

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

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CAF 21-01569

PRESENT: SMITH, J.P., LINDLEY, CURRAN, BANNISTER, AND MONTOUR, JJ.

IN THE MATTER OF JOHN B. BRYANT AND BARBARA A.
BRYANT, PETITIONERS-RESPONDENTS,

V

MEMORANDUM AND ORDER

TALIA O. KEPLER AND COREY J. KEPLER,
RESPONDENTS-APPELLANTS.

KAMAN BERLOVE LLP, ROCHESTER (GARY MULDOON OF COUNSEL), FOR
RESPONDENTS-APPELLANTS.

MICHAEL D. SCHMITT, ROCHESTER, FOR PETITIONERS-RESPONDENTS.

MAUREEN N. POLEN, ROCHESTER, ATTORNEY FOR THE CHILD.

Appeal from an order of the Family Court, Monroe County (Dandrea L. Ruhlmann, J.), entered October 14, 2021 in a proceeding pursuant to Domestic Relations Law article 5-a. The order, inter alia, determined that Florida is the home state of the subject child.

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

Memorandum: Respondents appeal from an order that, inter alia, granted petitioners' application seeking to register a child custody determination entered by a court in Florida and also determined that New York lacks jurisdiction over the parties' custody dispute because Florida is the subject child's home state (see Domestic Relations Law § 76 [1]).

We conclude that the appeal must be dismissed because it was not taken from an order of disposition and, therefore, is not appealable as of right (see Family Ct Act § 1112; see generally *Matter of Cheyenne C. [James M.]*, 185 AD3d 1517, 1518 [4th Dept 2020], lv denied 35 NY3d 917 [2020]; *Matter of James L.* [appeal No. 2], 74 AD3d 1775, 1775 [4th Dept 2010]). Specifically, the order on appeal expressly reserves to respondents the right to renew their request for a hearing pursuant to Domestic Relations Law § 77-d challenging petitioners' application to register the order entered in Florida. Consequently, the order is not dispositional—i.e., final (see *Ocasio v Ocasio*, 49 AD2d 801, 801 [4th Dept 1975], appeal dismissed 37 NY2d 921 [1975])—inasmuch as it “did not dispose of all the factual and legal issues raised in this action” (*Abasciano v Dandrea*, 83 AD3d 1542, 1544 [4th Dept 2011] [internal quotation marks omitted]; see *Town of*

Coeymans v Malphrus, 252 AD2d 874, 875 [3d Dept 1998]).

Entered: February 10, 2023

Ann Dillon Flynn
Clerk of the Court