



Staff Memorandum

EXECUTIVE COMMITTEE Agenda Item #8

REQUESTED ACTION: Approval of expansion of Pro Bono Appeals Program to the Fourth Department as recommended by the Committee on Courts of Appellate Jurisdiction.

In 2010, the Executive Committee approved a pilot pro bono appeals program proposed by the Committee on Courts of Appellate Jurisdiction by which committee members represent individuals in pro bono appeals in the Third Department. As set forth in the attached materials, the committee partners with The Legal Project and The Rural Law Center, which provide legal services to low-income individuals, to provide appellate representation in the areas of shelter and housing, subsistence income and benefits, health and education, personal safety, and family stability. The Legal Project and The Rural Law Center review applications to ensure they meet the program criteria, and members of the committee provide the appellate services. Professional liability insurance is provided through The Legal Project and The Rural Law Center.

The committee now proposes to expand its program to the Fourth Department. The program brochure that will be provided in both departments is attached, together with two articles covering the program; an Appellate Division decision in a case for which the program provided counsel; and the application for representation.

The report will be presented at the January 24 meeting by Cynthia Feathers, co-chair of the Committee on Courts of Appellate Jurisdiction.

Appeals Program: The Power of Partnership

The New York State Bar Association's Committee on Courts of Appellate Jurisdiction has created a Pro Bono Appeals Program to help meet the needs of the many litigants who need legal representation in state appellate courts, but cannot afford to hire an appellate attorney and are not eligible for assigned counsel. The Program serves litigants in upstate New York whose income is less than 250% of the Federal Poverty Guidelines.

Representation is provided in selected appeals involving issues in one or more of these categories: shelter and housing, subsistence, income and benefits, health and education, personal safety, and family stability. The Program does not provide representation for criminal issues.

The value and success of the Pro Bono Appeals Program is based on the strength of the partnerships of participating organizations with invaluable expertise.

The NYSBA Committee on Courts of Appellate Jurisdiction provides dedicated, experienced appellate attorneys from throughout the state who select cases, volunteer to handle appeals, and oversee the appellate attorneys from outside the Committee who generously donate their services.

The Rural Law Center of New York and The Legal Project provide pro bono expertise, outreach to the community, extensive administrative support, CLE training, and malpractice insurance.

Many other organizations play a critical role. The Third and Fourth Departments have provided guidance, insight, and support and helped ensure that attorneys are aware of the program. Nonprofit and legal services organizations throughout the Third and Fourth Departments provide local outreach, refer appeals, assist clients in completing applications, and inspire volunteerism by local appellate counsel. Trial attorneys and human services organizations also refer clients to the Program.

Program Criteria

The Committee invites agencies and attorneys to make referrals for representation if a client meets these criteria:

- The client wishes to appeal a trial court order or judgment to the Appellate Division, Third or Fourth Department or having won in the trial court, is responding to an appeal by the losing party.
- The litigation occurred in a county within the Third or Fourth Department (see list in this brochure).
- The applicant's income is less than 250% of Federal Poverty Guidelines.
- The appeal presents an issue in a category listed above.



NYSBA Pro Bono Appeals Program

A Partnership of the New York State Bar Association Committee on Courts of Appellate Jurisdiction, The Rural Law Center of New York, and The Legal Project.



Application and Pre-Screening

- Prospective clients must fill out the Appeals Program application form, available from the website below. The client should fill out the application with the referring attorney or program. A completed application constitutes an agreement for the Appeals Program to contact the prospective client's trial attorney to ask questions about the case. The application forms and conversations concerning the case will be kept confidential and used solely to determine whether to accept the case and to select an appeals attorney. For an application go to www.nysba.org/probonoappeals.

Selection of Appeals

- For the most prompt processing, applications for both Third and Fourth Department appeals should be faxed or emailed to:
(800) 832-9150
info@probonoappealsny.org

For applicants who wish to mail their applications, the following addresses should be used:

For Third Department applications:

Pro Bono Appeals Program
c/o Rural Law Center of New York
90 State Street, Suite 700
Albany, NY 12207

For Fourth Department applications:

Pro Bono Appeals Program
c/o Worker Justice Center of New York
1187 Culver Road
Rochester, NY 14609

- The Program will conduct a pre-screening process, based on income and subject matter criteria. The prospective client may receive a letter stating that representation cannot be provided or may be contacted for further information.
- Cases that meet the threshold criteria will then be referred to the Committee, which will examine cases and determine which ones should be accepted, based on several discretionary factors. These factors include the issues presented, the merits of the appeal, the likelihood that the appeal could establish valuable precedent, the number of appeals currently being handled in the Program, and the number of available volunteer lawyers.

