

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D23841
G/kmg

_____AD3d_____

Argued - June 3, 2009

REINALDO E. RIVERA, J.P.
MARK C. DILLON
RUTH C. BALKIN
LEONARD B. AUSTIN, JJ.

2007-07954

DECISION & ORDER

Marilyn C. Y. (Anonymous), appellant, v Mark N.
Y. (Anonymous), et al., respondents.

(Index No. 915/06)

Philip Sands, Garden City, N.Y., for appellant.

James P. Joseph & Associates, P.C., Garden City, N.Y. (David W. Teeter of counsel),
for respondent Mark N.Y.

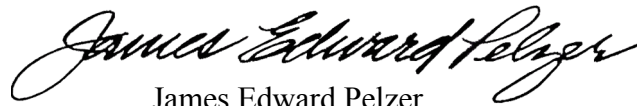
In a consolidated action for a divorce and ancillary relief, and proceeding to establish paternity pursuant to Family Court Act article 5, the mother appeals, as limited by her brief, from so much of an order of the Supreme Court, Suffolk County (Bivona, J.), dated June 27, 2007, as denied that branch of her cross motion which was to limit the court's consideration of the in camera interview with the subject children, held December 21, 2006, to factual matter that transpired prior to consolidation of the action and proceeding.

ORDERED that the appeal is dismissed, with costs.

The appeal must be dismissed because it concerns an evidentiary ruling which, even when "made in advance of trial on motion papers . . . is neither appealable as of right nor by permission" (*Cotgreave v Public Adm'r of Imperial County* [Cal.], 91 AD2d 600, 601; see *Barnes v Paulin*, 52 AD3d 754).

RIVERA, J.P., DILLON, BALKIN and AUSTIN, JJ., concur.

ENTER:


James Edward Pelzer

July 14, 2009

Y. (ANONYMOUS) v Y. (ANONYMOUS)

Clerk of the Court

July 14, 2009

Y. (ANONYMOUS) v Y. (ANONYMOUS)