

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

D23170
T/hu

_____AD3d_____

Argued - March 27, 2009

WILLIAM F. MASTRO, J.P.
PETER B. SKELOS
FRED T. SANTUCCI
L. PRISCILLA HALL, JJ.

2007-07017

DECISION & ORDER

Margarita Walter, appellant, v John Walter,
respondent.

(Index No. 17328/01)

Peter Dailey, New York, N.Y., for appellant.

Sweeney, Cohn, Stahl, Spector & Frank, White Plains, N.Y. (Julius W. Cohn of
counsel), for respondent.

Gregory Salant, White Plains, N.Y., attorney for the children.

In a matrimonial action in which the parties were divorced by judgment entered May 6, 2005, the plaintiff appeals, as limited by her brief, from stated portions of an order of the Supreme Court, Westchester County (Martin, J.), dated June 25, 2007, which, inter alia, reserved decision on that branch of her motion which was for restoration of her parenting time, and denied those branches of her motion which were to disqualify the attorney for the children, and for recusal.

ORDERED that the appeal from so much of the order as reserved decision on that branch of her motion which was for restoration of her parenting time is dismissed, as that branch of the motion remains pending and undecided (*see Katz v Katz*, 68 AD2d 536); and it is further,

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

May 12, 2009

WALTER v WALTER

Page 1.

The plaintiff failed to show that the attorney for the children had a conflict of interest which precluded his representation of them (*see Matter of T'Chala D.*, 3 AD3d 569; *cf. Galanos v Galanos*, 20 AD3d 450; *Burton v Burton*, 139 AD2d 554). Nor did the plaintiff set forth any proof of the Supreme Court's bias or prejudice which would support recusal (*see Bibas v Bibas*, 58 AD3d 586; *Tornheim v Tornheim*, 28 AD3d 534; *Saferstein v Klein*, 288 AD2d 206; *cf. Matter of Williams v Williams*, 35 AD3d 1098, 1100).

The plaintiff's remaining contentions are without merit.

MASTRO, J.P., SKELOS, SANTUCCI and HALL, 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