- Preferences will be given to applicants who do not qualify for assigned counsel.
- There is no guarantee that the Committee will select any particular case or that pro bono counsel will be found. Therefore, prospective clients should not forgo efforts to seek other counsel for the appeal.
- Appeals identified as eligible for representation will be described in a case summary sent to the pool of volunteer attorneys. An appeal will be placed with an appropriate attorney, based on experience or interest.
- If a case is accepted and a volunteer attorney is found, the attorney will contact the client directly. The client will be asked to sign a retainer agreement outlining what free legal services will be provided for the appeal and the process that will be followed.

Expenses

Appeals involve expenses for transcripts, copying records and briefs, and filing fees. If the client is able to pay for some or all of these expenses, the retainer agreement will specify the client's responsibility. Otherwise, the volunteer attorney will make an application for free transcripts and a waiver of filing fees in an effort to minimize expenses. If such application is denied, the Program may not be able to handle the appeal.

Counties Covered by the Appeals Program

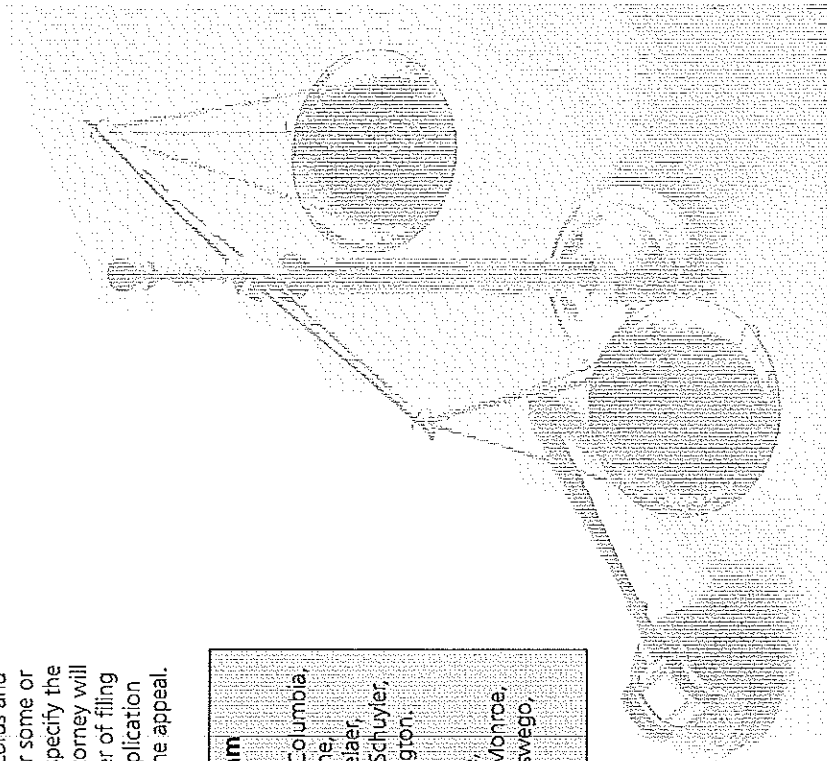
Third Department:

Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington.

Fourth Department:

Allegany, Cattaraugus, Cayuga, Chautauque, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, Wyoming, Yates.

2012-2013 Federal Poverty Guidelines		
Persons in Family	Poverty Guidelines	250% of Poverty Guidelines
One	\$11,170	\$27,925
Two	\$15,130	\$37,825
Three	\$19,090	\$47,725
Four	\$23,050	\$57,625
Five	\$27,010	\$67,525
Six	\$30,970	\$77,425
Seven	\$34,930	\$87,325
Eight	\$38,890	\$97,225



Press-Republican

December 17, 2011

Law Center aids pro bono expansion

REBECCA WEBSTER

Press-Republican

PLATTSBURGH — The Rural Law Center in Plattsburgh is aiding the expansion of a free legal appellate assistance program.

