

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

D21106  
G/kmg

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Submitted - October 3, 2008

WILLIAM F. MASTRO, J.P.  
PETER B. SKELOS  
RUTH C. BALKIN  
ARIEL E. BELEN, JJ.

2007-06637

DECISION & ORDER

David Ferdinand, appellant, v  
Paulette Ferdinand, respondent.

(Index No. 22938/02)

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Paul K. Siepmann, Patchogue, N.Y., for appellant.

In a matrimonial action in which the parties were divorced by judgment entered April 28, 2006, the plaintiff appeals, as limited by his brief, from so much of an order of the Supreme Court, Suffolk County (McNulty, J.), entered July 13, 2007, as denied those branches of his cross motion and his motion which were to hold the defendant in contempt for violating the parties' stipulation of settlement and to transfer the matter to Justice Hudson.

ORDERED that the order is affirmed insofar as appealed from, without costs or disbursements.

The Supreme Court did not err in declining to transfer this matter to Justice Hudson, who no longer sits in the matrimonial part and was evidently unable to hear the matter at the appropriate time (*see* CPLR 2221[a]; *see e.g. Sparks v Essex Homes of WNY, Inc.*, 20 AD3d 905; *Friends of Keuka Lake v DeMay*, 206 AD2d 850).

The Supreme Court properly denied, without a hearing, those branches of the plaintiff's cross motion and motion which were to hold the defendant in contempt for violating the parties' stipulation of settlement (*see McCain v Dinkins*, 84 NY2d 216, 226; *Goldsmith v Goldsmith*, 261 AD2d 576; *Quantum Heating Servs. v Austern*, 100 AD2d 843).

November 18, 2008

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The plaintiff's remaining contention regarding recusal is not properly before this Court.

MASTRO, J.P., SKELOS, BALKIN and BELEN, 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