurisdiction because a divorce action was pending in Supreme Court. We dismiss the appeal as moot because, while the appeal was pending, the parties and the Attorney for the Child entered into a stipulation modifying their custody and visitation arrangement "in full satisfaction of all petitions." Upon consent of the parties, the court awarded petitioner primary physical custody, with visitation to respondent, and ordered that "all prior orders are hereby vacated." Thus, "because the stipulation resulted in a new order that super[s]eded the order being appealed, this appeal is moot" (*Matter of Mace v Miller*, 93 AD3d 1086, 1086; see *Matter of Justeen T.*, 17 AD3d 1148, 1148).

Entered: March 28, 2014

Frances E. Cafarell  
Clerk of the Court