The Law Center has teamed up with the New York State Bar Association's Committee on Courts of Appellate Jurisdiction and the Legal Project in Albany in providing pro bono expertise and assistance for select appeals cases.

The original pilot program, lasting one year, was available to people who lost civil cases and lacked the financial means to appeal.

Cynthia Feathers, co-chair of the Committee on Courts of Appellate Jurisdiction, said the program flourished, so they decided to continue it indefinitely.

"The pilot was a big success in providing free appellate attorneys for family-law appeals, but we realize there are many other (cases) in which people have urgent needs at the appellate level."

FINANCIALLY DIFFICULT

According to a Bar Association press release, the pilot program originally covered family and matrimonial appeals, but the new program covers appeals for a wide array of topics within those sectors, including education, health, housing and public benefits.

"New Yorkers shouldn't be denied representation on appeal solely because they lack the means to pay," said Bar Association President Vincent Doyle III in the release. "The State Bar Association is proud to be a national leader in providing pro bono legal assistance for appellate cases."

Susan Patnode, executive director of the Rural Law Center, said she worked with Feathers for a number of years discussing such problems.

"(Feathers) and I used to talk about how expensive it was for people to have appeals done."

She said it's a financial burden for those who are of modest means but also for the attorneys handling the appeals case, especially those in a rural area.

"Doing an appeal, if you're a solo practitioner, is not a small thing. It takes a lot of time and a lot of resources ... I thought there was quite a need up here."

SHARING RESOURCES

Feathers said the American Bar Association did a survey several years ago that revealed that only two or three states had pro bono appeals assistance.

"We realized we wanted to be in the pioneer (group) that provided free representation. We are a good group of core volunteers."

The release said the cases are screened by a seven-member subcommittee, which then selects a limited number for appeals.

Patnode said that, when the cases are selected, an attorney from a large law firm will usually take it. She said the firms are primarily from New York City and have the ability to put four or five attorneys on one appeal, recognizing that for rural attorneys, doing that would be a challenge.

"This is a ... tremendous sharing program between rural and urban attorneys. It's an opportunity for urban attorneys to connect with rural New York, and it's an opportunity for rural clients to have stellar representation."

Patnode said this type of program has been important to people in rural areas, such as the North Country.

"Many (appeal) cases are not heard because the resources don't go there."

Patnode said the Rural Law Center will continue to work on creating records on appeals, a challenging portion of the process that requires time, resources and a sense of how it should be organized.

"(The Rural Law Center) has been instrumental in creating and expanding this program," Feathers said.

HOPING TO EXPAND

The program is open only to New York's Third Judicial Department, which includes Franklin, Essex and Clinton counties, but Feathers hopes it will expand as the years progress.

"We hope it will be a stepping stone and that the next chapter ... (will be) to expand to other areas of the state."

She said that next year they may expand the program to the state's Fourth Judicial Department, but in the meantime, she knows that each case helped has a far-reaching impact.

"We often find that you're not only helping one person that's taking an appeal, that you're creating a precedent ... that can help many other people."

The income-eligibility cap for assistance is 250 percent of the federal poverty guidelines, meaning, for example, that the income limit for a family of three to apply would be \$46,325.

Applications for the Pro Bono Appeals Program are available at the Bar Association's website.

Email Rebecca Webster at: rwebster@pressrepublican.com

PostStar.com

Winner of the 2009 Pulitzer Prize

Mother's win in court changes laws



JULY 24, 2011 12:30 AM • BY THOMAS DIMOPOULOS—
TDIMOPOULOS@POSTSTAR.COM

In 2008, the court told Becky Bowman that to win her child support case, she would have to go to California.

Bowman had asked for an increase in child support from her ex-husband after their daughter, Kaitlin, was diagnosed with a terminal and degenerative neurological condition.

The court said the law was specific:

Bowman would have to file her petition in California, where her former husband was living.

With her child ailing, Bowman could not fight her case in California. Nor could she afford to appeal the decision to a higher court in the state, which could cost upwards of \$10,000.

But she wasn't giving up.

Three years later, her persistence paid off - and her case has changed state law.

When Becky Bowman separated from her husband in 2007, she relocated from the state of Washington to Saratoga County with her daughter, Kaitlin. The girl's father relocated to California and was ordered to pay \$479 per month in child support.

The amount, which is based on gross pay, should have been higher, Bowman said.

