

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

D14200  
G/cb

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

Argued - December 1, 2006

ROBERT W. SCHMIDT, J.P.  
FRED T. SANTUCCI  
ROBERT A. LIFSON  
JOSEPH COVELLO, JJ.

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2006-00252

DECISION & ORDER

Marni Jo Tannenbaum, respondent, v Mark  
Tannenbaum, appellant.

(Index No. 028257/99)

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Mark Tannenbaum, Island Park, N.Y., appellant pro se.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Woodard, J.), dated December 16, 2005, as denied those branches of his motion which were to hold the plaintiff in contempt for failing to comply with certain provisions of the parties' stipulation of settlement dated June 3, 2005, in effect, to enforce the parties' stipulation of settlement, to direct that the plaintiff pay the defendant's attorney's fees, and to appoint a guardian ad litem for the plaintiff.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The Supreme Court properly denied those branches of the defendant's motion which were to hold the plaintiff in contempt for failing to comply with certain provisions of the parties' stipulation of settlement dated June 3, 2005, because no order or judgment entered upon the stipulation of settlement (hereinafter the stipulation) existed at the time the defendant's motion was interposed (*see* Judiciary Law § 753; Domestic Relations Law § 245; *Rienzi v Rienzi*, 23 AD3d 447; *Raphael v Raphael*, 20 AD3d 463; *Ottomanelli v Ottomanelli*, 17 AD3d 647).

The issues in the action having been settled by the stipulation dated June 3, 2005, which remains controlling, there was no basis for the appointment of a guardian ad litem for the plaintiff (*see* CPLR 1201).

April 10, 2007

Page 1.

TANNENBAUM v TANNENBAUM

The defendant's remaining contentions are without merit.

SCHMIDT, J.P., SANTUCCI, LIFSON and COVELLO, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, looping initial "J".

James Edward Pelzer  
Clerk of the Court