

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

1548

CAF 08-02189

PRESENT: HURLBUTT, J.P., SMITH, CENTRA, GREEN, AND PINE, JJ.

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IN THE MATTER OF FRANCES ADNEY,  
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

HERBERT J. MORTON, III, RESPONDENT-RESPONDENT.

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ELIZABETH CIAMBRONE, BUFFALO, FOR PETITIONER-APPELLANT.

WILLIAM D. BRODERICK, JR., ELMA, FOR RESPONDENT-RESPONDENT.

CHRISTOPHER J. BRECHTEL, LAW GUARDIAN, BUFFALO, FOR GOLDIE M.

MARY E. GIALLANZA, LAW GUARDIAN, BUFFALO, FOR HERBERT M., IV.

DAVID S. KELLY, LAW GUARDIAN, KENMORE, FOR MATTHEW M.

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Appeal from an order of the Family Court, Erie County (Sharon M. LoVallo, J.), entered September 12, 2008 in a proceeding pursuant to Domestic Relations Law article 5-A. The order granted the petition for enforcement of an order of custody and visitation.

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

Memorandum: This appeal by petitioner mother from an order entered upon her stipulation in open court must be dismissed. "No appeal lies from an order entered upon the parties' consent" (*Matter of Cherilyn P.*, 192 AD2d 1084, lv denied 82 NY2d 652; see *Matter of Desmond S.*, 285 AD2d 994, lv dismissed 97 NY2d 693).

Entered: December 30, 2009

Patricia L. Morgan  
Clerk of the Court