

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

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Submitted - October 25, 2006

ROBERT W. SCHMIDT, J.P.
REINALDO E. RIVERA
PETER B. SKELOS
ROBERT J. LUNN, JJ.

2006-03389

DECISION & ORDER

Maria Porco, plaintiff, v John A. Porco,
respondent; Jack Economou, nonparty-appellant.

(Index No. 4865/04)

Jack Economou, Poughkeepsie, N.Y., nonparty-appellant pro se.

Gerard J. Pisanelli, Poughkeepsie, N.Y., for respondent.

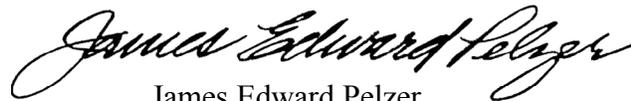
In an action for a divorce and ancillary relief, the plaintiff's attorney, Jack Economou, appeals from an order of the Supreme Court, Dutchess County (Pagones, J.), dated March 13, 2006, which denied his motion for an award of an attorney's fee in the sum of \$4,540 to be paid by the defendant.

ORDERED that the order is affirmed, without costs or disbursements.

The Supreme Court providently exercised its discretion in denying the appellant's motion for an award of an attorney's fee in connection with his pro bono assignment. Given the defendant's child support and marital obligations, the defendant lacks the ability to pay the plaintiff's attorney's fee (*see Popelaski v Popelaski*, 22 AD3d 735, 738; *Pontorno v Pontorno*, 172 AD2d 734).

SCHMIDT, J.P., RIVERA, SKELOS and LUNN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

December 12, 2006

PORCO v PORCO