

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

D15484  
Y/cb

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

Submitted - May 3, 2007

ROBERT A. SPOLZINO, J.P.  
PETER B. SKELOS  
MARK C. DILLON  
WILLIAM E. McCARTHY, JJ.

---

2006-02772

DECISION & ORDER

Charles Monticello, respondent, v Shelly Brown,  
defendant; Philip S. Milone, nonparty-appellant.

(Index No. 13917/01)

---

Philip S. Milone, Kew Gardens, N.Y. (Martin M. Howfield of counsel), nonparty-appellant pro se.

Elisabeth A. Vreeburg, Kew Gardens, N.Y., for respondent.

In an action, inter alia, for child custody, the Law Guardian appeals, as limited by his brief, from so much of an order and judgment (one paper) of the Supreme Court, Queens County (Satterfield, J.), dated December 20, 2005, as, in effect, denied, without a hearing, that branch of his motion which was to direct the father to pay the balance of a fee due and owing to him.

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

Under the circumstances of this case, the Supreme Court's determination regarding the apportionment of the Law Guardian's fee was proper (*see Matter of Plovnick v Klinger*, 10 AD3d 84; *Matter of Dept. of Social Servs. v Wolfson*, 228 AD2d 594).

SPOLZINO, J.P., SKELOS, DILLON and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court

June 12, 2007

MONTICELLO v BROWN