

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

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_____AD3d_____

Submitted - February 5, 2008

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
ANITA R. FLORIO
EDWARD D. CARNI, JJ.

2007-02887

DECISION & ORDER

In the Matter of Andrzej Tercjak, respondent,
v Jadwiga Tercjak, appellant; Peter C. Lomtevas,
nonparty-appellant.

(Docket No. V-09027-05)

Peter C. Lomtevas, Ozone Park, N.Y., nonparty-appellant pro se, and for appellant.

Alomar & Associates, P.C., Ridgewood, N.Y. (Karina E. Alomar of counsel), for respondent.

Lewis S. Calderon, Jamaica, N.Y., Law Guardian for the children.

In a child custody proceeding pursuant to Family Court Act article 6, the mother and her attorney, Peter C. Lomtevas, appeal from an order of the Family Court, Queens County (McGowan, J.), dated March 16, 2007, which granted the father's cross motion to impose sanctions and costs upon Peter C. Lomtevas, granted that branch of the Law Guardian's separate motion which was to impose sanctions upon him, and directed Peter C. Lomtevas to pay the sum of \$2,000 to the Lawyers' Fund for Client Protection pursuant to 22 NYCRR 130-1.3, and to pay the sum of \$3,500 to the father's counsel.

ORDERED that the appeal by the mother is dismissed, as she is not aggrieved by the order (*see* CPLR 5511); and it is further,

ORDERED that the order is affirmed on the appeal by Peter C. Lomtevas; and it is further,

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ORDERED that one bill of costs is payable by the appellant Peter C. Lomtevas to the respondents.

The Family Court providently exercised its discretion in imposing sanctions and costs upon counsel for the mother, Peter C. Lomtevas, for making frivolous motions to impose sanctions and costs upon the Law Guardian and the father's counsel. The record supports the Family Court's determination that the motions were completely without merit in law or fact, and were made primarily to harass or maliciously injure another (*see* 22 NYCRR 130-1.1[c][1]; *Greene v Doral Conference Ctr. Assoc.*, 18 AD3d 429, 431; *Kucker v Kaminsky & Rich*, 7 AD3d 491, 492; *Tyree Bros. Envtl. Servs. v Ferguson Propeller*, 247 AD2d 376, 377). In support of the motions, Lomtevas submitted, inter alia, affidavits from a doctor that are rife with unfounded, gratuitously offensive, and utterly unacceptable attacks upon counsel for the father, the Law Guardian, and the Family Court (*see Matter of Winston*, 243 AD2d 638; *Matter of Jemzura v Mugglin*, 207 AD2d 645).

LIFSON, J.P., RITTER, FLORIO and CARNI, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court