

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

Decided and Entered: June 27, 2013

516104

In the Matter of HAROL MATA,
Respondent,

v

CONTESSA L. NEBESNIK,
Appellant.

MEMORANDUM AND ORDER

(And Another Related Proceeding.)

Calendar Date: May 21, 2013

Before: Rose, J.P., Spain, McCarthy and Egan Jr., JJ.

Porter L. Kirkwood, County Attorney, Delhi (D. Jeremy Rase
of counsel), for appellant.

Egan Jr., J.

Appeal from an order of the Family Court of Delaware County
(Becker, J.), entered July 26, 2012, which, among other things,
granted petitioner's application, in a proceeding pursuant to
Family Ct Act article 4, to modify a prior child support order.

Petitioner (hereinafter the father) and respondent
(hereinafter the mother) are the parents of one daughter (born in
2005). Pursuant to a November 2007 order of support, the father
was required to pay \$275 per month in child support and to
provide health insurance for the child through his employment.
The parties thereafter commenced competing modification
proceedings – with the father seeking a downward modification of
his child support obligation based upon his inability to work due
to the severe injuries he suffered in a December 2011 automobile
accident. Both parties subsequently filed sworn financial

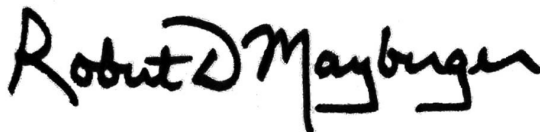
disclosure affidavits without the required paycheck stubs and recent income tax returns (see Family Ct Act § 424-a [a]). Following an April 2012 hearing, a Support Magistrate granted the father's petition, reducing his child support obligation to \$25 per month and ordering that health insurance for the child continue to be provided by the mother's husband. The mother's written objections were denied by Family Court, prompting this appeal.

We affirm. Although Family Court was entitled to deny the father's requested relief based upon his failure to comply with Family Ct Act § 424-a, this Court has approved orders of support in the absence of complete financial disclosure where reliable evidence otherwise has appeared on the face of the record (see Matter of Spoor v Spoor, 276 AD2d 887, 888 [2000]). Here, the father's sworn statement of net worth and testimony, the latter of which was subject to examination by the Support Magistrate and cross-examination by the mother, was sufficient to demonstrate the requisite change in circumstances. Accordingly, we do not find that Family Court abused its discretion in granting the requested modification (compare Matter of Malcolm v Trupiano, 94 AD3d 1380, 1381 [2012]; Matter of Feng Lucy Luo v Yang, 89 AD3d 946, 946-947 [2011], lv denied 18 NY3d 809 [2012]).

Rose, J.P., Spain and McCarthy, JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court