"We needed to increase the child support her father was giving," said Bowman, who petitioned the court after Kaitlin was diagnosed with a form of Batten Disease.

"She has a degenerative, fatal, neurological disease. It only affects children and at 2 to 4 is when it starts," Bowman said of the illness. "Some kids have a life expectancy of 8 to 12 years old. It's kind of like childhood ALS, I believe. It strips everything in the body."

After that diagnosis, she appealed to Saratoga Family Court, before her petition was dismissed.

Bowman said she wasn't seeking an excessive amount of child support, but rather a standard payment amount based on gross wage.

"I tried to do it on my own in 2008, and failed miserably," said Bowman, her 5-year-old daughter seated on her lap and cackling during a glee-filled moment provided by her favorite Dora book.

The court told her she had to bring the petition to California where Kaitlin's father lived, since both parents relocated from the state of Washington, which issued the original order.

In the meantime, Kaitlin was struggling.

Kaitlin, who will celebrate her sixth birthday in early August, has her good days and her bad days, said her mom, who has documented the girl's condition in a blog titled "Kaitlin's Journey."

"Jan. 4: Today was a good day. We went down to Albany Med for a check up with K's doctor ... We did some more blood work. K does really well with this, she is my little princess, she whines a little when they take her blood, but right after, before we get out of the chair, she says: 'Thank you!'

"Jan. 17: Kaitlin had a bad day yesterday with seizures. Two big ones, one with myself and her Auntie and the other in the ambulance when we were on the way to the ER. Poor girl. After a long day we came home and had a quiet night. Visiting the doctor tomorrow to check her out and see if any changes need to be made."

Kaitlin sees a neurologist every three weeks, in addition to a variety of other doctors and specialists.

Her immune system is weakened by the disease, leaving her more open to illness.

After having difficulty swallowing, and seeing her weight drop to nearly 30 pounds, a gastrostomy feeding tube was inserted into her stomach, which helps Kaitlin to ingest the liquids, solids and medications she needs.

"It's financially burdensome to have a disabled child and not have the resources," said Bowman, adding that insurance only pays some of the medical expenses.

Last year, she found couldn't keep up with both her job and with caring for Kaitlin. The job had to go.

Bowman approached Saratoga Springs-based attorney Julie Frances to plead her case. When Frances informed Bowman that family court law was not her specific area of practice, Bowman was not dissuaded.

"She just kept coming back," Frances said. "She wouldn't quit."

While conducting research for the case, Frances came up against roadblocks in New York law.

As Saratoga Family Court had told Bowman, because both parents left Washington, Bowman's attempt to increase child support payments would have to be taken to the state where the girl's father lived, despite the fact that the child lived in Corinth.

"It's absolutely absurd for the court to expect Becky to travel across the country to litigate this," Frances said.

In her research, Frances discovered a case in Massachusetts as well as a federal law that she hoped could be presented that would trump the law in New York.

"The federal statute strives to make it easier for the custodial parent because they are already facing a higher burden financially and otherwise by being the caretaker for the child," Frances said.

There was also the issue of cost. Bowman did not have the financial resources to pursue the action.

"It takes about \$10,000 minimally for an appeal of this degree and that's the reason why I believe a lot of people in Becky's situation - when they are turned down at the lower court level - they don't have the money to go forward, because it is so expensive to appeal," Frances said.

Coincidentally, a new pro bono civil appeals program was initiated through the New York state Bar Association to provide legal representation in state appellate courts for litigants of modest income.

The pilot program was instituted in 28 counties in the state, Saratoga among them.

Bowman's case was reviewed by committee and chosen for counsel.

Attorney Cynthia Feathers, an appellate attorney and an adjunct professor at Albany Law School, argued the case before a mid-level appeals court in Albany.

The court reversed the ruling of the Family Court to allow the child support modification petition to be brought in New York.

As a result, Bowman receives approximately three times the amount monthly previously received, which Frances said is the standard amount of 17 percent of gross wages, minus FICA.

And on Friday, a court order was entered that concluded Bowman was also due retroactive child support payments at the higher amount, dating back to August 2009.

"It helps out with expenses," Bowman said.

Bowman's victory goes far beyond her and Kaitlin.

The decision by the appeals court in Albany has changed state law regarding child support.

No longer will single parents in New York be forced to go to different states to file child support cases, Frances said.

