

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: February 19, 2009

504408

In the Matter of MICHAEL G.
HALL,

Respondent,

v

MEMORANDUM AND ORDER

MOLLY C. SHANNON,

Appellant.

Calendar Date: January 7, 2009

Before: Cardona, P.J., Rose, Kane and Stein, JJ.

Lenore M. Neerbasch, Cortland, for appellant.

Levene, Gouldin & Thompson, L.L.P., Vestal (Jacinta M. Testa of counsel), for respondent.

Feyisitan Gaji, Law Guardian, Binghamton.

Kane, J.

Appeal from an order of the Family Court of Broome County (Connerton, J.), entered January 25, 2008, which granted petitioner's application, in a proceeding pursuant to Family Ct Act article 6, to modify a prior order of custody.

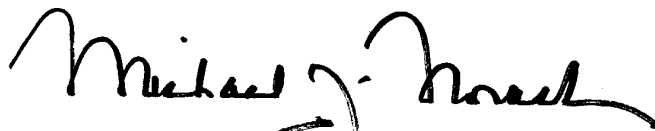
In a March 2007 order, Family Court granted the parties joint legal custody of their son, primary physical placement to respondent and visitation to petitioner. In January 2008, Family Court granted petitioner's modification petition by continuing joint custody, transferring physical placement to petitioner and permitting liberal visitation with respondent as agreed upon by the parties. Respondent appealed. In October 2008, however, the

court entered an order resolving respondent's modification petition upon stipulation of the parties, both of whom were represented by counsel. That order continued joint legal custody and primary physical placement with petitioner, but set out a specific schedule for visitation with respondent. The order stated that it resolved all pending petitions and superceded all prior orders. Under the circumstances, respondent's appeal from the January 2008 order, which was superceded by her stipulation as memorialized in the October 2008 order, is moot (see Matter of Espinosa v Hernandez, 265 AD2d 755, 756-757 [1999]).

Cardona, P.J., Rose and Stein, JJ., concur.

ORDERED that the appeal is dismissed, as moot, without costs.

ENTER:

A handwritten signature in black ink, appearing to read "Michael J. Novack". The signature is fluid and cursive, with a large loop at the end.

Michael J. Novack
Clerk of the Court