

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

D18347
C/kmg

_____AD3d_____

Submitted - February 11, 2008

ROBERT A. SPOLZINO, J.P.
ANITA R. FLORIO
DANIEL D. ANGIOLILLO
THOMAS A. DICKERSON, JJ.

2007-03972

DECISION & ORDER

In the Matter of Franklin Klein, respondent,
v Trisha Klein-Annis, appellant.

(Docket No. F-17429/04)

Annette G. Hasapidis, South Salem, N.Y., for appellant.

Goldschmidt & Genovese LLP, White Plains, N.Y. (Donna M. Genovese of counsel),
for respondent.

In a child support proceeding pursuant to Family Court Act article 4, the mother appeals, as limited by her brief, from so much of an order of the Family Court, Westchester County (Edlitz, J.), entered March 30, 2007, as denied her objection to an order of the same court (Cabanillas Thompson, S.M.), dated May 29, 2006, which, after a hearing, granted her motion for an award of an attorney's fee in the sum of \$39,239.70 and disbursements of \$577.20 only to the extent of awarding her an attorney's fee in the sum of \$4,500.

ORDERED that the order entered March 30, 2007, is modified, on the facts and in the exercise of discretion, by deleting the provision thereof denying the mother's objection and substituting therefor a provision sustaining the mother's objection to the extent of modifying the order dated May 29, 2006, by increasing the attorney's fee award to the sum of \$10,000, and awarding disbursements in the sum of \$577.20, and otherwise denying the mother's objection; as so modified, the order entered March 30, 2007, is affirmed insofar as appealed from, with costs to the mother.

Under the facts of this case, the Family Court improvidently exercised its discretion in denying the mother's objection to an order of the Support Magistrate awarding her an attorney's

March 11, 2008

Page 1.

MATTER OF KLEIN v KLEIN-ANNIS

fee in the sum of only \$4,500. Upon consideration, inter alia, of the detailed invoices itemizing the legal services rendered by the mother's attorney in successfully defending against the father's application for a downward modification of his child support obligation, as well as the legal services provided in connection with the mother's fee application, an award of an attorney's fee in the sum of \$10,000 and disbursements in the sum of \$577.20 is warranted (*see* Family Ct Act § 438; *O'Shea v O'Shea*, 93 NY2d 187; *DeCabrera v Cabrera-Rosete*, 70 NY2d 879; *Wolfert v Wolfert*, 35 AD3d 870, 871; *Giliya v Warren*, 30 AD3d 420; *Musarra v Musarra*, 28 AD3d 668).

SPOLZINO, J.P., FLORIO, ANGIOLILLO and DICKERSON, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court