"Now, anybody in Becky Bowman's situation, as a single parent, regardless of the health of the child, will be able to seek and perhaps obtain an increase in child support in the state where the child and the single parent live," she said.

How to help

For more information on Kaitlin and to donate money to help defray her family's expenses, please visit the blog: Coming Together For Kaitlin at <http://www.comingtogetherforkaitlin.blogspot.com/>.

Matter of Cranston v Horton
2012 NY Slip Op 07021 [99 AD3d 1090]
October 18, 2012
Appellate Division, Third Department
Published by <u>New York State Law Reporting Bureau</u> pursuant to Judiciary Law § 431.
As corrected through Wednesday, November 28, 2012

**In the Matter of Theresa C. Cranston, Respondent, v Robert T. Horton,
Appellant. (And Three Other Related Proceedings.)**

—[*1] Larkin, Axelrod, Ingrassia & Tetenbaum, LLP, Newburgh (Dana M. Loiacono of counsel), for appellant.

Pro Bono Appeals Program, Albany (Joshua N. Koplovitz of counsel), for respondent.

Spain, J. Appeal from an order of the Family Court of Ulster County (Mizel, J.), entered August 31, 2011, which, among other things, dismissed respondent's applications, in four proceedings pursuant to Family Ct Act article 4, for modification of a prior child support order.

Petitioner (hereinafter the wife) and respondent (hereinafter the husband) are the divorced parents of four children (born in 1987, 1989, 1991 and 1998). In 2007, the parties executed a detailed property settlement agreement which was incorporated, but not merged, into their subsequent judgment of divorce. In four separate proceedings commenced between January 2009 and January 2010, the parties sought enforcement (wife) and modification (husband) of various terms of the agreement, resulting in a trial before a Support Magistrate, who issued an order in each proceeding to resolve the parties' disputes. Upon objections by the husband to all four orders, Family Court issued an extensive decision whereby, among other things not pertinent to this appeal, it modified the husband's child support obligation based on their eldest son's emancipation and upon the husband's reduced earnings, denied the husband's request for modification of his maintenance obligation and implicitly affirmed the Support Magistrate's determination that each parent be responsible for 33% of each child's net college expenses. With respect to the wife's

allegation—in her second petition—that the husband was in willful violation [*2] of his child support obligations, the court reserved decision pending an updated report from the support collection unit, further submissions and argument of counsel. Without waiting for a final decision on willfulness, the husband now appeals, and we affirm.

The husband asserts on appeal that Family Court erred in declining to modify his "support obligations" without making any clear distinction in his argument between his child support and his maintenance obligations. Significantly, Family Court did modify the husband's child support obligation^[FN1] and, inasmuch as he now makes no specific challenge to the calculation of that reduced amount, we find no reason to disturb that finding (*see Matter of Flanigan v Smyth*, 90 AD3d 1107, 1108 [2011]; *Matter of Phelps v La Point*, 284 AD2d 605, 609 n 5 [2001]).

We also decline to interfere with Family Court's decision to deny the husband's request for a reduction in his maintenance obligation. Where, as here, the parties' settlement agreement was incorporated into the judgment of divorce, no modification as to maintenance shall be made without a showing of extreme hardship (*see Domestic Relations Law* § 236 [B] [9] [b] [1]; *Morrissey v Morrissey*, 61 AD3d 1089, 1090-1091 [2009]). While the husband alleged a change in circumstances through proof that he had been terminated from his employment as an airplane mechanic, the record establishes that the husband did obtain temporary employment and he failed to submit any evidence of his monthly expenses. Under these circumstances, his proof fell short of establishing extreme hardship warranting a change in his maintenance obligation (*see Morrissey v Morrissey*, 61 AD3d at 1091; *Haydock v Haydock*, 237 AD2d 748, 750 [1997]).

