

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

D25337
Y/cb

_____AD3d_____

Submitted - November 6, 2009

PETER B. SKELOS, J.P.
RANDALL T. ENG
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS, JJ.

2009-00943

DECISION & ORDER

Esther York, appellant, v Joseph York, respondent.

(Index Nos. 10224/93, 11853/98)

Esther York, Holliswood, N.Y., appellant pro se.

Snitow Kanfer Holtzer & Millus, LLP, New York, N.Y. (Franklyn H. Snitow and
Scott I. Orgel of counsel), for respondent.

In an action for a divorce and ancillary relief, the plaintiff appeals from an order of the Supreme Court, Queens County (Strauss, J.), dated January 23, 2009, which denied her motion to hold the defendant in contempt for the willful violation of an order of the same court dated July 30, 2008.

ORDERED that the order dated January 23, 2009, is affirmed, with costs.

The Supreme Court did not improvidently exercise its discretion in denying the plaintiff's motion to hold the husband in contempt for the willful violation of an order dated July 30, 2008. The defendant's failure to comply with the order was not willful, since the plaintiff's actions prevented him from complying.

The plaintiff's remaining contention is without merit.

SKELOS, J.P., ENG, LEVENTHAL and CHAMBERS, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court

January 5, 2010

YORK v YORK