

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

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____AD3d____

Submitted - October 9, 2007

HOWARD MILLER, J.P.
DAVID S. RITTER
JOSEPH COVELLO
WILLIAM E. McCARTHY, JJ.

2006-06011

DECISION & ORDER

Michelle Calciano, respondent, v Frank A.
Calciano, appellant.

(Index No. 6722/04)

Behrins & Behrins, P.C., Staten Island, N.Y. (Jonathan Behrins of counsel), for
appellant.

Michelle Calciano, Holbrook, N.Y., respondent pro se.

In an action for a divorce and ancillary relief, the defendant appeals, as limited by his
brief, from so much of a judgment of the Supreme Court, Suffolk County (Kent, J.), entered May 3,
2006, as, upon a decision of the same court dated February 28, 2006, following a nonjury trial,
awarded the plaintiff \$175,000, representing one-half of the previously-satisfied mortgage on the
marital residence, and imputed an annual income to him of \$90,000 for the purpose of its child
support calculation.

ORDERED that the judgment is affirmed insofar as appealed from, with costs.

The court providently exercised its discretion in awarding the wife one-half of the
value of the satisfied mortgage on the marital residence based upon the wife's contributions as a
spouse and homemaker (*see* Domestic Relations Law § 236[B][5][d][6]; *see also* *Levine v Levine*,
37 AD3d 550, 553; *Varga v Varga*, 288 AD2d 210, 211). Furthermore, for purposes of its child
support calculation, the court providently exercised its discretion in imputing \$90,000 a year in
income to the husband based upon his past income and earning potential (*see* *Rand v Rand*, 29 AD3d
976, 976; *French v French*, 260 AD2d 428, 429).

MILLER, J.P., RITTER, COVELLO and McCARTHY, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 7, 2007

CALCIANO v CALCIANO