Finally, the husband challenges the Support Magistrate's determination, affirmed by Family Court, that each party contribute 33% towards the reasonable educational expenses of their unemancipated children.^[FN2] Specifically, the husband argues that this obligation is in contravention of the parties' settlement agreement and that it fails to take into account his reduced earnings. The agreement provided that each party "shall assist with the children's reasonable college educational expenses according to their relative means and abilities at the time of attendance." Contrary to the husband's suggestion, the equal contribution level fixed by Family Court does not conflict with this provision. Indeed, even at the reduced adjusted gross income level that Family Court allocated to the husband (\$63,000, reduced from \$98,314.70 reflected in the agreement), the husband's income still far exceeds the wife's

(fixed in the agreement at \$23,554.64). Thus, the husband is in no position to claim an injustice based upon [*3]equal contributions by the parties to their children's educational expenses. The husband also asserts that his contribution fails to account for the fact that he is paying a student loan for Robert in the amount of \$18,500 and that he cosigned other loans with Robert of approximately \$30,000. The parties, however, expressly and separately considered student loans in the agreement where they provided that "as long as Robert is in college, the husband will co-sign the necessary loans for him to attend." Thus, we find no credence to the husband's contention that Family Court impermissibly rewrote the parties' agreement in affirming the Support Magistrate's determination regarding educational expenses. Although the husband also claims credits against his educational support obligation for education-related expenses for which he already allegedly paid, he failed to specifically raise these issues in his petition or in his objections to Family Court's order. As these issues were not addressed by the Support Magistrate or Family Court, we will not entertain them on appeal (*see Severing v Severing*, 97 AD3d 956, 957 [2012]; *Matter of Christiani v Rhody*, 90 AD3d 1090, 1091 [2011], *lv denied* 18 NY3d 809 [2012]).

Peters, P.J., Rose, McCarthy and Egan Jr., JJ., concur. Ordered that the order is affirmed, without costs.

Footnotes

Footnote 1: After eliminating the husband's child support obligation with respect to his emancipated son, Family Court also reduced the husband's adjusted gross income based on evidence that his employment had changed, resulting in a reduced monthly child support obligation and proportionate share of health care costs to \$1,757.97, a significant change from the \$2,550.12 reflected in the parties' settlement agreement.

Footnote 2: Contrary to the wife's argument, we find that this argument is properly before us. Family Court specifically referenced each petition in its order and the husband's notice of appeal states that he "appeals from each and every part" of Family Court's order.

Matter of Monaco v Armer
2012 NY Slip Op 02353 [93 AD3d 1089]
March 29, 2012
Appellate Division, Third Department
Published by <u>New York State Law Reporting Bureau</u> pursuant to Judiciary Law § 431.
As corrected through Wednesday, April 25, 2012

In the Matter of Suzanne R. Monaco, Respondent, v Leonard M. Armer, Appellant.

—[*1] Susan J. Civic, Saratoga Springs, for appellant.

Pro Bono Appeals Program, Albany (Alan J. Pierce of counsel), for respondent.

David P. Dylis, Ballston Spa, attorney for the child.

Stein, J. Appeal from an order of the Family Court of Saratoga County (Abramson, J.), entered September 27, 2010, which, among other things, granted petitioner's application, in a proceeding pursuant to Family Ct Act article 6, to modify a prior order of custody.

Petitioner (hereinafter the mother) commenced the instant proceeding against respondent (hereinafter the father) in December 2008, seeking modification of a prior order of custody to obtain sole custody of the parties' child (born 1999). After six days of trial which took place over the course of almost eight months, the parties stipulated that, among other things, the mother would continue to have sole custody of the child in accordance with the temporary custody order in place at the time, and the father would have specified visitation, which was less restrictive than his prior visitation. This stipulation was placed on the record in open court in the presence of the parties' respective counsel and the attorney for the child. Although no order was entered at that time, the parties began to abide by the terms of the stipulation. One month later, the father sought to vacate the stipulation alleging, among other things, that he was not fully apprised of its import and permanency. The parties again appeared in Family Court, whereupon the father's counsel was relieved of his

assignment to represent the father and the matter was adjourned to provide the father with an opportunity to consult with another attorney. In the [*2]meantime, Family Court temporarily stayed the terms of the stipulation insofar as it related to visitation. Thereafter, the court denied the father's request to vacate the stipulation and an order was entered, setting forth the terms of the stipulation. The father now appeals, and we affirm.

