

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

D12639  
O/mv

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - October 10, 2006

THOMAS A. ADAMS, J.P.  
REINALDO E. RIVERA  
PETER B. SKELOS  
ROBERT A. LIFSON, JJ.

2004-08580

DECISION & ORDER

Salim Sheikh, appellant, v Amina Basheer, defendant;  
David Scott, nonparty-respondent.

(Index No. 25884/04)

Salim Sheikh, New York, N.Y., appellant pro se.

David Scott, New York, N.Y. (David S. Cook of counsel), nonparty-respondent pro se.

In an action for a divorce and ancillary relief, the plaintiff appeals, as limited by his brief, from so much an order of the Supreme Court, Queens County (Strauss, J.), dated September 28, 2004, as directed that the escrowee of an account established pursuant to the divorce proceeding remit the sum of \$50,000 to the defendant's counsel as and for an attorney's fee.

ORDERED that the order is reversed insofar as appealed from, on the law, with costs, and the matter is remitted to the Supreme Court, Queens County, for a hearing and determination on the issue of a reasonable attorney's fee due to the defendant's counsel.

The Supreme Court erred in awarding the defendant an attorney's fee without first conducting an evidentiary hearing. Under the circumstances of this case, an evidentiary hearing was necessary to explore in a meaningful way the value and time of the claimed services of counsel (*see Rienzi v Rienzi*, 23 AD3d 447; *Nee v Nee*, 240 AD2d 478, 479-480; *Maroney v Maroney*, 208 AD2d 915, 916; *Petritis v Petritis*, 131 AD2d 651, 653). Accordingly, we remit the matter to the Supreme Court, Queens County, for a hearing and determination on this issue.

November 21, 2006

Page 1.

SHEIKH v BASHEER

ADAMS, J.P., RIVERA, SKELOS and LIFSON, JJ., concur.

---

2004-08580

DECISION & ORDER ON MOTION

Salim Sheikh, appellant, v Amina Basheer, defendant;  
David Scott, nonparty-respondent.

(Index No. 25884/04)

---

Motion by the nonparty-respondent on an appeal from an order of the Supreme Court, Queens County, dated September 28, 2004, to strike pages 2 through 7 and 12 through 120 of the record on appeal. By decision and order on motion of this court dated June 28, 2006, the motion was held in abeyance and referred to the Justices hearing the appeal for a determination upon the argument or submission of the appeal.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, and upon submission of the appeal, it is

ORDERED that the motion is denied.

ADAMS, J.P., RIVERA, SKELOS and LIFSON, JJ., concur.

ENTER:

  
James Edward Pelzer  
Clerk of the Court