

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

D23410  
W/prt

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

Submitted - April 28, 2009

MARK C. DILLON, J.P.  
ANITA R. FLORIO  
RUTH C. BALKIN  
LEONARD B. AUSTIN, JJ.

2008-03653

DECISION & ORDER

Deborah Dowd Ross, respondent,  
v Richard Henry Ross, appellant.

(Index No. 1344/05)

Guttridge & Cambareri, P.C., White Plains, N.Y. (Jerold C. Rotbard of counsel), for  
appellant.

Marilyn S. Faust, Larchmont, N.Y., for respondent.

In a matrimonial action in which the parties were divorced by judgment dated June 20, 2007, the defendant former husband appeals, as limited by his brief, from so much of an order of the Supreme Court, Westchester County (Scarpino, J.), dated November 5, 2008, as granted those branches of the motion of the plaintiff former wife which were to hold him in contempt for failure to provide a life insurance policy naming her as the beneficiary, and for the award of an attorney's fee to the extent of directing a hearing to determine those branches of the motion, and denied his cross motion, inter alia, to direct the plaintiff former wife to pay for certain expenses incurred in connection with the parties' real property.

ORDERED that the appeal from so much of the order as directed a hearing is dismissed; and it is further,

ORDERED that the order is affirmed insofar as reviewed, with costs.

The defendant's appeal from so much of the order as directed a hearing on those branches of the plaintiff's motion which were to hold him in contempt and for an award of an attorney's fee must be dismissed since that portion of the order is not appealable as of right, and leave

June 2, 2009

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to appeal has not been granted (*see Palma v Palma*, 101 AD2d 812).

The Supreme Court properly denied the defendant's cross motion insofar as it sought to direct the plaintiff to pay for certain expenses incurred in connection with the parties' real property, since the defendant failed to "submit competent documentary proof supporting the claimed expenses or their necessity" (*Soles v Soles*, 41 AD3d 904, 906; *see Cohen-Davidson v Davidson*, 291 AD2d 474, 476).

The defendant's remaining contention is without merit.

DILLON, J.P., FLORIO, BALKIN and AUSTIN, 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