We disagree with the father's contention that the stipulation should have been vacated pursuant to CPLR 5015. Stipulations made in open court by parties represented by counsel will not be disturbed in the absence of good cause such as fraud, collusion, mistake or duress (*see McCoy v Feinman*, 99 NY2d 295, 302 [2002]; *Zurenda v Zurenda*, 85 AD3d 1283, 1284 [2011]), and the decision whether to grant a motion pursuant to CPLR 5015 (a) rests in the trial court's sound discretion (*see VanZandt v VanZandt*, 88 AD3d 1232, 1233 [2011]; *Solomon v Solomon*, 27 AD3d 988, 989 [2006]). Here, the record evinces that, before entering into the stipulation in open court in the presence of their attorneys, the parties had prior settlement discussions in chambers and the father's counsel intended to place on the record the agreement that had been reached as a result of those discussions. Family Court gave the father's counsel opportunities to review his notes and ensure that all aspects of the agreement were recited. The record further reflects that the mother actively participated in the recitation of the stipulation in response to the father's requests, and that the father made no objections to the stipulation as it was being placed on the record. In addition, when the proposed order was submitted to the court in accordance with the stipulation, the father's only objection related to visitation on Mother's Day, which interfered with his regular visitation day, and the court modified the order accordingly.

To the extent that the father asserts that he mistakenly believed that the stipulation was only temporary, such assertion is not supported by the record. In any event, such a unilateral mistake, without more, would not suffice to set aside the stipulation (*see Vermilyea v Vermilyea*, 224 AD2d 759, 761 [1996]). Based upon the father's failure to meet his burden of demonstrating good cause to vacate the parties' stipulation, we discern no abuse of Family Court's discretion in denying his request for such relief and in entering an order setting forth the terms of the stipulation.

The father's remaining contentions, to the extent that they are properly before us, have been considered and are found to be without merit.

Mercure, A.P.J., Lahtinen, Spain and McCarthy, JJ., concur. Ordered that the order is affirmed, without costs.

NEW YORK STATE BAR ASSOCIATION

PRO BONO APPEALS PROGRAM

A Collaboration of the New York State Bar Association
Committee on Courts of Appellate Jurisdiction,
The Legal Project, and the Rural Law Center of New York

Please fax, mail or email this completed form to:

Third Department applications:
Pro Bono Appeals Program
c/o Rural Law Center of New York
90 State Street, Suite 700
Albany, NY 12207
Fax (800) 832-9150
info@probonoappealsny.org

Fourth Department applications:
Pro Bono Appeals Program
c/o Worker Justice Center of New York
1187 Culver Road
Rochester, NY 14609
Fax (800) 832-9150
info@probonoappealsny.org

This form must be filled out jointly by the prospective client and the trial attorney or nonprofit program referring this case to the Appeals Program.

Appellants must file a notice of appeal prior to submitting this application.

REFERRAL SOURCE INFORMATION

Name of Referring Trial Attorney or Referring Nonprofit Program _____

Address _____

Telephone _____ Email _____

APPLICANT INFORMATION

Name _____

Address _____

County _____

Telephone (Home/Cell) _____ (Work) _____

Email _____ Monthly Income From All Sources _____

STATUS OF ASSIGNED COUNSEL APPLICATION

☐ Pending ☐ Denied ☐ Approved ☐ None submitted

CASE INFORMATION (Please check all that apply.)

Type of case:

☐ Custody/Visitation

☐ Divorce

☐ Family Offense

☐ Paternity

☐ Termination of Parental Rights

☐ Education

☐ Health

☐ Housing

☐ Public Benefits

☐ Unemployment Insurance

☐ Other—Specify:

Does this case involve domestic violence? ☐ Yes ☐ No

Is there a domestic violence advocate involved on your behalf? ☐ Yes ☐ No

If yes, please note name of advocate and program and a phone number:

To be filled out by the referring attorney or program:

Describe the legal issue(s) that you believe could be raised on appeal, the grounds for reversal or modification to be advanced and why they have merit. If the respondent seeks representation, why is affirmance important? Please explain why this appeal should be considered for pro bono representation:

PLEASE PROVIDE THE FOLLOWING INFORMATION:

(1) The title of the underlying action and the date of commencement:

(2) The full names and addresses of the original parties:

Appellant:

Phone _____ Fax _____

Appellant's Trial Counsel:

Phone _____ Fax _____

Respondent:

Phone _____ Fax _____

Respondent's Trial Counsel:

Phone _____ Fax _____

(3) Any change in the parties:

(4) The court, judge, and county from which the appeal is taken:

(5) Index or Docket number: _____

(6) Specific nature of the underlying action or proceeding:

(7) Whether there is another pending appeal or pending related action or proceeding:

