

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

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Argued - October 16, 2006

HOWARD MILLER, J.P.
ROBERT W. SCHMIDT
GLORIA GOLDSTEIN
PETER B. SKELOS, JJ.

2005-06570

DECISION & ORDER

Diane Furey, appellant, v Lester Wallman, et al.,
respondents.

(Index No. 12472/97)

Jeffrey Levitt, Amityville, N.Y., for appellant.

McDonough Marcus Cohn Tretter Heller & Kanca, LLP, New Rochelle, N.Y. (Randy
J. Heller of counsel), for respondents.

In an action to recover damages for legal malpractice, the plaintiff appeals from an order of the Supreme Court, Queens County (Schulman, J.), dated May 19, 2005, which granted the defendants' motion for summary judgment dismissing the complaint and denied her cross motion for summary judgment on the issue of liability.

ORDERED that the order is modified, on the law, by deleting the provision thereof granting that branch of the defendants' motion which was for summary judgment dismissing the legal malpractice cause of action insofar as it relates to the issue of the computation of the basic child support obligation pursuant to the Child Support Standards Act and substituting therefor a provision denying that branch of the motion; as so modified, the order is affirmed, without costs or disbursements.

The defendants failed to make a prima facie showing that the plaintiff would be unable to prove the elements of the legal malpractice cause of action insofar as it relates to the issue of the computation of the basic child support obligation pursuant to the Child Support Standards Act.

December 5, 2006

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The plaintiff's remaining contentions are without merit.

MILLER, J.P., SCHMIDT, GOLDSTEIN and SKELOS, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court