

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

D23421
C/prt

_____AD3d_____

Submitted - April 16, 2009

REINALDO E. RIVERA, J.P.
MARK C. DILLON
ARIEL E. BELEN
L. PRISCILLA HALL, JJ.

2008-06022

DECISION & ORDER

Pamela Meltzer, respondent,
v Stuart Meltzer, appellant.

(Index No. 203425/05)

Peter C. Lomtevas, P.C., Ozone Park, N.Y., for appellant.

Karen G. Brand, P.C., Manhasset, N.Y., for respondent.

In an action for a divorce and ancillary relief, the defendant husband appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Falanga, J.), dated May 23, 2008, as granted that branch of the plaintiff wife's motion which was for an additional award of interim counsel fees.

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

An award of interim counsel fees is designed to create parity in divorce litigation by preventing a monied spouse from wearing down a nonmonied spouse on the basis of sheer financial strength (*see O'Shea v O'Shea*, 93 NY2d 187, 193; *Wald v Wald*, 44 AD3d 848). The Supreme Court providently exercised its discretion in awarding the wife an additional \$35,000 in interim counsel fees based upon the financial disparity between the parties, the husband's obstreperous conduct which unnecessarily protracted the litigation, and the quality of the representation afforded the wife by her counsel (*see Domestic Relations Law* § 237[a]; *DeCabrera v Cabrera-Rosete*, 70

NY2d 879, 881; *Prichep v Prichep*, 52 AD3d 61; *Timpone v Timpone*, 28 AD3d 646; *Morrissey v Morrissey*, 259 AD2d 472).

RIVERA, J.P., DILLON, BELEN and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court