

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

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_____AD3d_____

Submitted - October 17, 2007

REINALDO E. RIVERA, J.P.
GABRIEL M. KRAUSMAN
ANITA R. FLORIO
EDWARD D. CARNI
RUTH C. BALKIN, JJ.

2007-00836

DECISION & ORDER

Janet Faello, respondent, v Patrick Faello,
appellant.

(Index No. 3221/05)

Miller, Apfel & Curran PLLC, Hauppauge, N.Y. (James P. Curran of counsel), for
appellant.

Del Vecchio & Recine, LLP, Garden City, N.Y. (Phyllis Recine of counsel), for
respondent.

In an action for a divorce and ancillary relief, the defendant former husband appeals
from an order of the Supreme Court, Suffolk County (Cohen, J.), dated December 26, 2006, which
granted the plaintiff former wife's application for an attorney's fee in the sum of \$20,000.

ORDERED that the appeal is dismissed, with costs.

No appeal as of right lies from an order which does not decide a motion made upon
notice (*see* CPLR 5701[a][2]; *Nicolini v Carvel Corp.*, 142 AD2d 633). Even if we were inclined
to grant leave to appeal (*see* CPLR 5701[c]), we would be unable to properly determine the appeal
since the record on appeal does not contain all the relevant exhibits, transcripts, and motions that
were before the Supreme Court (*see* CPLR 5526; 22 NYCRR 670.10.2).

RIVERA, J.P., KRAUSMAN, FLORIO, CARNI and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 20, 2007

FAELLO v FAELLO