

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

D14046
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_____AD3d_____

Submitted - January 18, 2007

A. GAIL PRUDENTI, P.J.
GABRIEL M. KRAUSMAN
MARK C. DILLON
WILLIAM E. McCARTHY, JJ.

2005-11646

DECISION & ORDER

Alexander Rabinovich, appellant, v Oksana
Shevchenko, respondent.

(Index No. 21182/04)

Richard A. Kraslow, P.C., Melville, N.Y., for appellant.

Hoffman Polland & Furman, PLLC, New York, N.Y. (Shira R. Weinstein of counsel),
for respondent.

In an action for divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Suffolk County (Rebolini, J.), dated November 1, 2005, as amended by an order dated November 17, 2005, which granted the defendant's motion for pendente lite relief.

ORDERED that the order, as amended, is affirmed, with costs.

To resolve a prior Family Court spousal support proceeding, the parties entered into a stipulation of settlement, which provided a specific schedule whereby the plaintiff was to provide support to the defendant. By its terms, the stipulation of settlement terminated upon the earlier of either November 30, 2005, or the effective date of any order of the Supreme Court or Family Court modifying its terms. The plaintiff subsequently commenced this action against the defendant, *inter alia*, for a divorce.

Contrary to the plaintiff's contention, the stipulation of settlement did not preclude the Supreme Court from granting the defendant's motion for pendente lite relief (*see Mercer v Mercer*, 4 AD3d 508, 510). In any event, we note that the plaintiff's pendente lite obligations set forth in the

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order appealed from, as amended, began on December 1, 2005, when the stipulation of settlement was no longer in effect. Accordingly, the Supreme Court properly granted the defendant's motion for pendente lite relief.

PRUDENTI, P.J., KRAUSMAN, DILLON and McCARTHY, 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