

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

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_____AD3d_____

Submitted - May 15, 2009

WILLIAM F. MASTRO, J.P.
ANITA R. FLORIO
RANDALL T. ENG
JOHN M. LEVENTHAL, JJ.

2008-06467

DECISION & ORDER

Alexander Rabinovich, appellant, v Oksana
Shevchenko, respondent.

(Index No. 21182/04)

Richard A. Kraslow, P.C., Melville, N.Y., for appellant.

In an action for a divorce and ancillary relief, the plaintiff husband appeals from an order of the Supreme Court, Suffolk County (Blydenburgh, J.), dated June 12, 2008, which denied his oral application for a downward modification of his pendente lite maintenance obligation.

ORDERED that the appeal is dismissed, without costs or disbursements.

The order appealed from did not determine a motion made on notice, and is therefore not appealable as of right (*see* CPLR 5701[a][2]; *Steven L. Levitt & Assoc., P.C. v Computer Handlers Corp.*, 7 AD3d 613; *Johnson v Ladin*, 7 AD3d 674, 675; *Stern v Stern*, 273 AD2d 298, 299; *Cuffie v New York City Health & Hosps. Corp.*, 260 AD2d 423). No motion for leave to appeal has been made, and under the circumstances, we decline to grant leave on our own motion (*see Independence Constr. Corp. v AMOCO Constr. Corp.*, 33 AD3d 963; *Steven L. Levitt & Assoc., P.C. v Computer Handlers Corp.*, 7 AD3d 613; *Cuffie v New York City Health & Hosps. Corp.*, 260 AD2d 423).

MASTRO, J.P., FLORIO, ENG and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

June 23, 2009

RABINOVICH v SHEVCHENKO