

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

D18218
Y/kmg

_____AD3d_____

Submitted - January 7, 2008

REINALDO E. RIVERA, J.P.
FRED T. SANTUCCI
JOSEPH COVELLO
RUTH C. BALKIN, JJ.

2004-07251
2005-03422

DECISION & ORDER

Teri Sayegh, appellant, v
Isaac Sayegh, respondent.

(Index No. 34917/89)

Saul Fellus, Brooklyn, N.Y., for appellant.

Esther A. Macner, New York, N.Y., for respondent.

In a matrimonial action in which the parties were divorced by judgment dated December 1, 1992, the plaintiff appeals from (1) stated portions of an order of the Supreme Court, Kings County (Marks, J.H.O.), dated June 16, 2004, which, inter alia, after a hearing, directed the defendant to pay child support arrears on a schedule rather than in a lump sum and awarded her an attorney's fee of only \$7,000, and (2) an order of the same court entered October 19, 2004, which denied her motion for leave to renew and reargue.

ORDERED that the order dated June 16, 2004, is affirmed insofar as appealed from; and it is further,

ORDERED that the appeal from so much of the order entered October 19, 2004, as denied that branch of the plaintiff's motion which was for leave to reargue is dismissed, as no appeal lies from an order denying reargument; and it is further,

ORDERED that the order entered October 19, 2004, is affirmed insofar as reviewed; and it is further,

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ORDERED that one bill of costs is awarded to the defendant.

The plaintiff was properly awarded an attorney's fee in the sum of \$7,000 pursuant to a stipulation of settlement, incorporated into but not merged with the parties' judgment of divorce, which provided that an attorney's fee would be awarded in the event of a breach of the stipulation (see *Mirkin v Mirkin*, 43 AD3d 1115; *Matter of Shannon v Patterson*, 38 AD3d 519; *Arato v Arato*, 15 AD3d 511, 512; *Sieratzki v Sieratzki*, 8 AD3d 552; *Matter of Tito v Tito*, 276 AD2d 559; *Matter of Curiel v Curiel*, 262 AD2d 639; *Swift v Swift*, 260 AD2d 466).

The plaintiff's remaining contentions are without merit.

RIVERA, J.P., SANTUCCI, COVELLO and BALKIN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court