

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

D16697
C/kmg

_____AD3d_____

Submitted - September 14, 2007

ROBERT W. SCHMIDT, J.P.
FRED T. SANTUCCI
ANITA R. FLORIO
MARK C. DILLON, JJ.

2006-05312

DECISION & ORDER

Mary K. Henning, respondent, v
Robert A. Ritz, appellant.

(Index No. 14027/97)

Harold, Salant, Strassfield & Spielberg, White Plains, N.Y. (Timothy A. Green of counsel) for appellant.

Mary K. Henning, Brewster, Massachusetts, respondent pro se.

In a matrimonial action in which the parties were divorced by judgment entered January 11, 1999, the defendant appeals, as limited by his brief, from so much of an order of the Supreme Court, Westchester County (Giacomo, J.), entered April 25, 2006, as directed a hearing on his application for an award of counsel fees.

ORDERED that the appeal is dismissed, with costs.

An order directing a hearing to aid in the determination of a motion does not dispose of the motion and does not affect a substantial right, and therefore is not appealable as of right (*see* CPLR 5701[a][2][v]; *Kornblum v Kornblum*, 34 AD3d 749; *Berliner v Berliner*, 294 AD2d 524). Any party aggrieved by an order entered subsequent to the hearing may take an appeal from that order (*see Berliner v Berliner*, 294 AD2d at 525). Since leave to appeal has not been granted, we dismiss the appeal.

SCHMIDT, J.P., SANTUCCI, FLORIO and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 30, 2007

HENNING v RITZ