

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

D19475  
X/prt

\_\_\_\_\_AD3d\_\_\_\_\_

Submitted - May 8, 2008

REINALDO E. RIVERA, J.P.  
ROBERT A. SPOLZINO  
THOMAS A. DICKERSON  
RANDALL T. ENG, JJ.

2007-11465

DECISION & ORDER

In the Matter of Maureen Spratt, respondent,  
v Brett D. Fontana, appellant.

(Docket No. F-12234-06)

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Sari M. Friedman, P.C., Garden City, N.Y. (Jonathan H. Shim of counsel), for appellant.

Lawrence A. Weinreich, Jericho, N.Y., for respondent.

In a child support proceeding pursuant to Family Court Act article 4, the father appeals from an order of the Family Court, Nassau County (Marks, J.), dated November 7, 2007, which denied his objections to an order of the same court (Kahlon, S.M.), dated August 8, 2007, which, after a hearing, granted the mother's petition for an upward modification of his child support obligation as set forth in a judgment of divorce, from the monthly sum of \$1,325 to the monthly sum of \$2,129.

ORDERED that the order dated November 7, 2007, is affirmed, with costs.

The Family Court providently exercised its discretion in applying the statutory percentage of 29% (*see* Family Ct Act § 413[1][b][3][iii]) to the portion of the parents' combined income which exceeded \$80,000 (*see* Family Ct Act § 413[1][c][1], [2], [3]; *Matter of Cassano v Cassano*, 85 NY2d 649, 655; *Levy v Levy*, 39 AD3d 487, 488; *Lachman v LeJemtel*, 19 AD3d 421, 421-422; *Mellen v Mellen*, 260 AD2d 609, 610). The Family Court sufficiently articulated the reasons for applying the statutory percentage to the combined income over \$80,000 and its determination indicates that it carefully considered the parties' circumstances and the children's

May 27, 2008

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needs (see *Matter of Cassano v Cassano*, 85 NY2d at 655; *Anderson v Anderson*, \_\_\_\_\_AD3d \_\_\_\_\_, 2008 NY Slip Op 02945 [2d Dept 2008]; *Bains v Bains*, 308 AD2d 557, 559; *Mellen v Mellen*, 260 AD2d at 610).

The father's remaining contentions are without merit.

RIVERA, J.P., SPOLZINO, DICKERSON and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer  
Clerk of the Court