Yes ☐ No ☐

If yes, please describe:

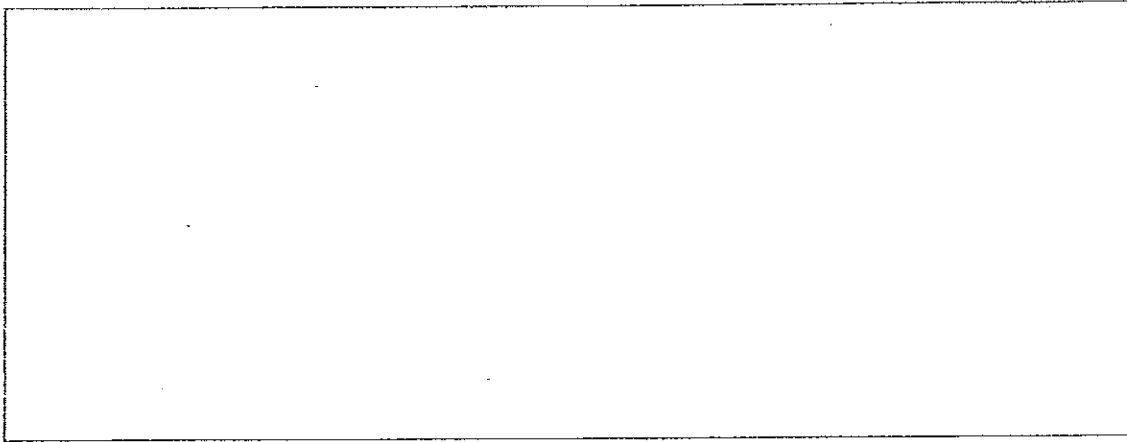
(8) If you are employed, your employer's name and address and position, and if you are a student, your school and who pays your tuition.

(9) If you are employed, what is your gross weekly salary? _____

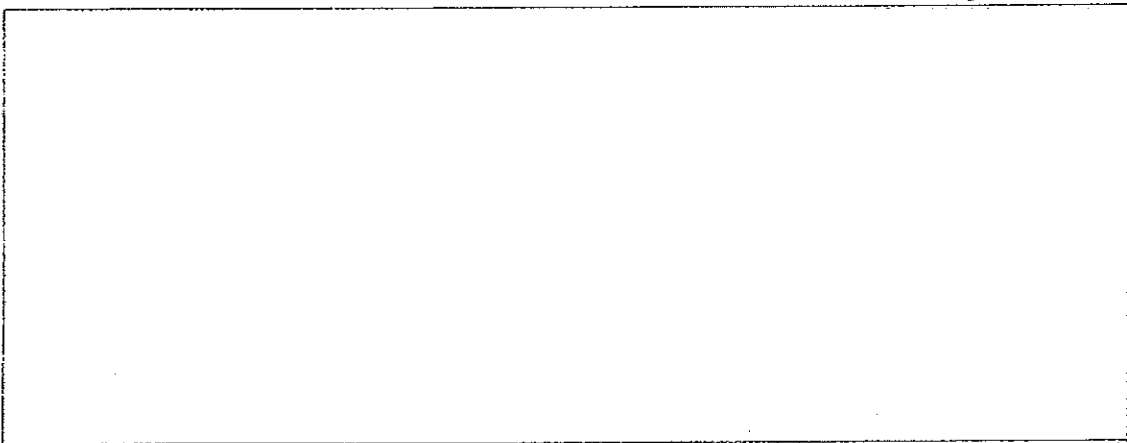
(10) If you are married and your spouse is employed, what is his/her gross weekly salary? _____

(11) List other sources of income.

(12) List assets, including a home, car, checking and savings accounts, including those jointly held, stocks, and bonds.



(13) List monthly expenses, including rent or mortgage, food, utilities, car, insurance, and loan repayment.



Date

Applicant's Signature

Applicant's Printed Name

THE FOLLOWING DOCUMENTS MUST BE ATTACHED TO THIS APPLICATION:

- ✓ NOTICE OF APPEAL AND PRE-CALENDAR STATEMENT, IF ANY
- ✓ ORDER OR DECISION BEING APPEALED
- ✓ APPELLANT'S BRIEF IF YOU ARE RESPONDENT AND THE BRIEF HAS BEEN FILED